

**SETTLEMENT AGREEMENT AND COMPLETE RELEASE AND FULL
SATISFACTION BY COMPROMISE**

In consideration of payment of Eighty Five Thousand Dollars and No/100 (\$85,000.00) by defendant City of Gresham allocated and attributed to attorney fees and certain other actions by defendants described more fully below, Carrie Medina ("Medina"), forever releases and discharges the City of Portland, City of Gresham, Tri-County Metropolitan Transportation District of Oregon, Taylor Letsis, and other "Unknown Police Officers Nos. 1, 2 and 3," as well as their past and present agents, employees, employers, officers, representatives, insurers, attorneys and any and all persons or entities in interest with them, (hereinafter referred to as "the Released Parties"), of and from any and all claims, demands, causes of action or suits of any and every nature, for damages or otherwise, which Medina now has or claims or at any time in the future may have or claim which arise out of the incidents and allegations set forth in, or which could have been included in, the Lawsuit filed on her behalf in the United States District Court for the District of Oregon, entitled Carrie Medina, Plaintiff, v. City of Portland, City of Gresham, Tri-County Metropolitan Transportation District of Oregon, Officer Taylor Letsis, Unknown Police Officers Nos. 1, 2 and 3, Defendants, Case No. 3:15-cv-00232-BR. Medina further agrees to dismiss the Lawsuit with prejudice and without costs to any party.

In addition to the payment set forth above as attorney fees and as further consideration for this Release and settlement, defendants have agreed to the following acts:

1. The City of Portland and the City of Gresham have adopted policies and developed training on the recording of law enforcement activities by members of the public. The City of Portland Police Bureau Directive 635.20 is attached hereto as Exhibit A. The City of Gresham Police Department General Order 4.32 is attached hereto as Exhibit B. The City of

Portland and the City of Gresham may make changes to the adopted directives and policies referenced above as needed to comply with changes in the law, other directives or policies, or to adapt to changes in technology.

2. The defendants recognize that it is important to train officers to effectuate the directives and policies referenced above and attached hereto. The developed training has been given to members of the Portland Police Bureau, Gresham Police Department and Transit Police Division. Defendants agree to continue training on their respective directives or policies, provided that the focus, timing and frequency of such training shall be at the sole discretion of their respective training divisions. Defendants agree that new hires shall be required to read and acknowledge they have read their respective agency's directives or policies. Further the Transit Police Division agrees to provide all new transit officers with mandatory reading materials and Portland Police Bureau Directive 635.20 will be included in those mandatory reading materials.

Medina enters into this Settlement Agreement and Release with full knowledge of the situation at hand and under advice of counsel. Medina understands that this settlement is intended to entirely conclude all possible claims which were included or which could have been included in the above Lawsuit against any of the Released Parties once and for all and that Medina will be forever barred from pursuing such claims in the future against any of the Released Parties, even if her current condition worsens, there is a change in circumstances, she learns new information or discovers new evidence.

Medina understands that this settlement is not and shall not be construed as an admission of any fault, wrongdoing, misconduct or legal liability on the part of any of the Released Parties. Medina acknowledges that the Released Parties have and continue to deny any fault, wrongdoing, misconduct or legal liability regarding the matters raised in the above Lawsuit and that the above

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settlement consideration is made purely to bring an end to the expense and inconvenience of the litigation. Medina understands and agrees that she is not a "prevailing party" as that term is used under 42 U.S.C. § 1988 or any other rule or statute.

This Settlement Agreement and Release shall operate for the benefit of the Released Parties and all those in interest with them, their personal representatives, successors, assigns, insurers and attorneys. This Settlement Agreement and Release is intended to be a full and complete release of all possible or conceivable claims that were or could have been raised based on the incidents and allegations set forth in the Lawsuit, and is to be construed as broadly as necessary by any court in order to achieve that effect and provide the Released Parties the maximum legal protection possible from future claims.

Medina understands and agrees that any and all outstanding claims or liens, including attorney fees, are to be satisfied by Medina out of the above settlement payments. Accordingly, Medina agrees to defend and hold the Released Parties harmless from any claim or lien and to indemnify them for such claims or liens, including for their attorneys' fees, whether incurred in litigation, arbitration or appeal.

This Settlement Agreement and Release may be signed and executed in one or more counterparts, each of which shall be deemed an original and off of which together shall constitute one Settlement Agreement and Release.

