DAVE FROHNMAYER
ATTORNEY GENERAL
STATE OF OREGON

JAMES E. MOUNTAIN, JR.
DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE

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

November 13, 1989

John Henry Hingson III, P.C.
222 Promenade Building
421 High Street
Oregon City, OR 97045

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

Dear Mr. Hingson:

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 November 9, 1989, asks the Attorney General to order the Washington County Circuit Court Clerk and/or the Washington County District Attorney to make available for inspection and to produce a copy of "[t]he names and addresses of the grand jurors that returned an indictment on July 6, 1989 against John Hess Moore." You also filed the identical petition with the Washington County District Attorney. For the reasons that follow we deny your petition.

In your petition, you allege that you sought these records from the Washington County District Attorney's office, and that your request was denied "on direction of Bob Hermann, Deputy District Attorney for Washington County." We understand that since that time, the Washington County District Attorney has denied your petition. Under these circumstances, the Attorney General must decline to consider your petition.

ORS 192.480 provides in relevant part:

> "In any case in which a person is denied the right to inspect or to receive a copy of a public record in the custody of an elected official, or in the custody of any other person but as to which an elected official claims the right to withhold disclosure, no petition to require disclosure may be

> filed with the Attorney General * * *, or if a petition is filed it shall not be considered by the Attorney General * * * after a claim of right to withhold disclosure by an elected official."

The Washington County District Attorney is an elected official. Your petition essentially asks the Attorney General to review his denial of your public records request. ORS 192.480 bars the Attorney General from doing so. See, e.g., Public Records Order, February 1, 1989, Larson (Attorney General may not review circuit judge's denial of public records request). Accordingly, we must respectfully deny your petition.

Sincerely,

PAMELA L. ABERNETHY
Special Counsel to the
Attorney General

PLA:RDW:cfs/1157G
cc: Scott Upham
District Attorney
307 Administration Building
150 North First
Hillsboro, OR 97214