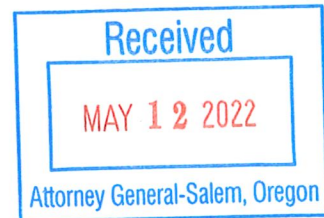


May 6, 2022

Michael Kron, c/o Ann Andover  
Chair to Sunshine Committee  
Oregon Department of Justice  
1162 Court Street NE  
Salem, Oregon, 97301



Dear Ms Andover:

It has been a couple of years since last my last letter concerning public records issues with state agencies, and pseudo-agencies violating Oregon Public Records Laws (OPRL), it seem with impunity. The previous correspondence relayed that the Sunshine Committee was working on family law issues. I was not informed at the time when the matters of my concern would be addressed. That is, the state agencies disregard of OPRL statutory requirements, or combined as in Oregon Dept of Public Safety Standards and Training changing policy *sub rosa* in a usurpation of the Legislative Assembly's intention of OPRL such as ODPSSST rule change of ORS 703.480(2)(a) by disguising rule change as an internal management directive rule to avoiding APA regulations.

Please review the multiple agency correspondence I am sending with this mailing, and provide solutions to correct this misfeasance by these agencies. The agencies responses, that responded to OPRL, are not available at this time not in possession due to address change to new facility. Please allow me to provide these agency responses when they arrive to appreciate the context fully.

This public disregard seems to be widespread, or at least the agencies I have contacted. Please let me know when the next meeting is so I can submit public-interest experiences to help further the discussions and solutions as stipulated in ORS 192.511:

(3)The Oregon Sunshine Committee shall do all of the following:

(c) Study and identify any inefficiencies and inconsistencies in the application of public records laws that impede transparency in public process and government.

(d) Make recommendations on changes in existing law, policy and practice to enhance transparency and facilitate rapid fulfillment of public records requests made to public bodies.

(e) On or before July 1 of each even-numbered year, submit a report to the public records subcommittee established under ORS 192.499 and include in the report the recommendations described in paragraph (d) of this subsection and recommendations to amend or repeal the exemptions from disclosure reviewed by the committee during the period since the last report submitted by the committee under this section.

(4) The Oregon Sunshine Committee may take all lawful actions and exercise any lawful powers the committee deems reasonable for facilitating its work, including but not limited to conducting public hearings and creating subcommittees. Any subcommittees created by the committee are subject to the public meetings and public records requirements that apply to the committee.

Thank you for your due diligence in this matter.

*It appear to me the worst instrument is of arbitrary power, the most destructive of English liberty and the fundamental principles of law.*

*James Otis*

Respectfully submitted,



Henry Childress  
10977752  
WCCF  
PO Box 1500  
Lakeview, Oregon

April 27, 2022

Todd Albert  
Public Records Advocate  
800 Summer St. NE  
Salem, Oregon 97310

Dear Mr. Albert:

This letter is to inform the Public Records Advocate of a recent address changed to the following address:

Warner Creek Correctional Facility  
P.O. Box 1500,  
Lakeview, OR 97630.

Please provide the next PRAC meeting when scheduled.

Moreover, I have added a recent petition to Oregon Department of Public Safety Standards and Training (ODPSST). Beside this agency, I continue to have OPRL violations to public records requests by other agencies. This includes the Secretary of State, Mr. Lane Borg; Executive Director Public Defense Services Commission, Clackamas County Indigent Defense Corporation, Oregon State Bar, and Clackamas County Sheriffs' Office: Records. These agencies are not providing proper due diligence as mandated under OPRL (192.310 to 192.401) (2022 Edition).

As noted in one of your letters, requesting only one agency at a time due to staffing issues. The current petition I wish redressed is ODPSST, however, correspondence to the others will be included in this mailing, for convenient review, which represents some of the difficulties the public faces in records requests. I will eventually wish PRA to redress all these issues as time permits.

Respectfully submitted,

Henry Childress  
10977752  
Warner Creek Correctional Facility  
P.O. Box 1500,  
Lakeview, OR 97630.

April 14, 2022

Rebecca Hannon  
Files Maintenance and Control Specialist  
Oregon Department of Public Safety Standards and Training  
4190 Aumsville Hwy SE  
Salem, Oregon 97317-8983

Dear Ms. Hannon:

It has been over a month since my last OPRL petition for complaint records on Richard (Rich) Seben, PI# 94931, and Ryan Seben, PI#101589. This letter is a redress to the petition due to the non-response of the March 12<sup>th</sup> OPRL petition on these two private investigators. I have included this petition at the end of this letter of petition.

I am still astonished by this regulatory agency of law enforcement, public service officers, rejecting laws that regulate their administrative behavior or uses a back door, *sub rosa* usurpation of the Legislative Assembly's intention of ORS 703.480(2)(a) by disguising rule change as an internal management directive rule to avoiding APA regulations. Am I misinformed in the principle that no one is above the law? I hope not. I am a member of the public, a citizen, that is all that should matter. However, through the years of correspondence I have been uninfluenceable and unpersuadable to the legality, ethical, and publicly righteousness to my petitions for OPRL records and misapplication of regulatory statutes. It is said the hardest thing to do is to change prejudices. The difficulty of this endeavor, to do so, is a grand achievement. At this point, I may need help from the AG's office in order to obtain a clear public entitlement under OPRL.

It is clear ODPSSST acknowledges and promulgates its own policy of statutory requirements, and OPRL in words on paper; incontrovertibly knows the words by its policy statement, but not the spirit of the rule of law. Succinctly, ODPSSST does not practice what they preach and opening the door to indifference and complacency to the people of Oregon. Laws must not become as weak as *Gumby* by becoming merely insouciant affectations of due diligence imprimatur. "*In every moral action the principle ground on which we form a judgment of its rectitude or gravity is this desperation or intention with which it is performed.*" *John Locke* With evidence indifference and nonconformity in accordance to law, court review, legislative history, and rationality, the driving force manifesting these public protection laws, I can confidently conclude that ODPSSST demonstrated deliberate indifference in its own promulgated policy and state statutory requirements. In a word, *obscurantism* : *A policy contrivance of withholding information from the public*, indicating a willful disregard of public records law by inured parochial obscurantism.

Public spirited devotion to its people through the strict adherence of laws, especially public institutions that enforce and regulate. A solid homogeneous conviction to candor and due diligence to the law. The low tools of privileged arbitrary power, believing exemption from the duties owed to the marginalized public. Universally people have an aversion to arbitrary power arbitrariness, as shown by ODPSSST, widens the breach between institutions and the public. Public agencies are to serve the public not

themselves. Rule, as I see it, is a verb not a noun, it is about what you do, not who you are. Democracy is fragile, our institutions don't defend themselves. The public must stand-up for their institutions; to actively defend our institutions is a public duty. By ignoring transgressions is to aid in its democratic decline and authoritarian ascension. *"The laws of our country have given us a right , the liberty of both exposing and opposing arbitrary power by speaking and writing truth."* Alexander Hamilton

The safety of the people is the highest law. The rule of law provides the people with the highest degree of safety, and *summum bonum*. *"If men were angels we would not need a constitution."* James Madison *"Obedience is the essence of law."* We as Americans, are a representative constitutional democracy under the rule of law, not a law of rule. *"Respect necessary for the rule of law to endure."* Abraham Lincoln Embodied in law, regulated by law are shared in ruling and being ruled. Public authorities must be capable of both, governing as a citizen, and to obey as a citizen by upholding the oath to support and protect the Constitution; the natural virtue of ruling and obeying the rule of law. *"What we want is a government that can control its citizens and a government to control itself."* James Madison Law gives, law enforces, law answers, law takes, and all public service agents are equally accountable to our laws as any other member of society. The powerful, the weak, the rich, the poor, police and criminal, all are accountable to our laws. *"Justice is not what the strong say, it is what the people say under this American democracy. The clarion call of the people has spoken: protect the weak from the strong; An immutable principle of moral obligation."* Alexander Hamilton ODPSSST, as well as prisoners of the state, everyone, all are subject equally to our laws: full stop. *"Respect for its authority, compliance with its laws, acquiescence in its measures, are duties enjoined by the fundamental maxims of true liberty."* George Washington

The Legislative Assembly producing, and the courts defining our transparency laws are time tested, These foundational institutions of our government has sustained the history and tradition of *presumption of transparency*, or a recent reiteration, *transparency by design*. Transparency takes precedence and is settled law. *"A people who mean to be their own governors must arm themselves with the power knowledge gives. A popular government without popular information or the means of acquiring it, is but a prologue to a farce or tragedy, or perhaps both."* James Madison ODPSSST must work within OPRL, as defined. Public people should be transparent, and adhere to the *presumption of transparency* ruling standard. It is not ODPSSST's administrative prerogative to determine record transparency outside the definitions of OPRL. I have attempted to illustrate ODPSSST's administrative overreach circumventing its statutory mandates in order to redress its responsibilities to the public. *The inevitability of truth, the complexity and the gray doesn't lie in the truth, but what you do with the truth.*

What is good for the public should be good for its agents and agencies. *"Evaded, undermined, nullified, it will not be, if we, and those who shall succeed us here, as agents and representatives of the people, shall conscientiously and vigilantly discharge the great branches of our public trust, faithfully to preserve, and wisely to administer it..."* Daniel Webster Public institutions are just that; public. Public good is the reason for public agents and agencies, and is sworn to by their oaths given. By oath, agents have chosen a side; the side of the public. The oath to protect the public not fully enumerated in law. The spirit of full commitment to public service and fulfillment of that oath. Any agent or agency that values their interest over the public's violates their public servant commitment oaths is functioning as an illusion of a public institution by the abjuration of that oath. The acceptance of moral standard and

obligations, above the minimum mediocrity of laws.

In Oregon Revised Statutes under Government Ethics, 244.010 § 5 "... *public officials should put loyalty to the highest ethical standards above loyalty to government, persons, political party or private enterprise.*" The highest ethical standard; fundamental primary principles, as described by Plato, of balance, fairness, equity, and justice; the core principles of our republic and the constitution of our peoples. "*Justice must always question itself, just as society can exist only by means of the work it does on itself and on its institutions.*" *Michel Foucault* The ability of public agents to do their job, doing the routine work, good and honestly according to the law is the basis of public service and a stable democracy. Fairness is the hallmark of our system of justice, public confidence of peoples bound by law. "*The principle ground on which we form a judgment of the rectitude or probity is the disposition or intention with which it is performed.*" *Samuel Smith*

This may seem like a long walk in tall weeds to petition ODPSSST for redress an OPRL petition. Ethics unlike law must appeal to a higher level of personal-social responsibility by the complexities of personal ambiguity in moral consciousness of right and wrong. I could have just used the law to make my sound vestigial points. However, there is more than sterile base of legalism which only addresses the rock bottom base of social behavior, rather than the superior ethical aspects of governance which makes the legal issues function properly, as well as society as a whole. Malversation, public ethical perfidy, lack of public virtuousness, opens the door to indifference, and complacency to the people of Oregon in which the laws have little impact to correct. Corruption spreads throughout like a plague, maintained by appropriate forms with suitably contrived pretexts, so that however inequities are practiced, and produced they preserve a facade of due diligence and justice. Regulatory laws that force public fortitude and devotion for the public good are frail if public virtuousness is weak or absent. Therefore, I took the long walk into tall grass to fully elaborate public virtuousness; an entreaty for the superior ethical moral considerations that impact the intended proper application of law. Please guard against any offense that may be given by the sound of the words by asking for more attention to be paid to what I say then how I say it. "*This is not as an insult to the whole order, but as a reproach to the whole order, but as a reproach to its corrupt and unworthy members, so that I could censure their faults without hurting any good man.*" *Desiderius Erasmus*. I hope this exposition redress petition is not condemned as a sophisticated cavilling nonsense, but as a serious public petition of remedy concerning serious infringements on public rights of Oregonians.

Please redress these issues I have discussed, and illustrated. Please do not take this with relativistic bias of personal feeling of temerity of a prisoner attempting to control or changing agency policy, but as a citizen--the public-- informing a public agency by recognizing the statutory, ethical, and judicial realities and reasoning. An attempt, as a obligated citizen, by refusing to ignore inequities, and abrogation of public entitlements, by doing a public service to encourage this agency to review, and change its policies to prevent running afoul with laws inconsistent with principles of democracy, to enforce a right not enforce a wrong, to guide towards the correct ethical, and legal path for all the people of Oregon.

Please respond in pursuant to ORS 192.324 (2)(a-c), ORS 192.329 (5)(a,b), and without unreasonable delay, to facilitate due diligent rapid dissemination of public records to requester. Continued abuse of response times and there violation by ODPSSST are addressable to AG's office.

