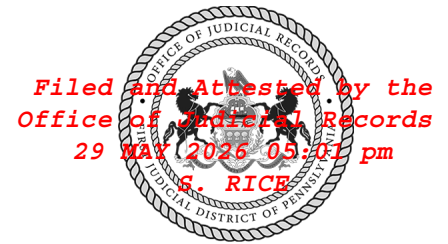


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Counsel for Samantha Melamed and The Philadelphia Inquirer

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
TRIAL DIVISION – CIVIL**

SAMANTHA MELAMED
and
THE PHILADELPHIA INQUIRER,

Petitioners,

v.

**CITY OF PHILADELPHIA POLICE
DEPARTMENT,**

Respondent.

May Term, 2026

No. _____

VERIFIED PETITION FOR REVIEW

Samantha Melamed and The Philadelphia Inquirer (together, “Petitioners”) hereby file this Petition for Review under Act 22 of 2017, 42 Pa.C.S. §§ 67A01 *et seq.* (“Act 22” or the “Act”), 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. In support of their appeal, Petitioners aver as follows:

PARTIES

1. Petitioner Samantha Melamed is an adult individual residing in Philadelphia County and a reporter with The Philadelphia Inquirer. On April 20, 2026, she submitted to the offices of the City of Philadelphia Police Department a request for body worn camera footage pursuant to Act 22.

2. Petitioner The Philadelphia Inquirer is Ms. Melamed's employer; it serves the Philadelphia, Pennsylvania metropolitan area with digital and print news—and is the third-longest continuously operating daily newspaper in the United States. Its headquarters are in Philadelphia, Pennsylvania.

3. Respondent Philadelphia Police Department—through the City of Philadelphia Law Department—is the entity that denied Petitioners' request for body worn camera footage. The City of Philadelphia Law Department's address is 1515 Arch Street, 15th floor, Philadelphia, PA 19102.

JURISDICTION

4. Petitioners and Respondent are located within Philadelphia County; the incident giving rise to the requested body worn camera footage occurred in Philadelphia County; therefore, the Court has jurisdiction over this matter. *See* 42 Pa.C.S. § 67A06(a)(1) (providing right of appeal to court of common pleas).

STATEMENT OF FACTS

5. Around 7:14 a.m. on April 7, 2026, along the 5400 block of Webster Street, officers of the City of Philadelphia Police Department and a 75-year old man, Anthony McKinley, engaged in an altercation. *See, e.g.,* Robert Moran, *Police ID*

officer who fatally shot 75-year-old man accused of firing a gun in West Philadelphia, The Philadelphia Inquirer (Apr. 10, 2026), <https://perma.cc/BM55-VLH8>.

6. The police officers shot and killed Mr. McKinley. *See, e.g.,* Hayden Mitman and Emily Rose Grassi, *Police officers kill man, 75, in West Philly shooting, officials say*, NBC10 (April 7, 2026), <http://bit.ly/4eFYbFy>.

7. The police officers allege Mr. McKinley was brandishing a firearm and shot at the officers. *See id.*

8. During the incident, the officers involved were wearing body cameras that were turned on. *See id.*

9. On April 20, twelve days after the shooting, Petitioner Samantha Melamed, via certified mail sent an Act 22 request for the body worn camera footage of the April 7 incident to Respondent. A true and correct copy of Petitioners' request is attached hereto as Exhibit A (the "Request").

10. On May 1, via email, Gianna McDevitt of the City of Philadelphia Law Department denied the Request, claiming the Request "seeks recordings . . . pertaining to an investigation or a matter in which a criminal charge has been filed, confidential information or victim information," citing 42 Pa.C.S. § 67A04. A true and correct copy of this denial email is attached hereto as Exhibit B.

11. Respondent's denial also stated that the Request was denied "to the extent responsive video/audio contains investigative information, which is protected from public disclosure pursuant to the Criminal History Record Information Act ("CHRIA"), 18 Pa.C.S. §§ 9101[,] et seq." Ex. B.

12. To date, Respondent has not fulfilled Petitioners' Act 22 Request for body worn camera footage.

ARGUMENT

13. Petitioners incorporate by reference the foregoing paragraphs as if fully set forth herein.

14. 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)).

15. Pursuant to 42 Pa.C.S.A. § 67A06(e), this Court should grant this Petition and order disclosure of the requested footage because the evidence will establish by a preponderance that:

- i. Respondent's denial was arbitrary and capricious; and
- ii. The public interest in disclosure or the interest of Petitioners outweighs the interests of law enforcement or an individual's interest in nondisclosure.

16. "A preponderance of the evidence standard, the lowest evidentiary standard, is tantamount to a more likely than not inquiry." *Carey v. Pa. Dep't of Corr.*, 61 A.3d 367, 374 (Pa. Commw. Ct. 2013) (citation omitted), *supplemented*, No. 1348 C.D. 2012, 2013 WL 3357733 (Pa. Commw. Ct. July 3, 2013).

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

17. Administrative action is arbitrary and capricious where, as here, "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).

