

## Table of Contents

Alabama .....	1
Alaska .....	3
Arizona.....	4
Arkansas.....	7
California .....	8
Colorado.....	11
Connecticut .....	13
Delaware .....	16
Florida.....	18
Georgia.....	21
Hawaii.....	23
Idaho .....	25
Illinois .....	26
Indiana .....	29
Iowa .....	31
Kansas.....	33
Kentucky.....	36
Louisiana.....	38
Maine .....	40
Maryland.....	41
Massachusetts .....	44
Michigan .....	46
Minnesota.....	49

Mississippi .....	51
Missouri .....	53
Montana .....	60
Nebraska .....	61
Nevada .....	63
New Hampshire .....	65
New Jersey .....	68
New Mexico.....	71
New York.....	73
North Carolina .....	75
North Dakota.....	77
Ohio .....	79
Oklahoma.....	81
Oregon .....	84
Pennsylvania .....	86
Rhode Island .....	87
South Carolina .....	89
South Dakota.....	92
Tennessee.....	93
Texas.....	95
Utah.....	99
Vermont .....	101
Virginia .....	103
Washington .....	105
West Virginia.....	107

Wisconsin.....	108
Wyoming .....	110
New York, NY .....	111
Los Angeles, CA.....	114
Chicago, IL .....	116
Dallas, TX.....	118
Houston, TX.....	121
Philadelphia, PA .....	123
Miami, FL .....	125
Atlanta, GA.....	127
Boston, MA.....	129
San Francisco, CA .....	130
Phoenix, AZ .....	132
Detroit, MI .....	135
Seattle, WA.....	137
Minneapolis, MN .....	139
San Diego, CA .....	141

<b>Alabama</b>	
No statute or proposal relevant to body camera videos was found. Various Alabama municipalities are obtaining body cameras, but there is no mention of any regulations or policies.	
<b>Collection</b>	<ul style="list-style-type: none"> <li>• None.</li> </ul>
<b>Retention</b>	<ul style="list-style-type: none"> <li>• None.</li> </ul>
<b>Exemption</b>	<ul style="list-style-type: none"> <li>• None.</li> </ul>
<b>Dashcam Exemptions</b>	<ul style="list-style-type: none"> <li>• The Alabama Open Records Law, Al. Code Al. Code §36-12-40 et seq., exempts from disclosure records “relating to, or having an impact upon, the security or safety of persons . . . the public disclosure of which could reasonably be expected to be detrimental to the public safety or welfare, and records the disclosure of which would otherwise be detrimental to the best interests of the public . . . .”</li> <li>• The Alabama Code § 12-21-3.1(b) exempts law enforcement investigative reports, recordings, and related material from public records requests.</li> </ul>
<b>Links</b>	<ul style="list-style-type: none"> <li>• Carol Robinson, “Birmingham police body cameras bring drop in use of force, citizen complaints,” Advance Digital (Sept. 14, 2015), available at <a href="http://www.al.com/news/birmingham/index.ssf/2015/09/birmingham_police_body_cameras_1.html">www.al.com/news/birmingham/index.ssf/2015/09/birmingham_police_body_cameras_1.html</a></li> <li>• Ron Harris, “Alabama State Troopers equipped with new body cameras,” Daily Mountain Eagle (May 30, 2015), available at <a href="http://alisondb.legislature.state.al.us/alison/codeofalabama/1975/36-12-40.htm">http://alisondb.legislature.state.al.us/alison/codeofalabama/1975/36-12-40.htm</a></li> <li>• Rebecca Burylo, “Montgomery officers to get high-tech body cameras,” MONTGOMERY ADVERTISER (Jan. 9, 2015), available at <a href="http://www.montgomeryadvertiser.com/story/news/local/alabama/2015/01/09/montgomery-officers-get-high-tech-body-cameras/21484781/">http://www.montgomeryadvertiser.com/story/news/local/alabama/2015/01/09/montgomery-officers-get-high-tech-body-cameras/21484781/</a></li> <li>• <a href="http://alisondb.legislature.state.al.us/alison/codeofalabama/1975/36-12-40.htm">http://alisondb.legislature.state.al.us/alison/codeofalabama/1975/36-12-40.htm</a></li> <li>• Rebecca Burylo, “Montgomery officers to get high-tech body cameras,” MONTGOMERY ADVERTISER (Jan. 9, 2015), available at <a href="http://www.montgomeryadvertiser.com/story/news/local/alabama/2015/01/09/montgomery-officers-get-high-tech-body-cameras/21484781/">http://www.montgomeryadvertiser.com/story/news/local/alabama/2015/01/09/montgomery-officers-get-high-tech-body-cameras/21484781/</a></li> <li>• Carol Robinson, “Birmingham police will hit the streets with 300 body cameras in May,” Al.com (Apr. 9, 2015),</li> </ul>

available at [http://www.al.com/news/birmingham/index.ssf/2015/04/birmingham\\_police\\_will\\_hit\\_the.html](http://www.al.com/news/birmingham/index.ssf/2015/04/birmingham_police_will_hit_the.html)

## Alaska

There are no current laws or proposed bills relating to police body cameras in Alaska. According to an October 2015 news article, the Alaska State Troopers and Anchorage Police Department are both looking into equipping law enforcement with body cameras and discussing policies related to the storage and utilization of the recordings. A December 2014 news article similarly said, Anchorage Safety Patrol officers “will soon be equipped with on-body video cameras” but that it “will likely be at least a few more years before policies and guidelines are hammered out.”

### Collection

- None.

### Retention

- None.

### Exemption

- None.

### Dashcam Exemptions

- “Records compiled for law enforcement purposes” are exempt under Alaska’s Public Records Act. Alaska Stat. § 40.25.120(6) (2014).

### Links

- <http://www.alaskapublic.org/2016/02/08/dillingham-police-get-a-body-cam-upgrade/>
- <http://www.adn.com/commentary/article/anchorage-and-alaska-should-think-twice-about-police-body-cameras/2015/10/09/>
- Jerzy Shedlock, “Alaska’s police get on board with body camera trend,” Alaska Dispatch News (Oct. 4, 2015), available at [www.adn.com/crime-justice/article/alaskas-police-get-board-body-camera-trend/2015/10/05/](http://www.adn.com/crime-justice/article/alaskas-police-get-board-body-camera-trend/2015/10/05/)
- Devin Kelly, “Anchorage Safety Patrol officers to be equipped with body cameras,” Alaska Dispatch News (Dec. 20, 2014), available at <http://www.adn.com/article/20141220/anchorage-safety-patrol-officers-be-equipped-body-cameras>

## Arizona

Arizona currently does not have any mandatory body camera laws. In 2015, Arizona legislators introduced two bills: HB 2511 and SB 1300. While the original versions of the bills contained substantive provisions on a number of issues concerning body cameras, the Arizona legislature gutted most of the key provisions. HB 2511 died in committee, but ultimately, the Arizona legislature passed, and the state governor signed, SB 1300, establishing a Law Enforcement Officer Body Camera Study Committee, tasked with recommending policies and laws on the use of cameras and body camera recordings. The Committee released its final report on December 31, 2015, but did not adopt any of the seventeen recommendations it considered.

### Collection

- Before the state legislature amended the bill, SB 1300 contained provisions on the collection of body camera videos. The original bill defined “recordable incident” as any incident involving the following: 1) a law enforcement action, 2) the investigation of a suspicious person or subject, 3) the handling of an emotionally disturbed person, 4) the generation of a complaint involving an activity from the foregoing items, 5) any activity that is likely to lead to a criminal or civil court action, 6) any activity in which all of the involved parties consent to the recording, and the recording is not otherwise prohibited by law, or 7) any activity that the law enforcement officer determines should be recorded. The original bill also defined “nonrecordable incidents” as those incidents that are not “recordable incidents.”
- The original language stated that a law enforcement agency “may” employ a body camera that operates on a continuous basis or that is manually turned on or off by the officer.
- If the camera is continuously on, an officer “may” turn off the camera for the following nonrecordable incidents: 1) a private conversation or activity, law enforcement related or not, including personal telephone calls, use of restroom facilities, or conversations with another law enforcement officer or person, or 2) a conversation with a person who is not a suspect or the object of a law enforcement action when the person requests that the body camera be turned off (however, the law enforcement officer must announce on the recording that the body camera is being turned off at the person’s request).
- If the camera is continuously on, the law enforcement “may” turn off the body camera for the following recordable incidents: 1) a conversation between law enforcement officers that relates to the handling of an incident, including information about any involved parties and action options (but the officer must announce on the recording that the camera is being turned off), or 2) when the suspect or object of a law enforcement action makes a request on the recording that the body camera be turned off and the law enforcement officer consents to turning off the body camera and states on the recording that the camera is being turned off (however, the camera would have to be turned back on if the situation expands beyond more than mere discussion and evolves into a law enforcement action, shouting, or violence).
- If a body camera does not operate on a continuous basis, a law enforcement officer must activate the camera during a recordable incident or during any other situation when a person informs the officer that the person is going to submit a

complaint against the officer, or when all parties consent to the recording.

**Retention**

- Before the state house of representatives amended the bill, SB 1300 contained provisions on the retention of body camera recordings. Under the original version of the bill, only recordable incidents may be retained. The bill initially required all recordable incidents to be erased after all legal actions or complaints and any associated appeals relating to the recordable incident are resolved. The bill directed law enforcement agencies to erase all nonrecordable incidents within 60 days after the recording of the incident. The bill would have allowed retention of recordings for law enforcement training purposes, if a recordable incident involved the arrest or handling of an emotionally disturbed person and the law enforcement officers who were involved consent. The provisions concerning retention of recordings did not make it into the final version of the bill.

**Exemption**

- Before SB 1300 was amended, it contained provisions on the release of body camera recordings. In its original form, the bill stated that recordings made by law enforcement officers would not be public records. Recordable incidents would have only been released to the public by a court order or a subpoena. However, a recordable incident could have been released to the public if the incident involved a law enforcement officer’s use or attempted use of deadly physical force and the law enforcement agency consented to the release. These provisions did not make it into the final version of the bill.

**Dashcam Exemptions**

- Arizona does not have a statutory provision expressly exempting dashboard camera videos from FOIA requests. A.R.S. § 41-151.18 defines public records broadly to include “prints or copies of such items produced or reproduced on film or electronic media.” To prevent disclosure, a party would have to rely on generic exemptions (e.g. where disclosure would invade privacy and outweigh the public’s right to know, as further developed by Arizona case law).

**Links**

- <http://www.azcentral.com/story/news/local/phoenix/2016/05/02/phoenix-budget-battle-body-cameras-more-police/83567864/>
- [https://www.buzzfeed.com/salvadorhernandez/widow-of-man-killed-by-arizona-police-fights-for-body-camera?utm\\_term=.ouyP0wz70a#.vq5xgya3gw](https://www.buzzfeed.com/salvadorhernandez/widow-of-man-killed-by-arizona-police-fights-for-body-camera?utm_term=.ouyP0wz70a#.vq5xgya3gw)
- <http://www.utility.com/perch/resources/phoenix-smart-policing-study-sept-2015.pdf>
- <http://journalistsresource.org/studies/government/criminal-justice/body-cameras-police-interact-with-public>
- <http://link.springer.com/article/10.1007/s11292-015-9237-8>
- SB 1300 (Introduced Version), available at <http://www.azleg.gov/legtext/52leg/1r/laws/0161.pdf>
- Attorney General Agency Handbook (Chapter 6 – Public Records), available at

<https://www.azag.gov/sites/default/files/sites/all/docs/agency-handbook/ch06-2013B.pdf>

## Arkansas

Arkansas does not currently have state-wide requirements or pending legislation for collection, retention, or public access for body camera videos. Some local jurisdictions have started equipping or testing body cameras, including: Lowell, Jonesboro, Jacksonville, Ward, Beebe, Glenwood, Austin, and Arkadelphia. Other cities are considering the possibility of using body cameras, including Little Rock and North Little Rock.

### Collection

- None

### Retention

- None

### Exemption

- None

### Dashcam Exemptions

- Records related to “undisclosed investigations by law enforcement agencies of suspected criminal activity” are exempt from Arkansas’s Freedom of Information Act. Ark. Code Ann. § 25-19-105(b)(6).
- Arkansas appears to treat requests for police dashcam videos under the state FOIA (A.C.A. §§ 25-19-101) like requests for other records. In 2007, the state Attorney General’s office issued an opinion in response to an inquiry about whether videotape from a police traffic stop could be withheld as an “employee evaluation or job performance record” or a “personnel record.” The opinion did not take a firm position, but noted that these specific exemptions do not apply categorically to all police videos because “[t]here may be any number of reasons a police department installs video cameras in patrol cars, some of which may not be related to evaluating the performance of employees.”

### Links

- <http://www.nwaonline.com/news/2016/apr/25/sheriff-s-offices-plan-to-buy-body-came/?news-arkansas>
- <http://ualrpublicradio.org/post/arkansas-police-departments-testing-body-cameras>
- <http://www.arkansasmatters.com/story/d/story/body-cams-arrive-for-police-officers-in-lowell/28024/i93QaNp10k2wQbo1h9w03w>
- <http://www.arkansasmatters.com/story/d/story/arkadelphia-police-investing-in-body-cameras-for-o/15249/9SOXk3KxwkuNuXhUPz55vQ>
- <http://www.katv.com/story/27024026/central-arkansas-police-looking-into-body-cameras>
- <http://ag.arkansas.gov/opinions/docs/2007-313.html>

## California

In 2015, the California legislature passed Assembly Bill 69, which added Section 832.18 to the Penal Code and required implementation of “best practices” related to data storage. Senate Bill No. 85 was also passed, and directs the California Highway Patrol to develop a plan for implementing a body-worn camera pilot program; that plan is awaiting final approval.

Currently, there is one bill pending in the legislature: Senate Bill No. 1286 (in committee), which would allow the public to access investigations into peace officer misconduct.

Other bills have failed, including Assembly Bill No. 66 (access to recordings), Senate Bill No. 175 (requiring agencies to develop their own policies), and Assembly Bill No. 85 (establishing grant program for body-worn cameras).

### Collection

- Officers shall not operate a body-worn camera where there is a reasonable expectation of privacy: health facility, medical office, ambulance response (not criminal activity), situations that would risk the safety of a confidential informant or undercover officer.
- Officers shall provide on-camera notice to a person being recorded that a body-worn camera is recording video, and provide the person with the option to request that the body-worn camera be turned off under both of the following circumstances: (i) when the subject of the video is a victim of rape, incest, domestic violence, or other forms of domestic or sexual harm; or (ii) When an officer is at a private residence without a warrant and in a nonemergency situation.
- Officers shall activate the camera when responding to calls for assistance and when performing law enforcement activities in the field, including, but not limited to, traffic or pedestrian stops, pursuits, arrests, searches, seizures, interrogations, and any other investigative or enforcement encounters in the field.
- An officer may stop recording when an arrestee is secured inside a fixed place of detention, as defined in paragraph (3) of subdivision (g) of Section 859.5.
- Officers may review their body camera video before making an initial statement and report except where an officer is involved in an incident involving “a serious use of force” (i.e. death, unconsciousness, impairment/disfigurement, weapon strike to the head, intentional firearm discharge, unintentional firearm discharge if injury results).

### Retention

- Assembly Bill No. 69 requires eight items be addressed by each department using body-worn cameras: 1) Identifying the person (or persons) who will be responsible for taking custody of and downloading the recorded data, 2) establishing when data should be downloaded and the cameras maintained for ongoing use and the tagging and categorizing of the downloaded data, 3) establishing specific measures to prevent tampering, deleting, and copying, including prohibiting unauthorized use, copying or distribution of any data, 4) categorizing and

tagging the downloaded data according to the type of event recorded, 5) stating the length of time the data is to be stored, 6) stating where the recorded data is to be stored, 7) specifying requirements and safeguards if a 3<sup>rd</sup> party vendor will be managing the data storage system, and 8) requiring that recorded data be the property of the recording enforcement agency and shall not be accessed or released for any unauthorized purposes.

- Assembly Bill No. 69 also requires storing non-evidentiary data for at least 60 days, evidentiary data for at least two years, data that may relate to a criminal prosecution for even more time, and the logs of access and deletion be retained permanently.
- When safe and practical, an on-scene supervisor may retrieve a body-worn camera from an officer. The supervisor shall be responsible for ensuring the camera data is uploaded into the desired data processing and collection method.

#### **Exemption**

- All requests for recordings from a body-worn camera shall be processed in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).
- AB 1246: a recording made by a body worn camera is confidential and shall not be disclosed, except that the recording shall be disclosed to the person whose image is recorded by the body worn camera.
- Specific body-camera files created by police are exempted from disclosure pursuant to the California Public Records Act, including files that depict (1) any victim of rape, incest, domestic violence, or child abuse, if the footage relates to any of those incidents, (2) any informant of the law enforcement agency or an undercover peace officer, or (3) a private residence in a nonemergency situation when the officer is there without a warrant.

#### **Dashcam Exemptions**

- Any investigatory, intelligence, or security records and files of any state or local agency for correctional, law enforcement, or licensing purposes can be withheld. Cal. Gov't Code § 6254(f)(Deering 2015).
- Could not find statute or bill on this- but anecdotally it seems that requests under the California Public Records Act are denied.

#### **Links**

- <http://www.kionrightnow.com/news/local-news/grand-jury-investigates-use-of-body-worn-cameras-by-police/40475190>
- <http://www.co.monterey.ca.us/home/showdocument?id=12748>
- <http://reason.com/archives/2015/09/04/hope-for-california-body-camera-bill-fad>
- <http://www.nbcсандiego.com/news/local/California-Lawmakers-Considering-Public-Record-Open-Government-Legislation-371999532.html>
- [http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160AB66](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB66)

- [http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160SB175](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB175)
- [http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160AB1246](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB1246)
- <http://www.washingtonpost.com/news/the-watch/wp/2014/08/19/police-cameras-are-important-but-theyre-useless-without-proper-policies-to-ensure-theyre-used-properly/>

## Colorado

On May 20, 2015, Colorado passed HB 15-1285, legislation providing grants to expand the use of body cameras by police officers, but there are no statewide laws being proposed or on the books regulating use of body cameras. Colorado Republicans have stated that they will oppose any mandatory body camera bill, citing expenses to rural agencies.

The legislation included creation of a study group that was tasked in part with collecting policies and studies concerning body-worn cameras by law enforcement officers, and recommending policies on the use of body cameras, including (a) when the cameras are required to be turned on; (b) when cameras must be turned off; (c) when cameras may be turned off; (d) when notification must be given that a camera is in use; and (e) when consent of another person is required for the continued use of a camera. This study was released in February 2016.

Colorado does not have any laws providing special FOIA treatment for either dashboard camera or body camera footage.

<b>Collection</b>	<ul style="list-style-type: none"><li>• The study group recommended that agencies that use body-worn cameras turn cameras on anytime there is a potential for enforcement and/or a criminal investigation, and any contact that becomes adversarial. Cameras should remain on until the incident has concluded, and also when interacting with crime victims, in schools, in situations where medical/patient privacy is warranted, when an individual wants to anonymously report a crime, or when interacting with a confidential informant.</li><li>• The study group recommends that officers not be required to inform individuals they are being recorded.</li></ul>
<b>Retention</b>	<ul style="list-style-type: none"><li>• None</li></ul>
<b>Exemption</b>	<ul style="list-style-type: none"><li>• Clandestine audio recording of a private conversation is prohibited by state wiretapping and eavesdropping statutes with no special exceptions for law enforcement.</li></ul>
<b>Dashcam Exemptions</b>	<ul style="list-style-type: none"><li>• Criminal justice records may be withheld if disclosure would be contrary to the public interest or is otherwise exempted by law. CRS §§ 24-72-304(1), 305(1), and 305(1.5).</li></ul>
<b>Links</b>	<ul style="list-style-type: none"><li>• <a href="https://cdpsdocs.state.co.us/ors/docs/reports/2016-BWCs-Rpt.pdf">https://cdpsdocs.state.co.us/ors/docs/reports/2016-BWCs-Rpt.pdf</a></li><li>• <a href="http://parkerpd.org/1952/Body-Worn-Cameras">http://parkerpd.org/1952/Body-Worn-Cameras</a></li><li>• <a href="http://www.officer.com/press_release/12182906/the-secret-behind-developing-the-nations-best-body-worn-camera-policy">http://www.officer.com/press_release/12182906/the-secret-behind-developing-the-nations-best-body-worn-camera-policy</a></li><li>• <a href="https://www.policeone.com/police-products/body-cameras/articles/181772006-Colo-police-plan-to-add-grant-funded-body-worn-cameras-this-year/">https://www.policeone.com/police-products/body-cameras/articles/181772006-Colo-police-plan-to-add-grant-funded-body-worn-cameras-this-year/</a></li></ul>

- <http://www.denverpost.com/2015/09/22/denver-police-moving-toward-body-camera-use-for-moonlighting-officers/>
- <https://www.cpr.org/news/story/police-body-camera-bill-moves-forward-colorado-legislature>
- <http://denver.cbslocal.com/2015/03/31/body-cameras-headline-another-day-of-police-oversight-bills/>
- <https://legiscan.com/CO/bill/HB1285/2015>
- <http://denver.cbslocal.com/2015/04/23/police-oversight-bills-hit-choppy-water-at-colorado-capitol/>
- [https://www.sos.state.co.us/pubs/info\\_center/files/CORA\\_Act.pdf](https://www.sos.state.co.us/pubs/info_center/files/CORA_Act.pdf)

## Connecticut

In June 2015, the Connecticut legislature passed and the governor signed House Bill No. 7103 that required the Commissioner of Emergency Services and Public Protection and the Police Officer Standards and Training Council to jointly evaluate and approve minimal technical specifications of body-worn recording equipment and digital data storage devices or services. In December 2015, they released their recommendations for statewide requirements; these requirements only apply to agencies that receive state aid and reimbursement for body-worn recording equipment. Among other things, these departments are required to retain recordings for at least 90 days and maintain evidence for legal proceedings for at least four years. The council's recommendation requires state and university police to start using police body-worn cameras by July 1, 2016.

In May 2016, the legislature passed and the governor signed Senate Bill No. 349 (Public Act No. 16-33), which describes the collection and release of law enforcement body-worn camera recordings, specifically detailing incidents that may not be intentionally recorded and stating that these incidents shall not be public records and not subject to disclosure under FOIA.

Senate Bill 467 is also pending, which would exclude provisions regarding body-worn recording equipment from collective bargaining.

### Collection

- Senate Bill No. 349 disallows body-worn camera recordings of officers talking to other officers outside the scope of the officers' duties; undercover officers or informants; an officer's personal activities; an individual undergoing medical or psychological evaluation, treatment, or procedure; an individual in a hospital, medical facility, or mental health facility other than a suspect. The bill provides that these records are not considered public records.
- Senate Bill No. 349 also states that recordings at the scene of an accident that involves a victim of domestic or sexual abuse, a victim of homicide or suicide, or a deceased victim of an accident, if disclosure could reasonably be expected to constitute an unwarranted invasion of personal privacy of a victim or a minor shall not be subject to disclosure under FOIA.
- Senate Bill No. 1109 passed the Senate but did not pass the House; it died in June 2015. This was a broad bill concerning the excessive use of force, which included, among other things, mandates for body cameras for law enforcement. The Commissioner of Emergency Services and Public Protection, the board of police commissioners, the chief of police, the superintendent of police, and other authorities having charge over officers would determine the manner and times that such equipment would be worn. The bill would have also required training in the use of body-worn recording equipment.
- Senate Bill No. 770 also died, but would have created a pilot program for police body cameras.

### Retention

- Senate Bill No. 770, which died, would have directed municipal police departments participating in the pilot program to adopt policies regarding the retention and destruction of videos.

<b>Exemption</b>	<ul style="list-style-type: none"> <li>• House Bill 7103 states that any recording disallowed under HB 7103 is not a public record under Connecticut’s Freedom of Information Act.</li> <li>• Under Conn. Gen. Stat. Ann. § 7(g) exempts body-worn camera recordings of incidents involving a victim of domestic or sexual abuse or a homicide, suicide, or fatal accident if disclosure could constitute “an unwarranted invasion of personal privacy.”</li> <li>• Senate Bill No. 1109, which was not passed, would have required disclosure of images and videos recorded by the equipment under FOIA. However, the bill would have allowed an agency to withhold such recordings under an existing FOIA exemption located at Section 2-210(b)(3) of the general statutes of Connecticut. Under this exemption, no disclosure would be allowed for those records not otherwise available to the public, provided such records were compiled in connection with the detection or investigation of a crime and there would be disclosure of one of the following: 1) an informant’s or witness’s identity that is not otherwise known and the person’s safety would be jeopardized or he or she would be subjected to threats or intimidation; 2) a minor witness’s identity; 3) a signed witness statement; 4) information for a prospective law enforcement action, if prejudicial to the action; 5) investigatory techniques not otherwise known to the general public; 6) juvenile arrest records; 7) the name and address of a victim of certain types of sexual assault, risk of injury to or impairing the morals of a minor, or an attempt to commit one of these crimes; or 8) uncorroborated allegations the law requires be destroyed.</li> <li>• Senate Bill No. 770, which was also not enacted, would have directed municipal police departments participating in the pilot program to adopt policies regarding the disclosure of videos.</li> </ul>
<b>Dashcam Exemptions</b>	<ul style="list-style-type: none"> <li>• Connecticut does not expressly exempt dashboard camera videos from FOIA. A dash-camera video would likely fall under the definition of a public record, which is broadly defined to include “any recorded data or information relating to the conduct of the public’s business prepared, owned, used, received or retained by a public agency, or to which a public agency is entitled to receive a copy by law or contract under section 1-218, whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.” As such, any agency seeking to restrict disclosure would likely have to rely on the generic exemptions, enumerated under Section 1-210, permitting agencies to not disclose certain categories of records.</li> <li>• Law enforcement records may be withheld if disclosure would reveal information to be used in a related law enforcement action, the identity of an informant, investigative techniques not known to the public, arrest record of a juvenile, or information of a victim of sexual assault. Conn. Gen. Stat. Ann. § 1-210(3).</li> </ul>
<b>Links</b>	<ul style="list-style-type: none"> <li>• <a href="https://www.cga.ct.gov/2015/ACT/PA/2015PA-00004-R00HB-07103SS1-PA.htm">https://www.cga.ct.gov/2015/ACT/PA/2015PA-00004-R00HB-07103SS1-PA.htm</a></li> <li>• <a href="http://www.ct.gov/opm/lib/opm/cjppd/jag_local/bwre_gn_15-05_policy_use_of_body_worn_cameras.pdf">http://www.ct.gov/opm/lib/opm/cjppd/jag_local/bwre_gn_15-05_policy_use_of_body_worn_cameras.pdf</a></li> <li>• <a href="http://www.courant.com/community/berlin/hc-berlin-body-cameras-0102-20160101-story.html">http://www.courant.com/community/berlin/hc-berlin-body-cameras-0102-20160101-story.html</a></li> </ul>

- <http://www.courant.com/politics/hc-connecticut-lawmakers-police-cameras-0117-story.html>
- <http://fox61.com/2016/02/19/uconn-police-to-begin-wearing-body-cameras-this-month/>
- <http://wtnh.com/2015/06/02/senate-democrats-in-ct-pass-police-body-camera-bill/>
- File No. 644, available at <http://www.cga.ct.gov/2015/FC/2015SB-01109-R000644-FC.htm>
- File No. 436, available at <http://www.cga.ct.gov/2015/FC/2015SB-00770-R000436-FC.htm>
- Section 1-200, available at <http://www.ct.gov/foi/cwp/view.asp?a=4163&Q=489072>
- Section 1-210, available at <http://www.ct.gov/foi/cwp/view.asp?a=4163&Q=489130>

## Delaware

In June 2016, a collaboration of the Delaware Police Chiefs' Council, Office of the Attorney General, the Department of Safety and Homeland Security, the Delaware Fraternal Order of Police and the Delaware State Troopers Association issued a directive outlining a set of statewide guidelines for those departments that use body cameras to follow, including procedures for when and how to use the cameras, storing data, and restriction on using devices. This collaboration and resulting directive fulfilled an order from House Concurrent Resolution 46, which passed the General Assembly in June 2015, and was the result of six months of studying the use of policy body cameras. The Delaware State Police began a pilot program, or 60-day feasibility study, for police body cameras in February 2016 to evaluate different body cameras, mounting styles, evidence management, and data storage solutions. In addition to the Delaware State Police pilot phase, as of June 2016, seven Delaware police departments also use cameras.

### Collection

- According to the directive, officers must turn on cameras on “when an arrest or detention is likely; when the use of force is likely; or any other incident where the safety of people and property in Delaware is promoted.” It also states that body cameras should not be used during “encounters with undercover officers or confidential informants, and instances where a victim or witness could request the camera be turned off.”

If body cameras fail to activate or their recordings were interrupted or ended during use, officers must document the reason why.

### Retention

- None.

