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May 27, 2025

Matthew Fennern-Chandler – SID #18022221
Eastern Oregon Correctional Institution
3920 E. Ashwood Rd.
Madras, OR 97741

Re: Petition for Public Records Disclosure Order
Oregon Department of Corrections
DOJ File No.: 291200-GA0083-25

Dear Mr. Fennern-Chandler:

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, which we received May 20, 2025, asks the Attorney General to review the Oregon Department of Corrections (ODOC) response to your request for an investigative report. For the reasons discussed below, 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).

Your petition stems from a December 23, 2024, request to ODOC for a PREA investigation performed by ODOC in response to complaint against a corrections officer made by multiple Adults in Custody (AICs). In response to your request, ODOC cited the exemption for corrections records found at ORS 192.355(5).

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In response to your petition, we contacted Toby Tooley, Public Records Program Manager (WOC), Legal Affairs Unit. He informed us that the investigation at issue was conducted pursuant to the Prison Rape Elimination Act (PREA) [1] and explained ODOC's position that the investigative report is exempt from disclosure under ORS 192.355(5). He noted that because ODOC has a statutory responsibility to exercise custody over AICs in a safe and secure manner, ODOC has a substantial interest in protecting information that, if publicly disclosed, could jeopardize the safety and security of inmates and staff, and threaten the orderly operation and management of ODOC institutions.

According to Mr. Tooley, ODOC determined that disclosing the report in this instance would interfere with AIC rehabilitation, jeopardize the safety and security of individual AICs, and undermine ODOC's ability to keep AICs and staff safe within its institutions. More specifically, he explained that AICs who report conduct that is subject to investigation under PREA are at a greater risk of physical assault, sexual abuse, harassment, extortion, and other threats because other AICs perceive them to be "snitches." Mr. Tooley also reiterated that suspects, victims, cooperating witnesses, and other individuals named in PREA investigations could be subjected to the same dangers if knowledge of their identities and experiences become known within an institution. He also described that disclosing information contained in PREA investigative reports could have a chilling effect on the candor and willingness of AICs to report allegations of sexual misconduct or to cooperate in PREA investigations. If disclosed, Mr. Tooley explained, these same AICs may also be less likely to engage in rehabilitative programs designed to reduce their risk of recidivism, thereby jeopardizing ODOC's core function of maintaining public safety. Finally, he also expressed ODOC's position that the public interest in disclosure in this instance is clearly outweighed by the public interest in preserving ODOC's ability to rehabilitate and protect AICs.

We have reviewed the PREA investigative report you seek and find that disclosure could place certain AICs at greater risk of harm by other persons in custody, thereby impairing ODOC's ability to rehabilitate and protect those AICs. We also find that disclosure could have a chilling effect upon the willingness of AICs to come forward with allegations of sexual misconduct and to cooperate in future investigations that are imperative to the safety and rehabilitation of persons in ODOC's custody. We therefore conclude that disclosure would "interfere with the rehabilitation of a person in custody of the department or substantially prejudice ODOC from carrying out the functions of the department." ORS 192.355(5).

Next, we assess whether "the public interest in confidentiality clearly outweighs the public interest in disclosure" in this instance. *Id*. 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 90 (2024). After reviewing the investigative report you seek, we conclude that its disclosure would threaten or impair the interests identified above. We also note that your petition does not identify a public interest that

[1] PREA sets federal standards for correctional facilities to detect, prevent, and respond to all allegations of sexual assault and sexual harassment. *See* 34 USC 303.

would be advanced by the disclosure of this material; rather, it demonstrates that your interest in the report is personal to you. Because your petition does not identify any public interest in the report that would overcome the strong public interest in preserving ODOC's ability to rehabilitate and protect AICs, we conclude that ODOC was permitted to withhold the investigative report under ORS 192.355(5). We therefore respectfully deny your petition.

Sincerely,

LISA M. UDLAND
Deputy Attorney General

DEP/pjn
c via email only: Toby Tooley, Records Manager, Oregon Department of Corrections