



OHIO NEWS MEDIA ASSOCIATION | 1335 DUBLIN ROAD, SUITE 216-B | COLUMBUS OH 43215
DENNIS R. HETZEL, PRESIDENT & EXECUTIVE DIRECTOR

**Ohio Senate Government Oversight and Reform Committee
House Bill 425—Police Body Cameras – Public Records
Testimony of Dennis R. Hetzel
President & Executive Director / Ohio News Media Association
November 28, 2018**

Chairman Coley, Vice Chair Uecker, Ranking Member Schiavoni, and members of the Senate Government Oversight and Reform Committee, thank you for the opportunity to provide testimony today in general support of House Bill 425. We commend the bill sponsors for taking on the issue of public access to police body camera footage and for the robust interested party process that has taken place throughout consideration of HB 425. House Bill 425 can be one of the nation’s best laws involving body cameras. Most importantly, it retains the presumption of openness that is essential for transparency and accountability while dealing with the unusual challenges the use of such cameras create involving victim privacy and law enforcement activity.

New exemptions being proposed for body camera footage have been drafted narrowly for the most part, and this is consistent with the intent of the statute and court rulings that requires 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 you can shorten that long list. The bill also has an important appeal-of-denial process in which courts can be asked to weigh public and privacy interests. An amendment also specifically places denials of access in the new public record appeals process in the Ohio Court of Claims. These are welcome additions.

Beyond our general concern about adding 17 new exemptions to 149.43, we have a handful of suggestions for the committee to consider—

Inclusion of Dashboard Camera Footage

HB 425 originally dealt only with body worn camera footage. Prior to passing the measure, the Ohio House of Representatives added dashboard camera footage to the bill. Given the inherent differences between body cam and dash cam footage, we believe that dashboard camera footage should be removed from HB 425. Unlike body camera footage, dash cameras almost always are utilized on public property in situations in which the subject of the recording has no expectation of privacy. Further, the case law around dash cam footage is well established and law enforcement has already been able to use the CLEIRS (confidential law enforcement) exemption to redact or withhold footage related to ongoing investigations. We believe the dash cam addition is unnecessary and an issue that deserves greater discussion.

Protected Health Information

While we understand the need to protect health information in a healthcare facility, the language in lines 378 – 382 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 propose 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.”

Violence Against First Responders

Language included in proposed exemptions f and g (lines 347 – 375) 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 these 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. An alternative would be to add a journalist exemption 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. This would allow for reporting on the actions of first responders while avoiding situations where images or videos of the incident would be posted online.

Thank you for your time, and I would be happy to answer any questions.

Dennis Hetzel
Executive Director
Ohio News Media Association
1335 Dublin Road | Suite 216-B
Columbus OH 43215
614-486-6677 | (mobile) 614-940-5067
dhetzl@ohionews.org