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June 3, 2022

Lloyd Rash
[REDACTED]
[REDACTED]
[REDACTED]

Ben Miller
Eugene City Attorney
125 E. 8th Ave.
Eugene, OR 97401
bmiller@eugene-or.gov

Re: *Public Records Appeal*

Mr. Rash and Mr. Miller:

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

This matter involved a traffic accident occurring on October 11, 2019. Mr. Rash appears to be an agent of Allstate Insurance Company, who represents one of the people involved in the accident.

On May 27, 2022, Mr. Rash filed a public records appeal with the District Attorney. The appeal states that on March 30, 2022, Mr. Rash asked to inspect a public record in the possession of the City of Eugene (City), regarding the accident. The record is described as:

Unredacted Verizon Phone Number of 911 caller regarding Eugene Police Department Event Report/ID#19-266293 (copy of redacted document)

What appears to be a copy of a redacted portion of a CAD record is attached to the appeal. The redacted portions appear to be phone numbers of witnesses who called 911. The appeal states that the request was denied.

The City filed a response to the appeal, stating that the City was unable to locate a record of a written request by Mr. Rash, pointing out that ORS 192.324(1) and (2) require a written request. The only record of a written request the City was able to locate was a 2020 request submitted via Lexis Nexus. Further, the City asserts that the redacted portion of the records is exempt from disclosure pursuant to ORS 192.355(2) (the personal privacy exemption), and ORS 192.377(2). ORS 192.377(2) provides that the custodian of record must redact certain personal information, specifically cell phone numbers, when such information was not required to be submitted to the

public body. The City also attached a March 16, 2022 letter order of the District Attorney regarding this same issue.

The City's response was forward to Mr. Rash requesting a response. Specifically, it was requested the Mr. Rash respond to the "public interest" portion of the analysis under ORS 192.355(2).

Mr. Piekarski, an attorney representing Allstate, filed a response the City's position. That response has attached an undated redacted CAD record that is different from the one Mr. Rash attached to his appeal. It appears to concern the same accident. Further, Mr. Piekarski argues that the phone numbers are necessary for Allstate to identify witnesses to the accident.

As an initial matter, even though Mr. Rash could not provide a copy of a written request, and the City could not locate one, since Mr. Rash does possess a redacted copy of the CAD record, the District Attorney will nevertheless rule on the merits of his appeal. For the record, it should be noted that this appeal was filed after an exchange of emails between representatives of Allstate and myself, requesting that the District Attorney simply obtain the record from the City, and provide it to Allstate. I advised Allstate that the District Attorney had no such authority, and I declined the request.

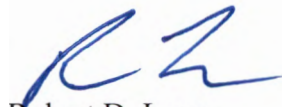
In previous opinions of this office, the District Attorney has ruled that phone numbers constitute "personal information," for purposes of ORS 192.355(2). The analysis to be conducted pursuant to ORS 192.355(2) is set forth in a previous opinion of this office, attached to the City's response. The full analysis need not be repeated here. In a nutshell, that statute provides that personal information is exempt from disclosure, unless, by clear and convincing evidence, the public interest requires disclosure in this particular instance. The burden is on the party seeking disclosure to show that the public interest requires disclosure. Here, the only interest identified is a private interest.

Further, ORS 192.377(2), specifically requires the redaction of cell phone numbers, if the information was not required to be submitted to the public body. I am aware of no law requiring 911 callers to submit such information.

Therefore, based upon the foregoing, the appeal is denied.

Sincerely,

PATRICIA W. PERLOW, District Attorney



Robert D. Lane
Deputy District Attorney

Cc: [REDACTED]