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October 15, 2014

Pamela Eller
766650 Blue Mountain School Road
Cottage Grove, OR 97424

Re: Petition for Public Records Order
Oregon Department of Corrections
DOJ File No. 291011-GA0097-14

Dear Ms. Eller,

This letter is the Attorney General's order on your petition for public records order under the Oregon Public Records Law, ORS 192.410 *et seq.* Your petition, which we received on October 8, 2014, requests that the Attorney General order the Oregon Department of Corrections (ODOC) to provide you with copies of various "mental health records pertaining to Vincent Padgett #11782000." For the reasons that follow, we respectfully deny your petition.

Oregon Public Records Law confers a right to inspect the public records of a public body in Oregon, subject to certain exemptions and limitations. ORS 192.420(1). A public body that receives a written request to inspect a public record "shall respond as soon as practicable and without unreasonable delay." ORS 192.440(2).

Your petition states that you requested a copy of the records identified in your petition from ODOC on September 9, 2014, but that as of the date of your petition ODOC officials had failed to respond to your request.

We spoke with Wendy Smith, Professional Services Administrator with Health Services Administration at ODOC, about your petition. Ms. Smith told us that in reviewing this matter she discovered that your request was initially misrouted within ODOC, which caused a delay in responding. However, Ms. Smith indicates that she personally reviewed and responded to your records request on October 10, 2014. A copy of Ms. Smith's response is enclosed for your convenience.

Under these circumstances, we cannot conclude that ODOC has constructively denied your request for records. *See* Public Records Order, February 12, 2009 Harbaugh ("Failure to comply with ORS 192.440(2) is not an independently sufficient basis for finding a constructive denial where the public body can show that it intends to provide 'proper and reasonable' access to the requested records."). Such a denial is required before the Attorney General may issue an order directing a state agency to disclose records. ORS 192.450(1). As a result, we respectfully deny your petition as premature.

Sincerely,

FREDERICK M. BOSS
Deputy Attorney General

cc via email only:
Wendy Smith, DOC
Jeff Premo, DOC