

IN THE COURT OF COMMON PLEAS OF
LANCASTER COUNTY, PENNSYLVANIA
CIVIL ACTION—LAW

DAN NEPHIN
and
LNP MEDIA GROUP, INC.
(d/b/a LNP | LancasterOnline),

Petitioners,

v.

CITY OF LANCASTER,

Respondent.

Docket No. CI-25-03559
Hon. Thomas B. Sponaugle

MEMORANDUM OF LAW IN SUPPORT OF PETITION FOR REVIEW

Dan Nephin and LNP Media Group, Inc. (“LNP”) (together “Petitioners”) hereby file this Memorandum of Law in Support of their Petition for Review under Act 22 of 2017, 42 Pa.C.S.A. § 67A01 *et seq.* (“Act 22”), which permits any member of the public and the press to request video and audio recordings created by law enforcement agencies and further allows a right of appeal in the event access is denied.

Respectfully submitted,

Dated: August 15, 2025

/s/ Paula Knudsen Burke

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STATEMENT OF FACTS

On March 2, 2025, three Lancaster city police officers arrested two juveniles (hereinafter “the arrests”) who were allegedly riding their bicycles on city streets, sometimes blocking the roadways in unsafe manners. The arrests occurred at or around North Duke and East Chestnut Streets in Lancaster. Dan Nephin, *Officers in Lancaster City Bicyclists’ Arrests Used Minimum Force Necessary: Chief [Video]*, LNP | LancasterOnline (Mar. 19, 2025), <https://perma.cc/X5LU-L69Q>. The arresting officers placed the teenagers on their stomachs from a seated position to apply handcuffs. Once on the ground, one officer placed a knee on one of the teenaged arrestee’s lower back to prevent him from turning to face the officer. *Id.* The arresting officers also used pepper spray to disperse a growing crowd surrounding the arrests. *Id.* At least one bystander filmed the encounter; that video was posted online. *See, e.g., id*; Nathan Willison, *Video of Lancaster City Arrest Spurs Turnout, Demands for Transparency at Council Meeting*, LNP | LancasterOnline (Mar. 12, 2025), <https://perma.cc/5CDT-R59Q>. Two of the teens were charged with disorderly conduct, evading arrest and traffic-related citations. *Id.* A third teen involved in the incident was later charged with disorderly conduct. *Id.*

On March 18, 2025, Police Chief Richard Mendez held a press conference absolving the involved officers of any wrongdoing—i.e., determining officers used the minimum amount of force required to arrest the juveniles. *See* Nephin, *supra*. Despite subsequent calls by community groups and the media to release police body camera footage of the arrests, neither the Lancaster City Bureau of Police nor Respondent has done so. *Id.*

Petitioner Dan Nephin (“Nephin”) is a courts & public safety reporter for LNP | LancasterOnline (“LNP”), which is published by Petitioner. LNP serves the Lancaster, Pennsylvania metropolitan area with digital news and a monthly readership of close to one million. Pursuant to 42 Pa.C.S.A. § 67A06(a)(2), the City of Lancaster is named as the Respondent because the City—through its Office of Open Records—is the entity that denied Petitioners’ request for body-worn camera and dashboard camera footage.

PROCEDURAL HISTORY

On March 10, 2025, one week after the arrests, Nephin hand-delivered a request for body camera and dashboard camera footage capturing the arrests to the Lancaster City Bureau of Police. Verified Pet. for Review (“Pet.”) Ex. A. The request was made pursuant to Act 22, which, as noted above, governs requests for public access to video and audio recordings created by law enforcement agencies. Upon information and belief, the Lancaster City Bureau of Police Right to Know Law officer or an agent thereof transmitted the Act 22 request to the City of Lancaster Open Records Office. Pet. ¶ 12. On April 9, 2025, the City of Lancaster Open Records Office denied Nephin’s Act 22 request via email. Pet. Ex. B. The denial stated that the recordings sought by Nephin’s Act 22 request “contain[] [p]otential evidence in an ongoing matter; [i]nformation pertaining to an investigation or a matter in which criminal charges ha[ve] been filed; confidential and/or victim information,” and stated that “[r]easonable redaction of the recording would not safeguard potential evidence.” *Id.*

Nephtin and LNP Media Group filed a petition for review with this Court on May 9, 2025. On May 12, 2025 the Court issued a rule returnable directing the City to reply to the petition for review. On May 21, 2025 the Lancaster County District Attorney's office moved to intervene and on May 27, 2025 the Court granted the District Attorney's intervention. On June 17, 2025 the City and the District Attorney jointly replied to the petition for review. To date, Respondent has not fulfilled Petitioner's Act 22 request for body worn camera footage depicting the arrests.

