

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 560 Session of 2017

INTRODUCED BY GREENLEAF, BREWSTER, BROOKS, RESCHENTHALER, VULAKOVICH, SCHWANK, COSTA, MENSCH, MCGARRIGLE, HAYWOOD, RAFFERTY, HUGHES, BROWNE AND WARD, MARCH 27, 2017

SENATOR GREENLEAF, JUDICIARY, AS AMENDED, MARCH 28, 2017

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and
2 Judicial Procedure) of the Pennsylvania Consolidated
3 Statutes, in wiretapping and electronic surveillance, further
4 providing for definitions, for exceptions to prohibition of
5 interception and disclosure of communications and for
6 exceptions to prohibitions in possession, sale, distribution,
7 manufacture or advertisement of electronic, mechanical or
8 other devices; and providing for recordings by law
9 enforcement officers.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. The definition of "oral communication" in section
13 5702 of Title 18 of the Pennsylvania Consolidated Statutes is
14 amended to read:

15 § 5702. Definitions.

16 As used in this chapter, the following words and phrases
17 shall have the meanings given to them in this section unless the
18 context clearly indicates otherwise:

19 * * *

20 "Oral communication." Any oral communication uttered by a
21 person possessing an expectation that such communication is not

1 subject to interception under circumstances justifying such
2 expectation. The term does not include [any electronic
3 communication.] the following:

4 (1) An electronic communication.

5 (2) A communication made in the presence of a law
6 enforcement officer on official duty who is in uniform or
7 otherwise clearly identifiable as a law enforcement officer
8 and the law enforcement officer is using an electronic,
9 mechanical or other device which has been approved under
10 section 5706(b)(4) (relating to exceptions to prohibitions in
11 possession, sale, distribution, manufacture or advertisement
12 of electronic, mechanical or other devices) for the purpose
13 of recording the communication.

14 * * *

15 Section 2. Sections 5704(13), (14) and (16) and 5706(b) of
16 Title 18 are amended to read:

17 § 5704. Exceptions to prohibition of interception and
18 disclosure of communications.

19 It shall not be unlawful and no prior court approval shall be
20 required under this chapter for:

21 * * *

22 (13) An investigative officer, a law enforcement officer
23 or employees of the Department of Corrections for State
24 correctional facilities to intercept, record, monitor or
25 divulge any [telephone calls] oral communication, electronic
26 communication or wire communication from or to an inmate in a
27 facility under the following conditions:

28 (i) The Department of Corrections shall adhere to
29 the following procedures and restrictions when
30 intercepting, recording, monitoring or divulging any

1 [telephone calls] oral communication, electronic
2 communication or wire communication from or to an inmate
3 in a State correctional facility as provided for by this
4 paragraph:

5 (A) Before the implementation of this paragraph,
6 all inmates of the facility shall be notified in
7 writing that, as of the effective date of this
8 paragraph, their [telephone conversations] oral
9 communication, electronic communication or wire
10 communication may be intercepted, recorded, monitored
11 or divulged.

12 (B) Unless otherwise provided for in this
13 paragraph, after intercepting or recording [a
14 telephone conversation] an oral communication,
15 electronic communication or wire communication, only
16 the superintendent, warden or a designee of the
17 superintendent or warden or other chief
18 administrative official or his or her designee, or
19 law enforcement officers shall have access to that
20 recording.

21 (C) The contents of an intercepted and recorded
22 [telephone conversation] oral communication,
23 electronic communication or wire communication shall
24 be divulged only as is necessary to safeguard the
25 orderly operation of the facility, in response to a
26 court order or in the prosecution or investigation of
27 any crime.

28 (ii) So as to safeguard the attorney-client
29 privilege, the Department of Corrections shall not
30 intercept, record, monitor or divulge [any conversation]

1 an oral communication, electronic communication or wire
2 communication between an inmate and an attorney.