### Exemption

- None. Delaware’s general FOIA laws provide exemptions for:
  - (1) Investigatory files compiled for civil or criminal law-enforcement purposes including pending investigative files, pretrial and presentence investigations and child custody and adoption files where there is no criminal complaint at issue;
  - (2) Criminal files and criminal records, the disclosure of which would constitute an invasion of personal privacy. Any person may, upon proof of identity, obtain a copy of the person's personal criminal record. All other criminal records and files are closed to public scrutiny. Agencies holding such criminal records may delete any information, before release, which would disclose the names of witnesses, intelligence personnel and aids or any other information of a privileged and confidential nature;
  - (3) Intelligence files compiled for law-enforcement purposes, the disclosure of which could constitute an endangerment to the local, state or national welfare and security;
  - (4) Any records specifically exempted from public disclosure by statute or common law;

<b>Dashcam Exemptions</b>	<ul style="list-style-type: none"> <li>• It appears that dash camera footage can be released if a police department chooses to. The Dover Police Department released a series of dash cam videos called “Dashcam Confessionals.”</li> </ul>
<b>Links</b>	<ul style="list-style-type: none"> <li>• <a href="http://delawarestatenews.net/police/police-body-cameras-in-delaware-seeing-is-believing/">http://delawarestatenews.net/police/police-body-cameras-in-delaware-seeing-is-believing/</a></li> <li>• <a href="http://www.delawareonline.com/story/news/politics/2016/06/29/delaware-lawmakers-introduce-police-body-cams-policy/86512682/">http://www.delawareonline.com/story/news/politics/2016/06/29/delaware-lawmakers-introduce-police-body-cams-policy/86512682/</a></li> <li>• <a href="http://www.newsworks.org/index.php/delaware/item/94999-delaware-police-agencies-to-adopt-uniform-body-camera-policy-?linktype=featured_articlepage">http://www.newsworks.org/index.php/delaware/item/94999-delaware-police-agencies-to-adopt-uniform-body-camera-policy-?linktype=featured_articlepage</a></li> <li>• <a href="http://www.newsworks.org/index.php/local/delaware/94999-delaware-police-agencies-to-adopt-uniform-body-camera-policy-">http://www.newsworks.org/index.php/local/delaware/94999-delaware-police-agencies-to-adopt-uniform-body-camera-policy-</a></li> <li>• <a href="http://www.delawareonline.com/story/news/crime/2016/02/25/state-police-launch-body-camera-pilot-program/80940820/">http://www.delawareonline.com/story/news/crime/2016/02/25/state-police-launch-body-camera-pilot-program/80940820/</a></li> <li>• <a href="http://www.newsworks.org/index.php/local/delaware/91365-delaware-state-police-start-wearing-body-cameras">http://www.newsworks.org/index.php/local/delaware/91365-delaware-state-police-start-wearing-body-cameras</a></li> <li>• <a href="http://news.delaware.gov/2015/09/23/state-announces-pilot-program-for-police-body-cameras/">http://news.delaware.gov/2015/09/23/state-announces-pilot-program-for-police-body-cameras/</a></li> <li>• <a href="http://www.delawareonline.com/story/news/local/2015/05/08/expect-delaware-police-wear-body-cameras-soon/27016123/">http://www.delawareonline.com/story/news/local/2015/05/08/expect-delaware-police-wear-body-cameras-soon/27016123/</a></li> <li>• <a href="http://www.rawstory.com/2015/01/delaware-cop-caught-on-dashcam-rocking-out-to-taylor-swifts-shake-it-off/">http://www.rawstory.com/2015/01/delaware-cop-caught-on-dashcam-rocking-out-to-taylor-swifts-shake-it-off/</a></li> <li>• <a href="http://insider.foxnews.com/2015/04/24/delaware-cop-who-lip-synced-shake-it-returns-awesome-duet">http://insider.foxnews.com/2015/04/24/delaware-cop-who-lip-synced-shake-it-returns-awesome-duet</a></li> </ul>

## Florida

In March 2016, the Florida legislature passed, and the governor signed into law, House Bill No. 93 (and Senate Bill 418), which require law enforcement agencies that permit officers to wear body cameras to establish policies and procedures addressing proper use, maintenance and storage of cameras and data; sets requirements for training and data retention; and exempts some recordings from other eavesdropping and wiretapping recording restrictions.

### Collection

- House Bill No. 57 (later replaced by House Bill No. 93) originally called for every uniformed law enforcement officer in the state who is primarily assigned to patrol duties to be equipped with a body camera while performing those duties.
- House Bill 93 states that any law enforcement agency permitting its officers to wear body cameras is required to establish policies and procedures addressing the proper use, maintenance, and storage of body cameras and their data; requires a periodic review of actual agency body camera practices to ensure conformity with the policies/procedures; requires that audio/video data recorded by the body cameras be retained in accordance with the requirements of s. 119.021 except as otherwise provided by law.

### Retention

- Statute 119.021 requires public records to be maintained, preserved, and retained.
- House Bill No. 57 refers to Statute 257.36 which says that public records may be destroyed only in accordance with retention schedules established by the division.
- Agencies and people captured on film decide who has access to body camera video (but only to those portions relevant to the person's presence in the recording). Anyone else would have to get a court order.
- Agencies would be required to keep videos for 90 days unless the audio/video is part of an active criminal investigation or a court orders longer retention because it is necessary to advance a compelling interest.

### Exemption

- "Active criminal intelligence information and active criminal information" are exempt from public records requests under Fla. Stat. § 119.071(2)(c).
- On July 1, 2015, Florida enacted the Public Records Law, which asserts that a police body-worn camera recording is confidential and exempt from public disclosure if it is taken inside a private residence; a health care, mental health, or social services facility; or any place "that a reasonable person would expect to be private." Fla. Stat. § 119.071(2)(I)2.
- Florida has passed another bill, SB 248, which exempts body camera videos from state open records laws (s. 119.07) when they are taken in private places or involve medical emergencies and deaths, etc. Requests for disclosure can also be declined if the video:
  - Is taken within the interior of a private residence;

- Is taken on the property of a facility that offers health care, mental health care, or social services;
- Is taken at the scene of a medical emergency;
- Is taken in a place where a person recorded or depicted in the recording has a reasonable expectation of privacy; or
- Shows a child younger than 18 years of age inside a school, as defined in s. 1003.01, or on school property, as defined in s. 810.095, or shows a child younger than 14 years of age at any location.
- In Sarasota, a request for all police recordings made to date in their pilot body camera program (about 84 hours of video) was met with a demand for \$16,000 from the requester in order to pay for review of all the video before it was released. The cost was estimated at about \$190/video.

**Dashcam Exemptions**

- Could not find clear stance but under Florida’s open records law (s. 119), dashboard videos seem to be public records that can be requested by public.
- Costs are borne by requester.
- Couldn’t find anything that suggested dashboard camera videos are exempt for any reasons.

**Links**

- <http://www.miamiherald.com/news/politics-government/state-politics/article64538012.html>
- <http://www.local10.com/news/miami-dade-police-introduce-new-body-worn-cameras>
- [http://www.huffingtonpost.com/entry/police-body-camera-study\\_us\\_561d2ea1e4b028dd7ea53a56](http://www.huffingtonpost.com/entry/police-body-camera-study_us_561d2ea1e4b028dd7ea53a56)
- <http://www.flsenate.gov/Session/Bill/2016/0093/BillText/er/PDF>
- [http://www.mysuncoast.com/news/local/sarasota-delays-using-police-body-cameras-until-legislature-forms-policy/article\\_55df16c0-60cf-11e5-8c72-337362c59151.html](http://www.mysuncoast.com/news/local/sarasota-delays-using-police-body-cameras-until-legislature-forms-policy/article_55df16c0-60cf-11e5-8c72-337362c59151.html)
- <http://www.freedominfo.org/2015/05/new-florida-law-exempts-body-camera-footage/>
- <http://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=53072>
- <http://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=54682&>
- [http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&URL=0100-0199/0119/Sections/0119.021.html](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0100-0199/0119/Sections/0119.021.html)
- [http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=0200-0299/0257/Sections/0257.36.html](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0200-0299/0257/Sections/0257.36.html)

- <http://www.flsenate.gov/Session/Bill/2015/0248/BillText/c1/HTML>
- <http://www.tampabay.com/news/politics/stateroundup/florida-senate-considers-shielding-video-from-police-body-cameras/2225346>
- <https://www.techdirt.com/articles/20150217/14490830061/proposed-florida-body-camera-law-riddled-with-exceptions-behest-police-union.shtml>
- <http://www.tallahassee.com/story/news/politics/2015/04/13/bill-keep-police-body-camera-videos-private/25726105/>
- <http://www.heraldtribune.com/article/20150302/ARTICLE/150309931>
- [http://www.cjr.org/united\\_states\\_project/florida\\_police\\_body\\_cameras.php](http://www.cjr.org/united_states_project/florida_police_body_cameras.php)
- [http://www.leg.state.fl.us/STATUTES/index.cfm?App\\_mode=Display\\_Statute&URL=0100-0199/0119/0119ContentsIndex.html&StatuteYear=2013&Title=-%3E2013-%3EChapter%20119](http://www.leg.state.fl.us/STATUTES/index.cfm?App_mode=Display_Statute&URL=0100-0199/0119/0119ContentsIndex.html&StatuteYear=2013&Title=-%3E2013-%3EChapter%20119)

## Georgia

In May 2015, the Georgia legislature passed Senate Bill No. 94, House Bill No. 326 that allows, but does not require, the use of body cameras by police and excludes body camera recordings from public records under certain circumstances. House Bill No. 32, which would have required the use of police body cameras and exempted videos from public records requests, failed.

In May 2016, the legislature passed and the governor signed House Bill No. 976, which provides retention requirements and exceptions for law enforcement video recordings, including body-worn camera and dashcam recordings.

### Collection

- None.

### Retention

- House Bill No. 976 requires recordings to be retained for at least 180 days, generally; at least 30 months if the recording is part of a criminal investigation, shows a vehicular accident, shows the detainment or arrest of an individual, or shows a law enforcement officer's use of force; at least 30 months or until final adjudication if it is evidence that may be necessary for pending litigation.
- House Bill No. 976 states that no governing body or law enforcement officer has a duty to redact or obscure images in video recordings and faces no civil liabilities for any depictions.

### Exemption

- Under Ga. Code Ann. §§ 50-18-70 to 77, records may be withheld if disclosure would interfere with ongoing law enforcement investigations or proceedings, deprive the person of the right to a fair trial, reveal the identity of a confidential informant, reveal investigative techniques or procedures, or endanger anyone's safety.
- SB 94 exempts police videos from wiretapping and privacy laws and excludes body camera recordings from public records when they are taken where there is a reasonable expectation of privacy and no pending criminal investigation. These exceptions can be overcome by the subject of the video, the parent of a minor in the video, and persons party to the criminal or civil action relevant to the video.
- Records of pending police investigations are exempt from Georgia's Open Records Act. O.C.G.A. § 50-18-72(a)(4).
- SB 94 would specifically exempt from disclosure audio and video recordings used by law enforcement officers in a place with a reasonable expectation of privacy, except for certain enumerated cases, such as if a representative of a deceased's estate seeks a recording of a decedent; a parent or legal guardian of a minor who was recorded; an accused person or a party in a civil action, if the recording is relevant to the proceeding; and an attorney for any of these. The person seeking disclosure would have to submit a sworn affidavit attesting to the facts necessary to establish eligibility for disclosure.
- HB 32 would treat data recorded by body cameras as "records of law enforcement" under Georgia's public disclosure

laws—the result being that body camera data would be exempted from disclosure if it is part of a pending police investigation. *See* O.C.G.A. § 50-18-72(a)(4).

**Dashcam Exemptions**

- Records of pending police investigations are exempt from Georgia’s Open Records Act, and would be subject to further limitations on disclosure in SB 94. See above.

**Links**

- <https://legiscan.com/GA/text/HB976/2015>
- <http://www.legis.ga.gov/Legislation/en-US/display/20152016/SB/94> (SB 94)
- <http://savannahnow.com/news/2016-03-24/georgia-police-body-camera-dash-cam-videos-will-only-be-kept-six-months>
- O.C.G.A. § 50-18-72, available at <http://www.lexisnexis.com/hottopics/gacode/Default.asp>

## Hawaii

Hawaii does not currently have any laws directly related to law enforcement body-worn cameras, but has several pieces of legislation pending. Senate Bill No. 2411, which passed both houses and is now in conference committee, requires the use of body-worn cameras and establishes requirements, restrictions, and implementation timelines for body-worn cameras and dashcams for county police departments, in addition to appropriating funding. Many speculate the funding will be an issue in passing this legislation. Senate Bill No. 199 is also pending, which would appropriate funds as a grant-in-aid to counties for purchasing body-worn video cameras and dashcams. Similarly, House Bill No. 365 is pending and would appropriate funds for the City and County of Honolulu to purchase body cameras for police officers and to establish a Honolulu Police Department Body Camera Pilot Program, set to take effect on July 1, 2050. Additionally, in December 2015, the Kauai Police Department became the first in the state to implement a body-worn camera program.

### Collection

- Pending Senate Bill No. 2411 would require county police officers to use body-worn cameras whenever responding to a call for service or initiating any law enforcement or investigative encounter, and also require the officer to notify the subjects of the video footage “as is reasonably possible.” The camera would only be permitted to be turned off only at the conclusion of the encounter; upon request when entering a private residence, when interacting with a crime victim, and when interacting with an anonymous informant.

### Retention

- Pending Senate Bill No. 2411 would require retention of video recordings for one year for non-criminal cases and the applicable statute of limitations for criminal cases. It would also require retention for three years if the footage captures images of any use of force, events leading up to and including arrest of a felony-level offense, and an encounter that is the subject of a complaint, if the officer believes it has evidentiary value, for police training purposes, or if the subject/next of kin of the footage requests, if the parent/guardian of a minor requests.

### Exemption

- Under Haw. Rev. Stat. § 92F-13(3), records may be withheld if disclosure would constitute an unwarranted invasion of privacy or “to avoid the frustration of a legitimate government function.”
- Under Pending Senate Bill No. 2411, the subject of video footage, next of kin, or a minor’s parent/guardian can request permission to review the relevant footage.
- Uniform Information Practices Act (UIPA) of 1975 exempts records where there is a “significant privacy interest” such as records related to criminal investigations. Other exemptions exist for “law enforcement records.”
- But person must be granted access to his or her own personal records although there is a criminal law enforcement record exemption for this too

### Dashcam Exemptions

- Same as above.

**Links**

- <http://westhawaii.com/news/local-news/police-body-camera-bill-passes>
- <http://www.nbcnews.com/news/crime-courts/body-cameras-win-converts-among-police-officers-beat-n566311>
- <https://legiscan.com/HI/research/SB2411/2016>
- <https://legiscan.com/HI/bill/SB199/2016>
- <https://legiscan.com/HI/bill/HB365/2016>
- <https://acluhi.org/body-cameras/>
- <http://hawaii-tribune-herald.com/news/local-news/police-body-cameras-still-works>
- <http://www.kauai.gov/Government/Departments-Agencies/Police-Department/The-Chiefs-Corner>
- <http://mauitime.com/news/law-enforcement/are-the-new-maui-police-body-cameras-just-a-trojan-horse-for-more-surveillance/>
- <http://www.nfoic.org/hawaii-foia-laws>
- <http://oip.hawaii.gov/wp-content/uploads/2013/04/February-2015-UIPA-Manual-InDesign-11feb15.pdf>

<b>Idaho</b>	
There are no state laws specifically on body cameras, but local law enforcement agencies have adopted body cameras, developed their own policies, and continue to research body-worn camera implementation.	
<b>Collection</b>	<ul style="list-style-type: none"> <li>• None</li> </ul>
<b>Retention</b>	<ul style="list-style-type: none"> <li>• None</li> </ul>
<b>Exemption</b>	<ul style="list-style-type: none"> <li>• Under Idaho. Code Ann. § 74-124(1) , records may be withheld if disclosure would interfere with law enforcement proceedings, deprive a person of a right to a fair trial, constitute an unwarranted invasion of personal privacy, reveal the identity of a confidential source, reveal investigative techniques or procedures, or endanger the safety of law enforcement personnel. However, video footage captured by body-worn video cameras will be subject to public records disclosure and is evidence for criminal cases.</li> </ul>
<b>Dashcam Exemptions</b>	<ul style="list-style-type: none"> <li>• It appears that dash camera footage can be released under Idaho FOIA laws because there are some Idaho police dash cam footage on Youtube and other places online</li> </ul>
<b>Links</b>	<ul style="list-style-type: none"> <li>• <a href="http://dfa.cityofboise.org/media/263547/fy-2016-annual-budget.pdf">http://dfa.cityofboise.org/media/263547/fy-2016-annual-budget.pdf</a></li> <li>• <a href="http://www.idahostatesman.com/news/local/community/boise/article73467922.html">http://www.idahostatesman.com/news/local/community/boise/article73467922.html</a></li> <li>• <a href="http://newsradio1310.com/twin-falls-police-department-closer-to-using-body-worn-cameras/">http://newsradio1310.com/twin-falls-police-department-closer-to-using-body-worn-cameras/</a></li> <li>• <a href="http://idahostatejournal.com/members/body-cam-confusion-more-officers-wear-them-but-u-s/article_4721b4fa-8dd7-11e5-82b0-d7806b5d1637.html">http://idahostatejournal.com/members/body-cam-confusion-more-officers-wear-them-but-u-s/article_4721b4fa-8dd7-11e5-82b0-d7806b5d1637.html</a></li> <li>• Idaho Transparent and Ethical Government Public Records Act. 2015 Idaho Sess. Laws Ch. 140 (H.B. 90). Will be enacted as IDAHO CODE ANN. §74-101 to 74-511 <a href="http://www.legislature.idaho.gov/legislation/2015/H0090.pdf">http://www.legislature.idaho.gov/legislation/2015/H0090.pdf</a></li> <li>• <a href="http://www.kboi2.com/news/local/Controversial-ISP-dash-cam-video-goes-viral-police-223223851.html?tab=video&amp;c=y">http://www.kboi2.com/news/local/Controversial-ISP-dash-cam-video-goes-viral-police-223223851.html?tab=video&amp;c=y</a></li> <li>• <a href="http://www.liveleak.com/view?i=601_1291818383">http://www.liveleak.com/view?i=601_1291818383</a></li> <li>• <a href="http://kdvr.com/2014/04/10/video-idaho-state-police-sued-accused-of-profiling-based-on-colo-license-plate/">http://kdvr.com/2014/04/10/video-idaho-state-police-sued-accused-of-profiling-based-on-colo-license-plate/</a></li> </ul>

## Illinois

In August 2015, the Illinois legislature passed, and the governor signed into law, Senate Bill No. 1304 (Public Act 99-0352), one of the first comprehensive body camera laws in the nation. SB 1304 does not require law enforcement to use body cameras, but it outlines training and reporting requirements for those departments that do use cameras. The administrative requirements of using body cameras have discouraged some departments from using cameras, including the Minooka Police Department, but other cities, including Chicago and Springfield, are continuing to move forward with plans to disseminate cameras to law enforcement officers. Another department, Round Lake Park, has also stopped using body cameras while they investigate the continuous recording of officers even after the cameras were turned off; several officers filed invasion of privacy lawsuits. This law was an exception to the state's eavesdropping laws which prohibit some recordings.

### Collection

- Illinois Law Enforcement Training Standards Board will create written policy on use of police body cameras that incorporates the minimum requirements set forth in SB 1304.
- Cameras must be equipped with pre-event recording, capable of recording at least the 30 seconds prior to camera activation (unless camera purchased by law enforcement agency before July 1, 2015)
- Cameras must be capable of recording for 10 hours or more (unless camera purchased by law enforcement agency before July 1, 2015)
- Camera must be turned on at all times when officer is in uniform and is responding to calls for service or engaged in any law enforcement-related encounter or activity that occurs while officer is on duty. If exigent circumstances prevent camera from being turned on, camera must be turned on as soon as practicable. Cameras may be turned off when officer is inside of a patrol car which is equipped with a functioning in-car camera. However, officer must turn on the camera upon exiting the patrol vehicle for law enforcement-related encounters.
- Cameras must be turned off when 1) the victim of a crime requests that the camera be turned off, and unless impractical or impossible, that request is made on the recording 2) a witness of a crime or a community member who wishes to report a crime requests that the camera be turned off, and unless impractical or impossible that request is made on the recording; or 3) the officer is interacting with a confidential informant used by the law enforcement agency.
- An officer may continue to record or resume recording a victim or a witness if exigent circumstances exist or if the officer has reasonable articulable suspicion that a victim or witness, or confidential informant has committed or is in the process of committing a crime. Under these circumstances, and unless impractical or impossible, the officer must indicate on the recording the reason for continuing to record despite the request of the victim or witness.
- Cameras may be turned off when the officer is engaged in community caretaking functions. However, the camera must be turned on when the officer has reason to believe that the person on whose behalf the officer is performing a community caretaking function has committed or is in the process of committing a crime. If exigent circumstances exist

which prevent the camera from being turned on, the camera must be turned on as soon as practicable.

- Officer must provide notice of recording to any person if the person has a reasonable expectation of privacy and proof of notice must be evident in the recording. If exigent circumstances exist which prevent the officer from providing notice, notice must be provided as soon as practicable.

#### **Retention**

- For the purposes of redaction, labeling, or duplicating recordings, access to camera recordings shall be restricted to only those personnel responsible for those purposes
- Recordings must be retained for a period of 90 days. After 90 days, any and all recordings must be destroyed unless any encounter captured on the recording has been flagged.
- An encounter will be flagged when 1) a formal or informal complaint has been filed 2) the officer discharged his or her firearm or used force during the encounter 3) death or great bodily harm occurred to any person in the recording 4) the encounter resulted in a detention or an arrest, excluding traffic stops which resulted in only a minor traffic offense or business offense 5) the officer is the subject of an internal investigation or otherwise being investigated for possible misconduct 6) the supervisor of the officer, prosecutor, defendant, or court determines that the encounter has evidentiary value in a criminal prosecution or 7) the recording officer requests that the video be flagged for official purposes related to his or her official duties
- No recording relating to a flagged encounter shall be destroyed prior to 2 years after the recording was flagged. If the flagged recording was used in a criminal, civil, or administrative proceeding, the recording shall not be destroyed except upon a final disposition and order from the court.

#### **Exemption**

- Pursuant to SB 1304, recordings made with the use of an officer-worn body camera are not subject to disclosure under FOIA unless an exception is present.
- Any recording which is flagged due to the filing of a complaint, discharge of a firearm, use of force, arrest or detention, or resulting death or bodily harm shall be disclosed in accordance with FOIA
- If the subject of an encounter has a reasonable expectation of privacy at the time of the recording, any recording which is flagged due to the filing of a complaint, discharge of a firearm, use of force, arrest or detention, or resulting death or bodily harm, shall be disclosed if (A) the subject of the encounter captured on the recording is a victim or witness; and (B) the law enforcement agency obtains written permission of the subject or the subject's legal representative
- The subject does not have a reasonable expectation of privacy if the subject was arrested as a result of the encounter.
- Any recording disclosed under FOIA shall be redacted to remove identification of any person that appears on the recording and is not the officer, a subject of the encounter, or directly involved in the encounter. Under the most recent legislation, faces of all those who are not under investigation must be blurred before releasing a recording under FOIA.

<p><b>Dashcam Exemptions</b></p>	<ul style="list-style-type: none"> <li>• Audio or video recordings from police dashboard cameras “shall be available under the applicable provisions of the Freedom of Information Act. Only recorded portions of the audio recording or video recording medium applicable to the request will be available for inspection or copying.”</li> </ul>
<p><b>Links</b></p>	<ul style="list-style-type: none"> <li>• <a href="https://www.isba.org/ibj/2015/12/lawpulse/pacesettingpolicebodycameralawtakes">https://www.isba.org/ibj/2015/12/lawpulse/pacesettingpolicebodycameralawtakes</a></li> <li>• <a href="http://www.foxnews.com/us/2016/06/25/illinois-officers-claim-body-cameras-invasion-privacy-in-lawsuit.html">http://www.foxnews.com/us/2016/06/25/illinois-officers-claim-body-cameras-invasion-privacy-in-lawsuit.html</a></li> <li>• <a href="http://www.officer.com/news/12193498/illinois-police-discontinue-body-camera-use">http://www.officer.com/news/12193498/illinois-police-discontinue-body-camera-use</a></li> <li>• <a href="http://www.ilga.gov/legislation/BillStatus.asp?DocNum=1304&amp;GAID=13&amp;DocTypeID=SB&amp;SessionID=88&amp;GA=99">http://www.ilga.gov/legislation/BillStatus.asp?DocNum=1304&amp;GAID=13&amp;DocTypeID=SB&amp;SessionID=88&amp;GA=99</a></li> <li>• <a href="http://abc7chicago.com/politics/police-body-camera-guidelines-signed-into-illinois-law/924761/">http://abc7chicago.com/politics/police-body-camera-guidelines-signed-into-illinois-law/924761/</a></li> <li>• <a href="http://www.nydailynews.com/news/national/illinois-law-discourages-police-body-cameras-article-1.2598213">http://www.nydailynews.com/news/national/illinois-law-discourages-police-body-cameras-article-1.2598213</a></li> <li>• SB 1304 <a href="http://www.ilga.gov/legislation/billstatus.asp?DocNum=1304&amp;GAID=13&amp;GA=99&amp;DocTypeID=SB&amp;LegID=87784&amp;SessionID=88">http://www.ilga.gov/legislation/billstatus.asp?DocNum=1304&amp;GAID=13&amp;GA=99&amp;DocTypeID=SB&amp;LegID=87784&amp;SessionID=88</a></li> <li>• News article discussing how bill has been sent to governor: <a href="http://www.chicagotribune.com/news/local/politics/ct-illinois-police-body-camera-20150530-story.html">http://www.chicagotribune.com/news/local/politics/ct-illinois-police-body-camera-20150530-story.html</a></li> <li>• Earlier Illinois Senate Bill (SB 21) on law enforcement cameras: <a href="http://openstates.org/il/bills/99th/SB21/">http://openstates.org/il/bills/99th/SB21/</a></li> <li>• Dash cam regulations: 20 ILCS 2610/30(g); <a href="http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=346&amp;ChapterID=5">http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=346&amp;ChapterID=5</a></li> </ul>

## Indiana

House Bill 1019 – which is described below – was signed into law in with unanimous legislative support in March 21, 2016, and has been in effect since July 1, 2016.

### Collection

None.

### Retention

*From the law and its digest.*

A public agency that is the state or a state agency can retain “unaltered, un-obscured law enforcement” recordings for at least 280 days after the date of recording. A public agency that is *not* the state or a state agency can do so for at least 190 days after the date of recording.

A public agency must permit the following persons (defined as a "requestor" in the statute) to view a recording at least twice:

- (1) A person depicted in a recording, or if the person is deceased or incapacitated, the person's relative or representative.
- (2) An owner or occupant of real property depicted in a recording.
- (3) A crime victim, if the depicted events are relevant to the

A public agency must permit

If the agency cannot demonstrate any of these conditions, it must permit any person to inspect or copy a law enforcement recording, subject to the agency’s obscuring obligations to protect the identity of undercover agents and confidential informants, among others.” <https://www.bgdlegal.com/blog/litigation/scope-of-public-access-to-police-body-cam-footage-clarified-in-indiana-general-assembly-what-you-need-to-know-about-hea-1019/>

If a requestor notifies the public agency in writing not more than: (A) one hundred eighty (180) days (if the public agency is not the state or a state agency); or (B) two hundred seventy (270) days (if the public agency is the state or a state agency); after the date of the recording that the recording is to be retained, **the recording shall be retained for at least two (2) years after the date of the recording.**

### Exemption

Investigatory records of law enforcement may be withheld under I.C. §5-14-3-4(b) of the Indiana Public Records Act; “Investigatory Records” means information compiled in the course of the investigation of a crime.

### Dashcam Exemptions

Investigatory records of law enforcement may be withheld under I.C. §5-14-3-4(b) of the Indiana Public Records Act; “Investigatory Records” means information compiled in the course of the investigation of a crime.

**Links**

HB 1019 digest: <https://iga.in.gov/legislative/2016/bills/house/1019>

HB 1019 text: <https://legiscan.com/IN/text/HB1019/2016>

Disclosure exemptions: I.C. §5-14-3-4, [http://www.in.gov/pac/files/pac\\_handbook.pdf](http://www.in.gov/pac/files/pac_handbook.pdf) (p 33); [https://iga.in.gov/static-documents/9/3/2/c/932c049a/TITLE5\\_title5.pdf](https://iga.in.gov/static-documents/9/3/2/c/932c049a/TITLE5_title5.pdf)

Describes an example of how one police department collects recordings: [http://www.cnhi.com/featured\\_stories/indiana-police-chief-takes-issue-with-new-body-camera-footage/article\\_d3a1906a-33d3-11e6-9e5d-7bb61872370e.html](http://www.cnhi.com/featured_stories/indiana-police-chief-takes-issue-with-new-body-camera-footage/article_d3a1906a-33d3-11e6-9e5d-7bb61872370e.html) (6th paragraph)

Iowa	
<p>Iowa has not yet enacted body camera legislation. In 2015, two different bills (the first proposed by Rep. Abdul-Samad (HF-292) and the second proposed by Rep. Hunter (HF-452), and links to both are included) were proposed. However, as of February of 2016, <a href="#">The Des Moines Register</a> (link below) stated that “legislation to govern the use of policy body cameras has been declared dead,” ensuring no changes in the state’s laws for 2016.</p>	
Collection	None.
Retention	None.
Exemption	<p>Iowa has public records laws, but currently lacks FOIA records laws that directly address body camera footage. Iowa Code 22 (specifically 22.7: Confidential Records) is the closest provision the state has: “Peace officers' investigative reports, and specific portions of electronic mail and telephone billing records of law enforcement agencies if that information is part of an ongoing investigation, except where disclosure is authorized elsewhere in this Code. However, the date, time, specific location, and immediate facts and circumstances surrounding a crime or incident shall not be kept confidential under this section, except in those unusual circumstances where disclosure would plainly and seriously jeopardize an investigation or pose a clear and present danger to the safety of an individual. Specific portions of electronic mail and telephone billing records may only be kept confidential under this subsection if the length of time prescribed for commencement of prosecution or the finding of an indictment or information under the statute of limitations applicable to the crime that is under investigation has not expired.”</p>
Dashcam Exemptions	<p>Iowa does not appear to have specific laws governing dashboard camera videos for FOIA purposes, and such videos are made available to requestors subject to the same exceptions as other public records.</p>
Links	<p>Newspaper article describing the current state of body camera legislation in Iowa as of February 21, 2016:  <a href="http://siouxcityjournal.com/news/state-and-regional/iowa/bills-on-body-cameras-in-iowa-showcase-looming-challenges/article_4042ab19-415e-5098-b3be-36e7293f90b0.html">http://siouxcityjournal.com/news/state-and-regional/iowa/bills-on-body-cameras-in-iowa-showcase-looming-challenges/article_4042ab19-415e-5098-b3be-36e7293f90b0.html</a></p> <p>Newspaper article on the “death” of police body camera legislation for 2016:  <a href="http://www.desmoinesregister.com/story/news/politics/2016/02/17/police-body-camera-legislation-dead-2016/80518938/">http://www.desmoinesregister.com/story/news/politics/2016/02/17/police-body-camera-legislation-dead-2016/80518938/</a></p> <p>However, the legislature proposed an intermit study to prepare recommendations for the 2017 legislature:  <a href="http://www.desmoinesregister.com/story/news/politics/2016/02/18/funnel-week-which-bills-died-iowa-statehouse/80534334/">http://www.desmoinesregister.com/story/news/politics/2016/02/18/funnel-week-which-bills-died-iowa-statehouse/80534334/</a></p> <p>For these bills: <a href="https://www.legis.iowa.gov/legislation/BillBook?ga=86&amp;ba=SSB3088">https://www.legis.iowa.gov/legislation/BillBook?ga=86&amp;ba=SSB3088</a>; and</p>

<https://www.legis.iowa.gov/legislation/BillBook?ga=86&ba=SF%202174>

Public records law: <https://coolice.legis.iowa.gov/cool-ice/default.asp?category=billinfo&service=iowacode&ga=83&input=22>

Report from the Fiscal Services Division of the Legislative Services Agency re: an overview of body cameras and police in Iowa: <https://www.legis.iowa.gov/docs/publications/IR/699032.pdf>

HF 292: <https://legiscan.com/IA/bill/HF292/2015>

HF 452: <https://legiscan.com/IA/bill/HF452/2015>

## Kansas

In March 2016, SB 18 died. This bill would have classified law enforcement video as “criminal investigation records,” exempting them from release. In June 2016, both HB 2137 and HB 2359 died. These bills included provisions that would have required officers to use cameras during motor vehicle stops and other law enforcement actions (2137) and exempted any recording made by law enforcement agencies from disclosure under the state’s public records law, allowing only people who were captured on police footage to access videos (2359). These three bills began with far more public access promised, but they faced harsh resistance. By the end, none survived, even after some revisions were made that “protected” video footage from general public access.

