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**IN THE DAUPHIN COUNTY COURT OF COMMON PLEAS
CIVIL DIVISION**

Nexstar Media Inc.,
Petitioner,

vs.

Pennsylvania State Police,
Respondent

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Docket No. 2025 CV 5096

ANSWER TO PETITION

NOW COMES the Pennsylvania State Police (PSP), by its counsel, pursuant to Pennsylvania Rule of Civil Procedure 206.2, and files this Answer to the Petition, and in support thereof avers as follows:

Answer to Parties

1. Upon information and belief, the allegations of paragraph 1 are admitted.
2. Upon information and belief, the allegations of paragraph 2 are admitted.
3. The allegations of paragraph 3 are admitted.

Answer to Jurisdiction

4. The allegations of paragraph 4 are admitted in part and denied in part as stated. PSP admits that it is a state agency located in Dauphin County and that the request denial came from an office based on Dauphin County. The remaining allegations are denied because they are legal conclusions to which no response is required.

Answer to Statement of Facts

5. Upon information and belief, the allegations of paragraph 5 are admitted.
6. The allegations of paragraph 6 are admitted.
7. Upon information and belief, the allegations of paragraph 7 are admitted.
8. Upon information and belief, the allegations of paragraph 8 are admitted.
9. The allegations of paragraph 9 are admitted.
10. The allegations of paragraph 10 are admitted.
11. The allegations of paragraph 11 are admitted.
12. Upon information and belief, the allegations of paragraph 12 are admitted.
13. Upon information and belief, the allegations of paragraph 13 are admitted.

Answer to Argument

14. PSP incorporates its answers to all prior allegations set forth in paragraphs 1–13.

15. The allegations of paragraph 15 are denied because they are legal conclusions to which no response is required. By way of further response, PSP does not dispute the Petitioner’s characterization of Act 22’s general function or underlying policy.

16. The allegations of paragraph 16 and its subparagraphs are denied because they are legal conclusions to which no response is required. By way of further response, Petitioner has the burden of proving, first, that the “the denial was not to safeguard criminal evidence, or information related to an investigation, or that such justification was arbitrary or capricious,” and second, that the balance of interests favors disclosure. *Martinez v. City of Reading Police Dep’t*, 289 A.3d 1136, 1140 (Pa. Cmwlth. 2023).

17. The allegations of paragraph 17 are denied because they are legal conclusions to which no response is required. By way of further response, PSP does not dispute

Petitioner's characterization of the evidentiary standard in this matter. *See also Davis v. Pa. State Emps. Ret. Sys.*, 284 A.3d 1307, 1310 (Pa. Cmwlth. 2022).

PSP's Denial of Access Was Not Arbitrary and Capricious

18. The allegations of paragraph 18 are denied because they are legal conclusions to which no response is required. By way of further response, PSP does not dispute Petitioner's characterization of the arbitrary and capricious standard.

19. The allegations of paragraph 19 are denied because they are legal conclusions to which no response is required. By way of further response, PSP does not dispute Petitioner's characterization of the arbitrary and capricious standard.

20. The allegations of paragraph 20 are denied. To the contrary, PSP's denial was logically based upon its determination that the requested audio/video recording contains potential evidence in a criminal matter and information pertaining to an investigation, and further, that reasonable redaction of the audio/video recording would not safeguard the evidence or information pertaining to the investigation. *See* 42 Pa.C.S. § 67A04(a).

21. The allegations of paragraph 21 are denied because they are legal conclusions to which no response is required. By way of further response, Section 67A04(a) authorizes a law enforcement agency to withhold a recording under Act 22 if the agency determines "that it contains potential evidence in a criminal matter; that the information relates to an investigation; or that reasonable redaction of the recording would not safeguard the evidence or information." *Falls Twp. v. Buckingham Twp. Police Dep't*, 325 A.3d 1046, 2024 WL 3982691, at *3 (Pa. Cmwlth. 2024) (citing 42 Pa.C.S. § 67A04(a)). However, Section 67A04(a) does not expressly provide that these conditions are the exclusive basis for denying an Act 22 request.