*“The corruption of each government generally begins with that of the principles. When once the principles of government are corrupted the very best laws become bad and turn against the state; when once a republic is corrupted, there is no possibility of remedying any of the rising evils but by removing the corruption and restoring its lost principles: every other correction is either useless or a new evil. When the principle are sound, even bad laws have the same effect as good; the force of the principles draw everything to it.”*

*Montesquieu*

Respectfully submitted,

Henry Childress  
10977752  
EOCI  
2500 Westgate  
Pendleton, Oregon 97801

April 12, 2022

Liza Arellano Boudon  
Public Records Coordinator (PRC)  
Oregon State Bar (OSB)  
P.O. Box 231935  
Tigard, Oregon 97281-1935

Dear Mrs Boudon:

Thank you for the response in your March 28<sup>th</sup> letter in a OPRL petition for records of Mr. Jonathan Clark 022740. In your response you repeated the text of the OPRL letter verbatim stating:

I request "inquires", and "entries" concerning complaints made concerning lawyer's conduct. The petition under OPRL concerns Mr. Jonathan Clark. Please provide the condensed version as supplied in a December 14, 2017 and March 5, 2018 by Mr. Hernandez.

The request of records provided in the format of Mr. Hernandez was ignored. OSB responded with the following:

NO. OF INQUIRIES AND OUTCOME: 13/dissmissed 4/ open  
NO. OF ENTRIES AND OUTCOME: 1/dissmissed 1/reprimand

The above response is woefully inadequate to determine what records are needed; subject of inquiries&entries, dates of inquiries&entries, outcomes of each, number of pages, and cost for each of the inquiries &entries. How is it possible for the public to make an informed decision on what document to purchase and its cost. The issue is adequacy of condensation. Whether adequate condensation describes the significant facts contained in the record. 13/ dismissed 4/ open, or 1/ dismissed 1/ reprimand, doesn't contain enough "*significant facts*" for the public to make an informed, reasoned decision on what records may be needed.

In circumspect, I can safely assume this was intentional due to a January 3, 2018 response to a December 11, 2018 letter from OSB which states, "*Lastly, we respectfully decline your request for us to reformat prior fee estimates,*" to a OPRL request concerning another attorney, dated December 11, 2018, refusing to a reasonableness by requesting, "*Please format all records requests, as provide by Mr. Hernandez in March 5, 2018 letter, except add number of pages and fee for this record, until the matter of ORS 192.324(5) is resolved. This would be greatly appreciated and more consistent with what is available on the internet, according to outside information I obtained.*"

*TJW 1400368 Subject: Dishonesty & Misrepresentation- Dismissed 12/15/201[1], 25 pages, \$6.25*

My request, which was based on Mr. Hernandez's thoughtful format(enclosed) in six lines, adding only three of six, as examples, that reads as follows:



- DPA 1700677 – 129 pages
- DPA 1601784 – 4 pages
- TJW 1400368 – 25 pages

Mr. Hernandez's March 5, 2018 letter three examples of the five provided formatted inquiries are as follows:

- TJW 1400368 Subject: Dishonesty & Misrepresentation – Dismissed 12/15/2014
- PN 1101829 Subject: Quality of Service – Dismissed 11/16/2011
- DPA 1601784 Subject: Legal Advice – Dismissed 11/21/2016

The status of attorneys in Oregon under ORS 9.010 is: (1) *An attorney, admitted to practice in this state, is an officer of the court,* (2) *The Oregon State Bar is a public corporation and an instrumentality of the Judicial Department of the government of the State of Oregon. A special governmental body, as defined in ORS 192.311 and ORS 192.610; a municipal corporation, public corporation, therefore bound by OPRL mandates. "OSB is an integrated bar, meaning lawyers must join it and pay an annual membership fee to practice law in Oregon."* In *Oregon State Bar v. Wright*, 280 OR 693, 573 P2d 283 (1977); *"The Oregon State Bar does not operate as an independent licensing authority, but as an instrumentality of the Judicial Department of State; its members are not only officers of the court, but are subject to discipline by court for misconduct. Whether a consortium, confraternity, bar, or wake of attorneys, all are, "a public corporation and an instrumentality of the Judicial Department of the government of the State of Oregon." "Special governmental bodies," "public-body-other-than-a-state-agency," "officer of the court mandated, and obligated to public to provide records, under OPRL, ORS 192.311 to 192.478, to abide to the natural law of presumption of transparency, and subject to state oversight.*

ORS 192.360. Condensation of public record subject to disclosure; petition to review denial of right to inspect public record; adequacy of condensation 1) *"When a public record is subject to disclosure under ORS 192.355(9)(b), in lieu of making the public record available for inspection by providing a copy of the record, the public body may prepare and release a condensation from the record of the significant facts that are not otherwise exempt from disclosure under ORS 192.311 to 192.478."* However, reliance on "may" in *"may prepare and release a condensation from the record of the significant facts,"* "may" not legally sound in totality of circumstance. Under certain circumstance "may" transitions to "shall." ORS 192.360(2) *"The person seeking to inspect or receive a copy of any public record for which a condensation of facts has been provided under this section may petition for review of the denial to inspect or receive a copy of the records under ORS 192.311 to 192.478. In such a review, the Attorney General, district attorney or court shall, in addition to reviewing the records to which access was denied, compare those records to the condensation to determine whether the condensation adequately describes the significant facts contained in the records."* Furthermore, ORS 174.020. Legislative intent; general and particular provisions; consideration of legislative history it mandates in § (2) *When a general provision and a particular provision are inconsistent, the latter is paramount to the former so that a particular intent controls a general intent that is inconsistent with the particular intent.* ORS 192.360 § 2 is the latter and therefore trumps the former, ORS 192.360 § 2. The Oregon Supreme Court in *In Defense of Animals v. OHSU*, 112 P.3d 336, 199 Or. App. 160 (Or.

App. 2005) utilizing PGE, 317 Or. at 610-12, 859 P.2d 1143 rules of intent, legislative history, and stare decisis, declare, *"the Public Records Law as a whole embodies a strong policy in favor of the public's right to inspect public records. In addition, subsection (5) of ORS 192.440 [ORS 192.324§ 6, updated number change] provides a remedy — the right to petition the Attorney General or district attorney and the right to seek injunctive or declaratory relief — to a person "who believes that there has been an unreasonable denial" of a fee waiver or reduction. [This includes ORS 192.360 in § 2] therefore demonstrates that, notwithstanding the legislature's conferral of discretion on the public body... must be reasonable. Reasonableness is an objective standard, under which we examine the totality of the circumstances presented."* Public body's decision whether to deny a condensation format must be objectively reasonable under totality of circumstance. This is how, "may" amends into "shall," in respect to administrative discretionary capacity and the ministerial function of OPRL.

How can the public make and informed OPRL petition when OSB refuses to provide enough information to proceed to determine which documents and price the public requires? The only addition, to this reasonable format, that Mr. Hernandez didn't provide, was the price of each case. The example above, a commonsense format was provided in a December 11, 2018 petition address to Ms. Boudon, incorporates the *significant facts* in order for the public to make an informed judgment on their selection. The addition of the price of each documents to Mr. Hernandez's format is not an unreasonable add-on in order to provide a pre-paid amount, as required by OSB. Furthermore, in ORS 192.324.3(c), it provides; *"the public body shall provide a copy of the public record in the form requested."* ORS 192.318 (2); *"may adopt reasonable rules necessary for the protection of the records and to prevent interference with the regular discharge of duties of the custodian."* How is adding the above format *interfering with regular discharge of duties*? What assertion is OSB putting forth in law that exempts *"significant facts"*? Mr. Hernandez has provided the precedence; the reasonableness of request is self-evident, and the public records laws are applicable to OSB under OPRL. Please identify the state or federal law that this refusal is relied on which allows for the refusal of the simple logical format as requested. In OPRL 192.411. Petition to review denial of right to inspect state public record; appeal from decision of Attorney General denying inspection ; *"The burden is on the public body to sustain its action"* : MacEwan v. Holm et al., 226 Or 27, 369 P.2d 413 (1961) The onus to produce public records or provide an substantial exemption assertion provided by ORS 192.338, 192.345 and 192.355 is on OSB: Jordan v. MVD, 308 Or 433,437, 781 P.2d 1203 (1989). This burden on the public body applies to records production for the public, and fees charged.

*"The laws of our country have given us a right , the liberty of both exposing and opposing arbitrary power by speaking and writing truth."* Alexander Hamilton

Refusing to provide a reasonable format the previous records coordinator provided is clearly an arbitrary&capricious denial of an entitled OPRL request. OPRL has attempted to protect the public from such arbitrary&capricious; an *ultra varis*, prerogative over-reach, by administrators. OPRL has provided the public with several modulation mechanisms to such prerogative immoderation. I have provided most of these law in my previous petitions to OSB. The current laws related to OPRL regulating OSB actions were provided in previous petitions. The most recent petitions directed to PRC were September 23, 2018 and October 18, 2018. Both contain a full complement of law relating to public record requirements of OSB. *"Where arbitrary sway prevails, they seldom make mention of civil laws."* Montesquieu

In Oregon Revised Statutes under Government Ethics, 244.010 § 5 [ also in ORS 9.010] "... *public officials should put loyalty to the highest ethical standards above loyalty to government, persons, political party or private enterprise.*" The highest ethical standard; fundamental primary principles, as described by Plato, of balance, fairness, equity, and justice; the core principles of our republic and the constitution of our peoples. "*Justice must always question itself, just as society can exist only by means of the work it does on itself and on its institutions.*" *Michel Foucault* The ability of public agents to do their job, doing the routine work, good and honestly according to the law is the basis of public service and a stable democracy. "*The principle ground on which we form a judgment of the rectitude or probity is the disposition or intention with which it is performed.*" *Samuel Smith*

Please provide the reasonable format that Mr. Hernandez provided, and exemplified in the above.

*"[Chroniclers] who have nothing of their own to contribute merely bring to their task care and diligence in collecting everything which comes to their attention and chronicling everything in good faith without choice or selection, leaving our judgment intact for the discerning of the truth...Naked and unshaped: each man can draw such profit from it as his understanding allows. [There are those who] spoil everything for us: they want to chew things over for us; they give themselves the right to make judgments and consequently bend history to their own ideas: for one our judgment leans to one side we cannot stop ourselves twisting and distorting the narration of that bias. They take the task of choosing what is worth knowing, after hiding from us some speech or private action which would have taught us much more. Let them make a display of their rhetoric and their arguments if they dare to; but let them judge as they like; but let them leave us the means of making our own judgments after them; let them not deprave by their abridgments nor arrange by their selection anything of material substance, but let them pass it all on as pure and wholly, in all its dimensions."*

*Michel de Montaigne*

Thank you for your due diligence in this matter.

Regards,

Henry Childress  
10977752  
EOCI  
2500 Westgate  
Pendleton, Oregon 97801

January 4, 2022

Tami Dran  
Records Manager  
Clackamas County Sheriffs' Office (CCSO)  
2223 Kaen Road  
Oregon City, OR 97045

Dear Ms. Dran:

Thank you for your August 31<sup>st</sup> response to an August 19<sup>th</sup> Oregon Public Records Law (OPRL) petition requesting, a full and complete, series of sixteen records filed on the "*Arbitrator Server*" by Clackamas County Sheriff's Office (CCSO).

It is well past the 60 day requirement for requester to respond for records under OPRL. Other legal obligations has prevented a more punctual response. However, if past is prologue due to pattern&practice, actions&inaction, I can assume redress of the OPRL petition would not change by another attempt for OPRL records from Clackamas County Sheriff's Office Records Department (CCSORD) without submitting a detailed OPRL petition which including laws, court decision, and ethics to ensure proper OPRL response. This I believe is required due to the detailed information provided in my previous August 19<sup>th</sup> OPRL petition, and CCSORD's lack of due diligent response required under OPRL. This expositional redress petition engages the ineffable with direct candor, right or wrong, without fear or favor, between the people and their institution's public authorities is a must in a free democratic society. Frankness is fidelity and fealty to the public common cause. Pragmatism in face of dogma by utilizing our unalienable freedom of speech and expression, proclamation and petition. Refusing to confront is to consent to the loss of these rights. Whether good or bad the public needs to know the truth for their protection and their government. "*Speak frankly and tell the truth, and what is more praiseworthy than truth.*" Desiderius Erasmus Manipulated public ignorance through censorship is perilous to the citizens and our governmental stability. We restore the public's confidence by being truthful and transparent in our governmental interactions with the public, and the public's interaction with its public servants. Truth dies by not speaking it; the truth of light and of shadows. Sometimes the most important thing people can have is honest, open information. I believe CCSORD should use this exposition to review OPRL statutory obligations to faithfully discharge their duty to the public. The public deserves a clear, honest, unabridged picture of what is happening otherwise ignorance prevents progress and lies become truth in darkness if we allow it.

