



MIKE SCHMIDT, District Attorney for Multnomah County

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February 8, 2021

SE PDX ACTION

sepdxaction@gmail.com (via email only)

Re: Petition seeking to compel the Portland Police Association to respond to public records requests

This office received a public records law petition on February 2, 2021 from an anonymous email account labeled “SE PDX ACTION,” alleging that the Portland Police Association (PPA) was in violation of Oregon’s public records and public meetings laws. As an initial matter, this office lacks any jurisdiction over the public meetings law, so I reject that claim without further discussion. As to the public records law claim, the public records only applies to “public bodies” within this state as defined in ORS 192.311(4).

The PPA is a private labor union that represents officers and sergeants employed by the Portland Police Bureau. It is undisputed that the PPA is a private body. However, petitioner asserts that it is nonetheless the “functional equivalent” of a public body under the test articulated by the Supreme Court in *Marks v. McKenzie High Sch. Fact-Finding Team*, 319 Or 451 (1994), and summarized by the Attorney General in the PUBLIC RECORDS AND MEETINGS MANUAL (2019). Applying the factors set out in *Marks* I readily conclude that PPA is not the functional equivalent of a public body. That the PPA may be influential in City politics does not make it subject to the public records law.

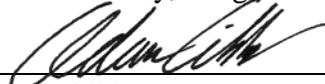
Public employee labor unions were well-established when the Public Records Law was enacted. If the legislature had intended the dramatic restructuring of labor relations in this state that would follow from requiring that public employee union records be open to general inspection, it would have said so expressly in ORS 192.311(4).

ORDER

Accordingly, the petition is denied.

Regards,

MIKE SCHMIDT
District Attorney
Multnomah County, Oregon

By: 
Adam Gibbs
Senior Deputy District Attorney

Cc: Anil Karia, Counsel for PPA

21-08