ELLEN F. ROSENBLUM
ATTORNEY GENERAL

FREDERICK M. BOSS
DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE

Justice Building
1162 Court Street NE
Salem, Oregon 97301-4096
Telephone: (503) 378-4400

August 29, 2014

Kenneth Thunderbird, SID # 3525722
Oregon State Correctional Institution
3405 Deer Park Drive
Salem, OR 97301

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

Dear Mr. Thunderbird:

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 in our office on August 22, 2014, asks the Attorney General to direct the Oregon Department of Corrections (ODOC) to make available to you copies of the following information/records:

> D.N.A. database, every document in the file, the name and address of the laboratories which did the analysis.

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). The Attorney General may order a state agency to disclose records only when the agency has denied a request for the records. *See* ORS 192.450(1). Under these provisions, an agency may be said to have "denied" a request to inspect or to receive a copy of a public record only if it receives a proper request for public records. Public Records Order, July 7, 1989 (Baker).

ORS 192.430 authorizes state agencies to adopt reasonable rules and regulations necessary for protecting the records and preventing interference with the regular discharge of

duties of the custodian. ORS 192.430. Pursuant to this statute, ODOC has adopted an administrative rule, OAR 291-37-0015(2), which provides in pertinent part:

> (2) The request must be in writing, addressed to the Department's functional unit manager where the record(s) is located, and must specify the record(s) from which information is requested, if known. Where applicable, the request must be accompanied by a signed release of information. If the record(s) is not in the location where the request is received, the request will be forwarded to the functional unit manager in the location where the record is situated.

In your petition you make nonspecific reference to previous requests of ODOC for the records, citing ODOC requests and three kytes that you sent to ODOC without response. However, your petition fails to identify the ODOC official or officials to whom you sent the requests, or that they received and denied any written request from you for the information listed in your petition. Moreover, we have spoken with ODOC officials regarding your petition. They told us that they have been unable to locate any written request from you for the records. In any event, under the circumstances ODOC cannot be said to have denied your request, either impliedly or expressly. Consequently, we must respectfully deny your petition as premature. ORS 192.450(1). We have, however, forwarded your petition to ODOC officials and asked that they treat your petition as a request for the information you seek

Sincerely,

FREDERICK M. BOSS
Deputy Attorney General

c: Rob Persson, Superintendant, OSCI