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September 27, 2016

Kevin Boyle
SID #15493938
Warner Creek Correctional Facility
PO Box 1500
Lakeview, OR 97630

Re: Petition for Public Records Disclosure Order
Oregon Department of Corrections
DOJ File No. 291011-GA0117-16

Dear Mr. Boyle:

This letter is the Attorney General's order on your petition for public records disclosure under the Oregon Public Records Law, ORS 192.410 to 192.505, which we received on September 20, 2016. Your petition asks the Attorney General to order Snake River Correctional Institution, part of the Oregon Department of Corrections (ODOC), to allow you to inspect, or to provide copies of, various records related to your custody there.

We respectfully deny your petition because ODOC has not denied your public records request; rather, your inmate trust account lacks funds sufficient to cover ODOC's cost to provide these records to you.

Your declaration and the other attachments to your petition show that you submitted various public records requests to ODOC between March and July of this year, and that these requests were denied because of insufficient funds in your trust account.

Your petition argues that ODOC is required to provide these records to you at no charge, and cites as support *United States v. Van Horn*, 156 FRD 231 (D Or 1994). However, that case dealt with a public body's obligations in responding to a subpoena under Rule 17(c) of the *Federal Rules of Criminal Procedure*, not with a public body's obligations under Oregon's Public Records Law. That law permits ODOC to charge requesters for its actual cost in

responding to records requests, which includes the time to locate the requested records, review them for exempt information, and separate the nonexempt information from the exempt. ORS 192.440(4)(a)–(b).

Although ODOC did not initially provide you with cost estimates for responding to your requests due to the low balance in your trust account, Jill Curtis, the supervising executive assistant at Snake River, has advised us that you have now received these estimates. Because the Attorney General can consider a petition only when an agency has denied a records request, *see* ORS 192.450(1), we respectfully deny your petition as premature.

Sincerely,

Frederick M. Boss
Deputy Attorney General

FMB:nog/DM7732427
c: Jill Curtis, ODOC
Brad Cain, ODOC