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Russell Borders
[REDACTED]
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Ben Miller
Eugene City Attorney's Office
125 E.8th Ave.
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Re: *Public Records Appeal*

Mr. Borders and Mr. Miller,

On April 21, 2022, Mr. Borders filed a public records request with the City of Eugene. The request was for reports and "body cam video" regarding a police incident occurring on March 20, 2021, in the area of Irving Rd. and Dover Drive, in Eugene.

On April 26, 2022, the City granted the request regarding the reports, and provided redacted copies thereof. The City denied the request regarding body worn camera video, citing ORS 192.345(40). Mr. Borders has appealed that denial.

Disclosure of body worn camera recordings are governed by ORS 192.345(40). That statute renders the recording "conditionally exempt." That is, the recording is exempt from disclosure, "unless the public interest requires disclosure in the particular circumstance." This determination is not one-sided. Rather, it is a balancing of the "public interest" against the interest that is intended to be protected by non-disclosure. Further, this balancing must be conducted under the overall umbrella of the presumption of disclosure.

As part of the consideration of this appeal, the District Attorney's Office solicited from Mr. Borders, that he identify the "public interest" that requires disclosure. Mr. Borders provided the following response:

"The narrative should match the video. The public should be able to see the (sic) officer is accurate in his narrative of the incident. As this was a use of force incident in which an officer pulled their service tool and arrested a man."

A review of the police report regarding the incident indicates that Mr. Borders was arrested after being stopped for a traffic violation. The City indicates that the only body worn camera video of the incident that still exists, is from a secondary officer that did not prepare a report. I reviewed the video, and it does not show the initial stop, the alleged actions of Mr. Borders that led to his arrest, nor the response of the officers to those actions. Upon arrival of the officer, Mr. Borders is already in handcuffs, and is soon escorted to a patrol vehicle some distance away. The video is approximately 17 minutes in duration, and approximately 14 minutes of the video captures the officer's contact with a female associated with Mr. Borders.

The City submits a number of arguments against disclosure. They do not need to be repeated here. Rather, from my review of the report, video, and Mr. Border's argument for disclosure, there is no identified public interest that would require disclosure. What Mr. Borders identifies as a "public interest" would apply to any body worn video. In effect, Mr. Borders argues all videos should be subject to disclosure. If the legislature intended this to be the case, they could have so directed. They did not.

Therefore, the appeal is denied.

Sincerely,

PATRICIA W. PERLOW, District Attorney



Robert D. Lane
Deputy District Attorney