

20 JUN 30 PM 3: 53

IN THE SUPERIOR COURT

IN AND FOR THE COUNTY OF PIMA

J. ORR, DEPUTY

IN THE MATTER OF:
Agreement regarding Disclosure of
Unredacted Body-Worn Camera Footage

ADMINISTRATIVE ORDER
2020-35
Replacing 2018-29

Whereas, the increased use of technology such as body-worn cameras by law enforcement officers has led to an increased evidentiary burden on both prosecuting agencies and defense services, and

Whereas, the Pima County Attorney and Pima County's Public Defense Services entities have agreed to streamline disclosure of unredacted body-camera evidence, and

Whereas, the above-referenced parties have also reached an agreement on the methodology by which non-redacted body-camera data may be disclosed by the county attorney to public defense services, and

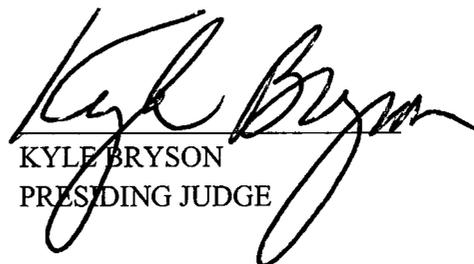
Whereas the parties' agreement is memorialized in a Memorandum of Understanding which is attached hereto and incorporated herein by this reference, and,

Whereas, the parties' agreement promotes the interests of justice and will assist in the management of criminal caseloads,

Now, therefore,

IT IS ORDERED approving the parties' agreement in its entirety. The parties are directed to comply with the terms and conditions contained therein, until such time as the parties agree to modify or terminate the agreement, or until further order of this court.

Dated this 30th day of June, 2020.


KYLE BRYSON
PRESIDING JUDGE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF PIMA

In the matter of

DISCLOSURE OF UNREDACTED
BODY CAMERA FOOTAGE AND
OTHER DIGITAL MEDIA IN
CRIMINAL CASES

MEMORANDUM OF
UNDERSTANDING AND REQUEST
FOR ADMINISTRATIVE ORDER

This Memorandum of Understanding and Request for Administrative Order seeks to replace General Order 18-01 and Administrative Order No. 2018-29 in their entirety.

The parties to this Memorandum of Understanding have met and conferred regarding the need to create a streamlined process for disclosing the videos from police body-worn cameras. Police body camera footage often contains visual images or oral communications that are subject to redaction under A.R.S. §13-4434. In order to make proper redactions of this information, law enforcement and/or prosecutors must review the videos frame by frame in order to ensure such information appears is properly redacted. This has created a huge drain on personnel resources and has also resulted in delays in disclosure within the timelines required by Arizona Rule of Criminal Procedure 15.1. There are related challenges presented by increasingly high volumes of digital storage device downloads (including phones, tablets, computers, and drives).

1 THEREFORE, IT IS AGREED that, pursuant to an updated Administrative
2 Order to be issued by the Presiding Judge of the Superior Court and the
3 Presiding Criminal Judge, incorporating by reference and attaching this
4 Memorandum of Understanding, the Pima County Attorney's Office will provide
5 body camera footage and digital storage device downloads that has not been
6 fully redacted directly to the defense agencies who are signatories to, and who
7 are subject to, this Memorandum of Understanding (Pima County Public
8 Defender's Office, Pima County Legal Defender's Office, Pima County Legal
9 Advocates Office, Pima County Office of Court Appointed Counsel, and attorneys
10 with the Pima County Office of Court Appointed Counsel who sign an
11 acknowledgement agreeing to be bound by the terms of this agreement).

12 IT IS AGREED that Pima County Attorney's Office always retains
13 discretion not to disclose unredacted or partially redacted body camera footage
14 or digital storage device downloads. The Pima County Attorney's Office shall in
15 every case consider whether the interests of victims would be harmed by
16 disclosure of unredacted material before authorizing disclosure.

