



ROD UNDERHILL, District Attorney for Multnomah County

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December 12, 2019

Liani Reyna
2282 Vermont Lane
Naples, Florida 34120

Anika Bent-Albert
Deputy City Attorney
Portland City Attorney's Office
1221 S.W. Fourth Avenue, Suite 430
Portland, Oregon 97204

Re: Petition of Liani Reyna seeking access to certain records of the Portland Police Bureau.

Dear Ms. Reyna and Ms. Bent-Albert:

In her public records appeal petitioner, Liani Reyna, asks this office to order the Portland Police Bureau (PPB) to respond to her October 23, 2019 public records request for:

All documents and correspondence related to and any reference to Liani Reyna. Please include "correspondence" to and from the following individuals: Bret Barnum, Michael Crebs, Chis Uehara, Danielle Outlaw, Chris Davis, Ryan Lee, Gregory Moore, Jeremy Price, David Golliday, Stephen Bourosa, Sara Fox, Vincent Woods, Park Singh, Jerrel Gaddis, Burke Nelson, Ted Wheeler, Rebecca McKechnie, Michelle Coie, Erica Hurley, Greg Pashley, Cliff Bacigalupi, Jeff Bell, Derek Rodriguez, Wendi Steinbronn, Anthony Passadore, Scott Konczal, David Abrahamson, Franz Schoening, Amanda McMillan, and Michael Leasure.

PPB acknowledged her request on October 23, 2019 with a form response that indicated it was uncertain it was the custodian of the request and stating that PPB is experiencing a backlog of requests and should expect up to six weeks for her request to be processed.

On December 3, 2019, one day shy of six weeks from the date of her request, petitioner filed the present appeal requesting this office to order PPB to respond. PPB responded the same day.

In follow-up communications with petitioner, PPB sought to clarify and/or limit the scope of this request, which petitioner declined to do. Petitioner also expressly indicated that the list of names in her request was non-exclusive. The request as framed currently reaches every document that has any reference to petitioner from 1993, when she began her employment as a police officer to the date of her request. Although it seems unlikely this is truly what petitioner is seeking, this would include every police report she authored, every police report that references her as a cover officer, every memo or personnel evaluation she authored as a sergeant, the entire contents of her personnel file, as well as any other written or recorded record on or in any City system or archive that mentions her.

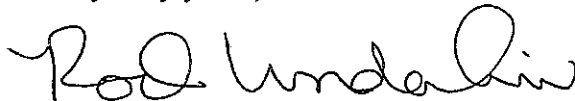
PPB has now responded to her request, set out a plan to progress through the various categories of records that need to be searched, and quoted a fee for the initial portion of that work. PPB argues that because it has responded to the request within its initially estimated timeframe, quoted fees, and has not received any payment on those fees, it is not under any present obligation to proceed with work on this request.¹ We agree. See, *Petition of Wolf*, MCDA PRO 19-54 (2019), ORS 192.329(3).

Petitioner has requested that we order PPB to promptly respond to her request. PPB has now done so.² PPB has indicated that 15 days after payment of a deposit against its fees it will have a first batch of email records ready, with additional batches provided on a rolling basis upon payment thereafter. Given the expansive scope of this request this proposed schedule appears reasonable under ORS 192.329(6) and (8).

ORDER

Accordingly, the petition is denied at this time because PPB has already done what petitioner asked this office to order them to do.

Very truly yours,



ROD UNDERHILL
District Attorney
Multnomah County, Oregon

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¹ We do not understand petitioner to have requested a public interest fee waiver, which, if requested, would require PPB to determine whether or not release of the records would primarily benefit the general public.

² We recognize that petitioner actually asked that we order PPB to *produce* the records, not to respond to her request with a fee estimate. However, a public body is entitled to assess fees not to exceed its actual costs in performing the work involved in producing records. Consistent with our precedent, we express no opinion on the whether or not that fee represents PPB's actual cost. See, *Petition of Babcock*, MCDA PRO 15-22 (2015) ("the Public Records Law does not grant jurisdiction to the attorney general or district attorney to review whether or not a requested fee represents the 'actual cost' of an agency in complying with a public records request") (citing *Petition of Mayes*, Att'y Gen. PRO (3/29/2000)).