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September 4, 2024

Sage Bruce Butler
SID #12309081
82911 Beach Access Rd.
Umatilla, OR 97882

Re: Petition for Public Records Disclosure Order
Oregon Department of Corrections
DOJ File No.: 291200-GA0084-24

Dear Mr. Butler:

This letter is the Attorney General's response to your petition seeking disclosure under the Oregon Public Records Law, ORS 192.410 to 192 .505. Your petition relates to your August 12, 2024 request to the Oregon Department of Correction (ODOC) for the number of mail articles received at the Two Rivers Correctional Institution between August 12, 2023 and August 12, 2024 that were proven to have drugs on them. Your petition states that ODOC denied your request on August 19, 2024. You therefore ask the Attorney General to order ODOC to furnish this information to you. For the reasons that follow, we respectfully deny your petition as premature.

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). 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 discussed your petition with Michelle Dodson, ODOC's Records Officer. She explained that because your request seeks information rather than any particular records, ODOC does not believe your request is subject to the Public Records Law.[1] However, she indicated that ODOC is currently reviewing its records to determine whether it possesses any documentation

[1] The Public Records Law does not require agencies to create new public records. Nor does it require agencies to disclose the reasoning behind their actions; answer questions about their records; analyze their records; or perform legal research to identify responsive records. *Attorney General's Public Records and Meetings Manual* at 7 (2019).

containing the information you seek. Ms. Dodson also explained that ODOC has not denied your request. Rather, she explained that ODOC's August 19th response was simply the acknowledgment of your request required by ORS 192.324(2).[2] Specifically, she noted, ODOC informed you that the "Department of Corrections is uncertain whether it is in possession or the custodian of the requested record(s)" and that ODOC "will complete its processing of your request as soon as practicable and without unreasonable delay."

Under the circumstances, we cannot conclude that ODOC denied your request. ODOC's August 19th response was merely its required acknowledgment of your request, and it clearly indicates that the department was still processing the request. And because ODOC did not deny your request, we must respectfully dismiss your petition as premature. *See* ORS 192.411(1) (Attorney General's authority is generally limited to evaluating whether a state agency improperly withheld requested records).

Sincerely,

Lisa M. Udland

LISA M. UDLAND
Deputy Attorney General

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

[2] ORS 192.324(2) provides that an agency must acknowledge or complete its response to a public records request within five business days of receipt. The agency's acknowledgment must:

(a) Confirm that the agency is the custodian of the requested record;
(b) Inform the requester that the agency is not the custodian of the requested record; or
(c) Notify the requester that the agency is uncertain whether the agency is the custodian of the requested record.