



Body-Worn Cameras and Critical Incidents

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By Jennifer Petrusis
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I. INTRODUCTION

A member of your City's Police Department has just been involved in an officer-involved shooting. Footage of the incident was recorded by a body-worn camera and it depicts the moments leading up to the shooting and the shooting itself. Your city has several decisions to make regarding the footage. Does the city release the footage to the public? If so, when? How soon after the incident? Does the city wait until a lawsuit has been initiated before releasing the footage? Should the city release the footage to the public or the agency conducting the investigation of the shooting before releasing the footage? Has your city already entered into a Memorandum of Understanding with the District Attorney's Office regarding the release of body-worn camera footage from officer-involved shootings? If so, what are the terms of the agreement? Should the city release the footage to the public or the agency conducting the investigation of the shooting before releasing the footage? Has your city already entered into a Memorandum of Understanding with the District Attorney's Office regarding the release of body-worn camera footage from officer-involved shootings? If so, what are the terms of the agreement?

In the wake of high profile officer-involved shootings that were captured by body-worn cameras, law enforcement agencies across the country are grappling with these questions. The answers depend on a mix of interpreting current legal requirements and making policy-based decisions that address rising demands for transparency and accountability. Records of a law enforcement investigation are exempt from disclosure under the Public Records Act¹, and many law enforcement agencies consider body-worn camera footage to be exempt from disclosure in

¹ Government Code § 6254(f).

response to a request for the footage from the public. But the law is going to change. The California Legislature has tried for the past two years to pass legislation regarding body-worn cameras and there is pending legislation that would require law enforcement agencies to disclose video footage that depicts an

The purpose of this paper is to discuss the current state of the law, pending legislation that would affect disclosure requirements, and the need to have a comprehensive written policy as part of a body-worn camera program that addresses various practical considerations.

II. CURRENT STATE OF THE LAW REGARDING DISCLOSURE OF BODY-WORN CAMERA FOOTAGE TO THE PUBLIC

Over the past two years, the Legislature has tried and failed to pass several bills that address various aspects of body-worn cameras, including who gets to see the footage. When it comes to the issues of whether and when to disclose camera footage to the public, lawmakers have been struggling with balancing privacy concerns and the public's demands for increased transparency and accountability. This legislative stalemate means that individual law enforcement agencies are left to develop their own policies on whether they will disclose the footage in response to a Public Records Act request from the public.

Article I, Section 30 of the California Constitution requires that government at all levels be open and transparent. The California Public Records Act ("CPRA") guarantees the public's right of individuals to privacy, finds and declares access to information concerning

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Under the Public Records Act, every person has the right to inspect and to obtain a copy of any identifiable public record.³ A local government agency must disclose public records unless the record falls under a statutory exemption or the need for eqphkf gpvkcnkv{"engctn{"qvv y gki j u"v j g"rwdnkeøu"tk i j v"vq"ceeguu"vq"v j cv"tgeqtf0 The Rwdnke"Tgeqtfu"Cev"fghkpgu"örwdnke"tgeqtfuö"cu"hqnnq y u<

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any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.⁴

Given the expansive definition qh"ö y tkvkpi ö, video footage is considered a writing subject to the Public Records Act. However, depending on what the footage depicts, the footage captured from body-worn cameras may be exempt from

² Government Code § 6250.

³ Government Code § 6253(a), (b).

⁴ Government Code § 6252(a).

disclosure pursuant to Government Code section 6254(f) because it is a record of a complaint to, or investigation conducted by, a local police agency.

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Records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, the Office of Emergency Services and any state or local police agency, or any investigatory or security files compiled by any other state or local police agency, or any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes.⁶

Section 6254(f) then contains an exception to the exemption and requires disclosure of certain information to certain individuals:

However, state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, carjacking, vandalism, vehicle theft, or a crime as defined by subdivision (b) of Section 13951, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation.

⁵ *Williams v. Superior Court*, 5 Cal.4th 337, 348 (1993).

⁶ Government Code § 6254(f).

Our California courts have not addressed yet whether video footage from body-worn cameras is a record of an investigation exempt from disclosure under the Public Records Act. The closest has been *Haynie v. Superior Court*, 26 Cal. 4th 1061 (2001), in which the Supreme Court considered, among other things, whether recordings of radio broadcasts that deputies heard prior to the traffic stop, were required to be disclosed under the Public Records Act. The Supreme Court reminded that Section 6254(f) only requires disclosure of specified information contained in law enforcement records, rather than the disclosure of the records themselves. *Id.* The Supreme Court's decision in *Haynie* was a wasted one if . . . the recordings themselves were subject to disclosure.⁷ The Department was not required to disclose the actual recordings.