*"Every private citizen has a public responsibility."* Myra Janco Daniels *"Private citizens serve virtue as highly and with as much difficulty as those who hold office."* Aristotle *"The best defense against usurpatory government is an assertive citizenry."* William F. Buckley Jr *"The most important political office is that of private citizen. The people are the wisest depository of public interest."* Louis D. Brandeis *"The wisdom of crowds."* Sir Frances Galton I fully embrace these civic minded sentiments of social responsibility by taking an active role as a citizen to protect and support our institutions when they stray from their cardinal purpose of protecting and serving the public. To take away from the general

idea that democracy is passive, its just there in hypostasis. We have perhaps come to take democracy for granted. Citizenship and democracy are active conditions requiring action to maintain. Democracy cannot defend itself; government is us, something we built together, it is who we are, interlocked, inseparable, inalienable, we rise and fall together. This is the exposed fragility of a democratic system, institutions, and traditions. As Timothy Snyder warned in On Tyranny, "*Democracy is an act, not a state.*" It is the public's duty to, "*stand and act: institutions do not protest themselves, they fall one after the other unless each is defended from the beginning. Republics do not collapse because of one person; they collapse because men inside the regime look for loopholes in the law... and then seek to expand the loopholes until the law itself has not meaning.*"

"*Be bold and mighty forces will be your aid.*" Johann Wolfgang von Goethe Therefore, I am claiming my right to petition and proclamation to enforce a right, and not acquiesce to a wrong. A public devotion to fellow citizens and the republic to prevent losing our rights and democracy one agency at a time. It is the burden we must carry in order to exercise true sovereignty.

CCSO Records Department (CCSORD) response to this OPRL, [Oregon Revised Statutes (ORS) 192.311 to 192.478] petition was insufficient, and ill-defined. It's as follows:

*I received your request dated August 19, 2021 on August 25, 2021. Included on the Arbitrator server are two in-car videos and photos. The fee for production is:*

*In-car video - \$25.00/video x2 = \$50.00*

*photos* *\$10.00*

*Total:* *\$60.00*

On August 19<sup>th</sup> an OPRL petition listing of sixteen CCSO public safety officer's (PSO) audio/video recordings up-loaded to the "Arbitrator" server was petitioned. CCSORD rendered no clear representation of what was being provided other than possibly two in-car videos and photos only, no mention of the fourteen other OPRL petitions were provided. The CCSO's August 31<sup>th</sup> written response had the original August 19<sup>th</sup> letter enclosed (added date and time stamped received by CCSO) with two checks(✓) next to Officer Adel and Steve Gayton on the list I provided. I can only assume by the indeterminate wooden, obfuscatory nature of OPRL petition response letter CCSORD will be forwarding only the in-car video (of myself and possibly attacker were the only in-car videos). No mention of all the other OPRL requests clearly listed in August 19<sup>th</sup> OPRL petition is troubling on multiple levels.

Only in-car videos? "*Included on the Arbitrator sever are two in-car videos and photos.*" Is this vague and arbitrary by design? "*Nothing has really happened until it has been recorded.*" Virginia Woolf This is especially true with legal governmental actions. However, It's not good enough to be vague under OPRL. The legislative statutory intent is to ensure a proper due diligent full response from public bodies. "*The principle ground on which we form a judgment of the rectitude or probity is the disposition or intention with which it is performed.*" Samuel Smith

To ensure compliance, OPRL has obligated the public body, under statutes (ORS 192.329 §(2)(b)), to provide the public legal rational in order to exempt certain public records. CCSORD's August 31<sup>st</sup> response offered no rational in order to legally decline a valid OPRL petitions from disclose in my August 19th submission. CCSORD must assert "*what is expressly provided by ORS 192.338, 192.345, and 192.355... expressly limited to the conditional and unconditional exemptions expressly listed in*

*these statutes, but absent these exceptions, public bodies generally must disclose public records.” City of Portland v. Bartlett, 304 Or App 580, 468 P.3d 980 (Or. App. 2020). In other words, without the ability to rely on those limited exceptions, the default rule for public bodies is disclosure. The non-exempt audio/video records of the fourteen other petitioned requests, listed in detail (names, serial numbers, dates submitted, approved, and narrated dates and times) were, in my opinion, ignored; an intentional interference with the function of the law, thereby subverting the statutory requirements of law in ORS 192.324:*

*1) A public body that is the custodian of any public record that a person has a right to inspect shall give the person, upon receipt of a written request:*

- a) A copy of the public record if the public record is of a nature permitting copying; or*
- b) A reasonable opportunity to inspect or copy the public record.*

*(2) If an individual who is identified in a public body's procedure described in subsection (7)(a) of this section receives a written request to inspect or receive a copy of a public record, the public body shall within five business days after receiving the request acknowledge receipt of the request or complete the public body's response to the request. An acknowledgment under this subsection must:*

- (a) Confirm that the public body is the custodian of the requested record;*
- (b) Inform the requester that the public body is not the custodian of the requested record; or*
- (c) Notify the requester that the public body is uncertain whether the public body is the custodian of the requested record.*

Oregon legislators, our representation of the public's consent and will, in ORS 192.235 declare: *“It is the policy of the Legislative Assembly to encourage state agencies to inform the public, the Legislative Assembly and the Governor of matters of public interest and concern. It is further the policy of this state to guarantee to its citizens the right to know about the activities of their government, to benefit from the information developed by state agencies at public expense and to enjoy equal access to the information services of state agencies.”* The Public Records Law declares that under ORS 192.314; *“[e]very person has a right to inspect any public record of a public body in this state” unless that record is expressly exempted from disclosure under the public has a right to inspect any public record that is not expressly exempt under ORS 192.338, 192.345, and 192.355. Under Oregon law, a “public record” is “any writing that contains information relating to the conduct of the public's business” that is “prepared, owned, used, or retained by a public body.” If a public body does not allow a person to inspect a public record, that person may petition for an order requiring that he or she be given access to the record,” ORS 192.407 to 192.422. Also as it relates to PSO records, in City of Portland v. Anderson, 988 P.2d 402, 163 Or. App. 550 (Or. App. 1999) “The public has a legitimate interest in confirming his [PSO] integrity and his [PSO] ability to enforce the law evenhandedly...That information bears materially on his [PSO's] integrity and on the risk that its compromise could affect the administration of his duties.” Further in, Am. Civil Liberties Union of Or., Inc. v. City of Eugene, 360 Or. 269, 380 P.3d 281 (Or. 2016), “We begin with the public interest in disclosure and conclude that the public interest in the transparency of government operations is particularly significant when it comes to the operation of its police departments and the review of allegations of officer... When our system of justice works as we expect it to, officers use their authority legitimately, members of the public comply with their instructions, and the dangers of escalating violence are avoided. But for our system to work as we expect it to, the public must trust that officers are using their authority legitimately, and officers must trust that the people they stop will respond appropriately. Without mutual trust, the police cannot do their work effectively and the public cannot feel safe. misconduct...Those officers carry weapons and have immense power. Some members of the public fear the abuse of that power. By the same token, police officers are themselves vulnerable....One way to*

*promote that necessary mutual trust is to make police practices and procedures transparent and to make complaints about police misconduct and the discipline that is or is not meted out open to public inspection. It is important for the public to know when the police overstep; it is important for the public to know when they do not. And it is important that the basis for differing results be known and understood."*

In ORS 192.431 §(1); *"The burden is on the public body to sustain its action"* : *MacEwan v. Holm et al.*, 226 Or 27, 369 P.2d 413 (1961) The onus to produce public records or provide an substantial exemption assertion provided by ORS 192.338, 192.345 and 192.355 is on CCSORD: *Jordan v. MVD*, 308 Or 433, 437, 781 P.2d 1203 (1989) This burden on the public body applies to records production for the public, and fees charged. The public records request response by CCSORD was not a completed petition according to the law, as defined under OPRL. The public body's actions required under ORS 192.324, as enumerated below, were violated by the refusal or failure of proclamation of exemptions expressly provided by ORS 192.338, 192.345 and 192.355, and by failing to produce the witness statements, logged in/uploaded to the *Arbitrator* server by the public safety officers as petitioned. The response by CCSORD for only a commitment to provide, with fees of each, in-car videos and photos from the Arbitrator server. *"The burden is on the public body to sustain its action."* CCSORD failed to defer to its obligation to provide reason/explanation or assertions as required in ORS 192.329 §(2)(a)(b) as to what exemptions were utilized for refusing the public record request, and failed, under OPRL, a due diligence to response properly addressed to a public records request, as stated in ORS 192.329 § (2); *[A] petition to OPRL is complete when the public body:*

*(a) Provides access to or copies of all requested records within the possession or custody of the public body that the public body does not assert are exempt from public disclosure, or explains where the records are already publicly available;*

*(b) Asserts any exemptions from disclosure that the public body believes apply to any requested records and, if the public body cites ORS 192.355(8) or (9), identifies the state or federal law that the public body relied on in asserting the exemptions;*

*(c) Complies with ORS 192.338;*

*(d) To the extent that the public body is not the custodian of records that have been requested, provides a written statement to that effect;*

*(e) To the extent that state or federal law prohibits the public body from acknowledging whether any requested record exists or that acknowledging whether a requested record exists would result in the loss of federal benefits or imposition of another sanction, provides a written statement to that effect, citing the state or federal law that the public body relies on, unless the written statement itself would violate state or federal law.*

*(f) If the public body asserts that one or more requested records are exempt from public disclosure, includes a statement that the requester may seek review of the public body's determination pursuant to ORS 192.401, 192.411, 192.415, 192.418, 192.422, 192.427 and 192.431.*

What was petitioned in my August 19<sup>th</sup> OPRL request was for all, full and complete, CCSO public safety officers(PSO) records, related to case # 16-23566, which were amply comprehensive, comprehensible, and unambiguously listed with the full names, PSO numbers, dates submitted, approved, and narrated dates&times. This should have allowed a detailed, expedited search in Arbitrator server, as required under ORS 192.345 § 3; *"Investigatory information compiled for criminal law purposes. The record of an arrest or the report of a crime shall be disclosed unless and only for so long as there is a clear need to delay disclosure in the course of a specific investigation."* § 40(b), Audio or video recordings *"A request for disclosure under this subsection must identify the*

*approximate date and time of an incident for which the recordings are requested.” In CCSO's Investigative Report Release Policy (effective date 8/2019) declares: “The Clackamas County Sheriff's Office will release any and all investigative records available upon request, to any member of the public unless the record is exempt by law from, disclosure.” Since the case # 16-23566 is closed, no longer exempt from disclosure, the caveat exception in ORS 192.345(3) is moot, therefore, public safety officer's investigation records in the “Arbitrator” server listed in August 19<sup>th</sup> OPRL petition are not exempt from public disclosure otherwise expressly provided by ORS 192.338, 192.345, and 192.355, and promulgated in CCSORD's Investigative Release Policy: shall be disclosed. While these exemptions are available they must be asserted under ORS 192.329 § 2(b). Furthermore, under *Guard Publishing Co. v. Lane County School Dist. No. 4J*, 96 Or. App. 463, 469, 774 P.2d 494 (1989), “[u]nder the statutory scheme disclosure is the rule. Exemptions from disclosure are to be narrowly construed.” Furthermore, *In Defense of Animals v. OHSU*, 112 P3d, 199 Or App 166 (Or App 2005), *in re Jenson v. Schilfman*, 24 Or App 11, 544 P2d 1098 (1976) “Records of criminal law are generally available for public inspection when the criminal law purpose has ended.”*

It is clear CCSORD acknowledges and promulgates its own policy which follows ORS 192.345 statutory requirements, and OPRL in words on paper, with some notable exceptions, CCSORD incontrovertibly knows the words by its policy statement, but not the music(spirit) of the rule of law. Laws must not become as weak as *Gumby* by becoming merely insouciant affectations of due diligence imprimatur. “*In every moral action the principle ground on which we form a judgment of its rectitude or gravity is this desperation or intention with which it is performed.*” *John Locke* With evidence of nonconformity in accordance to law, court review, legislative history, and rationality, the driving force manifesting these statutes, I can confidently conclude that CCSORD demonstrated deliberate indifference in its own promulgated policy (IRRP) or state statutory requirements. In a word, *obscurantism* : *A policy contrivance of withholding information from the public*, indicating a willful disregard of public records law by inured parochial obscurantism. “*Secrecy is generally the veil of iniquity—confident [of] some evil design.*” *Robert Mumford*

In light of the comprehensive, unambiguous OPRL petition, and the clear letter of the law, it is evident CCSORD failed to provide a good faith lawful response to a OPRL petition for records of public safety officer's submissions of audio witness statements, and police observance for record. To assist, I have provided testimonials to the existence of audio/video reports by the following recitations by PSO's police reports submitted and uploaded into the *Arbitrator* server. I in all cases, that are potentially substantial felon cases, as case # 16-23566, are recorded to Arbitrator Server, unless specified, such as Detective Rowland's follow up report, #13, 8/29/2016 at 09:24, statement, “*I did not record the interviews.*” This should reasonably suggests that if this is not stated it was recorded to the Arbitrator server under the case number. The following are the declaratory/testimonial statements, *prima fascia* evidence of witness statements uploaded and preserved, concerning case # 16-23566, in the narrated records (dated and timed) by CCSO public safety officer's audio/video filing digital recordings in the *Arbitrator* Server:

William Rowland, 9/2/16, 14:13; “*The recording of the interview has been uploaded onto the Arbitrator Server.*”

William Rowland, 8/30/16, 10:40; “*They all agreed and agreed to speak with me in private and allowed me to record the interview. I later uploaded the interviews onto the Arbitrator Server.*”

William Rowland, 8/29/16, 09:11; “*I later uploaded the recorded interviews on Arbitrator Server.*”



Mary Nunn, 9/7/16, 13:55: *The two audio recordings are uploaded onto the Arbitrator System as evidence and marked for DA access.*

Michael Copenhaver, 8/29/16, 09:48; *"For more detailed account of our conversation, please reference the audio recording in evidence."*

Michael Copenhaver, 8/29/16, 07:12; *"I took several photos, used Det. Terway's Iphone... I also interviewed property owner, Scott Ogle...This interview will be detailed in separate report."*

Tyler Simpkins, 8/27/16, 22:22; *"I will upload all photos and audio files to the Arbitrator Server. Digital Upload to Arbitrator-Photo of suspect-Audio of Gangstad interview."*

Steve Gayton, 8/27/16, 13:18; *"I advised him he was being audio and video recorded. I in securing the scene and interviewing the bystanders."*

Cory Alexander, 8/29/16, 14:16; *"All digital evidence uploaded to the Arbitrator System."*

The following PSO's, listed in August 19, 2021 petition, did not directly specify in their police report whether recordings were uploading into *Arbitrator* server. They are:

William Clemson (53018)

Timothy Beard (37230)

William Terway, (37555)

Gabriel Adel (49512)

Joshua Hattan (51530)

John Krummenacker( 38490)

On August 19, 2016 at around 3:00 pm at main CCSO office, Officer Krummenacker, after asking for permission to record my complaint in order to obtain a protection order-- Stalking/ Restraining Orders -- from Clackamas County court. (due to death threats by people growing medical marijuana, but selling it black market also, and associated with growing marijuana on the farm where my Airstream trailers and motor coaches were stored.) Officer Krummenacker's audio records exist, and were also petitioned in the August 19<sup>th</sup> OPRL petition.

