



John Hummel District Attorney

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Marsha Baro
Risk Management Specialist
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Dear Marsha and Ian:

Pursuant to ORS 192.470, Marsha Baro (Petitioner) filed an appeal with me requesting that I review the City of Bend's denial of her recent public records request.

Pursuant to ORS 192.470(2) I immediately contacted the City of Bend (Bend) and asked them to:

[T]ransmit the public record disclosure of which is sought, or a copy, to the [District Attorney], together with a statement of its reasons for believing that the public records should not be disclosed.

On June 13, 2016 I received Bend's response. I thus began my review of this matter. This letter constitutes my Order in this case.

FINDINGS

- Petitioner's request was sent on June 2, 2016 via email to the City of Bend Police Department.
- Petitioner's request was for: "a copy of the police report #15-299209. Officer Lillenthal (sp?) visited Lava Ridge on 10/23/15 at the request of our principal, Gary DeFrang regarding an incident with two kindergartners."
- Bend denied the request vial email. The basis for the denial was ORS 419B.035.

- On June 6, 2016, the Petitioner initiated an appeal with the Deschutes County District Attorney.

LEGAL ANALYSIS

Bend argues that ORS 419B.035 prohibits them from providing Petitioner with the record she seeks. If this statute applies to this case my analysis will be brief as subsection one of the statute indicates that if the statute applies to a contested record the statute supersedes Oregon's public records law.

I find the statute does apply. 419B.035 regulates the release of records related to mandatory reports and investigations of child abuse allegations. The records sought by Petitioner relate to a report made by a mandatory reporter, the principal of Lava Ridge Elementary School, about an allegation that a student at Lava Ridge was sexually assaulted. Subsection seven of the statute says that law enforcement agencies "may not release any information not authorized by subsections (1) to (6) of this section." Subsections one to six do not authorize release of the records.

Conclusion:

Petitioner's appeal is denied.

Sincerely,

/s/ john hummel

John Hummel
District Attorney