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December 5, 2024

Joshua Friar
SID #16879423
3920 E. Ashwood Rd
Madras, OR 97741

Re: Petition for Public Records Disclosure Order
Oregon Department of Corrections
DOJ File No.: 291200-GA0123-24

Dear Mr. Friar:

This letter is the Attorney General's response to your petition 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 permit you to inspect 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).

In a recent order, we denied your request that we order ODOC to disclose a copy of the transfer order to you after concluding that ODOC was permitted to withhold it under ORS 192.355(5). *See* Public Records Order, September 23, 2024, Friar. 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." ORS 192.355(5). You subsequently requested an opportunity to inspect the order, which ODOC denied on the same grounds. Your appeal followed and you argue that inspection of the transfer order poses no security risk to the institution.

We discussed your petition with Michelle Dodson, ODOC's Records Officer. She explained ODOC's position that permitting the inspection of transfer orders presents substantially the same safety and security concerns as publicly disclosing copies. Specifically, she explained, such an inspection would still expose operational details, scheduling, and AIC personal information that, if publicly disclosed, could be used to extort AICs and thwart ODOC security measures, thereby endangering both ODOC staff and persons in custody. She also explained that because of the unique format of these orders and the manner in which they are transmitted, such an inspection would still facilitate their reproduction, alteration, and falsification.

Ms. Dodson also indicated that the specific order you seek is among the materials subject to an "Attorneys' Eyes Only Protective Order" issued by the Jefferson County Circuit Court in a habeus corpus case brought by you against the Deer Ridge Correctional Institution. The protective order makes the transfer order you seek confidential and restricts you, as well as the general public, from reviewing it. Therefore, ODOC believes the order is also exempt from inspection under ORS 192.355(9)(a), a provision that exempts "[p]ublic records or information the disclosure of which is prohibited or restricted or otherwise made confidential or privileged under Oregon law."

We conclude that ODOC was permitted to deny your request to inspect the transfer order under ORS 192.355(5) in this instance. We have previously recognized that when it comes to the secure transfer of inmates outside of ODOC facilities, the public and ODOC have legitimate and substantial interests in maintaining the confidentiality of forms, procedures and operational details associated with such transfers. *See* PRO Friar; Public Records Order, Sep 4, 2024, Freeman; and Public Records Order, Dec 12, 2023, Rust. And in this case, a court specifically agreed to enter a protective order that restricts your ability to access and review the transfer order, among other materials. Under the circumstances we are persuaded that the public interest in maintaining the confidentiality of the order clearly outweighs any public interest in its disclosure and that ODOC was therefore not required to allow you to inspect the transfer order. 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)