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June 20, 1997

Leonard David Payton
SID 348220
2605 State Street
Salem, OR 97310

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

Dear Mr. Payton:

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 June 16, 1997, asks the Attorney General to direct the Coos County Trial Court Administrator, Ed Jones, to produce copies of materials related to case no. 95CR1901.

For the reasons that follow, we respectfully deny your petition. Your petition states that the Trial Court administrator denied your request of December 3, 1996 by not sending copies of the evidence and evidence tapes. You acknowledged receiving copies of the trial tapes, but state that you did not receive other information you requested, including specifically 911 tapes.

This is your second petition concerning trial court records related to case no. 95CR1901. On February 13, 1997, we issued an order denying your petition because the records you requested were not in the custody of the trial court while the matter was on appeal. Bradd Swank at the State Trial Court Administrator's Office informs us that you have since received copies of the trial tapes. Mr. Swank also informs us that the appeal process has been completed and the records were returned to the trial court.

Pursuant to OTCR 6.120, the trial court sent you a notice of your opportunity to obtain the evidence which had been returned to the court. You did not respond to that notice, and the records were disposed of as provided by the trial court rules. Accordingly,

the Coos County Trial Court Administrator no longer has custody of any of the records you are requesting.

To the extent that the Coos County Trial Court Administrator has complied with your records request by sending you those records in its custody, we deny your petition as moot. The Attorney General cannot order an agency to provide records that the agency does not possess. *See* ORS 192.450. Therefore, to the extent the Coos County Trial Court Administrator no longer has custody of any other records related to your petition, we your petition as to those other records.

Sincerely,

DAVID SCHUMAN
Deputy Attorney General

DS:jh/JAA024C2.W51
c: Bradd Swank
Management/Legal Analyst
State Court Administrator's Office
Supreme Court Building
Salem, OR 97310

Ed Jones
Coos County Trial Court Administrator
Coos County Courthouse
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Coquille, OR 97423