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November 27, 2024

SENT VIA EMAIL: coshrin@yahoo.com

Carolyn Oshrin
1630 Williams Hwy, PMB 11
Grants Pass, OR 97527

Re: Petition for Public Records Disclosure Order
Oregon Judicial Department
DOJ File No.: 198040-GA0119-24

Dear Ms. Oshrin:

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 Josephine County Circuit Court (the "court") to furnish the security camera footage of all public areas recorded on the morning of October 22, 2024. For the reasons discussed below, we respectfully deny your petition.

The Public Records Law confers the right to inspect public records in Oregon, unless they are exempt from disclosure 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).

Your petition indicates that you requested the security footage from the court telephonically, but were told that the court does not share such footage unless a crime has been reported to the sheriff. Your petition states you were a party to a civil trial that began at 9 a.m. on October 22, 2024, and that when you arrived at the courtroom at approximately 8:48 a.m., the judge and opposing counsel were already set up and appeared to have been there together for some time. Your petition expresses your belief that the footage will show that the judge had improper ex parte discussions with opposing counsel prior to your arrival.

We discussed your petition with Sam Dupree, Senior Assistant General Counsel with the Oregon Judicial Department (OJD). He explained that consistent with guidance from OJD's Chief Marshal, the court denied your request for the footage because it believes it is exempt from public

disclosure under 192.345(23). That provision permits public bodies to withhold "[r]ecords or information that would reveal or otherwise identify security measures, or weaknesses or potential weaknesses in security measures" taken to protect persons and facilities. *Id*. Mr. Dupree explained OJD's position that such footage would reveal which areas are monitored by security cameras, blind spots in coverage, video quality, and court security practices – including where security personnel are posted and their response times. OJD asserts that revealing such information may enable someone to evade multiple security measures designed to protect persons and court facilities. Mr. Dupree also noted that in prior orders considering the application of ORS 192.345(23), we have concluded that the exemption may apply to security camera footage in public facilities, including courts. *See* Public Records Order, Dec 23, 2022, Davidson (court security camera footage); Public Records Order, May 15, 2017, Davidson (same); and Public Records Order, Oct 23, 2007, Martin (same); *see also* Public Records Order, Nov 2, 2022, Marie (penitentiary security camera footage); Public Records Order, Jun 13, 2022, Friar (same); and Public Records Order, Sep 20, 2020, Thompson (same).

After discussing the security footage you requested with Mr. Dupree, we find that its disclosure would reveal certain security measures and vulnerabilities and thereby compromise the court's ability to protect persons and property. We therefore conclude that the court is permitted to withhold the footage unless the public interest requires disclosure in this instance.

Your petition does not explain why the public interest requires disclosure in this instance. Rather, you suspect the footage will show that opposing counsel entered the courtroom considerably earlier than you and had ex parte communications with the judge, which you characterize as unethical. However, after reviewing the footage, Mr. Dupree explained that it does not reveal what you suspect. Instead, he informs us, the footage shows that the public entrance to the courtroom was not unlocked until 8:48 a.m., opposing counsel entered shortly after 8:49 a.m., and you entered less than 3.5 minutes later. He reports that during that brief period, opposing counsel spent most of the time setting up their table in the courtroom. He also reports that the footage does not contain audio, does not cover the judge's bench, and does not otherwise indicate any inappropriate interaction with the judge.

Under the circumstances, we conclude that the public interest does not require the court to furnish a copy of security footage to you in this instance. We understand that the footage does not corroborate your belief that opposing counsel arrived early and engaged in improper ex parte communications with the judge. And we are not aware of any other bases for concluding that the public interest, when balanced against the court's security concerns, requires the court to publicly disclose the security footage. We therefore conclude the footage is exempt from disclosure under ORS 192.345(23) and respectfully deny your petition.

Sincerely,

Lisa M. Udland

LISA M. UDLAND
Deputy Attorney General

ACF:pjn
c via email only: Sam Dupree (OJD)