ARGUMENT

Act 22 provides a statutory right of access by which the public may request and review police body camera footage to foster accountability and public trust in law enforcement. *See generally* 42 Pa.C.S.A. § 67A01 *et seq.*; *see also* Press Release, Commonwealth of Pennsylvania, *The Shapiro Administration Announces Pennsylvania Capitol Police Fully Implement Body Camera Technology* (Mar. 13, 2023), <https://perma.cc/E8VA-3HF4> (discussing how body cameras “add[] another layer of transparency, accountability, and safety for both the public and our officers”); Press Release, Governor Tom Wolf, *Wolf Administration Receives Federal Grant for State Police Body-Worn Camera Pilot Program* (July 7, 2017), <https://perma.cc/982V-UCC9> (“[B]ody-worn cameras strengthen police accountability, prevent confrontational situations, and improve evidence documentation.”); Pa. S. Leg. J., 201st Gen. Assemb. 449, 461 (May 9, 2017), <https://perma.cc/99TE-HBT9> (“[W]e want to become more open and transparent with respect to body cameras as we move forward.” (statement of Senator Costa)).

Pursuant to Act 22, this Court should grant the Petition and order disclosure of the requested footage where Respondent's denial of the request was arbitrary and capricious and the public interest in disclosure outweighs the interests of law enforcement or an individual's interest in nondisclosure. *See* 42 Pa.C.S.A. § 67A06(e).

I. Respondent's Denial of Access Was Arbitrary and Capricious

Administrative action is "arbitrary and capricious where it is unsupportable on any rational basis because there is no evidence upon which the action may be logically based." *Cary v. Bureau of Pro. & Occupational Affs.*, 153 A.3d 1205, 1210 (Pa. Commw. Ct. 2017) (citation omitted). In summarizing the arbitrary and capricious standard, the United States Supreme Court has explained that "the agency must examine the relevant data and articulate a satisfactory explanation for its action including a rational connection between the facts found and the choice made." *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (cleaned up). Here, Respondent's denial of access was arbitrary and capricious because Respondent has alleged that the Juvenile Act, 42 Pa. C.S.A. § 6301 *et seq.*, prohibits disclosure of the entirety of the requested footage, even though minor persons are depicted in only parts of the requested video. Moreover, as set forth below, any depictions of juveniles in the instant footage can easily be blurred and/or redacted, thereby fully satisfying the confidentiality provisions of the Juvenile Act, while fulfilling the transparency goals that underlie Act 22.

A. The Juvenile Act does not prohibit disclosure of the requested footage

As an initial matter, the basic premise that underlies Respondent’s denial of the request is simply incorrect: the Juvenile Act does not preclude production of the requested materials.

Relevant here, section 67A04(a) of Act 22 states that law enforcement entities are to deny a request made thereunder if the relevant footage “contains . . . confidential information . . . and the reasonable redaction of the audio or video recording would not safeguard” said evidence or information. 42 Pa.C.S.A. § 67A04(a) (emphasis added).

Respondent grounds its refusal to produce the requested in footage in the Juvenile Act’s provision that “[t]he contents of court records and files concerning a child shall not be disclosed to the public.” 42 Pa. Stat. § 6307. Respondent argues that the appearance of juveniles in the requested body-worn camera footage renders the footage “confidential information” within the meaning of Act 22. *See* Respondent’s Answer to Pet. for Judicial Review of Act 22 Denial (“Respondent’s Ans.”) ¶¶ 8–15. But it is not clear that the Juvenile Act’s prohibitions cover the instant footage at all.

