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Heidi Brown
Chief Deputy City Attorney
Portland City Attorney's Office
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Portland, Oregon 97204

Re: Petition of Alan Kessler seeking records matching police employee names to identification numbers

Dear Mr. Kessler and Ms. Brown:

Petitioner, Alan Kessler, seeks an order requiring the City of Portland's Independent Police Review (IPR) to release to him a list of Portland Police Bureau (PPB) officer names and employee identification numbers.

Since June 6, 2020, PPB officers have been using their employee identification numbers in lieu of name badges on their uniforms. The factual background as to why is well known to the parties, explained in more depth in our July 17, 2020 order 20-24, and will not be restated here. Petitioner has sought information under the public records law from multiple sources that would provide a listing of officer identification numbers for the purpose of permitting more ready identification of police officers by members of the public.

This office has denied those previous petitions due to a provision of the public records law that requires a requestor seeking certain information from personnel records to provide additional information along with the request. For the reasons discussed below, we find that the employee identification numbers, compiled from PPB personnel records, are still subject to these procedural requirements when in the possession of IPR.

DISCUSSION

A. Transferred Records – ORS 192.355(10)

ORS 192.355(10) provides that,

Public records or information described in this section, furnished by the public body originally compiling, preparing or receiving them to any other public officer or public body in connection with performance of the duties of the recipient, if the considerations originally giving rise to the confidential or exempt nature of the public records or information remain applicable.

Put differently, if information is exempt as possessed by one public body, it remains exempt if transferred to a second public body for official purposes. The receiving body may assert applicable exemptions as if it were standing in the shoes of the originating body, so long as the considerations that give rise to the exempt nature of the information remain applicable.

We have already held that the employee identification numbers of Portland Police Bureau officers are subject to ORS 192.355(3), and the attendant procedural requirements of ORS 192.363, when in PPB personnel records. *Petition of Kessler*, MCDA PRO 20-24 (July 17, 2020). We have likewise held that the same information is exempt, and subject to ORS 192.363, when in the records of the City's centralized human resources bureau. *Petition of Kessler*, MCDA PRO 20-36 (Sept. 15, 2020). ORS 192.355(10) provides that the same rules apply when that information is transferred from PPB's internal personnel records to another public body "in connection with the performance of the duties of the recipient."

We do not understand petitioner to argue that IPR does not possess these records in connection with its duties. Indeed, IPR specifically possesses it to allow identification of the police officers it is tasked with investigating, which is its core function. Rather, petitioner's argument is a technical one. Specifically that, because the information is no longer contained in "personnel records," the exemption and its attendant procedural requirements do not apply to this specific copy of that information.

The use of this compilation of identification numbers by IPR is of the same nature as it would be used by PPB's own internal investigators: to identify officers accused of misconduct. As the nature of the use is the same, we cannot say that the considerations that give rise to the exempt nature of the information, or the procedural requirements to access it, are materially altered based solely on which sub-body of the City of Portland is in custody of the copy of the information sought.

Having concluded that the information at issue was subject to ORS 192.355(3) at the time it left PPB, and having concluded that IPR received it in connection with its official duties, we thus find that ORS 192.355(1) renders ORS 192.355(3) and ORS 192.363 applicable to this information in IPR's possession just as it would have if it remained in PPB's possession.

As discussed in further detail in *Kessler*, 20-24, petitioner has not complied with the procedural requirements of ORS 192.363 and, thus, the public bodies at issue may not release the requested information.

ORDER

Accordingly, the petition is denied.

Very truly yours,



MIKE SCHMIDT
District Attorney
Multnomah County, Oregon