



**ROD UNDERHILL**, District Attorney for Multnomah County

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April 11, 2019

Norbert Schlecht  
7704 N.W. Anderson Avenue  
Vancouver, Washington 98665

Candy Wallace  
Assistant Superintendent  
David Douglas School District  
11300 N.E. Halsey Street  
Portland, Oregon 97220

Re: Petition of Norbert Schlecht seeking records from the David Douglas School District relating to Linda Wilburn

Dear Mr. Schlecht and Ms. Wallace:

In his public records petition, received by this office on April 2, 2019, petitioner Norbert Schlecht requests that this office order the David Douglas School District (DDSD) to release “any/all records on Linda Wilburn.” Ms. Wilburn is a bus driver for DDSD and has accumulated the usual array of personnel records during her time with DDSD. These include payroll records, requests for leave, a medical file, emergency contact information, etc.

DDSD denied petitioner’s request on March 11, 2019, citing ORS 192.355(2) and asserting that release of these records would constitute an unreasonable invasion of Ms. Wilburn’s privacy.

Petitioner stated in his request that Ms. Wilburn lives next door to him and that he seeks the records for the purpose of performing a “threat assessment” as a result of what he deems threatening signs posted on Ms. Wilburn’s home.

Ms. Wilburn has given notice to DDSD that Mr. Schlecht has engaged in a pattern of harassment of her family since she moved next door to him two years ago, and alleges that Mr. Schlecht has contacted her mortgage company to make allegations about her house being a “meth house,” has a video camera pointed at her bedroom, and has a fixed light that illuminates her property. Counsel for Ms. Wilburn has also contacted this office expressing similar concerns.

For the reasons discussed below, we deny the petition.

### DISCUSSION

A. Information of a personal nature – ORS 192.355(2)

ORS 192.355(2) exempts from disclosure,

Information of a personal nature such as but not limited to that kept in a personal, medical or similar file, if public disclosure would constitute an unreasonable

invasion of privacy, unless the public interest by clear and convincing evidence requires disclosure in the particular instance.

By its terms a request for Ms. Wilburn's personnel files fit within the definition of this section.<sup>1</sup> It is clear that there is much acrimony between Ms. Wilburn and Mr. Schlect. We do not, in this order, wade into resolving whether or not either side's allegations against the other are accurate or supported. However, the allegations of both parties provide important context to assess the applicability of this section. We conclude that public disclosure of this information to this requestor would constitute an unreasonable invasion of Ms. Wilburn's privacy. In the leading Oregon case on the personal privacy exemption, Justice Gillette wrote "a disclosure 'constitutes' an unreasonable invasion of privacy if the agency's act of releasing the information, or the acts of those to whom the information is released, are reasonably anticipated by the agency to lead to such an invasion of privacy." *Jordan v. MVD*, 308 Or 433 (1989) (Gillette, concurring) (emphasis in original).

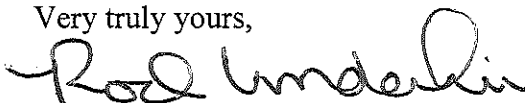
Here, as in *Jordan*, Ms. Wilburn has articulated to the agency holding her information why disclosure of any of her information to this particular requestor would unreasonably invade her privacy. Based on this, DDSO could reasonably anticipate that release of this information to petitioner would unreasonably invade Ms. Wilburn's privacy. We are always mindful of individuals' legitimate concerns for their safety. Having reviewed the records at issue, we can say that they contain nothing that could be even tangentially relevant to petitioner's stated purpose of conducting a threat assessment.

Petitioner has made no argument that the public interest nonetheless requires disclosure and, reviewing the records and context, we find none.

**ORDER**

Accordingly, the petition is denied.

Very truly yours,



ROD UNDERHILL  
District Attorney  
Multnomah County, Oregon

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<sup>1</sup> Petitioner notes that he requested "all" records relating to her and pointed to a published DDSO document that mentions Ms. Wilburn's name but was not provided to him. DDSO has made available to us all the personnel records relating to Ms. Wilburn; it is not reasonable, nor frankly possible, that it search every of no doubt millions of pages of records in its possession for incidental mentions of Ms. Wilburn. We are treating this appeal as addressing her personnel file materials that were made available to us, to the extent petitioner seeks a search of some other specific category of record, he can specify that in a separate request and DDSO can quote him fees commensurate with the scope of the request.