HARDY MYERS
ATTORNEY GENERAL

PETER D. SHEPHERD
DEPUTY ATTORNEY GENERAL



**DEPARTMENT OF JUSTICE**

1162 Court Street NE
Justice Building
Salem, Oregon 97301-4096
Telephone: (503) 378-4400
TTY: (503) 378-5938

December 13, 2002

Lawrence James Saccato
1224 NE Walnut #257
Roseburg, OR 97470

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

Dear Mr. Saccato:

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 6, 2002, asks the Attorney General to direct the Douglas County Trial Court Administrator to make available copies of three categories of records:

1. [T]he correct true name and address of the Violations Clerk who's signature appears on the Notice of Record Handling attached marked exhibit "A" attached.

2. [A] certified copy of the Oath of Office of this person and or Judge "Bureau Violations" and the name of the Bonding company that provides the surety bond for these individuals.

3. [A] complete explanation and definition of the assessments listed under the Judgement Sentence portion of exhibit "B" attached specifically Unitary Assessment $35.00, County Jail Assessment $20.00, LE Medical Assessment $2.00 and Fine $118.00. Please provide the Agency and responsible individual that these assessments are paid or credited to.

For the reasons that follow, we respectfully deny your petition.

The Public Records Law confers a right to inspect any public record of a public body in Oregon, subject to certain exemptions and limitations. *See* ORS 192.420. Any

person who is denied the right to inspect or to receive a copy of a public record of a state agency may petition the Attorney General to review the record and determine if it may be withheld. ORS 192.450(1). The Attorney General may order a state agency to disclose records only when the agency has denied a request for the records. *See* ORS 192.450(1).

We contacted Bradd Swank of the office of the State Court Administrator about your petition. Mr. Swank told us that the Douglas County Trial Court Administrator had not denied your request, but had forwarded it to the State Court Administrator's office for response on October 31, 2002.[1] Mr. Swank also provided us with a copy of his letter to you, dated December 10, 2002, responding to your request.

With regard to the first category of records you requested Mr. Swank provided you with the name of the person to whose signature you referred and denied your request for her address. The address of an employee of a public body is exempt from disclosure unless the person requesting disclosure has shown by clear and convincing evidence that the public interest requires disclosure. ORS 192.502(3). You have made no such showing in this particular instance.

Mr. Swank denied your request for the second category of records because the Douglas County Trial Court Administrator has no responsive records. According to Mr. Swank, Oregon Judicial Department employees are not required to take an oath of office, and, as he explained in a November 14, 2002 response to an earlier request from you, official oaths of office taken by state court judges are maintained by the Archives Division of the Secretary of State's office, not by the State Court Administrator. Finally, Mr. Swank explained in his response to your current request and in his November 14 letter that neither Oregon Judicial Department employees nor state court judges are required to file bonds.

In relation to the third category of records in your request Mr. Swank explained that the Public Records Law does not require a public body to answer questions or create records in response to a request. This is an accurate statement. *See* ATTORNEY GENERAL'S PUBLIC RECORDS AND MEETINGS MANUAL (2001) 5. In speaking with Mr. Swank specifically about your request for "a complete explanation and definition of assessments," he stated that, he is unaware of the existence of any such record. Based upon his representation, we cannot order the Douglas County Trial Court Administrator to produce a record that does not exist.

---

[1] Your request to the Clerk of the Douglas County Circuit Court states that "[a]s provided by the open records law, I will expect your response within seven (7) days." However, the Public Records Law does not contain any specific timeline within which a public body must respond to a request to inspect or copy public records. ORS 192.430 requires a custodian of public records to provide "reasonable" opportunities for inspection or copying of non-exempt public records. The amount of time required for an agency to respond to a request may vary depending on the complexity of the request, the staff available to prepare the response, or the need to confer with counsel concerning possible exemptions from disclosure of the requested records. *See* ATTORNEY GENERAL'S PUBLIC RECORDS AND MEETINGS MANUAL (2001) 8-10.

In summary, the Douglas County Trial Court Administrator has not denied your request for any records other than those that are exempt from disclosure under the Public Records Law. Therefore, we deny your petition as moot.

Sincerely,

PETER D. SHEPHERD
Deputy Attorney General

AGS11466

c: Bradd Swank, Office of the State Court Administrator
Gayla Wilkerson, Douglas County Trial Court Administrator