



LEAGUE OF WOMEN VOTERS OF TENNESSEE

Response to Survey Regarding Law Enforcement Body Cameras

The League of Women Voters of Tennessee does not have a position on whether law enforcement should use body cameras. In general the League believes that if body cameras are used as a tool of law enforcement that there needs to be a careful balancing of citizens' right to know about their government and their right to privacy.

1 - Should there be any exceptions from access under the Public Records Act to video from law enforcement body cameras?

Given that a major reason for the use of body cameras is increased accountability for all parties during police – citizen interactions especially when there is deadly or injurious force used, the League urges a presumption of transparency. Current Tennessee law should be reviewed to ensure that it provides for release of video involving deadly or injurious force. Thankfully in Tennessee, only a few police -- citizen interactions result in lethal or injurious force used. For the vast majority of these interactions, if they are recorded, policies need to be developed for the use and retention of the video footage that respects citizens' reasonable right to privacy.

2 - Should there be a timeframe established for when video (and audio) from law enforcement body cameras be available under the Public Records Act?

The Tennessee Public Records Act already provides records custodians time to fulfill public records requests that might require redaction. The law instructs that public records are to be provided promptly. However, if it is not practical to provide the records promptly, such as in cases in which redaction or compilation could take additional time, a custodian may provide the requester an estimate on how long fulfilling the records request can take. Body camera footage should only be withheld if it can be reasonably demonstrated that releasing it will harm an ongoing investigation or prosecution or releasing the footage would unduly violate an individual's privacy.

3 - Similar to GIS cost recovery, should record custodians be able to impose a cost recovery charge to reflect costs of video maintenance, storage and redaction?

Citizens have already paid taxes to provide for government operations. The maintenance and storage of body camera video is part of the ongoing operating cost of law enforcement. Governments that implement police body cameras should recognize the expense of video maintenance, storage and redaction and budget accordingly.

4 - Should video reflecting use of force resulting in death or serious body injury be treated differently?

The League supports transparency and thus urges that video that records law enforcement's use of force resulting in death or serious body injury should be available to the public immediately, or within a reasonable number of days, not months or years after the incident. To the extent other laws, such as the public records exemption for TBI, are at odds with disclosure of such footage, the League suggests that the law be revised to allow for release of video reflecting use of deadly force.

5 - What other issues related to public access to the videos need to be considered by the General Assembly? One stated purpose of body cameras is to shed light on interactions between police and citizens when there is a dispute or question about what happened.

The collection of body camera video requires a balancing of the public's right to know, an individual's right to privacy and the use of how government and law enforcement uses the video.

The public has a legitimate interest in questions of excessive use of force by law enforcement or other behavior that threatens to deprive citizens of their civil rights and liberties. To the extent that government-created records such as body camera footage can shed light when these questions arise, the public should not be denied access to see those records.

Use of body cameras may potentially create many thousands of hours of footage of citizens in situations in which the citizen has a reasonable expectation of privacy such as in their home. Careful consideration needs to be given to the role of individual privacy in the collection and release of body camera footage.

How government chooses to use the video footage is also important. What will be the uses beyond the specific incident recorded? For example, will police store video indefinitely and use technology — such as facial recognition software — to build files on individual citizen activity without the knowledge or consent of the individual, or without any just cause? Who will have access to watch the video within law enforcement departments or within other parts of government, and for what reasons?

Transparency in the policies and procedures related to the deployment of the body cameras as well as use of the collected videos must be a core principle of any state body camera legislation. In addition, there should be a presumption of disclosure of individual footage unless it violates individual privacy.

6 - Does your organization have suggested legislative solutions?

Not at this time.