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January 31, 2024

David B. Manley
SID #11713261
2605 State St.
Salem, OR 97310

Re: Petition for Public Records Disclosure Order
*Oregon Department of Corrections*
DOJ File No.: 291200-GA0013-24

Dear Mr. Manley:

This letter is the Attorney General's response to your petition for disclosure under the Oregon Public Records Law, ORS 192.410 to 192 .505. Your petition, dated January 18, 2024 and received by us on January 24, 2024, asks the Attorney General to order the Oregon Department of Correction (ODOC) to produce thirteen categories of records that you requested by certified mail on December 4, 2023. Your petition explains that US Postal Service records show that ODOC received your request on December 8, 2023, but that you have not received any form of response from ODOC. We understand your petition to assert that ODOC has failed to respond to your request in a timely manner.

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). 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 fifteen business days of receiving a written request is required to provide the requester with a reasonable estimated completion date. ORS 192.329(5). A requester may petition the Attorney General if they believe an agency has failed to comply with the processing timelines contained in ORS 192.329. ORS 192.407(1). When an agency fails to provide one of the responses required by ORS 192.329 within the prescribed time frame, the Attorney General must treat that failure as a denial of the request in most circumstances and may order the disclosure of nonexempt material within a specified period deemed appropriate to bring the agency into compliance with ORS 192.329. ORS 192.407. The agency carries the burden of sustaining its actions. ORS 192.411(1).

We have discussed your petition with Michelle Dodson, ODOC Records Officer. She explained that your request was apparently misplaced and never routed to letter's addressee or to

the ODOC public records staff. She explained that since receiving your petition, ODOC has now acknowledged your request. She also added that due to the delay, your request will be expedited and ODOC will contact you shortly to either provide the requested records or provide an estimate of the cost to gather, review, and produce responsive records.

The record indicates that ODOC failed to provide one of the responses required by ORS 192.329(5) within the prescribed timeframe. Under ORS 192.4077(1)(a), we are required to treat ODOC's failure to comply as a denial of your request. However, ODOC has not actually denied your request. Rather, ODOC failed to respond due to an administrative error that was not discovered until ODOC received your petition. And because ODOC has agreed to expedite its processing of your request, we decline to exercise our discretion to order ODOC to complete its response within a specified timeframe. ORS 192.411(3)(a). We therefore respectfully deny your petition.

Sincerely,

for

LISA M. UDLAND
Deputy Attorney General

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