



PATRICIA W. PERLOW
LANE COUNTY DISTRICT ATTORNEY

LANE COUNTY DISTRICT ATTORNEY'S OFFICE
125 EAST 8TH AVENUE, ROOM 400
EUGENE, OREGON 97401-2926
FAX ONLY (541) 682-3890
(541) 682-4261

January 7, 2019

Kenney Jacoby

Re: *Public Records Request*

Dear Mr. Jacoby,

I have received your appeal of a denial of a public records request by the City of Eugene.

For purposes of this ruling, the City has denied disclosure in 5 instances, which will be detailed below. The City has claimed that the records are exempt pursuant to ORS 192.345(3)(criminal investigation exemption), and 192.355(2)(a), personal privacy exemption).

The five documents for which the City has claimed exemption are:

EPD case# 16-18239

This is an October 30, 2016 report of an assault.

EPD case #16-07060

This is a May 3, 2016 report of an assault.

EPD case #16-09000

This is a June 2, 2016 report related to 16-07060

EPD case #16-16159

This a June 26, 2016 report of a sexual assault

EPD case #16-16171

This is a June 26, 2016 report of a sexual assault.

In reaching the decision on this matter, I am also considering decisions the District Attorney's office has made regarding these cases. This is information the City may not have had available when ruling on the original records request. In each of these matters, the reports were submitted to the District Attorney's office, and a decision was made not to file charges. This status is what most people would interpret as being "closed." While the term "closed" is not a legal term, it is relevant in determining whether the records need to remain confidential.

In each of the above cases, it is the ruling of the District Attorney that the criminal investigation exemption no longer applies. This however, does not dispose of this matter.

The personal privacy exemption protects records of a personal nature, if disclosure of the records would constitute an unreasonable invasion of privacy. Such records are subject to disclosure if a public interest requires disclosure in the particular instance. The requestor of the records has the burden of prove of showing that disclosure would not be an unreasonable invasion of privacy.

I have reviewed the reports in each of these matters, and have determined that the person privacy exemption does not apply to #16-18239, #16-07060, and #16-09000. However, because the remaining two cases involve graphic descriptions of sexual conduct, the exemption does apply to #16-16159 and 16-16171.

Therefore, it is the order of the District Attorney that the petition is granted in part, and denied in part. The City is ordered to disclose the records in #16-18239, #16-07060, and #16-09000. The appeal regarding #16-16159 and #16-16171, is denied. The City has seven days to comply with this order, unless it issues a notice of declaratory or injunctive relief.

Sincerely,

PATRICIA W. PERLOW, District Attorney



Robert D. Lane
Assistant District Attorney