### Collection

- *The following information tracks HB2137, which mirrors much of the other two bills. All three bills and their revisions are included in the “links” section.*
- In January 2015, the Kansas Committee on Corrections and Juvenile Justice proposed the Police and Citizen Protection Act, HB2137, to require all uniformed law enforcement officers who are primarily assigned to patrol duties to wear body cameras.
- HB2137 requires the camera to be used during motor vehicle stops or other law enforcement actions taken during the course of the officer’s official duties. Essentially, the camera should be on whenever the officer is on duty and it should be continuously recording. The camera may be temporarily turned off during bathroom breaks or other personal conversations/matters.
- HB2137 mandates that when practicable, the officer should notify the other person that the camera is on and recording.
- HB2137 requires that when entering a private residence under nonexigent circumstances, the officer will ask the residents whether they want the camera off while the officer is still inside the residence. Once the exchange noting the residents’ wishes is recorded, the officer will abide by the wishes of the residents.
- HB2137 requires law enforcement officers to sign a written waiver consenting to being filmed and an acknowledgment of the act’s requirements.
- HB2137 requires a warrant issued by a court before the officer or law enforcement agency may use a computerized facial recognition program or application to be used with the body camera’s recording.

### Retention

- Generally under HB2137, the video and audio will be retained for two weeks, except in the following circumstances, the video and audio will be kept for three years:
  - Incident involving use of force;
  - Incident leads to detention or arrest of a person;

	<ul style="list-style-type: none"> <li>◦ Recording is relevant to formal or informal complaint against law enforcement officer or agency; and</li> <li>◦ A request for a copy of the recording has been made by any of the following persons: subject of the recording; person whose property was seized or damaged in relation to a crime to which the recording is related; a parent, legal guardian or attorney for the aforementioned persons.</li> <li>• If recording provides evidence that could be useful in a criminal prosecution, then the law enforcement agency will retain the recording for any time in addition to the periods mentioned above.</li> <li>• Prior to deleting the recordings, there must be a person who reviews all applicable and available records, files and databases to determine whether there is any reason why the recording cannot be deleted or disposed.</li> <li>• There is a presumption that the recording will corroborate the defendant’s version of the facts if during a criminal prosecution or civil action, the law enforcement agency cannot produce the recording.</li> </ul>
<b>Exemption</b>	<ul style="list-style-type: none"> <li>• HB2137 states that every recording made by a body camera will be confidential and exempt from the Kansas open records act in accordance with K.S.A. 45-221, with the exemption to expire on July 1, 2020 unless reviewed and reenacted by the Legislature prior to that date.</li> <li>• The Senate Committee adopted a substitute bill (Sub SB 18) that contained a modified version of the above provision to specify that it applies to audio and video recordings made by a body camera and dashboard camera. The substitute bill also listed that the following persons may request to see the audio or video recording: subject of the recording, parent or legal guardian of a minor subject of the recording, and the attorney of the subject. The law enforcement agency must comply with the request from one of the aforementioned and may charge a reasonable fee for the service.</li> </ul>
<b>Dashcam Exemptions</b>	<ul style="list-style-type: none"> <li>• Senate Committee adopted a substitute bill that included dashboard camera audio and video recordings to have the same exemption as the above section on body camera recordings.</li> </ul>
<b>Links</b>	<ul style="list-style-type: none"> <li>• <a href="#">HB2137 Summary Page</a></li> <li>• <a href="#">HB2137 House Bill</a> (Sections 2, 4, 5).</li> <li>• HB2359: <a href="http://kslegislature.org/li/b2015_16/measures/documents/hb2359_00_0000.pdf">http://kslegislature.org/li/b2015_16/measures/documents/hb2359_00_0000.pdf</a></li> <li>• The original SB18: <a href="http://www.kslegislature.org/li/b2015_16/measures/documents/sb18_00_0000.pdf">http://www.kslegislature.org/li/b2015_16/measures/documents/sb18_00_0000.pdf</a></li> <li>• <a href="#">Substitute to SB18</a></li> <li>• <a href="http://statescoop.com/kansas-bill-to-exempt-all-police-videos-from-disclosure-dies">Article describing the death of SB18 and HB2359 bills: http://statescoop.com/kansas-bill-to-exempt-all-police-videos-from-disclosure-dies</a></li> </ul>

- [Article describing how SB 18 changed from a bill proposing easier access to video footage, to making it difficult to access: http://www.huffingtonpost.com/entry/kansas-police-body-camera-law\\_us\\_56bca6e6e4b0b40245c57776](http://www.huffingtonpost.com/entry/kansas-police-body-camera-law_us_56bca6e6e4b0b40245c57776)

## Kentucky

State Archives and Records Commission, Public Records Division has established a retention schedule for body-worn camera records. The Kentucky League of Cities has offered a “model policy” to advise local authorities on the issue. However, there have been no major developments since 2015.

### Collection

- None.

### Retention

- State Archives and Records Commission set a retention schedule for Body-Worn Camera Records.
- Recordings of DUI-related incidents must be retained for 14 months if there is no appeal or if they do not document the actual happening of an accident involving a motor vehicle or after a decision has been made not to prosecute. Destroy upon order from District Court.
- If the actual happening of an accident is recorded, retain for 26 months if there is no appeal. Destroy upon order from District Court
- Retain non-evidentiary recordings for 30 days, then destroy.
- Evidentiary recordings used in any investigation, pending investigation, litigation or open records request

### Exemption

- Kentucky open records law requires that all public records are open for inspection to any person.
- Certain public records are exempted such as records of law enforcement agencies compiled in the processing of detecting/investigating statutory violations if the disclosure would harm the agency
- Police department policies indicate that videos are generally available to the citizen that was taped.

### Dashcam Exemptions

- Open records law (discussed above) applies but there are exemptions for ongoing criminal investigations.

### Links

- State Archives and Records Commission Retention Schedule for Body Worn Camera Recordings: <https://docjt.ky.gov/legal/documents/BodyWornCameras.pdf>
- Kentucky Open Records Law: <https://kypress.com/site/index.php?id=37>
- Kentucky League of Cities Model Body Worn Camera Policy: <http://www.klc.org/UserFiles/files/BODYCamModelPolicyDec2014.pdf>
- AG decision denying access to police cruiser video because video part of an ongoing direct appeal of a criminal

conviction.

<http://webcache.googleusercontent.com/search?q=cache:CHMrwGgsOHYJ:ag.ky.gov/civil/orom/2007/07ord095.doc+&cd=2&hl=en&ct=clnk&gl=us>

- Newspaper article discussing counties in Kentucky with police body cameras. <http://www.wdrb.com/story/26817494/in-kentucky-courts-are-new-frontier-for-police-body-cameras>
- <http://www.wdrb.com/story/26830184/documents-police-body-camera-policies-in-kentucky-louisville-area> (Documents from various Kentucky police departments documenting their policies)

## Louisiana

House Bill 183, introduced in 2015, provides for the use of body cameras by law enforcement officers. The House Judiciary Committee voted to turn the proposed bill into a bill creating the Louisiana Law Enforcement Body Camera Implementation Task Force, which would “study and make recommendations regarding the requirements for implementation and development of best procedures for the use of the body cameras and policies for access to and use of body camera recordings by law enforcement agencies in this state.” Task Force would submit recommendations by beginning of the 2016 Regular Session of the Legislature. Study resolution scheduled for floor debate on 6/9/15.

Senate Bill 398, which passed on June 2, allows police to shield body camera footage from public release without a court order. “Anyone seeking access to body camera recordings that are public records would have to submit detailed requests, as they currently do, and pay for the copying of the footage in advance. Further, recordings that violate a ‘reasonable expectation of privacy’ won’t be released without a court order and evidence related to ongoing investigations can be withheld.”

### Collection

- The Task Force is working to issue recommendations which include general guidelines for the proper use of body cameras, including procedures for when the body camera will be in recording mode and limitations on situations in which officers are permitted to wear body cameras.
- HB 183 originally stated “A peace officer shall wear a body camera at all times while on duty and in uniform and shall record using the body camera all contacts with any individual or group of people in the performance of the official duties of the peace officer from the beginning to the end of those contacts. The body camera shall be worn on the chest or at the eye level of the peace officer.”

### Retention

- The Task Force is working to issue recommendations which include general guidelines for the proper storage and retention of audio and video data recorded by body cameras.
- HB 183 originally stated “[a]ny recording involving contact between any individual or group of people and a peace officer in his official duties shall be retained for a period of at least two years from the date of the recording. The recording shall be retained by the law enforcement agency employing the peace officer or the public or nonpublic school or school district or university that designates the peace officer to provide security.”

### Exemption

- SB 398 states that “video and audio recordings generated by law enforcement officer body worn cameras that are not the subject of a pending criminal proceeding are exempt from Public Records Law . . . Body worn camera recordings may be subject to disclosure only with a valid order signed by a court, issued pursuant to a contradictory hearing in which the agency or office from which the recordings are sought has received notice and an opportunity to respond.”

### Dashcam Exemptions

- SB 398 will presumably cover this footage.

**Links**

- News article on the passing of SB 398: <http://www.govtech.com/state/Louisiana-Legislature-Passes-Senate-Bill-398.html>
- News article on the passing of HB 59: <http://theadvocate.com/news/15603010-100/louisiana-legislators-back-off-proposal-to-block-access-to-police-body-camera-footage>
- SB 398: <http://www.legis.la.gov/Legis/ViewDocument.aspx?d=990363>
- HB 59: <https://www.legis.la.gov/legis/BillInfo.aspx?i=230499>
- Study Resolution Proposal <https://legiscan.com/LA/text/HCR180/2015>.
- House Bill 183: <https://legiscan.com/LA/text/HB183/id/1187029/Louisiana-2015-HB183-Introduced.pdf>
- HB 183 turned into study resolution <http://www.wvltv.com/story/news/2015/05/15/body-cameras-for-la-officers-to-get-further-study/27359163/>

<b>Maine</b>	
No statutes or proposed legislation relevant to body camera videos were located.	
<b>Collection</b>	<ul style="list-style-type: none"> <li>• None.</li> </ul>
<b>Retention</b>	<ul style="list-style-type: none"> <li>• None.</li> </ul>
<b>Exemption</b>	<ul style="list-style-type: none"> <li>• Police body camera videos are not public records under the Maine Freedom of Access Act.</li> <li>• Police body camera videos are almost certainly covered by the Maine Intelligence and Investigative Record Information Act, 16 M.R.S.A. § 804, which states that “a record that is or contains intelligence and investigative record information is confidential and may not be disseminated by a Maine criminal justice agency to any person or public or private entity if there is a reasonable possibility that public release or inspection of the record would,” inter alia, “interfere with law enforcement proceedings relating to crimes” id. § 804(1), or “disclose investigative techniques and procedures or security plans and procedures not known by the general public.” Id. § 804(7).</li> <li>• A prosecutor may, but is not required to, release such information to an accused person, or that person’s agent or attorney. Id. §806(3).</li> <li>• Criminal justice agencies may also release such information to a crime victim, a sexual assault counselor or advocate, or a government agency in charge of child welfare or the care of dependent adults. Id. § 807.</li> <li>• Courts tend to interpret these limitations on disclosure in favor of confidentiality. See, e.g., Campbell v. Town of Machias, 661 A.2d 1133 (Me. 1995); Lewiston Daily Sun v. City of Lewiston, 596 A.2d 619 (Me. 1991); but see Blethen Maine Newspapers, Inc. v. Maine, 871 A.2d 523 (Me. 2005) (granting disclosure of Attorney General’s records of sexual abuse by priests; dissents claim that decision weakens the criminal investigative exemption from public disclosure).</li> </ul>
<b>Dashcam Exemptions</b>	<ul style="list-style-type: none"> <li>• Police dashboard camera videos are not public records.</li> <li>• See above, under FOIA treatment of body camera videos.</li> </ul>
<b>Links</b>	<ul style="list-style-type: none"> <li>• Maine Intelligence and Investigative Record Information Act: <a href="http://www.mainelegislature.org/legis/statutes/16/title16ch9sec0.html">http://www.mainelegislature.org/legis/statutes/16/title16ch9sec0.html</a></li> <li>• State of Maine, The Maine Freedom of Access Act: Your Right to Know: <a href="http://www.maine.gov/foaa/">http://www.maine.gov/foaa/</a></li> </ul>

## Maryland

HB 533 approved by governor on May 12, 2015. Codified in MD. CODE ANN. PUB. SAFETY 3-510 (West 2015) and wiretapping exception codified in MD. CODE ANN. CTS & JUD. PROC. 10-402 c(11) (West 2015). In January 2016, the Maryland Police Training Commission released the state's policy for body camera use.

### Collection

- The Maryland Police Training Commission (MPTC), as mandated by MD. CODE ANN. PUB. SAFETY 3-510, released the following set of recommendations for collection:
  - “[O]fficers shall begin recording with their body worn cameras (BWCs) in the below circumstances unless doing so would be unsafe, impossible, or impractical. If officers are unable to begin recording with the BWC due to circumstances making it unsafe, impossible, or impractical to do so, officers shall begin recording with the BWC at the first reasonable opportunity to do so.
    - 1. At the initiation of a call for service or other activity that is investigative or enforcement in nature, or an encounter between the officer and a member of the public that is investigative or enforcement in nature; and;
    - 2. Any encounter that becomes confrontational after the initial contact;
    - 3. When victims, witnesses or other individuals wish to make a statement or share information, but refuse to do so while being recorded, or request that the camera be turned off, officers may turn off the BWC in order to obtain the statement or information. If the encounter begins when the BWC is not actively recording, the law enforcement officer may, but is not required to, temporarily activate the BWC for the sole purpose of documenting the person's refusal to be recorded.
  - A law enforcement officer shall not activate a camera to record:
    - 1. Agency personnel during routine administrative activities; or
    - 2. Non-work related personal activity. Once recording with a BWC has been initiated, officers shall not end the recording until:
      - 1. The event or encounter has fully concluded; or
      - 2. The officer leaves the scene and anticipates no further involvement in the event; or
      - 3. A supervisor or agency policy has authorized that a recording may cease because the officer is no longer engaged in a related enforcement or investigative activity; or,
      - 4. When victims, witnesses or other individuals wish to make a statement or share information but refuse to do so while being recorded, or request that the camera be turned off, officers may turn off the BWC in

order to obtain the statement or information.

- MD. CODE ANN. CTS & JUD. PROC. 10-402 c(11) creates exception to Maryland Wiretapping and Electronic Surveillance Act that makes it lawful for a law enforcement officer in the course of the officer’s duty to use a “body-worn digital recording device” as long as the officer is: (1) in uniform or clearly displaying his/her badge; (2) is a participant to the oral communication; (3) is making reasonable efforts to conform to standards set by the Maryland Police Training Commission on police body cameras; and (4) when practicable, notifies the subject of the recording that the camera is on and recording.
- MD. CODE ANN. PUB. SAFETY 3-510 provides that on or before January 1, 2016, the Maryland Police Training Commission shall develop and publish online a policy for the issuance and use of a body-worn camera by law enforcement officers that addresses several issues, including: 1) when recording is mandatory, when it is prohibited, and when it is discretionary 2) when recording may require consent of a subject being recorded and when and how to provide notice of recording and 3) when a recording may be ended

**Retention**

- MD. CODE ANN. PUB. SAFETY 3-510 provides that on or before January 1, 2016, the Maryland Police Training Commission shall develop and publish online a policy for the issuance and use of a body-worn camera by law enforcement officers that addresses several issues, including
- The MPTC mandates retention, but allows an agency’s written policy to determine the retention periods.

**Exemption**

- MD. CODE ANN. PUB. SAFETY 3-510 provides that on or before January 1, 2016, the Maryland Police Training Commission shall develop and publish online a policy for the issuance and use of a body-worn camera by law enforcement officers that addresses several issues, including 1) Access to confidentiality of recordings 2) Dissemination and release of recordings and 3) Specific protections for individuals when there is an expectation of privacy in private or public places
- The MPTC has established a limit to the public’s right of access to government records when investigations conducted by the Attorney General, a police department or sheriff, or an investigatory file compiled for any other law enforcement, judicial, or prosecution purpose is involved (§ 4-351). Otherwise, Maryland’s Public Information Act envisions general access by the public (§ 4-103)

**Dashcam Exemptions**

- Maryland does not appear to have a specific exemption carving out police dashboard camera videos from its state public records act. Instead, the dashboard camera videos appear to be treated under the general existing exemptions of the public records statutes.

**Links**

- HB 533: [http://mgaleg.maryland.gov/2015RS/Chapters\\_noln/CH\\_129\\_hb0533e.pdf](http://mgaleg.maryland.gov/2015RS/Chapters_noln/CH_129_hb0533e.pdf)
- HB 533 History: <http://openstates.org/md/bills/2015/HB533/>

- [HB533 Summary Page](#)
- [Maryland Public Information Act §4-351.](#)

## Massachusetts

Massachusetts, which has not mandated the use of body cameras among police officers, is currently considering two bills (H. 2170 and its Senate counterpart S.1257), to require body-worn cameras, as further discussed below. Both bills were scheduled for joint hearing session in 1/28/16. On 6/23/16, the Senate referred S. 1257 to the Senate Committee on Rules to study the legislation further. As of 7/11/16, both bills are still pending.

### Collection

- The proposed bill would require recording if police officers engage in any of the following: primary response (patrol in a vehicle or during bicycle or motorcycle patrol), self-initiated public contacts/foot patrol, emergency response, vehicle or site searches, SWAT, police officers engaged in taking individuals into custody, traffic stops, suspicious vehicle stops, suspicious person stops, motor-vehicle accident scenes, during all interrogations of suspected criminals or persons of interest, while in the process of an arrest, vehicle pursuits, crimes in progress, when ordered to do so by a supervisor, and any other instance of police interaction with individuals where probable cause exists that a crime is being planned or has been committed as articulated in the personal audio-video recording device policy of a law enforcement agency.
- Within the policy of a law enforcement agency, police officers would have discretion to not record in certain instances (i.e. where there is rape or sexual assault, where a person may be fully unclothed, where there is the need to protect the identity of an undercover officer, or where officers want to protect the identity of a confidential informant). Law enforcement entities would be required to adopt policies governing the recording of domestic violence, rape, and sexual assault incidents, and incidents where individuals are partially or fully unclothed.
- In addition, all uses of a recording device would have to be in plain view, and an officer would have to inform an individual that the interaction is being captured by film. If an individual does not wish to be recorded, and the individual audibly denies his or her consent to be recorded, the officer would have to turn off the recording device. The bill would set up a law enforcement data review committee, which would be tasked, within two months of its formation, with drafting a statement of notification to be used by officers when notifying of a recording.
- The law enforcement data review committee that would be established under the bill would also operate as an advisory body by making recommendations (e.g. by promulgating model policies).

### Retention

- Under the proposed bill, policies adopted by law enforcement agencies would require the deletion of recorded data within 30 days if civil contact is made but no enforcement action is taken or no complaint is filed.

### Exemption

- Under the proposed statute, all audio-visual recordings that are captured during an interaction between an individual and an officer would be exempt from public disclosure and would be kept confidential absent a court order. However, the exemption would not apply to individuals filmed in a police interaction, and their legal representatives would have the right to inspect and copy such recordings.

**Dashcam Exemptions**

- Massachusetts does not expressly exempt dashboard camera videos from FOIA. As such, dash-camera videos would likely fall under the broad definition of a public record, which includes “all books, papers, maps, photographs, recorded tapes, financial statements, statistical tabulations, or other documentary materials or data, regardless of the physical form or characteristics, made or received by any officer or employee” of any Massachusetts governmental entity, according to G. L. c. 4, § 7(26). Generic exemptions would have to be relied upon in prohibiting the disclosure of dashboard camera videos.

**Links**

- H. 2170: <https://malegislature.gov/Bills/189/House/H2170>
- S. 1257: <https://malegislature.gov/Bills/189/Senate/S1257>
- A Guide to the Massachusetts Public Records Law: <https://www.sec.state.ma.us/pre/prepdf/guide.pdf>

## Michigan

Michigan does not currently have state-wide requirements for collection of body camera videos, but the state legislature has introduced two pending bills that address recording, retention, and privacy.

### Collection

- There is a proposed bill in the Michigan legislature, Law Enforcement Body-Worn Camera Act, House Bill 4229 that would require body cameras on all uniformed police officers while on duty. The camera will be activated when the officer is on duty and will continuously record interactions with other individuals. Officer may stop recording when using bathroom or during a personal conversation. This bill is very similar to the proposed HB2137 in Kansas.
- HB 4229 mandates that when practicable, the officer should notify the other person that the camera is on and recording.
- HB 4229 requires law enforcement officers to sign a written waiver consenting to being filmed and an acknowledgment of the act's requirements.
- HB 4229 requires that when entering a private residence under nonexigent circumstances, the officer will ask the residents whether they want the camera off while the officer is still inside the residence. Once the exchange noting the residents' wishes is recorded, the officer will abide by the wishes of the residents.
- HB 4229 requires a warrant issued by a court before the officer or law enforcement agency may use a computerized facial recognition program or application to be used with the body camera's recording.

### Retention

- HB 4229 is nearly identical to Kansas HB2137. Generally, under HB 4229, the video and audio will be retained for two weeks, except in the following circumstances, the video and audio will be kept for three years:
  - Incident involving use of force;
  - Incident leads to detention or arrest of a person;
  - Recording is relevant to formal or informal complaint against law enforcement officer or agency; and
  - A request for a copy of the recording has been made by any of the following persons: subject of the recording; person whose property was seized or damaged in relation to a crime to which the recording is related; a parent, legal guardian or attorney for the aforementioned persons. (Sections 4, 5)
- Under HB 4229, if recording provides evidence that could be useful in a criminal prosecution, then the law enforcement agency will retain the recording for any time in addition to the periods mentioned above. (Section 5)
- Under HB 4229, prior to deleting the recordings, there must be a person who reviews all applicable and available records, files and databases to determine whether there is any reason why the recording cannot be deleted or disposed.

(Section 7)

- Under HB 4229, there is a presumption that the recording will corroborate the defendant’s version of the facts if during a criminal prosecution or civil action, the law enforcement agency cannot produce the recording. (Section 8)
- In a different proposed bill in the Michigan legislature, Law Enforcement Body-Worn Camera Privacy Act, House Bill 4234, audio and video recordings will only be retained for 30 days. The recording will be retained for 3 years if it is relevant to a complaint against a law enforcement officer or agency or a request of the recording has been made as part of a criminal prosecution or civil action by the subject (subject’s representative/attorney) of the recording. Under House Bill 4234, there is no presumption in favor of defendant’s version if a complaint is made against the police officer or agency after the expiration of the 30 day retention period and the agency cannot produce the recording. (Section 6)

**Exemption**

- In the proposed bill, Law Enforcement Body-Worn Camera Privacy Act, House Bill 4234, video recordings taken inside private places are exempt from the Michigan FOIA requests. “Private place” is defined as a place where an individual may reasonably expect to be safe from casual or hostile intrusion or surveillance but does not include a place to which the public or a substantial group of the public has access. The following people may request a copy of the audio or video recording under FOIA if the recording is relevant to the criminal prosecution of the individual or a civil action brought by the individual: the subject of the recording; person whose property was seized or damaged in relation to a crime to which the recording is related; a parent, legal guardian or attorney for the aforementioned persons. (Sections 2 to 4)
- House Bill 4234 states that an audio or video recording from a body-worn camera retained by police in connection with an ongoing criminal investigation or an ongoing internal investigation is not a public record and is exempt from disclosure under FOIA. (Section 5)
- HB 4229 allows certain individuals who are involved in recorded incidents to request body camera recordings. The police “shall provide the individual with a copy of the requested recording,” which suggests that there is no discretion to deny a request. However, if the requestor is “not the subject of a recording,” the subjects of the recording must consent: “If the individuals who are the subjects of the recording do not consent, the recording is not a public record and is not subject to disclosure under the freedom of information act.”

**Dashcam Exemptions**

- Michigan does not appear to have a specific exemption carving out police dashboard camera videos from its state public records acts. Instead, the dashboard camera videos appear to be treated under the general existing exemptions of the public records statute. The Michigan FOIA exempts disclosure for information of a personal nature that constitute an unwarranted invasion of an individual’s privacy and investigating records compiled for law enforcement purposes— though only to the extent that the disclosure would interfere with law enforcement proceedings, constitute an unwarranted invasion of personal privacy, deprive subject of right to a fair trial, disclose identity of confidential source, disclose law enforcement techniques or procedures, or endanger the life or safety of police personnel.

**Links**

- [Law Enforcement Body-Worn Camera Act, House Bill 4229](#)
- [Law Enforcement Body-Worn Camera Privacy Act, House Bill 4234](#)
- [Michigan Freedom of Information Act](#) (§ 15.243)
- <http://michiganradio.org/post/michigan-house-bill-would-exempt-some-police-body-worn-camera-footage#stream/0>

## Minnesota

On May 31, 2016, Governor Mark Dayton signed a law mandating that body camera footage for police officers will be considered private (or non-public information,) except in cases involving the use of force or when officers have discharged a weapon. In these instances, footage will be available after an investigation of the incident. This law will take effect August 2016.

**Collection**

- No law enforcement agency can use portable video recording systems unless it can comply with the retention mandates of the law.

**Retention**

- “Notwithstanding 138.17 [Minnesota’s “Government Records; Administration” statutes]:
  - [A]udio and video data captured by a portable video recording system that is not part of an active or inactive criminal investigation must be destroyed within 90 days of the date the data were captured, unless the data subject, or any peace officer identifiable by the data, submits a written request to the law enforcement agency to retain the data for possible use in a future proceeding related to the circumstances under which the data were originally collected.
  - Any law enforcement agency that receives a request to retain data shall retain it for a reasonable time, based upon the likelihood of its future use and the agency's policies for retention.
- Peace officers who are identifiable by portable video recording system data shall have unrestricted access to the data while it is retained and must be permitted to make copies.”

**Exemption**

- SF 86: Automated license plate reader law added section on use of surveillance technology, which states that all recordings of the activities of the general public maintained by law enforcement agencies is public data.
- SF 498 potentially exempts a large amount of data from the public. Generally, it creates clear distinctions between what is and is not publically accessible; and the law envisions much of the recorded data as private.

**Dashcam Exemptions**

- (applicable to cameras purchased through state grant program) Videotapes or disks from police vehicles must be stored for a minimum of 60 days after use. If the chief law enforcement officer has not been instructed to maintain the tape beyond that period, it may be reused. A chief law enforcement officer shall provide a copy of a videotape or disk that recorded a traffic stop to the driver of the stopped vehicle upon the driver's request and at the driver's expense if the tape or disk has not yet been reused.

**Links**

- Article describing the general impacts of the law: <http://www.usatoday.com/story/opinion/policing/beyond-badge/2016/06/16/minnesota-law-body-camera-legislation-beyond-the-badge/85717692/>
- SF 86 Automated license plate reader statute <https://legiscan.com/MN/text/SF86/2015>

- HF 2100: <http://wdoc.house.leg.state.mn.us/leg/LS89/HF2100.0.pdf>
- SF 498:  
[https://www.revisor.mn.gov/bills/text.php?number=SF0498&session=ls89&version=latest&session\\_number=0&session\\_year=2015](https://www.revisor.mn.gov/bills/text.php?number=SF0498&session=ls89&version=latest&session_number=0&session_year=2015)
- 2014 Minn. Stat. 626.9517 on Grant Program for Installation of Video Cameras in Police Vehicles  
<https://www.revisor.mn.gov/statutes/?id=626.9517>

## Mississippi

Mississippi had proposed legislation (HB1279) for body-worn cameras, but the legislation died in committee on February 3, 2015. The bill's sponsor requested a special session of the legislature for police body cameras, but governor did not call one.

### Collection

- HB 1279 would have required uniformed law enforcement officers primarily assigned to patrol to wear body-worn camera.
- The officer would be required to record whenever he or she is on duty and continuously record all contacts with citizens, but the officer may temporarily stop recording in the following limited circumstances: 1) encounters with other law enforcement personnel unless recording is required by a court order 2) encounters with undercover officers or confidential informants 3) strip searches 4) when on a break or otherwise engaged in personal activities; or 5) in any location an officer has a reasonable expectation of privacy, such as a restroom or locker room
- An officer shall notify individuals that they are being recorded
- When entering a residence under nonexigent circumstances, an officer shall ask the residents whether they want the officer to stop recording with the body-worn camera while in the residence. The officer shall record the exchange to document the wishes of the residents.

### Retention

- HB 1279 would have required the following:
- All recorded files shall be securely downloaded by the officer operating the body-worn camera no later than the end of each shift.
- In circumstances resulting in a person's bodily harm or death, the operating officers' supervisor shall immediately take custody of the camera and assume responsibility for downloading the data
- A law enforcement agency shall retain all recordings for 120 days
- A law enforcement agency shall retain recordings for 3 years if any of the following apply 1) the recording is of an incident involving the use of force 2) the recording is of an incident that leads to detention or arrest of an individual 3) the recording is relevant to a formal or informal complaint against a law enforcement officer or the agency 4) a request regarding the recording has been filed
- Any subject of a recording may make a request for retention. Police departments and third parties may make a request to extend the time period for retention if there is some basis to believe that police misconduct has occurred or if there is reasonable suspicion that the recording contains evidence of a crime.

<b>Exemption</b>	<ul style="list-style-type: none"> <li>● HB 1279 would have required the following: <ul style="list-style-type: none"> <li>◦ Un-redacted recordings should not be publicly disclosed without the consent of the subject.</li> <li>◦ An individual who is a subject of a recording or a person involved with a crime to which the recording is related may make a request for un-redacted recordings and the law enforcement agency shall provide the individual with a copy of the recording.</li> </ul> </li> <li>● Mississippi’s “Public Access to Public Records” law (§ 25-61) does not exempt records consisting only of identifying data and notations of arrest, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status. However, “records compiled in the process of detecting and investigating any unlawful activity or alleged unlawful activity, the disclosure of which would harm the investigation” that might reveal the identity of informants, disclose investigatory techniques, or disclose other such potentially compromising information are generally exempt.</li> </ul>
<b>Dashcam Exemptions</b>	<ul style="list-style-type: none"> <li>● Police dashboard camera videos appear to be public records, unless subject to a general exception (e.g., disclosure of confidential informants).</li> </ul>
<b>Links</b>	<ul style="list-style-type: none"> <li>● HB 1279: <a href="https://legiscan.com/MS/text/HB1279/2015">https://legiscan.com/MS/text/HB1279/2015</a></li> <li>● Mississippi Public Records Act: <a href="http://www.ethics.state.ms.us/ethics/ethics.nsf/PageSection/A_records_entire_pub_rec_act/\$FILE/Public%20Records%20Act.htm?OpenElement">http://www.ethics.state.ms.us/ethics/ethics.nsf/PageSection/A_records_entire_pub_rec_act/\$FILE/Public%20Records%20Act.htm?OpenElement</a></li> <li>● Newspaper article on HB 1279’s sponsor calling for special session of legislature <a href="http://www.jacksonfreepress.com/news/2015/apr/10/special-session-police-body-cameras/">http://www.jacksonfreepress.com/news/2015/apr/10/special-session-police-body-cameras/</a></li> </ul>

## Missouri

Missouri does not have specific statutes on body cameras, but it has eleven proposed bills on police body cameras, with House Bill 762 appearing to be the frontrunner of these bills, having passed the House of Representatives in Missouri. HB 762 failed to make it out of committee on May 8, and none of the other bills appear to have been passed before the session ended on May 15.

