



MICHAEL D. SCHRUNK, District Attorney for Multnomah County

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August 27, 2002

Robin Franzen
Staff Reporter The Oregonian
1320 SW Broadway
Portland OR 97201

Carl Simpson
Director
Bureau of Emergency Communications
P.O. Box 1927
Portland, OR 97207

Re: Public records petition received August 16, 2002

Dear Ms. Franzen and Mr. Simpson:

On August 16, 2002 Oregonian staff reporter Robin Franzen submitted a petition for this office to make a determination, pursuant to the statutory authority of the Oregon Public Records Laws, ORS 192.401, et seq., on the release of public records maintained by the Portland Bureau of Emergency Communications, a public agency. Ms. Franzen requested the 9-1-1 call histories/call recordings/transcripts on two addresses over a three-year period, with specific emphasis on two time periods in June 2002 and August 2001. BOEC Director Carl Simpson denied the request on August 9, 2002.

ORS 192.501(3) conditionally exempts from disclosure criminal investigatory material when "there is a clear need to delay disclosure in the course of a specific investigation." The information requested by Ms. Franzen concerns criminal investigations currently under way by the Portland Police Bureau at both locations.

On August 23, 2002, we spoke with Portland Police Sergeant Dan Slauson who stated that the histories, recordings and transcripts were part of the ongoing investigation in the case. On August 26, Senior Deputy District Attorney Stacy Heyworth advised us that the requested materials are integral to a pending prosecution as well as an ongoing criminal investigation and that premature disclosure would be inappropriate.

On August 26, this office received an August 23 letter response to the petition from BOEC Director Carl Simpson. In addition to the criminal investigatory exemption, Mr. Simpson now claims exemption under ORS 192.501(12), personnel discipline action. "Further, it is also inevitable that this case will be the basis of an internal investigation." It is unclear from Mr. Simpson's letter whether any disciplinary investigation by the Portland

Police Bureau is currently pending. In any case, exploration of this exemption at this time is unnecessary to resolution of the petition.

Under the circumstances described above our office has determined, and so orders, that the exemption of 191.501(3) applies to the documents and recordings requested. At the conclusion of the criminal investigation and prosecution we believe that the public interest would favor the release of these materials, subject to any claimed exemption for personnel discipline action.

Very truly yours,


MICHAEL D. SCHRUNK
District Attorney
Multnomah County, Oregon