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ATTORNEY GENERAL

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DEPARTMENT OF JUSTICE
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January 17, 1997

Terry J. Hudson
Crime Reporter
NEWS-TIMES
P.O. Box 965
Newport, OR 97365

Re: ***Petition for Attorney General's Review of Public Records Request; State Medical Examiner's Office***

Dear Mr. Hudson:

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 January 10, 1997, requests the Attorney General to direct the State Medical Examiner's Office to make available the "Cause of death/Autopsy results from Robyn John's autopsy (12/23)." For the reasons stated below, 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. ORS 192.410(4) defines a public record as "any ***writing*** containing information relating to the conduct of the public's business." (Emphasis added.) If a request to inspect or copy a public record has been denied by a state agency, the requestor may petition the Attorney General to make a determination if the public record should be disclosed. ORS 192.450.

We have been informed by Dr. Clifford Nelson of the State Medical Examiner's Office, that you did not request to inspect or copy a public record when you spoke to him on December 31, 1996. It was Dr. Nelson's understanding that you were requesting his medical opinion as to the cause of death of Robyn Johns.[1/] The Public Records Law does not

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[1/] Dr. Nelson also informed us that as of December 31, 1996, a death certificate and (continued...)

require a state agency to provide oral information in the form of an opinion. Because you have not requested to inspect a public record, there has been no denial by the State Medical Examiner's Office under the Public Records Law. Absent a request to inspect records and a subsequent denial by the state agency, the Attorney General has no authority to order disclosure in this situation.[2/] Accordingly, your petition is denied.

Sincerely,

Elizabeth S. Harchenko

ELIZABETH S. HARCHENKO
Special Counsel to
the Attorney General

ESH:SC:AV:jpl/JAA021FF5

c: Dr. Clifford Nelson
State Medical Examiner's Office

[1/] (...continued)
autopsy report had not been completed. The death certificate is prepared by the district medical examiner and not by the State Medical Examiner's Office.

[2/] We note that certain state statutes appear to prohibit or restrict access to or disclosure of the records you seek, ORS 146.035, 432.120, and that the records may therefore be exempt from disclosure under ORS 192.502(8). *See also* ORS 432.130 (review of denial to inspect vital record is pursuant to ORS 183.480 to 183.484, not the Public Records Law).