



**MIKE SCHMIDT**, District Attorney for Multnomah County

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January 4, 2022

Inna Mazharovskiy  
Bullivant Houser  
One S.W. Columbia Street, Suite 800  
Portland, Oregon 97203

Sherisa Davis-Larry  
Gresham City Attorney's Office  
1333 N.E. Eastman Parkway  
Gresham, Oregon 97030

Re: Petition of Inna Mazharovskiy, on behalf of Next Insurance, Inc., seeking police body camera footage from the Gresham Police Department

Dear Ms. Mazharovskiy,

Your public records petition, received by this office on December 30, 2021, on behalf of Next Insurance, Inc., requests that we order the Gresham Police Department (GPD) to release body worn camera footage (BWC) generated in case GPD 21-13537 during an event on March 31, 2021 and subsequent footage captured on August 23, 2021, which is also related to the same underlying incident.

On March 31, 2021 GPD officers responded to a vehicle crash near the intersection of N.E. 188<sup>th</sup> Avenue and N.E. Everett Court in Gresham, Oregon. GPD police officers wear body cameras and, here, three officers' cameras record four different video clips, totaling approximately one hour ten minutes and twenty seconds of audio and video. Two of the clips are dated August 23, 2021 from when one of the involved individuals went to GPD to discuss the case.

One of the individuals involved in the crash made an insurance claim. Bullivant Houser represents the insurer, Next Insurance, Inc., and requested the GPD BWC footage from March 31, 2021. GPD denied the request citing ORS 192.345(40)(b) and this appeal ensued.

For the reasons discussed below, we deny the petition.

## DISCUSSION

### A. Police body camera recordings – ORS 192.345(40)

ORS 192.345(40) conditionally exempts from disclosure,

Audio or video recordings, whether digital or analog, resulting from a law enforcement officer's operation of a video camera worn upon the officer's person that records the officer's interactions with members of the public while the officer is on duty.

The record at issue self-evidently fits within this description. As such, the only way this exemption would not apply is if a public interest existed that overrode the facial applicability of the exemption.


Although the footage sought from GPD 21-13537 is of interest to petitioner, as well as the insurer and insured, the surrounding circumstances and documented recordings do not suggest a broader public interest that would override the countervailing concerns implicit in the enactment of this exemption. Indeed, petitioner does not assert any public interest at all and expressly endorses that this request is made in furtherance of their representation of a private client. This is a quintessential private interest. See, *Petition of DeMartino*, Att'y Gen. PRO (12/5/2016) (noting records relating to an individual's court case was a private interest, as opposed to a public interest).

## ORDER

Accordingly, the petition is denied.

Regards,

MIKE SCHMIDT  
District Attorney  
Multnomah County, Oregon

By:   
Adam Gibbs  
Sr. Deputy District Attorney