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October 20, 2004

Daniel Dwight Davidson, Jr.
SID# 11927997
Snake River Correctional Institution
777 Stanton Blvd.
Ontario, OR 97914

Re: Petition for Public Records Disclosure Order: Dale Penn, District Attorney

Dear Mr. Davidson:

This letter is the Attorney General's order on your request for disclosure of records under the Oregon Public Records Law, ORS 192.410 to 192.505. Your request, which we received on September 27, 2004, asks the Attorney General to direct the Marion County District Attorney to make available for inspection the following records:

1. Marion County District Attorney File No. 02-08486.

For the reasons that follow, we deny your petition.

Under the Oregon Public Records Law, the Attorney General reviews petitions of persons who allege they have been denied access to any public record of a state agency. ORS 192.450. However, the Attorney General's jurisdiction in this area is limited by ORS 192.480, which provides in relevant part:

> In any case in which a person is denied the right to inspect or to receive a copy of a public record 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, no petition to require disclosure may be filed with the Attorney General or district attorney, or if a petition is filed it shall not be considered by the Attorney General or district attorney after a claim of right to withhold disclosure by an elected official. In such case, a person denied the right to receive or inspect a copy of a public record may institute proceedings for injunctive or declaratory relief in the appropriate circuit court, as specified in ORS 192.450 or 192.460 * * *

The District Attorney is an elected official. Accordingly, if the District Attorney has denied your records request, this office has no authority to consider your petition; your remedy would be to institute proceedings for injunctive or declaratory relief in the circuit court. ORS 192.480. We therefore respectfully deny your petition for lack of jurisdiction

Accordingly, we deny your petition.

Sincerely,

PETER D. SHEPHERD
Deputy Attorney General

PDS:AGS14516
c: Dale Penn
Marion County District Attorney