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May 2, 2025

VIA E-MAIL ONLY: andrew@andrewdeweese.com

Andrew DeWeese
3055 NW Yeon Ave #527
Portland, OR 97210

Re: Petition for Public Records Disclosure Order
Oregon State Police
DOJ File No.: 257001-GA0046-25

Dear Mr. DeWeese:

This letter is the Attorney General's response to your petition under the Oregon Public Records Law, ORS 192.311 to 192.431. Your petition asks the Attorney General to order the Oregon State Police (OSP) to disclose body camera footage. For the reasons discussed below, we deny your petition.

The Public Records Law confers the right to inspect public records in Oregon, unless such records are exempt under ORS 192.338, 192.345, or 192.355. ORS 192.314(1). The law is a disclosure law, and exemptions from disclosure must be express. Any person denied the right to inspect or to receive a copy of a public record of a state agency may petition the Attorney General to review the record and determine if it may be withheld. ORS 192.411(1). The agency carries the burden to sustain its actions. *Id*.

We contacted Coral Smith, OSP's Central Records Section Director, regarding your petition. She identified two body camera recordings that were withheld by OSP and explained OSP's position that both are exempt from public disclosure under ORS 192.345(40). That provision conditionally exempts from public disclosure "[a]udio or video recordings * * * 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," unless the public interest requires disclosure in the particular instance. *Id*.

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The body camera recordings you seek clearly fit within this provision and are therefore exempt from disclosure unless the public interest requires disclosure in this instance. To determine whether the public interest requires disclosure, we must balance the public interest in disclosure against the public interest in nondisclosure, with the presumption in favor of disclosure. *See American Civil Liberties Union v. City of Eugene*, 271 Or App 276 (2015). The Oregon Court of Appeals has described the public interest in disclosure as the right of the public at large to monitor how public business is conducted and how public officials are performing their jobs. *See Guard Publishing Co. v. Lane County School Dist.*, 96 Or App 463, 469 (1989); and *Jensen v. Schiffman*, 24 Or App 11, 17 (1976).

Your petition states that you represent an individual named Carlos Martin. You indicate that Mr. Martin's home was searched by OSP, perhaps unlawfully based on a flawed search warrant. Your petition argues that, while executing the warrant, OSP ran over and killed Mr. Martin's family dog "severely disrupting his life." You indicate that you need the body camera footage from the search of Mr. Martin's property "for two reasons: 1) to evaluate grounds for a possible Section 1983 action, and 2), to support his claim for emotional pain and distress damages."

After reviewing the two recordings at issue, we observe the following. The two videos are from the same trooper's body camera. They are sequential, and their combined length is about eighteen minutes. The videos do not capture the initial response to the premises by OSP or the execution of the warrant. When the video begins, Mr. Martin and another suspect have already been detained. They are both handcuffed and seated comfortably. Throughout the video, Mr. Martin is seen engaging in casual conversation with the troopers. Both Mr. Martin and the troopers can be seen interacting in a friendly fashion with several of Mr. Martin's dogs which are roaming about the property. We did not observe any trooper acting in an unprofessional or illegal manner. The videos provide no information about the validity of the search warrant. In summary, our review of the recordings did not disclose any public interest that would be meaningfully informed by their disclosure in this instance.

Regarding your stated interest in pursuing private litigation on behalf of your client, we have consistently held that the public interest in the disclosure of public records typically does not depend upon private interests, including interests in private litigation. *See Attorney General's Public Records and Meetings Manual* at 27 (2024) ("*Manual*"); *see also* Public Records Order, Apr 8, 2022, Blankfort; and Public Records Order, Dec 7, 2021, Engweiler. We have also consistently found that the ordinary tools of discovery generally negate any need to use the Public Records Law to gain access to records for purposes of private litigation. *See Manual* at 43.

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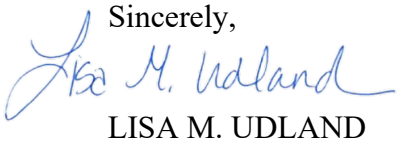
For the foregoing reasons, we conclude that the public interest does not require the disclosure of the body camera recordings in this instance and that OSP was permitted to withhold them from you. We therefore respectfully deny your petition. We also emphasize that this order only addresses your rights to disclosure under Oregon's Public Records Law. It does not address what rights you and your client may have to access these recordings under the rules of discovery insofar as you seek them for purposes of private litigation.

Sincerely,



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Deputy Attorney General

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