By that same logic, the actual video and audio recordings from body-worn cameras are not subject to disclosure. Certainly, many law enforcement agencies take the position that body-worn camera footage depicting an aspect of law enforcement investigation is exempt from disclosure.⁸

However, as has often been said, the disclosure requirements of the Public Records Act are a floor, not a ceiling. Except as otherwise prohibited by law, a state or local agency may adopt requirements for itself that allow for faster, more efficient, or greater access to records than prescribed by the minimum standards set forth in the Act.

⁷ *Haynie v. Superior Court*, 26 Cal.4th 1061, 1072 (2001).

⁸ However, if the video footage captures a non-investigatory contact with a citizen, e.g. a citizen stopping an officer to ask for directions, the footage may be subject to disclosure. It is important to evaluate whether the non-investigatory contact could be a record of a complaint or is part of an investigation or security file to determine whether it could still be exempt from disclosure under Section 6254(f).

the Public Records Act.⁹ Unless the body-worn camera footage contains information that is confidential or privileged¹⁰, a law enforcement agency could make the policy decision to release the footage to the public.

III. PENDING LEGISLATION THAT WOULD AFFECT DISCLOSURE OF BODY-WORN CAMERA FOOTAGE

In 2017, two bills that would affect the disclosure of audio and video footage pursuant to the Public Records Act are making their way through the Legislature.

A. Assembly Bill No. 748 (Ting-D): Peace Officers: Video and Audio Recordings: Disclosure¹¹

As amended in July 2017, AB 748 would dramatically expand public access to police body-worn camera videos in California. The bill would amend Section 6254(f) to add a provision requiring disclosure of video or audio recordings that relate to a matter of public concern, which is defined to be a video or audio recording that reasonably is believed to involve a violation of law or agency policy by the peace officer.

⁹ Government Code § 6253(e).

¹⁰ There are several circumstances in which footage from body-worn cameras could be considered confidential or privileged. Some examples include footage of an investigation of a juvenile offender (Welfare & Institutions Code § 827), footage depicting the identity of a confidential informant (Evidence Code § 1041), and footage containing information regarding a suspected child abuse report (Penal Code § 11167.5).

¹¹ Assem. Bill No. 748 (2017-2018 Reg. Sess.) (available at: [http://leginfo.ca.gov/faces/billTextClipping.jspx?_af=4239423:2CD96:+0""Tghgttgf"vq"cu"õCD"96:0](http://leginfo.ca.gov/faces/billTextClipping.jspx?_af=4239423:2CD96:+0))

The bill would limit the circumstances in which this type of audio or video recording could be withheld from disclosure:

(A) If the disclosure would endanger the successful completion of an investigation or related investigation, the agency shall articulate a factual basis as to why disclosure would substantially impede an active investigation, and the video or audio recording may be withheld by the agency for a maximum of 120 calendar days.

(B) (i) If the agency demonstrates, on the facts of the particular case, that the public interest in withholding a video or audio recording clearly outweighs the public interest in disclosure because the release of the recording would, based on the facts and circumstances depicted in the recording, violate the reasonable expectation of privacy of a subject depicted in the recording, the agency shall articulate that interest and may use redaction technology to obscure those specific portions of the recording that protect that interest. However, the agency shall, to the extent practicable, ensure that the recording is not edited or altered in a way that prevents the public from completely, and accurately comprehend the events captured in the recording and the recording shall not otherwise be edited or altered.

(ii) If the agency demonstrates that the reasonable expectation of privacy of a subject depicted in the recording cannot adequately be protected through redaction as described in clause (i) and that interest outweighs the public interest in disclosure, the agency may withhold the recording from the public, except that the recording, either redacted as provided in clause (i) or unredacted, shall be disclosed promptly, upon request, to any of the following, unless disclosure would endanger the successful completion of an investigation or related investigation, in which case the agency shall articulate a factual basis as to why disclosure would substantially impede an active investigation, and the video or audio recording may be withheld by the agency for a maximum of 120 calendar days:

(I) To the subject of the recording or his or her authorized representative.

(II) To the parent or legal guardian of the subject if the subject is a minor.

*KKK+" Vq" c" o g o dgt" qh" v j g" uwdlgevu" k o o g f k c v g" h c o k n { . " c u" f g h k p g f" k p"
paragraph (3) of subdivision (b) of Section 422.4 of the Penal Code, if
the subject is deceased.

