



# Law Enforcement Body-Worn Cameras

**SAFE-T ACT**

**ACLU** Illinois

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# Law Enforcement Body-Worn Cameras

Like many other places, law enforcement officers in Illinois use body-worn cameras. These body-worn cameras help with accountability, because they give the public the opportunity to see what happens during interactions between community members and law enforcement officers. Although body-worn cameras have been in use for years, 2021's Illinois Safety, Accountability, Fairness, and Equity Today (SAFE-T) Act made changes to policing and the criminal legal system – including the use of body-worn cameras. This document includes an overview of the ways officers must use body-worn cameras, with changes in statutory language made by the SAFE-T Act *italicized*; a glossary of terms; and a checklist of requirements for law enforcement officers' use of body-worn cameras.

# What Changed About the Law Enforcement Officer-Worn Body Camera Act?

The Law Enforcement Officer-Worn Body Camera Act is the law that contains the rules and requirements for the use of body-worn cameras for all law enforcement officers in Illinois. This law was updated by the SAFE-T Act to create new requirements around usage, storage, and transparency that benefit all Illinois residents.

To help with the costs of new equipment, the Law Enforcement Camera Grant Fund provides law enforcement agencies with reimbursements for the cost of buying body-worn cameras, storage for camera footage, training on how to use body-worn cameras, and other associated costs of buying and using body-worn cameras. However, even in those instances where a law enforcement agency has not received money from the Law Enforcement Camera Grant Fund, they still must comply with the Law Enforcement Officer-Worn Body Camera Act.

- The Law Enforcement Camera Grant Fund is created as a special fund in the State treasury. From appropriations to the Board from the Fund, the Board must make grants to units of local government in Illinois and Illinois public universities for the purpose of (1) purchasing in-car video cameras for use in law enforcement vehicles, (2) purchasing officer-worn body cameras and associated technology for law enforcement officers, and (3) training for law enforcement officers in the operation of the cameras. *Grants under this Section may be used to offset data storage costs for officer-worn body cameras.*<sup>1</sup>
- *All law enforcement agencies must employ the use of officer-worn body cameras in accordance with the provision of this Act, whether or not the agency receive or has received monies from the Law Enforcement Camera Grant Fund.*<sup>2</sup>

Preference for funding under the Law Enforcement Camera Grant Act requires that agencies applying for body-worn camera funding are up to date with their reporting requirements.

- Reporting compliance. The Department of State Police shall annually report to the Illinois Law Enforcement Training Standards Board and the Department of Revenue any law enforcement agency not in compliance with the reporting requirements under this Act. A law enforcement agency's compliance with the reporting requirements under this Act shall be a factor considered by the Illinois Law Enforcement Training Standards Board in awarding grant funding under the Law Enforcement Camera Grant Act, *with preference to law enforcement agencies which are in compliance with reporting requirements under this Act.*<sup>3</sup>

Law enforcement agencies who have met the requirements under the Law Enforcement Officer-Worn Body Camera Act are given preference for funding under the Law Enforcement Camera Grant Act.

- *A law enforcement agency's compliance with the requirements under this Section shall receive preference by the Illinois Law Enforcement Training Standards Board in awarding grant funding under the Law Enforcement Camera Grant Act.*

At the beginning of 2025, all law enforcement agencies in Illinois were required by the SAFE-T Act to begin using body-worn cameras.

- *All law enforcement agencies must implement the use of body cameras for all law enforcement officers, according to the following schedule:*<sup>4</sup>
  - *For municipalities and counties with populations of 500,000 or more, body cameras shall be implemented by January 1, 2022;*

- *For municipalities and counties with populations of 100,000 or more but under 500,000, body cameras shall be implemented by January 1, 2023;*
- *For municipalities and counties with populations of 50,000 or more but under 100,000, body cameras shall be implemented by January 1, 2024;*
- *For municipalities and counties under 50,000, body cameras shall be implemented by January 1, 2025; and,*
- *For all State agencies with law enforcement officers and other remaining law enforcement agencies, body cameras shall be implemented by January 1, 2025.*

For law enforcement agencies in municipalities and counties between 100,000 and 500,000 residents, and who ordered body-worn cameras by October 1, 2022, those agencies must have begun using the body-worn cameras by July 1, 2023. These agencies were required to submit records for these body-worn cameras to the Illinois Law Enforcement Training Standards Board by January 1, 2023.

