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March 13, 2024

Rafael Mora Contreras
SID #13935014
3405 Deer Park Drive SE
Salem, Oregon 97310

Re: Petition for Public Records Disclosure Order
Oregon Department of Corrections
DOJ File No.: 291200-GA0028-24

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 relates to your request to the Oregon Department of Corrections (ODOC) for two records that ODOC asserts you are not authorized to possess while in an ODOC correctional facility. We understand that ODOC disclosed redacted copies of the records to an individual designated by you outside of the facility. Your petition asserts that ODOC's redactions were improper and that ODOC should have provided the records directly to you. You therefore ask the Attorney General to order ODOC to disclose unredacted copies of the documents directly to you, to refund the fees associated with processing your request, and to pay a $200 penalty for failing to provide the records directly to you. For the 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 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 begin by observing that there is no provision in the Public Records Law permitting this office to determine what records a person in custody is authorized to possess in an ODOC correctional facility. Our authority in this context is therefore limited to evaluating whether ODOC was permitted to withhold the material it redacted from the records it disclosed and whether the sanctions you seek are warranted in this instance. *See* ORS 192.411(1) and 192.407(3).

We discussed your petition with Michelle Dodson, ODOC Records Officer. She explained that the records at issue consist of two e-mail attachments, one of which ODOC disclosed without redactions. She explained ODOC's position that the material redacted from the second e-mail attachment is exempt from disclosure 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*.

After reviewing the redacted material and discussing it with Ms. Dodson, we find that ODOC has adequately described how publicly disclosing that material would interfere with the rehabilitation of a person in custody and substantially prejudice ODOC from fulfilling its responsibilities.[1] We also conclude that the public interest in confidentiality clearly outweighs the public interest in disclosure in this instance. ORS 192.355(5). In making this determination, we take note of our prior conclusion 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).

On this record, we conclude that disclosing the redacted material would threaten or impair the interests identified above. And because your petition does not identify any public interest in this material that would overcome the strong public interest in maintaining its confidentiality, we conclude that ODOC was permitted to withhold the redacted material under ORS 192.355(5). We therefore respectfully deny your petition and find no basis for imposing sanctions in this instance. *See* ORS 192.407(3) (authority to order a fee waiver or a $200 penalty is contingent upon granting a petition).

Sincerely,

Lisa M. Udland

LISA M. UDLAND
Deputy Attorney General

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

[1] Due to the nature of the redacted material, is not practicable to describe ODOC's specific concerns about its disclosure in this order without implicating those very concerns.