

# Requesting Police Recordings

## Requesting Police Recordings (Video & Audio) in Pennsylvania

[Act 22 of 2017](#) (specifically, Chapter 67A of the Act) established a new process for requesting audio and video recordings in the possession of law enforcement agencies in Pennsylvania.

Act 22 applies to individuals seeking "any audio recording or video recording made by a law enforcement agency." The Right-to-Know Law does not apply to requests for these recordings.

Act 22 defines "law enforcement agency" as:

- The Office of the Attorney General;
- District Attorney's Office; or
- An agency that employs a law enforcement officer.

A "law enforcement officer" includes "an officer of the United States, the Commonwealth or a political subdivision thereof, another state or political subdivision thereof or who is empowered by law to conduct investigations of or to make arrests for offenses enumerated in this chapter or an equivalent crime in another jurisdiction, a sheriff or deputy sheriff and any attorney authorized by law to prosecute or participate in the prosecution of the offense."

## How to File a Request

Under Act 22, a request for an audio or video recording in the possession of a law enforcement agency must be made within 60 days of the date the recording was made.

A written request must be submitted to the Agency Open Records Officer (AORO) for the law enforcement agency that possesses the record. The request is not officially received until it is personally delivered to the AORO, or when it is marked as "delivered" by certified mail.

The request must include:

- The date, time and location of the event recorded;
- A statement describing the requester's relationship to the event recorded; and
- If the recorded incident took place inside a residence, the request must also identify every person present at the time of the recording, unless unknown and not reasonably ascertainable.

Once a request is filed, the agency has 30 days to respond, although the requester and agency can agree to an extension.

## What Happens During the Response Period

An agency may review the request itself. However, if the agency has a memorandum of understanding with either a District Attorney's Office or the Attorney General's Office, an attorney from one of those offices may review the request and decide if the recording will be released.

Under Act 22, the agency may deny the request – in writing – if it determines that a recording contains:

- Potential evidence in a criminal matter; or
- Information pertaining to an investigation or a matter in which a criminal charge has been filed; or
- Confidential information or victim information; and
- The reasonable redaction of the recording would not safeguard potential evidence.

### **When an Agency Grants a Request**

The agency can charge reasonable fees, to provide a copy of the recording.

### **When an Agency Denies a Request**

When a request is denied, the requester may appeal within 30 days of the date of denial to the Court of Common Pleas with jurisdiction over the matter (i.e., the court in the county where the recorded event took place).

This appeal is filed as a Petition for Judicial Review and must include:

- A filing fee of \$125;
- A copy of the written request and any written responses; and
- Proof that the AORO was served within five days of the filing of the petition.

If the event recorded took place inside a residence, the petitioner must also certify that notice of the petition has been served on each individual present at the time of the recording, and on the owner and occupant of the residence, unless that information is unknown and not reasonably ascertainable.

In all cases, service is effective upon receipt from personal delivery or certified mail with proof of service.

### **When an Agency Does Not Respond**

If a requester does not receive either a grant or a written denial after 30 days, and they have not agreed to an extension of time for review, their request is "deemed denied." At that point, the requester can appeal the denial.

The agency's time for review does not begin until the AORO receives the request.

## **Discretionary Release of Recordings**

Nothing in Act 22 precludes a law enforcement agency or a prosecuting attorney with jurisdiction from choosing to release an audio or video recording, with or without a written request.

*Note: If the prosecuting attorney determines that a recording contains potential evidence in a criminal matter, information pertaining to an investigation, confidential information or victim information – and reasonable redaction of the recording will not safeguard the potential evidence or information – then the law enforcement agency can only release the recording with the written permission of the prosecuting attorney.*

## **The Office of Open Records**

The Office of Open Records ("OOR") does not hear appeals from agencies under Act 22. If an appeal is filed with the OOR, the appeal will be transferred to the appropriate court with notification to all parties.