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June 22, 2023

Russell Borders
[REDACTED]

Ben Miller
City of Eugene
City Attorney's Office
bmiller@eugene-or.gov

Re: *Public Records Request*

Mr. Borders and Mr. Miller:

The following will constitute the District Attorney's order in this matter.

Mr. Borders filed a public records request with the City of Eugene for body worn camera video (BWC) of an incident occurring on October 11, 2022. The City denied the request citing ORS 192.345(40).

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.

I have reviewed the BWC videos (two of them). Apparently, the police responded to a call of a reported trespass behind a local Walgreens. The officer approached a male individual parked behind the Walgreens to investigate the report. The person was advised of the reason for the contact. The person was verbally uncooperative and did not follow several directions from the officer. He was behind the door of a vehicle and his hands were not visible at times. He declined to provide his name for purposes of the investigation or issuance of a citation and was ultimately detained in handcuffs while the officer investigated whether Walgreens wanted to prosecute the trespass. Two individuals emerged from a large motorhome parked at the scene and were also contacted by officers and advised of the contact. These individuals appeared to be cooperative with the officers. The individual who was handcuffed, was later released out of the handcuffs

with a warning for trespass. Apparently, no report was completed, and no criminal charges resulted.

In his appeal, Mr. Border argues that the public interest is “transparency with use of force and handcuffs on a member of the public. With no police report on the detention what prompted the detention less than 5 minutes into the interaction that lasted about 30 minutes.”

From my review of the BWC, there is no identifiable public interest that would be served by disclosure. Therefore, the appeal is denied.

Sincerely,

PATRICIA W. PERLOW, District Attorney

A handwritten signature in blue ink, appearing to read 'RDL', is positioned above the typed name of the signatory.

Robert D. Lane
Deputy District Attorney