17 IT IS AGREED that this Memorandum of Understanding and updated
18 Administrative Order shall not apply to the offenses listed in the attached
19 Appendix A. The parties further agree that Appendix A can be supplemented by
20 filing a new version with the Court:

21 IT IS AGREED that, whenever body camera videos or digital storage
22 device downloads labeled as "Attorney Only" are disclosed under this

1 Memorandum of Understanding and the updated Administrative Order, such
2 material may only be reviewed by the defense attorneys or their staff members.
3 "Defense attorney" does not include a person who is representing himself or
4 herself, regardless of whether that person is a licensed attorney. The defense
5 agencies, and the attorneys they employ, shall at no time, and under no
6 circumstances, permit these materials labeled as "Attorney Only" to be viewed or
7 possessed by any defendant, or by any witness, or by any person not employed
8 by the defense agency or within the firm of a defense counsel with a contract with
9 the Pima County Office of Court Appointed Counsel.

10 IT IS AGREED that, should it become necessary for a defense attorney to
11 show any material labeled as "Attorney Only" to their client, or to a witness, the
12 defense attorney will request a redacted copy of that file or only a specific portion
13 of it from the prosecutor assigned to the case. The prosecutor will be given
14 reasonable time to redact and to provide a redacted copy of the material to the
15 defense attorney. Any issues arising from this procedure will be brought to the
16 attention of the judge assigned to hear the case pursuant to Pima County Local
17 Rule 1.17.

18 IT IS AGREED that defense counsel will take all reasonable steps to
19 ensure that no body camera footage or digital storage device download labeled
20 as "Attorney Only" is ever turned over to an attorney not subject to this
21 Memorandum of Understanding and the updated Administrative Order. Defense
22 counsel with access to Justware will confirm that any attorney receiving "Attorney

1 Only” material pursuant to this Order is subject to this agreement by referencing
2 that attorney’s name record. That portion of the name record for defense counsel
3 will only be editable by Public Defense Services. Attorneys who do not have
4 access to Justware will contact Pima County Attorney’s Office before transferring
5 “Attorney Only” body camera footage or digital storage device downloads, in
6 order to confirm that the receiving attorney is eligible to receive “Attorney Only”
7 material.

8 IT IS AGREED that file names of electronic files containing body camera
9 footage or digital storage device downloads disclosed pursuant to this order shall
10 always be labeled with the words “Attorney Only.” In order to eliminate confusion
11 as to what is being disclosed and who is permitted to view it, the naming protocol
12 used by the Pima County Attorney’s Office for any body camera footage or digital
13 storage device downloads will be:

- 14 1) NAME of person/place associated as the source of the material-
- 15 2) Whether the material is a FULL copy or if it has been CROPPED-
- 16 3) The type of material, such as body worn camera (BWC) or other device
17 such as a CAMERA, PHONE, or COMPUTER, preceded by “UFED” if it is
18 was obtained using a Universal Forensic Extraction Device
- 19 4) Who is the intended audience, specifically ATTORNEY ONLY,
20 DEFENDANT, or EXHIBIT-
- 21 5) Whether material has been muted, obscured, or altered in any way with
22 REDACTED or with UNREDACTED if redaction was not necessary.

1 IT IS AGREED that if more than one version from the same source exists,
2 additional numbers and/or letters will be added to the 1) NAME field and/or 3)
3 type of material field. Defense attorneys and their staff shall not remove this label
4 from the electronic file name. If the Pima County Attorney's Office determines
5 that materials initially disclosed as "Attorney Only" do not require redaction, the
6 materials will be re-disclosed labeled with "Defendant" and "Unredacted"
7 pursuant to the above referenced naming protocol. In the event that the file name
8 cannot be changed by the Pima County Attorney's Office, any such file will be
9 placed in a separate folder named using this naming protocol. Proper examples
10 of the naming protocol would include:

