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December 9, 2002

Rose Jade
Attorney At Law
PO Box 2104
Newport, OR 97365

Re: *Petition for Public Records Disclosure Order:*
State Court Administrator Records (Multnomah County Records)

Dear Ms. Jade:

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 2, 2002, asks the Attorney General to direct the State Court Administrator to make available Multnomah County jury records, described in your petition as master and term jury lists. For the reasons that follow, we respectfully deny your petition.[1]

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 192.420. Under ORS 192.450, the Attorney General may order a state agency to disclose public records when that agency has denied any person the right to inspect or receive a copy of the records.

[1] In this Public Records Order, we respond only to your request that we direct the State Court Administrator to make available certain records. ORS 192.450 [Describing the function of the Attorney General on review of a petition for disclosure]. The remaining claims or assertions to which you invite response, including your "perception", unsupported by any citation to any authority, of a "conflict of interest", and your speculative inquiry about a possible "separation of powers issue", all are unnecessary for us to address in discharging our duty of representing the State of Oregon with respect to review of a petition for public records. Accordingly, we will not address them here.

As you note in your petition, Bradd Swank of the State Court Administrator's office responded to your request for jury records on October 24, 2002. With regard to portions of your request, Mr. Swank asked for clarification or responded that the request was not for records under the Public Records Law but was in fact a request for the Office of the State Court Administrator to perform research on your behalf. We understand that you do not challenge these aspects of Mr. Swank's response; your petition states that you are "asking for help in gaining access to master and term jury lists." Your request asked for those lists for the years 2000, 2001 and 2002.

Mr. Swank denied your request for disclosure of the master and term jury records on the basis of ORS 192.502(9) and ORS 10.215. ORS 192.502(9) exempts from public disclosure "[p]ublic records or information the disclosure of which is prohibited or restricted or otherwise made confidential or privileged under Oregon law." This exemption incorporates into the Public Records Law any public records confidentiality statute in Oregon law. The applicable state law pertaining to jury records is ORS 10.215(1).

Prior to action by the 2001 Legislative Assembly, ORS 10.215(1) had been interpreted to permit disclosure of jury lists to defendants in criminal proceedings. *State ex rel Click v. Brownhill*, 331 Or 500, 15 P3d 990 (2000). In response to *Click*, the 2001 legislature amended ORS 10.215 and adopted ORS 10.275, with the latter statute outlining procedures for persons challenging a jury panel to request access to jury records. In pertinent part, ORS 10.215(1) now provides:

> Except as specifically provided by law, the State Court Administrator and circuit courts may not disclose source lists obtained from private or public entities, and jury lists containing names selected from a source list, to any other person or public entity.

ORS 10.275 provides in pertinent part:

> (1) A person challenging a jury panel under ORS 136.005 [criminal cases] or ORCP 57 A [civil cases] who seeks jury records that are confidential under ORS 10.215 must include a request for access to the confidential records in the motion challenging the jury panel.
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> * * *
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> (5) The procedure established by this section is the exclusive means for compelling production of confidential jury records as evidence to a challenge to a jury panel under ORS 136.005 or ORCP 57 A.

Read together, ORS 10.215 and 10.275 clearly make master and term jury lists confidential and not subject to disclosure under the Oregon Public Records Law. You candidly acknowledge that you are acting as the legal representative of an individual

currently charged with crimes who may use the information "to challenge his venire." Therefore, the sole means of obtaining these records is through the procedure described in ORS 10.275.

Because the requested records are exempt under ORS 192.502(9), we deny your petition.

Sincerely,

PETER D. SHEPHERD
Deputy Attorney General

LRR/kbc:GEND9472

c. Bradd Swank, Office of the State Court Administrator
Doug Bray, Multnomah County Trial Court Administrator