

TO: Senate Government Oversight & Reform Committee
FROM: Gary Daniels, Chief Lobbyist, ACLU of Ohio
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RE: Substitute House Bill 425 – Proponent Testimony



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To Chairman Coley, Vice Chair Uecker, Ranking Member Schiavoni, and members of the Senate Government Oversight & Reform Committee, my name is Gary Daniels, chief lobbyist for the American Civil Liberties Union of Ohio (“ACLU of Ohio”) and I appear to present proponent testimony on Substitute House Bill 425.

HB 425 is critically important, bipartisan legislation as the use of body cameras by law enforcement increases across Ohio with, to this point, no input from the Ohio General Assembly. Without such direction, police departments and sheriffs’ offices continue to develop their own policies, creating a patchwork of conflicting regulations that jeopardizes needed uniformity.

Please realize this use of body cameras impacts and intertwines various areas of Ohio law and civil liberties concerns including personal privacy, police accountability, open records, and government transparency. With the right laws in place, these various concerns can be balanced so law enforcement may continue its use of this technology and Ohioans can be confident – or at least more confident than they are today - their own rights and interests are protected. House Bill 425 achieves this balance in a thoughtful and thorough manner.

At the core of HB 425 is its emphasis on personal privacy and how this issue interacts with Ohio public records law. At the ACLU of Ohio, our belief about the purpose of public records laws is so the public can keep an eye on government, not so neighbors can peer into the lives of their fellow Ohioans. Typically, the ACLU of Ohio appears before committees opposing measures that continually weaken Ohio’s public records laws. In this case, we recognize the exemptions being made are about peoples’ lives, not government or law enforcement inner workings.

With HB 425, among the information that will be unavailable to the public is footage of dead bodies, of people who are grievously injured, naked bodies, information that could reveal the victims of sexual assaults and crimes, and various personal information of innocent parties inadvertently captured via body cameras.

However, HB 425 also creates welcome exceptions to these exclusions. For example, footage of grievous injuries or deaths will be publicly available if they were caused by law enforcement or with the consent of the person affected.

Other exceptions are useful to law enforcement as HB 425 prevents disclosure of private, non-law enforcement conversations between officers, law enforcement contingency plans, and conversations between law enforcement and witnesses and informants, when disclosure of those identities could lead to harm against those providing information.

For those of us understandably concerned about the constant erosion of public records law, HB 425 also explicitly designates body camera recordings as public records, minus the enumerated exceptions. Body cam recordings should be considered public records under existing law. But, the clear language via HB 425 firmly establishing this principle is undoubtedly helpful to law enforcement, the news media, and Ohioans across the state. The last thing Ohio needs is additional confusion, debate, and disagreement about how to handle general and nuanced public availability of body camera records.

Like most legislation, HB 425 has changed over time, through the legislative process. Added was a provision extending HB 425 to the use of law enforcement dash camera recordings, a positive development. As this committee is aware, also added was a provision that impacts the ability of criminal defense attorneys to properly defend their clients, including post-conviction. It appears HB 425's sponsors are receptive to this concern and the ACLU of Ohio suggests this matter be addressed so these recordings are not inaccessible to those who may need the recordings for a variety of legitimate and important purposes.

Missing from HB 425 are other aspects of body camera use by law enforcement. These include when cameras should be activated, when they should be deactivated, when officers responsible for the recordings should have access to the recordings and under what circumstances, and retention schedules for the recordings.

The ACLU of Ohio believes these other concerns are also in need of statewide legislation that provides flexibility to law enforcement entities of all sizes and resources while simultaneously requiring best practices in reasonable ways. The ACLU of Ohio is interested in working with legislators on both sides of the aisle who wish to address these concerns with additional legislation.

That said, House Bill 425 represents in large part how that intersection between public records, personal privacy, and police accountability should be properly weighed and handled by state legislatures. It is an opportunity for the General Assembly to instruct law enforcement how to handle these recordings in a way this is not burdensome or overly restrictive. HB 425's passage will not only be good for Ohio, it will establish our legislature as a national leader in the best ways for state legislators to provide assistance on the use of police body cameras.

The ACLU of Ohio urges your support on House Bill 425.