



MICHAEL D. SCHRUNK, District Attorney for Multnomah County
600 County Courthouse • Portland, Oregon 97204-1193 • (503) 248-3162

August 10, 1998

Barbara Simon
Multnomah County Sheriff's Office
12240 NE Glisan St
Portland, OR 97220

William Abernathy
200 E 10th St #702
New York, NY 10003

Re: Petition of William Abernathy, July 30, 1998, to disclose certain records of the Multnomah County Sheriff's Office

Dear Ms. Simon and Mr. Abernathy:

Background

On this public records petition, ORS 192.410 et. seq., petitioner William Abernathy, requests the District Attorney to order the Multnomah County Sheriff's Office and its employees to make available for inspection the following records:

Mug shots for Anne F. "Sky" Ryan.

Barbara Simon, Public Information Officer for the Multnomah County Sheriff's Office, denied the petitioner's request in a letter response dated July 28, 1998. Ms. Simon cited the criminal investigatory material exemption of ORS 192.501 (3) which conditionally exempts "[i]nvestigatory information compiled for criminal law purposes."

Petitioner has disputed the position of Multnomah County Sheriff's Office.

In response to our notice letter of July 30, 1998, Ms. Simon submitted an explanation of her denial in the attached letter dated August 4, 1998.

Page 2
August 10, 1998
RE: Petition of William Abernathy

Discussion

An application of the criminal investigatory material exemption requires an identification and balancing of the various purposes for secrecy and a determination of the stage of the investigation or prosecution. See Jensen v. Schiffman, 24 Or App 11 (1976). This is a conditional privilege designed to protect active police investigations. "Information compiled in investigations connected with pending or contemplated prosecutions ordinarily will remain confidential because disclosure likely would interfere with law enforcement proceedings." Attorney General's Public Records Manual, p. 28 (1997).

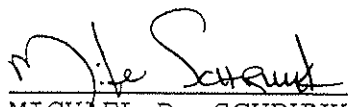
In evaluating this public records petition, Senior Deputy District Attorney Rod Underhill, assigned to the criminal prosecution of State v. James T. Goad, C 98-06-34908, DA 1165419, advises that the case involves domestic violence and the charges include the kidnapping and assault of Ms. Ryan. The trial date is October 29, 1998. Mr. Underhill indicates that the criminal investigation is continuing and that all prior criminal investigations of Ms. Ryan are relevant to that investigation. Mr. Underhill is of the opinion that no mug shots of Ms. Ryan should be released until the prosecution of Mr. Goad is completed. Mr. Underhill also expresses concern for Ms. Ryan as a victim and for her safety and freedom in the community.

We agree with the reasoned judgment of the prosecutor in charge of the pending criminal investigation as well as the custodian of records in question. The public interest in the orderly progress of the Goad criminal investigation outweighs the public interest in disclosure at this time.

ORDER

Accordingly, it is ordered that the petition of William Abernathy, to disclose certain records of the Multnomah County Sheriff's Office is denied without prejudice to renewal when the investigation is concluded, ORS 192.502 (9).

Very truly yours,


MICHAEL D. SCHRUNK
District Attorney
Multnomah County

JKH:tdr

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