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February 21, 2017

VIA EMAIL ONLY: birhanzl@gmail.com

Robert A. Birk
Attorney at Law
PO Box 92126
Portland, OR 97292

Re: Petition for Public Records Disclosure Order
Oregon Judicial Department
DOJ File No. 198040-198040-14

Dear Mr. Birk:

This letter is the Attorney General's order on your petition for disclosure under the Oregon Public Records Law, ORS 192.410 to 192.505. Your petition, which we received after the close of business on February 13, 2017, asks the Attorney General to order Kim Migliaccio, the Trial Court Administrator for Malheur County Circuit Court, to produce the grand jury clerk's minutes from December 2, 2016.

Your petition shows that on December 12, Ms. Migliaccio e-mailed you that the court does not keep a record of the grand jury proceedings. She also notified you in a subsequent letter, dated February 9, that the grand jury minutes are not filed with the circuit court, and that circuit court personnel do not staff the grand jury proceedings.

We can find no statute indicating that the Trial Court Administrator is the custodian of the minutes kept by the grand jury clerk. Though the grand jury is required to designate one of its members to take minutes, ORS 132.080, and those minutes must be destroyed in some circumstances, ORS 132.430(1), there is no indication that the court is required to—or regularly does—use those minutes. Because the administrator does not possess the requested records and is not those records' custodian, we respectfully deny your petition.

Sincerely,

Frederick M. Boss
Deputy Attorney General

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