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SCOPE OF PUBLIC ACCESS TO POLICE BODY CAM FOOTAGE CLARIFIED IN INDIANA GENERAL ASSEMBLY: WHAT YOU NEED TO KNOW ABOUT HEA 1019



Posted by: Margaret Christensen and Jessica Whelan on Thursday, April 21, 2016 at 10:00:00 am

Public access to police body camera or dash camera recordings is a hotly contested topic all around the country, and the Indiana General Assembly recently took steps to clarify the scope of law enforcement's ability to withhold sensitive footage implicating public safety concerns and the public's right to view or obtain copies of such footage.



House Enrolled Act 1019, which was signed by Governor Pence on March 21, 2016, establishes procedures for the release of recordings made by law enforcement and authorizes law enforcement agencies to withhold body camera and dashboard camera footage in certain circumstances.

According to HEA 1019, a law enforcement agency seeking to withhold a recording from public disclosure bears the burden to demonstrate one of the following circumstances:

- the release of the recording would pose a significant risk of harm to a specific individual or to the public;
- the release of the recording would interfere with an individual's right to a fair trial;
- the release of the recording would affect an ongoing investigation; or
- the public interest would not be served by release of the recording.

If the agency cannot demonstrate any of these conditions, it must permit any person to inspect or copy a law enforcement recording, subject to the agency's obscuring obligations to protect the identity of undercover agents and confidential informants, among others.

The law also provides that victims, or the families of deceased individuals depicted in the footage, have the right to view the footage at least twice (but may not keep a copy). Likewise, an owner or occupant of a property depicted in the recording may also view the footage at least twice.

We previously addressed the uncertain state of the law with respect to a third party's ability to obtain body camera or dash camera footage under open records laws, and the implications on civil litigation in *The Indiana Lawyer*. The original article may be accessed on the publication's website [here](#).

To learn more about Margaret Christensen and her practice, please visit her profile.

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