



MIKE SCHMIDT, District Attorney for Multnomah County

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Re: Petition of Robert Bonaparte requesting a copy of Portland Police report 20-178779.

Dear Mr. Bonaparte and Ms. Bent-Albert:

In his public records petition dated August 3, 2020, petitioner Robert Bonaparte asks us to order the Portland Police Bureau (PPB) to release a copy of the police report in case 20-178779, including all photographs. Petitioner represents Saul Valdez in litigation with his insurance company. A complaint has been filed by Mr. Valdez against Nationwide Insurance Company of America.

Petitioner requested the records from the City of Portland on June 12, 2020. According to petitioner, the records are for the purpose of having all information regarding the loss to Mr. Valdez. The request to PPB was “paused due to the declared emergency (ORS 192.329(6)).” On July 28, 2020, the request was denied per ORS 192.345(3), as there is an open criminal investigation in case 20-178779.

PPB states that Detective Meredith Hopper is still actively investigating the case. The detective has indicated that a “public disclosure of the records at this time would interfere with a complete and thorough investigation.” The police have not yet made an arrest in this criminal investigation involving a fire in a building. The fire occurred on May 31, 2020. PPB has indicated that the reports can be released to petitioner after “all criminal and internal investigations” have concluded.

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, “[i]nvestigatory information compiled for criminal law purposes.”

The reports and photos compiled by the police document their inquiry as to whether there is any criminal conduct by any person. Detective Hopper has indicated that the investigation has not yet been concluded and release at this time of the reports and photos would interfere with the active investigation. We agree that the records sought by petitioner are investigative materials.

An exemption in ORS 192.345 applies, unless the public interest requires otherwise. The analysis is a two-step process. The first part is to “determine what the competing interests are in disclosure and nondisclosure.” PUBLIC RECORDS AND MEETINGS MANUAL (2019) at 32. The second part is to “weigh those interests and determine which predominates, with the presumption in favor of disclosure.” *Id.*

Petitioner has not advanced any public interest basis for the release of the records at this time. The records have been requested for the purpose of private litigation against an insurance company. PPB has indicated that the release of the records at this time will interfere with an active criminal investigation. PPB has also indicated that the records can be released at the conclusion of the criminal investigation. In weighing the two competing interests, we conclude that the criminal investigation could be compromised if the records were released to the public. We therefore agree with PPB that there is no overriding public interest in disclosure at this time and that the criminal investigatory exemption applies in this case.

ORDER

Accordingly, the petition is denied.

Sincerely,



MIKE SCHMIDT
District Attorney
Multnomah County, Oregon