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ATTORNEY GENERAL

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DEPARTMENT OF JUSTICE

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December 20, 2005

Ryan Williams
Snake River Correctional Institution
777 Stanton Blvd.
Ontario, OR 97914-0595

Re: Petition for Public Records Disclosure Order:
Oregon Department of Corrections Records

Dear Mr. Williams:

This letter is the Attorney General's order on your petition for disclosure under the Oregon Public Records Law, ORS 192.410 to 192.505. Your petition, which we received on December 14, 2005, asks the Attorney General to direct Jean Hill, Superintendent of the Snake River Correctional Institution (SRCI), and SRCI employees to disclose to you for inspection and copying the following records:

1. Complete investigator notes and complete investigation report under disciplinary report #0509-M112-M05;

2. All disciplinary hearing misconduct hearing worksheets of September 9, 2005 and October 18, 2005 that R. Myers wrote the imposed sanction on under Misconduct Report numbers 0508-M350-M05, 0508-M348-M05, and 0509-M112-M05. This also includes the work sheets R. Myers wrote down the plea to the charges on 9-9-05 and 10-18-05 under the above case numbers; and

3. A complete and intelligible print out of exact date and time SRCI Disciplinary hearing Department entered in to the "AS 400 computer system or any other computer system " the date and time of the actual scheduling of the hearing for each case number cited in paragraph (2) above, and the exact date and time the callout for a Hearing for each case number cited above was placed in the computer system.

For the reasons that follow, we respectfully deny your petition.

The Public Records Law confers a right to inspect any public record of a public body in Oregon, subject to certain exemptions and limitations. *See* ORS 192.420. Any person denied the right to inspect or to receive a copy of a public record of a state agency may petition the Attorney General to review the record and determine if it may be withheld. ORS 192.450. However, the Attorney General does not have authority to order disclosure of public records unless the agency has denied a request for those records.

According to your petition, on November 26, 2005 you requested copies of the above-described records from someone at SRCI, but your request was denied by SRCI Superintendent Hill by "inaction." We spoke with Bill Doman, Executive Assistant to Superintendent Hill, about your petition. He told us that Superintendent Hill's office received an Inmate Communication from you on November 29, 2005, requesting the records described in your petition. Mr. Doman told us that Superintendent Hill responded to your Inmate Communication on December 5, 2005, advising you that her office was reviewing your request and that you would be contacted with the cost of the copies if her office determined that the records were subject to disclosure to you. Copies of your Inmate Communication to Superintendent Hill and her response are enclosed for your convenience.

Mr. Doman told us that Superintendent Hill's office is in the process of locating, gathering and reviewing the requested records. He told us that once the records have been assembled Superintendent Hill's staff will review the records to determine what records or information, if any, may be exempt from disclosure under the applicable statutes. Mr. Doman told us that due to the demands of other work and the staff absences for the holidays he anticipates that Superintendent Hill's staff will be able to assemble and complete its initial review of the documents within the next three weeks, following the holidays. Mr. Doman also told us that Superintendent Hill may need additional time following her staff's initial review of the records in order to consult with legal counsel in this office regarding the application of statutory disclosure exemptions.

In responding to a public records request, an agency is permitted a reasonable opportunity to retrieve and review the requested records, and, if necessary, to consult with legal counsel before providing the records or denying the request. ATTORNEY GENERAL'S PUBLIC RECORDS AND MEETINGS MANUAL (2004) at 9; *Morse Bros., Inc. v. ODED,* 103 Or App 619, 622, 798 P2d 719 (1990). A public body does not constructively deny a request for public records merely because it fails to provide access to nonexempt records within the timeframe set by the requestor. *Morse Bros., Inc. v. ODED*, 103 Or App 619, 798 P2d 719 (1990).

Under the circumstances described to us by Mr. Doman, we conclude that the time ODOC is taking to respond to your request is not unreasonable. Therefore, we conclude that SRCI and Superintendent Hill has not denied your request for records.

Based on our analysis, we deny your petition as premature.

Sincerely,

PETER D. SHEPHERD
Deputy Attorney General

PDS/gvk:AGS16660
Enclosures
c: Bill Doman, Executive Assistant to Superintendent Jean Hill, SRCI