11 Ofc. Parker-full-bwc-Attorney Only-redacted

12 Ofc. Parker-cropped-bwc-Defendant-redacted

13 Ofc. Jones-cropped-bwc-Exhibit-unredacted

14 Susan Smith-full-UFED phone-Attorney Only-unredacted

15 Unknown-full-UFED phone-Attorney Only-unredacted

16 Supermarket-cropped-security video1-Defendant-unredacted

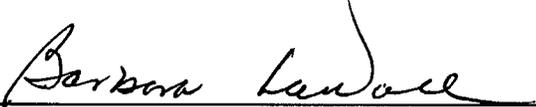
17 IT IS AGREED that the Pima County Attorney's Office will take all
18 reasonable steps to redact any information or data obtained from the Arizona
19 Criminal Justice Information System (ACJIS) prior to disclosure under this Order.
20 Should defense counsel become aware that such data appears in the material
21 disclosed, defense counsel shall not view that data, will immediately notify the
22 Pima County Attorney's Office, and will return and/or delete that material.

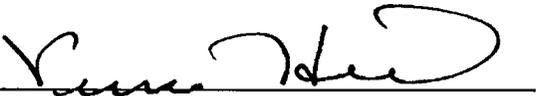
1 IT IS AGREED that disclosure of "Attorney Only" material constitutes
2 disclosure for purposes of Rule 15.8 of the Arizona Rules of Criminal Procedure,
3 unless the defendant makes a request for a redacted copy prior to the expiration
4 of any plea offer, in which case the disclosure of "Attorney Only" material would
5 not constitute disclosure for the purposes of Rule 15.8.

6 IT IS REQUESTED THAT THE COURT ISSUE AN ADMINISTRATIVE
7 ORDER that all parties shall comply with this Memorandum of Understanding.

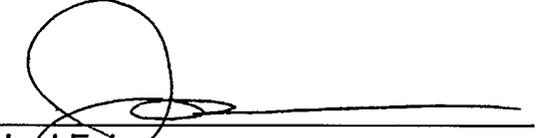
8 DATED this ____ day of _____, 2020

9
10
11
12
13
14
15
16
17
18
19
20
21
22


Barbara LaWall
Pima County Attorney


Verne Hill
Director, Office of Court Appointed Counsel

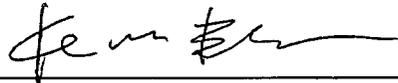

Dean Brault
Director, Public Defense Services


Joel Feinman
Pima County Public Defender

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22



James Fullin
Pima County Legal Defender



Kevin Burke
Pima County Legal Advocate

1 APPENDIX 1

2 This Order Shall Not Apply To The Following Offenses:

- 3 1. Cases involving any offense under A.R.S. Title 13, Chapter 14 (Sexual
4 Offenses);
- 5 2. Cases involving any offense under A.R.S. Title 13, Chapter 32
6 (Prostitution);
- 7 3. Cases involving sexual exploitation of a minor under A.R.S. §§ 13-3552,
8 13-3553, 13-3554, or 13-3560;
- 9 4. Cases involving domestic violence under A.R.S. §§ 13-3601.01, 13-
10 3601.02, 13-3602, child abuse under A.R.S. § 13-3623, or unlawful sale or
11 purchase of children under A.R.S. § 13-3625, unless:
- 12 a. The incident or incidents occurred at a residence shared by the
13 victim(s) and the Defendant, AND
- 14 b. The body camera footage or digital storage device downloads to be
15 disclosed were taken only at that shared residence and do not
16 identify any new location or residence of any victim;
- 17 5. Cases involving Criminal Syndicates, Criminal Street Gangs, Human
18 Smuggling Organizations, or Criminal Enterprises;

19 For each offense listed in this Appendix, the exemption from disclosure
20 applies to preparatory offenses under A.R.S. §§ 13-1001, 13-1002, 13-1003,
21 and 13-1004 as well as completed offenses.

22