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August 12, 2021

SENT VIA E-MAIL ONLY: sarrelaw@outlook.com

Jonathan Sarre
610 SW Alder St. Suite 800
Portland, OR 97205

Re: Petition for Public Records Disclosure Order
Oregon Department of Corrections
DOJ File No.: 291200-GA00123-21

Dear Mr. Sarre:

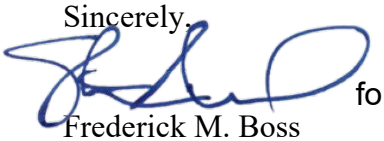
This letter is the Attorney General's response to your petition for disclosure under the Oregon Public Records Law, ORS 192.311 to 192.478. Your petition asks the Attorney General to order the Oregon Department of Corrections (ODOC) to disclose the visitor logs for a particular Adult in Custody (AIC) from January to March 2011. For the reasons that follow, we respectfully dismiss your petition.

The Public Records Law confers the right to inspect public records in Oregon, unless such records are exempt under ORS 192.338, 192.345, or 192.355. *See* ORS 192.314(1). The law is a disclosure law, and exemptions from disclosure must be express. 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. *See* ORS 192.411(1). The agency carries the burden to sustain any such denial. *Id*.

Your petition explains that on July 9, 2021, you requested ODOC disclose the visitor logs for February 2011 as well as any correspondence with law enforcement agencies regarding the AIC between January to March 2011. ODOC denied your request on July 13, 2021, claiming the records are exempt from disclosure under ORS 192.355(5). That provision permits ODOC to withhold public records to the extent that disclosure "would interfere with the rehabilitation of a person in custody * * * 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." *Id*. Your appeal followed and is limited to ODOC's denial of your request for the AIC's visitor logs.

We contacted Michelle Dodson, ODOC's Records Officer, regarding your petition. She explained that after searching its records, ODOC was unable to locate any responsive visitor logs for the relevant time period. We have no reason to doubt her representation, and because we cannot order ODOC to disclose records that do not exist, we must respectfully dismiss your petition.

Sincerely,



for
Frederick M. Boss
Deputy Attorney General

FMB:pjn
c via e-mail only: Michelle Dodson (ODOC)