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DEPARTMENT OF JUSTICE
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December 7, 1994

Dorothy Helen Mead
16705 Southeast McLoughlin, #10
Milwaukie, OR 97267

Re: ***Petition for Public Records Disclosure Order: Clackamas County Trial Court Records***

Dear Ms. Mead:

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 December 1, 1994, asks the Attorney General to direct the Trial Court Administrator to make available copies of records of conviction. 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. See ORS 192.420. 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 petition alleged that Susan Hill, an employee for the Clackamas County Trial Court, refused to provide you with a letter stating that records did not exist, or refused to provide you with a "copy of records of conviction that the said Court reported to the State Police." As to the first part of your petition, the Public Records Law does not require a public agency to create records, or to provide in writing any confirmation concerning records that do not exist.

We have conferred with James Shofner, the Clackamas County Trial Court Administrator, concerning your request. He has discussed your petition with Susan Hill, the supervisor who worked with you on this request. Ms. Hill confirmed that

you were provided with all records concerning your conviction that were in the Trial Court Administrator's custody.

Ms. Hill understood that you were also requesting your criminal history, and told you that the court administrator did not have that record, but that it could be obtained through the State Police. The Public Records Law does not impose a duty upon an agency to obtain from another state agency records that it is not mandated to create, maintain, care for or control. *See* ORS 192.410(1)(b), 192.430.

Based on the above information, we find that there was no denial of a request for a public record in the custody of the Trial Court Administrator. If you believe there has been some misunderstanding concerning your request for records in the custody of the Trial Court Administrator, you will need to communicate directly with the Administrator's office to clarify your request.

Absent an agency's denial of a request for records in its custody, the Attorney General does not have jurisdiction to order disclosure. ORS 192.450. Because the Trial Court Administrator has not denied your request for records in its custody, your petition is denied.

Sincerely,

ELIZABETH S. HARCHENKO
Special Counsel to the
Attorney General

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

James Shofner
Trial Court Administrator
Clackamas County Trial Courts