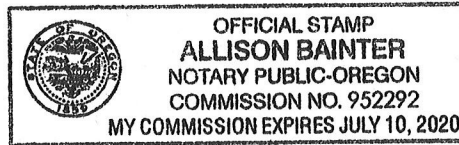
Medina certifies as follows:

I HAVE COMPLETELY READ THIS DOCUMENT AND ITS EFFECTS HAVE BEEN FULLY EXPLAINED TO ME BY MY ATTORNEY. I FULLY UNDERSTAND AND VOLUNTARILY ACCEPT THE BENEFITS, RISKS AND OBLIGATIONS OF THIS CONTRACT. I UNDERSTAND NO ONE CAN PREDICT THE FUTURE, BUT

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NEVERTHELESS I WAIVE ANY AND ALL FUTURE CLAIMS IN CONNECTION WITH THE ABOVE INCIDENTS. I ALSO WAIVE ANY FUTURE CLAIM THAT I HAVE NOT FULLY READ OR COMPLETELY UNDERSTOOD THIS DOCUMENT OR THAT IT IS THE PRODUCT OF FRAUD, DURESS, UNDUE INFLUENCE, OR THAT MY SIGNATURE IS ANYTHING OTHER THAN A FULLY INFORMED AND VOLUNTARY ACT.

STATE OF OREGON)
)ss.
County of multnomah)



Carrie Medina
Carrie Medina

SUBSCRIBED AND SWORN TO before me this 5 day of April, 2017.

Allison Bainter
NOTARY PUBLIC FOR OREGON
My Commission Expires: 7/10/20

Explained to my client and approved as to form this 5th day of April, 2017.

Alan J. Galloway
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Of Attorneys for Plaintiff on behalf of the
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Approved as to form and content this 5th day of April, 2017.



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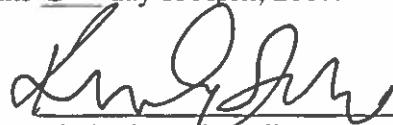
Approved as to form and content this ____ day of April, 2017.

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635.20 Community Member Observation of Police

Refer

- ORS §165.540(5)(b)(A)-(D) Obtaining contents of communications
- ORS §161.015 General Definitions
- DIR 631.35 Press/Media Relations
- DIR 650.00 Search, Seizures, and Inventories
- DIR 652.00 Search Warrants
- DIR 660.10 Property and Evidence Procedures

Definitions:

- Media: Storage source for visual or audio recordings, whether by film, analog, or digital means.
- Recording: Capturing of visual images, or sounds, including spoken words that are normally audible, or both, by means of a video camera, cell phone, audio recorder, or other device.
- Seizure: Significant interference with a person's possessory or ownership interests in property.
- Faraday bag: A bag that ensures portable digital devices are secure from any external interceptions, and prevents remote wiping of information, tracking, and bugging.

Policy:

1. This policy provides guidelines for handling situations in which members of the public observe, photograph, video or audio record members of the Portland Police Bureau performing official duties. Members should assume they are being audio or video recorded at all times when on duty in a public place.
2. All persons have rights under state and federal law to observe and record police officers performing official duties, so long as that person's actions do not interfere with the member's duties or the safety of members or others, are consistent with reasonable restrictions, do not amount to criminal trespass, or otherwise violate the law.
3. Persons may observe or record from any public place or any private property where the person has the legal right to be present. However, this Directive does not give any person permission to impede the flow of vehicular or pedestrian traffic or to disregard reasonable restrictions. Members shall not prohibit or intentionally interfere with lawful observations or recordings except as provided in this Directive. Any recordings that are deemed to be evidence of a crime or relevant to an investigation shall only be collected, seized or viewed in accordance with this Directive and state and federal law.

Procedure:

1. Observing or Recording Law Enforcement Activity:
 - 1.1. The right of persons to observe or record law enforcement activity is not absolute and is subject to legitimate and reasonable restrictions. Examples of such restrictions include, but are not limited to:
 - 1.1.1. Establishing a perimeter beyond which persons may not go;

- 1.1.2. Requiring a person to keep a specified amount of distance between themselves and the persons or objects they seek to observe or film; or
- 1.1.3. Requiring a person to observe or record from a location that does not interfere with police operations; or
- 1.2. Beyond the act of observing or recording, persons may not interfere with law enforcement activity. Examples of interference may include, but are not limited to:
 - 1.2.1. Intentional and persistent attempts to communicate with a witness or suspect with whom the police are speaking or engaging;
 - 1.2.2. Direct physical intervention or breaching the specified amount of distance established by a member;
 - 1.2.3. Repeated attempts to engage a member with questions or interruptions, thereby dividing the attention of the member to the matter at hand;
 - 1.2.4. Intentionally impeding the movement of emergency equipment, or personnel;
 - 1.2.5. Inciting others to violate any law or any lawful command; or
 - 1.2.6. Any action by the person that jeopardizes the safety or security of a member, victim, witness, suspect or third party.