Things of substance endure; the legislative history and tradition sustaining *presumption of public transparency* is long and strong. *Three years seven months and twenty-five days* after statehood, the Oregon Legislative Assembly (OLA) on October 11, 1862, established the right of public records, passing the following law: *"Every citizen of this state has a right to inspect any public writing of this state, except as otherwise expressly provided by this code or some other statute."* General Laws of Oregon, ch. 8, § 707, p. 326 (Civic Code) (Deady 1845-1864).

In *MacEwan v. Holm et al*, 226 Or. 27, 359 P.2d 413 (1961),

"Writings coming into the hands of public officers in connection with their official functions should generally be accessible to members of the public so that there will be an opportunity to determine whether those who have been entrusted with the affairs of government are honestly, faithfully and competently performing their function as public servants. *Nowack v. Auditor General, supra. 'Public business is the public's business.'* The people have the right to know. Freedom of information [about public records and proceedings] is their just heritage. \* \* \* Citizens \* \* \* must have the legal right to \* \* \* investigate the conduct of [their] affairs.' Cross,

The People's Right to Know, p. xiii (1951)”

“At different times and for different subjects some men impose and other men accept a particular standard of secrecy. The frontier between what is concealed because publication is not, as we say, 'compatible with public interest fades gradually into what is concealed because it is believed to be none of the public's business.' [As quoted in Cross, *The People's Right to Know*, p. 75.]”

“In balancing the interests referred to above, the scales must reflect the fundamental right of a citizen to have access to the public records as contrasted with the incidental right of the agency to be free from unreasonable interference. Note: Access to Official Information: A neglected Constitutional Right, 27 Ind.L.J. 209 (1951). The citizen's predominant interest may be expressed in terms of the burden of proof which is applicable in this class of cases; the burden is cast upon the agency to explain why the records sought should not be furnished. Ultimately, of course, it is for the courts to decide whether the explanation is reasonable and to weigh the benefits accruing to the agency from nondisclosure against the harm which may result to the public if such records are not made available for inspection.”

*Guard Publishing Co. v. Lane County School Dist. No. 4J*, 96 Or. App. 463, 469, 774 P.2d 494 (1989), rev'd, 310 Or. 32, 791 P.2d 854 (1990):

“[T]he Public Records expresses the legislature's view that members of the public are entitled to information that will facilitate their understanding of how public business is conducted,’ ORS 192.420 provides that ‘*Every person has a right to inspect any public record of a public body in this state, except as otherwise expressly provided by ORS 192.501 to 192.550.*’ Under the statutory scheme, disclosure is the rule. Exemptions from disclosure are to be narrowly construed. A disclosure enforcement action is not the time to be timorous or tentative. The legislative policy is clearly expressed. A public agency's duty is to disclose unless a statutory exemption unequivocally applies. If the agency is dissatisfied with the range of subjects which the legislature has seen fit to exempt from disclosure, the legislature is the appropriate place to seek a remedy. Independent decisions taken by a public agency, however well motivated, will be at cross purposes with the law declaring the duty to disclose the public's business to the public. If a public body denies any person access to a public record, ‘*the burden is on the public body to sustain its action*’ in any suit to enforce the duty of disclosure.”

In *Jordan v. Motor Vehicles Div., State of Or.*, 781 P.2d 1203, 308 Or. 433 (Or. 1989):

“Our decisions reflect the preference for a policy of governmental openness in Oregon. *MacEwan v. Holm et al*, 226 Or. 27, 359 P.2d 413 (1961), states the strong and enduring policy that public records and governmental activities be open to the public. The plaintiff in *MacEwan* sought disclosure of records of the Oregon State Board of Health concerning exposure of Oregonians to radiation. The court held: ‘We are of the opinion that the public interest will best be served by giving the term ‘records and files’ a broad construction embracing all writings in the custody of public officers, rendering such writings subject to inspection unless there are circumstances justifying nondisclosure.’

In *Hamdan v. U.S. Dep't of Just.*, 797 F.3d 759, 769-70 (9th Cir. 2015); accord *Robbins Tire*, 437 U.S. at 242.

"[P]ermit access to official information long shielded from public view" and thereby '*pierce the veil of administrative secrecy.*' After all, "*[g]overnment transparency is critical*" to ensure '*the people have the information needed to check public corruption, hold government leaders accountable, and elect leaders who will carry out their preferred policies.*'"

In *Am. Civil Liberties Union of Or., Inc. v. City of Eugene*, 360 Or. 269, 380 P.3d 281 (Or. 2016)

"[I]f the interests are in equipoise, the people's interest in disclosure must prevail. In our view, when the legislature provided, in ORS 192.490(1), that, in a public records action, the "*burden is on the public body to sustain its action,*" it intended to use the term "*burden*" in the same sense that this court used it in *MacEwan* — not to indicate that, in weighing competing interests, a court should decide a factual question, but to indicate that, when the parties' interests are of equal value, the public's interest in disclosure predominates. The scale that a court uses to measure the relative weight of competing interests is not a scale that measures whether a fact is or is not true; it is a scale that determines which of two legal interests predominates. When a trial court uses such a scale to answer a question that has only one legally correct answer, it decides that question as a matter of law. Our decisions reflect the preference for a policy of governmental openness in Oregon...The people's right to inspect public's records is '*Fundamental.*' *MacEwan*, 226 Or. at 46, 359 P.2d 413, the public interest in transparency carries significant weight."

Determining whether "*the public interest require disclosure*", as used in ORS 181A830 §(4)(a), "*when the public interest requires disclosure of the information...*" The court must determine, as matter of both law and fact, nature and significance of public's interest in confidentiality. Court must then balance those competing interest and determine, as matter of law, which interest predominates. Equipoise of competing needs is not the question: law is the determination. CCSO's refusal to provide public records is clearly a matter of law under OPRL. The facts and law are clear for the transparency of public records on this petition; public disclosure takes precedence.

In *Pamplin Media Grp. v. City of Salem*, 293 Or App 755, 429 P.3d 1019 (Or. App. 2018) the appellate court state:

"Oregon has a strong public policy in favor of disclosure of public records. Writings coming into the hands of public officers in connection with their official functions should generally be accessible to members of the public so that there will be an opportunity to determine whether those who have been entrusted with the affairs of government are honestly, faithfully and competently performing their function as public servants."

In the most recent court opinion in *City of Portland v. Bartlett*, 304 Or App 580, 468 P.3d 980 (Or. App. 2020)

Our primary disagreement with the dissent lies in its failure to grapple fully with ORS 192.314, its stated rule, and the limited exemptions provided therein. the default rule of the public records law is disclosure. ORS 192.314 provides that rule and three limited exemptions: "*Every person has a right to inspect any public record of a public body in this state, except as otherwise expressly provided by ORS 192.338, 192.345 and 192.355 .*" As the dissent accurately states at the outset of its opinion, the notwithstanding clause in ORS 192.390 is limited to the conditional and unconditional exemptions expressly listed in those statutes. But absent those exemptions, public bodies generally must disclose public records. In other words, without the ability

to rely on those limited exemptions, the default rule for public bodies is disclosure.”

In a *Supreme Court of United States*, *Environmental Protection Agency v. Mink* 8212 909, 410 U.S. 73, 93 S.Ct. 827, 35 L.Ed.2d 119 (1973), Ninth Circuit opinion in *Hamdan v. U.S. Dep't of Justice*, 797 F.3d 759 (9th Cir. 2015), *Animal Legal Defense Fund v. U.S. Dep't of Agric.*, 935 F.3d 858 (9th Cir. 2019)

“Government transparency is critical to maintaining a functional democratic polity, where the people have the information needed to check public corruption, hold government leaders accountable, and elect leaders who will carry out their preferred policies. FOIA was enacted to ‘facilitate public access to [g]overnment documents’ by ‘establish[ing] a judicially enforceable right to secure [government] information from possibly unwilling official hands... an informed citizenry [is] vital to the functioning of a democratic society.’

SCOTUS: “It seeks to permit access to official information long shielded unnecessarily from public view and attempts to create a judicially enforceable public right to secure such information from possibly unwilling official hands.’[P]ermit access to official information long shielded from public view’ and thereby ‘pierce the veil of administrative secrecy and to open agency action to the light of public scrutiny’ ‘Corruption, government inefficiency, and mistrust of public institutions all flourish unless the people are permitted to know what their government is up to.’ After all, public scrutiny and an informed citizenry are ‘vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed.’”

Oregon has a strong public policy in favor of disclosure of public records. The body of law fully demonstrates the solid ground on which *presumption of transparency* is standing, and therefore override this public body's actions: “Congress may cure any error made by the courts. Until it does, the bar and the public are justified in expecting the courts, except in the most egregious cases, neither to depart from previous interpretations of statutes, nor to give them a grudging application.” So clearly stated in, *Cottrell v. C.I.R.*, 628 F.2d 1127, 1131 (8th Cir. 1980), and the sustained historic court opinion further securing *presumption of transparency*.

The history and tradition precedence reflecting a settled legal philosophy of fundamental democratization of records, “*preference for a policy of governmental openness in Oregon*.” Through the long history of legislative, and court sustaining public transparency as a fundamental liberty, are the combined historic will of the legislative, and judicial branches of our government. The court's decision to enforce a right, not to enforce a wrong. “*Good laws are derived from evil habits*.” *Macrobius* Undefined, unfounded, and subjective provincial censorship is inconsistent with elemental liberty principles of democracy, and are not in the interest of the governed. “*Secrecy is generally the veil of iniquity—confident [of] some evil design*.” Robert Mumford Censorship of records in government as well as other enterprises are usually to secret some form of malfeasance. The risks to the public are advanced by the reduction of key safeguards by countervailing agent of private interests reducing transparency. Truth seeking is a core function of a democratic system; you don't have a democracy if you cannot get to the truth. A lowering of public guardianship in a fog of collective solipsism blinding itself to the consequences of their own actions, failing to adopt to a well established interpretation of the law A lawful public transparency for the public to sees behind walls, forward looking to dangers of

unwanted truths hidden behind walls in the shadows of arbitrary parochial rules. *"People in an open society do not demand infallibility from their institutions, but it is difficult for them to accept what they are prohibited from observing."* Chief Justice Warren Burger Transparency rests an unsettled public mind predisposed naturally for answers and understanding. The public's right to test the veracity, for all citizens, to be informed, to judge for their own protection and knowledge; to be enlightened so the public sovereign can act appropriately and not through ignorance, but knowledge. Ignorance brings chaos not knowledge. *"The greatest enemy of knowledge is not ignorance, it is the illusion of knowledge."* Daniel J. Boorstin A thorough concurrence of two of the three instruments of the will of the people of this state upholding the fundamental right of public transparency. Things of substance endure, and they have. Supported by legislative and court action maintains Oregon public records doctrine of *presumption of transparency* is fundamental, and sustained in law. The courts have spoken; a *one-hundred, and fifty-nine* year legacy of clearly established law. An enduring will of the people for this agency to take a stand to enforce a right, and not to continue to enforce a wrong. *"This is what society has left behind for us. Hest the plan offered to our deliberations."* Alexander Hamilton

Long before theses decisions from United States Supreme Court, Oregon Supreme Court, and the other appellate court, and long before the materialization of the state of Oregon, with the filter of distance of time, George Washington expresses the same natural spirit of transparency of public records:

"The only way to have a resilient population is for them to be informed....Promote, then, as an object of primary importance, institutions for the general diffusion of knowledge. In proportion as the structure of a government gives force to public opinion, it is essential that public opinion should be enlightened... Open records is to protected so that it could bare the secrets of government, and inform the people. Safety, voice, and equity for the public are principles to be examine."

