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Mr. Duvall and Mr. Thiel:

Mr. Duvall has petitioned the District Attorney to review a denial of a Public Records request. Mr. Duvall has requested records from the Lane County Sheriff regarding an incident occurring on August 26, 2023, at 84885 Willamette Street, Eugene. Specifically, Mr. Duvall has requested a copy of recordings captured by a body worn recording devices carried by a Lane County Sheriff's Deputy. The Sheriff has denied the request.

Disclosure of the recording is 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" in disclosure 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.

On behalf of the Lane County Sheriff, County Counsel has indicated that 4 BWC recordings exist, totaling over 2 hours. It is the County's position that the public interest does not require disclosure in this particular interest.

I reached out to Mr. Duvall to seek his position regarding what public interest would be served by disclosure. Apparently, the incident on August 26, was domestic in nature. No police reports were completed, and no arrest was made. According to Mr. Duvall, a client of his is now subject of a restraining order due to the incident.

Mr. Duvall argues that the BWC is necessary for his client to defend against the restraining order, and that this is in the public interest.

The County argues that because requestor intends to use the recording in a civil proceeding, that there is no public interest in disclosure.

There are multiple interests that are protected by non-disclosure. One is the public interest in allowing officers to use body worn cameras in their work, without every action and word being available to the general public. Along the same line is the interest of the public in not having every action or word occurring during a police contact available to the public. The legislature has determined that disclosure will occur only if a public interest overrides these interests.

While the public has an interest in civil matters being decided based upon all available interests, this interest is general in nature. There is nothing special about this civil matter where it can be said that disclosure is in the public interest in this "particular instance."

Therefore, the appeal is denied.

Sincerely,



Robert Lane
Deputy District Attorney

cc: Angela Pershern