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October 1, 1993

David Isaac Maimon
SID #6211527
S.R.C.I.
777 Stanton Blvd.
Ontario, Oregon 97914

Re: Petition for Public Records Disclosure Order:
Correctional Treatment Services, Oregon State Hospital Records

Dear Mr. Maimon:

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 20, 1993, asks the Attorney General to direct the Department of Human Resources, Mr. Concannon, Director and employee, Thomas Masters to produce a copy of the contract between Correctional Treatment Services (CTS) and Restitution, Treatment and Training (RTAT) which currently provides services at Snake River Correctional Institution (SRIC) and the new contract between the same parties concerning a program "scheduled to begin at SRCI this October of 1993." For the reasons that follow, we respectfully deny your petition as moot.

Thomas Masters has indicated to us that he responded to your request and has not denied you access to the requested contracts. He told us that the contract for the new program at SRCI is not yet completed, and, therefore, there is no contract available for public inspection. His September 15 letter to you states that a copy of the RTAT contract would be forwarded to you upon payment of $19.50. See attached copy of September 15, 1993, letter. He indicated to us that he would not waive fees for you since there has been no showing that the waiver of fees would primarily benefit the public at large. However, he will place a copy of the current CITS/RTAT contract in the SRCI library. He will also

place a copy of the contract for the new program in the library when the contract is finalized.

The Public Records Law expressly authorizes a public body to establish fees "reasonably calculated to reimburse it for its actual cost in making such records available." ORS 192.440(3). Although an agency has the discretion under ORS 192.440(4) to waive or substantially reduce fees, the agency must first determine "that the waiver or reduction of fees is in the public interest because making the record available primarily benefits the general public." The placement of the two contracts in the SRCI library satisfies your request. We therefore deny your petition as moot.

Sincerely,

Elizabeth S. Harchenko

ELIZABETH S. HARCHENKO
Special Counsel to the Attorney General

ESH:DLB:aml/DLB0095.LET
Enclosure
c: Kevin Concannon (w/Enc.)
Thomas Masters (w/Enc.)