



**ROD UNDERHILL**, District Attorney for Multnomah County

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June 29, 2017

Therese Bottomly and Carli Brosseau  
The Oregonian  
1500 S.W. First Avenue, Suite 400  
Portland, Oregon 97201

Stephanie Harper  
Portland Public Schools  
General Counsel's Office  
501 N. Dixon Street  
Portland, Oregon 97227

Re: Petition of Therese Bottomly and Carli Brosseau, for The Oregonian, seeking records from Portland Public Schools

Dear Ms. Bottomly, Ms. Brosseau and Ms. Harper:

Ms. Brosseau filed a public records petition with this office on June 2, 2017, appealing Portland Public Schools' (PPS) denial of her request for, "Disclosable information about Jeremy Christian...confirm[ing] that Jeremy Christian, DOB 5-1-82, attended Portland Public Schools." Petitioner also requested, "Any other disclosable details from his school attendance - - any awards, activities, etc." On June 13, 2017, this office issued Public Records Decision 17-33, denying the petition. On June 15, 2017, Ms. Brosseau, joined by Ms. Bottomly, requested reconsideration of the denial. At this time, we will not re-examine whether Oregon Public Records law mandates the release of Directory Information.

PPS is now in possession of a criminal subpoena from the Multnomah County District Attorney's Office for all records in the possession of PPS relating to Jeremy Christian. Ms. Bottomly has waived any conflict that this office has on this matter and has allowed this office to decide whether ORS 192.501(3) applies to the materials.

## DISCUSSION

### A. Criminal Investigatory Material - ORS 192.501(3)

ORS 192.501(3) conditionally exempts, "Investigatory information compiled for criminal law purposes."

We believe that there is a legitimate law enforcement purpose for not releasing any school records of Jeremy Christian at this time. These records were not created by law enforcement. However, the 2014 Attorney General's Public Record Manual states at page 45, "[T]he exemption is not limited to records in the custody of a law enforcement agency or official. If, as part of a criminal investigation, a law enforcement agency has collected or gathered records from another public body, that public body...may apply the exemption..." All records related to Jeremy Christian in the possession of PPS are now under a criminal subpoena.

ORS 163.150 sets out the sentencing procedures for aggravated murder. It provides, in part, "In the proceeding, evidence may be presented as to any matter that the court deems relevant to sentencing..." Jeremy Christian has been charged with two counts of aggravated murder. If convicted, we believe any information that has been in the possession of PPS, including Directory Information, will be relevant in a sentencing hearing. ORS 192.501(3) therefore exempts the information which is requested by petitioner.

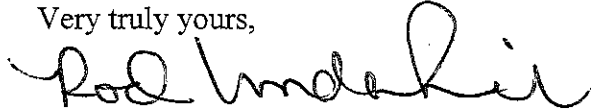
A conditional exemption only applies "unless the public interest requires disclosure in the particular instance." "[I]nvestigations connected with pending or contemplated proceedings will ordinarily remain secret because disclosure would likely 'interfere with enforcement proceedings.'" *Jensen v. Schiffman*, 24 Or App 11, at 16 (1976).

The materials sought by petitioner are being carefully maintained and protected from public scrutiny for the limited period of time necessary to complete the criminal investigation and prosecution. We conclude that the public interest in the orderly progress of the investigation and prosecution outweighs the public interest in disclosure at this time.

**ORDER**

Accordingly, your petition is denied.

Very truly yours,



ROD UNDERHILL  
District Attorney