DAN RAYFIELD
ATTORNEY GENERAL

BENJAMIN GUTMAN
DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE

Justice Building
1162 Court Street NE
Salem, Oregon 97301-4096
Telephone: (503) 378-6002

February 25, 2026

VIA E-MAIL ONLY: chouk@ojrc.info

Carleene Houk
Oregon Justice Resource Center
PO Box 5248
Portland, Oregon 97208

Re: Petition for Public Records Disclosure Order
Oregon Department of Corrections
DOJ File No.: 291200-GA0039-26

Dear Ms. Houk:

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 review the Oregon Department of Corrections' (DOC) determination that no responsive records exist in response to your request for certain Adult in Custody (AIC) communications. You also ask the Attorney General to order disclosure of the recordings of certain telephone calls made by a specific AIC. 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).

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Your petition stems from a request for kytes[1] and inmate communications sent by two AICs. DOC responded to your request by indicating that it had no responsive records. Your petition asks the Attorney General "to determine whether those records exist" and to inquire of DOC whether they are withholding any kytes as exempt from disclosure.

We contacted Toby Tooley, DOC's Public Records Program Manager, and Kaylee Hofman, DOC's Legal Information Officer, to discuss your petition and the kytes you requested. They indicated that DOC was not withholding any kytes as exempt from disclosure. They explained that DOC typically does not retain copies of kytes unless a message is needed for a specific programmatic reason. After receiving your petition, however, DOC conducted an additional search and located responsive communications stored in AIC Robinson's medical file. As a result, DOC will be making a supplemental production of those records to you. DOC did not locate any further responsive records.

Your petition also explains that DOC denied your request for recorded AIC phone calls, claiming they are exempt from disclosure under ORS 192.355(5). That provision conditionally exempts:

> Information or records of the Department of Corrections * * * 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.

We discussed your petition with Mr. Tooley. He provided us with a copy of your records request, which shows that your request sought "recordings of all outgoing phone calls made by" a specific AIC for a three-month period. Mr. Tooley explained DOC's position that those records are exempt under ORS 192.355(5) because their disclosure could interfere with AIC rehabilitation and substantially prejudice or prevent DOC from carrying out its functions.

In support of DOC's position, Mr. Tooley cited our prior analysis in Public Records Order, Oct 4, 2022, Tignor; Public Records Order, Aug 12, 2021, Hartley ("PRO Hartley"); and Public Records Order, Jan 6, 2020, Contreras ("PRO Contreras"). In those orders, we concluded that DOC was permitted to withhold the recorded telephone conversations of AICs with third persons under ORS 192.355(5) because disclosure could stigmatize callers and thereby discourage contact between AICs and relatives or friends. *See* PRO Hartley at 2-3, and PRO Contreras at 2-3. We took notice of numerous studies that positively correlated personal contact between AICs and relatives or friends with improved inmate behavior and recidivism rates. *Id.*; *see also* OAR 291-130-0005(3) (DOC "telephone services are a positive means to strengthen ties and increase the likelihood of success upon release."). We found that disclosing the recorded calls between AICs and third persons would have a chilling effect upon such personal contact, which could substantially prejudice the carrying out of DOC's functions, such as rehabilitating AICs and reducing recidivism. We also concluded that because there is significant public interest in rehabilitating AICs and reducing recidivism, the public interest in keeping the recordings confidential clearly outweighed the public interest in disclosure in those

[1] Kytes are physical written messages used by AICs and staff to communicate within the correctional institution.

cases. *Id.*; *see also* Public Records Order, Feb 17, 2017, Crombie (AIC visitor logs exempt because disclosure could stigmatize visitors and thereby discourage visitation).

Your petition does not identify a public interest in the disclosure of the calls made by this AIC.[2] We therefore find that the public interest in maintaining the confidentiality of those calls prevails in this instance and DOC was permitted to withhold them from you under ORS 192.355(5).

For the foregoing reasons, we respectfully deny your petition.

Sincerely,

BENJAMIN GUTMAN
Deputy Attorney General

DEP:pjn
c via e-mail only: Toby Tooley, DOC

[2] Your petition indicates that you are making the request on behalf of the family of the AIC who seeks "information about the circumstances surrounding their loved one's death."