



*SENT VIA EMAIL TO MICHAEL.MOORE@MASENATE.GOV
AND HAROLD.NAUGHTON@MAHOUSE.GOV*

RE: House Bill 2120: An Act to Establish a Taskforce to Develop a Uniform Code for Police Body-Worn Cameras and Their Recordings

July 18, 2019

Dear Sen. Moore and Rep. Naughton,

We're writing on behalf of the Massachusetts Newspaper Publishers Association, the New England First Amendment Coalition and the New England Newspaper & Press Association.¹ Our organizations strongly oppose House Bill 2120. We implore you to support transparency in the Commonwealth by keeping police body camera footage accessible under the state's public records law.

Despite improvements to the public records statute in 2016, Massachusetts continues to lag behind most of the country in government transparency. A primary example of our Commonwealth's culture of secrecy is the fact that Massachusetts is the only state where all three branches of government — executive, legislative and judiciary — are exempt or claim to be exempt from the public records law.

With the passage of House Bill 2120, Massachusetts would become even more of an outlier. The legislation represents one of the strictest — if not *the* strictest — restrictions on body camera footage in the country. States with public record laws exempting body camera footage typically provide a mechanism for access if disclosure is in the public interest.² House Bill 2120 provides no such recourse. (Though for reasons we hope this letter makes clear, body camera footage should not be exempt from the public records law in the first place.)

House Bill 2120 broadly exempts body camera footage from the law while ignoring the tremendous public interest that can often be served by its release. With an increasing number of police departments across the country utilizing body cameras,³ there is an

¹ To learn more about our organizations, please visit the following websites: Massachusetts Newspaper Publishers Association (masspublishers.org), New England First Amendment Coalition (nefac.org) and New England Newspaper & Press Association (nenpa.com).

² <http://www.ncsl.org/research/civil-and-criminal-justice/body-worn-cameras-interactive-graphic.aspx#/>

³ <https://www.govtech.com/data/Just-How-Common-Are-Body-Cameras-in-Police-Departments.html>

abundance of examples showing how the release of footage can protect the interests of private citizens and members of law enforcement. Here are just a few recent ones:

- Earlier this month, Florida officials arrested a former deputy after body camera footage showed him planting evidence and making false arrests. At least 254 cases were reexamined as a result.⁴
- Following the fatal shooting of a teen by police this month in Anaheim, Calif., body camera footage showed the 17-year-old in a “shooting stance” pointing what appeared to be a handgun at an officer.⁵
- A woman claimed in May that she was sexually assaulted by a Texas state trooper. The woman’s attorney issued an apology after viewing body camera footage that contradicted her claims.⁶
- Only through the release of body camera footage could independent law enforcement experts earlier this year review an incident that involved a man in California claiming police tased him in the testicles while he laid face down and handcuffed.⁷

Similar cases could occur in Massachusetts. But without the opportunity to obtain body camera footage, the public may never know if they do.

Body camera footage provides a level of transparency necessary to maintain trust between police departments and the communities they serve. It allows for accountability. This fundamental principle — transparency yields accountability — was recently acknowledged by the Boston Police Department earlier this year when it announced the introduction of about 200 body cameras into its force. According to a BPD statement:

“This new technology is an opportunity to showcase and enhance the department’s commitment to transparency while further strengthening the level of trust that exists between the men and women of the Boston Police Department and our community.”⁸

We believe that sentiment is applicable to all law enforcement agencies.

While our organizations are sympathetic to the privacy concerns that result from body camera use, we are convinced that House Bill 2120 is an, at best, misguided attempt to protect those interests. The Public Records Law already provides tools law enforcement

⁴ <https://www.cnn.com/2019/07/11/us/florida-deputy-arrested-planting-drugs-charges/index.html>

⁵ <https://www.nbcnews.com/news/us-news/body-camera-video-shows-teen-fatally-shot-officer-freeway-appeared-n1029476>

⁶ <https://www.newsweek.com/attorney-apologizes-after-body-cam-video-disproves-womans-sexual-assault-943803>

⁷ <https://www.abc15.com/news/local-news/investigations/abuse-of-force-body-camera-video-shows-man-tased-11-times-by-glendale-officers>

⁸ <https://bpdnews.com/news/2019/5/31/body-worn-cameras>

can use to withhold sensitive information. Those tools include exemption (c) and (f) which protect individual privacy interests and law enforcement investigations, respectively.⁹ In addition, House Bill 2120 prevents the public from receiving *any* benefits from the release of footage because of its wholesale approach to the protection of privacy. The bill simply eschews the much-needed balance the current statute allows.

A more reasonable approach would be to proceed with the taskforce the legislation proposes without creating yet another exemption to the public records law. Not only might the taskforce conduct helpful public conversations about the use of body cameras in Massachusetts communities, it may also produce significant insights into the interests of all stakeholders and help generate solutions other than additional exemptions. To this end, we offer our respective organizations as resources.

We also respectfully request that if a taskforce is established, a member of one of our organizations is included to represent the interests of journalists and the public's right to know about government. Many, if not most, requests for body camera footage are made by members of the media and the press should have a collective voice in this much-needed conversation.

Thank you for the opportunity to express our concerns about House Bill 2120. Again, we welcome any opportunity to assist you in creating uniform policies for body-worn cameras used throughout the Commonwealth.

Sincerely,

Robert Ambrogi | Executive Director
Massachusetts Newspaper Publishers Association

Justin Silverman | Executive Director
New England First Amendment Coalition

Linda Conway | Executive Director
New England Newspaper & Press Association

EC: Rep. Denise Provost (Denise.Provost@mahouse.gov)

⁹ See M.G.L. c. 4 § 7 cl. 26