

Judge rules Seattle media companies must hand over unpublished protest images to police

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Protesters set fire May 30 to vehicles on Sixth Avenue in downtown Seattle. A judge has ordered The Seattle Times and four other media outlets to comply with a subpoena and give the Seattle Police Department unpublished video and photos from the May 30 protest. (Dean Rutz / The Seattle Times)

By [Mike Reicher](#)

Seattle Times staff reporter

Five news outlets, including The Seattle Times, will have to comply with a subpoena and give the Seattle Police Department unpublished video and photos from a May 30 racial justice protest that turned violent, a judge ruled Thursday.

King County Superior Court Judge Nelson Lee sided with the Police Department in a morning hearing, ruling that its subpoena was enforceable. He found that the photos and video were critical for an investigation into the alleged arson of SPD vehicles and theft of police guns.

Lee said the news organizations were not protected by a Washington state shield law that under many circumstances prevents authorities from obtaining reporters' unpublished materials.

The judge placed some limits on the subpoena. He said police could use the images to identify suspects only in the arson and gun theft investigations. Detectives could not use the photos or video to pursue suspects in vandalism or other lesser crimes — even if police found such evidence.

The subpoena would also be limited to professional camera equipment and would exclude reporters' cell phone photos and videos.

The Seattle Times and TV stations KIRO 7, KING 5, KOMO 4 and KCPQ 13 [were all subpoenaed](#).

Lee ruled that the SPD had met its burden to overcome the shield law: that the images were “highly material and relevant” and “critical or necessary” to prove an issue that has a compelling public interest for its disclosure. Getting the stolen weapons off the street was one compelling public interest, Lee found.

The law also required the police to demonstrate that all “reasonable and available means” to obtain the information has been exhausted.

Seattle Times Executive Editor Michele Matassa Flores said the [paper strongly opposes the subpoena](#) and “believes it puts our independence, and even our staff’s physical safety, at risk.”

“The media exist in large part to hold governments, including law enforcement agencies, accountable to the public,” said Matassa Flores. “We don’t work in concert with government, and it’s important to our credibility and effectiveness to retain our independence from those we cover.”

The lawyer representing the media companies, Eric Stahl, argued Thursday that the police were casting too wide a net and couldn’t show that the images would identify the suspects.

“You have to have a strong reason to believe there is actually going to be critical evidence” in the images, Stahl said after the hearing. “We think there was too much speculation going on.”

The media companies have not yet decided if they will appeal the case, Stahl said.

In a statement, the ACLU of Washington said the ruling “threatens the independence of the media. A free and independent media is a cornerstone of our democracy, and at a time when our basic freedoms are under attack, the City of Seattle should be doing everything possible to protect those foundational freedoms.”

Brian Esler, a Seattle attorney hired to represent the Seattle police, did not respond to an interview request.

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SPD detective Michael Magan testified at the telephonic hearing Thursday morning that the department was at a dead end in its investigations. Police have arrested two suspects stemming from the thefts and arson, and have partially identified others based on other images.

The May 30 protests included a large-scale nonviolent demonstration sparked by the killing of George Floyd by Minneapolis police earlier that week.

During the protests, vandals heavily damaged six police vehicles. They smashed windows, removed ballistic helmets, uniforms, emergency medical equipment and fire extinguishers, and used an accelerant to start fires in five vehicles, according to a police affidavit and other documents.

A loaded Glock 43 semi-automatic pistol and a loaded Colt M4 carbine rifle with a suppressor remain missing, according to the SPD affidavit.

The SPD subpoena seeks media images taken during a 90-minute span in a four-block area between Fourth and Sixth Avenue and Olive Way to Pike Street that day.

Lee set a hearing for July 30 at 9 a.m. to enter a final order. In the meantime, the parties are discussing how long it would take to produce the unpublished materials.

Seattle Times reporter Hal Bernton contributed to this report.

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