Section 6303 of the Juvenile Act notes that the law “shall apply exclusively to” five specific circumstances—none of which are present here. For instance, Subsection (a)(1) states that the Juvenile Act applies to “[p]roceedings in which a child is alleged to be delinquent or dependent,” 42 Pa. Stat. § 6303(a)(1), but here, the juveniles in the requested body-worn camera footage have been charged with crimes that could be graded as summary offenses—i.e., not acts of delinquency; the Juvenile Act

specifically exempts summary offenses from the definition of “delinquent act,” *see* 42 Pa. Stat. § 6302(2)(iv). The other scenarios are equally inapposite.¹ Accordingly, the Juvenile Act confidentiality restriction does not apply here at all.

Even assuming, *arguendo*, that the Juvenile Act’s provision deeming “files concerning a child” confidential could apply to the footage at issue in this case, that would still not justify wholesale rejection of the request. On the contrary, as discussed below, Pennsylvania law requires that government agencies within the Commonwealth redact (or blur) video footage responsive to a request for public records that contains a depiction of a third party bearing a cognizable privacy interest—not simply withhold the footage entirely. *See Cent. Dauphin Sch. Dist. v. Hawkins*, 286 A.3d 726, 742–43 (Pa. 2022) (rejecting agency official’s averment that it lacked capacity to redact school bus surveillance footage in accordance with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g; ordering redaction of minors’ faces and disclosure of the non-exempt portions of government records).² And once the minors’ faces are redacted, the footage would no longer constitute a “record[]... concerning a child” at all, since no “child” would be identifiable.

¹ *See* 42 Pa. Stat. § 6303(a) (setting forth the four other situations where the statute applies: “Transfers under section 6322 (relating to ... criminal proceedings)”; “Proceedings arising under Subchapter E (relating to dispositions affecting other jurisdictions)”; “Proceedings under the Interstate Compact on Juveniles”; and “Proceedings in which a child is charged with a summary offense arising out of the same episode or transaction involving a delinquent act for which a petition alleging delinquency is filed under this chapter”).

² *See infra* p. 10–11 for a discussion of the relationship between the Right to Know Law and Act 22.

Thus, to the extent Respondent denied the Act 22 request on the basis that disclosure would reveal “confidential information” regarding the juvenile arrestees, that justification falls flat, since such information can be withheld via facial blurring and/or other redactions. Respondent’s apparent refusal to even consider this option—and to instead deny the request completely—is arbitrary and capricious.

B. Redaction instead of wholesale withholding is universally preferred and compelled by the law of the Commonwealth

Pennsylvania law is in accord with courts across the country in holding that government agencies must segregate exempt or confidential information from records, rather than withhold them entirely. This judicial consensus is based on the interest in maximizing transparency through disclosure of public records, while still preserving relevant privacy interests. Courts have frequently applied this principle in the context of audio/visual footage of law enforcement activity, including body-worn camera recordings. An exploration of the widespread, cemented acceptance of this precept is valuable because Pennsylvania courts “may use [decisions from other jurisdictions] for guidance to the degree we find them useful and not incompatible with Pennsylvania law.” *Eckman v. Erie Ins. Exch.*, 2011 PA Super 87, 21 A.3d 1203, 1207 (2011) (speaking to the relevance of guidance from other states).

For instance, in New York, one court discussed how “counsel for the NYPD conceded that it neglected to update its technology during the procurement process for [body worn cameras]. The NYPD essentially took the position that, having ignored the substantial likelihood that the footage captured would be subject to a F[reedom of] I[nformation] L[aw] request, it could deny such a request on the basis

of having to rely on outdated software. That position is untenable.” *Time Warner Cable News NY1 v. New York City Police Dep’t*, 53 Misc. 3d 657, 674–75, 36 N.Y.S.3d 579, 594 (N.Y. Sup. Ct. 2016), *on reargument* (N.Y. Sup. Ct. 2017). The court went on to admonish that “[t]he NYPD cannot intentionally fail to update its technology during the procurement process for the BWC program and simultaneously rely on outdated software as the reason to deny a FOIL request.” *Id.* at 675.