Additionally, this bill would prohibit an agency from disclosing any audio or video recording to a third-party contractor, except for the purpose of data storage. The bill would prohibit the sale of a recording for any purpose and would prohibit the use of any biometric scanning program (i.e. facial recognition software) or application in regard to a recording.

Finally, the bill would amend Section 6254(f) to explicitly state that an agency may provide greater public access to video or audio recordings than the minimum standards set forth in that section.

B. Assembly Bill No. 459 (Chau-D): Public records: Video or Audio Recordings: Crime¹²

AB 459 relates to video or audio recordings that were created during the commission or investigation of certain crimes, namely rape, incest, sexual assault, domestic violence, or child abuse that depicts the face, intimate body part, or voice of a victim of the incident depicted in the recording. The bill would add a section to the Government Code stating that the Public Records Act does not require the disclosure of these types of video or audio recordings unless the victim depicted in the record provides express written consent.

However, the bill would require agencies to justify withholding such video or audio recordings by demonstrating, pursuant to Section 6255, that on the facts of the particular case, the public interest served by not disclosing the recording clearly outweighs the public interest served by disclosure of the recording. The new

¹² Assem. Bill No. 459 (2017-2018 Reg. Sess.) (available at:

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Government Code section would require the agency to consider the following factors when balancing the public interests: 1) the constitutional right to privacy of the person or persons depicted in the recording, and 2) whether the potential harm to the victim caused by disclosing the recording may be mitigated by redacting the recording to obscure images showing intimate body parts and personally identifying characteristics of the victim, or by distorting portions of the recording from being able to fully and accurately perceive the events captured on the recording (the recording shall not otherwise be edited or altered). Victims of these crimes would be allowed to inspect and obtain an original copy of the recording.

C. Comparison of Pending Bills: AB 459 and AB 748

Overall, AB 748 significantly expands public access to certain recordings captured by law enforcement agencies relating to the public concern as defined by the bill, uwe j "cu" qhhkegtøu" wug" qh" hqteg." y j kng" CD" 67; "kpstead provides that law enforcement agencies do not have to disclose recordings related to specific serious crimes implicating significant privacy concerns.

The bills are not likely to impact each other because they focus on different topics of recordings. AB 748 prevents agencies from withholding for more than 120 days recordings that capture matters of public concern, which include incidents kpxqn xkpi" c" rgceg" qhhkegtøu" wug" qh" hqteg" cpf" kpekfgpvu" tgcupcdn{ " dgnkgxgf" vq" involve a violation of law or public policy. AB 459, on the other hand allows agencies to withhold recordings for specific crimes, such as rape, incest, sexual assault, domestic violence or child abuse. The matters of public concern which would invoke the expansive disclosure requirements of AB 748 would likely not be triggered by the crimes of rape, incest, sexual assault, domestic violence or

child abuse. Further, AB 748 exempts from public disclosure requested recordings in which the privacy interest favors not publicly disclosing the recording and redaction technologies cannot alleviate this privacy concern. In these cases, AB 748 only requires that the video be disclosed if requested by the subject of the video or a specified connection to that suspect. This is consistent with the provision of AB 459 which allows the subject of a recording, the parent or legal authorized designee permission to inspect and obtain a copy of such recording.

Additionally, the bills are premised on two different conclusions regarding the prevailing public interest concerning disclosing body-worn camera recordings. AB 459 creates enhanced protections for withholding from Public Records Act requests of certain recordings because the need to protect the privacy of victims of serious crimes from the public disclosure of images captured in video or audio recordings outweighs the interest in public disclosure of that information. AB 748, on the other hand, allows for a video or audio recording that relates to a matter of public concern to be accessible to the public because of the strong legislatively declared public interest in police uses of force.

A chart showing a side-by-side comparison of the two pending bills is found at the end of this paper.

IV. BODY-WORN CAMERA POLICIES

Jcxkpi" c" eq o rtgjgpukxg" ytkvvgp" rqnke{" ku" kpxcnwcdng" vq" cp" cigpe{øu" dqf{-worn camera program. This will be an important document in any litigation arising from a critical incident in which body-worn camera footage was captured.

