



OHIO NEWS MEDIA ASSOCIATION | 1335 DUBLIN ROAD, SUITE 216-B | COLUMBUS OH 43215  
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**Ohio House Government Accountability and Oversight Committee  
House Bill 425—Police Body Cameras – Public Records  
Testimony of Dennis R. Hetzel  
President & Executive Director / Ohio News Media Association  
May 22<sup>nd</sup>, 2018**

Chairman Blessing, Vice Chair Reineke, Ranking Member Clyde, and members of the House Government Accountability and Oversight Committee, thank you for the opportunity to provide testimony today in support of House Bill 425. I am here today on behalf of both the members of the Ohio News Media Association and our colleagues at the Ohio Association of Broadcasters.

I want to start by commending the bill sponsors for taking on the issue of public access to police body camera footage and for the robust interested party process that led to the substitute bill adopted last week. We believe that House Bill 425 can be one of the nation's best laws involving body cameras. It retains the presumption of openness that is essential for transparency and accountability while dealing with the unusual challenges the cameras create involving victim privacy and law enforcement activity.

For the most part, proposed new exemptions have been drafted narrowly, and this is consistent with the intent of Ohio's open records law and court rulings that require narrowness to retain the presumption of openness that should attach to the public's records. However, it must be noted that we are adding 17 new, enumerated exemptions to an open records law that already is bloated with exceptions. It's our hope that we can continue to work on the bill to shorten that list somewhat.

For example, the new exclusions on conversations between a peace officer and a member of the public would limit the ability to scrutinize alleged questionable behavior by law enforcement. More on this in a moment.

We particularly thank the sponsors for responding to Rep. Faber's suggestion to include the new low-cost, Court of Claims appeals process for the public to obtain body camera footage that has been denied.

I would like to briefly discuss a few suggestions and concerns regarding HB 425 for the committee to consider—

**Expansion of CLEIRS Exemption**

The substitute bill added language to several proposed exemptions that would limit access to footage deemed 'confidential law enforcement investigatory records' for individuals or their families who are the subject of the footage. This would close access to individuals and families who were victims of violence or a traumatic accident. In situations such as an open, unsolved case, regardless of the reason why the case hasn't been closed, these individuals might never receive these records. We recognize the balance needed. There will be situations in which it isn't wise to release footage during an active investigation. We propose additional language that defaults to "release-upon-request" by victims after a prolonged, specified period of time.



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### **Violence Against First Responders**

Language included in proposed exemptions f and g (lines 367 – 372) seeks to limit access to footage that would show grievous injury or violence against a member of law enforcement or a first responder. ONMA has historically asked that such exemptions be removed since they would restrict access to footage showing the performance of duties by public servants. We realize this is a sensitive subject. We propose a journalist exemption be added to these provisions similar to other sections of Revised Code. This language would allow a journalist to submit a written request to view exempted footage but would not allow copying or other duplication of the footage.

### **Protected Health Information**

While we understand the need to protect health information in a healthcare facility, the language in lines 383 – 387 is overly broad. Typically, language such as ‘any other information’ can create ambiguity and lead to disputes over the applicability of the public records law. To create the appropriate balance between access and privacy, we have suggested rewording this section to read as follows: *“Protected health information or specific audio or visual content that would identify a person covered by protected health information provisions who is not the subject of a law enforcement encounter.”*

Finally, we do not believe that dash camera footage should be included in HB 425. This video content, which almost always is created on public property with no expectation of privacy, is not quite the same as body camera video. Existing law and court precedent is well established for dash cam footage, including occasions when it already is subject to the exemption on confidential law enforcement records. Inclusion of dash cam footage in this bill continues a trend of limiting access to initial law enforcement incident records, which always have been presumptively open. We suggest that provisions related to dash camera video be removed as a discussion better reserved for a later date after we see how this new legislation is working.

These matters notwithstanding, ONMA is please to support HB 425. We again thank the sponsors for the extensive effort made to include all interested parties and consider concerns. Thank you for your time and I would be happy to answer any questions.

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