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September 23, 2024

Joshua Friar
SID #16879426
3920 E. Ashwood Rd
Madras, OR 97741

Re: Petition for Public Records Disclosure Order
Oregon Department of Corrections
DOJ File No.: 291200-GA0090-24

Dear Mr. Friar:

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 asks the Attorney General to order the Oregon Department of Corrections (ODOC) to disclose an Adult in Custody (AIC) transfer order relating 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 understand that ODOC denied your request under ORS 192.355(5), a provision that 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." In response to recent petitions seeking the disclosure of AIC transfer orders, ODOC has informed us that such orders contain operational details, as well as scheduling and AIC personal information that, if publicly disclosed, could be used to foil ODOC security measures, and thereby endanger both ODOC staff and persons in custody. *See* Public Records Order (PRO), Sep 4, 2024, Freeman; Public Records Order, Dec 12, 2023, Rust. ODOC has also explained that because of the unique format of these orders and the manner in which they are transmitted, they are susceptible to reproduction, alteration,

and falsification. ODOC has therefore determined that the public disclosure of even expired or executed transfer orders poses a substantial threat to the secure movement of AICs.[1]

In light of ODOC's concerns, we have previously concluded that the public disclosure of AIC transfer orders may interfere with the rehabilitation of AICs and substantially prejudice or prevent ODOC from safely fulfilling its responsibilities. *See* PRO Freeman and PRO Rust. In reaching this conclusion, we noted:

> The legislature has charged ODOC with a number of varied functions and duties concerning persons committed to its jurisdiction. *See* ORS 423.020(1). At the very core of its statutory functions and duties is the responsibility to exercise custody over inmates both safely and securely. To that end, when it comes to the orderly transfer of inmates outside of ODOC facilities, we recognize that the public and ODOC have legitimate and substantial interests in maintaining confidentiality over the forms, procedures and operational details associated with such transfers.

PRO Rust. In this instance, we have no reason to conclude that the interests in maintaining the confidentiality of the requested order are any less legitimate or substantial.

Next, we assess whether "the public interest in confidentiality clearly outweighs the public interest in disclosure" in this instance. ORS 192.355(5). In making this determination, we have previously concluded 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). In this instance, we conclude that publicly disclosing the transfer order could threaten or impair the interests identified above. And because your petition does not identify any public interest in the transfer order that would overcome the substantial public interest in maintaining its confidentiality, we conclude that ODOC was permitted to withhold it under ORS 192.355(5). We therefore respectfully deny your petition.

Sincerely,

Lisa M. Udland

LISA M. UDLAND
Deputy Attorney General

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

[1] ODOC has also explained that transfer orders are not considered authorized AIC property under ODOC rules unless they qualify as authorized legal property. *See* OAR 291-117-0080 and OAR 291-117-0100. In this instance, ODOC informs us that you are not permitted to possess a copy of the transfer order while in ODOC custody because it does not currently qualify as authorized legal property.