22. The allegations of paragraph 22 are admitted in part and denied in part. Upon information and belief, PSP admits that the Beaver County District Attorney has determined that there were no criminal violations on behalf of the officers. The remaining allegations are denied because they are legal conclusions to which no response is required. To the contrary, PSP avers that the requested footage is potential evidence in a criminal matter, that it relates to an investigation of a trooper-involved shooting, and that reasonable redaction would not safeguard the information pertaining to that investigation. Specifically, PSP's criminal investigation into the shooting was still open at the time of Petitioner's request. By way of further response, nothing in the language of Act 22 requires that a recording relate to a "pending or prospective investigation or law enforcement proceeding" to be exempt from public access. See 42 Pa.C.S. § 67A04(a). Rather, Section 67A04 permits nondisclosure of all information "pertaining to an investigation." *Id.* A broad reading of the Act 22 exemption is consistent with interpretations of the similar investigative exemption under the Right-to-Know Law (RTKL). See 65 P.S. § 67.708(b)(16) (protecting information "relating to . . . a criminal investigation"); see also *Castillo v. Pa. State Police*, 310 A.3d 831, 835 (Pa. Cmwlth. 2024) (holding that information relates to an investigation even after the investigation has ended). Accordingly, Petitioner has failed to establish that PSP's denial was not to safeguard evidence or information relating to an investigation. See *Martinez*, 289 A.3d at 1140.

23. The allegations of paragraph 23 are admitted in part and denied in part as stated. Upon information and belief, PSP admits that Mr. Leeth is deceased. The remaining allegations are denied because they are legal conclusions to which no response is

required. To the contrary, PSP avers that the requested footage contains confidential information and victim information relating to Mr. Leeth's death. By way of further response, Mr. Leeth's family retains a privacy interest related to his death even though his own privacy interest has ceased. See *Nat'l Archives & Records Admin. v. Favish*, 541 U.S. 157, 167 (2004). Even if they did not, section 67A04(a) is not limited to the protection of common law privacy rights, but rather, permits nondisclosure of all "confidential information or victim information." 42 Pa.C.S. § 67A04(a). By analogy, the Commonwealth Court has found that the RTKL criminal investigation exception, which protects "[v]ictim information," extends to information about a deceased victim. See 65 P.S. § 67.708(b)(16)(v); see also *DiMartino v. Pa. State Police*, 340 C.D. 2011, 2011 WL 10841570, at *6 (Pa. Cmwlth. Sept. 19, 2011) (unpublished disposition). Accordingly, PSP may properly withhold the footage on the basis that it contains confidential or victim information.

24. The allegations of paragraph 24 are admitted in part and denied in part as stated. PSP admits that the remaining persons seen or heard in the requested footage are police officers. The remaining allegations are denied because they are legal conclusions to which no response is required. By way of further response, the *Fields* case cited in paragraph 24 of the Petition is irrelevant to this matter because the requested recordings in this matter were created by law enforcement, not the public. See *Fields v. City of Philadelphia*, 862 F.3d 353, 355 (3d Cir. 2017).

The Public Interest in Disclosure Does Not Outweigh the Interests in Nondisclosure

25. The allegations of paragraph 25 are denied. To the contrary, Petitioner has not shown that the limited media interest in disclosure outweighs interests in trooper safety,

trooper privacy, and individual privacy. By way of further response, the involved troopers have an interest in the nondisclosure of their identities to prevent retaliation for a justified use of force. *See Ohio ex rel. Cincinnati Enquirer v. Craig*, N.E.2d 243, 247 (Ohio 2012) (withholding the identities of officers involved in a shootout with gang members based on the officers' constitutional right of privacy). Moreover, Mr. Leeth's family has a privacy interest with respect to the circumstances of his death. *See Favish*, 541 U.S. at 167 (denying citizen access to photographs of a deceased under the Freedom of Information Act). Media access in this case would infringe upon both of those interests.

26. The allegations of paragraph 26 and its subparagraphs are denied because they are legal conclusions to which no response is required. By way of further response, PSP does not dispute Petitioner's characterization of the public interest factors relevant to this case.

27. The allegations of paragraph 27 are admitted in part and denied in part as stated. Upon information and belief, PSP admits that numerous news outlets have reported on the shooting of Mr. Leeth. However, after reasonable investigation, PSP lacks knowledge or information sufficient to form a belief as to the truth or falsity of the first sentence of paragraph 27 and therefore denies the allegations. By way of further response, media coverage of an event does not establish a significant public interest in all information about that event. *Cf. Weber v. Lancaster Newspapers, Inc.*, 878 A.2d 63, 76 (Pa. Super. 2005) ("Mere newsworthiness alone does not create a public controversy.").