In CCSO's Investigative Report Release Policy (IRRP) the asterisks highlighting associated with CCSO's exemption of charges for victims, *"\*No fee for victim of report,"* associated under enumerated Police Report, is a casuistry misleading the public that the *"Fee Schedule"* framed in IRRP is static and fixed, at a flat rate, in all other OPRL report petitions; a false narrative to clear words of truth in law. This is misleading, and suspect intentional, to the actual costs. The law specifies and mandates a dynamic, not static fixed rate, which depends on actual time to produce the files requested not an arbitrary fixed rate. A one price fits all, *ultra vires* artifice. *"Nature hates any counterfeit, and everything turns out much happily when it's unspoilt by artifice."* Desiderius Erasmus CCSO's policy is not the required actual, calculated, dynamic fee; the actual cost to the agency to be charged and mandated by law. The misleading statement under *"\*No fee..."* associated/directed declaration, *\*Other request fees are to be determined according to staff ;time necessary to research, review, redact, copy or compile records: the actual cost of staff time, calculated at the hourly rate of the employee(s) who performs the work."* IRRP asterisks neglects to forthrightly and directly discharge the duty to inform the public that all OPRL request that are nonexempt are to be determined by *reasonably calculated* for the actual cost of making the records. [Reasonable: fair-minded, just, sane, proper, logical and rational] The legal fact mandated by ORS 192.324§ (4)(a) is , *"The public body may establish fees calculated to reimburse the public body for the public body's actual cost of making public records available, including costs for summarizing, compiling or tailoring the public records, either in organization or media, to meet the request."* In, *In Defense of Animals v. OHSU*, 199 Or App 160, 112 P3d 336 (2005), *"Public body's decision whether to grant or deny fee waiver or reduction*

*must be objectively reasonable under totality of circumstances."*

It is not the prerogative of office to extract, eliminate, omit *"reasonably"* from CCSORD's public records policy. A conspicuous significant *ultra vires* expurgation of *"reasonably"* from the OPRL statute, directing its subjectivity outside the clear, plain-meaning of the law. CCSORD's flagrant self-serving smoothing narrative by intentionally abrogating from the textual intention of the Legislative Assembly and *stare decisis*. In ORS 174.010 it mandates, *"In the construction of a statute, the office of the judge is simply to ascertain and declare what is, in terms or in substance, contained therein, not to insert what has been omitted, or to omit what has been inserted; and where there are several provisions or particulars such construction is, if possible, to be adopted as will give effect to all."* The court opined on this in *Portland General Electric Co. v. Bureau of Labor and Industries*, 859 P.2d 1143, 317 Or. 606 (Or. 1993) In the first of three level, statutory text and context, of evaluation to resolve statutory ambiguities the court finds, *"In trying to ascertain the meaning of a statutory provision, and thereby to inform the court's inquiry into legislative intent, the court considers rules of construction of the statutory text that bear directly on how to read the text. Some of those rules are mandated by statute, including, for example, the statutory enjoiner "not to insert what has been omitted, or to omit what has been inserted." ORS 174.010. Others are found in the case law, including, for example, the rule that words of common usage typically should be given their plain, natural, and ordinary meaning. See State v. Langley, 314 Or. 247, 256, 839 P.2d 692 (1992) (illustrating rule); Perez v. State Farm Mutual Ins. Co., 289 Or. 295, 299, 613 P.2d 32 (1980)." Furthermore, in ORS 174.030 it expresses, "Where a statute is equally susceptible of two interpretations, one in favor of natural right (presumption of transparency) and the other against it, the former is to prevail."* In law and court opinions, CCSORD's substantial omission of *"reasonably"* poses legal and ethical issues which needs to be rectified.

*"Policy is like a building made of diverse pieces interlocked together joined in such a way that it is impossible to move one without the whole structure feeling it. It is greatly to be doubted whether any obvious good come from changing any "traditional law" whatever it maybe compared with the evil of changing it. Though it cannot reform these other qualities so as to bring them into harmony with itself, at least it does not let itself be deformed by them it plays a role apart."*

*Michel de Montaigne*

In the matter of CCSORD's arbitrary non-charge of "victims," ORS 192.324§ 4(a) denotes , "... may establish fees;" "§ 5 "... may furnish copies without charge or at a substantially reduced fee.." if agency[CCSORD]determines that the waiver or reduction of fees is in the the public interest because making the record available primarily benefits the general public," seeming to allow administrative prerogative or discretion to waiver or reduction of fees. However, reliance on "may" in ORS 192.324 §4(a), "may establish fees," and "may furnish copies without charge," is not legally sound in totality of circumstance. Under certain circumstance "may" transitions to "shall." ORS 192.324 §4&5 are inconsistent with ORS 192.324 which mandates, *"A requester who believes that there has been an unreasonable denial of a fee waiver or fee reduction may petition the Attorney General or the district attorney in the same manner as a requester who petitions when inspection of a public record is denied under ORS 192.311 to 192.478. The Attorney General, the district attorney and the court have the same*

authority in instances when a fee waiver or reduction is denied as when inspection of a public record is denied." In §6 a person who believes that a public body has unreasonably denied a request for a fee waiver or reduction may seek declaratory or injunctive relief. Furthermore, ORS 174.020. Legislative intent; general and particular provisions; consideration of legislative history it mandates in § (2) *When a general provision and a particular provision are inconsistent, the latter is paramount to the former so that a particular intent controls a general intent that is inconsistent with the particular intent.* ORS 192.324 § 6 is the latter and therefor trumps the former, ORS 192.324 §4&5. The Oregon Supreme Court in *In Defense of Animals v. OHSU*, 112 P.3d 336, 199 Or. App. 160 (Or. App. 2005) utilizing PGE, 317 Or. at 610-12, 859 P.2d 1143 rules of intent, legislative history, and *stare decisis*, declare, "the Public Records Law as a whole embodies a strong policy in favor of the public's right to inspect public records. In addition, subsection (5) of ORS 192.440 [ORS 192.324§ 6, updated number change] provides a remedy — the right to petition the Attorney General or district attorney and the right to seek injunctive or declaratory relief — to a person "who believes that there has been an unreasonable denial" of a fee waiver or reduction. (Emphasis added.) ORS 192.440(5) [ORS 192.324§ 6] therefore demonstrates that, notwithstanding the legislature's conferral of discretion on the public body, the public body's decision whether to grant or deny a fee waiver or reduction must be reasonable. Reasonableness is an objective standard, under which we examine the totality of the circumstances presented." Public body's decision whether to grant or deny fee waiver or reduction must be objectively reasonable under totality of circumstance. This is how, "may" amends into "shall," in respect to administrative discretionary capacity and the ministerial function of OPRL.

In my opinion, CCSORD is using mischief of governance, through prevaricating omission dissimulation, to misdirect and obfuscate, in order to confuse the public of the actual costs, waivers, and fee reduction entitlement clauses of OPRL. This in my opinion is a deliberate exercise in obfuscation to mislead public-interest, to sidestep and suppress the actual law. A *sub rosa*, price fixing, value fixing, flat rate intention by CCSORD as a means of violating, by-passing, and undermining ORS 192.324§ 4 for all OPRL record requests to be "reasonably calculated...for the public body's actual cost of making public records available." A dynamic rate rather than a fixed, static rate, as intimated by the casuistry of the addition of an asterisk affixed only to "\*No fee for victim of report," affectation, obfuscating the Legislative Assembly's intent; a fixed intention and artful method of misrepresentation. "The intent suffices in a great design." *Desiderius Erasmus* An improvisational refusal by CCSORD to ascend to and actuate the plain-meaning law of ORS 192.324 § (4)(a)'s actual relationship to all the nonexempt reports available to the public under OPRL. Statutes should not be construed to override the legislative intent to produce unreasonable or absurd results, *State v Galligan*, 312 Or 35 816 P2d 601 (1991)"The conscience of good intention disdains ambiguity." *Alexander Hamilton* This agency's interest and intent must align with the legislative interest and intent; and the courts interpretation rather than the current statutory parochial divergence of the public records law to one's own ends or purpose by this clear expurgation of the plain-meaning aim of statute. CCSORD's interest and intent is as different as caulk and cheese. Laws correcting problems that prevent or impede transparency, to improve or enhance transparency, and access to public & governmental actions, has become an impediment to work around by devising *sub rosa*, provincial, idiomatic rules constraining access to public records. Concluded in careful circumspect, by this obscurantism casuistry sophistry, CCSORD's modification to the statutory intent, *in spirit and in truth*, of the law is a willful *ultra vires* alteration by omission in the legislative( ORS 192.324§ 4(a)) and judicial intent ( *Davis v. Walker*) in order to maximize fee emoluments, and reduce its accountability. A maladministration disassembly of statutory regulations by, "omit what has been inserted," (ORS 174.010), and failure to "...establish fees reasonably calculated to reimburse the public body for the public body's actual cost..." statutory mandate, also "Home-rule

county may not charge fee in excess of actual cost incurred in making public records available," as per Attorney General Opinion in Vol 39, p721 (1979). The statute places the burden on the public body to show that the fees are reasonably related to its actual costs. (See 39 Op. Att'y Gen. 721, 725-26 (Or.1979)). It is my opinion CCSORD is making fast and loose with the strictures as and when is suited. Providing lip service, an axiomatic promulgation by IRRP, to the statutory realities of OPRL. Nevertheless, regardless of cost to law or precedence this agency is unwilling to carry out its dictates, with forthright probity, to provide the records petitioned, reasonably calculated, and appropriately waived fees. An abrogation of due diligent accountability--*the father of the rule of law*-- that protects our democracy.

I had provided the case number, personnel&number dates submitted, approved and narrated including narration time. This should reduce the time needed to research substantially. It is further mandated under ORS 192.060. Indexing and filing copied records: All photocopies, digital images and analog or digital audio and video tapes made under ORS 192.040 and 192.050 shall be properly indexed and placed in conveniently accessible files." Also under ORS 192.018, *The policy shall ensure that public records are being maintained and managed consistently within the agency from the time of creation of a public record to the time of final disposition of the public record.* This statutory requirement should provide greater expediency for quick easy access and disposition of files. Finding the files, copy and paste to a separate file or directly to CD/DVD is fast. Photography and music are some of my interests and hobbies. They both require finding files and transferring to other mediums. Current computers and programs make this a fast and easy process. Finding files when sufficient information, as provided, the transfers takes seconds for audio/photos and seconds to minutes in videos depending on the size of the file. This should not take \$60.00 worth of predetermined time. (see above concerning dynamic v. static) A clerk in CCSORD is making \$60.00 per hour which includes sick and vacation time? I suspect less, if the most cost effective methods to reduce "waste, inefficiency or abuse." of process were enforced. (see ORS 177.170 to 177.180 Secretary of State investigation and audit waste, inefficiency or abuse of agent and agencies)

Some of the ways to achieve these goals set by OPRL and Secretary of State are by:

- 1) Using one DVD/CD instead of multiple when one can enclose all the requested records requested.
- 2) Maintain a well organized file system for a fast, efficient retrieval and production of records.(ORS 192.018, 192.060)
- 3) Online accessibly to provide most, if not all, non-exempt, or conditional exempt, when conditions are met, such as, police reports, and recording under ORS 192.345 § 3,\$40.
- 4) Follow OPRL diligently to avoid further delay and time consuming interactions with the public and/or various oversight agencies to correct the misfeasance or misapplications of OPRL.
- 5) Work with other inter-agency offices, such as Public Records Advocate,(PRA) to gain useful knowledge, solutions through shared public records problems that may help, and create uniformity, reduced costs, and expeditious service concerning public records requests.
- 6) Engage with the public honestly and forthrightly. Answering question the public may have and provide all records allowed by law. Abstain from obscurantism which could



lead to more waste, inefficiency or abuse due to complications that may arise from oversight investigations. [AG, PRA, Sec of State, Sunshine Comm,Courts].

- 7) Utilized clerical staff instead of management to reduce labor costs.
- 8) Define a more inclusive, broader criteria for waivers and fee reductions other than the arbitrary method currently used by CCSORD.
- 9) A formation of a central records agency to mitigate misapplications, subjective intrinsic bias tendencies of certain idiomatic agencies more prone to partisan influence, such as, "*thin blue line*," dispensation bias affects by police and sheriff departments that may interfere with forthright OPRL entitlements.

