ELLEN F. ROSENBLUM
ATTORNEY GENERAL

FREDERICK M. BOSS
DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE

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

May 6, 2016

David E. Hyde, SID #8083857
Oregon State Penitentiary
2605 State Street
Salem, OR 97310-0505

Re: Petition for Public Records Disclosure Order:
Oregon Department of Corrections Records
DOJ File No.: 291011-GA0068-16

Dear Mr. Hyde:

This letter is the Attorney General's order responding to your petition for disclosure under the Oregon Public Records Law, ORS 192.410 to 192.505. Your petition, received in this office on April 29, 2016, asks the Attorney General to order the Oregon Department of Corrections (ODOC) to produce the following records:

> ORS 135.980 Rehabilitative programs directory compilation; availability. Specifically, rehabilitative programs, "Planned Activity" to prevent "criminal sexual behavior" available to corrections agencies of the State of Oregon.

We deny your petition because ODOC has not denied your public records request.

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(1). Any person 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 agency is permitted to request additional information or clarification from the requester, ORS 192.440(2), and to charge the requester for the fees incurred in making the records available, ORS 192.440(4)(a). The Attorney General may order a state agency to disclose records only when the agency has denied a request for records. *See* ORS 192.450(1).

Your petition states that ODOC denied your March 24, 2016, records request. We have spoken with Elizabeth Craig, Administrator of ODOC's Office of Communication, about your petition. Ms. Craig told us that ODOC had not denied your request, but had instead responded by letter, dated April 26, 2016, requesting clarification from you regarding the records you were trying to obtain.[1] Ms. Craig further informed us that following its initial response to your request ODOC has determined that it has responsive records—specifically, an internet directory maintained by ODOC at http://docpub.state.or.us/Treatment/index.shtml. Ms. Craig told us that ODOC sent you a letter, dated May 4, 2016, agreeing to provide you with a printed copy of the internet directory upon prepayment to ODOC of its estimated fees.

Under these circumstances, ODOC has not denied your records request: it first asked for clarification of your request, and then provided with you an estimated cost to gather and produce these records. Because the Attorney General can grant a petition only when the agency has denied the records request, ORS 192.450(1), we respectfully deny your petition as premature.

Sincerely,

Frederick M. Boss
Deputy Attorney General

FMB:pjn/DM7362045
c via email only: Elizabeth Craig, ODOC
Jeff Premo, ODOC
Colette Peters, ODOC

[1] We have enclosed a copy of ODOC's initial response for your convenience.