JOHN R. KROGER
ATTORNEY GENERAL

MARY H. WILLIAMS
DEPUTY ATTORNEY GENERAL



DEPARTMENT OF JUSTICE

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

February 16, 2012

Robert Woodroffe
SID #5631215
Snake River Correctional Institution
777 Stanton Blvd
Ontario, OR 97914

Re: Petition for Public Records Disclosure Order
Department of Corrections Records
DOJ File No. 291001-GA0014-12

Dear Mr. Woodroffe:

On February 10, 2012, the Attorney General received your petition seeking an order of the Attorney General directing the Oregon Department of Correction (ODOC) to provide you with the following records:

1. The findings of fact in a misconduct proceeding involving another inmate;
2. The results of a polygraph examination purportedly submitted as part of that misconduct proceeding involving another inmate;
3. Inventory documentation involving your former cellmate.[1]

Your petition states that you requested inspection of those records and that your request was denied by Vicky Reynolds, Executive Assistant to the Superintendent.

For the following reasons, we respectfully deny your petition.

[1] Your petition phrases the 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.

A. The findings of fact in a misconduct proceeding involving another inmate and the inventory documentation involving your former cellmate.

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, including the State Board of Parole and Post-Prison Supervision, to the extent that disclosure 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 for the findings of fact in a misconduct proceeding involving another inmate and the inventory documentation involving your former cellmate was denied by ODOC on the basis of that exemption.

After receiving your petition, we discussed your request Steve Franke, the Superintendent of Two Rivers Correctional Institution. Mr. Franke explained why ODOC believes that records of the type you request are exempt from disclosure to you under ORS 192.502(5). Specifically, Mr. Franke stated that disclosure to an inmate of those documents would present significant risks to inmate safety, would compromise institutional security and operations, and would be inconsistent with ODOC's rehabilitative objectives.

Mr. Franke's explanation satisfies us that disclosure of those 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 for a copy of the findings of fact in a misconduct proceeding involving another inmate.

B. The results of a polygraph examination purportedly submitted as part of a misconduct proceeding involving another inmate.

You have also requested a copy of the results of a polygraph examination purportedly submitted as part of a misconduct proceeding involving another inmate. After receiving your petition, we discussed your request with Sirena Deacon, Office Specialist with Two Rivers Correctional Institution. Ms. Deacon reviewed ODOC's records and concluded that ODOC is not in possession of the polygraph test results that you request. In fact, according ODOC's records, the polygraph test results you refer to were never submitted in a disciplinary proceeding within ODOC. Because ODOC does not have possession of the records you request, ODOC cannot provide them to you.

Accordingly, your petition is respectfully denied.

Sincerely,

MARY H. WILLIAMS
Deputy Attorney General

MHW:smg/3235313-v1

cc: Steven Franke, Superintendent, TRCI
Linda Schutt, Executive Assistant to Superintendent, TRCI