3 (iii) [Persons who are calling in to a facility to
4 speak to an inmate shall be notified that the call may be
5 recorded or monitored.] Persons who are engaging in an
6 oral communication, electronic communication or wire
7 communication with an inmate shall be notified that the
8 communication may be recorded or monitored. Notice may be
9 provided by any means reasonably designed to inform the
10 non-inmate party of the recording or monitoring.

11 (iv) The Department of Corrections shall promulgate
12 guidelines to implement the provisions of this paragraph
13 for State correctional facilities.

14 (14) An investigative officer, a law enforcement officer
15 or employees of a county correctional facility to intercept,
16 record, monitor or divulge [any telephone calls] an oral
17 communication, electronic communication or wire communication
18 from or to an inmate in a facility under the following
19 conditions:

20 (i) The county correctional facility shall adhere to
21 the following procedures and restrictions when
22 intercepting, recording, monitoring or divulging [any
23 telephone calls] an oral communication, electronic
24 communication or wire communication from or to an inmate
25 in a county correctional facility as provided for by this
26 paragraph:

27 (A) Before the implementation of this paragraph,
28 all inmates of the facility shall be notified in
29 writing that, as of the effective date of this
30 paragraph, their [telephone conversations] oral

1 communications, electronic communications or wire
2 communications may be intercepted, recorded,
3 monitored or divulged.

4 (B) Unless otherwise provided for in this
5 paragraph, after intercepting or recording [a
6 telephone conversation] an oral communication,
7 electronic communication or wire communication, only
8 the superintendent, warden or a designee of the
9 superintendent or warden or other chief
10 administrative official or his or her designee, or
11 law enforcement officers shall have access to that
12 recording.

13 (C) The contents of an intercepted and recorded
14 [telephone conversation] oral communication,
15 electronic communication or wire communication shall
16 be divulged only as is necessary to safeguard the
17 orderly operation of the facility, in response to a
18 court order or in the prosecution or investigation of
19 any crime.

20 (ii) So as to safeguard the attorney-client
21 privilege, the county correctional facility shall not
22 intercept, record, monitor or divulge [any conversation]
23 an oral communication, electronic communication or wire
24 communication between an inmate and an attorney.

25 (iii) [Persons who are calling into a facility to
26 speak to an inmate shall be notified that the call may be
27 recorded or monitored.] Persons who are engaging in an
28 oral communication, electronic communication or wire
29 communication with an inmate shall be notified that the
30 communication may be recorded or monitored. Notice may be

1 provided by any means reasonably designed to inform the
2 non-inmate party of the recording or monitoring.

3 (iv) The superintendent, warden or a designee of the
4 superintendent or warden or other chief administrative
5 official of the county correctional system shall
6 promulgate guidelines to implement the provisions of this
7 paragraph for county correctional facilities.

8 * * *

9 [(16) A law enforcement officer, whether or not
10 certified under section 5724 (relating to training), acting
11 in the performance of his official duties to intercept and
12 record an oral communication between individuals in
13 accordance with the following:

14 (i) At the time of the interception, the oral
15 communication does not occur inside the residence of any
16 of the individuals.

17 (ii) At the time of the interception, the law
18 enforcement officer:

19 (A) is in uniform or otherwise clearly
20 identifiable as a law enforcement officer;

21 (B) is in close proximity to the individuals'
22 oral communication;

23 (C) is using an electronic, mechanical or other
24 device which has been approved under section 5706(b)

25 (4) (relating to exceptions to prohibitions in
26 possession, sale, distribution, manufacture or
27 advertisement of electronic, mechanical or other
28 devices) to intercept the oral communication; and

29 (D) informs, as soon as reasonably practicable,
30 the individuals identifiably present that he has

1 intercepted and recorded the oral communication.

2 (iii) As used in this paragraph, the term "law
3 enforcement officer" means a member of the Pennsylvania
4 State Police or an individual employed as a police
5 officer who holds a current certificate under 53 Pa.C.S.
6 Ch. 21 Subch. D (relating to municipal police education
7 and training).]

