

**IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA
CIVIL DIVISION**

**DAN NEPHIN and LNP MEDIA
GROUP, INC.,**

Petitioners

vs.

CITY OF LANCASTER

Respondents,

and

**THE OFFICE OF THE DISTRICT
ATTORNEY OF LANCASTER COUNTY**

Intervenor.

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No. CI-25-03559

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**MEMORANDUM IN OPPOSITION TO THE PETITION FOR
JUDICIAL REVIEW OF ACT 22 DENIAL**

TO THE HONORABLE JUDGES OF SAID COURT:

AND NOW, comes Heather L. Adams, District Attorney of Lancaster County, Pennsylvania, by and through Andrew J. Gonzalez, Assistant District Attorney, and the City of Lancaster by and through Barry N. Handwerger, Solicitor, and respectfully submits the following Memorandum in Opposition to the Petition for Judicial Review of Act 22 Denial:

Factual and Procedural History:

The evening of March 2, 2025, members of the Lancaster City Police Department came in contact with several individuals under the age of 18 (Juveniles) who were engaging in violations of Vehicle Code and interfering with traffic. In addressing these issues, several of the Juveniles engaged in behavior which led to arrests for Disorderly Conduct.

A portion of this interaction was posted online by a bystander and resulted in significant public interest. On March 10, 2025, Petitioners delivered a request for disclosure of the body camera and dash camera video from this incident pursuant to Act 22 of 2017.¹

On April 9, 2025, the City of Lancaster denied Petitioners' request indicating that the requested footage contained, among other things, confidential information that could not be safeguarded through reasonable redaction. On May 9, 2025, Petitioners filed a petition for judicial review arguing that reliance on the language of Act 22 in denying the request was a boilerplate arbitrary and capricious denial and that any confidential information can be redacted.

Argument

Act 22 provides a mechanism for the public to request audio and video recordings made by law enforcement agencies. 42 Pa. C.S.A. § 67A03. Act 22, however, does not provide unfettered access to law enforcement recordings and specifically provides that an agency “*shall* deny [a] request” when it determines that a requested recording contains, *inter alia*, “confidential information[.]” and “reasonable redaction would not safeguard [that] confidential information[.]” 42 Pa. C.S.A. 67A04(a) (emphasis added). Where such a determination is made, “[t]he written denial *shall* state that reasonable redaction of the audio recording or video recording will not safeguard potential evidence, information pertaining to an investigation, confidential information or victim information.” *Id.* (emphasis added). Further, where the prosecuting attorney determines that a recording contains, among other things, confidential information, the prosecuting attorney must agree in writing to any disclosure. 42 Pa. C.S.A. § 67A08(3).

¹ 42 Pa. C.S.A. §§ 67A07 – 67A09.

“Confidential information” for the purposes of Act 22 is defined as “[a]ny of the following: (1) The identity of a confidential source. (2) The identity of a suspect or witness to whom confidentiality has been assured. (3) *Information made confidential by law or court order.*” 42 Pa. C.S.A. § 67A01 (emphasis added).

Applicability the Juvenile Act

Petitioners argue that the Juvenile Act’s confidentiality provisions do not apply to the instant matter as the individuals were not charged with a “delinquent act” but instead cited for summary offenses. In support of that argument, Petitioners cite to the definition of “delinquent act,” and the Section 6303 of the Juvenile Act to argue that the Juvenile Act does not preclude release. This argument, however, fails to acknowledge the remainder of Section 6303 and provisions regarding public access in the later sections of the Juvenile Act.

The files and records of the court involving a child² in proceedings under the Juvenile Act may be accessed by thirteen specific groups. 42 Pa. C.S.A. § 6307(a). The Juvenile Act further provides that “[t]he contents of court records and files concerning a child *shall not* be disclosed to the public unless” one of a limited number of exceptions apply. 42 Pa. C.S.A. § 6307(b). As the general rule applies to proceedings under the Juvenile Act, Section 6307(c) specifically extends those confidentiality provisions “to proceedings involving a child charged with a summary offense[.]” 42 Pa. C.S.A. § 6307(c) *accord* 42 Pa. C.S.A. § 6303(c) (providing that “notwithstanding the exclusion of summary offenses generally from the definition of ‘delinquent act’ the confidentiality and public exclusion provisions shall apply to summary offenses involving

² Under the Juvenile Act, a child is considered, *inter alia*, “[a]n individual who: (1) is under the age of 18; [or] (2) is under the age of 21 years who committed an act of delinquency before reaching the age of 18 years[.]” 42 Pa. C.S.A. § 6302. It is undisputed that all of the parties charged from this incident are juvenile’s as defined under the Act.

a child). See also, 42 Pa. C.S.A. § 6336(g) (excluding the public from summary proceedings involving a child).

