HARDY MYERS
ATTORNEY GENERAL

DAVID SCHUMAN
DEPUTY ATTORNEY GENERAL

RECEIVED
1998

DEPARTMENT OF JUSTICE
1162 Court Street NE
Justice Building
Salem, Oregon 97310-0506
Telephone: (503) 378-4400
TDD: (503) 378-5938

January 26, 1998

Alan Pittman
Eugene Weekly
1251 Lincoln
Eugene OR 97401

Re: *Petition for Public Records Disclosure Order: Lane County District Attorney Records*

Dear Mr. Pittman:

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 January 20, 1998,[1/] asks the Attorney General to direct the Lane County District Attorney's office to make available for inspection or copying an Oregon State Police report dealing with an incident between Eugene police officers and protesters on June 1, 1997.[2/] For the reasons that follow, we deny your petition.

The District Attorney is an elected official. Under the Public Records Law, when a request to inspect or copy a public record has been denied, and the record is in the custody of

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[1/] The petition was sent by fax, arriving after the close of business on Friday, January 16, 1998. It was retrieved from the fax machine at 8:00 a.m. on the next business day, which was Tuesday, January 20, 1998, after the weekend and the state holiday on Monday honoring the birthday of Martin Luther King, Jr. Consequently, we consider the petition as having been received by this office on January 20, 1998.

[2/] Your petition states that your request for the police report was made only to the Lane County District Attorney. Sgt. Fred W. Douthit of the Oregon State Police has confirmed that the Oregon State Police received no request from you for these records. Because there has been no request, there has been no denial by this state agency. Absent a denial, the Attorney General has no jurisdiction to consider your petition with respect to any record in the custody of the Oregon State Police. *See* ORS 192.450(1).

an elected official, or in the custody of any other person but as to which an elected official claims the right to withhold disclosure, the Attorney General may not consider the petition. ORS 192.480. This statute instead provides that the person requesting the record must institute proceedings in the appropriate circuit court to seek relief from the elected official's denial.

Accordingly, we deny your petition.

Sincerely,

DAVID SCHUMAN
Deputy Attorney General

JGR:AV:ras\JGG11416
c: The Honorable F. Douglass Harcleroad
Lane County District Attorney