

# Lawmakers should make it easier for body cam footage to be seen (and some thoughts on a new Chief of Police)

The Bethlehem Gadfly Jacob Blake, Police September 13, 2020

 *Latest in a series of posts about the Bethlehem Police* 

One hopes this issue is on the agenda when we discuss possible improvements in the way we do public safety. Perhaps a resolution to the state legislature?

And Gadfly's been thinking about how Chief DiLuzio's retirement might affect such discussions about the way we do public safety. Gadfly the Whiner has been looking for quicker action. Will the fact now of an interim chief further delay such discussions? Will some voices want to delay till a new Chief is hired, perhaps making his or her views on changes part of the interview process? Hmmm, let's think further about a new Chief — **hire from inside or outside?** Is interim Chief Meixell a "natural" choice for the permanent position, or will we want to go outside the department? And then there's Capt ("Dr.") Michelle Kott — female and now leading the professional standards division in the department, certainly an area on which attention needs to be focused these days. Interesting time ahead!

*selections from Paul Muschick, "Daniel Prude's death illustrates why police videos should be public." Morning Call, September 12, 2020.*

The moments that led to the death of Daniel Prude remained a mystery for six months. He died after struggling with police in Rochester.

It turns out, Prude was held to the pavement with a hood over his head. That was revealed this week only after officer body camera video was released.

His final moments may have remained a mystery forever, if he had died after struggling with police in Pennsylvania.

That's because it's much more difficult to obtain body cam footage here.

Unlike in New York state, body cam and other police videos are not subject to Pennsylvania's public records law, the Right-to-Know Law.

Our lawmakers should make it easier for these recordings to be seen by the public.

The release of audio and video recordings are governed by a 2017 law that authorized police to wear body cameras. That law allows police and other law enforcement agencies to withhold recordings for many reasons.

Agencies can deny a request if a recording contains potential evidence in a criminal matter; information pertaining to an investigation; or confidential or victim information, and if "reasonable redaction" wouldn't remove that information.

Those are broad categories, which makes it rare for footage to be released.

It's not even easy to ask for a video.

You can't request one via email, letter or fax. The law requires requests to be made only by "personal delivery" or certified mail. If a video was recorded inside a residence, the request must identify everyone who was present, unless their identities are unknown and aren't "reasonably ascertainable."

And you don't have much time to ask — only 60 days from when the recording occurred.

There is an appeal process if a police department refuses to release a video. But there's a financial hurdle to take that road. It costs \$125 to file an appeal with the county court.

Legislation is pending that could make it easier to obtain police videos in Pennsylvania. Unfortunately, it has not been considered since it was introduced nearly a year ago.

House Bill 1903 by Rep. Dan Miller, D-Allegheny, would make videos not recorded by body cameras, such as dashboard cameras, subject to the Right-to-Know Law.

Regarding body cam videos, the bill would give people 180 days to request them, and allow requests to be made by regular mail, email and fax. It would change the appeal process, giving jurisdiction to the state Office of Open Records instead of county court.

That's important, because it removes the matter from the criminal justice system.

Miller said in a legislative memo that allowing body cameras was a positive step toward protecting police and citizens, but the "lack of transparency" undercuts the law's benefits.

It does. It's time for Pennsylvania to change that.