The California Supreme Court, too, has recognized that “advances in technology” affect an agency’s obligation to use redaction or blurring to remove privacy obstacles to disclosing records. *Nat’l Laws. Guild v. City of Hayward*, 9 Cal. 5th 488, 501 (2020) (holding that statutory provision stating agencies could recover cost of “data ... extraction” may not apply to video footage redactions, noting that “redactions that count as ‘extraction’ today may not count as ‘extraction’ tomorrow”). Even more recently, a Kentucky appeals court was “troubled” by an agency’s treatment of a records request, which the court held would “categorically ban disclosure of all investigatory” records, against the intent of the general assembly, *Courier-J., Inc. v. Shively Police Dep’t*, No. 2021-CA-1120-MR, 2022 WL 16842295, at *7 (Ky. Ct. App. Nov. 10, 2022); the court explained further that “there may be ways to limit rather than wholly exclude the release of the records sought so as to address any reasonable concerns,” such as “blurring portions of video that show [witnesses’] faces, and possibly altering their voices,” *id.*

Only two months ago, the Colorado Court of Appeals ruled that Colorado’s Children’s Code (which is similar in effect to the Juvenile Act) does not prohibit the

public disclosure of blurred body-worn camera footage of a police shooting involving a 17-year-old child. Affirming the district court, a three-judge appellate panel rejected the city’s argument that the statute protecting the confidentiality of juvenile records trumps the footage-release provisions in the state’s 2020 Law Enforcement Integrity Act. The statute, the judges concluded, “unambiguously required the court to release” the video. The court stated: “[W]here the BWC footage might reveal a juvenile record — the statute does not bar release of the footage. The court must still release the footage, but it must blur the video to account for the juvenile’s privacy interest.” *Ion Media Networks, Inc. v. West*, 2025 COA 66, ¶ 22.

Federal courts, too, have weighed in on the reality that because editing of audio-visual material to satisfy records requests “is routine and inexpensive, an agency cannot credibly claim that it lacks access to this technology” in order to justify withholding the material entirely. *Stahl v. Dep’t of Justice*, No. 19-CV-4142 (BMC), 2021 WL 1163154, at *7 (E.D.N.Y. Mar. 26, 2021); *see id.* (“[I]f acquiring this software could stand in the way of complying FOIA, no video would ever be disclosed.”); *see also Tunnell v. Dep’t of Def.*, No. 1:14-CV-00269-SLC, 2016 WL 5724431, at *3 (N.D. Ind. Sept. 30, 2016) (approving agency’s proposal “to blur the names and faces and to alter the voices of individuals appearing in the [requested] videos,” so that the records could be produced with “the names and identities of all military personnel ... withheld”).

Here, Respondent pays short shrift to the Commonwealth’s instruction to public agencies to “grant access to the information which is subject to access and deny

access to the information which is not subject to access.” 65 P.S. § 67.706 (Right to Know Law provision). While the Right to Know Law and Act 22 are separate statutes, “[t]he legislature has declared that statutes are *in pari materia* when they relate to the same class of persons or things.” *Geriot v. Council of Borough of Darby*, 491 Pa. 63, 74, 417 A.2d 1144, 1150 (1980) (citing 1 Pa. C.S.A. s 1932(a)). Thus, because “[s]tatutes *in pari materia* shall be construed together ... as one statute,” 1 Pa. C.S.A. § 1932, the directive in the Right to Know Law, 65 P.S. § 67.706, to produce with redactions as opposed to withholding wholesale applies to the Act 22 request in this case, too. *See, e.g., Appeal of Howard S. & S. Ass’n*, 70 Pa. 344, 346 (1872) (expressing longstanding preference for “legislation [to] be consistent and harmonious”). Reading transparency statutes *in pari materia* is a concept that has been endorsed repeatedly by Pennsylvania’s appellate courts. “Because they relate to the same class of things, information about actions by public agencies, the [RTKL] and Sunshine Act are *in pari materia*. Indeed, this has been the practice for Commonwealth agencies since 1974. Therefore, they shall be construed together, if possible, as one statute.” *Off. of Gen. Counsel v. Bumsted*, 247 A.3d 71, 81 (Pa. Commw. Ct. 2021) (citing *Silver v. Borough of Wilkinsburg*, 58 A.3d 125, 128 (Pa. Cmwlth. 2012)).

