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September 21, 2022

Tyler Nees
SID #17904453
Two Rivers Correctional Institution
82911 Beach Access Rd
Umatilla, OR 97882

Re: Petition for Public Records Disclosure Order
Oregon Department of Corrections
DOJ File No.: 219200-GA0082-22

Dear Mr. Nees:

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 Department of Corrections (DOC) to disclose certain records you requested on August 3, 2022, and August 15, 2022. For the reasons that follow, we respectfully deny your petition.

The Public Records Law confers a right to inspect any public record of a public body in Oregon, subject to certain exemptions and limitations. ORS 192.314(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 192.411(1). The agency carries the burden to sustain any such denial. *Id*.

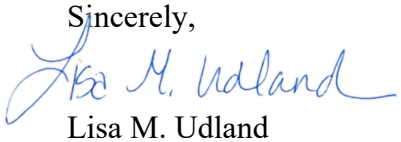
In response to your petition, we contacted Michelle Dodson, DOC's Records Officer. She explained that DOC notified you on August 16, 2022, that the cost to process your request was $30.00 and informed you that you lacked sufficient funds in your trust account to cover the cost. *See* OAR 291-037-0035(3) (requiring prepayment of fees and requiring adults in custody to have sufficient funds on their trust account at the time they make a records request to DOC). Thereafter, you requested a waiver of fees, which DOC denied on August 16, 2022.

Because DOC did not deny your request, we understand your petition to assert that DOC has unreasonably denied your request for a fee waiver. *See* ORS 192.324(6). Agencies may establish fees reasonably calculated to recover their actual costs for making public records

available, but "may furnish copies without charge or at a substantially reduced fee if the custodian determines that the waiver or reduction of fees is in the public interest because making the record available primarily benefits the general public." ORS 192.324(4) and (5). The furnishing of public records primarily benefits the general public when its greatest utility is to the community or society as a whole. *See In Defense of Animals*, 199 Or App 160, 189 (2005).

Under the circumstances, we cannot conclude that DOC was required to waive its fees. Neither your original request for a fee waiver nor your petition explains how the general public would be the primary beneficiary of the records you have requested. Rather, given the nature of the records you seek, your request seems primarily intended to benefit you individually. We therefore respectfully deny your petition insofar as you are seeking a fee waiver.

Sincerely,



Lisa M. Udland
Deputy Attorney General

ACF:pjn
c via e-mail only: Michelle Dodson (DOC)