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DEPARTMENT OF JUSTICE

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January 15, 2009

William Birhanzl
707 Main Street, Suite 202
Oregon City, OR 97045

Re: Petition for Public Records Disclosure Order:
Clackamas County Circuit Court Records

Dear Mr. Birhanzl:

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 was sent via email to Sharon Stuart, a staff member in the Civil Enforcement Division of the Department of Justice, on December 16, 2008. The Attorney General has established a procedure for submitting petitions for Public Records Orders to the Attorney General's central office via facsimile or mail. See http://www.doj.state.or.us/pros/pub_records_pet.shtml (viewed on January 12, 2009). You did not submit your petition in conformity with that policy, and consequently the petition did not reach the appropriate people within DOJ until Thursday, January 8, 2009. As a result, we treat your petition as received on that date.

Your petition asks the Attorney General to direct the Clackamas County Trial Court Administrator to make available for inspection and copying the following records:

> Two separate appeal [*sic*] to the Circuit Court from conviction in Oregon City Municipal Court (No. 08-2410) (within the jurisdiction of the Circuit Court of the Fifth Judicial District pursuant to ORS 221.359 with particularity to subsection (1)(b)) further identified as item 1 and item 2 below.
>
> 1. "CONTEMPT JUDGMENT" and "ORDER SENTENCING TO 24 HOURS JAIL" dated 7/24/08, signed Municipal Judge, Laraine McNiece and;

2. "CONTEMPT JUDGMENT" and "ORDER SENTENCING TO 5 DAYS IN JAIL" dated August 12, 2008, signed Pro-Tem Municipal Judge, Daniel Patrick Woram.

For the reason that follows, 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. If a state agency denies a request for disclosure of records, the requestor may petition the Attorney General for review of the denial. However, the Attorney General may order a state agency to disclose records only when the agency has denied a request for the records. *See* ORS 192.450(1).

We spoke with Nori J. McCann Cross, Special Counsel at the office of the State Court Administrator, about your petition. She provided us with a copy of the email the Clackamas County Trial Court Administrator, Mari L. Miller, sent to you on November 20, 2008. In that email Ms. Miller confirmed that the Clackamas County Circuit Court does not possess the records you seek. The Attorney General cannot order a public agency to disclose records that are not in its custody. As a result, we respectfully deny your petition.

Sincerely,

MARY H. WILLIAMS
Deputy Attorney General

DM1244338
c: Nori J. McCann Cross, Special Counsel, Office of the State Court Administrator
Mari L. Miller, Clackamas County Trial Court Administrator