



April 17, 2017

Senate of Pennsylvania

Senate Box 203052  
Harrisburg, PA 17120-3052

Dear Senators:

The Pennsylvania NewsMedia Association is the statewide trade association for print and online news media in Pennsylvania, and counts more than 300 print, digital and related media organizations as members. On behalf of PNA's members, we are writing to express our concerns about SB 560, which would amend the state's Wiretap Act relating to law enforcement officials' use body cameras.

We believe that SB 560, in its endorsement of bodycam usage by law enforcement, is an important bill. In its current form, however, the bill would prevent public access to most body camera footage and would also impose a new, burdensome framework for requests and appeals, outside of the Right to Know Law. We urge you to make bodycam footage presumptively public, narrow the broad exemptions in the bill, and make the request/appeals procedure the same as the one followed in the Right to Know Law.

If SB 560 were to pass in its current form, we believe that it would represent a significant, missed opportunity for the Pennsylvania General Assembly to confirm its commitment to open government. Pennsylvania's Right to Know Law already contains more than 30 exemptions, including multiple exemptions relating to criminal investigations. SB 560 would include a number of these, and add an exemption for "*potential evidence in a criminal case,*" and "*Information pertaining to an investigation,*" defined to include:

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

It is difficult to imagine a scenario in which someone alleges mistreatment by a police officer and the footage would not fall under the highlighted language above, making it exempt from disclosure.

In addition, the bill does not create the presumption of public access, does not require redaction as a means to make more records publicly accessible, and allows law enforcement decisions regarding release to stand unless they are deemed 'arbitrary and capricious' by a court, a standard that would rarely, if ever, be satisfied.

We certainly understand the need to redact – and sometimes withhold – body camera footage, and particularly where it would interfere with an ongoing investigation or reveal the identity of a victim, but the bill's language, as written, would permit the withholding of virtually all body camera footage, without meaningful review.

A main purpose of using bodycams is to promote greater transparency and accountability, and foster a better understanding of law enforcement interaction with the public. It creates an objective record, leading both to increased public awareness of police conduct and improvements in police-community relations. There are numerous examples, across the country, where the release of such footage served the public good and calmed communities. In fact, many police/public interactions occur on public roads or other public settings, and are open and available to anyone at the scene, including someone recording the interaction on a cell phone. With so many ‘unofficial’ versions of incidents available today, it is more important than ever that the ‘official’ versions be publicly available whenever possible.

Just this month, SEPTA released an audit of the first six months of its body cam policy. Among other things, the report found that: 1) complaints against SEPTA police dropped by 25 percent in the first six months since officers began wearing body cameras; 2) response to resistance incidents decreased by 19 percent; 3) offender/suspect injuries decreased by 20 percent; and 4) officer injuries decreased by 30 percent. SEPTA’s body cam records are subject to the Right to Know Law, and the report noted that three were released to the media.

Moreover, other states’ uses of body cameras have shown that costs and storage issues are manageable. Advances in technology have significantly reduced the costs of storage and redaction, while advancing the important issue of public access and accountability. As written, the bill already allows law enforcement agencies to establish reasonable fees, and only requires storage for a limited time, when no request has been made.

We urge the General Assembly to affirm the presumption of access to video recordings of law enforcement engaging in on-duty conduct, and particularly in public spaces, to amend SB 560 to narrow its exceptions, and to revise the process for requests and appeals in a manner consistent with the Right to Know Law.

Thank you in advance for your consideration of this important issue, and we would welcome the opportunity to discuss it with you in more detail. Please contact me at 717-385-0900 or [hollyl@pa-news.org](mailto:hollyl@pa-news.org) if we can provide any additional information.

Sincerely,

Holly Lubart  
Director of Government Affairs