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August 20, 2025

Martin Johnson
SID # 5410056
Snake River Correctional Institution
777 Stanton Blvd.
Ontario, OR 97914-0595

Re: Petition for Public Records Disclosure Order
Oregon Department of Corrections
DOJ File No.: 291200-GA0098-25

Dear Mr. Johnson:

This letter is the Attorney General's response to your petitions for disclosure under the Oregon Public Records Law, ORS 192.311 to 192.478. Your petitions relate to records requests you submitted to the Oregon Department of Corrections (ODOC). For the reasons discussed below, we respectfully deny your petitions in part and dismiss them in part.

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). 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. *Id*.

Your petitions stem from a series of public records requests you made to ODOC in April and June 2025. The requests seek eleven different categories of records related to a variety of topics such as "records for income to ODOC from phones, tablets, video visits, including bids, contracts with businesses, from 2023 to 2025." Your petition challenges various aspects of ODOC's responses to those requests. Specifically, you challenge ODOC's fee estimates as insufficiently detailed, and you contend that ODOC should have granted you a fee waiver. Your petition also contends that ODOC's responses are "evasive" and "non-responsive."

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We first address your request for a fee waiver. Agencies may establish fees reasonably calculated to recover actual costs in making public records available, but "may furnish copies without charge or at a substantially reduced fee if the custodian determines that the waiver or reduction of fees is in the public interest because making the record available primarily benefits the general public." ORS 192.324(4) and (5). The furnishing of public records primarily benefits the general public when its greatest utility is to the community or society as a whole. *See In Defense of Animals*, 199 Or App 160, 189 (2005). And regardless of how interested the public may be in a particular matter, if the requester fails to demonstrate the ability to meaningfully disseminate the requested information, disclosure will not primarily benefit the general public. *See Attorney General's Public Records and Meetings Manual* at 19 (2024) ("*Manual*"). A requester who believes there has been an unreasonable denial of a fee waiver or reduction may petition the Attorney General for review. ORS 192.324(6).

Under the circumstances, we cannot conclude that ODOC was required to waive its fees. Your petition does not explain how the public would be the primary beneficiary of the records you have requested. Rather, given the nature of the records you seek, your request seems primarily intended to serve your private interests. And the available record fails to demonstrate that you have any ability to meaningfully disseminate the information to the general public. We therefore respectfully deny your petition insofar as you are seeking a fee waiver.

We next address your contention that ODOC's fee estimates lack sufficient detail. Although there is no provision in the Public Records Law authorizing the Attorney General to review the reasonableness of an agency's fee estimate, we have interpreted ORS 192.411(1) to permit the Attorney General to evaluate an agency's fee "where the amount of the fee in comparison to the nature of the request suggests that the true purpose of the fee is to constructively deny the request, rather than to recoup the agency's actual costs." *Manual* at 22

In response to requests 2, 3, 5, 6, and 10, ODOC provided you with a fee estimate. ODOC also told you that because you lack funds in your trust account to prepay ODOC the estimated fees associated with these requests, ODOC would not further process your requests. Your petition argues that ODOC was required to provide a more detailed cost estimate and to identify and list the records responsive to your request. We have considered this same issue in two prior petitions filed by you. *See* Public Records Order, Jun 16, 2014, Johnson; Public Records Order, Nov 15, 2022, Johnson. On both occasions, we noted that because ODOC can definitively conclude that you lack the funds to pay for your entire request or any subset thereof, ODOC is not required to generate a more specific estimate that you would be unable to pay. *See id*. And ODOC need not identify and list responsive documents as part of generating a fee estimate. *See id*. For these reasons, we conclude that ODOC has sufficiently responded to requests 2, 3, 5, 6, and 10, and we respectfully deny your petition.

In response to requests 4 and 7, ODOC sought clarification from you for purposes of expediting its response to your request. This suspended ODOC's obligation to further complete its response. ORS 192.329(4)(a). Therefore, we conclude that ODOC has sufficiently responded to requests 4 and 7, and we respectfully deny your petition.

In response to request 9, ODOC indicated that it is not in possession of responsive records. Under Oregon Public Records Law, this completed ODOC's response to this request. ORS 192.329(2)(d). Therefore, we respectfully deny your petition.

You have also challenged ODOC's responses and fee estimates to request 1 (time computations for sentence calculations), request 8 (a listing of all certain publications maintained by the ODOC SRCI Law Library), and request 11 (a copy of an Ombudsman report). On August 6, 2025, ODOC provided you with an amended response and fee estimate for these three requests. Because ODOC has amended its response, we respectfully dismiss your petition as moot with respect to these three requests. If you disagree with ODOC's amended response and fee estimate for requests 1, 8, and 11, you may again petition this office for review.

Sincerely,

BENJAMIN GUTMAN
Interim Deputy Attorney General

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