Respondent ignores this cardinal principle of statutory construction. Instead, it insists without support that “any portions of law enforcement files concerning juvenile offenders may not be disclosed to the public.” Respondent’s Ans. ¶ 14. But the requested body-worn camera footage does not “concern” juveniles. As a

neighboring New Jersey court helpfully explained when analyzing a request for a law enforcement use of force report (“UFR”):

The UFR . . . is designed to capture information ***about police conduct***, not the subject—the person against whom force was used[.] That the “subject” is a minor, as opposed to an adult, does ***not*** shift the focus of a UFR, disclosure of use of force, in any way. In either instance, the need to record police conduct is the same. Deleting the subject’s name adequately protects the anonymity. . . . The simple redaction of the subject[] accomplishes the goal.

Digital First Media v. Ewing Twp., 226 A.3d 1214, 1220 (App. Div. 2020). So too here, where redaction and/or blurring of any depicted juveniles shifts the entire focus of the record to the arresting officers, thereby complying with all relevant laws.

For all of these reasons, Respondent’s insistence on withholding the requested body-worn camera and dashboard footage in its entirety is arbitrary and capricious and contrary to the clear mandates of the law.

II. The Public Interest in Disclosure Outweighs Any Countervailing Interests in Nondisclosure

Petitioner also readily meets the second factor for considering whether to grant a petition under Act 22 and order disclosure of the footage: “The public interest in disclosure of the audio recording or video recording or the interest of the petitioner outweighs the interests of the Commonwealth, the law enforcement agency or an individual's interest in nondisclosure.” 42 Pa.S.C.A. § 67A06(e)(2).

In making its public interest determination, Act 22 provides that this Court may consider:

- i. “the public’s interest in understanding how law enforcement officers interact with the public,”

- ii. “the interests of crime victims, law enforcement and others with respect to safety and privacy,” and
- iii. “the resources available to review and disclose the audio recording or video recording.”

Id.

A. There is immense public interest in the instant records

Here, there is significant public interest in the circumstances surrounding the March 2, 2025 arrests of two juveniles riding their bicycles. In addition to Petitioner LNP’s coverage of this incident, *see* Pet. ¶¶ 5–9, numerous news outlets throughout Pennsylvania and beyond analyzed and reported on the use of force involved. *See, e.g.,* Sarah Metts, *3 Lancaster Officers’ Use-of-Force In Teen Bicyclist Arrests Ruled Justified*, WGAL8 (Mar. 18, 2025), <https://perma.cc/RQT7-GY7W>; Brady Doran, *Lancaster City Police Deem Use of Force Justified in March 2 Incident*, ABC27 (Mar. 18, 2025), <http://bit.ly/4IDUVeS>; Grace Miller & Alexa Southard, *Lancaster Officers’ Use-of-Force Ruled Justified After Arrest Video of Teens Goes Viral*, Local21 (Mar. 18, 2025), <https://perma.cc/FD4V-TS5U>.

This coverage stems from the public’s keen interest in better understanding law enforcement officers’ interactions with their communities—especially encounters with youth. Justice Brennan recognized half a century ago that members of the news media may “guard[] against the miscarriage of justice by subjecting the police, prosecutors, and judicial processes . . . to the cleansing effects of exposure and public accountability.” *Neb. Press Ass’n v. Stuart*, 427 U.S. 539, 587 (1976) (Brennan, J.,

concurring). Indeed, “[c]ommentary and reporting on the criminal justice system”—in which police officers play a central role—“is at the core of First Amendment values, for the operation and integrity of that system is of crucial import to citizens concerned with the administration of government.” *Id.* And nowhere is this interest in transparency more acute than with use of lawful physical force by police, which courts have described as the “exercis[e of] the most awesome and dangerous power that a democratic state possesses with respect to its residents.” *Mary M. v. City of L.A.*, 814 P.2d 1341, 1349 (Cal. 1991) (quoting *Policemen’s Benev. Ass’n of N.J. v. Washington Twp.*, 850 F.2d 133, 141 (3d Cir. 1988)).

