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February 25, 2000

Rose Jade
Attorney At Law
P.O. Box 2170
Newport, OR 97365

RE: *Petition for Public Records Disclosure Order:*
State Court Administrator and Deschutes 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 February 18, 2000, asks the Attorney General to direct the Deschutes County Trial Court Administrator, or the State Court Administrator, to make available records related to jury summoning and service in Deschutes County.[1/]

Before we address the public records law issues in your petition, we respond to your request that you be appointed an "independent special counsel" to represent you in this public records petition process. Your request appears to be based on the misconception that the Attorney General "represents" the petitioner in a public records petition process. The Attorney General does not represent a public records petitioner. Our only client continues to be the State of Oregon, acting through its state agencies and officers. ORS 180.210. Therefore, there is no conflict of interest, even if your interests

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[1/] We note that the petition was also addressed to Michael Dugan, Deschutes County District Attorney, and Dale Penn, Marion County District Attorney. The district attorneys carry out the functions of the Attorney General for public records petitions concerning records of a public body "other than a state agency." ORS 192.460. The courts are state agencies for purposes of the Public Records Law. ORS 192.410(5). Because a state agency is the custodian of the records you seek, *see* ORS 192.410(1), the petition is properly addressed to the Attorney General. ORS 192.450.

and those of the State Court Administrator diverge because the Attorney General does not represent you.

The legislature has assigned to the Attorney General the additional role of responding to petitions for a public records disclosure order for state agency records by reviewing the records and determining whether they may be withheld from public inspection. ORS 192.450. That role is neither inconsistent with, nor in derogation of, the Attorney General's role under ORS chapter 180.

We have been informed by Linda Zuckerman, Legal Counsel to the State Court Administrator, that the Deschutes Trial Court Administrator, Ernie Mazorol, has referred your records request to the Office of the State Court Administrator for coordination of your request for trial court and state court administrator records. Ms. Zuckerman also informs us that neither the State Court Administrator nor the Deschutes County Trial Court Administrator have responded to your requests dated January 12 and 13, 2000, because the appropriate officials are still in the process of determining what records exist and what exemptions may apply.[2/] Ms. Zuckerman has assured our office that she will respond to your request in writing within a reasonable time.[3/]

Because the custodians of the records you seek have not denied access to the records, the Attorney General lacks authority to order disclosure at this time. *See* ORS 192.450(1); *Morse Bros. v. ODED*, 103 Or App 619, 798 P2d 719 (1990) ("Public Records Law clearly contemplates that agencies have the opportunity to review the requested records and to act on the request before the Attorney General or the courts can review the matter."). Accordingly, we deny your petition as premature.

Sincerely,

DAVID SCHUMAN
Deputy Attorney General

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[2/] In your petition, you assert that Kingsley Click, the State Court Administrator, testified in a hearing in Multnomah County "to the effect that my request for access to these records had been denied by her office." Ms. Click informs us that, although she has not had the benefit of reference to a transcript of the hearing, her recollection is that she testified that Ms. Zuckerman would be responding to the records request; she did not state that the request for access to the records had been denied; and she did not deny access to the requested records at that hearing. Ms. Click's position is that the request is still pending a response from her office.

[3/] The State Court Administrator and Deschutes County Trial Court Administrator may charge you a fee to reimburse them for the actual cost in making the records available, including photocopy costs and the time spent by agency personnel in reviewing the records. *See* ORS 192.440(3).