In July 2016, Governor Jay Nixon signed a law that restricts public access to body and vehicle camera footage until an investigation is completed. Footage from nonpublic areas may not be accessed except for those in the videos absent a court order. All the other bills remain technically active, but have not been acted upon since 2015.

### Collection

- HB 762 (Proposed Section 590.810, RSMo); SB 331 (Proposed Section 590.810, RSMo); HB 987 (Proposed Section 590.810 RSMo); SB 550 (Proposed Section 590.810 RSMo)
  - The state *shall not require* a law enforcement agency to provide “mobile video recorders” to officers, nor will the state *require* any officer to wear such recorders.
  - A law enforcement agency that uses mobile video recorders must have a written policy on their use.
  - (Proposed Section 610.100, RSMo): “Mobile video recorder” is not limited to body cameras but also includes dashboard cameras. It is defined as “any system or device that captures visual signals that is capable of installation in a vehicle, vessel, or aircraft, or being worn or carried by personnel of law enforcement agency and that includes, at a minimum, a camera and recording capabilities.”
- SB 21 (Proposed Section 590.709 RSMo); HB 1699 (Proposed Section 590.705 RSMo); HB 971 (Proposed Section 590.715 RSMo); HB 75 (Proposed Section 590.715 RSMo); HB 76 (Proposed Section 590.715 RSMo)
  - This act *requires* law enforcement officers to wear video cameras on their uniforms while on duty. Exceptions are available for: detectives or other law enforcement officers working undercover, or any officer in “any situation where the wearing of such a video camera would endanger the safety of the officer or the public.”
  - The camera must be capable of recording the audio and video of interactions between the officers and the public.
  - Under this act, the Department of Public Safety must investigate all complaints that a law enforcement officer or agency is not in compliance with the above requirements. If the Department determines an agency or one of its officers is not complying, the agency is ineligible to receive state appropriations until the agency achieves compliance. (SB 21 only.)
  - 10% of all fines collected by a city, town, village, or county, excluding any fines from traffic violations, will be used to fund the video cameras required in such city, town, village, or county. (HB 971 only.)

- A one-cent tax on the retail sale of any handgun or ammunition in the state would be used solely to fund the video and audio equipment required. (HB 75 only.)
- A 1% sales tax on all retail sales of tangible personal property or taxable services in the state would be used solely to fund the video and audio equipment required. (HB 76 only.)
- HB 39 (Proposed Section 542.402 RSMo)
  - This bill allows a uniformed law enforcement officer to make a video and audio recording “in the ordinary course of the officer’s duties or as required by law,” provided that some steps are followed:
    - (a) First give notification of such recording to the party to the communication;
    - (b) At the time of the interception, the oral communication does not occur inside the residence of any of the individuals;
    - (c) At the time of the interception, the law enforcement officer:
      - 1. Is in uniform or otherwise clearly identifiable as a law enforcement officer;
      - 2. Is in close proximity to the individual's oral communication; and
      - 3. Is using an electronic, mechanical, or other device approved by the law enforcement agency to intercept the oral communication;
    - (Proposed Section 590.704 RSMo): Every new or used police vehicle which is primarily used for traffic stops shall be equipped with a video camera. One-half of the police vehicles currently operating without a video camera shall be equipped with such camera no later than December 31, 2015, and the other one-half shall be equipped with such camera no later than June 30, 2015.
    - (Proposed Section 590.705 RSMo): In accordance with section 542.402, each uniformed law enforcement officer in this state shall, at all times when the officer is interacting with the public in his or her official capacity, wear an operating video camera with a microphone for audio capture. Each video recorded shall be catalogued and preserved.
    - Each police department shall have a written policy that outlines, at a minimum:
      - (1) The proper uses of the equipment;
      - (2) The times when the camera is to be activated;

- (3) Conditions under which is it permissible not to have the camera activated;
- (4) Potential disciplinary actions for failure to activate the camera when required to be activated;
- (5) The retention period for the tapes or other recording media, which shall not be less than thirty days;
- (6) The method for replacing defective or nonfunctioning equipment; and
- (7) Logging policy to record failures or periods when the equipment is down for repairs.
- The policy shall be on file at the agency and open to public inspection or available on the department's website.
- Exceptions are made for: detectives or other law enforcement officers while they are working in an undercover capacity, or to any law enforcement officer in any situation where the wearing of such video camera would endanger the safety of the officer or the public.
- SB 356 (Proposed Section 590.198)
  - This bill *requires* every law enforcement agency in a city with a population of at least one hundred thousand inhabitants to mandate its officers to wear a body camera “at all times while on duty and in uniform and to activate the camera to record, from beginning to end, all contacts with people in the performance of the peace officer's official duties.”
  - Body-worn cameras shall be worn on the officer's chest or at eye-level.
  - An officer shall inform any person who is being recorded by a body-worn camera when the person is being recorded unless doing so would be unsafe, impractical, or impossible.
  - An officer who fails to record an activity as required under this section shall be suspended without pay until an investigation into why the activity was not recorded in accordance with this section is completed.
  - Funds for the equipment necessary to comply with the provisions of this section shall be provided by the department of public safety.

**Retention**

- SB 21 (Proposed Section 590.709 RSMo); HB 1699 (Proposed Section 590.705 RSMo); HB 971 (Proposed Section 590.715 RSMo)
  - Law enforcement agencies must preserve recordings from the cameras for at least 30 calendar days and must develop any policies and procedures necessary to implement the provisions of the bill.
- HB 987 (Proposed Section 590.810 RSMo)

- A law enforcement agency shall retain any recording as described under subsection 1 of this section for at least thirty calendar days and no longer than ninety calendar days unless the recording is needed for an active criminal investigation or being used as evidence in a criminal case or civil litigation.
- HB 39 (Proposed Section 590.705 RSMo).
  - Each video recorded shall be catalogued and preserved. Each police department shall have a written policy that outlines, at a minimum: . . . (5) The retention period for the tapes or other recording media, which shall not be less than thirty days.
- SB 356 (Proposed Section 590.198)
  - A recording created with a body-worn camera shall be retained by the law enforcement agency for a period of at least two years.

**Exemption**

- July 2016 Law
  - Public access to body and vehicle camera footage is restricted from the public until an investigation is completed
  - Footage from nonpublic areas will be closed except to those in the videos
  - People who want access to closed videos will need a court order (and they cannot describe the video’s content without consent from those within the video)
- HB 762 (Proposed Section 610.100, RSMo)
  - Mobile camera footage not subject to public records requests, with certain exceptions:
  - A law enforcement agency is authorized to close records consisting of data from mobile video recorders with specified exceptions.
  - Any person may bring an action in the circuit court having jurisdiction to authorize disclosure of data in the possession of a law enforcement agency from a mobile video recorder which would otherwise be closed under the Open Meetings and Records Law, commonly known as the Sunshine Law.
  - The court may order that all or part of the data from a mobile video recorder be released to the person bringing the action, considering “whether the benefit to the person bringing the action or to the public outweighs any harm to the public, the law enforcement agency or any of its officers, or to any person identified in the investigative report or captured in the data from the mobile video recorder.”
  - The court may find that the party seeking disclosure of the data must bear its reasonable and necessary costs and

attorney fees unless the court finds that the decision of the law enforcement agency not to open the data was substantially unjustified under all relevant circumstances, in which case the court must assess the costs and attorney fees to the law enforcement agency.

- SB 550
  - Data from mobile video recorders are closed records subject to specified exceptions (subsections 4, 5 and 6 under Miss. Rev. Stat. 610.100 and 320.083).
- SB 331 (Proposed Section 590.810, RSMo)
  - Any recording captured by a body camera, dashboard camera, or other such camera shall not be a public record for purposes of the state's open records law under chapter 610 and shall not be disclosed by a law enforcement agency except upon order of a court in the course of a criminal investigation or prosecution or civil litigation.
- HB 987 (Proposed Section 590.810, RSMo)
  - Any recording captured by a body camera, dashboard camera, or other such camera shall not be a public record for purposes of the state's open records law under chapter 610 and shall not be disclosed by a law enforcement agency except upon order of a court or under the prosecution or defense of a criminal case.
- HB 39 (Proposed Section 590.705 RSMo).
  - The use of any recording obtained under this section shall be for internal or external investigations of misconduct, and where police have reasonable suspicion that a recording contains evidence of a crime.
  - In any prosecution, if the state expects to offer the testimony of a law enforcement officer against a defendant and the law enforcement officer was required to record video and audio information of his or her interaction with the defendant, the state shall produce a copy of the video and audio information in a reasonably usable format upon the defendant's request. If the state does not produce the video and audio information, the court may draw an adverse inference from the state's failure to produce such information.
- SB 356 (Proposed Section 590.198).
  - For purposes of the state's open records law, a recording created with a body-worn camera shall be considered an open record in the same manner as an "incident report" under section 610.100 and may be closed in the same manner as other incident reports may be closed.

**Dashcam Exemptions**

- HB 762 (Proposed Section 610.100, RSMo); SB 331 (Proposed Section 590.810, RSMo)
  - Dashboard and body cameras are treated the same, as “mobile video recorders.”

- SBs 331 & 21
  - Dashboard camera videos are deemed investigative reports for purposes of Missouri Revised Statutes chapter 610 (public records law) and are therefore closed records until any related investigation becomes inactive.
- HB 987
  - Any recording captured by a body camera, dashboard camera, or other such camera shall not be a public record for purposes of the state's open records law under Missouri Revised Statutes chapter 610 (public records law) and shall not be disclosed by a law enforcement agency except upon order of a court or under the prosecution or defense of a criminal case.
- HB 39
  - The use of any recording obtained under this section shall be for internal or external investigations of misconduct, and where police have reasonable suspicion that a recording contains evidence of a crime.
  - In any prosecution, if the state expects to offer the testimony of a law enforcement officer against a defendant and the law enforcement officer was required to record video and audio information of his or her interaction with the defendant, the state shall produce a copy of the video and audio information in a reasonably usable format upon the defendant's request. If the state does not produce the video and audio information, the court may draw an adverse inference from the state's failure to produce such information.

#### Links

- Article describing July 2016's new law: <http://fox2now.com/2016/07/08/nixon-signs-bill-limiting-access-to-police-body-cam-videos/>
- H.B. 762, 98th Gen. Assemb., 1st Reg. Sess. (Mo. 2015), <http://www.house.mo.gov/billtracking/bills151/billpdf/perf/HB0762P.PDF>.
- S.B. 331, 98th Gen. Assemb., 1st Reg. Sess. (Mo. 2015), <http://www.senate.mo.gov/15info/pdf-bill/intro/SB331.pdf>.
- H.B. 987, 98th Gen. Assemb., 1st Reg. Sess. (Mo. 2015), <http://www.house.mo.gov/billtracking/bills151/billpdf/intro/HB0987I.PDF>.
- S.B. 550, 98th Gen. Assemb., 1st Reg. Sess. (Mo. 2015), <http://www.senate.mo.gov/15info/pdf-bill/intro/SB550.pdf>.
- S.B. 21, 98th Gen. Assemb., 1st Reg. Sess. (Mo. 2015), <http://www.senate.mo.gov/15info/pdf-bill/intro/SB21.pdf>.
- H.B. 1699, 97th Gen. Assemb., 2nd Reg. Sess. (Mo. 2014), <http://www.house.mo.gov/billtracking/bills141/billpdf/intro/HB1699I.PDF>.

- H.B. 971, 98th Gen. Assemb., 1st Reg. Sess. (Mo. 2015), <http://www.house.mo.gov/billtracking/bills151/billpdf/intro/HB0971I.PDF>.
- H.B. 75, 98th Gen. Assemb., 1st Reg. Sess. (Mo. 2015), <http://www.house.mo.gov/billtracking/bills151/billpdf/intro/HB0075I.PDF>.
- H.B. 76, 98th Gen. Assemb., 1st Reg. Sess. (Mo. 2015), <http://www.house.mo.gov/billtracking/bills151/billpdf/intro/HB0076I.PDF>.
- H.B. 39, 98th Gen. Assemb., 1st Reg. Sess. (Mo. 2015), <http://www.house.mo.gov/billtracking/bills151/billpdf/intro/HB0039I.PDF>.
- S.B. 356, 98th Gen. Assemb., 1st Reg. Sess. (Mo. 2015), <http://www.senate.mo.gov/15info/pdf-bill/intro/SB356.pdf>.
- [http://blogs.riverfronttimes.com/dailyrft/2015/05/dash\\_cam\\_video\\_bill\\_dead.php](http://blogs.riverfronttimes.com/dailyrft/2015/05/dash_cam_video_bill_dead.php)

<b>Montana</b>	
House Joint Resolution 22, which would have directed a committee to study body cameras, apparently died in House Judiciary committee on April 28, 2015.	
<b>Collection</b>	<ul style="list-style-type: none"> <li>• There are no statutory requirements currently.</li> <li>• There is a tabled Montana House Joint Resolution Number 22 in the Montana House Judiciary Committee. The Resolution directs an interim committee to identify the issues associated with body cameras for police officers and the public, including project costs and current body camera trends in other states.</li> </ul>
<b>Retention</b>	<ul style="list-style-type: none"> <li>• There are no statutory requirements currently. There is a proposed legislative study on the issue that has been tabled in the Montana House Judiciary Committee</li> </ul>
<b>Exemption</b>	<ul style="list-style-type: none"> <li>• There are no statutory requirements currently. There is a proposed legislative study on the issue that has been tabled in the Montana House Judiciary Committee</li> <li>• The House Joint Resolution 22 tasks the interim committee to examine Montana’s privacy and public records statutes to determine if changes are needed to prevent disclosure of information captured on body-worn cameras that might be considered private, including but not limited to interactions in private homes, medical information, juveniles, crime witnesses and crime victims.</li> </ul>
<b>Dashcam Exemptions</b>	<ul style="list-style-type: none"> <li>• Montana does not appear to have a specific exemption carving out police dashboard camera videos from its state public records act. Montana’s law enforcement statute does define “initial offense reports” as “public criminal justice information”, which could also include video and audio recordings of dashboard cameras. Under the same statute, there are no restrictions on the dissemination of public criminal justice information, suggesting that Montana would treat these videos as public records for FOIA purposes.</li> </ul>
<b>Links</b>	<ul style="list-style-type: none"> <li>• <a href="#">House Joint Resolution Number 22</a></li> <li>• <a href="https://legiscan.com/MT/bill/HJ22/2015">https://legiscan.com/MT/bill/HJ22/2015</a></li> <li>• <a href="#">M.C.A. 44-5-103(13)</a> Definitions</li> <li>• <a href="#">M.C.A. 44-5-301</a> Dissemination of public criminal justice information</li> </ul>

## Nebraska

There is one interim study (LR 261), introduced on May 12, 2015, being conducted by the legislature's judiciary committee to examine implementing the use of police body cameras. According to a June 2014 Omaha.com article, at least nine local law enforcement offices in Nebraska had police body cameras or were testing cameras at the time the article was written.

A bill (LB1000) was passed by the Nebraska Legislature on April 7, 2016 that would require all law enforcement agencies to document in writing the procedures to be followed by officers wearing cameras by Jan. 1, 2017. Agencies that begin using cameras after Jan. 1, 2017, would have three months to submit plans to the commission.

### Collection

- On or before December 1, 2016, the Nebraska Commission on Law Enforcement and Criminal Justice will develop a model policy for body-worn camera usage. An individual agency using body-worn cameras can either develop its own policy or adopt the commission's model policy. Agencies choosing to develop individualized policies must include the minimum standards set forth by the commission, including:
  - Proper training for officers using cameras or accessing video and audio captured by the cameras;
  - Retention of recordings captured for at least 90 days from the date of such recording; and
  - Procedures governing the destruction of such recordings after the retention requirement have been met.

### Retention

- If video is determined to have evidentiary value in a criminal, civil or internal disciplinary proceeding, it must be retained until a final determination is reached. If an arrest or prosecution is not made, the video will be retained until a final determination is made or an investigation is officially closed or suspended.
- The introduced copy of the bill (LB1000) had provisions that were not in the final copy, such as a policy that required retention for a minimum period of six months from the date of recording (§ 5(2)), and that all recordings created by body-worn cameras are automatically preserved and transmitted (§6(2)).

### Exemption

- The introduced copy of the bill also included an explicit statement that all recordings created with a body-worn camera of a law enforcement agency are subject to the statutory exemptions of the Public Records Act (§ 84-71205(5)) (§7). It also made it a criminal misdemeanor to release the recording without the permission of the applicable law enforcement agency (§ 8(1)(a)-(b)) or for an employee of a law enforcement agency to intentionally destroy or delete a recording of created with body-worn camera (§ 8(2)(a)-(b)).
- Records developed or received by law enforcement charged with duties of investigation when the records constitute a part of the examination, investigation, intelligence information, citizen complaints or inquiries, informant identification, or strategic or tactical information used in law enforcement training, unless publicly disclosed in an open court, open administrative proceeding, or open meeting or disclosed by a public entity pursuant to its duties, may be withheld from

the public by the lawful custodian of the records. Neb. Rev. Stat. § 84-712.05(5)

- With respect to the release policy for body cameras (and noting that it does not expressly mention FOIA), the article explains that “[t]he release of any video to someone outside the department or Sarpy County Attorney’s Office requires approval of the division commander or police chief.

**Dashcam Exemptions**

- No specific statutory dashboard camera FOIA exemptions.
- Records developed or received by law enforcement charged with duties of investigation when the records constitute a part of the examination, investigation, intelligence information, citizen complaints or inquiries, informant identification, or strategic or tactical information used in law enforcement training, unless publicly disclosed in an open court, open administrative proceeding, or open meeting or disclosed by a public entity pursuant to its duties, may be withheld from the public by the lawful custodian of the records. Neb. Rev. Stat. § 84-712.05(5)

**Links**

- Neb. Rev. Stat. § 84-712.05 <http://nebraskalegislature.gov/laws/statutes.php?statute=84-712.05>
- LR 261 <http://nebraskalegislature.gov/FloorDocs/104/PDF/Intro/LR261.pdf>
- LB 1000 (Slip Copy, Apr. 13, 2016) <http://nebraskalegislature.gov/FloorDocs/Current/PDF/Slip/LB1000.pdf>
- LB 1000 (Floor Copy, Jan. 15, 2016) <http://nebraskalegislature.gov/FloorDocs/Current/PDF/Intro/LB1000.pdf>
- Unicameral Update, Session Review: Judiciary <http://update.legislature.ne.gov/?p=19530>
- Unicameral Update, Body-worn camera procedures suggested for law enforcement (Feb. 19, 2016) <http://update.legislature.ne.gov/?p=18587>
- Bill outlines use of police body cameras, Lincoln Journal-Star (Jan. 15, 2016). [http://journalstar.com/legislature/bill-outlines-use-of-police-body-cameras/article\\_3034b5da-4b8a-5388-a35c-b12037e77da6.html](http://journalstar.com/legislature/bill-outlines-use-of-police-body-cameras/article_3034b5da-4b8a-5388-a35c-b12037e77da6.html)
- Special Report: Local Law Enforcement Body Camera Policies, 1011 Now (Apr. 21, 2016) <http://www.1011now.com/content/news/body-cam-policy-376657461.html>

## Nevada

Nevada recently passed Assembly Bill 162, which is relevant to body cameras and will become effective on January 1, 2016. There is also one senate bill (SB 111) that was enrolled on June 1, 2015. However, this bill only requires the Nevada Highway Patrol Division of the Department of Public Safety to wear portable event recording devices, and to adopt policies and procedures governing the use of portable event recording devices.

### Collection

- Assembly Bill 162 allows, but does not require, law enforcement agencies to use body-worn cameras. Any such agencies would be required to develop policies and procedures for the use of such cameras.
  - Amdt. No. 268 (April 14, 2015) to Assembly Bill 162 provides a minimum policy governing use of portable event recording devices that is intended to (1) require activation of a portable event recording device whenever a peace officer is responding to a call for service or at the initiation of any other law enforcement or investigative encounter between a uniformed police officer and a member of the public; (2) prohibit deactivation of the portable event recording device until the conclusion of a law enforcement or investigative encounter; (3) prohibit the recording of general activity; (4) protect the privacy of persons; and (5) establish disciplinary rules for peace officers who: (1) fail to operate a portable event recording device in accordance with any departmental policies; (2) manipulate a video recorded by a portable device; or (3) prematurely erase a video recorded by a portable event recording device.
- Senate Bill 111 would require all law enforcement officers who routinely interact with the public to wear a recording device while on duty. All law enforcement agencies would also be required to develop policies and procedures for the use of such cameras.

### Retention

- Assembly Bill 162 leaves the details of retention up to the law enforcement agency, which would be required to adopt a policy that would limit the time for retention.
- Senate Bill 111 would require that the law enforcement agency retain the video for at least 15 days.

### Exemption

- Both Assembly Bill 162 and Senate Bill 111 provide that that body camera video recordings are public records, but could be requested only on a per incident basis, and if the record contains confidential information that could not otherwise be redacted, would be available for inspection only at the location where the record is held.
- The Nevada Supreme Court has held that criminal investigative records are subject to a common-law exception to the Nevada Public Records Law, N.R.S. 239.010. *Donrey of Nevada, Inc. v. Bradshaw*, 798 P.2d 144, 147-48 (Nev. 1990). As such, whether such documents shall be released to the public depends on a balancing test between any privacy or law enforcement justifications for nondisclosure versus the general policy in favor of open government. *Id.* at 148. In that case, the court ruled in favor of disclosure.
- In *Reno Newspapers, Inc. v. Gibbons*, the Nevada Supreme Court said that the ruling in *Donrey* was based on the facts

that no criminal proceeding was pending or anticipated, no confidential sources of investigative techniques were contained in the report, there was no possibility of denying anyone a fair trial and disclosure did not jeopardize law enforcement personnel. *Reno Newspapers, Inc. v. Gibbons*, 266 P. 3d 623, 627 (Nev. 2011). The framework for testing the claims of confidentiality is therefore, 1) presumption that all government-generated records are open to disclosure, 2) in the absence of a statutory provision that explicitly declares a record to be confidential, any limitations on disclosure must be based upon a broad balancing of the interests involved and the state entity bears the burden to prove that interest in nondisclosure clearly outweighs the public's interest in access, and 3) the state entity cannot meet burden with a non-particularized showing or by expressing hypothetical concerns. *Reno Newspapers, Inc. v. Gibbons*, 266 P. 3d 623, 628 (Nev. 2011).

**Dashcam Exemptions**

- No requirements specifically applying to dashboard camera videos. See the above discussion of Donrey for the “balancing test” governing disclosure of criminal investigation documents.

**Links**

- *Reno Newspapers, Inc. v. Gibbons*, 266 P. 3d 623 (Nev. 2011), [http://scholar.google.com/scholar\\_case?case=11447200495390398565&hl=en&as\\_sdt=6,33&as\\_vis=1](http://scholar.google.com/scholar_case?case=11447200495390398565&hl=en&as_sdt=6,33&as_vis=1)
- Amdt. No. 1027 to SB 111, [https://www.leg.state.nv.us/Session/78th2015/Bills/Amendments/A\\_SB111\\_R1\\_1027.pdf](https://www.leg.state.nv.us/Session/78th2015/Bills/Amendments/A_SB111_R1_1027.pdf)
- Amdt No. 268 to AB 162, [https://www.leg.state.nv.us/Session/78th2015/Bills/Amendments/A\\_AB162\\_268.pdf](https://www.leg.state.nv.us/Session/78th2015/Bills/Amendments/A_AB162_268.pdf)
- Body Camera Footage Leads to Federal Civil Rights Charges for Las Vegas Cop , Huffington Post [http://www.huffingtonpost.com/entry/richard-scavone-las-vegas-police\\_us\\_56956bbfe4b09dbb4bacf8ea](http://www.huffingtonpost.com/entry/richard-scavone-las-vegas-police_us_56956bbfe4b09dbb4bacf8ea)
- Metro Cop accused of using excessive force after body-cam video reviewed, Las Vegas Sun <http://lasvegassun.com/news/2015/mar/17/metro-police-officer-accused-using-excessive-force/>

## New Hampshire

In June 2016, a bill (HB 1584) establishing parameters for police body camera use was signed by the Governor, providing uniform guidelines for all of New Hampshire's police agencies. The bill is effective January 1, 2017. This replaces two previous proposals relevant to body cameras (HB 583 and HB 617), both of which would have required state law enforcement officers to wear cameras when interacting with the public.

### Collection

- HB-1584 requires that
  - Officers who are assigned body-worn cameras to complete an agency-approved training program to ensure proper use and operations. Officers are only allowed to use body-worn cameras when in uniform.
  - An officer must notify an individual that he is being recorded as soon as possible and also, if it is one of the applicable cases, that a citizen has a right not to be recorded. Also, in locations where individuals have a reasonable expectation of privacy, a citizen may decline to be recorded unless the recording is made while executing an arrest warrant or a warrant issued by the court.
  - Recordings to be specific to an incident, e.g. officers are not permitted to indiscriminately record entire duties or patrols. Officers are therefore to activate the video and audio components of body-worn cameras and start recording upon arrival on scene of a call for service or when engaged in any law enforcement-related encounter or activity, or, if so required by local policy, upon activation of lights and siren.
- Body-worn cameras cannot be used to record any of the following
  - Communications with other police personnel except to the extent that such are incidental to permissible recordings
  - Encounters with undercover police personnel or confidential informants unless expressly directed so as part of an investigation
  - Intimate searches
  - An interview with a crime unless his or her express consent has been obtained prior to the recording (must also be consistent with state attorney general's model protocol for law enforcement response to adult sexual assault, domestic violence, stalking, child abuse and neglect)
  - Interactions with a person seeking to report a crime anonymously
  - While on the grounds of any public, private or parochial elementary or secondary school, except when responding to an imminent threat to life or health or a call for service
  - When the officer is on break or otherwise engaged in personal activities
  - In any instance when it is believed that an explosive device may be present and electrostatic interference from the BWC may

trigger the device

**Retention**

- Generally footage must be retained for at least 30 days, and at most 180 days from recording, except that recordings shall be retained for at least 3 years if the recording captures images involving any action by law enforcement officer that involves
  - Use of deadly force or restraint;
  - Discharge of a firearm;
  - Death or serious bodily injury;
  - An encounter about which a complaint has been filed with the police department within 30 days after the encounter; or
  - The recording is being retained by the law enforcement agency as evidence in a civil or criminal case, or as part of an internal affairs investigation
- HB1584 also requires that
  - All recordings be securely stored no later than the end of each shift, or as soon as reasonably practicable, in conformity with federal CJIS policy.
- If there is any other legal requirement for retaining the recording (e.g., litigation, a pending criminal case or a valid court or administrative order), the recording must be retained only as long as legally required
- Any record undertaken that does not follow the statutory requirements must be immediately destroyed, and if not destroyed, cannot be used as evidence in any criminal or civil legal or administrative proceeding, except in a proceeding against an officer for violating the provisions of the statute

**Exemption**

- HB 1584 states that recordings are not to be divulged or used by a law enforcement agency for any commercial or other non law-enforcement purpose (including analysis or analytics of any kind); and
- Expressly amends the state statute involving exemptions to government record access (RSA 91-A:5) by adding the following exemption: Video and audio recordings made by a law enforcement officer using a body-worn camera [is exempt] except where the recordings depict the following: any restraint or use of force by a law enforcement officer, the discharge of a firearm, and an encounter that results in an arrest for a felony-level offense. The preceding does not include portions of recording where invasion of privacy by any person or which are otherwise exempt from disclosure.
- If an officer is suspected of wrongdoing (e.g., involved in a shooting or other use of deadly force), an agency may limit

or restrict that officer from viewing the relevant video file.

**Dashcam Exemptions**

- House Bill 583 does not directly address FOIA exemptions, but does require disclosure of audio and visual recording mandatorily made by police to the defense, upon request, if used in the context of a prosecution.

**Links**

- RSA 91-A:5, Exemptions to Access to Governmental Records and Meetings, <http://www.gencourt.state.nh.us/rsa/html/vi/91-a/91-a-5.htm>
- HB 583, <https://legiscan.com/NH/text/HB583/2016>
- HB 617, <https://legiscan.com/NH/text/HB617/id/1095842>
- HB 1584, [http://gencourt.state.nh.us/bill\\_status/billText.aspx?id=405&txtFormat=html](http://gencourt.state.nh.us/bill_status/billText.aspx?id=405&txtFormat=html)
- Police body camera bill signed by governor, Seacoastonline.com, <http://www.seacoastonline.com/article/20160630/NEWS/160639875>
- Greenfield Chief on leave after officer-involved shooting, New Hampshire Union Leader, <http://www.unionleader.com/Greenfield-chief-on-leave-after-officer-involved-shooting-06282016>

## New Jersey

New Jersey recently passed one bill relevant to police body and dashboard cameras, Assembly Bill 2280, which requires the use of cameras in police vehicles. Two other bills “died in legislative committee”: Senate Bill 2649 would have established a task force to study and make recommendations concerning the use of body cameras by law enforcement agencies. AR 197 “[u]rge[d] [the United States] Congress to enact legislation requiring law enforcement officers to be equipped with body cameras.”

In July 2015, the Office of the Attorney General issued a 24-page directive regarding police worn body cameras and stored recordings. In December 2015, the Office granted 176 departments authority to buy more than 5,000 body cameras in order to enact the directive.

### Collection

- Assembly Bill 2280 requires every new or used municipal police vehicle purchased, leased, or otherwise acquired on or after March 1, 2015, which is primarily used for traffic stops, to be equipped with a mobile video recording system. “Mobile video recording system” is defined as a device or system installed or used in a police vehicle, or worn or otherwise used by an officer, which electronically records visual images depicting activities that take place during a motor vehicle stop or other law enforcement action.
- The 2015 directive from the Office of the Attorney General listed activities during which body cameras must be activated, including traffic stops, witness interviews, custodial interrogations, protective frisks, searches and arrests. Body cameras must be kept on during deadly force incidents and related on-scene investigations.
  - However, the directive prohibits use of a body camera where it would expose an undercover officer or a confidential informant. It also limits and imposes strict requirements on recording in a private home, school, hospital or place of worship unless responding to a crime or emergency. The policy provides special protections to crime victims and children. It requires police departments to take reasonable steps to inform the public that they are using body cameras and requires officers to be truthful if asked if they are using a body camera.

