ELLEN F. ROSENBLUM
ATTORNEY GENERAL

LISA M. UDLAND
DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE

Justice Building
1162 Court Street NE
Salem, Oregon 97301-4096
Telephone: (503) 378-6002

October 6, 2023

Rafael Mora Contreras
SID #13935014
3405 Deer Park Dr. SE
Salem, OR 97310

Re: Petition for Public Records Disclosure Order
Oregon Department of Corrections
DOJ File No.: 291200-GA0147-23

Dear Mr. Contreras:

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, dated September 27, 2023 but received by us on October 2, 2023, asks the Attorney General to order the Department of Corrections (DOC) to disclose certain records. For reasons that follow, 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 agencies are obligated to respond to records requests "as soon as practicable and without unreasonable delay." ORS 192.329(1). An agency that is unable to complete its response within 15 business days of receiving a written request is required to provide a written statement that the public body is still processing the request and provide a reasonable estimated completion date. ORS 192.329(5). A requester may seek review by the Attorney General if they believe an agency has failed to comply with the response timelines contained in ORS 192.329. ORS 192.407(1). An agency's failure to provide a timely response required by ORS 192.329 shall be treated as a denial of the request, unless the agency can demonstrate that compliance was not required under ORS 192.329. ORS 192.407(1)(a). The agency carries the burden to sustain its actions. ORS 192.411(1). Finally, an agency may establish fees reasonably calculated to recover actual costs in making public records available, and its obligation to process a request is suspended until the fee has been paid or waived. *See* ORS 192.324(4) and 192.329(3)(a).

According to your petition, on September 11, 2023, you requested DOC disclose certain e-mails to you. As of the date of your petition, DOC had not responded to your request. We understand your petition to allege that DOC has failed to comply with the response timelines

contained in ORS 192.329, or has otherwise failed to complete its response "as soon as practicable and without unreasonable delay." ORS 192.329; *see also* ORS 192.407(1).

In response to your petition, we contacted Michelle Dodson, DOC's Records Officer. She informed us that DOC received your request on September 19, 2023, which then triggered the applicable response timelines. She explained that DOC responded to your request on September 28, 2023 – which was within 15 business days of receiving your request – by mailing a fee estimate to you on September 28, 2023. She also explained DOC's position that its obligation to process your request is currently suspended until it receives payment from you.

The available record demonstrates that DOC complied with the response timelines contained in ORS 192.329, and that its obligation to process your request is currently suspended pending receipt of payment. It follows that ORS 192.407(1)(a) does not compel us to treat DOC's failure to complete its response by the date of your petition as a denial. And on this record, we have no basis for concluding that DOC has otherwise failed to respond to your request "as soon as practicable and without unreasonable delay." ORS 192.329. We therefore respectfully deny your petition.

Sincerely,

Lisa M. Udland

Deputy Attorney General

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