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RECEIVED
MAY 24 1995
GENERAL COUNSEL
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SALEM, OREGON

May 24, 1995

Douglas L. Hadsell
SID #8751629
Oregon State Penitentiary
2605 State Street
Salem, OR 97310-0505

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

Dear Mr. Hadsell:

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 May 17, 1995, asks the Attorney General to direct the Lincoln County Trial Court Administrator to provide certain grand jury and petit jury records. For the reasons that follow, we respectfully deny your petition.

You petition asked the Attorney General to direct the Lincoln County Trial Court Administrator to make available for inspection or produce copies of the following records:

1. "Grand Jury Register of July 3rd, 1991
2. "Grand Jury Register of August 15, 1991
3. "Grand Jury Register of September 26th, 1991
4. "Petit Jury Register of January 21st 1992
5. "Petit Jury Register of January 22nd 1992

6. "Petit Jury Register of January 23rd 1992

7. "Petit Jury Register of January 24th 1992

8. "Petit Jury Register of January 25 1992

9. "Petit Jury Register of January 28, 1992

10. "Petit Jury Register of January 29, 1992

The Attorney General may order a state agency to disclose records only where the agency has first denied a request for the records. ORS 192.450(1). In this case Marvin L. Formo, Lincoln County Trial Court Administrator, informs us through Bradd Swank of the State Court Administrator's office, that no request has been made by you for the petit jury records described above in numbers 4 through 10. Therefore, as to those records, there has been no denial of a request for the records, and the Attorney General has no authority to order disclosure. As to the petit jury records, your petition is denied.

Mr. Formo acknowledges receipt of a request by you for the grand jury records of July 3, 1991, August 18[1/], 1991, and September 26, 1991. Mr. Formo informed you by letter dated March 23, 1993 of the number of grand jurors present on July 3, 1991 and September 26, 1991, but did not provide the records as you requested.

We understand that Mr. Formo did not provide you those records in reliance on an order signed by Judge Huckleberry which denied your request to contact grand jurors. Mr. Formo has informed us, through Mr. Swank of the State Court Administrator's office, that he also confirmed with the judge orally that the order was intended to prevent the Trial Court Administrator from providing you with a copy of the grand jury records. When a request to inspect or copy a public records is denied by

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[1/] Your written request, dated February 6, 1992, asked for the grand jury records for August 18, 1991. This was apparently an error on your part, since Mr. Formo informed you that August 18 was a Sunday and the grand jury was not in session on that day. The record you now are seeking is the grand jury record for August 15, 1991, although you did not revise your request to the Trial Court Administrator to seek that record.

an elected official, the person requesting the record must institute proceedings in the appropriate circuit court to seek relief from that claim of right to withhold disclosure. ORS 192.480. The Attorney General may not review a claim that disclosure of a public record has been denied by an elected official such as a judge. Because the grand jury records you seek have not been provided to you based on a claim of denial by an elected official, the Attorney General cannot order disclosure of those records. Accordingly, your petition as to the grand jury records is also denied.

Sincerely,

Elizabeth S. Harchenko

ELIZABETH S. HARCHENKO
Special Counsel to the
Attorney General

ESH:LR:jpl:JAA01859

c: Bradd Swank, Management/Legal Analyst
Office of the State Court Administrator
Supreme Court Building
1163 State Street
Salem, OR 97310

Marvin L. Formo
Trial Court Administrator
Circuit/District Court of the State of Oregon
P.O. Box 100
Newport, OR 97365