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A PICTURE IS WORTH A THOUSAND WORDS: NEW NORTH CAROLINA LAW OFFERS GUIDANCE ON THE DISCLOSURE OF BODY AND DASH CAMERA FOOTAGE

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by [Lori Keeton](#)

In North Carolina, footage from a law enforcement officer's body or dashboard cameras is not considered a public record or personnel record according to a recently passed law that goes into effect October 1. North Carolina joins five other states—Florida, Georgia, Illinois, Oregon, and South Carolina—in making this determination.

Prior to the passage of the new law, such footage was often shielded from release to the public because it was considered part of a criminal investigation or personnel file.

Under the new law, anyone captured in police video or audio can make a written request to the head of the custodial law enforcement agency to see the footage. The agency may consider any of the following in deciding whether to grant the request:

- If the person requesting disclosure of the recording is a person authorized to receive disclosure.
- If the recording contains information that is otherwise confidential or exempt from disclosure or release under State or federal law.
- If the release would reveal information regarding a person that is of a highly sensitive personal nature.
- If the release may harm the reputation or jeopardize the safety of a person.
- If the release would create a serious threat to the fair, impartial, and orderly administration of justice.
- If confidentiality is necessary to protect either an active or inactive internal or criminal investigation or potential internal or criminal investigation.

If the request is approved, the applicant will be allowed to view the relevant footage but will not be provided with a copy without a court order. If the request is denied, the applicant can appeal to the superior court for review of the agency's decision.

Anyone else who wishes to obtain footage must file an action in the superior court in any county where any portion of the recording was made for an agency releasing the recording. In determining whether to order the release of all or a portion of the recording, the court must consider the factors set forth in the law as well as the following:

- Release is necessary to advance a compelling public interest.
- The person requesting release is seeking to obtain evidence to determine legal issues in a current or potential court proceeding.
- There is good cause shown to release all portions of a recording.

North Carolina Governor Pat McCrory says the new law is an attempt to strike a balance between transparency and prudence. The ACLU and others have criticized the law as granting law enforcement agencies such broad discretion that it hinders the very purpose of the cameras (i.e. to build trust and ensure accountability).

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