



December 12, 2025

Police Chief Peter Dienes
6100 South Park Avenue
Hamburg, NY 14075
Via email to pdienes@townofhamburgny.gov

Re: Claims to own copyrights to body camera footage

Dear Chief Dienes:

I am writing from Freedom of the Press Foundation (FPF), a nonprofit organization dedicated to promoting and defending press freedom and transparency. I'm the Director of Advocacy for FPF. Before that I practiced First Amendment law for about 13 years.

It has come to our attention that the practice of the Town of Hamburg is to stamp body camera footage released pursuant to New York's Freedom of Information Law with a message claiming that the footage is copyrighted by the town and may not be shared.

We initially assumed this was an accident or misunderstanding of some kind — after all, in 2019 a New York appellate court [ruled](#) that body camera footage is a public record, because "The purpose of body-worn camera footage is for use in the service of other key objectives... such as transparency, accountability, and public trust-building." It can hardly serve those objectives if it cannot be shared with the public.

But we were troubled to learn that you personally defended this practice during a phone call with Dan Warmus, who runs the Auditing Erie County YouTube channel, implying that Warmus would face legal repercussions for sharing the body camera footage that he had requested. That is, to put it mildly, absurd.

We request that you immediately cease stamping copyright language onto body camera footage and that you inform anyone in possession of footage containing such language that they can disregard it and are free to share the footage as they see fit.

We know that your department has a history with Warmus – that is not our business (although any indication of retaliation for the exercise of First Amendment rights to inform the public would heighten our concerns). We do not represent Warmus, as legal counsel or otherwise. Our concern is with constitutional rights, not any individual or outlet. It seriously undermines those rights for a municipality to suggest that it owns any copyrights to records that are legally the property of the public.

Freedom of the Press Foundation | 49 Flatbush Avenue, #1017 | Brooklyn, NY 11217

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You conceded as much by releasing the footage in question pursuant to FOIL (as the law compels you to do). FOIL states in its preamble that “Access to [government] information should not be thwarted by shrouding it with the cloak of secrecy or confidentiality ... the public, *individually and collectively* and represented by a free press, should have access to the records of government.” (emphasis added).

More compelling arguments for copyrighting of public records (none are compelling at all, but it’s a matter of relativity) have been rejected. In 2004, an appellate court in Florida [disagreed](#) with a county Property Appraiser’s argument that maps created by users of his geographic information system were copyrightable. The Appraiser “has no authority to assert copyright protection in the GIS maps, which are public records,” the court wrote, explaining that public records law ... overrides a governmental agency’s ability to claim a copyright in its work unless the legislature has expressly authorized a public records exemption.” The Appraiser was subsequently [ordered](#) by the state Supreme Court to pay the opposing party’s attorney’s fees.

In 2015, a federal court in California [dismissed](#) a city’s copyright claims regarding clips of city council meetings, holding that public records law overrides any copyright claims the city could assert and that, in any event, the videos were protected by the “fair use” doctrine. More recently, our friends at the Electronic Frontier Foundation successfully [challenged](#) a claim that police training materials were protected. Those materials had been prepared by a private business that asserted its copyrights, but EFF still prevailed.

There are other reasons why your claims are significantly weaker than those EFF defeated. Putting aside that they are *public* records, copyright law requires an element of creativity. That element was arguably present in the aforementioned training materials, but the EFF still won its case. The same arguably goes for the maps in the Florida case. But it is completely absent from body camera footage. Pressing an “on” button on a camera pursuant to a legal obligation is not a creative work.

Even if there were some basis for a public body to claim a copyright in body camera footage – which, to reiterate, there absolutely is not – posting the footage on YouTube for the public to view and discuss would unquestionably fall under the “fair use” exemption to copyright protection allowing for criticism and commentary.

To the extent that your department seeks to enforce your claimed copyrights, whether against Warmus or anyone else, we expect that FPF and other rights organizations would be eager to fight back, whether through the courts or by using their platforms to make the case for transparency to the public. Remedies could include, without limitation, those under copyright law, the First Amendment, and New York’s [strong laws](#) against Strategic Lawsuits Against Public Participation, or SLAPPs. To the extent that the



footage you are attempting to keep from the public depicts police misconduct, that would, of course, make the matter even more disturbing.

We encourage you to reverse course. Please promptly confirm you have done so.

Sincerely,

A handwritten signature in blue ink, appearing to read "Seth Stern". The signature is fluid and cursive, with the first name "Seth" and last name "Stern" clearly distinguishable.

Seth Stern
Director of Advocacy
Freedom of the Press Foundation

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