

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Constitution Hills, Quezon City



EIGHTEENTH CONGRESS
First Regular Session

6315
House Bill No. _____

Introduced by REPRESENTATIVE ERIC L. OLIVAREZ

EXPLANATORY NOTE

What actually transpires in a police operation will always be something that none of us will ever know. Imagine having a relative be subject to a police operation or being the actual person conducting the police operation and things do not go as well as planned. What will be relied on these kinds of situations are only statements and pieces of evidence, if any, that will never provide the actual veracity of the occurrence. There will be victims of police officers who exceed their authority and there will also be police officers who are victims of those who resist arrest.

Currently, our country has been having numerous day-to-day police operations especially due to the war against drugs that the current administration has declared. These police operations have been subjected to so much controversy as to what actually occur in said operations. Many have been crying foul against police officers in their conduct of these operations. However, without the machinery to capture these occurrences, there will always be a certain amount of doubt as to truth behind these police operations.

As such, this Bill is intended to address this important matter by mandating law enforcement personnel to wear a body camera that

will be able to capture footages of an actual police operation in order to protect those who are arrested and those who arrest. Through these captured footages, what actually transpires in a police operation will now be known to those involved. This will also serve as a measure to deter police officers from exceeding their power against the citizens thereby restoring public trust to the government and the law enforcement personnel.

In view of the foregoing, the passage of this Bill is earnestly sought.

eric olivarez
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"AN ACT MANDATING THE USE OF BODY CAMERA BY LAW ENFORCEMENT OFFICERS AND FOR OTHER PURPOSES"

Be it enacted in the Senate and the House of Representatives of the Republic of the Philippines in Congress assembled:

SECTION 1. *Short Title* - This Act shall be known as the "Body Camera Act of 2020"

SECTION 2. *Declaration of Policy.* – It shall be the policy of the State to:

- a. Value the dignity of every human person and guaranty full respect for human rights;
- b. Protect the right of every person not to be deprived of life, liberty, or property without due process of law or be denied the equal protection laws;
- c. Protect the inviolability of the right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures of whatever nature and for any purpose;
- d. Protect the accused's right to be presumed innocent until proven otherwise.

SECTION 3. *Definition of Terms.* – For purposes of this Act, the following terms shall be defined as:

- a. Body Camera shall refer to any electronic recording device that is worn by a person nor law enforcement officer that records and stores audio and video data;
- b. Law Enforcement Officer shall refer to any person authorized by law to conduct searches and effectuate arrests who is employed by the government, whether national, local or any subdivision or agency of government;
- c. Subject of the video footage shall reverse to any identifiable law enforcement officer or any identifiable suspect, victim, detainee, conversant, injured party, or other similarly situated person who appears on the body camera recording, and shall not include people who only incidentally appear on the recording;
- d. Use of force shall refer to any action by a law enforcement officer that:
 - i. Results in death, injury, complaint of injury, or complaint of pain that persists beyond the use of physical control;
 - ii. Involves the use of a weapon, including a personal body weapon, chemical agent, impact weapon, extend range impact weapon, sonic weapon, sensory weapon, conducted energy device, or firearm, against a member of the public; or
 - iii. Involves any intentional pointing of a firearm at a member of the public;
- e. Video footage shall refer to any moving images recorded by a body camera with or without audio.

SECTION 4 *Mandatory Use of Body Camera by Law Enforcement Officers.*– Law enforcement officers with the authority to conduct searches and make arrests shall wear a body camera. Such body cameras shall be worn in a location and manner that maximizes the camera's ability to capture video footage of the officer's activities.

Both the video and audio recording functions of the body camera shall be activated whenever a law enforcement officer is responding to a call for service or at the initiation of any other law enforcement or investigative encounter between a law enforcement officer and a member of the public. The body camera shall not be deactivated until the encounter has fully concluded and the law enforcement officer leaves the scene.

A law enforcement officer who is wearing a body camera shall notify the subject/s of the recording that they are being recorded by a body camera as close to the inception of the encounter as is reasonably possible.

SECTION 5. *Retention of Video Footages.* – Body camera footages shall be retained by the law enforcement agency that employs the officer whose camera captured the footage, or an authorized agent thereof for six (6) months from the date it was recorded. After such period, the footage shall be deleted permanently.

During the six (6) month retention period, the following persons shall have the right to inspect the body camera footage of:

- a. Any person who is a subject of body camera video footage, and/or their designated legal counsel;
- b. A parent of a minor subject of body camera video footage, and/or their designated legal counsel;
- c. The spouse, next of kin or legally authorized appointee of a deceased subject of body camera video footage, and/or their designated legal counsel;
- d. A law enforcement officer whose body camera recorded the video footage and/or their designated legal counsel, subject to the limitations and restrictions in this Act;
- e. The superior officer of the law enforcement officer whose body camera recorded the video footage, subject to the limitations and restrictions in this Act; and

- f. Any defense counsel who claims, pursuant to a written affidavit, to have a reasonable basis for believing a video may contain evidence that exculpates a client.

The right to inspect, subject to the preceding subsection, shall not include the right to possess a copy of the body camera video footage, unless the release of the body camera footage is otherwise authorized by this Act or by another applicable law.

When a body camera fails to capture some or all of the audio or video of an incident due to malfunction, displacement or any other cause that renders the camera incapable to record a footage, any audio or video footage that is captured by a different camera shall be treated the same as any other body camera audio or video footage under the law.

