



# Oregon

Kate Brown, Governor

Oregon Department of Corrections

Correctional Services Division

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Members of the Committee:

We appreciate being asked to speak with your committee today as you consider potential public records legislation for the 2023 session. The DOC takes public records requests seriously and has been a responsive partner in the public's request for information.

As we understand the committee is interested in the following general topics as it relates to public records budget, fees collected, frequency of fee waivers, steps taken to pre-emptively provide records known to be of public interest, insight into anything that increases costs and possible fixes, and ideas about most important things to consider when weighing changes to the cost structure.

DOC currently has two FTE to support our records management program and provide guidance to approximately 20 employees who process public records requests as an additional duty. No additional budget has been identified for public records.

Since 2017, DOC has followed DAS' policy on fee structure and fee waivers. DOC waives the first half hour of a records request with the majority of requests falling within this amount of time to fulfill. When an estimate is provided it includes the time to process, search, gather, review, and redact records and media costs and postage as appropriate. While we follow the DAS fee structure, the fees when paid do not cover our actual costs for processing a records request and often are underestimated. After payment is received if a request takes a little longer, generally a half hour to an hour, to process, the department does not seek additional fees. If a request takes less time to process than the initial estimate, we refund monies to the requester.

We have learned in our partnership with the public that good customer service up front to clarify a request and educate on records increases public satisfaction and can reduce costs to the requester and demand on agency employees.

The department uses the guidance in the Public Records Manual as well as DAS policy when reviewing fee waiver requests. Requests for a waiver generally are from media, adults in custody (AIC), and attorneys. The department receives an average of 16 requests per year for a fee waiver. Of the 16 requests, approximately an average of 5 receive a partial waiver. It is important to note that there are many "waivers" that are not tracked due to the request being completed early in the process or not requiring an estimate or payment.

Our experience has shown fees have not proven a barrier to records access for the public or for AICs. The waiver of the first half hour of work allows for reasonable and specific requests to happen at no cost to the requester. The existing fee structure has allowed us to manage

excessive AIC requests through the provision of estimates and the same customer service to clarify what the AIC is truly seeking and how they can best obtain it. DOC makes available basic records needed for transition, release, health care, etc. to AICs at no cost and we can inform the requester of existing avenues for specific and reasonable requests. Recently, we have seen an increase in requesters paying for large records requests requiring well over 40 hours of staff time to review and redact the records.

The DOC's public records efforts are unique both in type and consideration as most of our requests are regarding a specific individual who is or has been incarcerated. While we do receive many requests from media and the public, most of our public records requests are done in preparation for litigation or by AIC's curiosities. Safety is a priority for us in releasing records and the nature of our records make them subject to specific records exemptions. Staff review of records is often laborious as we ensure compliance with exemptions and safety of those in our custody. For example, a request that seeks investigations about an AIC may result in many hours of staff time to search, gather, review, and redact records. Due to the sensitive nature of investigations a careful review must be conducted to ensure the safety and security of the individual, victim, witnesses, and the institution. These requests can become quite time intensive and sensitive to process. Information released that should have been withheld can affect an individual's rehabilitation both inside prison and when released, such as housing, work, program participation and the potential for physical assault or even death. Also unique to DOC, for profit organizations make monthly requests for all AIC criminal records that they then make available, for a fee, to members of the public.

The department is proactive in our approach to public records disclosure despite the lack of resources in both staffing and technology. With updated technology, the department would be able to setup online submission for records requests allowing us to streamline the process as well as have a forward-facing portal for frequently requested records.

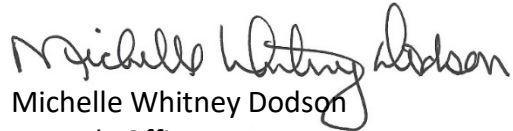
As your committee thinks about improvements and solutions to enhance public records access in Oregon, we would offer the following considerations. Continue to support enterprise solutions to public records communication, tracking, databases, and employee training. This will promote consistency and resource agencies like ours who are managing incredible amounts of work related to records requests. We'd also encourage funding parity of resources and staffing for agencies. Outside of our two dedicated records FTE, public records are an additional duty spread across dozens of employees to manage. We would be remiss if we did not also acknowledge the employees who process public records requests respond to requests for records from other agencies, subpoenas, and litigation all while managing and running safe and security prisons.

Finally, we would offer that a requester's active participation in making a public records request is important. The current fee structure allows us the ability to have a conversation to help determine what specific records a requester is seeking especially when asking for any and all records. We welcome the opportunity to review proposed legislation as it relates to changes in

the fee structure of public records. As previously stated, DOC's records involve people and care must be given when reviewing records as the consequences could range from rehabilitation impacts up to assault or even death if information is accidentally released.

We welcome additional opportunities to both contribute and to listen in this conversation on transparency.

Sincerely,

A handwritten signature in black ink that reads "Michelle Whitney Dodson". The signature is written in a cursive style with a large, looped initial "M".

Michelle Whitney Dodson  
Records Officer