For those agencies that are considering implementing a body-worn camera program and do not yet have a policy in place, there are several resources for guidance and model policies, including the Body Worn-Camera Toolkit created by the U.S. Department of Justice to serve as a resource for law enforcement agencies across the country.¹³ Additionally, a chart comparing policies from the Los Angeles Police Department, and the Alameda County Sheriff's Office

Some of the fundamental issues that a body-worn camera policy should address are:

1. In what type of situations will the cameras be utilized? Every contact with a member of the public? Only certain types of contacts?
2. Will the officer have any discretion on when to turn the camera on or off?
3. Who will have access to the footage and is the officer permitted to review the footage before writing his/her report?
4. How long will the footage be retained?
5. Under what circumstances will the footage be disclosed?

These questions highlight the policy decisions and practical considerations that a body-worn camera program. For example, each agency needs to decide whether it will release the footage in response to a Public Records Act Request or use the exemption set forth in Section 6254(f). Most agencies that utilize body-worn cameras have built in some flexibility into their policies and will consider publicly releasing footage if it would serve to quell unrest or protect public safety.

¹³ See www.bja.gov/bwc

Additionally, decisions regarding when the cameras will be utilized and how long the footage will be retained have important financial impacts. Many law enforcement agencies cite storage costs as being a significant factor in the overall cost of a body-worn camera program. The cameras are relatively inexpensive, but the cost to store the footage and the personnel costs associated with managing the footage (e.g. responding to Public Records Act requests and various discovery requests) become cost prohibitive for some smaller agencies. Routine video monitoring, which includes in-car video systems, must be retained for one year.¹⁴ However, body-worn camera footage may also be considered evidence depending on what it captures and depicts, which will also affect how long it should be retained for criminal prosecution purposes. The costs associated with retention yknn"wpfqwdvgfn{"chhgev"cp"ci gpe{øu"rqnke{"qp"y jgp"vjg"ec ogtc" owuv"dg"vvknk|gf and how long the footage must be retained beyond the year required by law. Policing is 24/7 and video footage takes up a lot of space.

V. CONCLUSION

Although a fairly recent addition to law enforcement technology, the use of body-worn cameras is expanding and it is probably safe to say that most law enforcement agencies are heading in the direction of utilizing this technology. The law is evolving and we are waiting to see what legislation will be passed regulating body-worn cameras, including when footage must be publicly disclosed. In the meantime, each agency will need to develop its own policy, including when and under what circumstances the agency will disclose body-worn camera footage.

¹⁴ Government Code § 34090.6.

Pending Bill Comparison Table

	AB 459	AB 748
Change to Current Law	Adds Section 6254.4.5 to the Government Code.	Amends Section 6254 of the Government Code and Section 832.18 of the Penal Code.
Overall Goal of Legislation	Exempts from the CPRA body-camera footage that depicts any victim(s) of rape, incest, domestic violence, or child abuse unless the victim(s) depicted provides express written consent.	Limits the ability of agencies to withhold video or audio recordings that relate to a ō o c w g t " q h " r w d n k e " e q p e g t p ō " * ō f g r k e v u " c p " k p e k f g p v " k p x q n x k p i " c " r g c e g " q h h k e g t ō u " w u g " q h " f o r c e , o r i s r e a s o n a b l y b e l i e v e d t o i n v o l v e a x k q n c v k q p " q h " n c y " q t " r w d n k e " r q n k e { ō + " h t q o " v j g " C P R A . Such recordings can only be withheld for a maximum of 120 days, if agencies show that disclosure would substantially impede an active investigation. If recordings violate the reasonable expectation of privacy such that this interest outweighs disclosure then the video need only be disclosed to the subject of the recording or a specified connection to the subject, if requested.
Specific Recording Content Requirements	Video or audio recording that was created during the commission or investigation of the <u>crime of rape, incest, sexual assault, domestic violence, or child abuse</u> that depicts the face, intimate body part, or voice of a victim of the incident depicted in the recording.	Video or audio recordings that relate to a ō o c w g t " q h " r w d n k e " e q p e g t p ō " " O c w g t u " q h " r w d n k e " e q p e g t p " k p e n w f g " c " t g e q t f k p i " y j k e j " ō f g r k e v u " a n i n c i d e n t i n v o l v i n g a <u>p e a c e o f f i f o r c e , o r i s r e a s o n a b l y b e l i e v e d t o i n v o l v e a v i o l a t i o n o f l a w o r p u b l i c p o l i c y</u> ō
Impact on Public Access to Recordings	<u>Narrows ability to request</u> public records for certain crimes.	<u>Expands</u> members of the <u>public access</u> to recordings relating to matters of public concern.
Impact on Law Enforcement Agencies' Ability to Recordings from CPRA	<u>P r o t e c t s a g e n c y ' s w i t h h o l d s u c h r e c o r d i n g s ,</u> if withholding can be justified by the agency based on specific factors which determine the privacy interest outweighs the public disclosure interest.	<u>L i m i t s a g e n c y ' s a b i l i t y t o r e c o r d</u> recordings to 120 days. If disclosure, even with redaction, would weigh in favor of protecting individual privacy from public disclosure, then agencies must still disclose within 120 days to specified individuals connected to the subject of the recording.