It is thus no surprise that there has been “an ongoing discussion happening around police accountability in Lancaster city since March, when a ... city police officer kneel[ed] on the back of a teenager as he cried out for help”—the incident captured in the requested footage. Jade Campos, *Calls for Lancaster city police oversight board echoes community concerns of the past [Lancaster Watchdog]*, LNP (July 6, 2025), <https://perma.cc/A3GW-KASV>. “The [incident] sparked outrage from some members of the community who said the arrest was too violent and has degraded trust in the police.” *Id.* The impact of the arrests on the community cannot be overstated, as evidenced by the incident’s role in instigating calls for the creation of an independent oversight board. *See id.* Disclosure of the instant footage, with appropriate redactions/blurring to shield the identities of minors, is the correct next step, as “[t]ransparency facilitates healing. Without transparency, fear of future harm continues, [and] officers are able to exploit the power of reliable anonymity

[W]hen police processes are perceived as procedurally just, communities are more likely to cooperate with the police, and policing, in turn, is more effective.” Cynthia H. Conti-Cook, *A New Balance: Weighing Harms of Hiding Police Misconduct Information from the Public*, 22 CUNY L. Rev. 148, 154, 166 (2019) (citation omitted).

B. There are no applicable interests of crime victims or law enforcement implicated by disclosure of the footage in redacted/blurred form

Following application of redactions to shield the identities of the minors depicted the requested video, the remaining individuals who appear in the requested footage are the arresting officers—public officials who openly display their identities on their badges for the principal purpose of fostering oversight of their on-duty conduct; their identities are not “confidential” within the meaning of Act 22. *Cf.* 65 P.S. § 67.708(b)(6) (mandating public access to names and job titles of public employees (except officers operating undercover)); *Fields v. City of Philadelphia*, 862 F.3d 353, 359 (3d Cir. 2017) (“[R]ecording police activity in public falls squarely within the First Amendment right of access to information.”). Respondent’s continued withholding of the requested footage—even in redacted form—on the basis that it may somehow contain confidential information is arbitrary and capricious.

C. Respondent has the resources to review and disclose the instant records

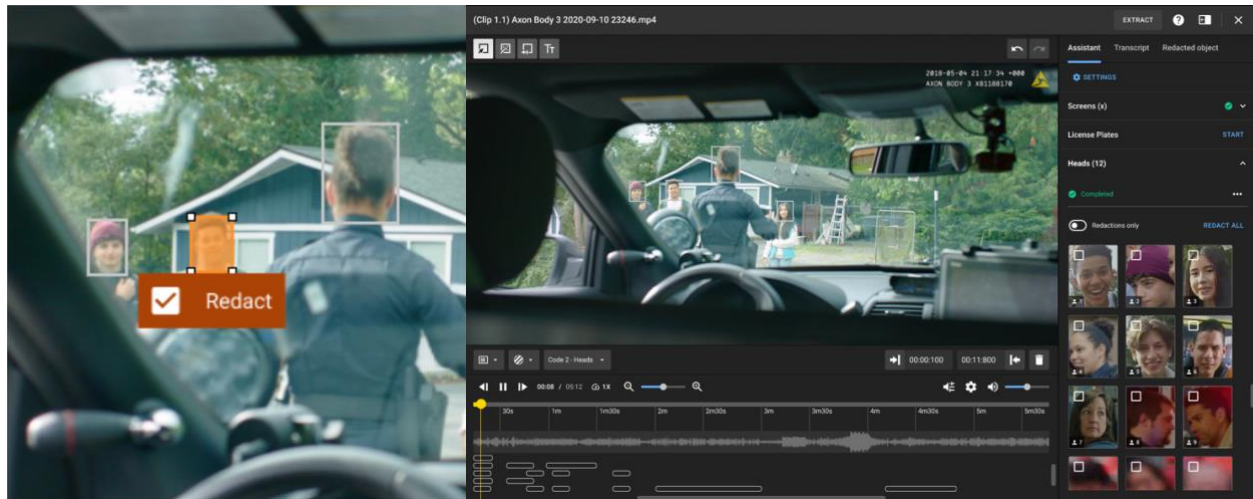
Finally, the City of Lancaster Open Records Office has “the resources available to review and disclose the audio recording or video recording,” 42 Pa.S.C.A. § 67A06(e)(2)—including to redact prior to disclosure.

