



PATRICIA W. PERLOW
LANE COUNTY DISTRICT ATTORNEY

LANE COUNTY DISTRICT ATTORNEY'S OFFICE
125 EAST 8TH AVENUE, ROOM 400
EUGENE, OREGON 97401-2926
FAX ONLY (541) 682-3890
(541) 682-4261

February 21, 2019

Luke J. Kuzava
245 W. 13th Avenue
Eugene, OR 97401
kuzava@accessthelaw.org

Ben Miller
City Attorney's Office
125 E. 8th Ave
Eugene, OR 97401

Re: *Disclosure Request*

Gentlemen:

The following constitutes the District Attorney's order regarding Mr. Kuzava's appeal.

Mr. Kuzava has requested that the City of Eugene disclose to him bodycam recordings regarding three incidents, occurring on September 6, 2018, January 12, 2019, and January 13, 2019. A total of 12 video files record the circumstances of these three incidents.

The City has denied the request for disclosure, under ORS 192.345(40) and ORS 192.355(2)(a).

The City maintains that the recordings are exempt from disclosure under 192.345(40) because disclosure is not in the "public interest." The City further claims the recordings are exempt from disclosure pursuant to ORS 192.355(2)(a), the personal privacy exemption. Mr. Kuzava submits that disclosure is required because of a "general public interest in efficient and accurate fact-finding in legal proceedings."

While there may be a circumstance where a judicial proceeding is in the "public interest," clearly the legislature did not mean for all judicial proceedings to meet the criteria requiring the release of otherwise protected records. Had the legislature intended this result, it could have specifically stated so. Further, the legislature has provided other tools, ie. the subpoena power of litigants, for the production of such records in civil proceedings. By requiring otherwise exempt records to be obtained in this matter, interest parties can seek a protective order to limit further disclosure of the records, in order to protect any privacy interest.

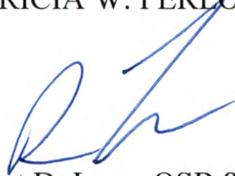
In this matter, the pending restraining order hearing is not the type of proceeding that is in the “public interest,” that would require the release of the recordings. Thus, the recordings are not subject to release under ORS 102.345(40).

Because the District Attorney is denying disclosure pursuant to ORS 192.345(40), no ruling regarding ORS 192.355(2)(a) is necessary.

Thus, Mr. Kuzava’s appeal is denied.

Sincerely,

PATRICIA W. PERLOW, District Attorney

A handwritten signature in blue ink, appearing to read 'R. Lane', is written over the typed name of Robert D. Lane.

Robert D. Lane, OSB 862289
Assistant District Attorney