2. Member Response:

- 2.1. Members may require a person recording police activities to maintain a reasonable distance from that police activity. Members shall consider the totality of the circumstances regarding the particular police activity in establishing a reasonable distance. Members shall not establish any distance for the sole purpose of discouraging or interfering with the lawful recording or observation of police activities. Members are allowed to establish a distance that reasonably protects the privacy of any communication between or among members, victims, witnesses, suspects or third parties.
- 2.2. Whenever practicable, members should give clear and concise warnings to persons recording police activities when the person's behavior is unlawful. Accompanying the warnings, whenever practicable, a member should give clear directions on what a person can do to be compliant and should be specific enough to allow compliance. For example, rather than simply directing a person to "clear the area," a member should advise the person from where or at what distance the person may continue lawfully recording or observing the law enforcement activity.
- 2.3. In the event a person's observation or recording continues to interfere with law enforcement activities or a member believes that the recording(s) may contain evidence of or information concerning the commission of a Measure 11 offense, when practicable, the on-scene member should request that a supervisor respond to the scene. Realizing that often times these are dynamic situations and actions must be taken immediately, when reasonable, members should wait for the supervisor to arrive before taking enforcement action or seizing any recording device or media.

3. Seizing and Viewing Recordings:

3.1. Members may not order or coerce a person to show them recordings that have been made of law enforcement activities. But members may ask persons to consent to seizure and viewing of recordings.

3.2. Seizing recordings and media:

3.2.1. Members may seize recording devices and media if:

3.1.1.1. The person recording consents to the seizure;

3.1.1.2. The person recording possesses the recording device when the person is arrested and charged with a crime; or

3.1.1.3. Exigent circumstances exist to seize the recording device or media. Exigent circumstances requires probable cause to believe the recording device or media contains evidence of or information concerning the commission of a Measure 11 offense, and the member must objectively believe that immediate seizure is necessary to prevent the destruction or tampering of such evidence contained on the recording device or media. The fact a recording device or media is capable of being deleted does not by itself create an exigency justifying a seizure.

3.1.1.4. If there are no exigent circumstances, but there is probable cause to believe the recording device or media contains evidence of or information concerning the commission of a Measure 11 offense, the member must contact the Multnomah County District Attorney's Office and request it to issue a *Subpoena Duces Tecum* to seize the recording device or media.

3.2.2. Members should protect seized recording devices and media from remote access, such as through the use of a Faraday bag, to ensure legal viewing at a later time.

3.3. Viewing recordings or information contained on recording devices and media:

3.3.1. Members may view recordings or information contained on seized devices and media if:

3.3.1.1 The person recording consents to the viewing;

3.3.1.2 The person recording possesses the recording device when arrested and charged with a crime and the member obtains a search warrant based on probable cause to view and duplicate the recording device's media; or

3.3.1.3 Exigent circumstances exist requiring the immediate viewing, for example to prevent death or serious physical injury to a person.

3.4. The owner of any surrendered or seized device or media must be given a property receipt.

3.5. All instances of viewing and/or seizing recordings should be documented in an appropriate police report.

4. Return of Recording Device:

4.1. The recording device and its media should be held in police custody no longer than reasonably necessary for the police to obtain and execute a search warrant. The recording device and its media, including the content of the recording, should then be returned promptly to the device's owner in accordance with Directive 660.10, Property and Evidence Procedure.

History:

- Originating Directive: 10/21/2016
- Next Review Date: 10/21/2017
- Reviewed by: Operations Branch

Gresham Police Department GENERAL ORDER CRITICAL TASK

<i>Chapter</i> 4.32	<i>Effective Date</i> May 12, 2016	<i>Responsible Division</i> Administration	<i>No. of Pages</i> 1 of 4
<i>Subject</i> PUBLIC RECORDING OF LAW ENFORCEMENT ACTIVITY			
<i>Reference or Special Instructions</i>			<i>OAA Standard(s)</i>

4.32.1 POLICY

A. Members of the public, including media representatives, have a First Amendment right to record members of the Gresham Police Department who are performing their official duties in public places, so long as their actions do not interfere with the officer's duties or the safety of officers or others. Members of this Department will not prohibit or intentionally interfere with such lawful recordings. Any recordings that are deemed to be evidence of a crime or relevant to an investigation will only be collected or seized in accordance with this policy and state and federal law. The fact a recording is capable of being deleted does not by itself create an exigency justifying the seizure and officers must have reason to believe the person will delete the recording before relying on exigency to seize the recording device.

4.32.2 PURPOSE AND SCOPE

A. This policy provides guidelines for handling situations in which members of the public photograph, video or audio record law enforcement actions or other public activities that involve members of this Department.

4.32.3 RECORDING LAW ENFORCEMENT ACTIVITY

A. The First Amendment right of the public to record is not absolute and is subject to legitimate and reasonable legal restrictions.