### Retention

- The 2015 directive from the Office of the Attorney General requires a minimum retention period of 90 days, with the following additional retention periods: When a recording pertains to a criminal investigation, or otherwise records information that may be subject to discovery in a prosecution, the recording shall be treated as evidence and shall be kept in accordance with retention period for evidence in a criminal prosecution
- When a camera records an arrest that did not result in an ongoing prosecution, or records the use of police office, the recording shall be kept until expiration of the statute of limitations for filing a civil complaint against the officer and/or agency
- When a camera records an incident that is subject of the internal affairs complaint, the recording shall be kept pending final resolution of the internal affairs investigation and any resulting administrative action

<b>Exemption</b>	<ul style="list-style-type: none"> <li>• The 2015 directive from the Office of the Attorney General states that a recording of an event or encounter that involves an investigation of a criminal offense can not be shared with, provided or shown to any person, entity, or government agency, other than a law enforcement agency, unless such disclosure is required by the Rules of Court governing discovery in prosecutions, or by court order, or unless the law enforcement agency in consultation with the County prosecutor or Director of the Division of Criminal Justice determines that the person’s need for access outweighs the law enforcement interest in maintaining confidentiality.</li> <li>• Additionally, the New Jersey Open Public Records Act (N.J.S.A. 47:1A-3(a)), provides that where the record or records which are sought to be inspected, copied or examined appear to pertain to an investigation in process by any public agency, the public may be denied access.</li> </ul>
<b>Dashcam Exemptions</b>	<ul style="list-style-type: none"> <li>• The New Jersey dash camera law that recently went into effect contains no express provisions on the treatment of videos under FOIA. However, there is recent case law indicating that if police agencies require the regular recording of law enforcement activities, the videos qualify as government records and cannot be exempted from the New Jersey Open Public Records Act (OPRA) under the state’s criminal investigatory exemption. In addition, government entities cannot necessarily rely on the “investigations” exemption under OPRA to prohibit disclosure of dash-camera videos.</li> </ul>
<b>Links</b>	<ul style="list-style-type: none"> <li>• <a href="https://legiscan.com/NJ/bill/AR197/2014">Assembly Resolution 197, https://legiscan.com/NJ/bill/AR197/2014</a></li> <li>• Assembly Bill 2280, available at <a href="http://www.njleg.state.nj.us/2014/Bills/AL14/54 .HTM">http://www.njleg.state.nj.us/2014/Bills/AL14/54 .HTM</a></li> <li>• Senate Bill 2649, available at <a href="https://legiscan.com/NJ/bill/S2649/2014">https://legiscan.com/NJ/bill/S2649/2014</a></li> <li>• NJ Attorney General Law Enforcement Directive 2015-1, July 28, 2015, <a href="http://www.state.nj.us/lps/dcj/agguide/directives/2015-1_BWC.pdf">http://www.state.nj.us/lps/dcj/agguide/directives/2015-1_BWC.pdf</a></li> <li>• Fact Sheet, Attorney General’s Statewide Policy for Body-Worn Cameras, <a href="http://nj.gov/oag/newsreleases15/Body-Camera-Policy_Fact-Sheet.pdf">http://nj.gov/oag/newsreleases15/Body-Camera-Policy_Fact-Sheet.pdf</a></li> <li>• Law requiring N.J. police cars to have cameras is unconstitutional, council rules, Apr. 20, 2016, NJ.com, <a href="http://www.nj.com/politics/index.ssf/2016/04/cop_car_camera_law_an_unfunded_mandate_council_rul.html">http://www.nj.com/politics/index.ssf/2016/04/cop_car_camera_law_an_unfunded_mandate_council_rul.html</a></li> <li>• NJ Court Clarifies OPRA’s Applicability to Internal Investigation Documents, available at <a href="http://scarincilawyer.com/nj-court-clarifies-opras-applicability-to-internal-investigation-documents">http://scarincilawyer.com/nj-court-clarifies-opras-applicability-to-internal-investigation-documents</a>.</li> <li>• Appeals court blocks release of documents in fatal police shooting near Rutherford-Lyndhurst border, North Jersey.com (June 11, 2015), <a href="http://www.northjersey.com/news/appeals-court-blocks-release-of-documents-in-fatal-police-shooting-near-the-rutherford-lyndhurst-border-1.1354219">http://www.northjersey.com/news/appeals-court-blocks-release-of-documents-in-fatal-police-shooting-near-the-rutherford-lyndhurst-border-1.1354219</a></li> <li>• <i>North Jersey Media Group, Inc. v. Township of Lyndhurst</i>, <a href="http://law.justia.com/cases/new-jersey/appellate-division-">http://law.justia.com/cases/new-jersey/appellate-division-</a></li> </ul>

<published/2015/a2523-14.html>

## New Mexico

New Mexico does not currently have state-wide requirements for collection of body camera videos. Some local jurisdictions already employ body cameras, including Albuquerque, Las Cruces, Alamogordo, and Roswell. The Albuquerque Police Department has been criticized for having a confusing policy.

The New Mexico Criminal Defense Attorneys have issued a statement in support of a clear-cut policy regarding police worn body cameras, but no additional progress has been made at this time.

### Collection

- None.
- In February 2015, House Bill 363 was introduced with language to eliminate police immunity for “personal injury, bodily injury, wrongful death or property damage caused by law enforcement officers who failed to use a body camera in compliance with policies of the officers’ agency regarding the use of body cameras.” However, action on the bill has been postponed indefinitely.

### Retention

- None.

### Exemption

- New Mexico’s Inspection of Public Records Act gives “[e]very person” the right to inspect “public records of this state,” but has an exception for “law enforcement records that reveal confidential sources, methods, information or individuals accused but not charged with a crime.” N.M. Stat. § 14-2-1. The law has been applied to requests for both body and dashboard camera videos, but some local police departments have refused to turn over recordings based on the exception for confidential law enforcement records.
  - The 2015 edition of the New Mexico Inspection of Public Records Act Compliance Guide explains in commentary on the “Law Enforcement Records” exception does not protect all records held by a law enforcement agency, only applying to records that are (1) created or used by a law enforcement agency in connection with a criminal investigation or prosecution and (2) reveal confidential sources, methods, information or individuals accused but not charged with a crime.
- *Holland v. City of Albuquerque*, 343 P.3d 192 (2014), is a recent example of a request by a local television news station for lapel camera video from the Albuquerque Police Department. There, the court noted that penalties under the state Inspection of Public Records Act apply only to written requests for information, not verbal requests.

### Dashcam Exemptions

- See previous.

**Links**

- Legislative panel rejects mandates for police body cameras, Albuquerque Journal (Dec. 10, 2015), <http://www.abqjournal.com/689274/legislative-panel-rejects-mandates-for-police-body-cameras.html>
- Defense attorneys support statewide use of body cameras (Feb. 5, 2016), <http://www.abqjournal.com/719476/defense-attorneys-support-statewide-use-of-body-cameras.html>
- University of New Mexico, Institute for Social Research, Report in Brief: City of Albuquerque Police Department on Body Camera System Research, <http://isr.unm.edu/reports/2016/city-of-albuquerque-on-body-camera-system-research-report-in-brief.pdf>
- 2015 edition of the New Mexico Inspection of Public Records Act Compliance Guide provided by the Office of the New Mexico Attorney General, <http://www.nmag.gov/uploads/files/Publications/ComplianceGuides/Inspection%20of%20Public%20Records%20Compliance%20Guide%202015.pdf>
- <http://www.nmlegis.gov/Sessions/15%20Regular/bills/house/HB0363.html>
- <http://www.abqjournal.com/81555/news/cop-recordings-arent-released.html>
- Holland v. City of Albuquerque, 343 P.3d 192 (2014)

## New York

New York has numerous bills pending related to police dashboard and body cameras. Assembly Bill 1648 would implement a pilot program for police body cameras. Assembly Bill 7682 would require the disclosure of all recordings found on a police or peace officer's body camera and/or camera installed in a police or peace officer's vehicle. Assembly Bill 4509 would require all law enforcement officers travelling in law vehicles equipped with video cameras or recording equipment to turn them on whenever they stop to interact with the general public. Assembly Bill 08368 would exclude video camera recordings from cameras worn or used by police from being included as personnel records, and further provides for the release of these recordings pursuant of the state Freedom of Information Law. Senate Bill 06030A similarly excludes video camera recordings and raw data generated from such recordings from being listed as personnel records. Assembly Bill 07682 would add to the discoverability of recordings found on police body cameras and vehicle cameras. Assembly Bill 09279 would create a new section of the correction law providing for a body camera pilot program in a state correctional facility, and Senate Bill 07782 would require certain employees of the New York State Department of Corrections to wear body cameras.

### Collection

- Assembly Bill 1684 would require any city having a population of one million or more persons to institute a 4-year pilot program requiring the use of police body cameras. At the start of every shift, at least 20% of the police officers on duty for each shift would be required to wear the cameras. The officers to whom the cameras are assigned will be required to turn on and maintain operation of the cameras during any interaction with a civilian while on duty.
- Assembly Bill 4509 would require “any law enforcement officer who travels in a law enforcement vehicle equipped with a video camera and/or recording equipment, and who stops such vehicle to interact with the general public, [to] turn on such video camera and recording equipment prior to exiting such vehicle.”

### Retention

- None.

### Exemption

- Assembly Bill 08368 would amend the state civil rights law to provide that video recordings, and records of such, are not confidential personnel records, and would amend FOIL to provide specific guidelines for the disclosure of such video recordings.
- In the context of either a civil or criminal action, Assembly Bill 7682 would require the disclosure of all recordings found on a police or peace officer's body camera and/or camera installed in a police or peace officer's vehicle.
- However, in the context of a civil action, Assembly Bill 7682 would not require any disclosure of, and the Public Officers Law exempts from a public disclosure requirement, materials that are compiled for law enforcement purposes that if disclosed would (i) interfere with law enforcement investigations or judicial proceedings; (ii) deprive a person of a right to a fair trial or impartial adjudication; (iii) identify a confidential source or disclose confidential information relating to a criminal investigation; or (iv) reveal criminal investigative techniques or procedures, except routine techniques and procedures. NY PBO § 87(e)

<b>Dashcam Exemptions</b>	<ul style="list-style-type: none"> <li>• Assembly Bill 07682 would add the discoverability of recordings found on police body cameras and vehicle cameras to New York law.</li> </ul>
<b>Links</b>	<ul style="list-style-type: none"> <li>• Gawker.com, NYPD Demands \$36,000 “Copying Fee” for Access to Cops’ Body Cam Footage, <a href="http://gawker.com/nypd-demands-36-000-copying-fee-for-access-to-cops-1752989616">http://gawker.com/nypd-demands-36-000-copying-fee-for-access-to-cops-1752989616</a></li> <li>• Assembly Bill 08368, <a href="http://assembly.state.ny.us/leg/?default_fld=&amp;leg_video=&amp;bn=A08368&amp;term=2015&amp;Summary=Y&amp;Actions=Y&amp;Committee%26nbspVotes=Y&amp;Floor%26nbspVotes=Y&amp;Memo=Y&amp;Text=Y">http://assembly.state.ny.us/leg/?default_fld=&amp;leg_video=&amp;bn=A08368&amp;term=2015&amp;Summary=Y&amp;Actions=Y&amp;Committee%26nbspVotes=Y&amp;Floor%26nbspVotes=Y&amp;Memo=Y&amp;Text=Y</a></li> <li>• Assembly Bill 07682, <a href="http://assembly.state.ny.us/leg/?default_fld=&amp;bn=A07682&amp;term=2015&amp;Summary=Y&amp;Actions=Y&amp;Text=Y">http://assembly.state.ny.us/leg/?default_fld=&amp;bn=A07682&amp;term=2015&amp;Summary=Y&amp;Actions=Y&amp;Text=Y</a></li> <li>• Assembly Bill 09279, <a href="http://assembly.state.ny.us/leg/?default_fld=&amp;bn=A09279&amp;term=2015&amp;Summary=Y&amp;Actions=Y&amp;Text=Y">http://assembly.state.ny.us/leg/?default_fld=&amp;bn=A09279&amp;term=2015&amp;Summary=Y&amp;Actions=Y&amp;Text=Y</a></li> <li>• Assembly Bill 04936, <a href="http://assembly.state.ny.us/leg/?default_fld=&amp;leg_video=&amp;bn=A04936&amp;term=2015&amp;Summary=Y&amp;Actions=Y&amp;Committee%26nbspVotes=Y&amp;Floor%26nbspVotes=Y&amp;Memo=Y&amp;Text=Y">http://assembly.state.ny.us/leg/?default_fld=&amp;leg_video=&amp;bn=A04936&amp;term=2015&amp;Summary=Y&amp;Actions=Y&amp;Committee%26nbspVotes=Y&amp;Floor%26nbspVotes=Y&amp;Memo=Y&amp;Text=Y</a></li> <li>• Assembly Bill 1648, <a href="http://assembly.state.ny.us/leg/?default_fld=&amp;bn=A01648&amp;term=2015&amp;Summary=Y&amp;Actions=Y&amp;Votes=Y&amp;Memo=Y&amp;Text=Y">http://assembly.state.ny.us/leg/?default_fld=&amp;bn=A01648&amp;term=2015&amp;Summary=Y&amp;Actions=Y&amp;Votes=Y&amp;Memo=Y&amp;Text=Y</a></li> <li>• Assembly Bill 7682, <a href="http://assembly.state.ny.us/leg/?default_fld=&amp;bn=A07682&amp;term=2015&amp;Summary=Y&amp;Actions=Y&amp;Text=Y&amp;Votes=Y#A07682">http://assembly.state.ny.us/leg/?default_fld=&amp;bn=A07682&amp;term=2015&amp;Summary=Y&amp;Actions=Y&amp;Text=Y&amp;Votes=Y#A07682</a></li> <li>• Assembly Bill 4509, <a href="http://assembly.state.ny.us/leg/?default_fld=&amp;bn=A04509&amp;term=2015&amp;Summary=Y&amp;Actions=Y&amp;Text=Y&amp;Votes=Y#A04509">http://assembly.state.ny.us/leg/?default_fld=&amp;bn=A04509&amp;term=2015&amp;Summary=Y&amp;Actions=Y&amp;Text=Y&amp;Votes=Y#A04509</a></li> <li>• NY Public Officers Law § 87, <a href="http://www.nysl.nysed.gov/libdev/excerpts/pbo87.htm">http://www.nysl.nysed.gov/libdev/excerpts/pbo87.htm</a></li> </ul>

## North Carolina

In July 2016, the governor of North Carolina signed HB 972 into law. HB 972 amends the State Public Records Act (N.C. Gen. Stat. 132-1.4A) by making police dashboard camera and body footage exempt from public record. The footage is still accessible to people who can be seen or heard in the video, along with their personal representatives, but they must file a request to obtain the footage. If the request is denied, the petitioners must go before the state's superior court. Requests can be denied to protect a person's safety or reputation, or if the recording is part of an active investigation. The new law will go into effect on October 1. The American Civil Liberties Union of North Carolina condemned HB 972 for posing significant barriers such as time and money to go to court for people to have access to the footage and to achieve goals of transparency and accountability to communities.

<b>Collection</b>	<ul style="list-style-type: none"><li>• HB972 delegates the power to adopt a policy applicable to the use of body cameras to each agency that uses body-worn cameras.</li></ul>
<b>Retention</b>	<ul style="list-style-type: none"><li>• HB972 provides that any recording subject to the statute shall be retained for at least the period of time required by the applicable records retention and disposition schedule developed by the Department of Natural and Cultural Resources, Division of Archives and Records.</li></ul>
<b>Exemption</b>	<ul style="list-style-type: none"><li>• HB 972 does not directly address FOIA exemptions, but under the new law, body camera and dash camera footage are not state public records. Law enforcement agencies have the discretion to release footage to people who are recorded, and if the agency denies a request to disclose the footage, the recorded individual must bring a claim in court to attempt to obtain the footage. There is no mechanism for law enforcement to release videos to the general public other than through a court order.</li></ul>
<b>Dashcam Exemptions</b>	<ul style="list-style-type: none"><li>• HB972's definition of "recording" includes capture by both body-worn cameras and dashboard cameras. Specifically, the statute defines recording as "a visual, audio, or visual and audio recording captured by a body worn camera, a dashboard camera, or any other video or audio recording device operated by or on behalf of a law enforcement agency or law enforcement agency personnel when carrying out law enforcement responsibilities. This term does not include any video or audio recordings of interviews regarding agency internal investigations or interviews or interrogations of suspects or witnesses." N.C. Gen. Stat. § 132-1.4A(a)(6) (emphasis added).</li></ul>
<b>Links</b>	<ul style="list-style-type: none"><li>• Police Camera Footage Will No Longer be Made Public in North Carolina, Huffington Post, <a href="http://www.huffingtonpost.com/entry/north-carolina-police-camera-footage_us_57850a43e4b0ed2111d7952a?section">http://www.huffingtonpost.com/entry/north-carolina-police-camera-footage_us_57850a43e4b0ed2111d7952a?section</a></li><li>• HB972, <a href="https://legiscan.com/NC/text/H972/id/1422972">https://legiscan.com/NC/text/H972/id/1422972</a></li><li>• ACLU of North Carolina, Gov. McCrory Signs Bill that Keeps Police Camera Footage Secret, <a href="http://www.acluofnorthcarolina.org/blog/gov-mccrory-signs-bill-that-keeps-police-camera-footage-secret.html">http://www.acluofnorthcarolina.org/blog/gov-mccrory-signs-bill-that-keeps-police-camera-footage-secret.html</a></li><li>• Department of Natural and Cultural Resources, Division of Archives and Record, Records Retention and Disposition</li></ul>

Schedules <http://archives.ncdr.gov/For-Government/Retention-Schedules>

## North Dakota

HB 1264 dealing with FOIA treatment of body camera videos passed into law on April 15, 2015 as N.D. Cent. Code § 44-04-18.7 (2015). There have not been any updates within the past year, though police departments around North Dakota appear to believe police worn body cameras could be useful in terms of collecting evidence for investigations and prosecutions, handling complaints against officers, and training new recruits.

### Collection

- N/a
- This article states that local law enforcement in Grand Forks, ND may have departmental policy on when cameras should be on/off and how to respect people's privacy. [http://www.twincities.com/politics/ci\\_27417720/north-dakota-bill-would-keep-some-police-body](http://www.twincities.com/politics/ci_27417720/north-dakota-bill-would-keep-some-police-body)

### Retention

- N/a

### Exemption

- The N.D. Cent. Code provides “An image taken by a law enforcement officer or a firefighter with a body camera or similar device and which is take in a private place is an exempt record.”
- Note: this seems to suggest images taken in non-private places are subject to FOIA requests. There is no definition of “private place” or “public place” in the law, however.

### Dashcam Exemptions

- N/a

### Links

- N.D. Cent. Code § 44-04-18.7 (2015); <http://www.legis.nd.gov/assembly/64-2015/documents/15-0676-01000.pdf?20150612070617>.
- [http://www.twincities.com/politics/ci\\_27417720/north-dakota-bill-would-keep-some-police-body](http://www.twincities.com/politics/ci_27417720/north-dakota-bill-would-keep-some-police-body)
- Minot Police Introduce Body Cameras, KXNews (June 2016) <http://www.kxnet.com/story/32250767/minot-police-introduce-body-cams>
- Berthold Police Use Dash and Body Cams, KXNews (Jan 2016), <http://www.kxnet.com/story/30971092/berthold-police-use-dash-and-body-cams>
- Leading the force: Grand Forks' chief tackles drugs, community policing, body cameras and more, Grand Forks Herald (July 2016), <http://www.grandforksherald.com/news/local/4067067-leading-force-grand-forks-chief-tackles-drugs-community-policing-body-cameras-and>

- Some rural departments embrace police body cameras while others see barriers to using tech, Grand Forks Herald (Nov 2015), <http://www.grandforksherald.com/news/region/3892282-some-rural-departments-embrace-police-body-cameras-while-others-see-barriers>

## Ohio

Two bills have been proposed. The first, HB 585, would enact a section in Ohio’s public record statute, Ohio Revised Code 149.43, providing that records created by body cameras are public records under certain conditions. Another, HB 407, would require law enforcement agencies that use body cameras to adopt written policies for the operations of the cameras, including retention and availability of footage as public record. HB 407 was passed by the Ohio House in May 2016.

### Collection

- HB407 would require each law enforcement agency that uses body cameras to enact a publicly available policy that addresses activities during which operation of the body camera is mandatory, optional, or prohibited, as well as standard procedures for obtaining consent to operate the body camera when entering private residences and exceptions to the consent requirement for circumstances in which obtaining consent would be impracticable.

### Retention

- HB585 would require a local records commission to maintain records from a body camera for a minimum of 1 year , unless the law enforcement agency in question is subject to a records retention schedule that establishes a longer period of time.
- HB407 would require each law enforcement agency that uses body cameras to enact a publicly available policy that addresses record retention requirements, including the length of time body camera footage is to be retained and the method of storing that footage.

### Exemption

- HB585 exempts videos taken on private property or involving crime victims and juveniles from being categorized as public records, although these records could become public after a guilty plea or conviction of the offense recorded. The ACLU has objected to this provision.
- HB585 would provide that the portions of a record that contain personal information or information that is not relevant to the offense or delinquent act be exempt from inspection and copying under the Public Records Law. These portions are subject to redaction.
- HB407 would require each law enforcement agency that uses body cameras to enact a publicly available policy that addresses standard procedures for responding to public record requests for body camera footage.

### Dashcam Exemptions

- HB 585 expressly provides that “body camera” does not include an electronic recording device that is attached to a motor vehicle that is used by a law enforcement officer or law enforcement agency.
- Ohio does not appear to have a specific exemption carving out police dashboard camera videos from its state public records acts. Instead, the dashboard camera videos appear to be treated under the general existing exemptions of the public records statute. The Ohio public records statutes do define “confidential law-enforcement investigatory records” as any record that pertains to a law enforcement matter of a criminal, quasi-criminal, civil or administrative nature,

which are shielded from release under Ohio's public record laws, but only to the extent that releasing the record would create a high probability of disclosure of any of the following:

- Identity of the suspect not yet charged or the identity of a source/witness to whom confidentiality was reasonably promised;
- Information provided by a source/witness that would reasonably tend to disclose the source/witness's identity;
- Specific confidential investigatory techniques or specific investigatory work product;
- Information that would endanger the life or physical safety of law enforcement personnel, crime victim, witness, or confidential source.
- One state appeals court in Ohio has ruled dashcam footage is exempt as "investigatory": [http://www.cleveland.com/open/index.ssf/2014/10/could\\_cleveland\\_police\\_keep\\_bo.html](http://www.cleveland.com/open/index.ssf/2014/10/could_cleveland_police_keep_bo.html). In a separate case, this holding is now being challenged before the Ohio Supreme Court: <http://ohiopengov.com/2015/05/26/newspaper-sues-for-troopers-dash-cam-video/>.

#### Links

- Ohio Revised Code 149.43, <http://codes.ohio.gov/orc/149>
- HB 585, <https://www.legislature.ohio.gov/legislation/legislation-documents?id=GA131-HB-585>
- HB 407, <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-407>
- Ohio bill would require police body camera rules made public, WLWT5 (December 2015), <http://www.wlwt.com/news/ohio-bill-would-require-police-body-camera-rules-made-public/36800288>
- Ohio bill would set rules for police body-camera video, WTOL 11 (July 2016), <http://www.wtol.com/story/32437667/ohio-bill-would-set-rules-for-police-body-camera-video>
- State rep. seeks rules on police body cam access, Dayton Daily News (July 2016), <http://www.mydaytondailynews.com/news/news/local/state-rep-seeks-to-clarify-law-on-police-body-cam-nrxCS/>
- Ohio community-police board to create body camera standard, WLTW5 (October 2015), <http://www.wlwt.com/news/Ohio-community-police-board-to-create-body-camera-standard/35624182>
- Police dash cam, body cam videos reviewed by Ohio Supreme Court , Cleveland.com (June 2016), [http://www.cleveland.com/open/index.ssf/2016/06/police\\_dashcam\\_bodycam\\_videos.html](http://www.cleveland.com/open/index.ssf/2016/06/police_dashcam_bodycam_videos.html)

## Oklahoma

House Bill 1037 was signed into law on June 4, 2015, amending the Oklahoma Open Records Act, 51 O.K. St. § 24a.1 et seq. In June 2016, it was reported that the Oklahoma City Police Department had suspended its body camera program following a dispute with the Fraternal Order of Police, who opposed the Department's ability to "randomly" check footage and potentially pursue disciplinary action against individual officers.

### Collection

- No statutes or major-city policies require collection of bodycam footage.
- But if bodycam footage is collected, recordings of certain depicted events are now subject to the Open Records Act:
  - Use of physical force or violence by officer
  - Pursuits of any kind
  - Traffic stops
  - Any person being arrested, cited, etc., or events that directly led to such result
  - Investigative detentions
  - Any exercise of authority that deprives someone of liberty
  - Actions that cause an officer to be investigated or charged
  - Recordings "in the public interest" that shed light on whether officers acted appropriately
  - Any contextual events occurring before and after any of the above

### Retention

- None specified.

### Exemption

- The new law allows police to redact or obscure specific portions of bodycam recordings that depict:
  - Death of a person or a dead body, unless the death was caused by a law enforcement officer
  - Nudity
  - Minors under the age of 16 or otherwise undermine requirement to keep certain juvenile records confidential
  - Acts of severe violence or great bodily injury, as defined elsewhere in Oklahoma law, unless violence or injury was caused by officer
  - Personal medical information that is not already public

- Detention or transportation for mental health evaluation or drug/alcohol treatment, as required to be kept confidential elsewhere in statute
- Personal information other than license plate number
- Identity of alleged victims of sex crimes or domestic violence
- Identity of a person who provides information to police but could face physical danger if identity is disclosed
- Confidential informants
- The identity of law enforcement officers subject to internal investigation as a result of recorded incident, until investigation has concluded; if investigation lasts for an “unreasonable” amount of time, this protection does not apply
- Information that would materially compromise an ongoing criminal investigation, except that:
  - Recording must be released within 10 days after investigation culminates in arraignment or initial appearance in court; however, prosecutor may ask the court for later release
  - If 120 days lapse from date of incident without formal charges or release of the recording, person requesting the recording may appeal to district court; court must weigh interests of public vs. interests of parties seeking to withhold recording
  - In each scenario, extensions are subject to caps (18 months and 3 years, respectively)

**Dashcam Exemptions**

- As amended, Open Records Act now requires release of dashcam video and audio recordings, except that police may redact or obscure portions that depict:
  - Death of a person or a dead body, unless the death was caused by a law enforcement officer
  - Nudity
  - Minors under the age of 16 or otherwise undermine requirement to keep certain juvenile records confidential
  - Acts of severe violence or great bodily injury, as defined elsewhere in Oklahoma law, unless violence or injury was caused by officer
  - Personal medical information that is not already public
  - Detention or transportation for mental health evaluation or drug/alcohol treatment, as required to be kept confidential elsewhere in statute

- Personal information other than license plate number
- The identity of law enforcement officers subject to internal investigation as a result of recorded incident, until investigation has concluded

**Links**

- [http://www.ok.gov/triton/modules/newsroom/newsroom\\_article.php?id=223&article\\_id=15927](http://www.ok.gov/triton/modules/newsroom/newsroom_article.php?id=223&article_id=15927)
- <https://legiscan.com/OK/text/HB1037/2015>
- <http://kgou.org/post/oklahoma-citys-top-cop-says-open-records-updates-could-spur-more-body-cameras>
- <http://newsok.com/oklahoma-city-police-to-test-body-cameras-for-officers/article/5384108>
- OCPD suspends body cam program amid legal argument, KOCO.com (June 2016), <http://www.koco.com/news/ocpd-suspends-body-cam-program-amid-legal-argument/40054622>
- OKC Police Chief Speaks Out About Removing Bodycams, News9.com (June 15, 2016), <http://www.news9.com/story/32229919/okc-police-chief-to-hold-news-conference-on-removing-bodycams>
- City Violated Bargaining Agreement With Body Camera Policy, Arbitrator Says, News9.com (June 14, 2016), <http://www.news9.com/story/32223356/city-violated-bargaining-agreement-with-body-camera-policy-arbitrator-says>

## Oregon

House Bill 2571 has been passed by the House of Representatives; the Senate passed an amended version on June 11, 2015. Recent news stories have suggested that Portland has been reluctant to equip all officers with body cameras, believing the program would be too expensive, so the roll-out has been slower than expected. However, according to a tentative police union contract obtained in June 2016, Portland police officers who witness another officer use deadly force are allowed to review video recordings while drafting reports, suggesting that the city does intend to continue expanding its body camera use.

<b>Collection</b>	<ul style="list-style-type: none"><li>• H.B. 2571 requires continuous recording from when officers develop reasonable suspicion or probable cause to believe a crime has occurred, until completion of the law enforcement action, subject to exceptions based on “reasonably privacy concerns” or exigent circumstances.</li></ul>
<b>Retention</b>	<ul style="list-style-type: none"><li>• H.B. 2571 requires that police retain videos for at least 180 days, but not more than 30 months, if not related to a court proceeding.</li></ul>
<b>Exemption</b>	<ul style="list-style-type: none"><li>• H.B. 2571 exempts body camera videos from public disclosure under Oregon’s Public Records Law unless the public interest requires disclosure<ul style="list-style-type: none"><li>• “Public interest” is not defined in open records law; Oregon appellate courts have suggested it includes right of citizens to monitor public officials’ actions, but there is little guidance on how this would apply to bodycam scenario</li><li>• H.B. 2571 also requires, for any video subject to release, that all faces be blurred out</li></ul></li><li>• Oregon’s Public Records Law conditionally exempts from disclosure “investigatory information compiled for criminal law purposes.” O.R.S. § 192.501(3). Records conditionally exempt from disclosure must be disclosed if “the public interest requires disclosure in the particular instance.” O.R.S § 192.501. This exemption does not expire when the investigation is completed, but the interest in withholding is diminished if the investigation is closed with no prosecution. Mere arrest records and crime reports are not exempt.</li></ul>
<b>Dashcam Exemptions</b>	<ul style="list-style-type: none"><li>• No requirements specifically applying to police dashboard cameras.</li><li>• See above regarding the exemption for criminal investigatory information.</li><li>• The one provision of Oregon law that does govern dashboard cameras states that officers using such cameras are exempt from the law prohibiting interception of oral communications by recording devices, unless there is a reasonable opportunity to inform those in the conversation that it is being recorded. O.R.S. § 165.540(5)(c).</li></ul>

## Links

- <https://olis.leg.state.or.us/liz/2015R1/Measures/list/>; for the text of the bill, see:
- <https://olis.leg.state.or.us/liz/2015R1/Downloads/MeasureDocument/HB2571/B-Engrossed> (June 9, 2015, version)
- [https://www.oregonlegislature.gov/bills\\_laws/ors/ors192.html](https://www.oregonlegislature.gov/bills_laws/ors/ors192.html) (O.R.S. § 192.501);
- State of Oregon, *Attorney General's Public Records and Meetings Manual* (Nov. 2014), 42-45, available at [http://www.doj.state.or.us/pdf/public\\_records\\_and\\_meetings\\_manual.pdf](http://www.doj.state.or.us/pdf/public_records_and_meetings_manual.pdf) (citing Formal Attorney General Opinions on issue)
- [https://www.oregonlegislature.gov/bills\\_laws/ors/ors165.html](https://www.oregonlegislature.gov/bills_laws/ors/ors165.html) (O.R.S. § 165.540).
- <http://registerguard.com/rg/news/local/33037182-75/oregon-legislators-wrangle-over-body-cameras-use-and-footage.html.csp>
- Police: on-body cameras may be too costly, *The Bulletin* (July 2015), <http://www.bendbulletin.com/localstate/3317865-151/police-on-body-cameras-may-be-too-costly>
- Portland police shouldn't buy body cameras until more money found, budget analysts suggest, *OregonLive* (March 2016), [http://www.oregonlive.com/portland/index.ssf/2016/03/city\\_budget\\_office\\_suggests\\_po.html](http://www.oregonlive.com/portland/index.ssf/2016/03/city_budget_office_suggests_po.html)
- Portland officers who witness police shootings could view body camera video before writing reports, under contract proposal, (June 21, 2016) [http://www.oregonlive.com/portland/index.ssf/2016/06/portland\\_officers\\_who\\_witness.html](http://www.oregonlive.com/portland/index.ssf/2016/06/portland_officers_who_witness.html)

## Pennsylvania

House Bill 420, introduced by Representative Thaddeus Kirkland in 2015, remains pending before the Pennsylvania state legislature. Although legislative developments have been few and far between, in March 2016 the head of Pennsylvania's State Police indicated his support for the use of police worn body cameras. However, also in March 2016, Erik Amson, executive director of the state Office of Open Records, noted that Pennsylvania's Right to Know Law exempts investigatory records and is "format agnostic," implying that body camera footage would not be disclosed under current law.

