

Seattle police end effort to get unpublished media photos and videos from protests

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By [Lewis Kamb](#)

The Seattle Police Department will drop a subpoena requiring five Seattle news organizations to turn over unpublished news videos and photos taken during racial injustice demonstrations on May 30 that investigators argued would help them solve several arson and theft cases.

In a motion [filed with the state Supreme Court](#) Monday, lawyers for the SPD said that an ongoing appeal by The Seattle Times and four TV station would delay release of any news images until well into next year, and noted the recent arrest of a suspect in one of those cases.

As a result, the department decided to withdraw the subpoena and not seek enforcement of an earlier court order granting access to the images.

The decision effectively renders meaningless a closely watched legal battle pitting free press protections against the power of police investigations.

“As SPD will not be seeking enforcement and the appellants News Media have not and will not be required to produce anything, there is nothing for this Court to review, the appeal is now moot and it should be dismissed,” attorney Brian Esler wrote in the motion.

Seattle City Attorney Pete Holmes said in a statement Monday the subpoena “was about trying to recover dangerous weapons. The urgency of getting this evidence collided with the more ponderous processes of our judicial system, and the process won out.”

Eric Stahl, who represents the five media companies, said Monday that what Holmes is “calling a ‘process’ is actually an important protection for journalism, free speech and the public’s right to know.”

“And fortunately in this case,” Stahl said, “the process worked.”

Seattle police [obtained the subpoena](#) in July in King County Superior Court, contending it was at a standstill in its investigation of arson and thefts that occurred when downtown George Floyd protests turned violent.

The subpoena sought unpublished news photographs and video taken by The Seattle Times and local television stations KIRO, KING, KOMO and KCPQ during a 90-minute period when violence erupted amid racial injustice protests in downtown Seattle.

The department said the raw news images could help identify several suspects who torched five police vehicles and stole two police guns — a loaded Glock 43 semi-automatic pistol and a loaded Colt M4 carbine rifle with a suppressor — during the mayhem.

[The news groups countered](#) that Washington's so-called "shield law" protected the images from disclosure. As in most states, journalists in Washington are shielded from law enforcement subpoenas except under limited circumstances. The laws are an extension of the First Amendment, meant to guard against government interference in news gathering.

On July 31, King County Superior Court Judge Nelson Lee [decided in the department's favor](#), ruling the rare public safety concerns of the case overrode the shield law's protections and subjected the news images to the subpoena.

Lee gave the news companies until Aug. 21 to produce to his court their unpublished images, so they could be reviewed before determining whether any should be turned over to police.

On Aug. 11, the [news groups appealed](#) directly to the Supreme Court, asking the panel to stay enforcement of the subpoena until the court resolved the news groups' contentions that Lee erred in his ruling.

The day before Lee's deadline, state Supreme Court Commissioner Michael E. Johnston [issued a stay](#), which postponed the order and called upon the high court to decide at "the earliest opportunity as to whether to retain the [media companies'] appeal or refer it to the Court of Appeals."

The matter has lingered before the high court ever since.

Lee's ruling drew criticism from First Amendment groups, the American Civil Liberties Union, press organizations and even [members of the Seattle City Council](#), who asked Holmes to drop the subpoena. But Seattle police officials defended the subpoena as necessary to solve the investigation and retrieve the missing weapons.

In its motion Monday, the department noted that on Sept. 4, [federal authorities arrested the man suspected](#) of stealing the police rifle.

"That investigation continues, but it now appears that suspect may have already sold the firearm, rendering any further evidence that could later be obtained from the News Media regarding the theft of that rifle on May 30 less likely to result in recovery of that firearm," the motion said.

