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February 17, 2017

VIA EMAIL ONLY: ncrombie@oregonian.com

Noelle Crombie
The Oregonian

Re: Petition for Public Records Disclosure Order
Oregon Department of Corrections
DOJ File No. 291011-GA0057-17

Dear Ms. Crombie:

This letter is the Attorney General's order responding to your February 3, 2017, petition for disclosure under the Oregon Public Records Law, ORS 192.410 to 192.505. Thank you for granting an extension for us to issue an order. Your petition asks the Attorney General to order the Department of Corrections (ODOC) to produce Oregon State Penitentiary's visitor log for deceased inmate John Ackroyd.

We respectfully deny your petition: ODOC has shown that publicly disclosing inmate visitor logs would discourage visitors, and thereby substantially prejudice ODOC's efforts to rehabilitate inmates. In addition, the significant public interest in rehabilitation clearly outweighs the public interest in learning about Mr. Ackroyd's prison life, an interest that in this particular instance would do little to better inform the public about ODOC's operations.

Public Records Law confers a right to inspect any public record of a public body in Oregon, subject to certain exemptions contained in ORS 192.501 to 192.505. 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 carries the burden to sustain any such denial. *Id.*

Your petition shows ODOC denied your records request under ORS 192.502(5), an exemption that applies to ODOC information "to the extent that disclosure would substantially prejudice . . . the carrying out of the functions of the department," but only if the "public interest in confidentiality clearly outweighs the public interest in disclosure."[1] You argue that ODOC has not shown that disclosing these records would cause any substantial prejudice to ODOC's

[1] This exemption also applies to information "to the extent that disclosure would interfere if the rehabilitation" of an inmate, subject to the same public interest balancing test. Because we decide this petition on the substantial-prejudice prong, we need not decide whether this rehabilitation prong requires an individualized showing that disclosure would interfere with a specific inmate's rehab.

functions, and that, due to the severity of Mr. Ackroyd's crimes, there is a high public interest in learning about his life in prison and his connections to the outside world.

ODOC contends that visits from family and friends support inmate rehabilitation. As evidence, it cites an empirical study by the Minnesota Department of Corrections concluding that "prison visitation can significantly improve the transition offenders make from the institution to the community."[2] The study also summarized past research on this topic showing that "visits from family improve institutional behavior and lower the likelihood of recidivism."[3]

Making inmate visitor logs available to the public is likely to discourage visitors if they fear a stigma from their association with inmates. ODOC has satisfied us that, based on its experience with inmates and their visitors, public knowledge of visits would create such a stigma. Board members at CURE, a prison families' advocacy group, echoed these concerns; they explained that they have felt pressure to keep private their connections with family in prison from concern that they would be treated differently by others or experience social or employment harm.

Based on this evidence, we find that ODOC has shown that disclosing inmate visitor logs to the public would substantially prejudice the carrying out of its functions: making visitor names public would discourage visitors, and would in turn harm ODOC's efforts to rehabilitate inmates and reduce recidivism.

We also find in this particular instance that the public interest in keeping visitor logs confidential clearly outweighs the public interest in disclosure. There is a significant public interest in improving inmates' rehabilitation and reducing recidivism by keeping these logs confidential. When examining the competing public interest in disclosure, we look to whether disclosure will improve the ability of citizens to understand and monitor how public business is conducted. *Attorney General's Public Records & Meetings Manual* 30 (2014). You have pointed to the interest of the public in learning about a high-profile inmate's life in prison; however, in this case that interest is not sufficiently related to the benefit of increasing information about ODOC's operations, and is thus clearly outweighed by the public interest in inmate rehabilitation.

Therefore, we conclude that Mr. Ackroyd's visitor logs are exempt from disclosure under ORS 192.502(5), and we respectfully deny your petition.

Sincerely,

Frederick M. Boss
Deputy Attorney General

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Betty Bernt, ODOC

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[2] *The Effects of Prison Visitation on Offender Recidivism* 27 (Nov 2011), http://www.doc.state.mn.us/PAGES/files/large-files/Publications/11-11MNPrisonVisitationStudy.pdf.
[3] *Id.* at 8.