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March 30, 2015

Thomas Denn
SID: 13604186
Two Rivers Correctional Institution
82911 Beach Access Road
Umatilla, Oregon 97882

Re: Petition for Public Records Order
Oregon Department of Corrections
DOJ File No. 291011-GA0069-15

Dear Mr. Denn:

This letter is the Attorney General's order on your petition for public records disclosure under the Oregon Public Records Law, ORS 192.410 *et seq.* Your petition, which we received on March 23, 2015, asks the Attorney General to order the Oregon Department of Corrections (ODOC) to provide you with a copy of: 1) "[a]ny and all document files, charts and or records in the possession of my DOC counselor"; (2) "[a]ny and all documents, files, charts and or records in the possession of any DOC staff member or official"; (3) "[a]ny and all records, files, charts, documents from the AS 400 and STM staff/officials, or Health Services." For the reasons that follow, we respectfully deny your petition.

The Public Records Law confers a right to access any public record of a public body in Oregon, subject to certain exemptions and limitations. *See* ORS 192.420. The law requires generally that the custodian of public records furnish proper and reasonable opportunities for inspection and/or copying of the record in the office of the custodian. ORS 192.430. A person denied the right to inspect or to receive a copy of any public record of a state agency may petition the Attorney General to review the public record to determine if it may be withheld from public inspection. ORS 192.450(1).

ORS 192.430 authorizes public bodies to adopt reasonable rules necessary to protect public records and prevent interference with the regular discharge of duties of the custodian. The Public Records Law permits public bodies to establish and recover fees reasonably calculated to reimburse them for their actual cost in making public records available, including the time spent by agency staff in locating and reviewing the requested records to delete exempt material. *See* ORS 192.440(3); *see also* Public Records Order, April 7, 1989, Martin. ODOC has established a

presumptive fee schedule by rule. OAR 291-037-0020(3). If records requested are an "inmate's own medical, dental, or psychiatric records," ODOC may, at its discretion, debit the inmate's trust account to recover costs rather than require prepayment of fees. OAR 291-037-0020(5).

Your petition states that ODOC denied your requests for records dated February 19, 2015, and February 25, 2015. Your requests are not completely consistent with your petition, but we understand you to seek documents relating to you (1) "in the possession of your DOC counselor," (2) "in the possession of any DOC staff member or official," or (3) "from the AS 400 and STM staff/officials or Health Services." Based on your records requests, it also appears that you ask this office to order ODOC to debit your account for all requested documents.[1]

We spoke with Sherry Iles, Executive Assistant to the Superintendent of Two Rivers Correctional Institution, regarding your petition. Ms. Iles informs us that your records request captures a large number of records. Ms. Iles explains that ODOC returned your records request because your inmate trust account contained only $0.04 at the time of your request. According to Ms. Iles, that amount falls far short of the fees associated with your request. In addition, we spoke with Wendy Smith, Professional Services Administrator for ODOC Health Services, regarding your request. Ms. Smith told us that on March 10, 2015, ODOC provided you with all medical, dental, or psychiatric records responsive to your request. Ms. Smith further notes that ODOC debited your trust account for those records, did not require prepayment, and gave you a letter explaining how to obtain records in the future.

We accept those explanations by ODOC personnel.

Ms. Iles' response to your request for all non-medical records is consistent with ODOC's authority under the Public Records Law and ODOC's administrative rules governing inspection and copying of records. We deny your petition, because ODOC has not denied your request by requiring you to pay fees consistent with its applicable regulations. As for the medical, dental, or psychiatric records that you requested, ODOC provided you with all responsive records and did not require prepayment. Accordingly, we deny your petition as moot in that regard.

Sincerely,

FREDERICK M. BOSS
Deputy Attorney General

cc via email only:
Sherry Iles, DOC
John Myrick, DOC

[1] Your February 25, 2015, request also states that you need the requested records "for legal purposes." You do not explain those "legal purposes" or identify any litigation for which you need the records. However, even if you had active litigation, ODOC may require payment for records before it responds to your request. OAR 291-037-0020(6).