18. The United States Supreme Court has summarized the arbitrary and capricious standard as follows:

[T]he 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. In reviewing that explanation, [a court] must consider whether the decision was based on a consideration of the relevant factors and whether there has been a clear error of judgment.

Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43 (1983)

(cleaned up).

19. Here, based on the facts of the case, it is “more likely than not” that Respondent’s denial of access was arbitrary and capricious. *Carey*, 61 A.3d at 374.

20. Per section 67A04(a) of the Act, a law enforcement entity may deny an Act 22 request *only* if the relevant audio or video footage “contains potential evidence in a criminal matter, information pertaining to an investigation or a matter in which a criminal charge has been filed, confidential information[,] or victim 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).

21. Respondent has not demonstrated that any of these categories apply to the requested footage, and to whatever extent those categories did apply, Respondent has not shown that limited redaction of the footage would be insufficient to “safeguard” any information that should not be disclosed.

22. In particular, Respondent has not pointed to any evidence suggesting that the requested footage is exempt for investigative or evidentiary purposes. Indeed, they have not even asserted any facts that would substantiate their boilerplate recitation of language from the statute in the denial. And Respondent has not even asserted that any criminal charges to which the footage may pertain have been filed. Further still, Respondent’s invocation of CHRIA is entirely speculative in nature, *see* Ex. B (denying the Request “*to the extent*” the responsive footage fits certain criteria—rather than simply determining whether it does) (emphasis added).

23. Further, there is no “confidential information or victim information” in the requested records rendering them exempt from disclosure. Indeed, the footage cannot contain confidential information or victim information with respect to McKinley because “a person’s privacy right terminates at death,” *New Era Publications Int’l, ApS v. Henry Holt & Co.*, 873 F.2d 576, 588 n. 4 (2d Cir. 1989) (Oakes, C.J., concurring) (citing cases), and the only victim implicated by the requested footage is McKinley—now deceased. *Cf. Frick v. Stevens*, 43 Pa. D. & C.2d 6, 42 (Cumberland Cnty. C.P. 1967) (“How can one expose one who is dead to public hatred, contempt or ridicule?”).

24. To the extent any bystanders are depicted in the responsive footage, it is not clear how they could have any confidentiality interests implicated by their appearance in footage taken in a public place. *See generally Katz v. United States*, 389 U.S. 347 (1967).

25. Even if such privacy interests did exist, Commonwealth agencies are required to redact video footage responsive to a request for public records that might contain a depiction of a third party bearing a privacy interest. *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).¹ Thus, to the extent Respondent denied the Act 22 request on the basis that disclosure would reveal “confidential information or victim information” regarding one or any of the bystanders, such information can be redacted via facial blurring and/or other redactions. That would not be a basis to deny the request wholesale.

26. On information and belief, the only remaining persons seen or heard in the requested footage would be 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 the Act. *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.”). For these reasons, too, Respondent’s continued withholding of the requested footage on the basis that it may contain confidential or victim information is arbitrary and capricious.

¹ 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.

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

27. The public interest in disclosure of the requested footage, and/or the interest of Petitioners, outweighs the interests of Respondent and/or an individual's interest in nondisclosure.

28. In making its public interest determination, 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.”

42 Pa.S.C.A. § 67A06(e)(2).

29. Here, all of these statutory factors weigh in favor of disclosure.

30. **First**, there is significant public interest in the circumstances surrounding the April 7 encounter between law enforcement and Mr. McKinley. In addition to Petitioners’ coverage of this incident, *see supra* ¶5; *see also* Jillian Kramer and Henry Savage, *Police shot and killed a man after a confrontation in West Philly this morning, authorities say*, The Philadelphia Inquirer (Apr. 7, 2026), <https://perma.cc/2RJR-E6CT>, numerous news outlets throughout Pennsylvania have analyzed and reported on the fatal shooting. *See, e.g.*, Alexandra Simon, et al., *Man fatally shot by officer after “confrontation” in Philadelphia’s Cobbs Creek section, police say*, CBS News (Apr. 7, 2026), <https://perma.cc/2DM9-ATYD>; Jill Croce, *Man*

killed after exchanging gunfire with officers in West Philadelphia: police, FOX 29 (Apr. 7, 2026), <https://perma.cc/8AZL-7MYS>.

31. This coverage stems from the public’s profound interest in better understanding law enforcement officers’ interactions with their communities—including society’s most vulnerable, like the elderly. 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.* at 587.

32. These principles are echoed today by communities and governments in Pennsylvania and beyond, particularly in light of renewed calls for meaningful oversight of law enforcement—and in the wake of police killings, such as the murder of George Floyd by Minneapolis police officers in 2020. *See, e.g.*, Commw. of Pa., Governor’s Office, Exec. Order No. 2020-04 (Apr. 30, 2021), <https://perma.cc/BL5L-U3DC> (affirming that “the Commonwealth must take action to . . . strengthen accountability of law enforcement personnel” and “identify[] necessary system-level reforms to promote transparency”); *PNA Testimony Before Senate Judiciary Committee on Body Camera Footage/Legislation*, Pa. NewsMedia Ass’n at 1 (Apr. 28,

2015), <https://perma.cc/4BUQ-SM6H> (advocating that “[b]ody camera footage of suspects being approached, detained or placed under arrest, including footage that depicts the interaction between officers and the subject of the police action, must be presumptively public, in order to provide accurate, fair information about the circumstances that led to the incident at issue”).

