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DEPARTMENT OF JUSTICE

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December 10, 2003

William Birhanzl
13220 S. Frontier Parkway
Oregon City, OR 97045

Re: *Petition for Public Records Disclosure Order:*
Multnomah County Trial Court Records

Dear Mr. Birhanzl:

This letter is the Attorney General's order on your petition for disclosure of records under the Oregon Public Records Law, ORS 192.410 to 192.505. Your petition, which we received on December 8, 2003, asks the Attorney General to direct the Multnomah County Trial Court Administrator to allow the inspection of a record of proceedings that occurred on May 12, 2003. For the reasons that follow, we respectfully deny your petition.

The Public Records Law confers a right to inspect any public records of a public body in Oregon, subject to certain exemptions and limitations. *See* ORS 192.410. Under ORS 192.450, the Attorney General may order a state agency to disclose public records when the agency has denied any person the right to inspect or receive a copy of the records. The Attorney General does not have authority to order disclosure of public records unless the agency has denied a request for those records. *Id.*

You provided a copy of Multnomah County Trial Court Administrator Douglas Bray's reply to your records request, dated November 24, 2003. In that letter, with respect to the record you requested, Mr. Bray states:

> The audio record of the proceedings in JC 4 on May 12, 2003 are available to you at the File Room, located in Room 131 of the Multnomah County Courthouse. You may order a copy of the taped proceedings.

We spoke with Bradd Swank of the State Court Administrator's office about Mr. Bray's letter and your petition. Mr. Swank told us that you may inspect the

requested record (in this case, an audio recording) by listening to it at the Courthouse,[1] or you may order a copy of the record. Alternatively, you may both listen to the audio recording and order a copy. Mr. Swank confirmed with Mr. Bray that his intent had been to convey these options to you in his November 24 letter. Because the agency has not denied you an opportunity to inspect or receive a copy of the record, we deny your petition to compel disclosure as premature.

Sincerely,

PETER D. SHEPHERD
Deputy Attorney General

AGS
c: Douglas M. Bray, Multnomah County Trial Court Administrator
Bradd Swank, Office of the State Court Administrator

[1] Mr. Bray's letter states that the requested audio tape will play on a standard tape recorder and that you sometimes carry such a recorder with you. Mr. Swank told us that the local Courthouse does not normally maintain such a recorder for purposes of inspection of public records and recommends that you inform staff at the Courthouse if you do not plan to inspect the audio recording using your own equipment.