March 27, 1981

Ms. Sue McCracken
The Oregonian
P.O. Box 1229
Albany, Oregon 97321

Re: Public Records Request

Dear Ms. McCracken:

This letter will serve as an order of the Attorney General in response to your petition to inspect public records, received in this office March 19, 1981. You have agreed to extend the seven-day period for review of your petition by one day, to March 27, 1981, and we appreciate your consideration in doing so.

Your petition requests that you be allowed to inspect "investigation files" of Linn County Circuit Court cases 80-2708, 80-2709 and 80-2710 involving Patricia Tollisen. You specifically refer to reports by Linn County Sheriff's detectives, witness interview reports, search warrants and the results of searches, and "other documents." However, you informed this office in a telephone conversation on March 26, 1981 that your request did not extend to attorney file notes. Accordingly, attorney notes, including case preparation notes prepared by the attorney involved following interviews with various witnesses, were not considered in reviewing the file and will not be made available for inspection.

Your request is in several alternatives. You ask that the Attorney General order the Linn County Sheriff's Office to disclose the records referred to above. This request is denied. The Attorney General has no authority to order disclosure of records by local government officials. A request for review of a non-elected local government official's refusal to disclose public records must be directed to the district attorney of the county in which the local governmental body is located. ORS 192.460.

Alternatively, you request that the Attorney General order the Linn County District Attorney's Office to make the records available for inspection. We must deny this request also. Again, the Attorney General has no authority to order disclosure of records by a local government official. See ORS 192.450, 192.460.

Finally, you request that the Oregon Department of Justice make the records in question available for inspection. Your request is granted. We emphasize that our decision, particularly with regard to witness interview reports, is based primarily upon the fact that the file involves a charge against a public official. The charges do not involve allegations of official misconduct but they do involve the issue of moral turpitude. Further, although the acts alleged in the indictments took place before the person took office, they did occur in close proximity to the time of her election. On these facts we find that there is a significant public interest in allowing access to information concerning this case, and our decision is based on that consideration.

Very truly yours,

DAVE FROHNMAYER
Attorney General

By Donald C. Arnold
Assistant Attorney General

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