8 * * *

9 § 5706. Exceptions to prohibitions in possession, sale,
10 distribution, manufacture or advertisement of
11 electronic, mechanical or other devices.

12 * * *

13 (b) Responsibility.--

14 (1) Except as provided under paragraph (2), the Attorney
15 General and the district attorney or their designees so
16 designated in writing shall have the sole responsibility to
17 buy, possess and loan any electronic, mechanical or other
18 device which is to be used by investigative or law
19 enforcement officers for purposes of interception as
20 authorized under section 5704(2), (5) and (12) (relating to
21 exceptions to prohibition of interception and disclosure of
22 communications), 5712 (relating to issuance of order and
23 effect), 5713 (relating to emergency situations) or 5713.1
24 (relating to emergency hostage and barricade situations).

25 (2) The division or bureau or section of the
26 Pennsylvania State Police responsible for conducting the
27 training in the technical aspects of wiretapping and
28 electronic surveillance as required by section 5724 (relating
29 to training) may buy and possess any electronic, mechanical
30 or other device which is to be used by investigative or law

1 enforcement officers for purposes of interception as
2 authorized under section 5704(2), (5) and (12), 5712, 5713 or
3 5713.1 for the purpose of training. However, any electronic,
4 mechanical or other device bought or possessed under this
5 provision may be loaned to or used by investigative or law
6 enforcement officers for purposes of interception as
7 authorized under section 5704(2), (5) and (12), 5712, 5713 or
8 5713.1 only upon written approval by the Attorney General or
9 a deputy attorney general designated in writing by the
10 Attorney General or the district attorney or an assistant
11 district attorney designated in writing by the district
12 attorney of the county wherein the suspected criminal
13 activity has been, is or is about to occur.

14 (3) With the permission of the Attorney General or a
15 district attorney who has designated any supervising law
16 enforcement officer for purposes of interceptions as
17 authorized under section 5713.1, the law enforcement agency
18 which employs the supervising law enforcement officer may
19 buy, possess, loan or borrow any electronic, mechanical or
20 other device which is to be used by investigative or law
21 enforcement officers at the direction of the supervising law
22 enforcement officer solely for the purpose of interception as
23 authorized under sections 5704(12) and 5713.1.

24 (4) The Pennsylvania State Police shall annually
25 establish equipment standards for any electronic, mechanical
26 or other device which is to be used by law enforcement
27 officers for purposes of [interception as authorized under
28 section 5704(16).] recording a communication, other than an
29 oral communication, made in the presence of the law
30 enforcement officer on official duty who is in uniform or

1 otherwise clearly identifiable as a law enforcement officer.
2 The equipment standards shall be published annually in the
3 Pennsylvania Bulletin.

4 (5) The Pennsylvania State Police shall annually
5 establish and publish standards in the Pennsylvania Bulletin
6 for the secure onsite and offsite storage of an audio
7 recording or video recording made in accordance with
8 paragraph (4). The standards shall comply with the Federal
9 Bureau of Investigation's Criminal Justice Information
10 Services (CJIS) Security Policy.

11 (6) A vendor to law enforcement agencies which stores
12 data related to audio recordings and video recordings shall,
13 at a minimum, comply with the standards set forth by the
14 Pennsylvania State Police under paragraphs (4) and (5). Law
15 enforcement agencies under contract with a vendor for the
16 storage of data before the effective date of this paragraph
17 shall comply with paragraphs (4) and (5) and this paragraph
18 upon expiration or renewal of the contract

19 Section 3. Title 42 is amended by adding a chapter to read:

20 CHAPTER 67A

21 RECORDINGS BY LAW ENFORCEMENT OFFICERS

22 Sec.

23 67A01. Definitions.

24 67A02. Scope of chapter.

25 67A03. Requests for law enforcement audio recordings or video
26 recordings.

