HARDY MYERS
ATTORNEY GENERAL

PETER D. SHEPHERD
DEPUTY ATTORNEY GENERAL



DEPARTMENT OF JUSTICE
1162 Court Street NE
Justice Building
Salem, Oregon 97301-4096
Telephone: (503) 378-4400
TTY: (503) 378-5938

October 12, 2004

Martin Allen Johnson
OSP 541-0056, USBOP/USPC Fed # 56167-065
OSP IMU C-3-21
2605 State Street
Salem, OR 97310

Re: Petition for Public Records Disclosure Order:
Washington County, Department of Justice, State Board of Medical Examiners, and Board of Public Safety Standards and Training Records

Dear Mr. Johnson:

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 October 5, 2004, asks the Attorney General to order the following public bodies to disclose numerous records to you: Washington County, the Oregon Attorney General and Department of Justice (DOJ), the State Board of Medical Examiners (BME), and the Board of Public Safety Standards and Training (BPSST). For the reasons that follow, we respectfully deny your petition.

The Public Records Law confers a right to inspect and obtain copies of any public records of a public body in Oregon, subject to certain exemptions and limitations. *See* ORS 192.410. A person whose request to inspect or receive a copy of a public record is denied by a state agency or official may petition the Attorney General to order disclosure. ORS 192.450(1). We address your petition as it relates to each of the identified public bodies.

1. Washington County

Attached to your petition is an October 14, 2002, letter from an Assistant County Counsel for Washington County requesting payment of an estimated fee for responding to your request for county records. Your petition asks that the Attorney General order Washington County to disclose particular records or detailed descriptions of each.

The Public Records Law provides the Attorney General with authority to review the public record of a *state agency* to determine if it may be withheld from disclosure and to grant or deny petitions for disclosure. ORS 192.450(1). However, the Attorney General does not have authority to take these actions when a request for disclosure has been denied by a public body that is not a state agency. That authority is provided to the District Attorney of the county in which the public body is located. ORS 192.460. Because the Attorney General has no authority to review a denial of a public records request by Washington County, we deny your petition as it relates to records held by the public bodies of that county.

2. Department of Justice

Your petition asks for the Department of Justice to disclose numerous records to you at no cost and to refund the $67.10 you paid for a copy of the 2002 Manual of Oregon Search and Seizure Law.[1] The Public Records Law requires that a person seeking redress of being denied the right to inspect or receive a copy of a public record in the custody of an elected official, or in the custody of another person but for which the elected official claims the right to withhold disclosure, institute proceedings for injunctive or declaratory relief in circuit court. ORS 192.480. No petition for such records may be filed with the Attorney General. *Id.*

Because the Attorney General is an elected official, and he claims the right to withhold disclosure of records maintained by the Department of Justice, we deny your petition due to lack of jurisdiction.

3. Board of Medical Examiners

Your petition states that you requested numerous records from the BME but received no response. We spoke with Mike Sherman, Complaint Resource Officer for the BME, about your petition. Mr. Sherman told us that the BME has no record of receiving a request from you. Under ORS 192.450, the Attorney General has authority to order a state agency to disclose records only if there has been a denial of the petitioner's request. Because there has been no denial by the BME, we deny your petition.

4. Board of Public Safety Standards and Training

Your petition states that you also received no response to your request for records from BPSST. We spoke with Brian Henson, Manager, Certification Records and Private Security Programs, at the Department of Public Safety Standards and Training (DPSST) about your petition. He told us that neither BPSST nor DPSST had any record of receiving a request from you. Because the Attorney General has authority to order a state

[1] Because you requested a copy of the 2002 Manual of Oregon Search and Seizure Law in electronic form, and the Manual is available on a formatted disk at no charge, the Department of Justice is sending you a check for $67.10 to refund the amount that you paid to receive a paper copy.

agency to disclose records only if there has been a denial of the petitioner's request, and there has been no denial by BPSST or DPSST, we deny your petition.

Sincerely,

PETER D. SHEPHERD
Deputy Attorney General

AGS14553
c: Kevin Neely, DOJ
Mike Sherman, BME
Brian Henson, DPSST