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October 6, 1992

Spencer M. Neal
Attorney at Law
500 Yamhill Plaza Bldg.
815 S.W. 2nd Avenue
Portland, OR 97204

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

Dear Mr. Neal:

This letter is the Attorney General's order on your petition for disclosure of records under the Oregon Public Records Law, ORS 192.410 to 192.505. Your petition, which we received on September 28, 1992, asks the Attorney General to direct the Oregon Department of Corrections to make available to you for inspection the following records:

1. Records showing to (sic) the monthly balances from January 1, 1991, to the present of the Inmate Welfare Trust Fund (IWTF);

2. All records from January 1, 1991, to the present showing the sources of income of the IWTF;

3. All records from January 1, 1991, to the present showing the disbursements from the IWTF;

4. All records showing the amount of income generated by any contractual arrangement with any company involving the handling of prisoner long-distance telephone charges from January 1, 1991, to the present;

5. All records showing the amount of income generated by the operation of the prisoner canteen operation from January 1, 1991, to the present;

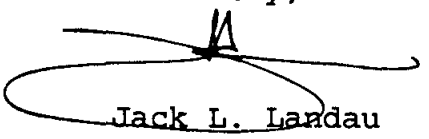
6. All records showing the amount of income generated by the imposition of prisoner fines from January 1, 1991, to the present.

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

The Attorney General may order a state agency to disclose records only where the agency first has denied a request for public records. ORS 192.450 (1). A public body does not deny a request merely because it fails to comply with a deadline the requestor seeks to impose. Public Records Order, May 9, 1989 (Hribernick). Although an unreasonable delay in responding to a records request may in some circumstances constitute a denial, here there has been no denial. In your petition, you state that as of the date of the petition you had received no reply from ODOC to your letter dated August 18, 1992, requesting public records. We have spoken with Diana Zagyva, ODOC Fiscal Services Manager, who informs us that due to the nature and broad scope of your request, and other staff workload pressures, she has been unable to respond to your request until this past week. Ms. Zagyva informs us that she has advised you by letter that ODOC will make the records available to you upon prepayment to ODOC of its estimated actual costs which it will incur in locating and making the records available. She has also advised us that her staff is completing its estimate of ODOC's costs, and that she will be furnishing you that estimate by letter by the end of this week.

Because ODOC has not denied your request for public records, your petition is premature and is, therefore, denied.

Sincerely,



Jack L. Landau
Deputy Attorney General

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c: Diana L. Zagyva
Fiscal Services Manager
Oregon Department of Corrections