	AB 459	AB 748
Duties Imposed on Agencies	<p><u>Requires an agency to justify withholding</u> such a video or audio recording by demonstrating that on the facts of the particular case, the public interest served by not disclosing the recording clearly outweighs the public interest served by disclosure of the recording. Requires the agency to consider specified factors when balancing the public interests.</p>	<p><u>Requires an agency to provide audio or video recordings requested</u> under the CPRA kh"vjg"tgs wguvgf"tgeqtfkpi"õfgrkevu"cp" ipekf gpv"kp xqnxkpi" c"rgceg"qh hkegtøu" wug"qh" force, or is reasonably believed to involve a xkqncvkqp"qh"nc y"qt"rwdnke"rq nke{0ö</p> <p>The agency <u>must articulate a factual basis as to why disclosure would substantially impede an active investigation if the agency wishes to withhold</u> the video (for up to 120 days).</p> <p>The agency must articulate, based on the facts of the particular case, that the public interest in withholding a recording clearly outweighs the public interest in disclosure if the disclosure contains redactions to protect privacy or if the video is withheld from the public and only provided to the subject, or their family, if deceased.</p>
Allows for the Use of Redaction Technology	<p><u>Yes</u>, may use redaction technology and shall consider the use of such technology when balancing the public interests to mitigate privacy concerns, provided that the redaction does <u>not prevent a viewer from being able to fully and accurately perceive the events captured on the recording</u>. The recording shall not otherwise be edited or altered.</p>	<p><u>Yes</u>, may use redaction technology to obscure specific portions of the recording that protect privacy interests. However, the redaction <u>shall not interfere with the viewer's ability to accurately comprehend the events captured in the recording</u> and the recording shall not otherwise be edited or altered.</p> <p>*Must still disclose, unless privacy interest cannot be protected with redaction, and privacy interest outweighs interest in public disclosure. Then, must disclose to subject or specified connection of the subject within 120 days.</p>
How Long Must Recording be Retained	<u>Not addressed.</u>	<u>Not addressed.</u>

	AB 459	AB 748
To Whom Can the Recording be Released	Same as CPRA. Plus, a <u>subject of a recording</u> , the parent or legal guardian of a minor subject, a fgegcugf"uwdlgevøu"pgzv"qh"mkp."qt"c" uwdlgevøu"ng i cmm{"cwvj qtk gf"fguki pgg" <u>shall have permission to inspect and obtain a copy of such recordings.</u>	<u>Any member of the public</u> pursuant to the CPRA if the recording depicts an incident involving a peace offkegtøu"wug"qh"hqteg."qt"ku" reasonably believed to involve a violation of law or public policy, within 120 days. <u>Only to the subject of recording</u> , "uwdlgevøu" agent, parent or guardian (if subject is a minor), or to members of the immediate family (if subject is dead) <u>i f 1) t h e privacy cannot be protected, and 2) that interest outweighs public disclosure interest.</u> Must be requested. Agency must provide promptly in response to request, or may withhold for a maximum 120 days if disclosure would substantially impede investigation. <u>Not to third-party contractors</u> , except for data storage.

Selected Policies Comparison Table

	Los Angeles Police Department	Los Angeles County Sheriff	ACLU Model Policy
Source	Los Angeles Board of Police Commissioners Special Order No. 12 ¹⁵	Los Angeles County Ujgtkhhøu" Fgrctv o gpv-Testing & Evaluation Guidelines ¹⁶	ACLU Model Policy ¹⁷
When Device Must be Activated to Record – General	<u>Prior to initiating any investigative or enforcement activity</u> involving a member of the public.	Must activate <u>for law enforcement purposes.</u>	Whenever a law enforcement officer is responding to a call for service or at the initiation of <u>any</u> other law enforcement or investigative <u>encounter between a law enforcement officer and a member of the public.</u>
When Device Must be Activated to Record – Enumerated Instances	1) Vehicle stops; 2) Pedestrian stops (including officer-initiated consensual encounters); 3) Calls for service; 4) Code 3 responses (including vehicle pursuits) regardless of whether the vehicle is equipped with In-Car Video equipment; 5) Foot pursuits; 6) Searches; 7) Arrests; 8) Uses of force; 9) In-custody transports; 10) Witness and victim interviews; 11) Crowd management and control involving enforcement or investigative contacts; and 12) Other investigative or enforcement activities where, in the officers judgment, a video recording would assist in the investigation or prosecution of a crime or when a	1) Pursuits; 2) Detentions; 3) Domestic violence calls; 4) Mental illness-related calls; and 5) Any other law enforcement action allowing officer discretion.	N/A

