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February 29, 2000

Pamela Eller
24463 Warthen Rd.
Elmira, OR 97437

Re: *Petition for Public Records Disclosure Order:*
Springfield Police Department Records
Lane County District Attorney Records
Lane County Grand Jury Records

Dear Mrs. Eller:

This letter is the Attorney General's order on your petitions for disclosure of records under the Oregon Public Records Law, ORS 192.410 to 192.505. We received three petitions from you on February 28, 2000, asking the Attorney General to direct: (1) the Springfield Police Department, (2) the Lane County District Attorney's Office, and (3) the Lane County Grand Jury to disclose various records to you concerning the case of Vincent Wayne Padgett. For the reasons that follow, we respectfully deny your petitions.

Your first petition seeks records of the Springfield Police Department, a local government agency. Under the Public Records Law, the Attorney General has authority to issue a public records order only upon the petition of a person "denied the right to inspect or to receive a copy of any public records of *a state agency.*" ORS 192.450(1) (emphasis added). The Springfield Police Department is not a state agency. Therefore, under the Public Records Law, it is the Lane County District Attorney who has the authority to review the denial of your request for the Springfield Police Department records. ORS 192.460 (in case of person denied right to inspect public record of a public body other than a state agency, "the district attorney of the county in which the public body is located * * * shall carry out the functions of the Attorney General"). You would need to direct your petition to the Lane County District Attorney.

Your other two petitions allege that the Lane County District Attorney denied your request for records of the District Attorney's Office and for records of the Lane County Grand Jury. ORS 192.480 provides in relevant part:

> In any case in which a person is denied the right to inspect or to receive a copy of a public record in the custody of an elected official, or in the custody of any other person but as to which an elected official claims the right to withhold disclosure, no petition to require disclosure may be filed with the Attorney General * * * or if a petition is filed it shall not be considered by the Attorney General * * * after a claim of right to withhold disclosure by an elected official.

The Lane County District Attorney is an elected official. Because your records request was denied by an elected official, the Attorney General may not consider your petition. Instead, you would need to institute proceedings in the appropriate circuit court to obtain review of a district attorney's denial of a records request. *See* ORS 192.480, 192.490.

Sincerely,

DAVID SCHUMAN
Deputy Attorney General

AGS04229
c: Douglas Harcleroad, Lane County District Attorney