



## Nathan Vasquez, Multnomah County District Attorney

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*via email only*

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City of Portland  
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Re: Petition of Jaquan Harris challenging the City of Portland's response to a public records request

Dear Mr. Harris and Mr. Byrd:

On March 4, 2026, Mr. Harris submitted a public records request to the Portland Police Bureau (PPB) for detective notes and related materials used to document a statement he provided in connection with PPB Case No. 11-031389. He petitioned this office on April 1, 2026, asserting that seventeen business days had passed without acknowledgment or production of responsive records and arguing that this constituted undue delay and constructive denial under ORS 192.329.

The City responds by acknowledging that it exceeded the statutory deadline by five business days and stating that it has now provided petitioner with a fee estimate for the search time associated with locating responsive records.

For the reasons discussed below I conclude that the City did not timely respond to petitioner's request, and that delay was not excused, which constitutes a denial for purposes of ORS 192.407. However, having now issued a fee estimate, its obligation to act further is suspended pending payment of the fee.

### DISCUSSION

#### A. Undue Delay – ORS 192.329

ORS 192.407(1)(a) requires that I find that a failure to respond within fifteen business days constitutes a denial “unless the public body demonstrates that compliance was not required under ORS 192.329.” The City relates that the records department employee who handled a prior request of petitioner's was of the office for a week for Spring break, and not is not regularly scheduled to work on Fridays. This, the City argues, makes compliance with the statutory deadline “impractical” under ORS 192.329(6)(a) and (7). ORS 192.329(6)(a) provides that the 15 business day deadline does not apply “if compliance would be impracticable because: The staff ... necessary to complete a response to the public records request are unavailable.” ORS 192.329(7) simply provides that staff on vacation or leave are “unavailable.”

These sections to not assist the City here. First, while it might have been convenient for the City to have the same staff person process petitioner’s new request as handled his prior request(s), I have been presented no information suggesting that that individual was “necessary” for the City to complete the request. Second, an absence of a week over the span of a 15-business day timeline does not on its own establish that it was impracticable for that individual to review the matter and issue a fee estimate within the relevant timeline.

The City also argues that its delay was not “undue” under ORS 192.329(1). I agree that our precedents support this conclusion on these facts. However, breaching the 15-day response timeline, without a valid reason under ORS 192.329(6), constitutes a statutory denial for purposes of ORS 192.407(1)(a). ORS 192.329(1) and ORS 192.329(5) impose separate timelines. The former is more permissive than the latter, and public bodies must comply with both.

B. Sanctions – ORS 192.407(3)

ORS 192.407(3) gives me the discretion to order a remedial sanction after concluding that a public body violated the response timeline. The range of sanctioning authority runs from a full punitive fee waiver at one end to no sanction at the other. Compare, *Petition of Gunderson*, MCDA PRO 20-29(2) (2020) (imposing approximately \$3,000 fee reduction for over 200 days of delay) with *Petition of Iboshi*, MCDA PRO 25-11 (2025) (declining to impose sanctions where the City demonstrated a confluence of circumstances including governmental transition, personnel illness, holidays, and inclement weather contributed to the delay).

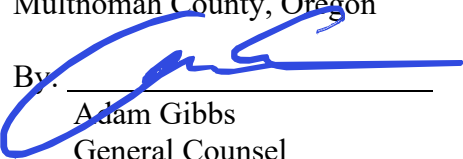
The total delay in this case was five business days. The City’s explanation (staff absence and scheduling) does not excuse the violation, but the delay was not significant. In *Petition of Kessler*, MCDA PRO 25-17 (2025), this office imposed a 5% fee reduction for a technical violation of the statutory response timeline where the City’s non-compliance did not reflect bad faith and the delay was not significant. The circumstances here are comparable, and I find the same nominal sanction appropriate.

**ORDER**

Accordingly, the petition is granted. The City of Portland shall reduce the fees assessed on this request by 5%. Per ORS 192.329(3)(a) the City is not obligated to perform further work on the request in the absence of payment of that, now somewhat reduced, fee.

Regards,

NATHAN VASQUEZ  
District Attorney  
Multnomah County, Oregon

By:   
Adam Gibbs  
General Counsel