**Collection**

- House Bill 420 would require a law enforcement officer to "wear a body-worn camera and record the events that occur while the officer is on duty with the body- worn camera."

**Retention**

- None.

**Exemption**

- None.

**Dashcam Exemptions**

- A March 2016 article indicated that the Pennsylvania State Supreme Court has agreed to take on a case involving whether videos should be withheld under the investigatory records exemption of the Right to Know Law.

**Links**

- House Bill 420 (<https://legiscan.com/PA/text/HB420/id/1114207/Pennsylvania-2015-HB420-Introduced.pdf>)
- Open records law: [https://www.dced.state.pa.us/public/oor/pa\\_righttoknowlaw.pdf](https://www.dced.state.pa.us/public/oor/pa_righttoknowlaw.pdf)
- Citizens' open records guide: <https://www.dced.state.pa.us/public/oor/CitizensGuideFull082011.pdf>
- Newsworks, Pennsylvania's top cop backs body cameras (March 2016), <http://www.newsworks.org/index.php/local/harrisburg/91621-pennsylvanias-top-cop-backs-body-cameras>
- PennLive.com, Pa. Supreme Court to hear dispute over whether state police must release cruiser dash cam videos, March 2017, [http://www.pennlive.com/news/2016/03/police\\_videos.html](http://www.pennlive.com/news/2016/03/police_videos.html)

## Rhode Island

Rhode Island enacted H.B. 5819/S.B.669 in July 2015. This legislation mandates the collection of dashcam recordings but exempts these recordings from public disclosure under Rhode Island's FOIA statute. In addition, the legislature introduced two other bills:

- H.B. 7198, which was introduced in January 2016 and is expected to advance forward, would mandate protocols for the use of police worn body cameras by law enforcement agencies.
- S.B. 269 was introduced in February of 2015 and has not made any progress.

### Collection

- H.B. 5819: All motor vehicle stops conducted by police vehicles with dashcams must be recorded barring specific exceptions outlined in the bill.
- H.B. 7198: Would require officers with body cameras to activate recordings whenever an officer responds to a call for service or at the initiation of any other law enforcement or investigative encounter, except when there is an immediate threat to the officer's life or safety which makes activating the camera impossible or dangerous.

### Retention

- H.B. 5819: Requires retention of at least 10 days for videos in pending investigations. Otherwise, this act defers to the law enforcement agencies to adopt their own policy regarding retention.
- H.B. 7198: Generally, would require camera footage to be retained for 6 months. However, this period automatically extends to 3 years if the recording captures any use of force, events leading up to a felony arrest or felony level offense, or any encounter that leads to a registered complaint. In addition, the retention period will also be automatically extended to 3 years in the event that certain specified parties request a copy of the recording.

### Exemption

- H.B. 5819: Recordings are not deemed public records under Rhode Island's FOIA statute (R.I. Gen. Laws 38-2-1).
- H.B. 7198: The video recordings would be subject to public inspection under Rhode Island's FOIA statute (R.I. Gen. Laws 38-2), but would have to be redacted to obscure identities of minor children, and other individuals whose privacy would be threatened, unless those persons give consent. However, recordings that contain use of force, felony arrest, felony level offenses, and/or are required by officers or a person who is the subject of the video would be considered public records that are not subject to redaction.

### Dashcam Exemptions

- Two bills, H.B. 5819 and S.B. 269, would require dashcam recording of all traffic stops, provided the law enforcement vehicle is so equipped. H.B. 5819 was recommended by the House Judiciary Committee on June 9, 2015, and awaits a floor vote. S.B. 269 has not made progress since being introduced in February 2015.
- However, the bills would exempt those recordings from the public records law.
- A driver of a motor vehicle that was recorded (or the driver's legal counsel) would have the right to view the recording

at the police station, provided that the viewing would not compromise an active investigation. Additionally, a passenger of a motor vehicle who was recorded (and his or her legal counsel) would have the right to view the in-car recording at the police station if that passenger became the subject of the police interaction recorded, provided that the viewing does not compromise an active investigation. Two bills introduced in Rhode Island, H. 5819 and S. 269, would clarify that video or audio recordings from police vehicles are public records. A driver of a motor vehicle that was recorded by a video/audio surveillance camera (or his or her legal counsel) would have the right to view the in-car recording at the police station, provided that the viewing would not compromise an active investigation. Additionally, a passenger of a motor vehicle that was recorded by a video/audio surveillance camera (and his or her legal counsel) would have the right to view the in-car recording at the police station if that passenger became the subject of the police interaction recorded, provided that the viewing does not compromise an active investigation.

**Links**

- H. 5819, available at <http://webserver.rilin.state.ri.us/billtext15/housetext15/h5819.htm>
- S. 269, available at <http://webserver.rilin.state.ri.us/billtext15/senatetext15/s0269.htm>
- H. 7198, available at <http://webserver.rilin.state.ri.us/BillText/BillText16/HouseText16/H7198.pdf>

## South Carolina

South Carolina now has legislation requiring law enforcement officers to wear body cameras after a period of study and policy development (S.C. Code Ann. § 23-1-240). The law exempts recordings from the state's freedom of information law.

S.B. 913 would amend South Carolina's FOIA statute by making dashcam recordings publically available; the bill passed both chambers but remains unlikely to be enacted.

H.B. 3441 would relax S.C. Code § 56-5-2953 (requiring police to record video of DUI arrests) but remains pending.

### Collection

- The new law mandates that state and local law enforcement agencies “shall implement the use of body-worn cameras” pursuant to guidelines from the Law Enforcement Training Council (LETC). The law does not address when or how these cameras should collect recordings, but presumably the guidelines will discuss this.
  - The law requires the LETC to propose guidelines within 180 days of the law's enactment, subject to partial or total veto by the legislature.
    - State and local agencies have 270 days from the date of enactment to draft their own guidelines, which then must be approved by the LETC.
    - Once agencies' policies are approved, they may apply for state funding to purchase cameras.
  - The LETC released guidelines in January 2016 mandating that all uniformed officers whose primary function is to answer calls for service and interact with the public must use body cameras. Body cameras must be worn and activated whenever a uniformed officer arrives at a call for service or initiates any other law enforcement or investigative encounter between an officer and member of the public, with certain specified exceptions.
- Currently, S.C. Code § 56-5-2953 (“Incident site and breath test site video recording”) requires police to record video of DUI arrests, including breathalyzer tests. Pending House Bill 3441 would relax these requirements, so that officers “should make a reasonable attempt to video record,” and recordings “should begin no later than the activation of the officer's blue lights.” These provisions are not specific to body cameras and could apply to both dashboard and body cameras.
- Some agencies, such as the state highway patrol, already use body cameras on a limited basis. The Charleston police department recently finalized guidelines for use of bodycams by all officers during encounters. The new law does not prohibit such agencies from continuing to use their existing equipment and policies while waiting for action from the LETC.

<b>Retention</b>	<ul style="list-style-type: none"> <li>● S.C. Code Ann. § 23-1-240: Recordings that are non-investigative, non-arrest, and are not part of any internal investigation will be retained for a minimum of 14 days. Recordings of any arrests/ violations of offenses listed in the S.C. Preservation of Evidence Act, S.C. Code 17-28-320, the expungement statute of S.C. Code 17-1-40, or any other statute, regulation, or case law will follow the retention requirements outlined therein.</li> <li>● Under § 56-5-2953, for video of DUI arrests, “[a] video recording must not be disposed of in any manner except for its transfer to a master recording for consolidation purposes until the results of any legal proceeding in which it may be involved are finally determined.”</li> </ul>
<b>Exemption</b>	<ul style="list-style-type: none"> <li>● The law explicitly states “[d]ata recorded by a body-worn camera is not a public record subject to disclosure under the freedom of information act.” Note: this is a complete reversal from earlier versions of the bill, which provided the opposite. There might be some interesting floor debate or committee discussion on the topic.</li> <li>● Certain agencies (e.g., the law enforcement agency or the Attorney General’s Office) may release bodycam footage in their discretion</li> <li>● Certain individuals are entitled to receive bodycam recordings: <ul style="list-style-type: none"> <li>○ a person who is the subject of the recording;</li> <li>○ a criminal defendant if the recording is relevant to a pending criminal action;</li> <li>○ a civil litigant if the recording is relevant to a pending civil action;</li> <li>○ a person whose property has been seized or damaged in relation to, or is otherwise involved with, a crime to which the recording is related;</li> <li>○ a parent or legal guardian of a minor or incapacitated person in the first two categories; and</li> <li>○ an attorney for a person in any of the above categories</li> </ul> </li> </ul>
<b>Dashcam Exemptions</b>	<ul style="list-style-type: none"> <li>● Nothing in state FOIA explicitly exempts dashcam footage. And, as noted above, South Carolina requires video recording of DUI arrests, and failure to record can be grounds for dismissal of the charge. <i>See</i> S.C. Code § 56-5-2953; <i>Town of Mt. Pleasant v. Roberts</i>, 393 S.C. 332 (2011).</li> <li>● S.B. 913: If enacted, this bill amends South Carolina’s FOIA statute by making dashcam recordings publicly available.</li> </ul>
<b>Links</b>	<ul style="list-style-type: none"> <li>● <a href="http://www.scstatehouse.gov/sess121_2015-2016/bills/47.htm">http://www.scstatehouse.gov/sess121_2015-2016/bills/47.htm</a></li> <li>● <a href="http://www.thestate.com/news/local/article19161612.html">http://www.thestate.com/news/local/article19161612.html</a></li> </ul>

- S.C. Code § 56-5-2953 <http://www.scstatehouse.gov/code/t56c005.php>
- <http://www.washingtonpost.com/news/post-nation/wp/2015/04/08/how-video-of-the-fatal-south-carolina-police-shooting-reignites-the-body-camera-debate>
- <http://www.nationaljournal.com/congress/republican-lawmakers-are-coming-around-to-the-idea-of-police-body-cameras-20150423>
- <http://www.charlestoncitypaper.com/charleston/charleston-police-finalize-body-camera-policy/Content?oid=5129349>
- [http://thetandd.com/news/opinion/columns/s-c-lawmakers-working-on-body-cam-legislation/article\\_481e4b9b-a4e7-55a1-9ac5-2a43c6dffe50.html](http://thetandd.com/news/opinion/columns/s-c-lawmakers-working-on-body-cam-legislation/article_481e4b9b-a4e7-55a1-9ac5-2a43c6dffe50.html)

## South Dakota

No statute or proposal relevant to body camera videos was found.

**Collection**      • None.

**Retention**      • None.

**Exemption**      • None.

**Dashcam Exemptions**      • None.

**Links**      • South Dakota's public records law:  
[http://legis.sd.gov/Statutes/Codified\\_Laws/DisplayStatute.aspx?Type=Statute&Statute=1-27](http://legis.sd.gov/Statutes/Codified_Laws/DisplayStatute.aspx?Type=Statute&Statute=1-27)

## Tennessee

Two bills—S.B. 0868 and H.B. 0712—were introduced in February 2015 but were “Deferred to Summer Study.” In January 2016, Tennessee introduced a new bill to both chambers—S.B. 2441 and H.B. 1706. These bills were also not acted on. The bills would have provided as follows:

### Collection

- S.B. 0868 and H.B. 0712: An officer must at all times when the officer is on duty wear a wide angle body camera that shall record video footage of the officer’s activities.
- S.B. 2441 and H.B. 1706: Mandates the adoption of written policies by any law enforcement agency using body cameras. The written policy must abide by certain minimum requirements set forth in section 38-1-702(c)(2) of the bill, which generally require officers to activate the body camera whenever responding to a call for service.

### Retention

- S.B. 0868 and H.B. 0712: Footage must be kept for at least seven days, and shall not be destroyed if the footage contains evidence that may be used in the investigation of a crime or complaint against an officer.
- S.B. 2441 and H.B. 1706: Would establish a default rule that recordings must be retained for 6 months. However, if the recording captures certain significant events, or if a complaint is registered within the 6 month default retention period, then the recording retention period is extended to 3 years. In addition, if the recording is voluntarily requested by certain parties connected to the recording, the retention period is extended to 3 years.

### Exemption

- S.B. 0868 and H.B. 0712: The video recording may not be duplicated until final disposition of any criminal charges that arise from the event(s) that were recorded.
- S.B. 0868 and H.B. 0712: If the recording does not contain evidence of a crime, the video recording is treated the same as any other law enforcement document for the purpose of confidentiality.
- S.B. 2441 and H.B. 1706: Would make body camera recordings part of the public record and available for public inspection per Tennessee’s FOIA statute.

### Dashcam Exemptions

- Nothing in Tennessee’s FOIA law explicitly exempts requests for dashboard camera videos. These videos appear to be subject to FOIA requests the same way as other police records.
- The Office of Open Records Counsel issued an advisory opinion in 2009 citing *Appman v. Worthington*, 746 S.W. 2d 165 (Tenn. 1987) for the proposition that dashcam footage related to an ongoing investigation is exempt from the public records law, but concluding that footage not connected to an investigation should be released.

### Links

- <https://legiscan.com/TN/bill/HB0712/2015>
- <https://legiscan.com/TN/bill/SB0868/2015>

- <https://legiscan.com/TN/research/SB2441/2015>
- <https://legiscan.com/TN/research/HB1706/2015>
- <https://www.comptroller.tn.gov/openrecords/pdf/Open%20Records%20draft501.pdf>
- <https://www.comptroller.tn.gov/openrecords/pdf/CPDDenialLetter2.pdf>

## Texas

Both houses passed S.B. 158, 84th Leg., Reg. Sess. (Tex. 2015) in late May. S.B. 158 was then signed by the Governor and enacted. In addition, H.R. 1349 was introduced in March 2015, and would have requested the speaker to create an interim committee to study issues relating to police body equipment. The bill has been left pending in committee since April 2015.

### Collection

- SB 158 mostly leaves it to local law enforcement agencies to develop policies on body cameras, and officers must activate cameras in accordance with their employing police department's policy.
  - Law enforcement agencies must adopt a body worn camera policy by September 1, 2016 (one year from the effective date of the act) if they receive grants to provide body worn cameras or are already operating with body worn cameras.
  - At minimum:
    - The body camera policy must ensure that a body worn camera is activated only for “a law enforcement purpose”
    - The body camera policy “may not require a peace officer to keep a body worn camera activated for the entire period of the officer’s shift.”
    - Officers must have the camera activated when “responding to calls for assistance and when performing other law enforcement activities, including traffic stops, pursuits, arrests, searches, or interrogations,”
    - Unless: “activation of the camera would be unsafe, unrealistic, or impracticable, based on whether a reasonable officer under the same or similar circumstances would have made the same decision” or “for any nonconfrontational encounter with a person, including an interview of a witness or victim.”
  - An officer “who does not activate a body worn camera in response to a call for assistance must include in the officer’s incident report or otherwise note in the case file or record the reason for not activating the camera.”
  - If a law enforcement agency receives a grant, then only official body worn cameras issued and maintained by the law enforcement agency that employs the officer may be used.
  - An officer whose employing law enforcement agency has not received a grant or has not issued official body cameras may operate a privately owned body worn camera if permitted by the employing agency. Any agency that authorizes privately owned body worn camera must make provisions for the security and compatibility of the recordings made by those cameras.

<b>Retention</b>	<ul style="list-style-type: none"> <li>● For a minimum period of 90 days</li> <li>● If recording captures use of deadly force or an incident that gives rise to a criminal or administrative investigation of an officer, recording “may not be deleted, destroyed, or released to the public” until the close of all investigations/adjudications.</li> </ul>
<b>Exemption</b>	<ul style="list-style-type: none"> <li>● Except as otherwise provided, information recorded by a body worn camera and held by a law enforcement agency is public information subject to Chapter 552, Government Code. <ul style="list-style-type: none"> <li>○ EXCEPTIONS:</li> <li>○ Footage created with a body camera “documenting an incident that involves the use of deadly force by a peace officer or that is otherwise related to an administrative or criminal investigation of an officer may not be deleted, destroyed, or released to the public until all criminal matters have been finally adjudicated and all related administrative investigations have concluded.”</li> <li>○ This kind of footage may be released if “the law enforcement agency determines that the release furthers a law enforcement purpose.”</li> <li>○ A law enforcement agency may still use its authority to withhold information under Section 552.108, Government Code, “information related to a closed criminal investigation that did not result in a conviction or a grant of deferred adjudication community supervision.”</li> <li>○ “A recording that concerns an incident under investigation is excepted from the requirements of Chapter 552, Government Code, and may be: <ul style="list-style-type: none"> <li>○ (1) used by the applicable law enforcement agency only for purposes of: <ul style="list-style-type: none"> <li>○ (A) detecting, investigating, or prosecuting crime; or</li> <li>○ (B) investigating an allegation of misconduct by a peace officer; or</li> </ul> </li> <li>○ (2) released to the public if the law enforcement agency determines that the release furthers a law enforcement purpose.”</li> </ul> </li> <li>○ “A recording is confidential and excepted from the requirements of Chapter 552, Government Code, if the recording: <ul style="list-style-type: none"> <li>○ (1) was not required to be made under this subchapter or another law or under a policy adopted by the appropriate law enforcement agency; and</li> </ul> </li> </ul> </li> </ul>

- (2) does not relate to a law enforcement purpose.”
- A recording made in a private space or during a non-arrest misdemeanor offense may not be released without written authorization from the person who is the subject of the recording or, if the person is deceased, from the person's authorized representative.”
- “A law enforcement agency shall release to a member of the public a recording that is not otherwise confidential or excepted from disclosure under this section on that person's written request and payment of any required fee. The written request must include all of the following:
  - (1) the date and approximate time of the recording;
  - (2) the specific location where the recording occurred; and
  - (3) the name of each person known to be a subject of the recording.”
- The fee amount will be set by the Attorney General, and “must be sufficient to cover the cost of making the recording.” “A law enforcement agency may provide a copy without charge or at a reduced charge if the agency determines that waiver or reduction of the charge is in the public interest.”
- Releasing agency must redact any information made confidential under this subchapter or any other law or excepted from disclosure under Chapter 552, Government Code.

**Dashcam Exemptions**

- Texas open records law and AG’s open records handbook do not mention dashcam footage; but open records law contains usual exemption for law enforcement investigation records and an exemption for “sensitive crime scene image[s]”
- According to the Texas Code of Criminal Procedure Art. 2.132, dealing with racial profiling, a law enforcement agency that installs video or audio equipment as provided by this subsection, the policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.
- If incident sparks racial profiling complaint, the agency must promptly provide a copy of the recording to the peace officer who is the subject of the complaint on written request by the officer.
- “Except as otherwise provided by this subsection, a law enforcement agency that is exempt from the requirements under Article 2.134 shall retain the video and audio or audio documentation of each traffic and pedestrian stop for at least 90 days after the date of the stop. If a complaint is filed with the law enforcement agency alleging that a peace officer employed by the agency has engaged in racial profiling with respect to a traffic or pedestrian stop, the agency shall retain the video and audio or audio record of the stop until final disposition of the complaint.”

**Links**

- S.B. 158, 84th Leg., Reg. Sess. (Tex. 2015),  
<http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=84R&Bill=SB158>
- Tex. Code Crim. Proc. Ann. Art. 2.132(d), 2.132(f), and 2.135(b) (2015),  
<http://www.statutes.legis.state.tx.us/Docs/CR/htm/CR.2.htm>
- Attorney General's open records handbook: [https://www.texasattorneygeneral.gov/files/og/publicinfo\\_hb.pdf](https://www.texasattorneygeneral.gov/files/og/publicinfo_hb.pdf)

## Utah

H.B. 300, enacted in March 2016, mandates that all law enforcement agencies using body cameras adopt a written policy with certain minimum requirements specified in the bill.

### Collection

- Officers must activate the body worn cameras prior to any law enforcement encounter, or as soon as is reasonably possible, and the recording must continue in an uninterrupted manner until after the conclusion of that encounter, except as permitted by the bill. Deactivating the camera is permissible in the following instances:
  - To consult with a supervisor or another officer;
  - During a significant period of inactivity;
  - During a conversation with a sensitive victim of crime, a witness of a crime, or an individual who wishes to report or discuss criminal activity if:
    - The individual who is the subject of the recording requests that the officer deactivate the body camera; and
    - The officer believes that the value of the information outweighs the value of the potential recording and records the request by the individual to deactivate the body worn camera.
- Officers must document the reason for deactivating their body camera in a written report.

### Retention

- H.B. 300 simply states that any recording made by an officer while on duty or acting in the officer's official capacity must be retained in accordance with applicable federal, state and local laws. A previous proposal that was not enacted contained more detail:
  - Under H.B. 386, recordings would be property of the agency, not the officer when it is recorded while the officer is acting in his/her official capacity. Additionally, all recordings should be saved to the agency retention system such that the recordings cannot be tampered with. Retention would be governed by the local agency's policy discussed above.
  - General recordings will be kept for at least 30 days but not longer than 180 days.
  - If the recording is related to a criminal case, it must be marked and noted as such. The officer must promptly notify a supervisor of the recording's existence and log the relevant file references in agency records if the officer reasonably believes that the recording may relate to a complaint against officer or agency; or a use of force by the officer.
  - The subject of recording can ask the recording to be noted as a recording of interest—which means it will be retained at a minimum for 90 days in all cases and not less than the time needed for: filing and investigating

complaints in the case of a potential complaint against the officer or the agency; time allowed for investigation and any appeals in the case of a misconduct investigation; or the statute of limitations for any criminal charge that may come up in a case of criminal conduct.

- If a law enforcement officer alters, deletes or destroys a recording, or does not record the encounter, there is a rebuttable presumption in any related criminal proceeding that a recording favorable to the defendant existed or was not captured.

### **Exemption**

- In determining whether a recording is considered a private record under Utah's FOIA (63G-2-302(2)(D)), the governmental entity, state records committee, local appeals board, or court must consider and weigh the following:
  - Any personal privacy interests; and
  - Any public interests served by disclosure.
- Recordings from inside a residence or home are generally private, but there are various exceptions to this, including but not limited to recordings that capture the commission of a crime, recordings that become the subject of a registered complaint, recording containing officers involved in critical incidents, etc... (See sec. G of the bill).

### **Dashcam Exemptions**

- Utah's public records act (the Government Records Access and Management Act, or "GRAMA") does not have a specific exemption for police dashcam videos. Instead, the dashboard camera videos appear to be treated under the general existing exemptions of the public records statute. GRAMA specifies that "all records are public unless otherwise expressly provided by statute." Utah Code Ann. § 63G-2-201(2). Records that are not public are designated as either "private," "protected," or "controlled." Normally, an initial contact report is public, unless it falls under the private records exemptions. Utah Code Ann. §§ 63G-2-103(14)(a), 63G-2-301(3)(g).
- A state records committee found in a 2010 appeal hearing that the dashboard camera video of the arrest of a Utah Senator was a public record and should be released to the requestor, a news reporter. The committee reaffirmed its position that such recordings are public records in 2014.

### **Links**

- <http://le.utah.gov/~2016/bills/static/HB0300.html>
- [Government Records Access and Management Act](#) (§63G-2)
- State Records Committee Appeal Hearing (2014): <http://archives.utah.gov/src/srcappeal-2014-04.html>
- [State Records Committee Appeal Hearing \(2010\)](#)

## Vermont

On June 16, 2016, S.B. 174 was enacted, requiring the Law Enforcement Advisory Board (LEAB) to propose a model state policy to govern the use of body cameras by law enforcement officers. The LEAB must report to the Senate and House Committees on Judiciary & Government Operations on or before December 15, 2016.

### Collection

- The proposed policies must include the following:
  - Provisions that specify when officers are required to wear body cameras, including when they must be activated and deactivated;
  - A requirement that the officers report their reasons for deactivating cameras;
  - A provision specifying under what circumstances a recording will be exempt from disclosure under Vermont's FOIA statute; and
  - Protocols relating to equipment malfunctions.

### Retention

- The bill makes no mention of retention requirements.

### Exemption

- The LEAB is required to draft a model outlining when such recordings would be exempt from disclosure under Vermont's FOIA statute (Vt. Code Sec. 2.2-3704).

### Dashcam Exemptions

- Police dash cam videos seem to be subject to disclosure under public records laws (subject to same exemptions).

### Links

- <http://legislature.vermont.gov/bill/status/2016/S.174>
- <http://vtdigger.org/2015/04/01/bill-would-mandate-statewide-use-of-police-cameras/>
- <http://legislature.vermont.gov/assets/Documents/2016/Docs/BILLS/H-0279/H-0279%20As%20Introduced.pdf>
- <http://www.wcax.com/story/24685351/police-agencies-adopt-body-cameras>
- <https://www.sec.state.vt.us/media/27740/PublicRecordsLaw.pdf>
- <http://www.wcax.com/story/24685351/police-agencies-adopt-body-cameras>
- <http://legislature.vermont.gov/statutes/section/01/005/00317>

- <http://www.sevendaysvt.com/vermont/police-wear-cameras-to-record-and-avoid-trouble/Content?oid=2488219>
- <http://knownewengland.org/vt-legislature-gives-public-access-to-police-investigation-records/>

## Virginia

Three bills relevant to police body camera videos are pending in the 2015 session of the Virginia House of Delegates (the lower house of the state legislature). All three bills were tabled in the Committee on Militia, Police, and Public Safety in February 2015, with no further action taken since then. Three additional bills were introduced in the following session, but again no further action has been taken.

### Collection

- HB 1521, introduced would require the use of body cameras by police forces of 100 or more officers and the State Police by 2018.
- HB 1534 would apply only to the State Police, requiring them to implement a body-worn camera system.
- HB 2280 would prohibit the use of body-worn cameras by police unless the relevant jurisdiction had established a written policy for use of those cameras that conforms to a model policy to be established by the State Department of Criminal Justice Services. Such policies must require the wearer of the camera to inform persons that they were being filmed.
- HB 998/HB 1327 would require all law enforcement agencies using body cameras to adopt a written policy, to be established by the Department of Criminal Justice Services, subject to a period of public comment and review. The policy would be required to: (1) provide individuals who are the subject of the recording a right to view and make copies; and (2) establish some sort of review system, whereby recordings would be reviewed to show officers were not acting inappropriately or exhibiting bias

### Retention

- HB 1521 delegates authority to the Department of Criminal Justice Services to promulgate a model body camera video policy to address these issues, and does not specify any guidelines relevant here.
- HB 1534 would require the State Police to transfer, on a daily basis, all recordings made in the past 24 hours to a database maintained by the Attorney General, and those videos would be retained for 30 days or longer if relevant to an investigation.
- HB 2280 would require that any policy for a body-worn camera system require that all such records be destroyed within 7 days unless relevant to an open and active criminal investigation, depict the use of force by the person wearing the camera, or depicts conduct by the wearer that is the subject to a complaint.
- HB 998/HB 1327 would require recordings to be destroyed within 60 days unless relevant to an open and active criminal investigation, the video depicted use of force by the officer, depicted conduct that is the subject of a formal or informal complaint, or has requested by either the person depicted or the officer.
- HB 839 would instruct the State Library Board to revise the retention schedule for surveillance videos, including dashcams and body worn cameras, requiring a 60 day retention period regardless of whether the recording concerns a

criminal investigation

**Exemption**

- HB 1521 delegates authority to the Department of Criminal Justice Services to promulgate a model body camera video policy to address these issues, and does not specify any guidelines relevant here.
- HB 1534 would prohibit the disclosure of all recordings except pursuant to a court order or upon the request of (i) a person alleging he has been the subject of unlawful conduct by an officer, (ii) an officer alleged to have engaged in unlawful conduct, or (iii) the officer’s employer. Anyone who knowingly disseminates a body-worn camera video in violation of these provisions would be guilty of a felony.
- HB 2280 would require all recordings to be made available to the public unless related to an active criminal investigation, but would not allow public availability without the consent of the individuals recorded unless their images were redacted. Also, the individuals recorded would have the right to view and make copies of any recording.
- HB 998/HB 1327 would delegate authority to the Department of Criminal Justice Services to promulgate

**Dashcam Exemptions**

- Virginia’s Freedom of Information Act has an exemption for records being used in criminal investigations, which are not subject to the Act but may be disclosed at any time at the discretion of the records custodian. See Va. Code § 2.2-3706(2)(a). The exemption extends in perpetuity, even after a case is closed.

**Links**

- <http://lis.virginia.gov/cgi-bin/legp604.exe?151+sum+HB1521> (HB 1521)
- <http://lis.virginia.gov/cgi-bin/legp604.exe?151+sum+HB1534> (HB 1534)
- <http://lis.virginia.gov/cgi-bin/legp604.exe?151+ful+HB2280> (HB 2280)
- <http://lis.virginia.gov/cgi-bin/legp604.exe?161+sum+HB0998> (HB 998)
- <https://lis.virginia.gov/cgi-bin/legp604.exe?161+sum+HB1327> (HB 1327)
- <https://lis.virginia.gov/cgi-bin/legp604.exe?161+sum+HB839> (HB 839)
- <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+2.2-3706> (Va. Code § 2.2-3706);
- Virginia Ass’n of Chiefs of Police, *Law Enforcement Guide to the Virginia Freedom of Information Act*, 3d ed. (Nov. 2006), available at [http://www.vachiefs.org/images/uploads/docs/FOIA\\_Book\\_2006-web.pdf](http://www.vachiefs.org/images/uploads/docs/FOIA_Book_2006-web.pdf)

## Washington

H.B. 2362 was enacted in April 2016. Any law enforcement agency using body cameras must establish policies within 120 days of the effective date of section 5 of the bill.

