



**MICHAEL D. SCHRUNK**, District Attorney for Multnomah County

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August 6, 2001

Maxine Bernstein  
Oregonian staff writer

Debra Haugen  
Records Division  
Portland Police Bureau

Re: Public records request

Dear Ms. Bernstein and Ms. Haugen:

After due consideration of the July 25, 2001 request of Ms. Bernstein, on behalf of the Oregonian, for investigation records and a videotape of a July 9, 2001 police shooting incident, our office has decided to deny the request for release of these documents at this time.

#### **BACKGROUND**

The records request in this matter arises from an incident in which a Portland Police officer shot Bruce Browne at an all-night market and gas station on Martin Luther King Boulevard on July 11, 2001. Browne had wrestled a handgun away from Lamarr Harris, who had just assaulted Browne and attempted to shoot him. When officers arrived they mistook Browne for the perpetrator of the incident and shot him when he displayed the firearm. The incident was videotaped by the television security system of the establishment. On July 20 a Multnomah County grand jury indicted Harris for Attempted Murder and other related charges. His charges are currently pending. The same grand jury declined to charge any of the police officers involved.

#### **THE RECORDS REQUEST**

**Records requested.** On July 18, 2001 Ms. Bernstein, a reporter for the Oregonian newspaper requested the Portland Police Bureau Records Division provide copies of the investigative reports pertaining to the above incident and a copy of the videotape of the incident, which had been taken into police custody as evidence.

**Police Bureau response.** On July 25, 2001 the Records Division responded to Ms. Bernstein's request by denying the release of the requested documents and the videotape, citing the exemption from public records disclosure in ORS 192.501(3) for criminal investigatory material. Pursuant to this denial Ms. Bernstein on July 25, 2001 petitioned the District Attorney's Office to rule on the validity of the exemption claimed by the Police Bureau.

### DISCUSSION

ORS 191.501(3) affords a public agency a conditional exemption from public records disclosure for "information compiled for criminal law purposes." The exemption exists "unless the public interest requires disclosure in the particular instance" and "only so long as there is a clear need to delay disclosure in the course of a specific investigation."


Clearly there is a public interest in understanding the actions of the Portland Police in responding to this situation. We believe that there is also a public interest in assuring that the pending criminal prosecution of Lamarr Harris proceed in a manner which prejudices neither the defendant nor the State in obtaining a fair trial with impartial jurors. The Attorney General has considered the problems inherent in releasing investigatory information while prosecutions are pending. It has concluded that "information compiled in investigations connected with pending or contemplated prosecutions ordinarily will remain confidential because disclosure likely would interfere with law enforcement proceedings." 2000 ATTORNEY GENERAL'S PUBLIC RECORDS AND MEETINGS MANUAL, p. 29.

We believe that protecting the integrity of the judicial process is the immediate public interest in this affair. When the criminal prosecution is concluded and public policy concerns for an effective prosecution and fair trial no longer exist we believe that the public interest will then require this material to be released.

### ORDER

Accordingly, it is ordered that the petition of Ms. Bernstein on behalf of the Oregonian to disclose certain records of the Portland Police Bureau is denied.

Very truly yours,

  
MICHAEL D. SCHRUNK  
District Attorney  
Multnomah County, Oregon