Clackamas County Communications Department charges \$55.00 an hour in their latest letter. The public body carries the burden to show that fee charged were reasonable, and related to the actual cost to produce records. They too carry the burden, as well as CCSORD, under law. Concurred by Attorney General, OPRL places the burden on the public body to show that the fees are reasonably related to its actual costs.( See 39 Op. Att'y Gen. 721, 725-26 (Or.1979) ) CCSORD has provided no such evidence to determine its actual costs. In *Davis v. Walker*, 814 P.2d 547, 108 Or.App. 128 (Or. App. 1991), "*the statute places the burden on the public body to show that the fees are reasonably related to its actual costs. See 39 Op. Att'y Gen. 721, 725-26 (Or.1979). Although it is reasonable to assume that the actual cost includes not just the materials to make photocopies but also the labor time to edit and copy the documents, there is no specific support for the figures charged by Bureau. Therefore, even though the fees are authorized by ordinance, we conclude that Bureau has not carried its burden to show that the fees are reasonably calculated to reimburse it for its actual costs. The trial court erred in upholding the fees as reasonable.*"

The arbitrary waiver of fees to "*victims*", in my opinion, indicates a relativistic bias for a certain group of citizens goes against the spirit of ORS 192.235, "*to enjoy equal access to the information services of state agencies.*" CCSORD did not considering other factors that merit fee waiver or substantial reduction of fees under OPRL ORS 192.324 §(5); "*The custodian of a public record 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*" The question of law is whether it benefits the general public, rather than an across-the-board, *special favors* by peculiar prerogatives of office. Certain public records clearly don't meet this burden, such as commercial use utilized for profit by requester is not the same as a citizen lacking public records that affect peace of mind, liberty,safety, justice, and property that benefits the general public citizenship rights. Police records that inspect, "*determining an officer's integrity and ability to enforce the law evenhandedly*" falls into the fundamental constitutional aim of "*greatest utility to the community,*" "*primarily benefits the general public,*" thus a fee waiver should apply to my petition under OPRL, and in the spirit of OPRL, specifically, under ORS 192.324 § 5(ORS 192.440(4)).

I conclude we are all victims, as a society, when justice is undone and equality is unheeded. As reasoned in, *In Defense of Animals v. OHSU*, 112 P.3d 336, 199 Or. App. 160 (Or. App. 2005); "*City of Portland*, 163 Or. App. at 554, 988 P.2d 402 (concluding, in context of asserted exemption from disclosure of records pertaining to disciplinary investigation of police officer, that "[t]he public has a

*legitimate interest" in determining an officer's integrity and ability to enforce the law evenhandedly). In addition, a matter or action "primarily benefits the general public," as provided in ORS 192.440(4), when its most important or significant utility or advantage accrues to the public. See Webster's at 204, 1800 (defining the verb "benefit" in part as to be useful to, aid, advance, or improve; defining the adverb "primarily" in part as "first of all, fundamentally, principally"; and defining the adjective "primary" in part as "first in order" and "first in rank or importance"). Thus, a waiver or reduction of fees for the furnishing of a public record is "in the public interest because making the record available primarily benefits the general public" as provided in ORS 192.440(4) when the furnishing of the record has utility—indeed, its greatest utility—to the community." Discernment should not fall to CCSORD's arbitrary discretion for whom the victims might be. In my circumstance I was a victim of a vicious attack at my dwelling. However, I used a knife for self-protection, and self-defense from these strangers, I became the perpetrator by not using equal force to resist the attack from three drunk, drug induced attackers half my age. Who is the victim here? One can see how a select group such as a "victim" doesn't address the broader public concerns of "equal access to the information..." and the arbitrary nature of discernment utilized. "A system of morality which is based on relative emotional values is a mere illusion, a thoroughly vulgar conception which has nothing sound in it and nothing true." Socrates*

In my August 3<sup>rd</sup> previous petition, dated, I requested and questioned the following: *"The price list provide was helpful, however, in order to send the correct amount for CD/DVD of audio, video, and photo records uploaded into "Arbitrator Server," would all records associated with the below case numbers fit in one CD/DVD? Once confirmed I will send payment for these audio, video, photo records from the 'Arbitrator Server.'"* Then again on August 19<sup>th</sup> I queried concerning my previous petition, *"In this petition I requested if all the information requested would fit in one DVD? This was not answered."* I may understand and accept missing these direct questions once, but twice? I have some trepidation, this was an unintentional pretermission; a plain clear reticence to direct questions suppressed to silence. *"You do not have to kill people to deny them power; to deny their rights. You have only to take away their words, make them silent. He who remain silent, after all, is deemed to have granted his consent."* Neil Oliver

A normal CD holds 703 megabyte of data, DVD holds 4.7 gigabytes at single layer, and 8.5 gigabytes at dual layer. Most digital recording are compressed files to reduce space on *smartphones* and other digital recording devices with limited memory storage. These files are small, remain compressed and transferred rapidly to and fro Arbitrator server. The August 19<sup>th</sup> OPRL petition, with the above data storage of DVD's, it is fairly certain that all recordings in case # 16-23566 would fit in on a single DVD, and hold most if not all the audio on a single CD which can hold an entire music album at high sampling rate (1400 mbytes per second) requiring large files, as compared to 92 or mbytes per second on auto digital recording on smart phones. One DVD with high sampling rates hold a two-plus hour movie, it would surely hold a few small compressed files of audio/video recording by PSO's uploading to *Arbitrator* server. These compressed files transfer quickly (seconds) to CD/DVD This begs the question, as to why CCSORD's use of multiple CD/DVDs for each record, when a single CD or DVD would hold all my records petitioned under OPRL.

CCSORD refused to answer direct questions, inquired in two separate petitions, August 3<sup>rd</sup> and August 19<sup>th</sup>, opens the door to indifference that warrants a negative inference of conscientiousness of

guilt by the likely culpable mental state of knowing records requested could be fulfill in one DVD, rather than separate DVD for each video record as CCSORD engages in. Pursuing OPRL statute ORS 192.324 4(a) would reduce the fees CCSO could charge per CD/DVD. The unwillingness to answering direct questions, in my opinion, seeking shelter behind silence to prevent the acknowledgment and documentation that one DVD at \$25.00 would hold all records for most public requests: *stacking of fees*. “*Nothing has really happened until it has been recorded.*” Virginia Woolf It is suspect that a forthright truthful answer, faithfully discharge of one's duty, would interfere with CCSORD's fee inflation motive. The stacking of fees is the only ability to derive a fee of \$60.00, as per CCSORD's August 31<sup>th</sup> fee totals, is to charge “\$25.00/video x2 = 50.00, Photos \$10.00, Total \$60.00,” A reasonably calculated charge would be only one DVD, more than capable of holding all records I requested. (4.7 Gb) CCSORD under law carries the burden to establish fees, to be “*reasonably calculated*,” to reimburse the public body for the public body's actual cost. Stacking the fees, procured value arbitrarily calculated is not *reasonable* to reimburse CCSORD of its actual cost. This enumerates and illustrates proceeds motive, private motives, rather than the public duty motives mandates of a public agent or agency.

CCSO's stacked fees are not an accurate actual estimate of “*actual cost of making public records available*” but for the maximization of charges abusing, and violating OPRL. Again, under ORS 192.324 4(a) “*The public body may establish fees reasonably calculated to reimburse the public body for the public body's actual cost of making public records available, including costs for summarizing, compiling or tailoring the public records, either in organization or media, to meet the request.*” This is not reasonably calculated, not fair-minded, just, sane, proper, logical, or rational. In my view, these fees provided in CCSORD August 19<sup>th</sup> response indicate, an unethical, illegal stacking of fees by using multiple CD/DVD's when one would hold all of the records requested, but only providing the two checked (✓) next only the in-car videos, and rather than the other requested PSO audio recording. In ORS 177.170 to 177.180 this would constituent, “*waste, inefficiency*,” (using multiple CD/DVDs when one would do) *or abuse* (standing fee, fixed rates, not at the mandated actual cost; omitting substantive caveat to alter intent of courts and Legislative Assembly; obfuscation of proper salutatory interpretation; obscurantism: refusing to provide records or reason for refusal of record to the public) *by state agencies, state employees, or persons under contract with state agencies*,” are actionable for redress by Division of Audits of the Office of the Secretary of State under 177.170 to 177.180, Attorney General under ORS 192. 411 to 192.422, Public Records Advocate under ORS 192.461 to 192.478, and Oregon Sunshine Committee, under ORS 192.511, and the courts to ensure compliance to OPRL.

As the stated by law, ORS 192.235, “*It is the policy of the Legislative Assembly to encourage state agencies to inform the public, the Legislative Assembly and the Governor of matters of public interest and concern. It is further the policy of this state to guarantee to its citizens the right to know about the activities of their government, to benefit from the information developed by state agencies at public expense and to enjoy equal access to the information services of state agencies.*” The public have both a right and need to know the actions of their public servants. Public record access must not have a profit motive. The matter of law is clear, it is to be “*at cost*”; the cost of the salary of time used to produce copy. It's not a fine for agency financial gain; it is an, “*at cost*,” public right. The information belongs to all Oregonian, all Americans, not the exclusive right of our agency custodians of public records. Charging, selling public property that belongs to all citizens for pecuniary benefits by CCSO is

both legally and ethically unsound. After all, it is public property, selling something the public sovereign (the people) already possesses. CCSORD is only the repository of public's records property not the exclusive owners. It is the-- historic--legislative, and judicial ratiocination behind only charging actual costs of finding, transferring to CD/DVD, the record itself to produce public records, *"information developed by state agencies at public expense."* Under ORS 192.324§ (4)(c) the fees charged by CCSORD if greater than \$25.00 are actual charges not an *"estimated amount of the fee."* *"A free society can exist only to the extent that those charged with enforcing the law respect it themselves. There is no more cruel tyranny than that which is exercised under cover of the law, and with the colors of justice."* J. Tyndall

*Equal access* is not charging all, the impecunious, as well as, the pecunious the same rates if it benefits all. This also violates *"equal access to the information services of state agencies."* The average adults in custody (AIC) is around \$45.00 a month working in prison. (This is an average some higher some lower) The \$60.00 which CCSORD is asking is a 33% more than what an average AIC's make in an entire month. This is demonstratively *"not equal access to information."* not *"equal under law."* Self reflect paying 33% more than your months salary for public records. How many citizen would pay, or would be expected to pay preposterous relative fees? This would be extremely preventative, inducing a *de facto* nullification of the public's right to records; monetary discrimination by design to abrogate public entitlement to public records. A discriminatory practice, pecuniary configured, in a state professing equality, justice and fairness for all. This *de facto* discriminatory censorship, and annulment of entitlement, prevents a large group of vulnerable, underrepresented impecunious citizens, from benefiting and obtaining their right to public records. CCSORD assessing and assigning prohibitive fee's that circumscribe a select group from entitlements manifested, mandated in and by law. The poor and AIC are not half-citizen – *civitas sine suffragio*—but full citizens with full rights as citizens to public records. Equal under law, no one is above the law, has its paradoxical contradictions which needs to be judged, and taken into consideration, such as, Anatole France sardonically expresses this legal contradiction in terms, *"In its majestic equality, the law forbids rich and poor alike to sleep under bridges, beg in the streets, and steal loaves of bread."* How much money someone has should never determine how much public/constitutional entitlements a person has in this democratic society. *"The forgotten men and woman at the bottom of the economic pyramid."* Franklin D. Roosevelt Public bodies must not ignore these inequities and provide, *"equal access to the information services of state agencies."*

In Oregon Revised Statutes under Government Ethics, 244.010 § 5 *"... public officials should put loyalty to the highest ethical standards above loyalty to government, persons, political party or private enterprise."* The highest ethical standard; fundamental primary principles, as described by Plato, of balance, fairness, equity, and justice; the core principles of our republic and the constitution of our peoples. *"Justice must always question itself, just as society can exist only by means of the work it does on itself and on its institutions."* Michel Foucault The ability of public agents to do their job, doing the routine work, good and honestly according to the law is the basis of public service and a stable democracy. CCSO oath of office further states, *"...support the Constitution of the United States, Oregon, the Clackamas County Code, and all the laws thereof... meet the public's high expectation of me through my observance of the Criminal Justice Code of Ethics...In reverence for the law, I shall conduct my duties in good faith, with honesty, courage, and justice, to the best of my ability. In so doing, I shall build the peoples' trust and confidence in my position. I shall never betray them by*

*willfully abusing my powers, authority, or knowledge.*” There is no oath of secrecy; what is more praiseworthy than the truth to build *peoples' trust*? Eloquently expressed by Barbara Jordan, *“What people want is very simple they want an America as good as its promise.”* A promise by oath, law and the Constitution.