- *If a law enforcement agency that serves a municipality with a population of at least 100,000 but not more than 500,000 or a law enforcement agency that serves a county with a population of at least 100,000 but not more than 500,000 has ordered by October 1, 2022 or purchased by that date officer-worn body cameras for use by the law enforcement agency, then the law enforcement agency may implement the use of body cameras for all of its law enforcement officers by no later than July 1, 2023. Records of purchase within this timeline shall be submitted to the Illinois Law Enforcement Training Standards Board by January 1, 2023.<sup>5</sup>*

# What Are the Rules for Body-Worn Cameras?

The SAFE-T Act created a pathway for all law enforcement officers to become equipped with body-worn cameras and how those cameras and footage must be used, reported, and deleted. Below are the general rules for the use of body-worn cameras that were created by the SAFE-T Act.

If an officer is assigned to wear a body-worn camera, it must be turned on at all times when the officer is: 1) on duty; 2) visibly wearing a law enforcement uniform or insignia; and is 3) responding to a call for service or engaged in law enforcement-related encounter or activity.

If an officer alters, changes, deletes, or otherwise edits the footage from a body-worn camera, they can be decertified, or lose the ability to be a law enforcement officer.

- Decertification conduct. The Board has the authority to decertify a full-time or part-time law enforcement officer upon a determination by the Board that the law enforcement officer has tampered with a dash camera or body-worn camera or data recorded by a dash camera or body-worn camera or directed another to tamper with or turn off a dash camera or body-worn camera or data recorded by a dash camera or body-worn camera for the purpose of concealing, destroying or altering potential evidence.<sup>6</sup>
- Discretionary termination conduct. The board may terminate an Illinois State Police officer upon a determination by the Board that the Illinois State Police officer has tampered with a dash camera or body-worn camera or data recorded by a dash camera or body-worn camera or directed another to tamper with or turn off a dash camera or body-worn camera or data recorded by

a dash camera or body-worn camera for the purpose of concealing, destroying or altering potential evidence.<sup>7</sup>

Body-worn cameras – or some other recording device – must be on when an officer is following and executing a no-knock warrant.

- *Prior to the issuing of a warrant under subsection (b) [no knock warrant], the officer must attest that prior to entering the location described in the search warrant, a supervising officer will ensure that each participating member is assigned a body worn camera and is following policies and procedures in accordance with Section 10-20 of the Law Enforcement Officer-Worn Body Camera Act; provided that the law enforcement agency has implemented body worn camera in accordance with Section 10-15 of the Law Enforcement Officer-Worn Body Camera Act.<sup>8</sup> If a law enforcement agency or each participating member of a multi-jurisdictional team has not implemented a body camera in accordance with Section 10-15 of the Law Enforcement Officer-Worn Body Camera Act, the officer must attest that the interaction authorized by the warrant is otherwise recorded.<sup>9</sup>*

# When Can Body-Worn Cameras Be Turned Off?

There are limited instances where body-worn cameras can be turned off, and the SAFE-T Act created new exceptions for when that is allowed. Although body-worn cameras could be turned off when a victim or witness of a crime requested it or if an officer was speaking with a confidential informant, officers of the Department of Revenue can also turn their body-worn cameras off when in a Department of Revenue facility or conducting interviews where tax return information is visible or discussed.

- Cameras must be turned off when:
  - The victim of a crime requests that the camera be turned off, and unless impractical or impossible, that request is made on the recording;
  - A witness of a crime or a community member who wishes to report a crime requests that the camera be turned off, and unless impractical or impossible that request is made on the recording;
  - The officer is interacting with a confidential informant used by the law enforcement agency; or
  - *An officer of the Department of Revenue enters a Department of Revenue facility or conducts an interview during which return information will be discussed or visible.*<sup>10</sup>

However, an officer may continue to record or resume recording a victim or a witness, if exigent circumstances exist, or if the officer has reasonable articulable suspicion that a victim or witness, or confidential informant has committed or is in the process of committing a crime. Under these circumstances, and unless impractical or impossible, the officer must indicate on the recording the reason for continuing to record despite the request of the victim or witness.

In general, court security officers, State's Attorney investigators, and Attorney General investigators do not have to follow the general rules of body-worn cameras.

- *This Section does not apply to court security officers, State's Attorney investigators, and Attorney General investigators.*<sup>11</sup>

Officers can also turn off body-worn cameras in jails, prisons, and courthouses where there are working camera systems.