Under Section 6307(b) of the Juvenile Act, “the contents of court records and files concerning a child shall not be disclosed to the public unless” one of the enumerated exceptions applies. 42 Pa. C.S.A. § 6307(b)(1.1). Where one of those exception applies, “the court shall disclose the name, age and address of the child, the offenses charged and the disposition of the case.” 42 Pa. C.S.A. § 6307(b)(2). This public disclosure authorization is specifically limited and does not permit blanket release of the contents of court records and files concerning the child. Id.

Similarly, “[u]nless a charge of delinquency is transferred for criminal prosecution under section 6355 (relating to transfer to criminal proceedings), the interest of national security requires, or the court otherwise orders in the interest of the child, the records and files [of a law enforcement agency] shall *not be open to public inspection or their contents disclosed to the public*.” 42 Pa. C.S.A. § 6308(a). Under this general rule, access to law enforcement records and their contents is limited to a far greater extent than access to court files and records concerning a child. Notably, only six distinct groups are granted access to such files and their contents: (1) the court presiding in the case; (2) counsel for the parties; (3) officials for the location a child is committed; (4) law enforcement for discharge of official duties; (5) a court preparing a presentence report in a criminal matter as well as those charged with the child’s housing or supervision; and (6) the Department of Public Welfare to determine if a report of child abuse should be expunged.” 42 Pa. C.S.A. §§ 6308(a)(1-6). As with court records and files, disclosure to the public is prohibited unless the conduct of the child meets specific criteria. 42 Pa. C.S.A. § 6308(b)(1.1). If that criterion is met, the public is not entitled to all information within those files, but “the law enforcement agency

shall disclose the name, age and address of the child, the offenses charged and the disposition of the case.” 42 Pa. C.S.A. § 6308(b)(2).

Section 6308 regarding law enforcement files and records does not contain a separate subsection addressing summary offenses as other sections of the Juvenile Act, and as such this Honorable Court must engage in statutory interpretation to determine the breadth of Section 6308’s limitations on the public release of law enforcement information concerning a child. In so doing, this Honorable Court is bound by the Rules of Statutory Construction. 1 Pa. C.S.A. § 1901. When “ascertaining the meaning of a statute, it is [the Court’s] obligation to determine the intent of the legislature and give effect to that intention.” Commonwealth v. Berryman, 437 Pa. Super. 258, 649 A.2d 961, 965 (1994). To that end, reviewing courts “are to give the words of a statute their plain and ordinary meaning.” Id. Furthermore, reviewing courts “are to presume that the legislature did not intend a result that is absurd or unreasonable. Statutes should receive the most sensible construction possible.” Id. at 966 (internal citations omitted).

While at first reading the absence of the term “summary offenses” from Section 6308 implies that summary offenses are not covered,³ a closer examination of 6307 and 6336, *in pari materia* reinforces the confidentiality of law enforcement records of summary offenses concerning a child. 1 Pa. C.S.A. § 1932 (when statutes relate to the same persons or things they “shall be construed together, if possible, as one statute[]”). Section 6307’s general rule on the availability of court records applies specifically to proceedings under the Juvenile Act. 42 Pa. C.S.A. § 6307(a) (“files and records of the court in a proceeding under this chapter”). As such, it is necessary to

³ “[W]here a section of a statute contains a given word, the omission of such word from a similar section of the statute shows a different legislative intent.” Berryman, 649 A.2d 965.

have Section 6307(c) specifically extend those limits on access to summary offenses. 42 Pa. C.S.A. § 6307(c). Similarly, Section 6336 applies to “[h]earings *under this chapter*[.]” 42 Pa. C.S.A. § 6336(a) (emphasis added). As summary offense hearings are not conducted under the Juvenile Act, it is necessary for this section to specifically apply its public exclusionary rule to summary matters involving a child. 42 Pa. C.S.A. §§ 6336(d); (g).

By contrast, Section 6308 broadly prohibits public access to all law enforcement records, files, and contents thereof concerning a child without distinction between delinquent acts or summary offenses. 42 Pa. C.S.A. §§ 6308(a); (b). Further, Section 6308 specifically precludes the public release of the contents of law enforcement files in both the General Rule and the Public Availability subsections. *Id.* This repetition evinces the General Assembly’s clear intent that the content of law enforcement records and files concerning a child should not be disclosed to the public absent the limited exceptions provided in the Juvenile Act.

Therefore, when the statutes regarding confidentiality read together, the proscription on releasing information relating to the contents of law enforcement records and files concerning a child extends to all such files whether they involve “delinquent acts” or summary offenses. Not only is this the most reasonable interpretation of Section 6308’s provisions, but it also avoids the absurd and unreasonable result that the public cannot attend the proceedings or view the court records in juvenile summary cases but can access the full contents of the law enforcement file that led to those proceedings. 1 Pa. C.S.A. § 9122(1) (It must be assumed “[t]hat the General Assembly does not intend a result that is absurd, impossible of execution or unreasonable.”)

