



ROD UNDERHILL, District Attorney for Multnomah County

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June 19, 2018

Jesse Merrithew
Levi Merrithew Horst PC
610 S.W. Alder Street, Suite 415
Portland, Oregon 97205

Laura Rowan
Deputy City Attorney
Portland City Attorney's Office
1221 S.W. Fourth Avenue, Suite 430
Portland, Oregon 97204

Re: Petition of Jesse Merrithew requesting a copy of Portland Police report 18-116186

Dear Mr. Merrithew and Ms. Rowan:

In his public records appeal, received by this office on June 6, 2018, petitioner Jesse Merrithew asks us to order the Portland Police Bureau (PPB) to release a copy of the police reports in case 18-116186, which involves a fatal vehicle crash from April of this year.

In response to petitioner's request, PPB provided him with a copy of the DMV crash report, but withheld the investigative reports on the grounds that they were "investigatory information compiled for criminal law." ORS 192.345(3). PPB states that the requested reports are exempt because they relate to a case that is under active investigation by PPB Officer Christopher Johnson and has not yet been referred to this office to review for criminal prosecution.

For the reasons discussed below, we agree with PPB and deny the petition.

DISCUSSION

A. Criminal Investigatory material – ORS 192.345(3)

ORS 192.345(3) conditionally exempts from disclosure,

Investigatory information compiled for criminal law purposes.

It is clear that, on its face, this exemption applies. That is, the police reports at issue are investigative information compiled to determine whether or not the crash at issue involved criminal conduct by any person. Officer Johnson represents that, as his investigation has not yet concluded, public release at this time would interfere with his ongoing investigation. We have reviewed the relevant reports and agree with his assessment.

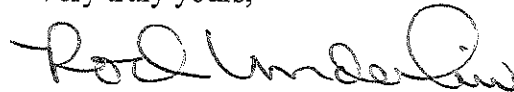
An exemption in ORS 192.345 applies unless the public interest requires otherwise. Petitioner in this case has not advanced any particular public interest in these documents, and this is not a case of such notoriety that the public interest speaks for itself. See, PUBLIC RECORDS AND MEETINGS MANUAL (2014) at 31 (“when a requestor did not state the reason for the request, the lack of information prevented our office from finding that the public interest [...] required disclosure[.]”) Likewise, it is clear that the “public interest means the value to the public at large, not to a particular person at a particular time.” *Id.* at 30.

In this case, because the materials are investigatory and compiled for criminal law purposes, and because we do find an overriding public interest in disclosure to this requestor at this time, we agree with PPB that the criminal investigatory exemption applies in this case.

ORDER

Accordingly, the petition is denied.

Very truly yours,



ROD UNDERHILL

District Attorney

Multnomah County, Oregon