- *Officer-worn body cameras may be tuned off when the officer is inside a correctional facility or courthouse which is equipped with a functioning camera system.*<sup>12</sup>

# What Happens to Body-Worn Camera Footage?

In general, law enforcement officers cannot access body-worn camera footage or recordings before they have finished documenting an incident where shooting, deadly force, or serious harm has taken place. However, they can review the footage or recording and make changes to their report by getting approval and filing another report called a supplemental report.

- For the purposes of redaction, labeling, or duplicating recordings, access to camera recordings shall be restricted to only those personnel responsible for those purposes. *The recording officer or his or her supervisor may not redact, label, duplicate or otherwise alter the recording officer's camera recordings. Except as otherwise provided in this Section, the recording officer and his or her supervisor may access and review recordings prior to completing incident reports or other documentation, provided that the supervisor discloses that fact in the report or documentation.*
  - *A law enforcement officer shall not have access to or review his or her body-worn camera recordings or the body-worn camera recordings of another officer prior to completing incident reports or other documentation when the officer:*
    - *Has been involved in or is a witness to an officer-involved shooting, use of deadly force incident, or use of force incidents resulting in great bodily harm;*
    - *Is ordered to write a report in response to or during the investigation of a misconduct complaint against the officer.*
  - *If the officer subject to subparagraph (i) prepares a report, any report shall be prepared without viewing*

*body-worn camera recordings, and subject to supervisor's approval, officers may file amendatory reports after viewing body-worn camera recordings. Supplemental reports under this provision shall also contain documentation regarding access to the video footage.*<sup>13</sup>

Field training officers can access and review body-worn camera footage or recordings for training purposes but cannot delete or alter recordings.

- *The recording officer's assigned field training officer may access and review recordings for training purposes. Any detective or investigator directly involved in the investigation of a matter may access and review recordings which pertain to that investigation but may not have access to delete or alter such recordings.*<sup>14</sup>

Agencies can label body-worn camera footage and recordings as long as the labeling does not change the footage or recordings.

- *Nothing in this Act prohibits law enforcement agencies from labeling officer-worn body camera video within the recording medium; provided that the labeling does not alter the actual recording of the incident captured on the officer-worn body camera. The labels, titles, and tags shall not be construed as altering the officer-worn body camera video in any way.*<sup>15</sup>

Body-worn camera footage and recordings must be kept for at least 90 days, and if the footage or recordings are deleted or changed before those 90 days are up, the person who changed the footage or recordings must be documented and they must share why the footage or recordings were changed or deleted.

- Recordings made on officer-worn cameras must be retained by the law enforcement agency or by the camera vendor used by the agency, on a recording medium for a period of 90 days.

- Under no circumstances shall any recordings, *except for non-law enforcement related activity or encounter*, made with an officer-worn body camera be altered, erased, or destroyed prior to the expiration of the 90-day storage period. *In the event any recording made with an officer-worn body camera is altered, erased, or destroyed prior to the expiration of the 90-day storage period, the law enforcement agency shall maintain, for a period of one year, a written record including (i) the name of the individual who made such alteration, erasure, or destruction, and (ii) the reason for any such alteration, erasure, or destruction.*<sup>16</sup>

After 90 days, all body-worn camera footage or recordings must be deleted unless certain circumstances happen. The SAFE-T Act added a new instance when footage or recordings can be kept beyond 90 days – when an officer believes the recording may be helpful for a criminal case.

- Following the 90-day storage period, any and all recordings made with an officer-worn body camera must be destroyed, unless any encounter captured on the recording has been flagged. An encounter is deemed to be flagged when:
  - A formal or informal complaint has been filed;
  - The officer discharged his or her firearm or used force during the encounter;
  - Death or great bodily harm occurred to any person in the recording;
  - The encounter resulted in a detention or an arrest, excluding traffic stops which resulted in only a minor traffic offense of business offense;
  - The officer is the subject of an internal investigation or otherwise being investigated for possible misconduct;

- The supervisor of the officer, prosecutor, defendant, or court determines that the encounter has evidentiary value in a criminal prosecution; or
- The recording officer requests that the video be flagged for official purposes related to his or her official duties or *believes it may have evidentiary value in a criminal prosecution*.<sup>17</sup>

In the third trailer amendment to the SAFE-T Act, the information that law enforcement agencies needed to report to the Illinois Law Enforcement Training and Standards Board for officer-worn body cameras was edited to remove sharing information about recordings used in prosecutions. Before the third trailer amendment was passed, agencies had to share the time, date, location, and precinct of the recordings used in prosecutions and what and when the offense on the recording was charged.

