

Transcript: Body-Worn Camera Programs— Legislator’s Perspective

Rich Williams, Criminal Justice Policy Specialist, NCSL: Police issues have been a big focus for legislators this year, and body camera legislation has been at the center of a—of a lot of those discussions. Some of the factors that lawmakers are considering as they look into these bills are who should be required to wear body cameras, when they should be required to be turned on, what are their costs and benefits for law enforcement agencies, and what do you do with the data, how do you store it, retrieve it, and things like that. The bills are moving—bills are moving and changing by the day. If you want up-to-date information, you can always visit our website on law enforcement topics on ncsl.org.

The body camera issue has really gotten big over the last 12 months or so, and with more attention, more interest, new information that can inform policy is coming out almost on a daily basis. Some states have taken formalized steps to study and review this information. Arizona, for example—their legislature passed a bill creating a study committee on body-worn cameras. Virginia's governor recently created a study committee that has legislative participation, and Maryland currently has a bill with our governor that would do—similar to Arizona—creating a body camera task force. In addition, there's a number of municipalities and law enforcement agencies who are currently using body cameras in their practical day-to-day work, some of them in formalized pilot programs and some of them just as—just using the equipment, and the information being produced by them is something that legislators are paying close attention to as they deliberate this kind of policy.

The cost variables that legislators and fiscal offices have been considering for body-worn cameras have been fairly consistent nationally. Some of the big factors are the cost of the equipment—so that's just the initial purchase, maintenance, and repair. They're also looking at the costs of data storage and retrieval, and that's impacted by whether or not they try to do that in-house or with third-party vendors. Another big consideration is based on the policies that are put into the bill—how many officers are going to be wearing cameras, and then how much data they're going to be producing per officer a day. With these factors—with all these factors put together, I've seen the estimates for first year per officer costs of body cameras ranging anywhere from \$400 to \$1700. Additionally, some of the—some of the legislation that's currently out there is looking at ways to fund body camera programs, and some of the ideas being discussed include using funds from asset forfeiture, fines from civil and criminal penalties, general fund funding, and state-funded—state-operated grant programs to help localities with the costs of these purchases.

And some of the ways that bills are looking at that or the way they're—the way they're coming down on that are, there are some that would require all officers to wear body cameras during their entire shifts. Some just are in particular events, like when they're executing a search warrant. Some, just when they're talking to a member of public, they have to turn it on before. And some give discretion to only be turned on when a moment becomes more tense. And some bills still would—still would give officers absolute discretion in when they turn their body camera on. So along with that, they're also talking about what happens when the—when video that should've been produced under the law was not recorded or was improperly recorded. And so a lot of the bills out there also address what happens with equipment malfunctions in situations that arise imminently and dangerously, called exigent circumstances. And some places are also looking at deleted video presumption, which is if the video is not able to be produced and it should've been, then the interpretation of events from the person who is not the law enforcement officer are taken as 100-percent true.

So under open record laws, members of the public are able to get documents and materials that are—that are related to how public officials conduct the public's business. And the recordings here raise two big questions. The first is sort of balancing wanting to be transparent in what's going on with police activity, but also having concerns for privacy. So, so far, two states, Oklahoma and North Dakota, have an active legislation on this issue. In Oklahoma, they would call any recording made by a body-worn camera a public record, but they would allow redacting the identity of a juvenile, nudity, or the depiction of

somebody's death. North Dakota just passed the law this year where they would make it so that any recording made with a body camera or similar device inside somebody's private dwelling would be exempt from an open records request. On the other hand, it's tough because there are certain videos that might be tragic or embarrassing to a—to a person individually, but that would be really probative to understanding what was going on in a certain incident involving police officers. So that is the—one of the basic balances with that issue. The second is just cost. Different open record laws for states allow the state to recover a different amount of cost just for the staff time and resources it would take to produce these records for somebody, and so states are looking to try to figure out within their own frameworks, what are efficient solutions to being able to do that.