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November 2, 2022

Gina Nicole Marie
SID #13078265
Oregon State penitentiary
2605 State Street
Salem, OR 97310

Re: Petition for Public Records Disclosure Order
Oregon Department of Corrections
DOJ File No.: 291200-GA0098-22

Dear Ms. Marie:

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 a copy of the security camera recording of an incident in the Oregon State Correctional Institution (OSCI) dining hall that resulted in a misconduct report against you. For the reasons discussed below, we respectfully deny 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. 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. ORS 192.411(1). The agency carries the burden to sustain its actions. ORS 192.411(1).

We contacted Michelle Dodson, ODOC Records Officer, regarding your petition. She explained ODOC's position that the requested recording is exempt from disclosure under both ORS 192.355(5) and ORS 192.345(23) because disclosure would reveal security measures and potential weaknesses in those measures, such as camera coverage and resolution. She also indicated that ODOC has a long-standing policy not to disclose security camera recordings for safety and security reasons. Finally, she expressed ODOC's position that the public interest in disclosure in this instance is clearly outweighed by the public's interest in maintaining the confidentiality of ODOC security measures.

We begin by considering ODOC's claim that the recording is exempt under ORS 192.355(5). That provision exempts ODOC information or records to the extent that "disclosure would interfere with the rehabilitation of a person in custody of the department 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*. In past orders considering the application of ORS 192.355(5) to video recordings within ODOC facilities, we have concluded that such surveillance:

> [S]erves a vital role in ODOC's ability to supervise those in ODOC custody and to maintain the safety of all persons in ODOC custody. If the video were released, it could ultimately be used to allow inmates to avoid surveillance, thus prejudicing ODOC's ability to carry out its functions of providing supervision for and safety of those in its custody.

Public Records Order, Jul 27, 2015, Donohue; *see also* Public Records Order, Jun 13, 2022, Friar; Public Records Order, Jun 10, 2022, Constantino; Public Records Order, Jul 13, 2020, Burgess; and Public Records Order, Jul 15, 2015, Walsh.

In this instance, we have reviewed the recording at issue find that it does reveal certain security measures and limitations, the disclosure of which could permit adults in custody to avoid surveillance in the OSCI dining hall. We therefore conclude that disclosure would substantially prejudice ODOC from carrying out its functions.

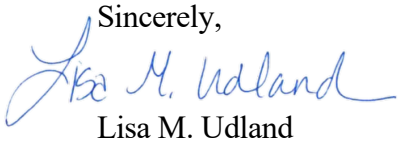
Next, we assess whether "the public interest in confidentiality clearly outweighs the public interest in disclosure" in this instance. ORS 192.355(5). In making this determination, we have previously concluded that the public interest in confidentiality will, in most instances, clearly outweigh the public interest in disclosure "[i]f disclosure would threaten or impair Corrections' ability to preserve internal order and discipline in its correctional facilities, to maintain facility security against escape or unauthorized entry, or to protect the public's safety * * *." *Attorney General's Public Records and Meeting Manual* at 107 (2019). After reviewing the recording you seek, we conclude that its disclosure would threaten or impair the interests identified above. Your petition does not explain why you wish to obtain the recording, nor does it identify a public interest that would be advanced by its disclosure in this instance. Because your petition does not identify any public interest in the recording that would overcome the strong public interest in maintaining the confidentiality of ODOC surveillance capabilities, we conclude that ODOC was permitted to withhold the recording under ORS 192.355(5).

ODOC also relies upon ORS 192.345(23) as a separate basis for withholding the recording. That provision permits agencies to withhold "records or information that would reveal or otherwise identify security measures, or weaknesses or potential weaknesses in security measures taken * * * to protect: (a) An individual; [or] (b) Buildings or other property * * *," unless the public interest requires disclosure in the particular interest. *Id*. In prior orders considering this exemption, we have concluded that it may apply to security camera footage in ODOC facilities. *See, e.g.,* Public Records Order, Jun 13, 2022, Friar (ODOC security camera recordings); Public Records Order, Jun 10, 2022, Constantino (same); Public Records Order, Sep 20, 2020, Thompson (same); and Public Records Order, Jul 13, 2020, Burgess (same).

For the reasons discussed above, we find that disclosure in this instance would reveal ODOC security measures and potential weaknesses in those measures, thereby potentially compromising ODOC's ability to protect persons in custody, as well as ODOC personnel and facilities. Your petition does not explain why you believe the public interest requires disclosure in this instance and we are unable to discern any public interest that would be meaningfully advanced by disclosing the recording. We therefore conclude that the public interest does not require disclosure in this instance and that ODOC was also permitted to withhold the recording under ORS 192.345(23).

For the foregoing reasons, we conclude the security recording is exempt from disclosure under ORS 192.355(5) and ORS 192.345(23) and therefore respectfully deny your petition.

Sincerely,



Lisa M. Udland
Deputy Attorney General

ACF:pjn
c via email only: Michelle Dodson, ODOC