



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

May 9, 2022

Patrick Cashman
3024 SW Iowa Street
Portland, Oregon 97239

Re: Petition of Patrick Cashman seeking records from the City of Portland

Dear Mr. Cashman:

You petitioned this office seeking an order compelling the City of Portland to provide you with a list of documents withheld from a production of public records. Specifically, you write: “I was informed [...] that the City withheld some responsive documents in full and the City would not provide a list of those documents withheld in full.” You then request this office to order the City to identify what responsive documents it withheld.

While there may be practical reasons why a public body would elect to do what you are requesting, the public records law does not require the creation of an itemized exemption log. ORS 192.329(2)(b) only requires that the public body “assert[] any exemptions from disclosure that the public body believes apply to any requested records[.]” This office has previously concluded in indistinguishable circumstances that a public body is not required to do create such a list:

In [petitioner’s] initial request to this office she requested that we order the Zoo to provide her with a list of the documents that they had declined to produce. The Zoo refused, stating that it did not ordinarily compile the data that she had requested (i.e. a list of withheld documents) and that Oregon law did not require it to create new records in response to a public records request. The Zoo is correct. [...] If such a list had been created by the Zoo, it likely would be subject to disclosure as a public record.

Petition of Spears, MCDA PRO 15-19 (2015).

ORDER

Accordingly, because this petition is indistinguishable from our decision *Spears*, the petition is denied.

Very truly yours,

MIKE SCHMIDT
District Attorney
Multnomah County, Oregon