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November 2, 1993

Paul Ferderber
President/Chief Steward
AFSCME Local 3361-4
4660 Portland Rd. N.E.
Salem, OR 97305

Re: Petition for public Records Disclosure Order:
Department of Corrections Records

Dear Mr. Ferderber:

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 October 26, 1993, asks the Attorney General to direct the Department of Corrections and its employees to make available Larry Hilderbrant's memorandum of October 1, 1993, accusing Susan Butler of Sexual harassment. For the reason that follows, we respectfully deny your petition.

Your letter to the Attorney General, dated October 25, 1993, states you have previously been advised that the document has been destroyed. Upon our inquiry, Robert H. Schiedler, Superintendent, Santiam Correctional Institution, informed us that this document has in fact been destroyed. The Attorney General does not have authority to order an agency to produce a record that does not exist. Nor does the Attorney General have authority under the Public Records Law to conduct an inquiry into an agency's handling of its records. Accordingly, we respectfully deny your petition.

Sincerely,

Elizabeth S. Harchenko

ELIZABETH S. HARCHENKO
Special Counsel to the Attorney General

ESH:AV:SDK:jpl/JAA00EBF.W51
cc: Frank Hall
Robert H. Schiedler