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K. Rambo
Editor in Chief – Street Roots
211 NW Davis Street
Portland, Oregon 97209

Carlo Calandriello
Senior Assistant County Attorney
Multnomah County
501 S.E. Hawthorne Boulevard, Suite 500
Portland, Oregon 97214

Re: Petition of K. Rambo, on behalf of Street Roots, seeking Multnomah County Sheriff's Office records relating to an internal investigation

Dear K. Rambo and Carlo Calandriello:

Petitioner, K. Rambo, has filed a public records petition with this office asking that we order the Multnomah County Sheriff's Office (MCSO) to provide them with: "public records included in, and resulting from, the Multnomah County Sheriff's Office Professional Standards Unit review of a challenge coin bearing the abbreviation 'NPNBW', including deliberations, findings and recommendations." Petitioner had requested this information from MCSO's public information officer, who declined to provide it, citing ORS 181A.830(3). This section generally exempts from disclosure personnel investigations of public safety officers that do not result in discipline.

Petitioner has published two articles relating to this request in Street Roots. The articles recount that a person petitioner believes to be an MCSO deputy was involved in the creation of a "challenge coin" distributed privately to certain MCSO employees.¹ This coin, a picture of which is published in the referenced articles, depicts on one side an image of the Multnomah County Justice Center on fire and the phrases "This We'll Defend" and "Remember the Alamo." On the other side it has the words and acronyms "MCDC," "NPNBW," "Multnomah County Sheriff," "Semper Paratus," and the date "May 29, 2020." Petitioner articulates a specific interest in the meaning of the acronym "NPNBW." It is clear from the MCSO regulations cited in petitioner's reporting, and MCSO's statements to them, that this coin is not officially issued by MCSO, but rather was a private act by the involved individuals.

Petitioner quotes the MCSO public information officer in the May article cited above as stating that MCSO leadership was "not aware of the language on the coin" and is "also interested

¹ K. Rambo, "MCSO reviews challenge coin, refuses to release findings." Street Roots, May 18, 2022 (<https://www.streetroots.org/news/2022/05/18/mcso-coin>); K. Rambo, "Law enforcement coin related to Portland protests under review by sheriff's office." Street Roots, April 13, 2022 (<https://www.streetroots.org/news/2022/04/13/law-enforcement-coin-related-portland-protests-under-review-sheriff-s-office>)

in what the abbreviation (NPNBW) means and have referred the content of the coin to the Professional Standards Unit, which will determine if any violations to policy exist.” Petitioner seeks access to the contents and results of this review. MCSO has provided us with a copy of the relevant documents and, for the reasons discussed below, we grant the petition and order the records released.

DISCUSSION

A. Public Safety Officer Disciplinary Investigations –181A.830(3)

ORS 181A.830(3) provides that,

A public body may not disclose information about a personnel investigation of a public safety employee of the public body if the investigation does not result in discipline of the employee.

The records submitted to us document a complaint and pre-investigation assessment (PIA) of that complaint. A PIA is an initial review by MCSO’s Professional Standards Unit to determine if the allegations in a complaint constitute a violation of MCSO policy and, thus, warrant a formal investigation. MCSO asserts that a PIA, despite its name, can include factual investigation of a complaint and, thus, it is an “investigation.” We do not foreclose the possibility that a PIA could constitute an “investigation” for purposes of ORS 181A.830(3) on different facts, however the records presented here do not show that any interviews, exhibits, or other factual development were prepared or conducted in this case.

By its terms, ORS 181A.830(3) applies only to “a personnel investigation.” Since no factual investigation occurred in this case, we conclude that ORS 181A.830(3) does not exempt these records from disclosure.

ORDER

Accordingly, the petition is granted. MCSO is ordered to promptly provide petitioner with a copy of the records. This release is subject to the payment of fees, if any, not to exceed those authorized by ORS 192.324(4).

Very truly yours,



MIKE SCHMIDT
District Attorney
Multnomah County, Oregon

Notice to Public Agency

Pursuant to ORS 192.411(2), 192.415, and 192.431(3) your agency may become liable to pay petitioner’s attorney’s fees in any court action arising from this public records petition (regardless whether petitioner prevails on the merits of disclosure in court) if you do not comply with this order and also fail to issue within seven days formal notice of your intent to initiate court action to contest this order, or fail to file such court action within seven additional days thereafter.