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DEPARTMENT OF JUSTICE
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August 21, 1996

Patrick W. Dinan
11200 SW Greenburg Rd, #37
Tigard, Oregon 97223-5353

Re: ***Petition for Public Records Disclosure Order: Oregon Department of Human Resources; Washington County District Attorney***

Dear Mr. Dinan:

This letter is the Attorney General's order on your petition for disclosure of public records under the Oregon Public Records Law, ORS 192.410 to 192.505. Your petition, which we received on August 15, 1996, asks the Attorney General to direct the Department of Human Resources, Child Support Program (DHR) and the Washington County District Attorney to make available the following documents on case number 067-C93192D-41 (your case):

> Request for paying child support directly to Judi Dinan not through CSP paperwork.

Notwithstanding denial of your petitions for the reasons explained below, those records are attached to this letter.

With respect to records of the Washington County District Attorney, your petition is denied. Your petition alleges that the District Attorney's office denied your request to review the above records. The District Attorney is an elected official. Under the Public Records Law, when a petition to inspect or copy a public record concerns the denial of a record that is 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, the Attorney General may not consider the petition. ORS 192.480. The person requesting the record must institute proceedings in the appropriate circuit court to seek review of that claim of right to withhold the document from disclosure. *See* ORS 192.480.

With respect to records of DHR, your petition is denied. The Public Records Law confers a right to inspect any public records of a public body in Oregon, subject to certain

exemptions. *See* ORS 192.420. Any person who makes a request to a state agency to inspect a public record, and whose request is denied, may petition the Attorney General to review the record to determine if it may be withheld from public inspections. ORS 192.450(1).

Your petition does not indicate that you made a request to DHR to inspect the records described above. According to DHR's records, DHR has not received or denied such a request. Absent a request to, and a denial by, a state agency for records, the Attorney General does not have jurisdiction to order the agency to disclose records. *See* ORS 192.450(1). Therefore, that aspect of your petition is denied as premature.

Nonetheless, we have contacted DHR concerning your records request. DHR has provided copies of all documents in your file relevant to your "Request for paying child support directly to Judi Dinan not through CSP." Those materials are enclosed with this letter.[1/] We have also spoken with Douglas Ballard, Assistant District Attorney, who is in charge of the child support unit for the Washington County District Attorney. Mr. Ballard informs us that there are no other documents in the District Attorney's file that are responsive to your request.

Sincerely,

Elizabeth S. Harchenko

ELIZABETH S. HARCHENKO
Special Counsel
to the Attorney General

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Enclosures
c: Gin Denison, Governor's Office (w/o encl)
Douglas Ballard, Washington County District Attorney's Office (w/o encl)

[1/] The documents enclosed, all of which are dated May 29, 1996, are: 1) correspondence from Judi Dinan to Art Kaptyn; 2) a facsimile cover sheet from Art Kaptyn to Doug Ballard; and 3) a letter from the Washington County District Attorney's Office to Patrick W. Dinan.