



STEPHEN A. ZAPPALA, JR.  
DISTRICT ATTORNEY

# COUNTY OF ALLEGHENY

---

## OFFICE OF THE DISTRICT ATTORNEY

303 COURTHOUSE

PITTSBURGH, PENNSYLVANIA 15219-2489

PHONE (412) 350-4400 • FAX (412) 350-4414

January 16, 2024

Dear Chief,

As you are aware, on July 7, 2017, Governor Wolf signed into law, Act 22 of 2017, amending the Wiretap Act and the Judicial Code. This Act greatly affects the use of Automatic License Plate Reader-Overview cameras, Body Worn Cameras, Mobile Video Recorders and other recordings made by the police and the release of those recordings to the public.

Under Act 22 of 2017, requests for police recordings are no longer made pursuant to The Right to Know Law. Rather, the request and release of these recordings are governed by chapter 67A of the Judicial Code.

The law specifically permits a police department to enter into a Memorandum of Understanding (MOU) with the District Attorney for the purposes of consultation on the decision of whether to release a recording, as well as for the purpose of taking responsibility for the decision to deny a request for release of recordings. If a police department enters into an MOU with the District Attorney, which requires the Office of District Attorney to issue the formal written denial of any request for production of recordings, the District Attorney must then assume responsibility for defending that decision in the Court of Common Pleas and throughout the appellate process. The law also requires a police department (whether it has entered into an MOU with the District Attorney, or not), to obtain written consent from the District Attorney before releasing recordings that may contain evidence in a criminal matter, information pertaining to an investigation, confidential information, or victim information. The law also gives the District Attorney the ability to intervene in litigation involving any petition filed before the Court of Common Pleas to review the denial or partial release of a recording.

The law, coupled with the Pennsylvania Supreme Court's recent decision in *Pennsylvania State Police v. Grove* (filed 6/20/17) requires law enforcement to seriously consider whether recordings can be redacted, so as to balance the public's right to know, with law enforcement's right and responsibility to control the dissemination of information impacting criminal prosecutions. The law envisioned police departments working closely with their District Attorneys. To achieve that end, I have designated Assistant District Attorney(s) and technical personnel to be responsible for working with police departments in regards to these police recordings. The ADAs are available to consult with the police departments on criminal matters regarding the release, partial release and determinations of a "reasonable redaction" or denial of initial requests for audio and video

recordings. The ADA(s) also conduct the required review of the release of any recordings, either in whole or redacted form, involving criminal matters. Our technical staff is able to redact recordings as needed. Finally, when any police department enters into an MOU which has, as one of its provisions, the requirement that the Office of District Attorney issue the denial of a request for production, my Office is responsible for litigating the propriety of that denial in the Court of Common Pleas as well as through the appellate process.

The procedures afford us an opportunity to work together to protect both the integrity of law enforcement as well as the evidence acquired through recordings and investigations.

Additionally, Act 22 allows each law enforcement agency to charge a "reasonable fee" for disclosing audio and/or video recordings under the Act. The fee is to reflect the costs incurred in disclosing (reviewing, redacting, copying) the recordings.

My office, when a MOU is in place, will charge a fee to the requestor of the recordings. It is again suggested that the fees be kept relatively uniform amongst the agencies to help avoid challenges to the amounts.

Should your municipality have an interest in entering into a MOU (attached) with my Office, please contact, Detective Kevin Logue at [klogue@allegHENYcountyda.us](mailto:klogue@allegHENYcountyda.us)

Very truly yours,



Stephen A. Zappala, Jr.  
Allegheny County District Attorney

CC: Chief Logan  
Deputy Chief McDonald  
Detective K. Logue  
Mike Klein  
ACCPA & WPCPA Executive Boards

**MEMORANDUM OF UNDERSTANDING**

**THIS MEMORANDUM OF UNDERSTANDING**, made and entered into this  
\_\_\_\_\_ day of \_\_\_\_\_, 2022, by and between the Borough of  
\_\_\_\_\_, hereinafter the “Borough”

AND

**THE ALLEGHENY DISTRICT ATTORNEY**, hereinafter, the “DA”,

**WITNESSETH:**

**WHEREAS**, the Borough and the DA agree that the contemporaneous recording of police interaction with members of the public provides an objective and transparent record of the encounter; and

**WHEREAS**, experience has shown that permitting the public to see and or hear the actions of police officers while on duty advances trust in the community; and

**WHEREAS**, the use of vehicle mounted and body worn cameras provide vital, and often best evidence in criminal cases, as well as provide the public with a clear view of police activities; and

**WHEREAS**, the Pennsylvania Legislature has enacted legislation to regulate the dissemination of such video and audio recordings and assigned the District Attorney of each county the right to review and intervene to ensure and/or prevent the dissemination of such recordings to protect the integrity of criminal investigations and prosecution; and

**WHEREAS**, the parties are desirous of disseminating such recordings pursuant to the enacted legislation in a timely and efficient fashion.

**NOW, THEREFORE**, the parties hereto agree as follows:

1. The Borough agrees to refer all requests for recordings, audio and/or video, relating to criminal and non-criminal matters as soon as possible but in no event more than 10 days within receipt of the request.
2. In addition, the Borough shall provide a copy of the request, the audio and/or video recording, all reports, the criminal complaints filed, and any agreements with any witnesses or informants, if any, relating to the requested recording.
3. Before the Borough releases any video/audio recordings pursuant to a request relating to criminal matters, the Borough shall notify the DA and provide access to the un-redacted recording for review, as well as any proposed redacted copy or a summary of what should be redacted.

4. For purposes of this review, “criminal and non-criminal matters” shall not include summary traffic offenses nor allegations of police misconduct, unless such allegations are the subject of a criminal investigation or prosecution.
5. All notices to the DA shall be provided electronically through the cloud-based services Dropbox.com or Evidence.com.
6. The DA agrees to provide assistance and consult with the Borough in all requests for video and/or audio recording relating to criminal and non-criminal matters regardless of whether the Borough intends to approve the request.
7. Whenever the Borough receives notice of a petition for judicial review on a request for production of video/audio recordings related to a criminal matter, the Borough shall immediately provide notice that the petition has been filed to the DA’s designated review officer as well as a copy of the petition.
8. This Agreement shall enter into effect immediately upon its signature by both parties. Either party may terminate this Memorandum of Understanding upon thirty (30) days’ written notice to the other party.

**IN WITNESS WHEREOF**, the parties hereto have caused this **CONSENT AGREEMENT** to be duly executed by their appropriate officers on the date first written above.

**ATTEST:**

**Borough** \_\_\_\_\_

\_\_\_\_\_

BY: \_\_\_\_\_

**APPROVED:**

\_\_\_\_\_

Mayor

**ATTEST:**

**OFFICE OF THE DISTRICT ATTORNEY OF ALLEGHENY COUNTY**

\_\_\_\_\_

BY: \_\_\_\_\_

District Attorney