### Collection

- Law enforcement agencies using body cameras must adopt a written policy that includes the following:
  - When a body worn camera must be activated and deactivated, and when a law enforcement or corrections officer has the discretion to activate and deactivate the body worn camera;
  - How a law enforcement or corrections officer is to respond to circumstances when it would be reasonably anticipated that a person may be unwilling or less willing to communicate with an officer who is recording the communication with a body camera;
  - How a law enforcement or corrections officer will document when and why a body worn camera was deactivated prior to the conclusion of an interaction with a member of the public while conducting official law enforcement or corrections business;
  - How, and under what circumstances, a law enforcement or corrections officer is to inform a member of the public that he or she is being recorded, including in situations where the person is a non-English speaker or has limited English proficiency, or where the person is deaf or hard of hearing;
  - How officers are to be trained on body worn camera usage and how frequently the training is to be reviewed or renewed; and
  - Security rules to protect data collected and stored from body worn cameras.

### Retention

- Law enforcement or corrections agencies must retain recordings for at least 60 days, but can then destroy the records.

### Exemption

- Requests for body camera recordings must specifically identify either 1) the name of a person involved in an incident, 2) the incident or case number, 3) the date, time and location of the incident, or 4) identify an officer involved in the incident. Recordings may be disclosed unless exempt pursuant Washington's FOIA privacy exemption (Wash. Rev. Code Ann. Section 42.56.050). Disclosure is presumed "offensive" under the privacy exemption in certain circumstances delineated in the bill. These presumptions are rebuttable by specific evidence in individual cases.

### Dashcam Exemptions

- RCW 46.35 relates to recording devices in motor vehicles. While it does not specifically mention police dashboard camera videos, RCW 46.35.030 provides that "[i]nformation recorded or transmitted by a recording device may not be retrieved, downloaded, scanned, read, or otherwise accessed by a person other than the owner of the motor vehicle in which the recording device is installed except (a) Upon a court order or pursuant to discovery. Any information

recorded or transmitted by a recording device and obtained by a court order or pursuant to discovery is private and confidential and is not subject to public disclosure . . . .”

**Links**

- H.B. 2362 (<http://lawfilesexternal.wa.gov/biennium/2015-16/Pdf/Bills/House%20Passed%20Legislature/2362.PL.pdf>)
- RCW 46.35.030 (<http://apps.leg.wa.gov/rcw/default.aspx?cite=46.35.030>)

## West Virginia

West Virginia does not have any mandatory body camera laws. In addition, the legislature is not currently considering any mandatory body camera laws.

<b>Collection</b>	<ul style="list-style-type: none"><li>• A handful of local police forces investigating use of body cams and appear to be implementing pilot programs independently</li><li>• Morgantown bought 30 body cams &amp; two dashcams w/ grant from governor, but the grant was for “highway safety”</li></ul>
<b>Retention</b>	<ul style="list-style-type: none"><li>• N/A</li></ul>
<b>Exemption</b>	<ul style="list-style-type: none"><li>• Standard FOIA exemption for records related to criminal investigations likely applies.</li></ul>
<b>Dashcam Exemptions</b>	<ul style="list-style-type: none"><li>• N/A</li></ul>
<b>Links</b>	<ul style="list-style-type: none"><li>• West Virginia Code: Freedom of Information, available at <a href="http://www.legis.state.wv.us/wvcode/ChapterEntire.cfm?chap=29b">http://www.legis.state.wv.us/wvcode/ChapterEntire.cfm?chap=29b</a></li><li>• <a href="http://www.timeswv.com/news/police-departments-evaluate-body-cameras-policies-they-require/article_d4c3b2f6-9ef7-11e4-b780-cb048359bec0.html?mode=print">http://www.timeswv.com/news/police-departments-evaluate-body-cameras-policies-they-require/article_d4c3b2f6-9ef7-11e4-b780-cb048359bec0.html?mode=print</a></li></ul>

<b>Wisconsin</b>	
<p>Wisconsin does not currently have state-wide requirements or pending legislation for collection, retention, or public access for body camera videos; Wisconsin introduced a bill twice, A.B. 988 and S.B. 766, but the bill failed to pass on both occasions.. Some local jurisdictions have implemented body cameras, including: Madison, Milwaukee, Port Washington, Superior, Wausau, and the University of Wisconsin-Madison.</p>	
<b>Collection</b>	<ul style="list-style-type: none"> <li>• The bill would have created requirements for law enforcement agencies using body cameras to adopt policies specifying when recordings must be made. Specifically, the bill deferred to the Law Enforcement Body Camera Council to establish best practices and procedures for the use of body cameras.</li> <li>• All 8 House Representatives from Wisconsin voted in favor of a non-binding Congressional resolution urging police to wear body cameras.</li> </ul>
<b>Retention</b>	<ul style="list-style-type: none"> <li>• The bill called for a general retention period of 6 months, with exceptions that call for the recording to be retained for 42 months, or until the relevant issue that triggered the exemption period is resolved.</li> </ul>
<b>Exemption</b>	<ul style="list-style-type: none"> <li>• Per section 5 of the bill, the recordings would generally have been considered public records under Wisconsin’s FOIA statute, but would not be subject to inspection or copying if (1) the data was outside the 6 month retention period; (2) the data depicted nudity, or (3) the data depicted matter subject to a privilege. Additionally, privacy considerations were to be balanced against the public interest.</li> <li>• In November 2014, the Madison Police Department issued a short report on body-worn video (“BWV”). The report generally summarizes the advantages and disadvantages of body cameras noted in the Police Executive Research Forum (“PERF”) study performed in 2014, and notes the formation of an ad hoc committee for further study, without taking a firm position.</li> <li>• The report notes that public access to body camera videos will be treated similarly to requests for other police records: “Preliminary discussions with the City Attorney’s office noted that records created through BWV cameras will be subject to the same balancing test that all MPD records are currently.”</li> </ul>
<b>Dashcam Exemptions</b>	<ul style="list-style-type: none"> <li>• The public can request police dashboard camera videos under Wisconsin’s Open Records Law (Wis. Stat. § 19.31 et seq.), although I have not located a rule or policy specific to police videos. The statute covers “visual or electromagnetic information,” § 19.32(2), and requires that any provided copy of a video recording be “substantially as good as the original,” id. § 19.35(1)(3)(d).</li> </ul>
<b>Links</b>	<ul style="list-style-type: none"> <li>• S.B. 766 (<a href="https://docs.legis.wisconsin.gov/2015/proposals/sb766">https://docs.legis.wisconsin.gov/2015/proposals/sb766</a>)</li> <li>• <a href="http://whbl.com/news/articles/2015/jun/11/wisconsins-congressional-delegation-supports-police-body-cameras/">http://whbl.com/news/articles/2015/jun/11/wisconsins-congressional-delegation-supports-police-body-cameras/</a></li> <li>• Madison Police Dept., Body-Worn Video: Considerations for Program Implementation, available at</li> </ul>

<https://madison.legistar.com/View.ashx?M=F&ID=3387187&GUID=E7299814-6B7D-4F14-B3A0-EDD3FA3211E8>

- <http://www.nbc15.com/home/headlines/Madison-looking-into-police-body-cams-272214671.html>
- <http://uwpd.wisc.edu/body-cam-forum>
- <http://urbanmilwaukee.com/2014/09/03/bill-would-require-body-camera-on-police>
- <http://www.jsonline.com/news/crime/body-cameras-on-police--simple-idea-complex-ramifications-b99338528z1-272967071.html>
- <http://www.wpr.org/body-cameras-coming-superior-police-department>
- <http://www.wkow.com/story/28863070/2015/04/21/wausau-police-department-looking-at-body-camera-options>
- Wisconsin Open Records Law, Wis. Stat. § 19.31 et seq. available at <https://docs.legis.wisconsin.gov/statutes/statutes/19/II/31>
- City of Madison v. Engel, 2008 Wisc. App. LEXIS 1016 (Dec. 23, 2008) (noting that defendant “made an open records request under WIS. STAT. §§ 19.31-19.37” for police dashcam video).
- Comment, Wisconsin’s Public-Records Law, 2008 Wis. L. Rev. 515 (2008).
- Wisconsin Dept. of Justice, Wisconsin Public Records Law, Compliance Outline (Sept. 2012), available at <http://www.doj.state.wi.us/dls/open-government>

## Wyoming

No statute or proposal relevant to body camera videos was found. There is a small County using body cameras with the help of a Department of Homeland Security grant, but it is unclear whether this is a pilot program or an isolated occurrence.

<b>Collection</b>	<ul style="list-style-type: none"><li>• 11 patrol officers in Mills County obtained body cameras with the help of a Department of Homeland Security grant.</li></ul>
<b>Retention</b>	<ul style="list-style-type: none"><li>• The Mills county body camera program has a 90-day retention period for recordings.</li></ul>
<b>Exemption</b>	<ul style="list-style-type: none"><li>• All videos are available to the public, though police may blur personal information.</li></ul>
<b>Dashcam Exemptions</b>	<ul style="list-style-type: none"><li>• None.</li></ul>
<b>Links</b>	<ul style="list-style-type: none"><li>• <a href="http://billingsgazette.com/news/state-and-regional/wyoming/wyoming-police-department-outfits-officers-with-body-cams/article_7490756f-79bb-585a-bc1f-3608a217aa78.html">http://billingsgazette.com/news/state-and-regional/wyoming/wyoming-police-department-outfits-officers-with-body-cams/article_7490756f-79bb-585a-bc1f-3608a217aa78.html</a></li></ul>

## New York, NY

New York was ordered by a judge in S.D.N.Y. in 2013 to implement a pilot program using body camera footage. *Floyd v. City of New York*, 959 F. Supp. 2d 668, 685 (S.D.N.Y. 2013), appeal dismissed (Sept. 25, 2013), appeal withdrawn (Sept. 26, 2013). The NYPD rolled out its pilot program in December 2014. It claims to be implementing the program independent of the court order. In the NYPD-led pilot, there is no defined one-year pilot, and officers in the pilot can wear the cameras voluntarily. The New York City Council currently has in committee legislation to implement a task force to study policies governing the use of body cameras. It does not look like the Council has proposed body camera legislation for police (though there is legislation for sanitary inspections)

### Collection

- While the first BWC pilot program has concluded, the NYPD plans to initiate a second pilot program, expanding the number of cameras worn from 54 cameras in the first pilot program to 1,000 cameras in this second one-year long program. Under the proposed policy governing Pilot Program II, officers *must* record: any use of force; all arrests, summonses, searches of persons and property, and any stop or frisk; when responding to a crime in progress; when patrolling inside a New York Housing Authority (NYCHA) building, or a building enrolled in the Trespass Affidavit Program (TAP); when transporting a prisoner or any person in police custody to a police station, hospital, or jail; or when interacting with someone who may be experiencing an emotional disturbance. Officers may also record anytime they think it would be useful to do so. Officers *may not* record in any of the following situations: internal police matters (e.g. staff meetings, trainings, and administrative activities); sensitive police-citizen encounters (e.g. when speaking with a confidential informant, interviewing a victim of a sex crime, or conducting a strip search; insider courthouses or medical facilities; or at public protests or demonstrations. Once an officer turns the camera on, the officer must continue to record until the incident is over. An officer can turn a camera off if a member of the public asks him or her to do so. However, the officer does not have to agree to such a request if he or she does not think it is safe or advisable to stop recording. Officers are encouraged (but not required) to tell members of the public when they are being recorded, if it is safe and practical to do so. However, officers do not need a person's permission to start or continue recording.
- The NYPD, in conjunction with NYU School of Law's Policing Project, is soliciting input from the public regarding the NYPD proposed policy. The comment period ends on July 31, 2016.
- The proposed policies seem to take into account some (but not all) of the OIG-NYPD's suggestions following its assessment of the first pilot program.

### Retention

- According to the NYPD's proposed policies for Pilot Program II, the NYPD will keep all video recordings for a minimum of six months. Certain videos will be kept longer:

- Use of force: Three years.
- Any adversarial police-citizen encounter: 18 months.
- Video related to a CCRB complaint: 18 months.
- Arrest: Until the case is over.
- Video related to an ongoing criminal or civil case: Until the case is over.
- Evidence of a felony (with no arrest made): Five years.
- Evidence of a misdemeanor (with no arrest made): Three years.
- Any other encounter (e.g. stop, witness interview): Six months.

**Exemption**

- New York City FOIA issues appear to be subject to the New York state FOIA law
- <https://policingproject.org/nypd-body-worn-camera-feedback/>

**Dashcam Exemptions**

- New York City FOIA issues appear to be subject to the New York state FOIA law

**Links**

- A copy of both the underlying opinion and order in *Floyd* are available at <http://www.nytimes.com/interactive/2013/08/12/nyregion/stop-and-frisk-decision.html>
- <https://policingproject.org/nypd-body-worn-camera-proposed-policy-fact-sheet/>
- <http://www.wsj.com/articles/nypd-wrapping-up-body-camera-pilot-program-1456916402>.
- 
- [http://www.nytimes.com/2014/09/05/nyregion/new-york-police-officers-to-begin-wearing-body-cameras-in-pilot-program.html?\\_r=0](http://www.nytimes.com/2014/09/05/nyregion/new-york-police-officers-to-begin-wearing-body-cameras-in-pilot-program.html?_r=0)
- <http://www.nytimes.com/2013/08/13/nyregion/stop-and-frisk-practice-violated-rights-judge-rules.html?ref=nyregion>
- <http://www.nytimes.com/interactive/2013/08/12/nyregion/stop-and-frisk-decision.html>
- <http://www.nytimes.com/2014/12/04/nyregion/new-york-city-police-speeding-up-effort-to-give-officers-body-cameras.html>
- <http://www1.nyc.gov/office-of-the-mayor/news/942-14/transcript-mayor-de-blasio-police-commissioner-bratton-host->

[press-conference-police-body](#)

- <https://legistar.council.nyc.gov/ViewReport.ashx?M=R&N=Text&GID=61&ID=2005263&GUID=D28368D8-9FCB-45F1-897C-AF0B46B86527&Title=Legislation+Text> (NOTE: this link throws some security warnings relating security certificates)
- <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=1709706&GUID=2A53BF14-D162-4E1F-B818-4BAE96ABC055&Options=&Search=>
- <http://www.dos.ny.gov/coog/foil2.html>

## Los Angeles, CA

The Los Angeles Police Commission approved the Los Angeles Police Department's proposed body camera rules by a 3-1 vote on Tuesday, April 28, 2015. A copy of the LAPD body camera policy was not publicly available, but various articles have summarized its key points.

<b>Collection</b>	<ul style="list-style-type: none"><li>• Officers must turn on the body cameras when they engage in “investigative or enforcement” activities involving the public (i.e. pull over drivers, make arrests, engage in foot pursuits, transport suspects and interview witnesses and victims, among other times).</li><li>• There are exceptions for when the body camera need not be turned on, including when the officer articulates his reason why the body camera was not turned on.</li><li>• In confrontational situations, the police officer MUST turn on the camera.</li><li>• The policy encourages officers to alert civilians that they are being recorded, but does not require them to obtain consent.</li><li>• It strictly prohibits officers from modifying the recordings and outlines several safeguards to ensure that the devices work properly.</li><li>• The Commission rules do not require release of the footage to the public after shootings.</li><li>• It lets officers involved in shootings review footage from a body camera before writing their reports or giving statements to internal investigators.</li></ul>
<b>Retention</b>	<ul style="list-style-type: none"><li>• None.</li></ul>
<b>Exemption</b>	<ul style="list-style-type: none"><li>• Appears to follow California's Public Records Act. Chief Charlie Beck has stated that the department does not intend, in general, to release the recordings unless required by a criminal or civil court proceeding. The LAPD considers the recordings to be evidence, which are investigative records exempt from public release under California's Public Records Act.</li></ul>
<b>Dashcam Exemptions</b>	<ul style="list-style-type: none"><li>• Dashboard camera videos are treated as confidential for FOIA purposes:</li><li>• Section 405 CONFIDENTIAL NATURE OF DEPARTMENT RECORDS, REPORTS, AND INFORMATION.</li><li>• All official files, documents, records, reports, photographs/imaging/recordings and information held by the Department or in the custody or control of an employee of the Department must be regarded as confidential. Employees must not disclose or permit the disclosure or use of such files, documents, reports, records, photographs/imaging/recordings or information except as required in the performance of their official duties. The unauthorized use of information obtained</li></ul>

through employment with the Los Angeles Police Department can subject the employee to possible disciplinary action and/or criminal prosecution. This includes information obtained from manually stored records, as well as information obtained from automated records.

- Note: Photographs/imaging/recordings include, but are not limited to, imaging such as mug shots, in-car video footage, digital interviews, audio or video recordings, etc.

#### **Links**

- <http://www.latimes.com/local/lanow/la-me-ln-lapd-body-cameras-rules-20150427-story.html#page=1>
- <http://www.officer.com/news/11938965/lapd-commissioners-ok-rules-for-body-cams>
- Video of Los Angeles Police Commission meeting on April 28, 2015, <http://www.lacityview.org/programs/on-demand/lapd-commission-meeting-04-28-15-apr-29-2015> (key discussion on the policy starts around 58:00)
- Los Angeles Police Department Manual, Sections 405, 579.13 [http://www.lapdonline.org/lapd\\_manual/](http://www.lapdonline.org/lapd_manual/)

## Chicago, IL

The Chicago Police Department is in the process of conducting a temporary pilot program involving body cameras in the 14<sup>th</sup> district. If the pilot program is made permanent, formal rules will be adopted.

### Collection

- During the pilot program, “[o]fficers are instructed to record just about all their interactions with citizens from start to finish even if the citizen doesn't want to be recorded. Exceptions include interactions with sexual assault victims, hospital patients and other sensitive situations.”
- The Chicago Police Department is expanding its Body Worn Camera Pilot Program by 450 body cameras, to be worn by officers in six new police districts encompassing one-third of the city, covering the South Shore, Auburn Gresham, Chatham, Washington Park, Hyde Park, Kenwood, Back of the Yards, Brighton Park, Bridgeport, Austin, North Lawndale, and Little Village communities.
- On June 1, 2016, the Chicago Police Department initiated Phase II of the Body Worn Camera (BWC) Pilot Program. Members assigned a BWC in Phase II will follow the policy and procedures in the directive entitled “Body Worn Cameras.”
- Special Order S03-14 describes the department’s policy and procedures with respect to body worn cameras. Department members are permitted to record individuals in public view, during routine calls for service, and in private places where the officer has a lawful purpose for being present. Officers must generally have cameras on during all incidents, but must turn off cameras when requested by a victim or witness of a crime, or when officers are interacting with confidential informants.

### Retention

- The camera footage collected during the pilot program will be retained for 90 days “unless [it is] needed for evidence.”
- Special Order S03-14 indicates that all digitally recorded data will be retained in accordance with the Department’s Forms Retention Schedule (CPD 11.717), which specifies the same 90 day retention period that was used during the pilot program. If the recording relates to a “flagged encounter” involving (1) detention or arrest, (2) discharge of a firearm, (3) death or great bodily harm, (4) a supervisor, prosecutor, defendant, or court determines the recording has evidentiary value, (5) a complaint regarding a Department member has been filed, (6) the officer is subject to an internal investigation, or (7) the recording officer requests the video be flagged, the video may not be destroyed for at least two years.

### Exemption

- Chicago does not have special rules governing FOIA requests for body camera videos. These videos appear to be subject to state FOIA requests the same way as other police records. The Chicago Police Chief said “he would favor releasing the footage to news media as soon as possible to shed light on incidents in which an officer’s actions are called into question.

**Dashcam Exemptions**

- Chicago does not have special rules governing FOIA requests for dashboard camera videos. These videos appear to be subject to state FOIA requests the same way as other police records.
- Mayor Rahm Emanuel's Police Accountability Task Force has recommended that videos of police-related incidents be made public within 60 days of the incident, or at an earlier date if possible.

**Links**

- <http://www.chicagotribune.com/news/local/breaking/ct-police-new-body-cameras-met-2-20160410-story.html>
- [https://chicagopatf.org/wp-content/uploads/2016/04/PATF\\_Final\\_Report\\_4\\_13\\_16-1.pdf](https://chicagopatf.org/wp-content/uploads/2016/04/PATF_Final_Report_4_13_16-1.pdf)
- <http://www.chicagotribune.com/news/ct-chicago-police-body-cameras-met-20150213-story.html>
- Department Notice D15-01; <http://directives.chicagopolice.org/directives/data/a7a57b73-14af4bb0-e1214-af4b-b44b0d70f0964db3.pdf?hl=true>
- Special Order S03-05; <http://directives.chicagopolice.org/lt2014/data/a7a57bf0-12dc41eb-af712-dc48-ff1427a411b25de4.html>
- Special Order S03-14; <http://directives.chicagopolice.org/directives/data/a7a57b38-151f3872-56415-1f38-89ce6c22d026d090.htm>

## Dallas, TX

Dallas has now instituted a body camera policy that provides that officers should record in a fairly extensive number of settings. Under the Dallas policy, footage is to be retained for at least 90 days.

### Collection

- Officers are instructed under Dallas policy to record all contacts that are conducted within the scope of official law enforcement activity, including (but not limited to): (1) all enforcement stops, (2) arrival when on any call for service, (3) pursuits, both vehicular and non-vehicular, (4) arriving to all crime scenes, (5) during execution of warrant or “knock and talk” operations, (6) during consensual searches, (7) during any planned or anticipated arrest, (8) during the inventorying of seized property, (8) when conducting field sobriety tests, and (9) whenever the officer’s training and experience causes him or her to believe the incident needs to be recorded to enhance reports, preserve evidence, and aid in subsequent court testimony.
- Officers are not required to announce they are recording, in public or in private places.
- Recording is prohibited: (1) where individuals have a reasonable expectation of privacy, (2) in hospital or doctor’s office settings, in most circumstances, (3) during administrative investigations, (4) during discussions with undercover officers or confidential informants, (5) during personal conversations.

### Retention

- Video will be retained for a minimum of 90 days. If the video has not been categorized as one to be retained, it will be deleted after 90 days.

### Exemption

- Information recorded by body camera is “public information” subject to public records law.
- A recording that concerns incident under investigation is excepted from public records law but may be released to public if release furthers law enforcement purpose.
- Recording is exempt from public records law if it does not relate to law enforcement purpose or was not required to be made until this law.
- A recording made in a private space or during a pedestrian or traffic stop may not be released without written authorization from the person who is the subject of the recording or, if the person is deceased, from the person’s authorized representative.
- A law enforcement agency shall release to a member of the public a recording that is not otherwise confidential or excepted from disclosure under this section on that person’s written request and payment of any required fee.
- Before releasing any information to a member of the public, a law enforcement agency shall redact any information made confidential under this subchapter or any other law or excepted from disclosure under Chapter 552, Government

Code.

**Dashcam Exemptions**

- Public records law likely includes dashboard camera videos. There are exemptions:
- (a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:
  - (1) release of the information would interfere with the detection, investigation, or prosecution of crime;
  - (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication;
  - (3) it is information relating to a threat against a peace officer or detention officer collected or disseminated under Section 411.048; or
  - (4) it is information that:
    - (A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or
    - (B) reflects the mental impressions or legal reasoning of an attorney representing the state.
- (b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from the requirements of Section 552.021 if:
  - (1) release of the internal record or notation would interfere with law enforcement or prosecution;
  - (2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication; or
  - (3) the internal record or notation:
    - (A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or
    - (B) reflects the mental impressions or legal reasoning of an attorney representing the state.
- (c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

**Links**

- [https://rcfp.org/bodycam\\_policies/TX/Dallas\\_BWC\\_Policy.pdf](https://rcfp.org/bodycam_policies/TX/Dallas_BWC_Policy.pdf)
- <http://www.legis.state.tx.us/tlodocs/84R/billtext/pdf/SB00158E.pdf#navpanes=0>
- <http://www.nbcdfw.com/news/local/Police-Body-Cameras-Gain-Support-in-Dallas-301757691.html>
- <http://www.fox4news.com/story/24378201/dallas-police-testing-officer-body-cameras>
- <http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.552.htm>

## Houston, TX

A pilot program with 100 Houston Police Department (“HPD”) officers wearing body cameras began in December 2013. In the summer of 2014, Houston Police Chief Charles McClelland said he wanted \$8 million to equip 3,500 officers with body cameras. In December 2014, the Harris County District Attorney announced plans to spend \$2 million on body worn cameras for the Houston and Harris County police departments. On March 23, 2016, the Houston Police Department created General Order 400-28, establishing guidelines for the use of body worn camera equipment as well as the storage, management, retrieval, and release of video and audio recordings captured by the cameras. On April 14, 2016, the Houston Police Department handed out the first wave of 4,100 body cameras.

- Under General Order 400-28, officers are required to activate body cameras prior to conducting various activities, including (1) arriving on scene to any call for service, (2) self-initiating any law enforcement activity, (3) initiating a traffic or pedestrian stop, (4) responding to a citizen who flags them down, (5) detaining, arresting, or attempting to detain or arrest a person, (6) conducting any search, (7) transporting any person from one location to another, (8) interviewing witnesses and complainants, and (19) engaging in any vehicular or non-vehicular pursuit.
- Under General Order 400-28, recordings are typically retained for 180 days from the date of recording. Records determined to be evidentiary shall be retained for a time period set by the statute of limitations for the listed offense. According to one article, certain videos will be retained for 10 years, or until the statute of limitations expires, and for some crimes, such as homicide, the footage will be retained indefinitely.
- Houston’s treatment of FOIA requests is governed by the Texas Public Information Act (“TPIA”). The TPIA contains a broad exemption from disclosure for “information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime” if disclosure would interfere with those functions. Gov’t Code 522.108(a)
- See above.
- <http://www.houstontx.gov/police/pdfs/Body-Worn-Cameras.pdf>
- <http://www.houstonchronicle.com/news/houston-texas/houston/article/HPD-starts-to-arm-officers-with-body-cameras-7249824.php>
- <http://www.houstonchronicle.com/news/houston-texas/houston/article/HPD-starts-to-arm-officers-with-body-cameras-7249824.php>
- Jennifer Bauer, “ ‘Body cams’ now worn by Houston police officers,” KPRC-TV, Click2Houston.com (Dec. 24, 2013), available at <http://www.click2houston.com/news/bodycams-now-worn-by-houston-police-officers/23569826>
- James Pinkerton, “Plan would outfit more HPD officers, deputies with body-worn cameras,” HOUSTON CHRONICLE (Dec. 11, 2014), available at <http://www.houstonchronicle.com/news/houston-texas/houston/article/Plan-would-outfit-more-HPD-officers-with-body-5950631.php>

- Robert Arnold, “What happens to video captured by police body cameras?” KPRC-TV, Click2Houston.com (Feb. 1, 2015), available at <http://www.click2houston.com/news/what-happens-to-video-captured-by-police-body-cameras/31017468>
- James Pinkerton, “HPD, Sheriff’s Office won’t release policies for body camera tests,” HOUSTON CHRONICLE (Feb. 20, 2015), available at <http://www.houstonchronicle.com/news/houston-texas/houston/article/HPD-Sheriff-s-Office-won-t-release-policies-for-6092858.php>
- Philip H. Hilder, “HPD needs to explain how tracking devices work,” HOUSTON CHRONICLE (Apr. 9, 2015), available at <http://www.chron.com/opinion/outlook/article/Hilder-HPD-needs-to-explain-how-tracking-devices-6190100.php>
- Houston Justice Coalition, “Body Cam Policy,” Houstonjustice.org, available at <http://www.houstonjustice.org/what-we-do/>
- City of Houston, “Public Information Requests” (accessed April 29, 2014), available at <http://www.houstontx.gov/Public-Information-Requests>
- ATTORNEY GENERAL OF TEXAS, PUBLIC INFORMATION HANDBOOK 2014, at 92-101, available at [https://www.texasattorneygeneral.gov/files/og/publicinfo\\_hb.pdf](https://www.texasattorneygeneral.gov/files/og/publicinfo_hb.pdf)

## Philadelphia, PA

According to a December 2014 Philly.com news article, the Philadelphia Police Department, as part of a six-month pilot program, began using thirty-five cameras to test of six different brands of on-body cameras for permanent use. At the end of the six months, the department will evaluate as to how it can “implement a long term, permanent program.” No report or evaluation has been released or reported as on June 1, 2015. In March of 2015, Philadelphia Mayor Nutter released his proposed budget for FY 2016 which contains \$500,000 to expand the on-body camera program to 450 officers throughout the city. In April 2015, Philadelphia passed Directive 4.21, Body Worn Cameras – Voluntary Pilot Program, and newly elected Mayor Jim Kenney is seeking funding for 800 body cameras.

### Collection

- Authorized body-worn cameras shall be activated when responding to all calls for service and during all law enforcement related encounters and activities involving the general public, including (1) responding to crimes in progress, (2) engaging in vehicular or non-vehicular pursuit, (3) conducting any vehicular or pedestrian investigation, (4) initiating sight arrests or citations, (5) handling disturbances or crisis-related incidents, (6) handling protests or demonstrations, and (7) whenever confronted by hostile members of the public.
- Body-worn cameras should remain activated until events have concluded, but should be deactivated (1) prior to entering the residence of an individual (absent consent to record), (2) when requested by a victim, witness, or informant, (3) when the recording would capture gruesome images or nude bodies, (4) when entering religious institutions during services, or (5) when entering hospital rooms or private patient areas. Cameras should not be used in places where a reasonable expectation of privacy exists.

### Retention

- Unless a specific incident or event is marked as evidence, digital recordings captured by body-worn cameras shall be retained for 15 days from the date of the incident or event. If the video is required as evidence, the retention period will be the same as required for that particular crime.

### Exemption

- Pennsylvania’s Right-to-Know law does not currently require disclosure of dash or body camera footage to citizens or news media. On April 28, 2015 the Pennsylvania General Assembly Senate Judiciary Committee held a hearing on policing practices. Testimony from the ACLU and the Pennsylvania Newsmedia Association focused heavily on amending the Right-to-Know statute and implementing non-discretionary recording practices.

### Dashcam Exemptions

- None.

