

COURTROOM D

STANDING ORDER NO. 4

(Preservation & Production of Video & Audio Recordings)

The Court **FINDS**, in general, that **video and/or audio recordings of a defendant** created by investigative, law enforcement or other public agencies responsible for investigating and initiating the prosecution of offenses under the **Illinois Vehicle Code** (625 ILCS 5/1-100, *et seq.*) **at or near the time a traffic stop, detention and/or arrest occur** are or may be relevant and material to factual and legal issues routinely presented in **Courtroom D**. *People v. Kladis*, 2011 IL 110920, ¶¶28-29 (“... the routine video recording of traffic stops has now become an integral part of those encounters, objectively documenting what takes place by capturing the conduct and the words of both parties ... this important and relevant evidence falls within the scope of materials held to be discoverable ...”); *see also People v. Tsiamas*, 2015 IL App (2d) 140859, ¶¶9-16.

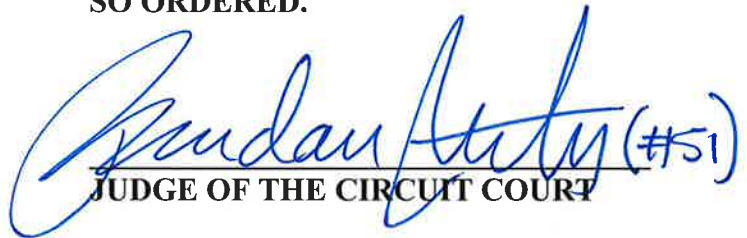
This Court therefore **FINDS** that such **audio and/or video recording of a defendant and/or any vehicle the defendant occupied at or near the time a traffic stop, traffic detention and/or traffic arrest occur** constitute “discovery” for purposes of pre-disposition criminal cases pending in **Courtroom D**, and **may** also constitute relevant and material exculpatory and/or impeachment evidence. *See, e.g.* 720 ILCS 5/14-3(h-15); *Kladis*, 2011 IL 110920, ¶¶28-29; *Brady v. Maryland*, 373 U.S. 83 (1963); *Giglio v. United States*, 405 U.S. 150 (1972); *Kyles v. Whitley*, 514 U.S. 419, 437 (1995); *Tsiamas* at ¶¶9-16. Accordingly, the Court **ORDERS** as follows:

1. Effective upon the **first to occur** of: (a) the arrest and detention of the defendant for an alleged violation of the **Illinois Vehicle Code** (“**IVC**”); or (b) the filing by the State of a Uniform Traffic or Conservation Citation/Complaint (charging a misdemeanor offense), a Criminal Complaint, an Information and/or the return by a Grand Jury of a Bill of Indictment charging alleged violation(s) of the **IVC** (whichever occurs first); **the State shall insure the preservation of any video and/or audio recordings of the defendant** created by investigative, law enforcement or other public agencies responsible for investigating and initiating the arrest and/or prosecution of the charged defendant; and
2. The State shall voluntarily produce to defense counsel (or to the defendant, if the defendant has made a knowing and voluntary waiver of counsel) **as part of its initial discovery disclosures** a digital video disk or disks (“**DVD**”) and/or a compact disk or disks (“**CD**”) containing **the video and/or audio recordings of the defendant** created by investigative, law enforcement or other public agencies responsible for investigating and initiating the arrest and/or prosecution of the charged defendant pursuant to the **IVC**; and
3. Absent good cause shown by the State in a **written** motion for an extension of time, the State shall provide its initial discovery disclosures (**including** a CD or DVD containing **video and/or audio recordings of the defendant**) by no later than the **first court date following the defendant’s initial arraignment** or sixty (60) days following the date of the alleged offense, **whichever occurs later**.

4. Any written motion for an extension of time filed pursuant to this paragraph shall affirmatively state: **(a)** whether a video and/or audio recording of the defendant was created and preserved; **(b)** the specific facts requiring an extension; and **(c)** the expected date upon which a CD or DVD containing the video and/or audio recording(s) of the defendant will be produced to the defense.
5. For purposes of this **Standing Order No. 4**, “the State” means the Winnebago County State’s Attorney’s Office, along with each law enforcement agency that issues citations, files criminal complaints or otherwise presents cases to the Winnebago County State’s Attorney’s Office for possible prosecution under the **IVC**. This Standing Order No. 4 does not apply to “petty” or “business class” offenses pending in **Courtroom D**; it applies only to cases charged as misdemeanors or felonies.
6. Nothing in this **Standing Order No. 4** shall be construed as a substitute for, or as a limitation upon, any defendant or defense counsel’s right to file written motions for Disclosure to the Accused pursuant to the applicable Rules as to Discovery in Criminal Cases or to issue subpoenas seeking relevant materials. *See* IL S.Ct. Rules 411-417.
7. **This Standing Order No. 4 applies to all cases charged under the IVC in Courtroom D with an offense or arrest date occurring on or after December 5, 2016.**

SO ORDERED.

Entered: 09/15/20

 (#51)
JUDGE OF THE CIRCUIT COURT

Amended: 09/15/2020