



**MICHAEL D. SCHRUNK**, District Attorney for Multnomah County

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September 07, 2004

Bryan Denson  
Reporter, Regional Team  
The Oregonian  
1320 SW Broadway  
Portland, OR 97201-3499

Debra Haugen  
Manager, Records Division  
Portland Police Bureau  
1111 SW 2nd Avenue  
Portland, Or 97204

Re: Petition of Bryan Denson for The Oregonian received August 26, 2004 to disclose certain records of the Portland Police Bureau

Dear Mr. Denson and Ms. Haugen:

#### BACKGROUND

On this public records petition, ORS 192.410 et. seq., petitioner Bryan Denson for the Oregonian requests the District Attorney to order the Portland Police Bureau to produce an unredacted copy of the following record:

#### **Portland Police Bureau report Case No. 04-65965.**

On June 16, 2004, Oregonian reporter Joseph Rose requested "all available reports and information on a recently closed investigation into whether Neil Goldschmidt was sexually involved with a second underage girl in the late 1970's when he was Portland mayor." In response, PPB Records Manager Haugen provided a four-page "Special Report" classified as "Possible Child Sex Abuse" by Gresham Police Detective D. Sahota, assigned to the child abuse team. A redacted form of the report was provided without any references to the names or addresses of persons who provided information to the child abuse hotline or Detective Sahota, or the name or address of the reported victim.

According to petitioner, Ms. Haugen stated she made the redactions so as not to identify the woman, citing ORS 192.502(2), Personal Privacy Exemption. The petition contends that release of the report would not unreasonably invade the privacy of the reported victim, particularly the release of the names of other people named in the report.

Ms. Haugen submitted a response to the petition together with an unredacted copy of the report and again listed ORS 192.502. She also noted the exemption of ORS 192.501(3), Criminal Investigatory Material, to justify the nondisclosure of the named informants. Finally, Ms. Haugen for the first time pointed out that under ORS 419B.035, the "confidentiality of reports of child abuse is unconditional and clearly prohibits the Police Bureau from disclosing the names of persons reporting child abuse, or what they believe to be child abuse."

On September 3, petitioner submitted a four-page e-mail rebuttal to the City's letter. After extensive (and cogent) comment on the personal privacy and criminal investigatory exemptions, petitioner closed with a rejection of the applicability of the child abuse reports statute. "The clear context of that statute is that it relates not to police incident reports but to child welfare and services agencies handling child abuse cases." Petitioner contended the City was simply misreading the statute.

#### DISCUSSION

The City and petitioner have provided articulate and compelling arguments with respect to the two exemptions found in the Public Records law. The application of the Personal Privacy Exemption to the identity of individuals other than the reported victim raises difficult questions that should only be answered after necessary consideration of the circumstances of the particular petition. The application of the Criminal Investigatory Material exemption is always problematical when sketchy information is provided concerning the level of confidentiality requested by the informants or given by the public agency or law enforcement investigator. A resolution of these issues is not necessary to this order.

The confidentiality of child abuse reports is outlined in ORS 419B.035:

(1) Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.505 and 192.610 to 192.990 relating to confidentiality and accessibility for public inspection of public records and public documents, **reports and records compiled under the provisions of ORS 419B.010 to 419B.050 are confidential and are not accessible for public inspection.**

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The records can be made available to any law enforcement agency “for the purpose of subsequent investigation of child abuse.” ORS 419B.035(1)(a). Upon completion of an investigation and closing the file in a specific case, the law enforcement agency can make portions of the reports available to a limited number of other agencies such as the State Board of Parole or Department of Corrections under limited circumstances. However, the “names, address and other identifying information about the person who made the report may not be disclosed” under any circumstances. ORS 419B.035(4), (5), and (6).

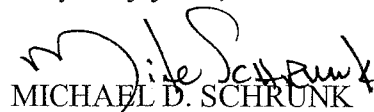
The report in question was a “follow up on a report of possible sexual abuse of a child.” It was initiated after a report to the Child Abuse Hotline. We disagree with petitioner’s position that such a law enforcement report falls outside the dictates of ORS 419B.035. This is not akin to a report of a “shooting of a teenager” as petitioner asserts. It is a report compiled under the provisions of the child abuse reporting statute and is confidential. This office has consistently recognized in past public records orders that child abuse reports are confidential and not subject to the public records law.

It is questionable whether the Portland Police Bureau had the authority to release any report compiled as part of a closed and unfounded investigation of child abuse under ORS 419B.035. The office of the District Attorney clearly cannot order the disclosure of such child abuse reports. That authority is vested in the Department of Human Services.

ORDER

Accordingly, it is ordered that the petition of Bryan Denson for The Oregonian to disclose certain records of the Portland Police Bureau is denied.

Very truly yours,

  
MICHAEL D. SCHRUNK  
District Attorney  
Multnomah County, Oregon