



MIKE SCHMIDT, District Attorney for Multnomah County

1200 SW First Ave, Suite 5200 • Portland, Oregon 97204 • 503 988-3162 • FAX 503 988-3643
www.mcda.us

July 6, 2021

Wright Gazaway
KATU
2153 N.E. Sandy Boulevard
Portland, Oregon 97232

Jenifer Johnston
Sr. Deputy City Attorney
Portland City Attorney's Office
1221 S.W. Fourth Avenue, Suite 430
Portland, Oregon 97204

Re: Petition of Wright Gazaway, on behalf of KATU, seeking a police incident report

Dear Mr. Iboshi and Ms. Johnston:

Petitioner Wright Gazaway, on behalf of KATU news, has submitted a public records petition in which he asks that this office order the Portland Police Bureau (PPB) to release the police reports related to a May 29, 2021 shooting incident.

PPB has asserted that these reports are presently exempt from disclosure as investigatory information gathered for criminal law purposes. ORS 192.345(3).

ORS 192.345(3) conditionally exempts from disclosure, "investigatory information compiled for criminal law purposes." The district attorney has recently analyzed this exemption in a case, as here, involving a shooting death that remained under investigation. *Petition of Iboshi*, MCDA PRO 21-32 (2021). In *Iboshi* we wrote:

Following the lead of the Oregon Court of Appeals, both this office and the Attorney General have consistently found that public interest balancing under ORS 192.345(3) supports confidentiality while enforcement proceedings are pending. *Jensen v. Schiffman*, 24 Or App 11, 16 (1976) ("investigations connected with pending or contemplated proceedings will ordinarily remain secret because disclosure would likely interfere with enforcement proceedings.") *Petition of Smith*, MCDA PRO 21-21 (2021) (noting the attorney general and this office have "uniformly concluded" that police reports on pending matters are not subject to release).

This matter remains under active investigation and we have publicly announced that grand jury proceedings are imminent. Although this office remains committed to a public disclosure and examination of all of the investigative materials in this case upon the conclusion of enforcement proceedings, we find that the public interest does not require their release today.

The *Iboshi* order related to a May, 2020, officer-involved shooting. Given that the present case is younger, and that those responsible for investigating the May 29, 2021 matter have reasonably asserted that public release of the information contained in the investigation reports

Page 2
July 6, 2021
Petition of Wright Gazaway

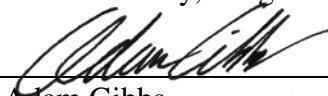
would impair their ability to complete their investigation, I conclude that *Iboshi* controls this case and the petition must be denied.

ORDER

Accordingly, the petition is denied.

Regards,

MIKE SCHMIDT
District Attorney
Multnomah County, Oregon

By: 
Adam Gibbs
Sr. Deputy District Attorney

21-41