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DEPARTMENT OF JUSTICE

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May 18, 2016

Lemuel Fred Hentz, SID #6750414
Two Rivers Correctional Institution
82911 Beach Access Road
Umatilla, OR 97882

Re: Petition for Public Records Disclosure Order:
Oregon Department of Corrections Records
DOJ File No.: 291011-GA0077-16

Dear Mr. Hentz:

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 May 11, 2016, asks the Attorney General to order John Myrick, Superintendent of the Two Rivers Correctional Institution (TRCI), and his employees, to make available to you copies of the following records:

1. Post order that direct all (TRCI) staff to record all information to determine the truth of the matter.
2. Post order that direct all (TRCI) staff to utilize the post information log to record all institutional emergencies.
3. Post order that direct all (TRCI) staff to create, submit, and present to the Functional Unit Manager or his designee, memo's reporting emergency situation and unusual incident reports.

We deny your petition as premature because the Oregon Department of Corrections (ODOC), the custodian of any requested records, has now sent you an estimated cost to gather, review, and produce any nonexempt responsive records.

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(1). Public bodies may establish and recover fees reasonably calculated to reimburse them for their actual cost in making

public records available, including the time to locate the records and review them for exempt material. *See* ORS 192.440(4). 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(1). The Attorney General may order a state agency to disclose records only when the agency has denied a request for records. *See id.*

Your petition states that you requested a copy of the records identified in your petition on March 24, 2016, but that your request was denied by a staff member in Superintendent Myrick's office.

We have spoken with Sherry Iles, Executive Assistant to Superintendent Myrick, about your petition. Ms. Iles told us that upon further review of this matter she determined that the staff member's response denying your request was in error. Ms. Iles told us that she sent you a corrected response advising you that ODOC may be the custodian of at least some records that are responsive to your request, but that the agency was unable to process your request because you lacked sufficient funds in your inmate trust account to pay ODOC's fees for locating and reviewing responsive records, and for making copies of nonexempt records available to you. Ms. Iles' corrected response informed you that you may resubmit a request for records when you have sufficient funds in your inmate trust account.

Under these circumstances, Superintendent Myrick and ODOC have not denied a request for records. Accordingly, the Attorney General has no authority to order Superintendent Myrick and ODOC to make the records available to you. *See* ORS 192.450(1). Because Superintendent Myrick and ODOC have not denied your request for records, we respectfully deny your petition as premature.

Sincerely,

Frederick M. Boss
Deputy Attorney General

FMB:pjn/DM7386409
c via email only: John Myrick, Superintendent, TRCI
Sherry Iles, Executive Assistant to Superintendent, TRCI