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September 15, 2009

Robert Woodroffe, SID #5631215
Oregon State Penitentiary
2605 State Street N.E.
Salem, OR 97310

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

Dear Mr. Woodroffe:

On September 8, 2009, the Attorney General received your petition seeking an order of the Attorney General directing the Oregon Department of Corrections (ODOC) to provide you with the following records:

1. Misconduct reports on [another inmate] for February 18, 2009;

2. A copy of a February 2009 misconduct report for possession of contraband against [the other inmate];

3. Copies of any findings of fact and tape recordings of hearings on the above misconducts concerning [the other inmate];

4. Any memos regarding [the other inmate]'s misconduct;

5. Results of a urinalysis on [the other inmate] taken on February 18, 2009;

6. Photos taken of [the other inmate].[1]

Your petition states that you requested inspection of these records and that your request was denied by M. Whitney Dodson, Executive Assistant to the Oregon State Penitentiary

[1] Your petition phrases your request somewhat differently, but we believe that we have accurately characterized the records you are seeking. This interpretation also comports with ODOC's reasonable understanding of your underlying request.

Superintendent on July21, 2009. We have confirmed that your request was denied on or about that date.

For the following reasons, 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 who is 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).

Among the exemptions to disclosure under the Public Records law is ORS 192.502(5), which exempts from disclosure

> [i]nformation or records of the Department of Corrections * * * to the extent that disclosure thereof would would interfere with the rehabilitation of a person in custody of the department or substantially prejudice or prevent the carrying out of the functions of the department, if the public interest in confidentiality clearly outweighs the public interest in disclosure.

Your request was denied by ODOC on the basis of this exemption.

After receiving your petition, we discussed your request with Jeff Premo, ODOC's Chief of Security. Mr. Premo explained why ODOC believes that records of the type you seek are exempt from disclosure to you under ORS 192.502(5). Specifically, Mr. Premo stated that disclosure to an inmate of the types of documents you requested would present significant risks to inmate safety, could compromise institutional security and operations, and would be inconsistent with ODOC's rehabilitative objectives.

Mr. Premo's explanation satisfies us that disclosure of these types of records to an inmate will generally result in significant impediments to ODOC's performance of its statutory functions. Although we cannot state with certainty that those concerns will be present in every case, we are persuaded that providing you with the documents responsive to your particular request would "substantially prejudice" a number of ODOC's functions and interfere with ODOC's custodial duties within the meaning of ORS 192.502(5). The legislature has charged ODOC with the responsibility to exercise custody over convicted felons sentenced to a term of imprisonment until they are subject to lawful release, by safely confining them in one of the state's correctional institutions. *See* ORS 423.020(1). ODOC has a legitimate and substantial interest in minimizing opportunities for inmates to obtain information that could jeopardize the safety and security of inmates and staff, and threaten the orderly operation and management of Oregon's prisons.

The remaining question is whether "the public interest in confidentiality clearly outweighs the public interest in disclosure." ORS 192.502(5). In the context of this exemption, we have previously concluded that when disclosure of records would threaten or impair the Department's ability to preserve internal order and discipline in its correctional facilities, the public interest in confidentiality will, in most circumstances, clearly outweigh the public interest in disclosure. *See* Public Records Order, January 26, 1993, Patten.

You have not cited a public interest in disclosure that would outweigh the public interest in confidentiality, and we cannot perceive one. In the absence of an overriding public interest in disclosure, the public interest in keeping these records confidential clearly prevails. As a result, we conclude that ODOC properly relied on ORS 192.502(5) to deny your request.

Accordingly, your petition is respectfully denied.

Sincerely,

DAVID E. LEITH
Associate Attorney General

c: Jeff Premo, Chief of Security, ODOC