- Each law enforcement agency must provide an annual report on the *use of officer-worn body cameras* to the Board, on or before May 1 of the year. The report shall include:
  - A brief overview of the makeup of the agency, including the number of officers utilizing officer-worn body cameras;
  - The number of officer-worn body cameras utilized by the law enforcement agency;
  - Any technical issues with the equipment and how those issues were remedied;
  - A brief description of the review process used by supervisors within the law enforcement agency; and
  - Any other information relevant to the administration of the program.

## Glossary

**Community caretaking function:** work that law enforcement officers do that does not include law enforcement-related encounters or activities.

**Insignia:** a badge or distinguishing mark of office or membership of an organization or an official emblem. This includes badges or other markers that an officer would wear that shows that the officer is a law enforcement officer.

**Tampers with or fabricates evidence** means if a law enforcement officer:

- Has reason to believe that an official proceeding is pending or may be instituted; and
- Alters, destroys, conceals, or removes and record, document, data, video or thing to impair its validity or availability in the proceeding.

**Law enforcement-related encounters or activities:** actions include, but are not limited to, traffic stops, pedestrian stops, arrests, searches, interrogations, investigations, pursuits, crowd control, traffic control, non-community caretaking interactions with an individual while on patrol, or any other instance in which the officer is enforcing the laws of the municipality, county, or State. “Law enforcement-related encounter or activities” does not include when the officer is completing paperwork alone, is participating in training in a classroom setting, or is only in the presence of another law enforcement officer.

**Officer-worn body camera:** means an electronic camera system for creating, generating, sending, receiving, storing, displaying, and processing audiovisual recordings that may be worn about the person of a law enforcement officer.

# Officer Training Checklist

Below is a checklist about the use of body-worn cameras based on the SAFE-T Act and Trailer Amendments. This checklist can be used when you see or interact with an officer with a body-worn camera and you want to know if what they did follows the SAFE-T Act, or if you want to see if your local law enforcement agency is complying with the SAFE-T Act.

## **Things officers should do:**

- Did the officer have a body-worn camera turned on while in uniform and during a law enforcement-related encounter?
- Did the officer turn the body-worn camera off when asked by a victim or witness?
- Did the officer turn the body-worn camera off when performing a community caretaking function?

## **Things agencies should do:**

- Do all officers in the agency have body-worn cameras?
- Did the agency offer training for the officers to teach them how to use body-worn cameras?

## **Things officers should not do:**

- Are officers allowed to change or delete body-worn camera footage or recordings?

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- <sup>1</sup> SAFE-T Act (HB3653, SA2; Public Act 101-0652)
- <sup>2</sup> SAFE-T Act (HB3653, SA2; Public Act 101-0652)
- <sup>31</sup> SAFE-T Act (HB3653, SA2; Public Act 101-0652)
- <sup>4</sup> SAFE-T Act (HB3653, SA2; Public Act 101-0652)
- <sup>5</sup> Trailer Amendment 1 (HB3443, SA5; Public Act 102-0028)
- <sup>6</sup> SAFE-T Act (HB3653, SA2; Public Act 101-0652)
- <sup>7</sup> SAFE-T Act (HB3653, SA2; Public Act 101-0652)
- <sup>8</sup> SAFE-T Act (HB3653, SA2; Public Act 101-0652)
- <sup>9</sup> SAFE-T Act (HB3653, SA2; Public Act 101-0652)
- <sup>10</sup> SAFE-T Act (HB3653, SA2; Public Act 101-0652)
- <sup>11</sup> SAFE-T Act (HB3653, SA2; Public Act 101-0652); Trailer Amendment 1 (HB3443, SA5; Public Act 102-0028)
- <sup>12</sup> SAFE-T Act (HB3653, SA2; Public Act 101-0652)
- <sup>13</sup> SAFE-T Act (HB3653, SA2; Public Act 101-0652)
- <sup>14</sup> SAFE-T Act (HB3653, SA2; Public Act 101-0652)
- <sup>15</sup> Trailer Amendment 1 (HB3443, SA5; Public Act 102-0028)



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