DAVE FROHNMAYER
ATTORNEY GENERAL
STATE OF OREGON

JACK L. LANDAU
DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE
Justice Building
Salem, Oregon 97310
Telephone: (503) 378-4400

personal privacy
jurors, names & addresses

April 2, 1991

Jim Adams, Trial Court Administrator
Josephine County Circuit Court
Josephine County Courthouse
NW 6th and "C" Streets
Grants Pass, OR 97526

Chris Williamson
KTVL 10
Freedom Communications, Inc.
1440 Rossanley Drive
P.O. Box 10
Medford, OR 97501

Re: Petition for Public Records Disclosure Order; Josephine County Circuit Court Records

Dear Mr. Adams and Mr. Williamson:

This letter is the Attorney General's order on Mr. Williamson's petition for disclosure of records under the Oregon Public Records Law, ORS 192.410 to 192.505.[1] The petition, which we received on March 22, 1991, asks the Attorney General to direct the Josephine County Circuit Court and the trial court administrator to make available for inspection and copying all records containing the names, addresses and telephone numbers of jurors in the case of State of Oregon v. George Oliver Jones, Case No. 90-CR-0178. Mr. Williamson specifically asked for the information forms completed by jurors, the record of the tape from the court reporter's stenographic machine, a transcript of the trial if one exists, and any other list or record containing the juror's names, addresses and telephone numbers.

For the reasons stated below, we grant the petition to order disclosure of records containing the names, addresses and telephone numbers of the jurors who served in the case of State of Oregon v. George Oliver Jones. Because Mr. Williamson has

informed us that if the names, addresses and telephone numbers of the jurors are disclosed, he no longer wishes to receive the other records requested, we confine our discussion to the disclosure of the names, addresses and telephone numbers.

Court records and files of a circuit court are kept in the custody of the trial court administrator. ORS 7.110. In this case the custodian, Mr. Adams, has denied the request for inspection and copies of the records. As we understand the request, Mr. Williamson is asking for any documents the administrator has which contain the names, addresses and telephone numbers of the members of the Jones jury. The first trial, for which these jurors served, has been completed.

We previously have determined that both the State Court Administrator and local trial court administrators are state officers. Consequently, records in their custody are subject to the Public Records Law. Public Records Order, November 8, 1988 (Harcleroad).

Under the Oregon Public Records Law, disclosure is the rule. Exemptions from disclosure must be narrowly construed. The burden is on the party claiming the exemption to demonstrate that the exemption is both legally and factually justified. Guard Publishing Co. v. Lane County School Dist., 310 Or 32, 37, 791 P2d 854 (1990).

We understand that juror information forms in the trial court administrator's custody contain the information Mr. Williamson seeks. The form is divided into two sections. The first, which contains the juror's full name, address and telephone number, is treated by the court as confidential and is not released to the attorneys or others involved in the trial. The other part contains the juror's last name and first initial and other information about the juror and his or her qualifications to serve.

We previously have concluded that master jury lists and term jury lists are exempt from disclosure under ORS 10.215, 10.225 and 192.502(8).[2] 45 Op Atty Gen 185 (1987); Public Records Order, November 8, 1988 (Harcleroad). That conclusion, however, does not resolve the issue here.
The data on the juror information forms at issue here are not derived from the source lists or term jury lists described in ORS 10.215 and 10.225, respectively. Instead, that information was provided by jurors after they were called for jury service. Therefore, neither ORS 10.215 or 10.225 exempts the information here from disclosure.

Nor do we see any other basis upon which to withhold the information in question. The jurors' names plainly are not confidential. These jurors already have served on a jury, and their names have been spoken in open court. Under these circumstances, their names cannot be considered confidential.

The remaining issue is whether these jurors' home addresses and telephone numbers are confidential. The relevant exemption is ORS 192.502(2), which exempts "information of a personal nature" from disclosure "if the public disclosure thereof would constitute an unreasonable invasion of privacy."

Mr. Adams has informed us that the court considers the juror information forms to be confidential, and assures the jurors that the information will be kept confidential. However, these facts are not determinative. In Guard Publishing Co. v. Lane County School Dist., supra, the Oregon Supreme Court considered the confidentiality of names and addresses of replacement teachers hired during a school district strike. The district had adopted a policy of keeping the names and addresses confidential, and many, although not all, of the teachers asked that their names and addresses not be disclosed. The court held that the district's policy was unenforceable because the refusal to disclose must be justified on an individualized, case-by-case basis.

We are unaware of any facts here to suggest that disclosure of the jurors' addresses and telephone numbers would constitute an "unreasonable invasion of privacy," within the meaning of ORS 192.502(2). See Jordan v. MVD, 308 Or 433, 781 P2d 1203 (1989). For instance, there is no suggestion that any of the jurors treated his or her address or telephone number as confidential by having an unlisted telephone number. See Public Records Order, July 28, 1989 (Barton/Schroer). If an individual juror has done so, or specifically asked that his or her address and telephone number remain confidential, further inquiry would be necessary to determine whether that information could be withheld under the standards explained in Jordan. Absent such circumstances, the jurors' names and addresses must be disclosed here.

We do not rule out the possibility that in particular instances, the release of the type of information sought here may unreasonably invade the privacy of particular jurors. See Jordan v. MVD, supra. We decide only that on the facts presented here, the trial court administrator's blanket denial of access is not justified.

In sum, we grant the petition, and order the trial court administrator to disclose the names, addresses and telephone numbers of the jurors in the case of State of Oregon v. George Oliver Jones.

Sincerely,

PAMELA L. ABERNETHY
Special Counsel to the
Attorney General

PLA:LR:RDW:cm
c: R. William Linden, Jr., State Court Administrator
0958a

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We appreciate your courtesy in allowing us to exceed the seven-day deadline for issuing public records orders.

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Mr. Williamson's petition referred to the Attorney General's Public Records and Meetings Manual as authority for the proposition that confidentiality statutes outside the Public Records Law are not valid exemptions unless the statute is specifically listed in the Public Records Law in ORS 192.500(2)(h). The Manual Mr. Williamson relied upon is a previous edition. ORS 192.500(2)(h) was repealed in 1987 and replaced by ORS 192.502(8), which exempts from disclosure "public records or information the disclosure of which is prohibited or restricted or otherwise made confidential or privileged under Oregon law." Therefore, ORS 192.502(8) incorporates all statutory prohibitions against or restrictions on disclosure outside the Public Records Law.