27 67A04. Potential evidence in a criminal matter.

28 67A05. Duties of law enforcement agencies.

29 67A06. Petition for approval.

30 67A07. Audio recording or video recording policies.

- 1 67A08. Construction.
- 2 67A09. Applicability.
- 3 § 67A01. Definitions.

4 The following words and phrases when used in this chapter
5 shall have the meanings given to them in this section unless the
6 context clearly indicates otherwise:

7 "Confidential information." Any of the following:

8 (1) The identity of a confidential source.

9 (2) The identity of a suspect ~~who has not been charged~~ <--
10 ~~with an offense and~~ OR WITNESS to whom confidentiality has <--
11 been ensured.

12 (3) Information made confidential by law or court order.

13 "Information pertaining to an investigation." An audio
14 recording or video recording which contains ~~the~~ any of the <--
15 following:

16 (1) Complaints or depictions of criminal conduct,
17 including all actions or statements made before or after the
18 criminal conduct that are part of or relate to the same
19 incident or occurrence.

20 (2) Upon disclosure, information that would:

21 (i) REVEAL THE INSTITUTION, PROGRESS OR RESULT OF A <--
22 CRIMINAL INVESTIGATION;

23 (II) deprive an individual of the right to a fair
24 trial or an impartial adjudication;

25 ~~(iii)~~ (III) impair the ability of the Attorney <--
26 General, a district attorney or a law enforcement officer
27 to locate a defendant or codefendant;

28 ~~(iii)~~ (IV) hinder the ability of the Attorney <--
29 General, a district attorney or a law enforcement officer
30 to secure an arrest, prosecution or conviction; or

1 ~~(iv)~~ (V) endanger the life or physical safety of an <--
2 individual.

3 "Law enforcement agency." An agency that employs a law
4 enforcement officer.

5 "Victim." An individual who resides in this Commonwealth and
6 was subjected to an act that was committed by another
7 individual, including a juvenile, which constitutes any of the
8 following:

9 (1) An offense committed under any of the following:

10 (i) The act of April 14, 1972 (P.L.233, No.64),
11 known as The Controlled Substance, Drug, Device and
12 Cosmetic Act.

13 (ii) 18 Pa.C.S. (relating to crimes and offenses).

14 (iii) 30 Pa.C.S. § 5502 (relating to operating
15 watercraft under influence of alcohol or controlled
16 substance).

17 (iv) 30 Pa.C.S. § 5502.1 (relating to homicide by
18 watercraft while operating under influence).

19 (v) 75 Pa.C.S. § 3732 (relating to homicide by
20 vehicle).

21 (vi) 75 Pa.C.S. § 3735 (relating to homicide by
22 vehicle while driving under influence).

23 (vii) 75 Pa.C.S. § 3735.1 (relating to aggravated
24 assault by vehicle while driving under the influence).

25 (viii) 75 Pa.C.S. § 3742 (relating to accidents
26 involving death or personal injury).

27 (ix) 75 Pa.C.S. Ch. 38 (relating to driving after
28 imbibing alcohol or utilizing drugs).

29 (x) Any other Federal or State law.

30 (2) An offense similar to an offense listed under

1 paragraph (1) committed outside of this Commonwealth.

2 (3) An offense which would constitute grounds for the
3 issuance of relief under Chapter 62A (relating to protection
4 of victims of sexual violence or intimidation) or 23 Pa.C.S.
5 Ch. 61 (relating to protection from abuse).

6 (4) An offense against a resident of this Commonwealth
7 which is an act of international terrorism.

8 "Victim information." Information that would disclose the
9 identity or jeopardize the safety of a victim.

10 § 67A02. Scope of chapter.

