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April 11, 2023

VIA E-MAIL ONLY: carlpost@lawofficeofdanielsnyder.com

Carl Post
Law Offices of Daniel Snyder
1000 SW Broadway, Ste 2400
Portland, OR 97205

Re: Petition for Public Records Disclosure Order
Department of Corrections
DOJ File No.: 291200-GA0030-23

Dear Mr. Post:

This letter is the Attorney General's response to your petition, on behalf of a client's estate, 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 various records relating to the death of your client while in DOC's custody. 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. 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).

According to your petition, in February 2023 you requested DOC disclose fifteen categories of records relating to your client. DOC denied your request in its entirety by asserting that all of the records you seek have been compiled as part of an ongoing criminal investigation and are therefore exempt under ORS 192.345(3). That provision makes investigatory information compiled for criminal law purposes conditionally exempt from disclosure unless the public interest requires disclosure in the particular instance. *Id*.

We contacted Michelle Dodson, DOC Records Officer, in response to your petition. She informed us that DOC no longer asserts that all of the records you seek are exempt under ORS 192.345(3). DOC has therefore agreed to process your request, subject to your payment of

any processing fees and the redaction of any information DOC concludes is exempt from disclosure. *See* ORS 192.324(5) (agencies may establish fees reasonably calculated to reimburse them for their actual cost of making public records available); and ORS 192.338 (duty to separate exempt and nonexempt material). If you disagree with DOC's processing fees or redactions, you may again petition this office for review. Because DOC has agreed to process your request, we respectfully dismiss your petition as moot.

Sincerely,

Lisa M. Udland

Lisa M. Udland
Deputy Attorney General

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