¹⁵ L.A. BD. POLICE COMMØRS., SPECIAL ORDER No. 12 (Apr. 28, 2015) (available at: http://clkrep.lacity.org/onlinedocs/2015/15-0479_rpt_LAPD_08-20-2015.pdf and http://clkrep.lacity.org/onlinedocs/2015/15-1471_misc_1_12-10-2015.pdf).

¹⁶ Extracted from the report OFFICE OF INSPECTOR GENERAL COUNTY OF LOS ANGELES, BODY-WORN CAMERAS: POLICY RECOMMENDATIONS AND REVIEW OF NCUFØS PILOT PROGRAM (Sep. 2015) (available at: https://oig.lacounty.gov/Portals/OIG/Reports/Body-Worn%20Cameras_OIG%20Report.pdf).

¹⁷ ACLU, *A Model Act Regulating the Use of Wearable Body Cameras by Law Enforcement*, (Jan. 2017) (available at: <https://www.aclu.org/other/model-act-regulating-use-wearable-body-cameras-law-enforcement?redirect=model-act-regulating-use-wearable-body-cameras-law-enforcement>).

	Los Angeles Police Department	Los Angeles County Sheriff	ACLU Model Policy
	recording of an encounter would assist in documenting the incident for later investigation or review		
When Recording May be Terminated / Stopped	Shall continue recording until the <u>investigative or enforcement activity involving a member of the public has ended.</u>	Continuous recording of an event should take place until <u>completion of the detention</u> ; recordings should not be prematurely terminated. Officers should weigh factors, including <i>õvjg"i qqf" qh"vjg"Fgrctv o g p vö"y j gp"</i> deciding to stop recording at <i>cp"kp f k x k f w c n ð u" t g s w g u v ð</i>	Shall not be deactivated until the <u>encounter has fully concluded and the law enforcement officer leaves the scene.</u>
Release of Recording	The LAPD <u>d o e s n ' t</u> releasing video in written policies. Currently, the LAPD does not release videos of critical incidents except when used in trial or by order of a court. ¹⁸	The LASD <u>d o e s n ' t</u> releasing video in written policies. No guidelines are provided. LASD has not released any footage from the pilot project to the public.	<i>First</i> , it provides for <u>public release to any member of the public</u> , as set forth <i>w p f g t " v j g " c f q r v k p i " l w t k u f k e v k q p ð u " r w d n k e"</i> records laws, provided the events recorded is identified with reasonable particularity. <i>Second</i> , notwithstanding the public release requirements of state public record laws, the model policy <u>prohibits public release, without express written permission</u> from the non-law enforcement subject(s) of the footage, if the video footage is <i>either not subject to a three (3) year retention period</i> (described below), <i>or the footage is subject to a three (3) year retention period because it captured an encounter which a complaint has been registered by a subject of a video or because it was voluntarily requested.</i>

¹⁸ See Javier Panzar, *Garcetti, Beck defend LAPD body camera policy*, L.A. TIMES (Sep. 4, 2015 2:45 PM), <http://www.latimes.com/local/lanow/la-me-ln-garcetti-lapd-body-camera-policy-aclu-20150904-story.html>.

	Los Angeles Police Department	Los Angeles County Sherriff	ACLU Model Policy
Retention of Recording	The LAPD policy <u>does not specify</u> the length of time recordings are retained.	The LASD policy <u>does not specify</u> the length of time recordings are retained.	<p>Shall be retained <u>six (6) months</u> by the law enforcement agency that employs the officer whose camera captured the footage, or an authorized agent thereof, then permanently deleted.</p> <p>Shall be retained <u>three (3) years</u> if the video footage captures an interaction or event involving: 1) any <i>use of force</i>; or 2) an <i>encounter about which a complaint has been registered by a subject</i> of the video footage.</p> <p>Shall also be retained <u>three (3) years</u> if a longer retention period is <u>voluntarily requested</u> by certain peoples, such as law enforcement involved, subjects of the video, or next of kin to deceased video subjects.</p>