11 Except as otherwise provided under this chapter, the act of
12 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law,
13 shall not apply to an audio recording or a video recording by a
14 law enforcement officer under this chapter, including
15 communications between a law enforcement agency and the Attorney
16 General or the district attorney with jurisdiction. An audio
17 recording or video recording under this chapter made inside of a
18 facility owned or operated by a law enforcement agency shall not
19 be subject to public requests and shall be produced to the
20 public at the discretion of the Attorney General, the district
21 attorney with jurisdiction or the law enforcement
22 agency. Nothing in this section shall be construed to alter the
23 responsibilities of parties to criminal or civil litigation to
24 exchange information in accordance with the applicable rules of
25 procedure.

26 § 67A03. Requests for law enforcement audio recordings or video
27 recordings.

28 The following shall apply:

29 (1) An individual who requests an audio recording or
30 video recording made by a law enforcement agency shall,

1 within ~~30~~ 60 days of the date when the audio recording or
 2 video recording was made, serve a written request to the
 3 individual who is designated as the open-records officer for
 4 the law enforcement agency under section 502 the act of
 5 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know
 6 Law. Service is effective upon receipt of the written request
 7 by the open-records officer.

8 (2) The request shall specify with particularity the
 9 incident or event that is the subject of the audio recording
 10 or video recording, including the date, time and location of
 11 the incident or event.

12 (3) If the incident or event that is the subject of the
 13 audio recording or video recording occurred inside a
 14 residence, the request shall specify each individual who was
 15 present at the time of the audio recording or video recording
 16 or, if the identify of an individual is unknown, describe the
 17 individual.

18 § 67A04. Potential evidence in a criminal matter.

19 (a) Notice.--If a law enforcement agency determines that an
 20 audio recording or video recording contains potential evidence
 21 in a criminal matter, information pertaining to a criminal
 22 investigation or a matter in which a criminal charge has been
 23 filed, confidential information or victim information, the law
 24 enforcement agency shall certify the determination in writing.
 25 The written certification shall state that no redaction of the
 26 audio recording or video recording will safeguard potential
 27 evidence, information pertaining to an investigation,
 28 confidential information or victim information. If a memorandum
 29 of understanding under subsection (b) is in effect between the
 30 law enforcement agency and the Attorney General or the district

1 attorney with jurisdiction, the law enforcement agency shall
2 provide the written certification to the Attorney General or the
3 district attorney with jurisdiction.

4 (b) Agreement.--A law enforcement agency may enter into a
5 memorandum of understanding with the Attorney General or the
6 district attorney with jurisdiction to ensure consultation
7 regarding the reviewing audio recordings or video recordings in
8 order to make a determination under subsection (c).

9 (c) Certification.--The Attorney General or the district
10 attorney with jurisdiction may, after receiving the written
11 certification under subsection (a), make a determination that a
12 recording requested under section 67A03 (relating to requests
13 for law enforcement audio recordings or video recordings)
14 contains potential evidence in a criminal matter, information
15 pertaining to an investigation, confidential information or
16 victim information and that no redaction of the recording will
17 safeguard the potential evidence, information pertaining to an
18 investigation, confidential information or victim information.

19 (d) Grounds for denial.--A request under section 67A03 shall
20 be denied if the Attorney General or the district attorney with
21 jurisdiction makes a determination under subsection (c).

22 § 67A05. Duties of law enforcement agencies.

23 (a) Disclosure.--A law enforcement agency that receives a
24 request under section 67A03 (relating to requests for law
25 enforcement audio recordings or video recordings) for an audio
26 recording or video recording shall provide the audio recording
27 or video recording or explain why the request is denied within
28 60 days of receiving the request, unless the requester and law
29 enforcement agency agree to a longer time period.

30 (b) Denials.--The request under section 67A03 shall be

1 considered denied if the law enforcement agency does not provide
2 the audio recording or video recording to the requester or
3 explain why the request is denied within the time period
4 specified or agreed to under subsection (a).

5 (c) Preservation.--A law enforcement agency that has
6 received a request for an audio recording or video recording
7 shall preserve the unaltered audio recording or video recording
8 that has been requested for no less than the time periods
9 provided in this chapter for service of and responses to written
10 requests for the production of the audio recording or video
11 recording.