1. Recordings may be made from any public place or any private property where the individual has the legal right to be present. Individuals may not trespass upon property or enter locations where they are lawfully prohibited from entering simply to record law enforcement activities, nor may citizens unlawfully impede the flow of citizen traffic or pedestrians while recording law enforcement activity.
2. Beyond the act of photographing or recording, individuals may not interfere with the law enforcement activity. While the recording itself and/or overt

criticism, insults, or name-calling may be annoying, those acts alone do not rise to the level of interference with law enforcement activity. Examples of interference include, but are not limited to:

- a. Intentional and persistent attempts to tamper with a witness or suspect who is being engaged by police.
- b. Direct physical intervention or breaching the reasonable distance established by the officer, thereby dividing his attention to the matter at hand.
- c. Repeated attempts to engage an officer with questions or interruptions which divide the attention of the officer to the matter at hand.
- d. Impeding the movement of emergency equipment or personnel.
- e. Inciting others to violate any lawful command or the law.
- f. Any action by the recording party that jeopardizes the safety or security of an officer, victim, witness, suspect or third party.

4.32.4 OFFICER RESPONSE

- A. Officers may offer a reasonable distance that must be maintained from the law enforcement activity. The distance assigned shall consider the totality of the circumstances regarding the particular law enforcement activity and shall not be for purposes discouraging or interfering with the lawful recording of police activities.
- B. Officers should request within a reasonable time that a supervisor respond to the scene whenever it appears that anyone recording law enforcement activities may be interfering with an investigation or it is believed that the recording itself may be evidence. Realizing that sometimes these can be dynamic situations where actions must be taken immediately, when reasonable, officers should wait for the supervisor to arrive before taking enforcement action or seizing any recording or recording device.
- C. Whenever practicable, officers or supervisors should give clear and concise warnings to individuals who are recording in a manner that would cause their behavior to be unlawful. Accompanying the warnings should be clear directions on what an individual can do to be compliant and should be specific enough to allow compliance and adequate time to comply. For example, rather than simply directing an individual to clear the area, an officer should advise the person from where or at what distance they may continue lawfully observing or recording the law enforcement activity.
- D. The arrest of any person for interfering with the law enforcement activity shall comply with the Fourth Amendment and be based upon probable cause for a violation of the law. If an arrest or other significant enforcement activity is taken as a result of the interference with law enforcement activity, officers shall document in a report the nature and extent of the interference or other unlawful behavior, and the warnings that were issued or the reasons that warnings were not practicable under the totality of the circumstances.

4.32.5 SUPERVISOR RESPONSIBILITIES

- A. A supervisor should respond to the scene when requested or any time circumstances indicate a likelihood of interference or other unlawful behavior.
- B. The supervisor should review the situation with the officer and;
 - 1. Request any additional assistance as needed to ensure a safe environment.
 - 2. Take a lead role in communicating with individuals who are observing or recording law enforcement activities regarding any appropriate limitations on their location or behavior. When practicable, the encounter should be recorded.
 - 3. When practicable, allow adequate time for individuals to respond to requests for a change of location or behavior.
 - 4. Ensure any enforcement, seizure or other actions are consistent with this policy and state and federal law.
 - 5. Explain alternatives for individuals who wish to express concern about the conduct of Department members, such as how and where to file a complaint.

4.32.6 SEIZING RECORDINGS AS EVIDENCE

- A. Under the federal First Amendment Privacy Protection Act, 42 USC § 2000aa, officers shall not seize recording devices or media unless any of the following apply:
 - 1. There is probable cause to believe the person recording has committed or is committing a crime to which the recording relates.
 - a. Absent exigency or consent, a search warrant must be sought before viewing any such recordings. Reasonable steps may be taken to prevent erasure of the recording.
 - 2. There is reason to believe that the immediate seizure of such recordings is necessary to prevent serious bodily injury or death of any person.
 - 3. The person consents.
 - a. To ensure that the consent is voluntary, the request should not be made in a threatening or coercive manner.

- b. If feasible, rather than seizing the recording device, determine if the recording can be uploaded or otherwise electronically transmitted to the officer or a website where the recording can be viewed and preserved.
- c. If the original recording is provided, a copy of the recording should be provided to the recording party, if practicable.

4. If the exceptions in A.1, A.2 or A.3 do not apply and it is objectively likely that the recording device contains evidence of a crime which is reasonably necessary for the prosecution of the crime, contact the District Attorney's Office and request they issue a *Subpoena Duces Tecum* for the recording.

4.32.7 PRESERVATION OF RECORDINGS

A. Recording devices and media that are seized will be submitted within the guidelines of the Property and Evidence Policy. Officers are not to delete or order the deletion or recordings.

Robin Sells
Acting Chief of Police