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SFPD Statement on Adachi Report Criminal Investigation 19-059

?? 21, 2019 | 11:43 ??

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There is immense public interest in the interplay between the Bryan Carmody search warrants, the First Amendment and reporter shield law protections. Therefore, we feel that disclosure of further details of the criminal investigation into the theft and unauthorized release of the death report involving Public Defender Jeff Adachi is in the public interest.

We would like to make clear to everyone that there is an ongoing criminal investigation into this matter. For that reason we are not currently able to disclose some details of the investigation. In addition, we are unable to release information ordered sealed by the court.

This criminal investigation focuses on the conspiracy to commit a crime, the theft of a police report, receiving stolen property, the unlawful dissemination of official information, and the willful obstruction of justice. Moreover, based on evidence developed, the subjects of this investigation are SFPD employees. A secondary focus of this investigation is whether Mr. Carmody was an active participant in the commission of criminal acts, beyond his role with the news media.

As the investigation developed, Mr. Carmody was and continues to be viewed by investigators as a possible co-conspirator in this theft, rather than a passive recipient of the stolen document. Investigators learned that Mr. Carmody was offering to sell the stolen report to various Bay Area news organizations. Mr. Carmody's LinkedIn profile shows that he is a "Freelance Videographer/Communications Manager, USO Bay Area" and that he was not employed by any of the news organizations who received the stolen report.

While we fully respect the First Amendment rights of journalists, and the related laws of the State of California, the San Francisco Police Department sought search warrants in the San Francisco Superior Court based on probable cause that the crimes we have

described did occur and that the warrants would further the investigation. Our actions reflect that we believe Mr. Carmody was a suspect in a criminal conspiracy to steal this confidential report.

As the investigation progressed, we concluded that the motive was one or both of the following:

Financial Gain:

Investigators learned from unsolicited correspondence from a member of the public that Mr. Carmody contacted a member of the media and offered for sale the Adachi death report for \$2,500. We are investigating whether the SFPD employee(s) conspired with Mr. Carmody to steal the confidential report and financially profit from it.

Mr. Adachi's Reputation and Image:

SFPD investigators conducted a consensual interview with Mr. Carmody, during which he indicated motive and expressed his disdain for Mr. Adachi and referred to the individuals who helped him obtain the report as "good people..." who "...had the right intentions."

In short, we concluded that the person (or persons) responsible for the theft of the report committed a number of criminal acts that constitute both misdemeanors and felonies. We are looking at theft of our incident report (Cal. Penal Code section 484(a)) as well as the unlawful dissemination of confidential CLETS (California Law Enforcement Telecommunication System) derived information. (Cal. Penal Code sections 11105 and 13300 et. seq.) Also, we believe the unauthorized release of the stolen report compromised, obstructed, and delayed the death investigation. (Cal. Penal Code section 148(a)(1)).

In this matter, we believe that any person employed by the SFPD knew or should have known that public exposure caused by the theft of an incident report in this type of high profile investigation would compromise, obstruct, and delay the investigation. Armed with this information we believe that any employee of this Department who knowingly and illegally caused the unauthorized release of the concerned incident report in this matter, committed an intentional act.

Although we believe Mr. Carmody is involved in the criminal activities, we have offered to return all the items seized and we will continue with the criminal investigation.

We realize that this incident offers opportunities for reflection, and a critical analysis and lessons that can lead to improvement in the future.

The Department previously issued a public apology to Mr. Adachi's family for the unauthorized release of the death report. We would like to take this opportunity to again apologize to the Adachi family.

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