THEODORE R. KULONGOSKI
ATTORNEY GENERAL

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DEPARTMENT OF JUSTICE
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November 12, 1996

Craig A. Crispin
Crispin & Associates
Jefferson Station, Ste. 300
1230 SW First Avenue
Portland, OR 97204-3236

Re: ***Petition for Public Records Disclosure Order***
Department of Justice Records

Dear Mr. Crispin:

This letter is the Attorney General's order on your petition[1/] for disclosure of records under the Oregon Public Records Law, ORS 192.410 to 192.505. Your petition, which we received on November 4, 1996, asks the Attorney General to direct the Oregon Department of Justice to produce records relating to applications for and selection of a Hearings Officer 2 position. In your petition you state that Josephine Hawthorne, Assistant Attorney General, denied your previous requests of May 21 and July 3, 1996. We have no record of your May 21 request and no record that this office responded to your request of July 3, 1996.

[1/] Your petition was filed on behalf of your client, Dayton Turner.

Nevertheless, the Oregon Department of Justice is not the custodian of, and does not have in its possession, the records requested in your petition. The department cannot produce records that it does not have.[2/] Therefore, we respectfully deny your petition.

Sincerely,

Elizabeth S. Harchenko

ELIZABETH S. HARCHENKO
Special Counsel to the Attorney General

ESH:jpl/47817891.W51
c: Mike Baird, Risk Mgmt, ODAS

[2/] Although your petition does not ask the Attorney General to direct the Department of Administrative Services (DAS) to produce records, your petition states that on August 16, 1996, you made a request to the DAS Risk Management Division to inspect these same records, and that your request was denied by Michael Baird. Mr. Baird informs us that he has no record that he denied your request, but also that he does not have the documents you seek.

The Public Records Law requires the "custodian" of public records to make them available for inspection. ORS 192.430. You should make your request to the custodian of the records you seek. *See* ORS 192.410(1).