12 (d) Fees.--A law enforcement agency may establish reasonable
13 fees relating to the costs incurred to disclose audio recordings
14 or video recordings. The fees shall be paid by the requesting
15 party at the time of disclosure of the audio recording or video
16 recording.

17 (e) Construction.--Nothing in this section shall be
18 construed to prohibit a law enforcement agency from redacting an
19 audio recording or video recording in order to protect potential
20 evidence in a criminal matter, information pertaining to an
21 investigation, confidential information or victim information.
22 § 67A06. Petition for approval.

23 (a) Petition.--

24 (1) If a request under section 67A03 (relating to
25 requests for law enforcement audio recordings or video
26 recordings) is denied, the requester may file a petition in
27 the court of common pleas with jurisdiction within 30 days of
28 the date of denial.

29 (2) The respondent to a petition filed under this
30 section shall be the entity that denied the request for the

1 audio recording or video recording under section 67A05(a)
2 (relating to duties of law enforcement agencies) unless the
3 request is denied under section 67A05(b), in which case the
4 law enforcement agency that created the audio recording or
5 video recording shall be the respondent.

6 (b) Duties of petitioner.--A petitioner under this section
7 shall have the following duties:

8 (1) The petitioner shall pay a filing fee of \$125.

9 (2) If the incident or event that is the subject of the
10 request occurred inside a residence, the petitioner shall
11 certify that notice of the petition has been served or that
12 service was attempted on each individual who was present at
13 the time of the audio recording or video recording and on the
14 owner and occupant of the residence. Notice shall not be
15 required under this paragraph if the identity of an
16 individual present or the location is unknown or not
17 reasonably ascertainable by the petitioner. Service shall be
18 effective upon receipt from personal delivery or certified
19 mail.

20 (3) The petitioner shall include with the petition a
21 copy of the written request under section 67A03 that was
22 served on the law enforcement agency and any written response
23 by the law enforcement agency to the request.

24 (4) The petitioner shall serve notice of the petition to
25 the respondent on the same date that the petitioner files the
26 petition with the court of common pleas with jurisdiction.

27 (c) Intervention.--The Attorney General or the district
28 attorney who provides certification under section section
29 67A04(c) (relating to potential evidence in a criminal matter)
30 may intervene in a petition filed under this section as

1 necessary and appropriate.

2 (d) Summary dismissal.--It shall be grounds for summary
3 dismissal of a petition filed under this section if:

4 (1) the request to the law enforcement agency under
5 section 67A03 or the filing of the petition under subsection
6 (a) is untimely; OR <--

7 (2) the request to the law enforcement agency failed to
8 describe with sufficient particularity the incident or event
9 that is the subject of the audio recording or video
10 recording, including the date, time and location of the
11 incident or event; or <--

12 ~~(3) the request was denied under section 67A04.~~

13 (e) Approval.--A court of common pleas with jurisdiction may
14 only grant a petition under this section, in whole or in part,
15 and order the disclosure of the audio recording or video
16 recording if the court of common pleas determines that the
17 petitioner has established all of the following by a
18 preponderance of the evidence:

19 (1) The request was not denied under section 67A04,-- <--
20 ~~unless~~ OR THE REQUEST WAS DENIED UNDER SECTION 67A04 AND the <--
21 court of common pleas with jurisdiction determines, WITH <--
22 DEFERENCE GIVEN TO THE ENTITY THAT MADE THE CERTIFICATION
23 UNDER SECTION 67A04, that the denial was arbitrary and
24 capricious.