Agencies in Pennsylvania routinely release body camera footage proactively or in response to an Act 22 request. For instance, in the wake of massive public outcry

over the fatal police shooting of a 27-year-old Lancaster man, Lancaster police released footage from the officers' body cameras. *See* Lori Burkholder, *Lancaster Police video: Man Fatally Shot Ran at Officer While Holding Knife*, WGAL8 (Sept. 14, 2020), <https://perma.cc/2ZVS-LBH2>. In Lancaster County, an Act 22 matter was dismissed after the City of Lancaster agreed to produce more than 16 hours of footage depicting law enforcement clashes with protesters. Notice of Voluntary Dismissal, *Meko v. LNP Media Grp. & City of Lancaster*, No. CI-21-00277 (Lancaster Cnty. Ct. Com. Pl. Oct. 4, 2021), <https://www.rcfp.org/wp-content/uploads/2021/01/time-stamped-voluntary-notice.pdf>. And in Cumberland County, another Act 22 matter was dismissed after the Cumberland County District Attorney agreed to permit Patriot-News/PennLive reporter Charles Thompson to view body camera footage of the fatal police shooting of Roger Wayne Ellis. *See* Notice of Voluntary Dismissal, *Thompson v. Cumberland County*, No. 2022-3057 (Cumberland Cnty. Ct. Com. Pl. July 28, 2022), <https://www.rcfp.org/litigation/thompson-v-cumberland-county/>.

And with respect to any necessary redactions, modern technology renders release of the audio and video footage Petitioners seek routine and straightforward. For instance, in *Meko v. City of Lancaster*, No. CI-21-00277 (Lancaster Cnty. Ct. Com. Pl.), another Act 22 matter, Respondent, pursuant to a negotiated settlement agreement between the parties, redacted and released body worn camera footage. In that case, the undersigned and LNP Executive Editor Tom Murse personally observed Respondent's capabilities by way of its audio-visual record redaction technology provided by the software Axon. Aff. of Tom Murse ("Murse Aff."). The

following images, taken from Axon's website and reproduced in the Murse Affidavit, display the ease with which Axon allows a law enforcement agency to redact or blur individuals depicted therein.



Reproduced in Murse Aff.

The ubiquity of such technology provides context for why state legislatures have specifically alluded to their use in public records disclosure statutes. *See, e.g.,* Cal. Gov't Code § 7923.625(b)(1):

If the agency demonstrates . . . that the public interest in withholding a video or audio recording clearly outweighs the public interest in disclosure because [its] release would violate the reasonable expectation of privacy of a subject depicted [there]in, the agency . . . ***may use redaction technology, including blurring or distorting images or audio***[.]

(cleaned up; emphasis added); *see also* Colo. Rev. Stat. § 24-31-902(b)(II)(A) (“In connection with a complaint of misconduct, any video raising substantial privacy concerns for . . . juveniles . . . must be blurred ‘to protect the substantial privacy interest while still allowing public release.’”) (internal quotes omitted).

Relatedly, courts across the country have recognized that in lieu of “categorically ban[ning] disclosure of all investigatory” records, agencies need only employ “ways to limit rather than wholly exclude the release of the records sought so as to address any reasonable concerns,” such as “blurring portions of video that show [witnesses’] faces, and possibly altering their voices,” *Shively Police Dep’t*, 2022 WL 16842295, at *7 (involving request by a Kentucky newspaper). And the courts of this Commonwealth have already endorsed this commonsense position. *See Hawkins*, 286 A.3d at 742–43 (“[T]he District’s ... contention, that its lack of redaction capacity is sufficiently established in the record via . . . [an] ‘unrefuted’ affidavit and testimony, is unavailing,” and it “is not at all clear . . . why [the government] cannot segregate the portions of the record that do not invade privacy.”) (citations and brackets omitted)).

So too here. Accordingly, Respondent should disclose the requested footage, with any necessary redactions, per the clear mandate of Act 22.

CONCLUSION

For the above reasons, Petitioners ask this Honorable Court to grant the Petition for Review and order access to the requested records.

