

## RESPONSES TO NEWS MEDIA AND ACLU ON SB 976

1. **“The primary purpose of body cameras is to promote transparency and an understanding of how law enforcement interacts with the public.”**

Answer: No, the primary purpose of body cameras and dashboard cameras in police cruisers is to gather evidence. However, transparency and seeing how police interact with the public is an important secondary reason for using body cameras. The bill, as amended, specifically states that courts may consider this aspect of body cameras when deciding on the public’s interest in disclosure.

2. **Why not make body camera footage available through the Right to Know Law?**

Answer: First, everyone wants transparency, but the rules must be different when we are dealing with evidence-gathering tools of law enforcement. The bill, as amended, sets up a procedure that allows public access, but it also allows a District Attorney and a Judge to protect the privacy interests of crime victims, children, and witnesses. For recordings that do not involve ongoing criminal investigations (defined in the bill) and that do not capture people whose privacy must be guarded, journalists and members of the public will have easy access to the footage.

Keep in mind that full transparency can lead to gridlock when it comes to body cameras. The state of Washington was one of the first states to enact body camera legislation and they made the footage available under that state’s open records law. In response to one request, the city of Seattle estimated that it had 300,000 hours of body camera footage. In response to another request, a small police department in Washington had approximately 1,000 hours of body camera footage and estimated that it would take one of its employees 2 years to go through the footage and blur out the faces of those who expect privacy. Our law enforcement agencies do not have the resources to take officers off the street to do that much redaction. Senate Bill 976, therefore, sets up a different process with stricter criteria.

**3. ACLU: “Video that documents incidents that are legitimately in the public interest [e.g., use of force by an officer]...will be nearly impossible to obtain, even if the requester is in the video...”**

Answer: No, those videos may be obtained by submitting a written request to the police department in possession of the recording. The requester need only specify when and where the incident happened and either identify or describe others who were present. The bill, as amended, explicitly recognizes that requesters will not always be able to notify others who were present at the time of the recording that the requester intends to petition the court for the recording. That is not a bar to obtaining the footage. Instead, the language is designed to discourage “bulk requests” that are not tied to a specific incident, and to provide notice to anyone who would like to protect their privacy.

**4. ACLU: “Requesters must pay a filing fee of \$250, which will price out requesters of limited means.”**

The rules of civil procedure currently allow litigants to apply for *in forma pauperis* status, which allows them to pay filing fees over time rather than all at once. The Administrative Office of Pennsylvania Courts is considering what rule changes will be necessary to facilitate this proceeding to obtain recordings. The courts are aware that indigent requesters may need to pay filing fees in installments.

**5. ACLU: The bill allows officers to record inside a residence, which violates privacy.**

The Wiretap Act currently allows officers to record video inside a residence without any limitation whatsoever. However, the Wiretap Act makes it a *felony* for the same officer to record one word that a person says inside the residence. This is illogical, and SB 976, as amended, fixes that discrepancy. We recognize the privacy that all Pennsylvanians have inside their residences. Although the bill allows police to record audio inside the residence, there are privacy protections built in to the process for disclosing the recording. To prohibit audio recordings inside a residence, we simply force police into a dangerous choice between fiddling with their camera to turn off the audio and protecting themselves from threats to their safety.

**6. The bill does not address when police must turn cameras on or off, nor does it address how the data must be stored.**

True. The original bill attempted to include what experts consider to be “best practices” when it comes to body cameras and recording police interviews and confessions. This became unwieldy in the context of the Wiretap Act, so a separate bill in the next session will address best practices. We call on all law enforcement and civil liberties groups to assist us with legislating the best uses of technology to ensure the integrity of convictions.