25 ~~(2) Disclosure of the audio recording or video recording~~ <--
26 ~~would be permissible under the act of February 14, 2008--~~
27 ~~(P.L.6, No.3), known as the Right to Know Law.~~

28 ~~(3)~~ (2) The public interest of disclosing the audio <--
29 recording or video recording or the interest of the
30 petitioner outweighs the interests of the Commonwealth, the

1 law enforcement agency or an individual's interest in
2 nondisclosure. In making a determination under this
3 paragraph, the court of common pleas may consider the
4 public's interest in understanding how law enforcement
5 officers interact with the public, the interests of crime
6 victims and others with respect to safety and privacy and the
7 resources available to review and disclose the audio
8 recording or video recording.

9 § 67A07. Audio recording or video recording policies.

10 (a) Policies.--A municipal law enforcement agency that makes
11 audio recordings or video recordings shall comply with the
12 guidelines established under 18 Pa.C.S. § 5706(b)(4), (5) and
13 (6) (relating to exceptions to prohibitions in possession, sale,
14 distribution, manufacture or advertisement of electronic,
15 mechanical or other devices) and shall establish written
16 policies for the following:

17 (1) The training of law enforcement officers authorized
18 to make audio recordings or video recordings.

19 (2) The time periods when an electronic, mechanical or
20 other device shall be in operation to make audio recordings
21 or video recordings.

22 (3) The proper use, maintenance and storage of the
23 electronic, mechanical or other device to make audio
24 recordings or video recordings, including equipment
25 inspections and audits and procedures to address
26 malfunctioning equipment.

27 (4) The information collected from audio recordings or
28 video recordings, including the information's storage,
29 accessibility and retrieval.

30 (5) Electronic records retention.

1 (6) The use of facial recognition software or programs.

2 (7) A statement that a violation of the agency's policy
3 subjects the violator to the agency's disciplinary policy.

4 (8) Supervisory responsibilities.

5 (b) Review and approval.--The following shall apply:

6 (1) The policies established under subsection (a) shall
7 be submitted for approval to the Pennsylvania Commission on
8 Crime and Delinquency in a format designated by the
9 commission.

10 (2) The commission shall approve and recommend revisions
11 to the policies under subsection (a) in accordance with
12 research findings and the best evidence-based practices in
13 the field of criminal justice.

14 (3) After the commission approves the policies under
15 subsection (a), the law enforcement agency shall make the
16 policy available on the municipality's publicly accessible
17 Internet website.

18 (4) The law enforcement agency shall resubmit the
19 written policies to the Pennsylvania Commission on Crime and
20 Delinquency when changes to the policies are proposed and
21 every three years after the last approval of the policies by
22 the Pennsylvania Commission on Crime and Delinquency,
23 whichever occurs first.

24 (c) Technical assistance.--The commission shall provide
25 training, funding and technical assistance to law enforcement
26 agencies regarding the use of electronic, mechanical or other
27 devices to make audio and video recordings. In order to receive
28 training, funding and technical assistance from the commission,
29 a law enforcement agency must have written policies approved
30 under this section by the commission.

1 § 67A08. Construction.

2 The following shall apply:

3 (1) Nothing in this chapter shall be construed to alter
4 the responsibilities of parties to any criminal or civil
5 litigation to exchange information in accordance with
6 applicable rules of procedure.

7 (2) Nothing in this chapter shall be construed to
8 preclude the Attorney General, a district attorney or a law
9 enforcement agency from disclosing an audio recording or
10 video recording in the absence of a written request or beyond
11 the time periods stated in this chapter, but the Attorney
12 General and the district attorney with jurisdiction must
13 agree to the disclosure in writing if:

14 (i) the audio recording or video recording contains
15 potential evidence in a criminal matter, information
16 pertaining to an investigation, confidential information
17 or victim information; and

18 (ii) no redaction of the audio recording or video
19 recording will safeguard the potential evidence,
20 information pertaining to an investigation, confidential
21 information or victim information.

22 § 67A09. Applicability.

23 The provisions of this chapter shall not apply if the
24 provisions conflict with any other Federal or State law.

25 Section 4. This act shall take effect in 60 days.