



MICHAEL D. SCHRUNK, District Attorney for Multnomah County

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June 30, 2005

David Anderson
Reporter, West Bureau
The Oregonian
1675 SW Marlow Ave, Suite 325
Portland, OR 97225

Veronica Nordeen
Program Specialist, Records Division
Portland Police Bureau
1111 SW 2nd Avenue
Portland, Or 97204

Re: Petition of David Anderson for The Oregonian received June 17, 2005 to disclose certain records of the Portland Police Bureau

Dear Mr. Anderson and Ms. Nordeen:

BACKGROUND

On this public records petition, ORS 192.410 et. seq., petitioner David Anderson for the Oregonian requests the District Attorney to order the Portland Police Bureau to produce a copy of the following records with the names and identifying information redacted:

Police incident reports 99-106837, 99-113987 and 99-117600

On June 10, 2005, Oregonian reporter David Anderson requested three reports from the Portland Police Bureau Records Division. PPB Records Program Specialist Veronica Nordeen declined to provide the reports as exempt elder abuse reports. In response to the petition, Ms. Nordeen cites the provisions of Chapter 124 – Abuse of the Elderly, Disabled and Incapacitated, as well as ORS 192.496(1), physical or mental health reports.

DISCUSSION

The reporting provisions contained in ORS 124.060 through 124.095 provide for various protections of confidentiality for the original complainant, witnesses, and the elderly persons themselves. The reports generated in any investigation of elder abuse are probably confidential as well.

COPY

The three 1999 reports sought by petitioner involved allegations of forgery and theft of three elderly victims living at the Holladay Park Plaza resident center for senior citizens. The problem here is that the reports do not fit within the definition of elder abuse. ORS 124.050 states in part:

As used in ORS 124.050 to 124.095:

- (1) "Abuse" means one or more of the following:
 - (a) Any physical injury caused by other than accidental means, or which appears to be at variance with the explanation given of the injury.
 - (b) Neglect which leads to physical harm through withholding of services necessary to maintain health and well-being.
 - (c) Abandonment, including desertion or willful forsaking of an elderly person or the withdrawal or neglect of duties and obligations owed an elderly person by a caretaker or other person.
 - (d) Willful infliction of physical pain or injury.


The various allegations of theft and forgery contain no indication of elder abuse. The victims may have been over 65 living in senior center housing but the crimes did not involve physical abuse neglect, or abandonment. The exemption does not apply.

The City has claimed exemption for various medical conditions described in the reports. While the reports made reference to certain circumstances of the victims, we do not believe they rise to the level of "information about the physical or mental health or psychiatric care or treatment of a living individual." Again, the exemption does not apply.

ORDER

Accordingly, it is ordered that the City of Portland promptly disclose the records sought in the above petition subject to the agreed redaction of the names and identifying information of the victims. Disclosure of the documents ordered is subject to payment of the City's fee, if any, not exceeding the actual cost in making the information available, consistent with ORS 192.440 and this order.

Very truly yours,


MICHAEL D. SCHRUNK
District Attorney

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NOTICE TO PUBLIC AGENCY

Pursuant to ORS 192.450(2), 192.460 and 192.490(3) your agency may become liable to pay petitioner's attorney 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 7 days formal notice of your intent to initiate court action to contest this order, or fail to file such court action within 7 additional days thereafter.