

SENATE BILL 976: FREQUENTLY ASKED QUESTIONS

1. Why do we want police to use body-worn cameras and record interviews?

Police recordings are primarily tools to gather evidence, but they also allow for accountability among police officers. In addition to a Joint State Government Commission report on Conviction Integrity (September 2011), numerous law enforcement organizations and scholars have concluded that the use of body-worn cameras and recorded interviews and confessions lead to fewer disputes about allegedly coerced statements, more guilty pleas, and fewer trials. Many believe that body-worn cameras “civilize” both the police and members of the public during encounters, as everyone knows that they are being recorded.

2. Do police officers face any liability for using a body camera inside a home?

Under current law, a police officer using a body camera to record conversations inside a residence could be charged with a third-degree felony. By changing the definition of “oral communications” that are subject to the Wiretap Act, SB 976 as amended will mean that police officers face no criminal liability for the use of a body camera. The privacy of persons inside a residence will instead be protected by how the camera footage is disclosed. If an officer enters a residence without constitutional authority to do so (*e.g.*, with a warrant, consent, or exigent circumstances), the officer could be sued in a civil action and any evidence found could be suppressed in a criminal matter.

3. Must a police officer inform people that a camera is recording them?

Under current law, the Wiretap Act requires police to inform anyone whose voice may be recorded that a recording is being made. On a busy street, where many people may be recording the officer with cell phones, the officer must somehow inform every person that he or she is recording with a body camera. SB 976 as amended will eliminate that requirement with the understanding that speaking to, or in the presence of, a police officer is inherently not private.

4. Does this bill allow the public to access police recordings?

Yes. Remember that the *primary* reason for body cameras and other recordings is to gather evidence. In that regard, recordings should not be presumptively accessible by the public. In recognition of the need for police accountability, however, SB 976 as amended includes a procedure to request recordings from police and to petition a common pleas court to order disclosure of recordings. Serious incidents involving the use of force will always be available to the media and individuals. The requests must, however, be specific, cannot be the subject of an active criminal investigation, and must not be outweighed by interests of privacy or safety, especially where crime victims are captured on the footage. The decision to order the release of recordings will be made by common pleas judges, who are independent elected officials who have the authority to place conditions (*e.g.*, redaction of faces) on the disclosure and impose consequences for disobeying the order.