33. The information available to date about the April 7, 2026 incident leaves important questions unanswered. For instance, one neighbor on McKinley’s block questioned “[w]hy would anyone shoot Tony [McKinley]?” I ain’t never seen him raise his voice or holler. I would have thought he was the one guy on the street who didn’t have a gun.” Jillian Kramer, *supra*. Any footage processed and released in response to the Act 22 Request can both confirm whether Mr. McKinley did, in fact, possess a weapon, and further demonstrate whether he posed a threat to those around him.

34. In sum, access to the requested footage will give the public, the press, and police departments across the country attempting to be more responsive to the communities they serve a better understanding of the circumstances surrounding the City’s interactions with its community.

35. **Second**, any “interests of crime victims, law enforcement and others with respect to safety and privacy,” 42 Pa.S.C.A. § 67A06(e)(2), would not be harmed from disclosure of the requested footage. As an initial matter, the City has never asserted that these interests outweigh the public’s interest in disclosure. *See* Ex. B. Further, while Act 22 contains no notice provision requiring the City to notify

referenced third parties of forthcoming disclosure of public records, it may, of course, choose to do so.

36. With respect to the interests of law enforcement personnel, these are public officials who openly display their identities on their badges for the purpose of fostering oversight of their on-duty conduct; their identities are not “confidential” within the meaning of the Act. *Cf.* 65 P.S. § 67.708(b)(6) (mandating public access to names and job titles of public employees (except officers operating undercover)); *Fields*, 862 F.3d at 359 (“[R]ecording police activity in public falls squarely within the First Amendment right of access to information.”).

37. ***Third***, Respondent has “the resources available to review and disclose the audio recording or video recording.” 42 Pa.S.C.A. § 67A06(e)(2).

38. 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>.
- Similarly, police in Philadelphia, in consultation with the elected District Attorney, released body camera footage showing the death of a man at the hands of law enforcement. Max Marin, *‘Shoot Him’: Body camera footage*

shows officers who shot and killed Walter Wallace Jr., WHY (Nov. 4, 2020), <https://perma.cc/CG6N-A5FL>.

- 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. C.P. Oct. 4, 2021), <https://perma.cc/K6RC-7ELC>.
- 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. C.P. July 28, 2022), <https://perma.cc/FCA4-T8N5>.
- In Cambria County, another Act 22 appeal was voluntarily dismissed when the City of Johnstown agreed that any investigative interests were extinguished. See Praecipe to Discontinue, *Tribune-Democrat v City of Johnstown*, No. 2025-3800 (Cambria Cnty. C.P. Apr. 28, 2026).

39. Court have compelled disclosure, too. Recently, a court in Lancaster summarily ordered the release of all body camera footage in possession of the Lancaster Police Department depicting the officers' use of force against minors, ordering such production to be made without imposition of unreasonable fees. See

Order, *Dan Nephin & LNP Media Group v. City of Lancaster*, No. CI-25-03559, (Lancaster Cnty. C.P. Nov. 5, 2025), <https://perma.cc/7PPL-PDU3>.

40. And recently, Judge Dowling in Dauphin County remarked that “[t]here can be no question that an officer-involved shooting highly relates to the public’s interest,” and ordered disclosure of the body camera footage of an incident involving a fatal shooting at the hands of police. See Memorandum Opinion at 6, *Nexstar Media, Inc. v. Pennsylvania State Police*, No. 2025-cv-05096, (Dauphin Cnty. C.P. Jan. 6, 2026), <https://perma.cc/9P7J-VQ2S>.

41. So too, here, should the Court order the release of the requested footage.

WHEREFORE, Petitioners ask this Honorable Court to:

1. Grant this Petition for Review and order access to the requested records;
or
2. In the alternative, grant this Petition for Review and establish a briefing schedule or set a date for an evidentiary hearing; and,
3. Grant such other relief as may be appropriate.

Dated: May 29, 2026

Respectfully submitted,

/s/ Paula Knudsen Burke

Paula Knudsen Burke

PA ID No. 87607

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Counsel for Petitioners

VERIFICATION

I, Samantha Melamed, hereby state that the facts above set forth in the Petition for Review are true and correct to the best of my knowledge, information and belief and I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Signed :  _____

Dated: 5-26-26

CERTIFICATE OF SERVICE

Pursuant to 42 Pa.C.S. § 67A06(b)(4), I hereby certify that this Petition and its attachments will be served upon the Respondent within five days of the date of filing with this Court by certified mail with proof of service.

Gianna McDevitt
Assistant City Solicitor- Right to Know
Compliance and Legislation Group
City of Philadelphia Law Department
1515 Arch Street, 15th floor
Philadelphia, PA 19102

Submitted by: Paula Knudsen Burke

Signature: /s/ Paula Knudsen Burke
PA ID No. 87607

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
PA ID No. 87607