Notwithstanding the retention and deletion requirements, a video footage shall be automatically retained for a period not less than three (3) year if the video footage captures an interaction or event involving any use of force or an encounter about which a complainant has been registered by a subject of the video footage.

Likewise, body camera footage shall be retained for a period not less than three (3) years if a longer retention period is requested by any of the following:

- a. The law enforcement officer whose body camera recorded the video footage, if that officer reasonably asserts the video footage has evidentiary or exculpatory value;
- b. Any law enforcement officer who is a subject of the video footage, if that officer reasonably asserts the video footage has evidentiary or exculpatory value;
- c. Any superior officer of a law enforcement officer whose body camera recorded by the video footage or who is a subject of the video footage, if that superior officer reasonably asserts the video footage has evidentiary or exculpatory value;
- d. Any law enforcement officer, if the video footage is being retained solely and exclusively for police training purposes;

- e. Any member of the public who is a subject of the video footage;
- f. Any parent or legal guardian of a minor who is a subject of the video footage;
- g. A deceased subject's spouse, next of kin, or legally authorized designee; or
- h. Any competent court.

SECTION 6. *Right to Inspect the Videos.* – Any member of the public who is a subject of a video footage recorded by the body camera or a parent or legal guardian of a minor who is subject of the video footage, or a deceased subject's next of kin or legally authorized appointee, shall be permitted to review the specific video footage in question in order to make a determination as to whether they will voluntarily request it be subjected to a three (3) year retention period.

All video footage of an interaction or event captured by a body camera, if that interaction or event is identified with reasonable specificity and requested by a member of the public, shall be provided to the person or entity making the request in accordance with laws and regulations of the agency.

Where a subject of the video footage is recorded being killed, shot by a firearm, or grievously injured, shall be prioritized and the requested video footage shall be provided as expeditiously as possible, but in no circumstances later than five (5) days following receipt of the request. The provisions governing the production of body camera video footage to the public in this Act shall take precedence over all other laws, rules, and regulations to the contrary.

Body camera video footage may not be withheld from the public on the basis that it is an investigatory record or was compiled for law enforcement purposes where any person under investigation or whose conduct is under review is a police officer or other law enforcement employee and the video footage relates to that person's on-the-job conduct.

SECTION 7. *Prohibited Acts.* – The following shall be considered as prohibited acts:

- a. The surreptitious use of body cameras;
- b. The use of body cameras for the purpose of gathering intelligence information;
- c. Activation of body cameras by law enforcement officers while on the grounds of any public, private or parochial elementary or secondary school, except when responding to an actual or imminent threat to life or death;
- d. Public disclosure or release of body camera footages by any government agency, officer, law enforcement agency, officer or official except:
 - i. When expressly authorized by law;
 - ii. Said video footage is subject to public release and not exempted from public release.
- e. Review or receipt of an accounting by a law enforcement officer of any body camera video footage that is subject to a minimum three (3) year retention prior to the completion of any required initial reports, statements, and interviews regarding the recorded event unless the review or receipt of an accounting is necessary, while in the field, to address an immediate threat to life or safety;
- f. The viewing of a video footage that is not subject to a minimum three (3) year retention period by any superior officer whose body camera recorded the footage absent a specific allegation of misconduct; and
- g. Subjecting a video footage to facial recognition or any other form of automated analysis or analytics of any kind, unless
 - i. Authorized through a judicial warrant;
 - ii. Said judicial warrant specifies the precise video recording to which the authorization applies; and
 - iii. The authorizing court finds probable cause to believe that the video footage contains evidence

that is relevant to an ongoing criminal investigation.

- h. Use of video footage for any commercial or other non-law enforcement purpose;
- i. Independent access, viewing or altering of any video footage by a third party authorized by a law enforcement agency as its agent in maintaining body camera footage except to delete videos as required by law or agency retention policies.

Should any law enforcement officer, employee, or agent fail to adhere to the recording requirements contained in this chapter or intentionally interfere with a body camera's ability to accurately capture video footage or otherwise manipulate the video footage captured by a body camera during or after its operation, the appropriate disciplinary action shall be taken against the individual officer, employee or agent. Likewise, a rebuttable evidentiary presumption shall be adopted in favor of criminal defendants who reasonably assert that exculpatory evidence was destroyed or captured. Lastly, a rebuttable evidentiary presumption shall be adopted on behalf of civil plaintiffs suing the government, a law enforcement agency and/or law enforcement officers for damages based on police misconduct who reasonably assert that evidence supporting their claim was destroyed or not captured.

SECTION 8. *Penalties.* – Any law enforcer in violation of any provision under Section 8, shall be placed under preventive suspension for ninety (90) days, subject to further investigation and preparation of filing of administrative and criminal cases pursuant to R.S. 10173 or the Data Privacy Act and other applicable laws.

SECTION 9. *Implementing Rules and Regulations* – Within sixty (60) days from the promulgation of this Act, the implementing rules and regulations for the proper implementation of its provisions shall be formulated by the appropriate government offices or

agencies coordination with all the stakeholders and covered establishments and institutions.

SECTION 10. *Separability Clause.* - If any provision of this Act is declared unconstitutional or otherwise invalid, the validity of the other provisions shall not be affected thereby.

SECTION 11. *Repealing Clause.* - All laws, decrees, orders, rules and regulations or parts thereof inconsistent with this Act are hereby repealed or modified accordingly.

SECTION. 12. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,