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DEPARTMENT OF JUSTICE

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September 16, 2002

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

Re: *Petition for Public Records Disclosure Order*:
Yamhill County Trial Court Administrator 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 September 10, 2002, asks the Attorney General to direct the Yamhill County Trial Court Administrator to make available Yamhill County jury records, as described in two tables you attached to your request. 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 192.420. 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. The Attorney General does not have authority to order disclosure of public records unless the agency has denied a request for those records. In responding to a public records request, an agency is permitted a reasonable opportunity to retrieve and review the requested records, and, if necessary, to consult with legal counsel before providing the records or denying the request. *Morse Bros., Inc. v. ODED*, 103 Or App 619, 622 (1990).

We have talked to Bradd Swank of the State Court Administrator's office concerning the status of your request. As you noted, your public records request was forwarded by the Yamhill County Trial Court Administrator, Phillip A. McCollister, to

Mr. Swank on August 2, 2002. Mr. Swank informs us that this particular public records request is one of eight you have filed in recent months for voluminous records relating to juries. Mr. Swank intends to address all of these requests in one coordinated response because they share many common elements. According to Mr. Swank, each of the requests is complex because of variations in the number of years of records and the types of records that you are requesting for individual counties. For example, in your "Table A" list of 19 separate requests for Yamhill County records, you ask for records for the years 2000, 2001 and 2002. Mr. Swank has also been doing research to determine whether certain records exist and where they are located. Also, Mr. Swank has told us that staffing shortages and workload issues have contributed to the amount of time that it has taken to respond to your requests. He informs us that he intends to respond to this record request and the others by letter in the next few weeks.

In determining whether the amount of time that a state agency takes to respond to a public records request is reasonable depends on "the volume of records requested, the staff available to respond to the records request and the difficulty in determining whether any of the records are exempt from disclosure." ATTORNEY GENERAL'S PUBLIC RECORDS AND MEETINGS MANUAL (2001) at 9. Mr. Swank has made an assessment that it is most efficient to provide a coordinated response to all eight of your requests. Given that the requests are seeking similar types of records, and Mr. Swank is in the best position to judge the most efficient way to provide you with all of the records you have requested, we find no reason to question the reasonableness of his assessment. Considering the volume of records at issue and the shortage of staff available to assist Mr. Swank in responding to your request while also attending to the agency's other obligations, we do not find the delay in the agency's response to your request for Yamhill County jury records to constitute a denial.

Because the agency has not denied your request, the Attorney General does not have jurisdiction to order the agency to disclose records. Therefore, your petition is denied as premature.

Sincerely,

PETER D. SHEPHERD
Deputy Attorney General

AGS11012
c: Bradd Swank, Office of the State Court Administrator
Phillip A. McCollister, Yamhill County Trial Court Administrator