Respectfully submitted,

Dated: August 15, 2025

/s/ Paula Knudsen Burke

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REPORTERS COMMITTEE FOR
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CERTIFICATE OF COMPLIANCE WITH PUBLIC ACCESS POLICY

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Paula Knudsen Burke

Signature:

/s/ Paula Knudsen Burke

Attorney No.: 87607

CERTIFICATE OF SERVICE

Pursuant to 42 Pa.C.S. § 67A06(b)(4), I hereby certify that this brief will be served upon the Respondent within five days of the date of filing with this Court by hand-delivery. I further certify that pursuant to 42 Pa.C.S. § 67A06(b)(2), on this date I will serve a copy of this Petition and its attachments on the following by certified mail:

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Submitted by: Paula Knudsen Burke

Signature:

/s/ Paula Knudsen Burke

Attorney No.: 87607

IN THE COURT OF COMMON PLEAS OF
LANCASTER COUNTY, PENNSYLVANIA
CIVIL ACTION—LAW

DAN NEPHIN
and
LNP MEDIA GROUP, INC.
(d/b/a LNP | LancasterOnline),

Petitioners,

v.

CITY OF LANCASTER,

Respondent.

Docket No. CI-25-03559
Hon. Thomas B. Sponaugle

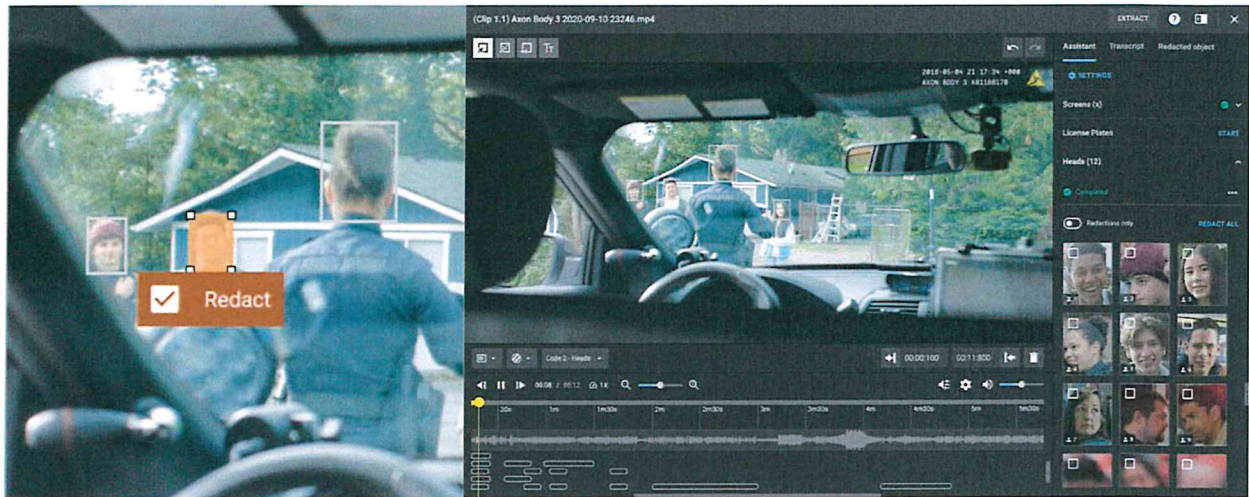
AFFIDAVIT OF TOM MURSE

1. I, Tom Murse, am the Executive Editor at LNP | LancasterOnline. I submit this affidavit in support of the Petition to Review at issue in this matter.

2. In my capacity as Executive Editor, a role which I have held since 2020, I participate and monitor public access lawsuits brought by our newspaper and reporters. LNP Media Group, Inc. in recent years has litigated in state and federal court in furtherance of access to public records and court documents.

3. One of the public records cases with which I have been involved is *Meko v. City of Lancaster*, No. CI-21-00277 (Lancaster Cnty. Ct. Com. Pl.), another Act 22 matter where I was represented by the undersigned. In that case the parties negotiated a settlement wherein the City of Lancaster redacted and released body worn camera footage. As a result, I visited the offices of the Lancaster City Police and personally observed Respondent's capabilities by way of its audio-visual record redaction technology provided by the software Axon. The following images, taken

from Axon's website display the manner in which Axon allows a law enforcement agency to redact or blur individuals depicted therein, and match my own recollection of Respondent's capabilities.



4. In the *Meko* case, we obtained approximately 12 hours of video, some with redactions.

Dated: August 13, 2025

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Tom Murse', written over a horizontal line.

Tom Murse