Home > Question of the Month: Do states in the Midwest exempt the body camera footage taken by a law enforcement officer from their freedom of information acts, and what other laws are in place to govern use of these cameras?

According to the Urban Institute (which tracks [state laws on body cameras](http://knowledgecenter.csg.org/kc)), all states in the Midwest exempt body camera footage from Freedom of Information Act requests. And over the past three years, legislatures in at least seven Midwestern states — Illinois, Indiana, Kansas, Michigan, Minnesota, Nebraska and North Dakota — have passed laws that set guidelines on police use of body cameras and/or public access to the recordings.

In Illinois, most footage is restricted from public access. However, video “flagged” because of its content may be disclosed under certain circumstances: if a complaint has been filed against the officer in question; if an officer fired his or her weapon or used force; if the footage records a death “or great bodily harm”; if an arrest or detention is made, excepting routine traffic stops; if the officer is subject to an internal investigation or requests that the footage be flagged.

Michigan and North Dakota are among the states that exempt footage recorded by law enforcement officers or firefighters “in a private place.”

Under Michigan’s [HB 4427](http://knowledgecenter.csg.org/kc), signed into law in August, some disclosure of such video is allowed if requested by someone who is the subject of the recording or “whose property has been seized or damaged in relation to a crime.”

Illinois, Indiana, Michigan, Minnesota and Nebraska are among the U.S. states prescribing a length of time that body-camera video footage must be stored, aside from trial-related preservation of records. Illinois, Minnesota and Nebraska require at least 90 days. Indiana requires at least 280 days for state agencies, or 190 days for localities. Illinois also requires “flagged” footage to be held for two years.

In Minnesota, any footage showing discharge of a firearm or use of force by an officer resulting in serious bodily harm, or an event resulting in a complaint, must be retained for at least a year. The subject of such a video can request its preservation for an additional 180 days. Law enforcement also must notify the subject before the video is destroyed.

Under Michigan’s new law, footage must be kept for at least 30 days; if the video is part of a complaint against an officer or agency, it must be kept for three years.

Under a bill recently introduced in Wisconsin ([AB 351](http://knowledgecenter.csg.org/kc)), only body-camera video related to deaths, injuries, arrests and searches could be released to the public. Images captured in a private home or elsewhere where privacy is reasonably expected could be released only if police first get permission from all victims, witnesses and property owners. AB 351 also would mandate that video be retained for a minimum of 120 days.

Nebraska and Illinois are among the U.S. states that specify when cameras must be worn. Nebraska requires officers “to make every reasonable effort to record all contact with citizens in the course of their investigative duties and in situations they believe should be recorded for law enforcement purposes.” When entering a private residence, officers using a body-worn camera must inform occupants of the recording whenever practical.

Illinois requires an officer with a body camera to use it “at all times” when in uniform and “responding to calls ... or engaged in any law enforcement-related encounter or activity.”

By:

Tuesday, November 28, 2017 at 08:36 AM

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[Stateline Midwest: November 2017](http://knowledgecenter.csg.org/kc) | 4.92 MB

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