Based on the foregoing, the Juvenile Act’s restrictions on public access to the contents of law enforcement records and files concerning a child applies to summary offenses as well as

“delinquent acts.” The recordings sought by Petitioners are part of the contents of law enforcement files concerning juveniles who have been charged with summary offenses. By law, those files and records “shall not be open to public inspection or their contents disclosed to the public[.]” absent limited exceptions not applicable here. 42 Pa. C.S.A. §§ 6308(a); (b). Therefore, the footage sought by Petitioners constitutes confidential information under Act 22. 42 Pa. C.S.A. § 67A01.

Reasonable Redaction

Because the information requested by Petitioners is made confidential by law, the question becomes whether reasonable redaction can protect that confidential information. Whether such redaction can be accomplished depends upon the scope of the Juvenile Act’s confidentiality provisions. That requires this Honorable Court to determine what the General Assembly meant when it stated that “[t]he contents of law enforcement records and files concerning a child shall not be disclosed to the public[.]” 42 Pa. C.S.A. § 6308(b). Specifically, what are the “contents” of the records and files, and when do they “concern a child.”

It is a basic tenant of statutory interpretation that “when the language of a statute is clear and unambiguous, it must be given effect in accordance with its plain and common meaning.” Commonwealth v. Kelley, 569 Pa. 179, 186, 801 A.2d 551, 554 (2002). Further, reviewing courts are to “construe non-technical words and phrases in statutes, which remain undefined, according to their ordinary usage.” Id. at 555 (citing 1 Pa. C.S.A. § 1903(a)). In so doing, a court “can look to dictionary definitions to find its common and approved usage, as well as to the context in which it appears.” Vetri Navy Yard, LLC v. Dep’t of Cmty. & Econ. Dev. of Commonwealth, 189 A.3d 1137, 1146 (Pa. Cmwlth. 2018).

The terms “contents” and “concerning,” as utilized in Sections 6307 and 6308 of the Juvenile Act are undefined, and a such must be construed according to their “common and approved usage[.]” 1 Pa. C.S.A. 1903(a). Contents are defined “as something contained” i.e. “the jar’s contents, the drawer’s contents.” “Content.” Merriam-Webster.com Dictionary, Merriam-Webster, <https://www.merriam-webster.com/dictionary/content>. Accessed Sep. 10, 2025. The preposition “concerning” is defined as “relating to” or “regarding.” “Concerning.” Merriam-Webster.com Dictionary, Merriam-Webster, <https://www.merriam-webster.com/dictionary/concerning>. Accessed 10 Sep. 2025. Therefore, the plain meaning of Section 6308 is that all items contained within law enforcement files and records in connection with a child may not be disclosed to the public.

Citing to Central Dauphin School District v. Hawkins,⁴ Petitioners contend that the requested footage would no longer be “concerning a child” if the faces of the juvenile actors would be redacted thereby making them unidentifiable. However, unlike that regulation at issue in Hawkins, the Juvenile Act prohibits the release of far more than just the identifiable information of a child in law enforcement records and files. As set out above, the Juvenile Act broadly prohibits the release of any information contained within files related to a child. 42 Pa. C.S.A. §§ 6308(a); (b)(1.1).⁵ While redaction of the individual juveniles’ faces is possible, such redaction does not change the character of the footage requested by Petitioners. The footage remains content from a

⁴ 286 A.3d 726, 741 (Pa. 2022) (applying a federal regulation which prohibited the release of “personally identifiable information from [] education records.”).

⁵ Relatedly, where release of information is authorized under the Juvenile Act, it is limited to “the name, age and address of the child, the offenses charged and the disposition of the case.” 42 Pa. C.S.A. § 6308(b)(2).

law enforcement file related to a child, and there is no level of redaction which could safeguard this confidential information.

Based on the foregoing, all of the requested footage is confidential, not just identities or the faces of the juvenile offenders as posited by Petitioners. Further, since the entirety of the footage sought by Petitioners is confidential under the Juvenile Act, there are no reasonable methods of redaction to protect such information short of denying Petitioners' request. 42 Pa. C.S.A. 67A04(a)

Finally, Petitioners' argument that the public interest in disclosure outweighs any interest in non-disclosure is unavailing. While the public may have an interest in the events depicted, such inquisitiveness does not outweigh the "compelling interest in safeguarding children involved in juvenile proceedings[,]" demonstrated in the Juvenile Act. In re M.B., 2003 PA Super 76, ¶ 15, 819 A.2d 59, 65 (Pa. Super. Ct. 2003) (internal citation omitted) (denying media request to open dependency proceedings even where some information had been publicized).

WHEREFORE, for the foregoing reasons and pursuant to Section 6308 of the Juvenile Act, and Section 67A09 of the Judicial Code, the Office of the District Attorney of Lancaster County, respectfully requests that this Honorable Court dismiss the Petition for Judicial Review of an Act 22 Denial.

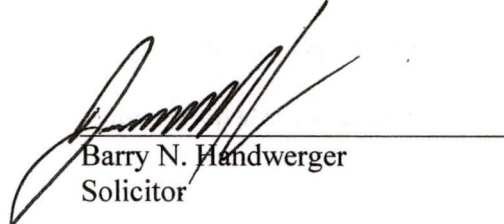
Respectfully submitted,

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