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December 15, 2005

Shawn Bisby, SID# 6704368
Snake River Correctional Institution
777 Stanton Boulevard
Ontario, OR 97914

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

Dear Mr. Bisby:

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 8, 2005, asks the Attorney General to order the Oregon Department of Corrections (ODOC) to make available to you for inspection or produce copies of the following ODOC records: "My Entire Institution Hardfile." 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.

Your petition states that you requested a copy of ODOC's institution hard file pertaining to you on July 7, 2005, but that your request was denied by Christy Towers and Garry Zin of OISC/ODOC. We spoke with Bill Doman, Executive Assistant to Superintendent Hill, about your petition.

Mr. Doman gave us a copy of your records request, addressed to Ms. Towers and dated July 7, 2005, and Ms. Towers' July 18, 2005, response (copy enclosed for your convenience). Your July 7th request is not for your "entire institution hardfile." Instead, it asks for three sets of records: abstracts of your sentences and computations; names of persons responsible for computations and calculations regarding yourself; and criteria, rules and laws used "to arrive at [a] conclusion." Absent a request for records and a denial of that request by a state agency, the Attorney General has no authority to order disclosure of records. ORS 192.450(1). Therefore, to

the extent that you have petitioned for records that you did not request from ODOC, your petition is denied as premature.

In her response to your July 7th request, Ms. Towers stated that the ODOC charges from $.50 to $1.25 per page to provide copies of requested records.[1] Her response also stated that, because you had a zero balance in your inmate trust account, ODOC would not disclose the requested records to you, to the extent that they were available.[2] Ms. Towers' response was consistent with ODOC's administrative rule governing the charging of fees for responding to records requests. OAR 291-037-0020(3).[3] To the extent that you petitioned for records at issue in your July 7th request, ODOC was within its authority in denying your request due to your inability to pay its related fees. Therefore, we also deny your petition with regard to these records.

Sincerely,

PETER D. SHEPHERD
Deputy Attorney General

PDS:gvk/AGS16629
Enclosure
c: Bill Doman, Executive Assistant to Superintendent Jean Hill, SRCI
Rob Persson, Assistant Administrator, OISC

[1] Mr. Doman told us that, consistent with security requirements at SRCI and the terms of OAR 291-037-0020(7), ODOC provides SRCI inmates with copies of records responsive to requests in lieu of permitting inspection of originals.

[2] Ms. Towers' response stated her uncertainty as to what you were requesting with respect to "certified abstracts of my entire sentences & computations."

[3] The Public Records Law permits public bodies to establish and recover fees reasonably calculated to reimburse them for their actual cost in making public records available, including the cost of time spent by agency staff locating and reviewing requested records to identify and redact exempt material. *See* ORS 192.440(3); *see also* Public Records Order, April 7, 1989 (Martin). Moreover, public bodies may require a requestor to prepay the agency's estimated costs. ATTORNEY GENERAL'S PUBLIC RECORDS AND MEETINGS MANUAL (2004) at 14.