THEODORE R. KULONGOSKI
ATTORNEY GENERAL

THOMAS A. BALMER
DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE
1162 Court Street NE
Justice Building
Salem, Oregon 97310
Telephone: (503) 378-4400
TDD: (503) 378-5938

July 26, 1993

Joseph Lee Valek
SID # 7293805
3405 Deer Park Drive SE
Salem, OR 97310

Re: Petition for Public Records Disclosure Order
Multnomah County Trial Court Records

Dear Mr. Valek:

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 on July 19, 1993, asks the Attorney General to direct Douglas Bray, the Multnomah County Court Administrator, Michael Schrunk, the Multnomah County District Attorney, and Norman Frink, Deputy District Attorney, to make available certain records concerning case number C 90-07-34254. For the reasons that follow, 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. However, 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).

In this case, your letter indicates that you made a request for these records to the Trial Court Administrator on June 16, 1993.[1/] Your request is one of a large volume of similar requests for grand jury information. Mr. Bray informs us that your request has been put on a list with the other requests (in order of their receipt) and will be handled as soon as possible, consistent with the necessity to "prevent interference with the regular discharge of duties of the custodian".[2/] ORS 192.430(2).

Some of the records listed in your request would appear to be in the custody of public officials other than the Trial Court Administrator. The Attorney General may review petitions concerning a denial of the right to inspect public records only when the denial has been by a state agency or official. ORS 192.450. Denials by a public body other than a state agency are reviewed by the district attorney of the county in which the public body is located. ORS 192.460. The Attorney General may not review a claim that disclosure of a public record has been denied by an elected official such as the District Attorney. ORS 192.480. Any person denied the right to inspect a record by an elected official must file an action in circuit court to obtain review of that denial. Id.

Absent a denial by the Trial Court Administrator, the Attorney General does not have jurisdiction to order the Trial Court Administrator to disclose records. ORS 192.450. Because the Trial Court Administrator has not denied your request, your petition is premature and is, therefore, denied.

Sincerely,

Elizabeth S. Harchenko

ELIZABETH S. HARCHENKO
Special Counsel to the Attorney General

ESH:krg/JAA00D34

cc: Douglas M. Bray
Multnomah County Trial Court Administrator
Multnomah County Courthouse
1021 S.W. Fourth Ave.
Portland, OR 97204

Linda Zuckerman
Legal Counsel
Office of the State Court Administrator
Supreme Court Building
1163 State Street
Salem, OR 97310

[1/] Your petition also says that you filed a petition for a writ of mandamus on June 16, 1993, and that this writ was denied by Judge Abraham. We understand that the writ of mandamus was denied on the basis that you had an administrative remedy available to obtain these records. Judge Abraham did not rule on your request for these public records. We do not construe Judge Abraham's ruling to be a denial of your public records request.

[2/] Mr. Bray also informs us that those records you have requested that are in the custody of the Trial Court Administrator will be provided to you.