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January 4, 1993

Jeni Feinberg
Attorney at Law
816 W. 10th Street
Medford, OR 97501

Re: Petition for Public Records Disclosure Order
Oregon State Police

Dear Ms. Feinberg:

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 December 29, 1992, asks the Attorney General to direct the Oregon State Police (OSP) to produce

> All documents pretaining (sic) to or relating to the execution of search warrants based on affidavits where the officers expected to find marijuana growing because of flyovers, but did not find marijuana. Defendants also request copies of the affidavits in these cases.

The Attorney General may order a state agency to disclose records only where the agency first has denied a request for public records. ORS 192.450(1). Lieutenant Merle Hart, Professional Standards Section, OSP informs us that OSP has neither received nor denied a request for such records. Any request for records should be directed to Lt. Hart, 107 Public Service Bldg. Salem, OR 97310.

Absent a denial by OSP, the Attorney General does not have jurisdiction to order disclosure. ORS 192.450. Because OSP has not denied your request, your petition is premature and is, therefore, denied.

Sincerely,

Amy Veranth
Opinions Coordinator
General Counsel Division

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c: Lt. Merle Hart, Professional Standards Section, OSP