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December 10, 2024

Robert L. Emery
SID #13650508
82911 Beach Access Rd.
Umatilla, OR 97882

Re: Petition for Public Records Disclosure Order
Oregon Department of Corrections
DOJ File No.: 291200-GA0126-24

Dear Mr. Emery:

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, which we received December 3, 2024, asks us to order the Oregon Department of Corrections (ODOC) to disclose certain records pertaining to you. For the reasons that follow, we respectfully deny your petition.

The Public Records Law confers a right to inspect any public record of a public body in Oregon, subject to certain exemptions and limitations. 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 stems from two records requests submitted to ODOC on or about November 21, 2024. The first request sought a copy of all Behavioral Health Services Records (BHS) containing your name that ODOC believes are exempt from disclosure and which are maintained outside of your official electronic health record. Your second request sought all security records maintained in ODOC computers pertaining to you that ODOC considers exempt from disclosure and that are not considered part of your official record.

We discussed your petition with Michelle Dodson, ODOC Records Officer. She explained ODOC's position that the department has not denied either of your requests. She informed us that you directed your first request to the BHS manager, who responded by informing you that she does not maintain any records about you outside of your official health records. According to Ms. Dodson, the BHS manager's response was not intended to be a denial

of your request. Rather, she explained, her response was intended to notify you that BHS does not possess responsive records, which she described as one of the permissible ways to acknowledge a records request. *See* ORS 192.324(2)(b). Given that your request asked for records outside of your official BHS records, we agree with ODOC that its response informed you that ODOC did not have records responsive to your request. Ms. Dodson also informed us that ODOC has since requested additional clarification from you about your first request. Because ODOC has not denied your first request and is awaiting further clarification from you, we respectfully deny the first part of your petition. *See* ORS 192.329(4) (an agency's obligation to complete its response is suspended pending receipt of clarification requested in good faith).

Ms. Dodson also explained that ODOC has not denied your second request. Rather, she explained, prior to our receipt of your petition ODOC requested and received clarification from you, you narrowed the scope of the request, and ODOC provided you with a fee estimate for the cost to process your narrowed request. Because ODOC has not denied your second request and is awaiting your payment of the associated processing fees, we respectfully deny the second part of your petition. *See* ORS 192.329(3) (an agency's obligation to complete its response is suspending pending receipt of payment or a waiver of fees).

Because ODOC has not denied either of your requests, we respectfully deny your petition. *See* ORS 192.411(1) (the Attorney General's authority on appeal is generally limited to evaluating a state agency's denial or partial denial of a public records request).

Sincerely,

Lisa M. Udland

LISA M. UDLAND
Deputy Attorney General

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