28. After reasonable investigation, PSP lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in the first sentence of paragraph 28 and therefore denies the allegations. The remaining allegations are denied because they are legal conclusions to which no response is required. By way of further response, the courts of this Commonwealth have recognized numerous limitations on the historical role of the press in reporting on government matters. See, e.g., *Uniontown Newspapers, Inc. v. Roberts*, 839 A.2d 185, 243 (Pa. 2003) (denying media access to legislative telephone records); *Com. v. Long*, 922 A.2d 892, 904 (Pa. 2007) (denying media access to the addresses of jurors in a murder case); *Com. v. Davis*, 635 A.2d 1062, 1066 (Pa. Super. 1993) (“The First Amendment does not guarantee the media a right of access to information greater than that of the general public.”).

29. The allegations of paragraph 29 are denied because they are legal conclusions to which no response is required. By way of further response, PSP does not dispute the importance of police accountability but believes that information currently available to the public is sufficient to achieve that objective. For instance, the Ohio State Highway Patrol has already made body camera and dash camera footage available. See Petition ¶ 12 and Exhibit C.

30. After reasonable investigation, PSP lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 30 and therefore denies the allegations. By way of further response, the already available public footage and other coverage pertaining to this incident is, more likely than not, sufficient to inform the public about this matter. See, e.g., Petition ¶¶ 13, 27.

31. The allegations of paragraph 31 are admitted.

32. The allegations of paragraph 32 are admitted.

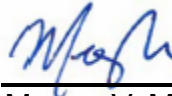
33. After reasonable investigation, PSP lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 33 and therefore denies the allegations. By way of further response, PSP avers that, regardless of the associated cost, reasonable redaction in this instance would not adequately safeguard potential evidence or information pertaining to an investigation. Thus, PSP is not required to disclose the footage in any event. See 42 Pa.C.S. § 67A04(a).

34. The allegations of paragraph 34 are denied because they are legal conclusions to which no response is required. By way of further response, the cases cited in paragraph 34 of the Petition reflect the unique policies of those jurisdictions and are not applicable to this matter. To the contrary, in the RTKL context, the Commonwealth Court has recognized that “where a record falls within an exemption . . . an agency is not required to redact the record.” *Pa. State Police v. Off. of Open Recs.*, 5 A.3d 473, 481 (Pa. Cmwlth. 2010). Similarly, Act 22 does not require redaction as an alternative to nondisclosure when reasonable redaction would be inadequate to protect sensitive evidence or information, as is the case here. See 42 Pa.C.S. § 67A04(a).

35. The allegations of paragraph 35 are denied because they are legal conclusions to which no response is required. By way of further response, PSP reiterates that it properly denied access to the requested footage under 42 Pa.C.S. § 67A04(a).

WHEREFORE, the PSP respectfully requests that the Petition for Review be **DENIED**.

Respectfully submitted,



Date: August 28, 2025

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Docket No. 2025 CV 5096

[PROPOSED] ORDER

The Court has considered Nexstar Media Inc.'s Petition for Review, including its declaration and exhibits, as well as the Pennsylvania State Police's Answer to the Petition. For the reasons set forth in the Answer, it is **HEREBY ORDERED** that the Petition for Review is **DENIED**.

SO ORDERED this ____ day of _____, 2025

J.

Distribution legend:

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For Respondent: Megan V. Madaffari, PSP Headquarters, 1800 Elmerton Avenue, Harrisburg, PA 17110; phone (717) 705-5485, email mmadaffari@pa.gov

VERIFICATION

The undersigned verifies that the facts contained in the foregoing Answer are true and correct upon personal knowledge or to the best of her information or belief. The undersigned understands that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: August 28, 2025



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CERTIFICATE OF COMPLIANCE

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.

Date: August 28, 2025



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CERTIFICATE OF SERVICE

I hereby certify on this date that I served a copy of the foregoing document on the
Petitioner via email as addressed below:

Paula Knudsen Burke
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Date: August 28, 2025



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