### Links

- <http://www.phillypolice.com/assets/directives/D4.21-BodyWornCameras.pdf>
- <http://www.phillymag.com/citifed/2016/03/02/jim-kenney-body-cameras/>
- <http://www.philly.com/philly/blogs/dncrime/Philly-cops-testing-body-cameras.html>

- <http://philadelphia.cbslocal.com/2015/03/07/death-of-philadelphia-officer-reinvigorates-experiment-in-body-worn-cameras/>
- <http://www.senatorgreenleaf.com/wp-content/blogs.dir/39/files/2015/05/Mary-Catherine-Roper-Testimony.pdf>
- <http://www.senatorgreenleaf.com/wp-content/blogs.dir/39/files/2015/05/Paula-Knudsen-Testimony.pdf>

## Miami, FL

On June 2, 2015, the Miami-Dade County Commission approved \$1 million for the purchase of 500 on-body cameras to be worn by their police force. The Mayor indicated his intention to request funding for an additional 500 body cameras during FY 2016 with the goal of outfitting every county officer in the next 3-4 years. On April 20, 2016, the Miami-Dade Police Department issued Directive 16-18, "Revision to the Department Manual, New Policy: Chapter 33 – Part 1 – Body-Worn Camera System"

### Collection

- Under Directive 16-18, officers *should* activate body worn cameras prior to exiting their assigned vehicles, or as soon as practicable, when responding to a call for service or prior to engaging in any official law enforcement matter, including (1) traffic stops, (2) citizens contacts related to official law enforcement matters, (3) impaired driver investigations, (4) vehicular and non-vehicular pursuits, (4) calls for service, (5) transportation of prisoners or citizens, (6) all searches, (7) arrests, and (8) other legitimate law enforcement contacts. Officers should generally record until completion of the event, and are not required to obtain consent. However, officers may respect the wishes of individuals in their homes, places of worship, or in hospitals.
- Cameras are not to be used during administrative or internal police matters.

### Retention

- Retention period depends on the crime: six months for traffic stops, 90 days for citizen contacts related to law enforcement matters, 3 years for impaired driver investigations, 1 year for pursuit (unless an arrest occurs, in which case arrest period applies), 90 days for calls for service, 6 months for transportation, 90 days for searches (unless an arrest occurs, in which case the arrest period applies), the later of 5 years and final disposition for felony arrests, the later of 3 years and final disposition for misdemeanor arrests.

### Exemption

- Directive 16-18 states that release of body worn camera footage shall be governed by state law.

### Dashcam Exemptions

- None

### Links

- <http://www.miamidade.gov/police/library/bwc-policy.pdf>
- <http://www.miamiherald.com/news/local/community/miami-dade/article74528617.html>
- Mayor Pushes for Police Body Cameras, Accuses Union of Stalling, available at <http://www.local10.com/news/police-union-against-miamidade-police-body-cameras/32429260>;
- Miami Police Will Test Body Cameras on 50 Officers, available at <http://www.miaminewtimes.com/news/miami->

[police-will-test-body-cameras-on-50-officers-6520078.](#)

- Body cameras for police advance in Miami-Dade, available at [http://www.miamiherald.com/news/local/community/miami-dade/article20871600.html.](http://www.miamiherald.com/news/local/community/miami-dade/article20871600.html)
- Miami-Dade OKs up to \$5 million for police body cameras, available at [http://www.miamiherald.com/news/local/community/miami-dade/article22957272.html.](http://www.miamiherald.com/news/local/community/miami-dade/article22957272.html)

## Atlanta, GA

Atlanta does not currently have publicly available policies for collection, retention, or public access for body camera videos. The Atlanta Police Department conducted a 10-week test of body cameras last year and expects to expand their use this summer following passage of a new city budget. On September 2, 2014, the Atlanta City Council adopted an amended resolution, 14-R-4007, calling for a report and recommendation on use of police body cameras. The report was presented to the City Council on December 9, 2014. Mayor Kasim Reed indicated in an April 23 interview that the city budget will permit police to start using body cameras this summer. In 2014, the Atlanta Citizen Review Board (which provides civilian oversight for the police) issued a report on body-worn cameras (BWCs). The report identifies various issues and recommends more research, without taking firm positions. The report also recommends that Atlanta police adopt policies for retention and privacy, suggesting that no such policies are in place.

The Atlanta Police Department has recently faced a number of setbacks to its body camera program that have delayed implementation.

<b>Collection</b>	<ul style="list-style-type: none"><li>• Recently passed Senate Bill 94 allows police to record video in places where there is a reasonable expectation of privacy, but exempts such recordings from public disclosure under O.C.G. § 50-18-72.</li><li>• Atlanta officers are supposed to place body worn cameras into recording mode during general law enforcement business. However, the use of body worn cameras and collection of footage in Atlanta has currently hit a snag, and is temporarily delayed.</li></ul>
<b>Retention</b>	<ul style="list-style-type: none"><li>• Follows state law.</li></ul>
<b>Exemption</b>	<ul style="list-style-type: none"><li>• Video recordings can be obtained from the Atlanta Police Department through open records requests, but I have not located a specific provision for dashboard or body camera recordings.</li><li>• Recently passed Senate Bill 94 allows police to record video in places where there is a reasonable expectation of privacy, but exempts such recordings from public disclosure under O.C.G. § 50-18-72.</li></ul>
<b>Dashcam Exemptions</b>	<ul style="list-style-type: none"><li>• None.</li></ul>
<b>Links</b>	<ul style="list-style-type: none"><li>• <a href="http://www.fox5atlanta.com/news/82625599-story">http://www.fox5atlanta.com/news/82625599-story</a></li><li>• <a href="http://atlantacityga.iqm2.com/Citizens/Detail_LegiFile.aspx?ID=5109&amp;highlightTerms=camera">http://atlantacityga.iqm2.com/Citizens/Detail_LegiFile.aspx?ID=5109&amp;highlightTerms=camera</a></li><li>• <a href="http://atlantaprogressivenews.com/2014/12/16/atlantas-public-safety-committee-hears-apd-body-camera-study">http://atlantaprogressivenews.com/2014/12/16/atlantas-public-safety-committee-hears-apd-body-camera-study</a></li><li>• <a href="http://atlanta.cbslocal.com/2015/04/23/mayor-kasim-reed-talks-police-body-cameras">http://atlanta.cbslocal.com/2015/04/23/mayor-kasim-reed-talks-police-body-cameras</a></li></ul>

- <http://www.atlantapd.org/openrecordsrequest.aspx>
- <http://www.atlantaga.gov/modules/showdocument.aspx?documentid=16263>
- <https://legiscan.com/GA/bill/SB94/2015>

## Boston, MA

The Chief of Police and Mayor of Boston—as well as the Governor of Massachusetts—are strongly opposed to the implementation of body cameras in the city and until recently had no plans to pilot a program in the near future. As of April 2016, Boston police officers will be equipped with body cameras as part of six-month pilot program.

### Collection

- None.

### Retention

- None.

### Exemption

- None.

### Dashcam Exemptions

- The original recording shall remain, at all times, in the custody of the Evidence Management Division for a period of 90 days. In the event an outside entity/party requests copies of the tape, the Department will provide the officer(s) involved with notification of such request as soon as possible.
- The Public Record Law also provides that "investigative materials necessarily compiled out of the public view by law enforcement or other investigative officials, the disclosure of which would probably so prejudice the possibility of effective law enforcement that it would not be in the public interest," are exempt from public disclosure.

### Links

- <http://www.wbur.org/news/2016/04/29/boston-police-body-cameras-pilot>
- <http://static1.squarespace.com/static/5086f19ce4b0ad16ff15598d/t/52af60b1e4b007c7c2257d48/1387225265272/Rule+324B.pdf>;
- <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleX/Chapter66/Section10>
- <http://static1.squarespace.com/static/5086f19ce4b0ad16ff15598d/t/52af5f0be4b0dbce9d22a7cf/1387224843888/Rule+300.pdf>

## San Francisco, CA

San Francisco began outfitting some police officers with body cameras in 2013. San Francisco then received a \$250,000 Federal grant for a body camera pilot program in early 2014. In April of 2015, the Mayor of San Francisco proposed a \$6.6 million expenditure to equip every office in the city with a body camera by the end of 2015. A draft policy was approved on December 2, 2015, and on June 1, 2016, the city approved a final policy.

### Collection

- The December 2, 2015 draft policy required activation of body worn cameras during (1) detentions and arrests, (2) consensual encounters with the police, (3) 5150 evaluations, (4) traffic and pedestrian stops, (5) vehicular and non-vehicular pursuits, (6) use of force, (7) service of warrants, (8) searches, (9) transportation of arrestees or detainees, (10) during hostile citizen encounters, and (11) other circumstances where recording would be valuable. The draft policy indicated that cameras should not be activated when encountering (1) sexual assault and child abuse victims, (2) situations that could compromise the identity of confidential informants or undercover operatives, and (3) strip searches.
- Details of the final policy are less clear.

### Retention

- The December 2, 2015 draft policy required the Department to maintain all recordings for at least 60 days. The Department was required to retain the footage for at least two years, however, if the recording (1) showed an officer's use of force, (2) led to the detention or arrest of an individual, or (3) was relevant to a formal or informal complaint.

### Exemption

- FOIA-related concerns appear to be governed by the California Public Records Act.

### Dashcam Exemptions

- Police dashboard camera recording requests are governed by the California Public Records Act, but police can claim an exemption under Government Code 6524(f) if the video is part of a police investigation.

### Links

- <http://sanfranciscopolice.org/sites/default/files/FileCenter/Documents/27676-Body%20Worn%20Camera%20120215%20draft%20for%20meet%20and%20confer.pdf>
- <http://www.sfgate.com/news/article/SF-Police-Commission-weighs-body-cameras-7958492.php>
- <http://sanfranciscopolice.org/sites/default/files/FileCenter/Documents/27676-Body%20Worn%20Camera%20120215%20draft%20for%20meet%20and%20confer.pdf>
- <http://www.sfexaminer.com/sanfrancisco/san-francisco-police-to-begin-using-chest-cameras-during-searches/Content?oid=2559413>
- <http://www.sfgate.com/bayarea/nevius/article/S-F-police-seek-cameras-to-capture-whole-picture-4997404.php>

- <http://sf-police.org/index.aspx?page=4725>
- <http://www.sfexaminer.com/sanfrancisco/claims-that-police-body-cameras-may-cost-more-than-expected-are-called-into-question/Content?oid=2916995>
- <http://www.sfexaminer.com/sanfrancisco/sf-sheriff-plans-to-equip-deputies-at-county-jail-with-body-cameras/Content?oid=2927282>
- <http://www.loginfo.ca.gov/cgi-bin/displaycode?section=gov&group=06001-07000&file=6250-6270>

## Phoenix, AZ

Phoenix police department's policy is no longer posted on its website, but there is a version from July 2014 posted on a private site online. In September 2015, the Phoenix Police Department received more than \$600,000 in federal grant money to more than double the number of body cameras on officers, bringing the total to about 300. There are currently 139 cameras deployed within Phoenix.

### Collection

- The VIEVU PVR-LE2 camera must be worn at all times that the user officer/supervisor may become involved in any enforcement activity during their assigned shift.
- All user officers/supervisors who arrive on a scene or engage in an enforcement contact must place their VIEVU PVRLE2 camera in the “On/Record” Mode as soon as it is safe and practical to do so.
- The VIEVU PVR-LE2 camera must be activated during all investigative or enforcement contacts such as, but not limited to, the following examples:
  - a. Vehicle stops
  - b. Pedestrian stops
  - c. Consensual encounters that are investigative in nature
  - d. Radio calls for service
  - e. On-view events requiring enforcement activity
  - f. Suspect and witness statements and interviews
  - g. Vehicle and foot pursuits
  - h. Emergency response to critical incidents
- Once the VIEVU PVR-LE2 camera is in the “On/Record” mode, employees must continue to record until either the completion of the event or until they leave the scene.
- Employees may deviate from this directive if it is in the obvious best interests of the department to do so and they are able to justify such a deviation.
- Prohibited recording:
  - Will not be activated in a place where a reasonable expectation of privacy exists, such as dressing rooms, precinct locker rooms and restrooms.

	<ul style="list-style-type: none"> <li>◦ Will not be intentionally activated to record conversations of fellow employees without their knowledge during routine and non-enforcement activities.</li> <li>◦ Will not be utilized to surreptitiously record conversations of citizens and employees.</li> <li>◦ Will not knowingly record undercover officers or confidential informants.</li> <li>◦ Will not be utilized to record any off duty or personal activity and will not be worn while working in an off-duty capacity.</li> </ul>
<b>Retention</b>	<ul style="list-style-type: none"> <li>● All media that is captured during the pilot program will be retained by the Phoenix Police Department for a minimum of one year following the date it is recorded. Captured video may be retained for longer periods in the event the video is the subject of a litigation hold, a criminal case, part of discovery, etc.</li> </ul>
<b>Exemption</b>	<ul style="list-style-type: none"> <li>● Operations Order 4.49, Body Worn Video Technology – Pilot: The release of video/s requested through a public records request will be handled in accordance with existing policy and public records laws. See Operations Order 4.6, Release of Records, for additional information.</li> <li>● Operations Order 4.6, Release of Records: Departmental Reports (DRs) and other records or matters will be released upon written request, subject to the guidelines of this order. <ul style="list-style-type: none"> <li>◦ Persons requesting information or records will be referred to Public Records.</li> <li>◦ Identifying information of a victim will be redacted from any public record the department is releasing upon a public records request. Identifying information includes the victim’s phone numbers, addresses, work information, and anything else that could identify the victim, such as photographs and/or videos.</li> <li>◦ Per Arizona Revised Statute (ARS) 13-4434.C, a victim’s name should be released UNLESS the victim may be re-victimized, is involved in a violent crime (sexual assault, robbery burglary, domestic violence, assault), is a s child, or there are privacy concerns. If there is any doubt about what information should be redacted, contact the Legal Unit.</li> <li>◦ Crime scene or death investigations photographs and/or video must be redacted to protect the victim’s identifying information.</li> </ul> </li> </ul>
<b>Dashcam Exemptions</b>	<ul style="list-style-type: none"> <li>● None.</li> </ul>
<b>Links</b>	<ul style="list-style-type: none"> <li>● <a href="http://www.phoenixnewtimes.com/news/phoenix-police-get-federal-grant-to-double-the-number-of-body-cameras-on-cops-7680193">http://www.phoenixnewtimes.com/news/phoenix-police-get-federal-grant-to-double-the-number-of-body-cameras-on-cops-7680193</a></li> </ul>

- <http://downtowndevil.com/2016/04/14/79288/phoenix-police-see-success-with-body-camera-pilot-program/>
- Phoenix Police Department, Operations Order 4.49, Body Worn Video Technology – Pilot, <http://azcommonlaw.com/wp-content/uploads/2014/07/phoenix-police-department.pdf>
- Phoenix Police Department, Operations Order 4.6, Release of Records, <http://azcommonlaw.com/wp-content/uploads/2014/07/phoenix-police-department.pdf>

## Detroit, MI

The Detroit Police Department is launching a second testing of body cameras. According to the Mayor of Detroit's press release and various media articles, the trial will last 90-days and twenty officers will be wearing the body cameras. The cameras will be turned on and off by the officers at their discretion and following the end of the shift, each officer will return the camera and the recordings will be automatically uploaded to the Detroit Police Department's Cloud Based storage. The department policy on body cameras is still a work in progress and being developed by the Assistant Detroit Police Chief, James White. In March of 2015, the Detroit Police Department began a 90-day pilot program.

On May 17, 2016, the Detroit City Council approved a \$5.2 million contract to equip police officers with body cameras. It is expected to take 14 months, beginning in August, to issue 1,500 cameras throughout the department.

<b>Collection</b>	<ul style="list-style-type: none"><li>• The decision to record an interaction rests with the officer under the guidelines for the current program. The expectation is that all interactions with the exception of victims of sexual assault and child abuse (unless necessary for evidence) will be recorded.</li></ul>
<b>Retention</b>	<ul style="list-style-type: none"><li>• The city of Detroit has no specific legislation on the issue of retention. However, Michigan's legislature is currently considering a bill that would require police departments to retain the footage for 30 days, unless it's part of a criminal investigation. In those cases, the video would have to be saved for at least three years (story <a href="#">here</a>).</li></ul>
<b>Exemption</b>	<ul style="list-style-type: none"><li>• The city has not considered any legislation on the issue of exemptions from disclosure. Police department policy dictates that interactions with sexual assault or child abuse victims will not be recorded unless necessary for evidentiary purposes. Additionally, the Michigan legislature is currently considering a bill that would restrict access to video footage taken in a private place or residence, to any person who is the subject of the video, their parent or legal guardian, or someone who had their property seized.</li></ul>
<b>Dashcam Exemptions</b>	<ul style="list-style-type: none"><li>• N/a</li></ul>
<b>Links</b>	<ul style="list-style-type: none"><li>• <a href="http://www.freep.com/story/news/2016/05/17/detroit-council-approves-contract-police-body-cams/84494648/">http://www.freep.com/story/news/2016/05/17/detroit-council-approves-contract-police-body-cams/84494648/</a></li><li>• <a href="http://detroit.cbslocal.com/2015/03/11/pilot-program-will-outfit-some-detroit-cops-with-body-cams/">http://detroit.cbslocal.com/2015/03/11/pilot-program-will-outfit-some-detroit-cops-with-body-cams/</a></li><li>• <a href="#">Detroit Police Testing Body Cameras</a>;</li><li>• <a href="#">Detroit Police to Run 90-day Body Cam Test</a></li><li>• <a href="http://www.freep.com/story/news/local/michigan/2015/04/14/emerging-body-camera-technology-prompts-privacy-concerns/25778495/">http://www.freep.com/story/news/local/michigan/2015/04/14/emerging-body-camera-technology-prompts-privacy-concerns/25778495/</a></li></ul>



## Seattle, WA

Seattle Police Department released a directive on its ongoing body-worn video pilot program.

### Collection

- Officers will record the following police activity:
  - • Response to 911 calls, starting when the officer begins travel to the call and ending consistent with paragraph 5 below • Terry stops • Traffic stops • On-View Criminal Activity • Arrests and seizures • Searches and inventories of vehicles or persons • Transports (excluding ride-alongs and passengers for meetings) • Vehicle Eluding/Pursuits • Questioning suspects or witnesses
- If circumstances prevent recording with BWV at the beginning of an event, the officer shall begin recording as soon as practical.
- Employees will activate the BWV to record the above, even if the event is out of view of the camera.
- Unless there is reasonable suspicion to believe that criminal activity is occurring or will occur, employees shall not intentionally record:
  - • People who are lawfully exercising their freedom of speech, press, association, assembly, religion, or the right to petition the government for redress of grievances. (Protected activity which is unintentionally captured while recording an event as otherwise required by this policy is not a violation.) • Places where a heightened expectation of privacy exists, such as restrooms, jails, or hospitals, unless for a direct law enforcement purpose such as a crime in progress or the recording of the location is material to a criminal investigation.
- Once BWV recording has begun, officers will record the entire event. An event has concluded when all of the following apply:
  - • The employee has completed his or her part of the active investigation; • There is little possibility that the employee will have further contact with any person involved in the event; and • The employee is leaving the area of the event
- For transports, the event has concluded when the officer reaches the transport destination, such as the jail, hospital, or precinct, and is exiting the vehicle.
  - Exception: For residences or other private areas not open to the public, officers will ask for consent to record with BWV. The request and any response will be recorded. If the request is denied, officers will stop recording with BWV during the time that they are in the private area.
  - This exception does not apply to crimes in progress or other circumstances that would allow the officer to be

	<p>lawfully present without a warrant.</p> <ul style="list-style-type: none"> <li>• Officers who stop recording with the BWV during an event must document the reason(s) for doing so in the GO report. If there is no GO created, the officer will document the reason(s) in an update to the call.</li> <li>• Officers should notify persons that they are being recorded, repeat notification if practical, for additional people.</li> </ul>
<b>Retention</b>	<ul style="list-style-type: none"> <li>• The department has over 360 terabytes of data from body and dash cams so it appears that they are retaining a significant portion of the data indefinitely. They are also using a computer program to redact that footage in order to post it to their YouTube channel which indicates they intend to retain it in the internet indefinitely (NPR story <a href="#">here</a>).</li> <li>• According to HB 2362, camera recordings must be retained for 60 days.</li> </ul>
<b>Exemption</b>	<ul style="list-style-type: none"> <li>• Seattle P.D. already put body camera footage on YouTube. It is blurred and there is no audio.</li> <li>• Ars Technica article notes that department is burning around 7000 DVDs monthly in response to public requests for information so it seems videos have been produced in response to FOIA requests.</li> <li>• Now subject to HB 2362.</li> </ul>
<b>Dashcam Exemptions</b>	<ul style="list-style-type: none"> <li>• Now subject to HB 2362.</li> </ul>
<b>Links</b>	<ul style="list-style-type: none"> <li>• <a href="http://spdblotter.seattle.gov/wp-content/uploads/2014/12/12_17_14-Policy.pdf">http://spdblotter.seattle.gov/wp-content/uploads/2014/12/12_17_14-Policy.pdf</a></li> <li>• <a href="http://arstechnica.com/tech-policy/2015/03/02/seattle-police-unveil-blurred-soundless-body-cam-youtube-channel/">http://arstechnica.com/tech-policy/2015/03/02/seattle-police-unveil-blurred-soundless-body-cam-youtube-channel/</a></li> <li>• <a href="http://www.govtech.com/public-safety/Anonymous-Requester-Turns-Police-Body-Camera-Programs-Upside-Down.html">http://www.govtech.com/public-safety/Anonymous-Requester-Turns-Police-Body-Camera-Programs-Upside-Down.html</a></li> <li>• <a href="http://apps.leg.wa.gov/rcw/default.aspx?cite=42.56">http://apps.leg.wa.gov/rcw/default.aspx?cite=42.56</a></li> </ul>

## Minneapolis, MN

The Minneapolis Police Department started a body camera pilot program in November 2014. Under the program, 36 officers will try two different camera brands (TASER and VieVu) for 6-9 months. The Department claims that it seeks to issue body cameras across the Department by late 2015. The Minneapolis PD has issued publicly available policies about the pilot program: “MPD Body Camera SOP” (Nov. 5, 2014): This policy includes guidelines for collection, retention, and public access for PVR (Portable Video Recording) records.

On March 1, 2016, the Minneapolis Police Department released a draft of its Body Worn Camera Policy.

### Collection

- Officers *shall* manually activate body worn cameras during (1) traffic stops, (2) suspicious person and vehicle stops, (3) vehicular responds requiring emergency driving, (4) vehicular pursuits, (5) work-related transports, (6) searches, (7) contact involving actual or anticipated criminal activity, (8) contact involving actual or anticipated physical or verbal confrontation, (9) when advising persons of Miranda rights, (10) when ordered by a supervisor, or (11) during tactical or forced entries to buildings.
- Officers *may* activate body worn cameras during ordinary citizen contacts or whenever the officer believes appropriate.
- Body worn cameras *may* be deactivated (1) while protecting accident scenes, (2) while monitoring assigned traffic posts, (3) while assisting motorist, (4) in order to protect the identity of confidential informants or undercover police officers, (5) and other situations where officers reasonably believe stopping the recording will not result in the loss of necessary evidence.

### Retention

- “Data that is not classified under one of the specified classification options shall be retained for one year. All data that is classified under one of the specified classification options shall be retained at least six years but in no event less than as otherwise provided under the Minneapolis Records Management Policy, whichever is longer.”
- The Minneapolis City Council has discussed body cameras and the pilot program in recent meetings. The agenda for a March 10 meeting included an update regarding body camera legislation. Notes from this update indicate that proposed retention guidelines could be “maintained for at least 90 days and destroyed within 1 year,” if not part of an active criminal investigation, or “[m]aintained for at least 1 year and destroyed within 3,” if involved in an investigation.

### Exemption

- Governed by state law.

### Dashcam Exemptions

- The Minneapolis Police Department indicates that requests for digital video recordings of squad car camera footage takes up to 10 business days to process and footage is available “approximately 90 days after the incident date.”

### Links

- <http://insidempd.com/wp-content/uploads/2016/03/Body-Camera-Draft-03-01-2016.pdf>

- <http://www.startribune.com/body-camera-video-in-minnesota-for-police-eyes-only/380375431/>
- [http://www.minneapolisnmn.gov/police/records/police\\_records\\_video-data](http://www.minneapolisnmn.gov/police/records/police_records_video-data)
- <http://www.ci.minneapolis.mn.us/www/groups/public/@communications/documents/webcontent/wcms1p-135024.pdf>
- <http://www.ci.minneapolis.mn.us/www/groups/public/@mpd/documents/webcontent/wcms1p-133495.pdf>
- <https://www.youtube.com/watch?v=26ECVlh3TK0&feature=youtu.be>
- <http://kstp.com/article/stories/s3612702.shtml>
- <http://www.mprnews.org/story/2014/12/10/mpls-police-body-camera-pilot>
- <http://www.minneapolisnmn.gov/meetings/pcoc/WCMS1P-138292>

## San Diego, CA

As of March 9, 2016, the San Diego Police Department has issued a policy relating to the collection of police worn body camera footage.

### Collection

- Mandated Recordings
  - Enforcement Related Contacts
    - All officers who are issued a BWC shall keep their BWC on Buffering Mode/Stand-by Mode while on duty, except during instances listed in this procedure under Prohibited Recordings. Keeping the BWC on Buffering/Stand-by Mode allows officers to capture pre-event recordings when the Event Mode is activated.
    - Officers shall use the event mode to record enforcement related contacts. The event mode should be activated prior to actual contact with the citizen, or as soon as safely possible thereafter, and continue recording until the contact is concluded or the contact transitions from an enforcement contact into intelligence gathering.
    - Officers are strongly encouraged to inform citizens they are being recorded in an effort to de-escalate potential conflicts.
    - Enforcement related contacts include the following: Traffic stops, field interviews, detentions, arrests, persons present at radio calls who are accused of crimes, and consensual encounters in which the officer is attempting to develop reasonable suspicion on the subject of the encounter.
    - Covering another City employee or law enforcement officer during an enforcement contact, including, but not limited to, PISOs, Parking Controllers, etc.
    - Officers working plain clothes assignments are exempt from this policy.
  - Arrests
    - Officers may stop recording in the event mode when the arrestee is cooperative and safely secured inside a law enforcement facility. If an arrestee becomes uncooperative, or if there is some evidentiary purpose, officers should resume recording in the event mode.
    - If an officer resumes recording in the event mode, the camera shall remain in event mode until the officer no longer has contact with the subject.
  - Searches
    - When searching a prisoner and without sacrificing officer safety, it is advantageous to position the search so that it is captured on camera. This starts the chain of custody by allowing any contraband or weapons found to

be documented on the BWC recording.

- Officers should record during the execution of a search warrant, an arrest warrant, a Fourth Amendment waiver search, knock and talk, or a consent search in which the officer is looking for a suspect, evidence or contraband.
- During searches of commercial buildings or residential dwellings when there is a strong indication of encountering a suspect, while keeping officer safety as the primary concern, officers should activate their body worn cameras prior to making entry into the building. The recording of a suspect confrontation normally outweighs tactics potentially shown in the recording.
- Transporting Prisoners
  - Officers equipped with BWC will record all prisoner or passenger transports, regardless of the gender of the prisoner or passenger. The entire transport will be recorded. Two officer units will be required to record with at least one BWC during transports.
  - Officers equipped with a body worn camera may transport a female passenger and or prisoner without the required second officer if the body worn camera is recording during the entire transport.
  - In addition to recording with their BWC, officers transporting female passengers and prisoners shall notify the radio dispatcher of their beginning mileage and ending mileage.
- Suspect Interviews
  - Officers are encouraged to fully record suspect interviews. Officers shall not stop and start the recording during a suspect interview. The only exception to recording a suspect interview would be if the suspect declines to make a statement due to the body worn camera being activated.
  - When recording interviews, officers shall ensure they record any admonishment prior to the start of an interview.
- Special Events
  - When directed to work a special event, officers shall retrieve and use their BWCs. Officers shall comply with the provisions of the Department Procedure.
- Discretionary Recordings:
  - Victim and Witness Interviews
  - Scene Documentation
- Prohibited Recordings:

- Non-work related activity
- In areas or activities such as pre-shift conferences, Department locker rooms, break rooms, restrooms, or other activities not related to an enforcement contact or criminal investigation
- During Department administrative investigations
- During line-ups or briefings
- During major crime briefings, homicide briefings, or during a homicide walk-through
- During contact with confidential informants
- Patient privacy
- Demonstrations

**Retention**

- SDPD Procedure requires metadata to be entered with each recorded segment and after entering the metadata, officers can place the camera on the battery charge and the data will automatically transfer to Evidence.com, the digital evidence management service that stores digitally encrypted data. At this point, the data is considered impounded.
- SDPD Procedure requires all recordings related to any criminal proceeding, claim filed, pending litigation, or a personnel complaint, to be preserved until the matter is resolved and/or in accordance with law.
- According to the audit report, SDPD will need to upgrade its cloud storage if it is to utilize the cameras and recordings effectively.

**Exemption**

- SDPD has been treating the videos as evidence and therefore, private. SDPD retains the right to release a video at its discretion, which may only be done with the Chief of Police or his/her designee's approval. The SDPD Procedure notes that its policy on releasing of videos is meant to "balance a citizen's right to a fair trial, the preservation of evidence, the protection of privacy rights, and police officer accountability."
- A news article noted that when it requested a body camera recording of a shooting under California Public Records Act, it was denied by SDPD on the grounds that once the recording becomes a part of the investigation, SDPD does not have to release them.
- SDPD Procedure allows officers access to their own recordings and recommends that officers review the digital evidence prior to completing reports when necessary to ensure accuracy.
- SDPD Procedure limits the review of digital evidence to administrative purposes of the following: incident where officer is hurt or killed; use of force by officer that results in injury or death; in-custody death; police pursuit; discharge

of officer firearm or Conductive Energy Weapon; officer-involved traffic collision; prior to the release of recordings in response to subpoena or other court order; in preparation for a civil deposition or responding to an interrogatory where the incident arises from the officer's official duties; when preparing to testify in a criminal, civil, or administrative proceeding arising from official duties; investigations undertaken by the Department regarding allegations of misconduct. All other request to review purposes beyond the above must be approved by a captain or higher on a case by case basis.

**Dashcam Exemptions**

- SDPD Procedures notes that body camera digital evidence should be treated the same as other digital evidence and then references a San Diego Police policies and procedures on handling official records request. Such a policy was not located on the internet, but presumably, if the body camera digital evidence is to be treated the same as the other digital evidence, then based on the SDPD's recent treatment of body camera videos as private, this is likely the same stance taken regarding dashboard camera digital evidence.

**Links**

- [https://rcfp.org/bodycam\\_policies/CA/San\\_Diego\\_BWC\\_Policy.pdf](https://rcfp.org/bodycam_policies/CA/San_Diego_BWC_Policy.pdf)
- [San Diego police body camera report: Fewer complaints, less use of force;](#)
- [San Diego Police Department Procedure – Axon Body Worn Cameras](#)
- [San Diego Police Department Body Worn Camera Program Update](#)
- [Statement from the San Diego Police Department](#)
- [Police Department Says Cop Camera Footage Not Public Record](#)