



MICHAEL D. SCHRUNK, District Attorney for Multnomah County

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September 28, 2008

Nancy Buzzetti
Litigation Assistant
Williams, Kastner & Gibbs, PLLC
888 SW 5th Ave, Suite 600
Portland, OR 97204

Christopher Paille
Program Specialist, Records Division
City of Portland
Bureau of Police
1111 SW 2nd Avenue
Portland, OR 97204

Re: Petition of Nancy Buzzetti for American Medical Response received January 17, 2008 to disclose certain records of the Portland Police Bureau

Dear Ms. Buzzetti and Mr. Paille:

BACKGROUND

On this public records petition, ORS 192.410 et. seq., petitioner Nancy Buzzetti requests the District Attorney to order the Portland Police Bureau and its employees to produce the following record:

Portland Police report/file #07-113915 in its entirety.

On January 8, 2008, Nancy Buzzetti submitted a written request to the Portland Police Bureau Records Division for copies of the police reports relating to the investigation of Lannie Lee Haszard. On January 11, a PPB Records assistant denied the request.

In a January 21, 2008 letter response to the petition, Records Division Program Specialist Christopher Paille claimed an exemption under ORS 192.501(3), Criminal Investigatory Material, arguing that "we believe premature disclosure of the records might likely interfere with pending criminal investigations." Mr. Paille noted that American Medical Response, the company represented by Ms. Buzzetti's law firm, is a witness in the case. Mr. Paille cited several other potential exemptions and requested that if this office ordered disclosure of the reports that a redacted version be considered due to the sensitive nature of the materials.

DISCUSSION

ORS 192.501(3) conditionally exempts:

Investigatory information compiled for criminal law purposes. The record of an arrest or the report of a crime shall be disclosed unless and only so long as there is a clear need to delay disclosure in the course of a specific investigation, including the need to protect the complaining party or the victim. Nothing in this subsection shall limit any right constitutionally guaranteed, or granted by statute to disclosure or discovery in criminal cases.

An application of the criminal investigatory material exemption requires identification and balancing of the various purposes for secrecy and a determination of the stage of the investigation or prosecution. See Jensen v. Schiffman, 24 Or App 11 (1976). This is a conditional privilege designed to protect active police investigations. "Information compiled in investigations connected with pending or contemplated prosecutions ordinarily will remain confidential because disclosure likely would interfere with law enforcement proceedings." Attorney General's Public Records Manual, 2005, page 34.

On January 22, 2008, Senior Deputy Donald Rees, the assigned prosecutor, advised me that both he and Detective R.R. Rumble were of the opinion that release of the reports associated with the case would jeopardize the on-going investigation. Consistent with prior public records orders, we accept the determination of the criminal investigator and prosecutor that, under the circumstances, it would be inappropriate to release the police reports at this time.

The materials sought by petitioner are being carefully maintained and protected from public scrutiny for the limited period of time necessary to complete the criminal investigation. We conclude that the public interest in the orderly progress of the investigation outweighs the public interest in disclosure at this time.

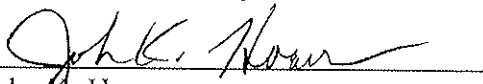
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ORDER

Accordingly, it is ordered that the petition of Nancy Buzzetti for American Medical Response to disclose certain records of the Portland Police Bureau is denied without prejudice to renewal upon completion of the criminal investigation.

Very truly yours,

MICHAEL D. SCHRUNK
District Attorney
Multnomah County, Oregon

By: 
John K. Hoover
Deputy District Attorney