What is good for the public should be good for its agents and agencies. *“Evaded, undermined, nullified, it will not be, if we, and those who shall succeed us here, as agents and representatives of the people, shall conscientiously and vigilantly discharge the great branches of our public trust, faithfully to preserve, and wisely to administer it...”* Daniel Webster Public institutions are just that; public. Public good is the reason for public agents and agencies, and is sworn to by their oaths given. By oath, agents have chosen a side; the side of the public. The oath to protect the public not fully enumerated in law. The spirit of full commitment to public service and fulfillment of that oath. Any agent or agency that values their interest over the public's violates their public servant commitment oaths is functioning as an illusion of a public institution by the abjuration of that oath. The acceptance of moral standard and obligations, above the minimum mediocrity of laws. Eloquently evinced by Alexander Solzhenitsyn: *“Current modernity boast of the fact that everything is in accordance with “the law” in modern society if one is correct from the legal point of view, then no one will demand of him or her a higher level of moral action. A famous statement of modernity is “that which is not prohibited by law is permitted” which is a rejection of applying a moral valuation to action. In truth, the legal measure, the juridical way of measuring is lower than the ethical. It is the atmosphere of spiritual and soul-connected mediocrity.”* Law is the base level, punishable legal level under law, rather than the highest ethical, moral level which should be personally aspire to attain. What legality doesn't cover the public oath does to ensure consistency with virtuous, ethical, and moral good. Through accepting all the institutions obligations, renouncing private sphere, and accepting a public sphere of fealty. Private reasoning yields to public advantage. By oath functionaries assume ethical demand of that institution. A self-commitment above the statutory obligations to avoid the blush of dishonor. An ethical marriage with that institution not to be disgraced by infidelity to fealty by peer protect or regulates *pattern or practices*, which may have an extrinsic or intrinsic influence over oath takers, but a solid loyalty to the public duty is demanded. Anything outside the public sphere is infidelity and inexcusable. *“An oath is indivisible; it is not to be accepted as partly true and partly false.” “All oaths equivocation is utterly condemned.”* The general public aegis is the unambiguous subject, and aim of public oaths. Not a public's oath to public authority, or their regulatory charges, as in a authoritarian monarchical society, but a public service oath to the public sovereignty of democratic constitutional republic. As such, it is more than a sterile compact, but the whole concept of social good. *“If we has no oaths, we would have no law, and if we had no law, we would have mere anarchy, and so we must line ourselves with law, and keep the law by oaths.”* Bernard Cornwall

The safety of the people is the highest law. The rule of law provides the people with the highest degree of safety, and *summum bonum*. *“If men were angels we would not need a constitution.”* James Madison *“Obedience is the essence of law.”* We as Americans, are a representative constitutional democracy under the rule of law, not a law of rule. *“Respect necessary for the rule of law to endure.”* Abraham Lincoln Embodied in law, regulated by law are shared in ruling and being ruled. Public authorities must be capable of both, governing as a citizen, and to obey as a citizen by upholding the oath to support and protect the Constitution; the natural virtue of ruling and obeying the rule of law. *“What we want is a government that can control its citizens and a government to control itself.”* James Madison Law gives, law enforces, law answers, law takes, and all public service agents are equally accountable to our

laws as any other member of society. The powerful, the weak, the rich, the poor, police and criminal, all are accountable to our laws. *"Justice is not what the strong say, it is what the people say under this American democracy. The clarion call of the people has spoken: protect the weak from the strong; An immutable principle of moral obligation."* Alexander Hamilton CCSORD, as well as prisoners of the state, everyone, all are subject equally to our laws: full stop. *"Respect for its authority, compliance with its laws, acquiescence in its measures, are duties enjoined by the fundamental maxims of true liberty."*

George Washington

The Legislative Assembly producing, and the courts defining our transparency laws are time tested, These foundational institutions of our government has sustained the history and tradition of *presumption of transparency*, or a recent reiteration, *transparency by design*. Transparency takes precedence and is settled law. *"A people who mean to be their own governors must arm themselves with the power knowledge gives. A popular government without popular information or the means of acquiring it, is but a prologue to a farce or tragedy, or perhaps both."* James Madison CCSORD must work within OPRL, as defined. Public people should be transparent, and adhere to the *presumption of transparency* ruling standard. It is not CCSORD's administrative prerogative to determine record transparency outside the definitions of OPRL. I have attempted to illustrate CCSORD's administrative overreach circumventing its statutory mandates in order to redress its responsibilities to the public. *The inevitability of truth, the complexity and the gray doesn't lie in the truth, but what you do with the truth.*

This may seem like a long walk in tall weeds to petition CCSORD for redress an OPRL petition. It would have been much shorter if only legal issues were addressed. Ethics unlike law must appeal to a higher level of personal-social responsibility by the complexities of personal ambiguity in moral consciousness of right and wrong. I could have just used the law to make my sound vestigial points. However, there is more than sterile base of legalism which only addresses the rock bottom base of social behavior, rather than the superior ethical aspects of governance which makes the legal issues function properly, as well as society as a whole. Malversation, public ethical perfidy, lack of public virtuousness, opens the door to indifference, and complacency to the people of Oregon in which the laws have little impact to correct. Corruption spreads throughout like a plague, maintained by appropriate forms with suitably contrived pretexts, so that however inequities are practiced, and produced they preserve a facade of due diligence and justice. Regulatory laws that force public fortitude and devotion for the public good are frail if public virtuousness is weak or absent. Therefore, I took the long walk into tall grass in this exposition to fully elaborate public virtuousness; an entreaty for the superior ethical moral considerations that impact the intended proper application of law. Please guard against any offense that may be given by the sound of the words by asking for more attention to be paid to what I say then how I say it. *"This is not as an insult to the whole order, but as a reproach to the whole order, but as a reproach to its corrupt and unworthy members, so that I could censure their faults without hurting any good man."* Desiderius Erasmus. I hope this exposition redress petition is not condemned as a sophistical caviling nonsense, but as a serious public petition of remedy concerning serious infringements on public rights of Oregonians.

Please redress these issues I have discussed, and illustrated. Please do not take this with relativistic bias of personal feeling of temerity of a prisoner attempting to control or changing agency policy, but as a citizen--the public-- informing a public agency by recognizing the statutory, ethical, and judicial

realities and reasoning. An attempt, as a obligated citizen, by refusing to ignore inequities, and abrogation of public entitlements, by doing a public service to encourage this agency to review, and change its policies to prevent running afoul with laws inconsistent with principles of democracy, to enforce a right not enforce a wrong, to guide towards the correct ethical, and legal path for all the people of Oregon.

Please provide all, full&complete, public records I petitioned under OPRL I also request a fee waiver of these record. Please do not use this a guide to find loop-holds and ways to circumvent OPRL, such as, relying on *terrere curiae* –the weighty onerous burden, such as, legal expense, time & effort required to maintain maladministration. Public principles trampled by the agency's knowledge of tangible realities of impecunious public fighting the pecunious resources of a state agency are more apt to acquiescence than contest the insults to public entitlements. A configuration to win and maintain the *status quo* by design through extra-legal and unethical patterns of actions and inaction. Maladministration sustained by a default mode that sustains its *pattern or practice* culture. As Ariosto described the use of, *"The hands and their law-bags are full of summonses, libels, inquests, documents and power-of-attorney; they have great folders of glosses, counsel's opinions and statements. For all that, the poor are never safe in their cities, but are surrounded in front, behind and on both sides by procurators and lawyers,"* to maintain what one knows is wrong, pushing back accountability opens the door to indifference to do the right for the people of Oregon. Rather than these wrongs, adopt and accept to enforce a public right, and uphold the instrument of law and promise oath, to manage in a rational, disinterested way with public good as the ultimate ambition.

This is not for just CCSORD's eyes only. If this OPRL petition is not redressed in accordance to the law, I will utilize state oversight entities outlined in OPRL, such as, the Attorney General under ORS 192.411 to 192.422, Public Records Advocate under ORS 192.461 to 192.478, Division of Audits of the Office of the Secretary of State under ORS 177.170 to 177.180, Oregon Sunshine Committee, under ORS 192.511, and if necessary the courts, to ensure compliance to OPRL. Public accountability, through open records, is a pathway closer to the promise of equality and justice for all. Thank you for your due diligence in addressing these public concerns.

*"[Chroniclers] who have nothing of their own to contribute merely bring to their task care and diligence in collecting everything which comes to their attention and chronicling everything in good faith without choice or selection, leaving our judgment intact for the discerning of the truth...Naked and unshaped: each man can draw such profit from it as his understanding allows. [There are those who] spoil everything for us: they want to chew things over for us; they give themselves the right to make judgments and consequently bend history to their own ideas: for one our judgment leans to one side we cannot stop ourselves twisting and distorting the narration of that bias. They take the task of choosing what is worth knowing, after hiding from us some speech or private action which would have taught us much more. Let them make a display of their rhetoric and their arguments if they dare to; but let them judge as they like; but let them leave us the means of making over own judgments after them; let them not deprave by their abridgments nor arrange by their selection anything of material substance, but let them pass it all on as pure and wholly, in all its dimensions."*

*Michel de Montaigne*

Respectfully submitted,

Added: CCSO Oath of Office

Henry Childress  
10977752  
EOCI  
2500 Westgate  
Pendleton, OR 97801



February 17, 2022

Tami Dran  
Records Manager  
Clackamas County Sheriffs' Office  
2223 Kaen Road  
Oregon City, OR 97045

Dear Ms. Dran:

Thank you for the January 24, 2022 response to a petition under OPRL for audio/video/photo records related to case # 16-23566, and for providing an explanation missing OPRL requested records, updated estimate of fees, and release policy. I appreciate the corrections made in which the 16 audio files associated with the police record statements by public safety officers(PSO),interviewee, [noting, in the January 22<sup>nd</sup> redress petition, the exact written statement by the PSO's in police reports that audio recorded were downloaded to the *Arbitrator* server] rather than just two in-car videos files as previously stated in your August 31<sup>th</sup> reply.

This letter/petition is for one purpose, and one purpose only, that is to answer the direct question: will all the audio/video/photo files fit in one DVD? If so, the charge, as promulgated in CCSO's Investigative Report Release Policy, should be \$25.00, not the extraordinary fee of \$460.00. The \$25.00 should reflect the actual cost of staff time, \$460.00 manifestly does not. (*Please reread my January 4th exposition for full details*) Photos files and audio/video files, in a computer directory, are compiled, copied, and burned to DVD in the same manner. Audio/video and photo files are compiled, copied, and burned to DVD in the exact same manner. The case # 16-23566 compiles all files with this identifier and lists them out. All petitioned public documents requested could be burned directly to DVD, or to a temp burn file. With this in mind why does it cost, in this case, \$10.00 for 339 photos, 3 cents each, whereas 17 audio/video files costs \$25.00 each for a total of \$450.00. Again, as clearly outlined in my January 4th, 21 page exposition: *In ORS 192.431§(1); "The burden is on the public body to sustain its action" : MacEwan v. Holm et al., 226 Or 27, 369 P.2d 413 (1961) The onus to produce public records or provide an substantial exemption assertion provided by ORS 192.338, 192.345 and 192.355 is on CCSORD: Jordan v. MVD, 308 Or 433,437, 781 P.2d 1203 (1989) This burden on the public body applies to records production for the public, and fees charged. Furthermore,, Concurred by Attorney General, OPRL places the burden on the public body to show that the fees are reasonably related to its actual costs.( See 39 Op. Att'y Gen. 721, 725-26 (Or:1979) ) CCSORD has provided no such evidence to determine its actual costs. In Davis v. Walker, 814 P.2d 547, 108 Or.App. 128 (Or. App. 1991), " the statute places the burden on the public body to show that the fees are reasonably related to its actual costs. See 39 Op. Att'y Gen. 721, 725-26 (Or:1979). As in Davis v. Walker, 814 P.2d 547, 108 Or.App. 128 (Or. App. 1991), Although it is reasonable to assume that the actual cost includes not just the materials to make photocopies but also the labor time to edit and copy the documents, there is no*

*specific support for the figures charged by Bureau. Therefore, even though the fees are authorized by ordinance, we conclude that Bureau has not carried its burden to show that the fees are reasonably calculated to reimburse it for its actual costs. CCSORD fails to carry the burden, as prescribed by law, as to the files are equally handled by computer and staff why photos are 3 cents each, while audio/video are \$25.00 each. The OPRL statutory requirements which states: 192.324. Copies or inspection of public records; public body response; fees; procedure for records requests ; §(4)(a): The public body may establish fees reasonably calculated to reimburse the public body for the public body's actual cost of making public records available, including costs for summarizing, compiling or tailoring the public records, either in organization or media, to meet the request.*

I had requested the question if all would fit in one DVD multiple times, all of these clear questions have been ignored. The following are the examples:

- 1) August 3, 2021: The price list provide was helpful, however, in order to send the correct amount for CD/DVD of audio, video, and photo records uploaded into "Arbitrator Server," would all records associated with the below case numbers fit in one CD/DVD? Once confirmed I will send payment for these audio, video, photo records from the "Arbitrator Server."
- 2) August 19, 2021: Please inform me if all would fit in one DVD, if not how many in order to pay for items?
- 3) January 4, 2022: In my August 3<sup>rd</sup> previous petition, dated, I requested and questioned the following: *"The price list provide was helpful, however, in order to send the correct amount for CD/DVD of audio, video, and photo records uploaded into "Arbitrator Server," would all records associated with the below case numbers fit in one CD/DVD? Once confirmed I will send payment for these audio, video, photo records from the 'Arbitrator Server.'"* Then again on August 19<sup>th</sup> I queried concerning my previous petition, *"In this petition I requested if all the information requested would fit in one DVD? This was not answered."* I may understand and accept missing these direct questions once, but twice? I have some trepidation, this was an unintentional pretermission; a plain clear reticence to direct questions suppressed to silence... *CCSORD refused to answer* direct questions, inquired in two separate petitions, August 3<sup>rd</sup> and August 19<sup>th</sup>, opens the door to indifference that warrants a negative inference of conscientiousness of guilt by the likely culpable mental state of knowing records requested could be fulfill in one DVD, rather than separate DVD for each video record as CCSORD engages in.... The unwillingness to answering direct questions, in my opinion, seeking shelter behind silence to prevent the acknowledgment and documentation that one DVD at \$25.00 would hold all records for most public requests:

Please provide the answer to this repeated question. Will all audio/video files fit in one DVD, and will all audio/video and photos files under the identifier 16-23566 fit in one DVD. Also, please provide the file sizes that are commonly listed in a file directory of the complete list provide January 24, they are missing from the data.

Thank you very much for your help.

Respectfully submitted,

Henry Childress  
10977752  
EOCI  
2500 Westgate  
Pendleton, Oregon 97801

February 23, 2022

Lane Borg  
Executive Director  
Public Defense Services Commission (PDSC)  
1175 Court ST NE  
Salem, Oregon 97313

Dear Ms. Borg:

I petitioned for records under OPRL and oversight concerns back in January 18th. I appreciate the fact that you are a busy person, and would attempt OPRL request to unspecific personnel. However, yours is the only person available under PDSC (Blue Book), coupled with my second petition for supervision and oversight of bad actors is one of PDSC's executive responsibility, I have directed this second petition concerning this matter to the executive director.

ORS 151.219; Public defense services executive director; duties §(1) The public defense services executive director shall: (b) Implement and ensure compliance with contracts, policies, procedures, standards and guidelines adopted by the commission or required by statute.

ORS 135.055; Compensation and expenses of appointed counsel  
§(1) Counsel appointed pursuant to ORS 135.045 or 135.050 shall be paid fair compensation for representation in the case: §(7) ...The public defense services executive director shall determine whether the amount is necessary, reasonable and properly payable from public funds for fees and expenses for representation in the case as provided by the policies, procedures, standards and guidelines of the Public Defense Services Commission. ...

In my January 18<sup>th</sup> petition for records and oversight I state the following:

*I request your assistance in obtaining records from a public defenders consortium and PDSC I have attempted multiple times to obtain records of my files that are retained by Clackamas County Indigent Defense Corporation. The petition has been ignored or forwarded to the attorney assigned to my trial,*

*Mr. Seeberger had delayed and obfuscated multiple requests in the past. Never providing a full complement of records request, such as, 9-1-1 calls, police audio records of witness statement, and others. In a recent redirected response on October 7, 2021, Mr. Seeberger disingenuously implies and contradicts the multitudes of letters requesting records documenting his unwilling to produce specific missing files. Records of these petitions to Mr.*

*Seeberger is of record with PDSC by correspondences Mr. Paul Levy and Nancy Cozine about three and four years ago.*

*Due to the obfuscation, pretermission, and prevarication by Mr. Seeberger has forced me to directly deal with CCIDC to obtain their records first, then, after records review, I will entreat CCIDC to redress multiple issues related to Mr. Seeberger and his investigator, Mr. Dan Coates. In the meantime it is clear by delays of months to non-response responses, confusing multiple address on internet, redirection of petition directed to CCIDC redirected Mr. Seeberger without direct redress, and the pretermission of my last petition, dated October 12, 2021. I believe this circuitry and subterfuge will continues, rejecting their accountability to the public as mandated. Also, could you provide a new pay schedule change for public defenders and PCR attorneys. I had been recently told of a change in reimbursements to avoid the economic conflict of interest in attorney-client relationship associated with the previous pay arraignment.*

To be clear, I am not petitioning for current PCR attorney expenses at this time, but the current PDSC fair compensation for representation. This should include the current Schedule of Guideline Amounts, Public Defense Services: Common Schedule of Compensation for purposes of recoupment pursuant to ORS 151.505(2) (or current 2022 code designation), PDSC Complaint Policy and Procedures, and any other recent document that codifies changes in fee compensation policies for court appointed attorneys.

Please redress my concerns of Clackamas County Indigent Defense Corporation (CCIDC), and Mr. Seeberger. A little gentle push by you may solve these issues. Pertinent records may be available from my previous complaints, on the same issues, concerning Mr. Jerry Seeberger. If needful, I will provide all that the records of the parties communications, Mr. Seeberger, Paul Levy, and Nancy Cozine. Also, under OPRL, please provide the records outlined above.

*"We must learn that passively to accept an unjust system is to cooperate with that system, and thereby to become a participant in its evil."*

*Martin Luther King Jr. "Strength of Love"*

*"Throughout history, it has been the inaction of those who could have acted; the indifference of those who should have known better; the silence of the voice of justice when it mattered most; that has made it possible for evil to triumph."*

*Halle Selassie*

Thank you for your due diligence in this matter.

Respectfully submitted,

Henry Childress  
10977752  
EOCI  
2500 Westgate  
Pendleton, Oregon 97801

April 26, 2022

Stephanie Clark, Director  
Archives Division  
Office of The Secretary of State  
800 Summer Street NE  
Salem, OR 97310

Dear Ms. Clark:

This is the second request. under Oregon Public Record Law (OPRL), for public documents, petitioned March 15<sup>th</sup> . This document may have been misplaced or lost in mailing. I will enclose the previous OPRL petition at the end of this letter.

Thank you for your diligent, helpful responses to previous petitions dated September 9, 2021, and August 17, 2021 concerning a rule change, and concerns of rule-making violations by Oregon Department of Safety Standards and Training; a back door, *sub rosa* usurpation of the Legislative Assembly's intention of ORS 703.480(2)(a) by disguising rule change as an internal management directive rule to avoiding APA regulations. This is currently unresolved, and resolution attempt are ongoing.

I have yet received response from Mr. Lane Borg petitions dated February 23<sup>rd</sup> concerning OPDS's new policy adjusted for Legislative Assembly Chapter 202, HB 2003 AN ACT Relating to the Public Defense Services Commission; creating new provisions; amending ORS 1.009, 151.213, 151.216 and 151.225. Since the Archives Division of the Office of The Secretary of State is the final repository of rule changes, and the lack of due diligence by Mr. Borg, as mandated under OPRL (192.310 to 192.401) (2022 Edition), I again petition for your response to this OPRL request. If there are any other avenues to obtain these records more directly please inform.

Thank you for your due diligence in this petition.

*"Policy is like a building made of diverse pieces interlocked together joined in such a way that it is impossible to move one without the whole structure feeling it. It is greatly to be doubted whether any obvious good come from changing any "traditional law" whatever it maybe compared with the evil of changing it. Though it cannot reform these other qualities so as to bring them into harmony with itself, at least it does not let itself be deformed by them it plays a*

*role apart."*

*Michel de Montaigne*

Respectfully submitted,

Added: Petition dated March 15, 2022

Henry Childress  
10977752  
Warner Creek Correctional Facility  
PO Box 1500  
Lakeview, Oregon 97630  
March 15, 2022

Stephanie Clark, Director  
Archives Division  
Office of The Secretary of State  
800 Summer Street NE  
Salem, OR 97310

Dear Ms. Clark:

This OPRL records request in on the matter of policy formulation, codification, by Executive Director, Mr. Lane Borg of Public Defense Services Counsel(PDSC) concerning Oregon Legislative Assembly of the 2021 Regular Session (2021); Legislative Assembly Chapter 202, HB 2003 AN ACT Relating to the Public Defense Services Commission; creating new provisions; amending ORS 1.009, 151.213, 151.216 and 151.225.

I have reviewed the new guidelines in Oregon Legislative Assembly of 2021 pertaining to ORS 151.216 § (2). Since I have not received a response to my,(January 18th and February 23<sup>rd</sup>) petitions, I am unsure if Mr. Lane Borg, executive director of PDSC, has formulated and promulgated a new policy for contracted public defense providers outlined in the new statutes. However, I assume it has been completed, and therefore available under public records law due to the codification in section 5 of this act which states, *"The Public Defense Services Commission shall report on the implementation of the amendments to ORS 151.213 and 151.216 by sections 1 and 2 of this 2021 Act to the committees of the Legislative Assembly related to the judiciary in the manner provided under ORS 192.245 on or before February 1, 2022."*

The amendment is as follows:

The Act; SECTION 2. ORS 151.216 is amended to read:

- (c) Adopt policies for contracting for public defense providers not employed by the office of public defense services that:
  - (A) Ensure compensation, resources and caseloads are in accordance with national and regional best practices;
  - (B) Promote policies for public defense provider compensation and resources that are comparable to prosecution compensation and resources;
  - (C) Ensure funding and resources to support required data collection and training requirements; and
  - (D) Recognize the need to consider overhead costs that account for the cost of living and business cost differences in each

county or jurisdiction, including but not limited to rent, professional membership dues, malpractice insurance and other insurance and other reasonable and usual operating costs.

(d) Establish operational and contracting systems that allow for oversight, ensure transparency and stakeholder engagement and promote equity, inclusion and culturally specific representation.

(e) Review the caseload policies described in paragraph (c)(A) of this subsection annually, and revise the policies as necessary and at least every four years.

(f) Adopt a statewide workload plan, based on the caseload policies described in paragraph (c)(A) of this subsection, that takes into account the needs of each county or jurisdiction, practice structure and type of practice overseen by the office of public defense services.

Please provide PDSC'S new policy filed with the Secretary of State pertaining to the above amendments of ORS 151.216, as stipulated in OPRL and Adoption of Rules (183.325 to 183.410) Oregon Revised Statutes (2022 Edition). Also, I wish to petition for a fee waiver due to the records "*primarily benefits the general public.*" [ORS 192.324§ (5)]

Thank you for your attention in this matter.

Respectfully submitted,

Henry Childress  
10977752  
EOCI  
2500 Westgate  
Pendleton, Oregon 97801

March 19, 2022

Clackamas County Indigent Defense Corporation (CCIDC)  
707 Main St #400 (one of three address on web pages)  
Oregon City, Oregon 97045

Dear Sir or Madam:

Multiple attempts to procure a response to an Oregon Public Records Law (OPRL) petition from CCIDC has only induced a misdirected, belated, disingenuous October 7, 2021 response from Mr. Seeberger to a July 22, 2021 petition sent to the above address of the three listed. (Three months to respond?) These multiple petitions (seven) to puzzling multiple addresses (three) on the web has not induced a response from the consortium as required by law under OPRL, [192.329 (1-8) Public body's response to public records request].

It is unacceptable to redirect petitions to others without responding to the petitions. These petitions clearly were directed to and for the consortium, not Mr. Seeberger. These examples of obfuscating, equivocating, and misdirecting circuitry. Detailed examples of misfeasance by CCIDC has been forwarded in a February 23, 2022 letter to Mr. Lane Borg, executive director of PDSC, for redress, as is mandated under ORS 151.219 § (b), PDSC Complaint Policy and Procedures.

CCIDC may be aware of HB 2003 related to PDSC, an amendment to ORS 1.009, 151.213, 151.216 and 151.225. This new amendment to PDSC affiliated statutes, I hope will mitigate some of the legal inequality issues associated with court appointed attorneys, including those of Mr. Seeberger and CCIDC. In light of these new statutes, I am requesting information under OPRL are associated with ORS 151.216. Along with the long petitioned information (well explained in previous petitions) please provide CCIDC policies adjusted for this new law, especially the underlined areas.

The Act; SECTION 2. ORS 151.216 is amended to read:

(c) Adopt policies for contracting for public defense providers not employed by the office of public defense services that:

(A) Ensure compensation, resources and caseloads are in accordance with national and regional best practices;

(B) Promote policies for public defense provider compensation and resources that are comparable to prosecution compensation and resources;

(C) Ensure funding and resources to support required data collection and training requirements; and

(D) Recognize the need to consider overhead costs that account for the cost of living and business cost differences in each



county or jurisdiction, including but not limited to rent, professional membership dues, malpractice insurance and other insurance and other reasonable and usual operating costs.

(d) Establish operational and contracting systems that allow for oversight, ensure transparency and stakeholder engagement and promote equity, inclusion and culturally specific representation.

(e) Review the caseload policies described in paragraph (c)(A) of this subsection annually, and revise the policies as necessary and at least every four years.

(f) Adopt a statewide workload plan, based on the caseload policies described in paragraph (c)(A) of this subsection, that takes into account the needs of each county or jurisdiction, practice structure and type of practice overseen by the office of public defense services.

Thank you for your due diligence in this matter, and respond timely as required under OPRL.

Respectfully submitted,

Henry Childress  
10977752  
EOCI  
2500 Westgate  
Pendleton, Oregon 97801