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July 23, 2019

Senator Michael Moore, Chair
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24 Beacon Street, Room 109-B
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Senator Paul Feeny, Vice Chair
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Representative Harold Naughton, Jr., Chair
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24 Beacon Street, Room 167
Boston, Massachusetts 02133

Representative Alan Silvia, Vice Chair
Joint Committee on Public Safety and
Homeland Security
24 Beacon Street, Room 167
Boston, Massachusetts 02133

Dear Chairman Moore, Vice Chairman Feeny, Chairman Naughton and Vice
Chairman Silvia,

The Reporters Committee for Freedom of the Press (the “Reporters Committee”) and the 26 undersigned media organizations (the “News Media Coalition”) write to urge you to remove Section 7 from House Bill 2120, legislation that would create a task force to establish standards for the use of police body-worn and dashboard-mounted cameras. The News Media Coalition strongly opposes Section 7 of the bill, which would exempt bodycam and dashcam recordings from the definition of “public record” under the Commonwealth’s Public Records Law.

Bodycam and dashcam programs exist to improve law enforcement accountability and public trust in policing. That goal can only be achieved, however, if the public is actually able to see what these cameras record: “Unlike most categories of public records, which serve some function even if they cannot be released to the public, body cam footage serves no legitimate purpose without public oversight.”¹

Bodycam and dashcam videos are a vital—and, in some cases, the only—source of objective information about law enforcement conduct when witness and police statements conflict or do not accurately portray events. The dashcam video of the 2014 shooting of teenager Laquan McDonald, for example, which was ordered released to a member of the news media pursuant to Illinois’s public records law, proved crucial in informing the public about Mr. McDonald’s death at the hands of a Chicago police officer.² Accounts of the incident from the police officer,

¹ Police Body Cam Footage: Just Another Public Record, Yale Law School Media Freedom & Information Access Clinic (Dec.2015), archived at perma.cc/A6PQ-24FH

² See, e.g., Kori Rumore and Chad Yoder, *Minute by minute: How Jason Van Dyke shot Laquan McDonald*, The Chicago Tribune (Jan. 18, 2019), <https://www.chicagotribune.com/news/laquan-mcdonald/ct-jason-vandyke-laquan-mcdonald-timeline-htmlstory.html>.

Jason Van Dyke, and his partner were contradicted by the dashcam video,³ which was a central piece of evidence in Mr. Van Dyke's ensuing criminal trial, which led to his conviction for second degree murder and aggravated battery.⁴

Bodycam video has likewise played an important role in ensuring law enforcement oversight and accountability. For example, bodycam footage was critical to a recent investigation in which a deputy sheriff in Florida was charged with allegedly planting drugs in the cars of drivers during traffic stops; the investigation resulted in at least 119 cases involving the deputy being dropped.⁵ In Denver, a local TV station used a public records request to obtain bodycam video of an arrest that led to an officer's discipline for use of excessive force.⁶ Contrary to the officer's statements that he had placed his knee on the suspect's shoulders, the bodycam video showed his knee had been placed on the suspect's neck.

News reports relying on bodycam video have also effectively explained police actions to the public when controversy arises. Following a fatal shooting of an individual by police in Washington, D.C., there were conflicting reports about whether the individual had a weapon.⁷ The public release of bodycam video from the incident enabled the news media to walk the public through it moment-by-moment, pausing at crucial points to show that the suspect did, in fact, have a knife.⁸ In a separate incident in California earlier this month, bodycam video corroborated a police officer's claim that he shot and killed a 17-year-old woman at a traffic stop after he found her standing in a shooting stance and holding a replica gun.⁹

In these and other instances, law enforcement videos have been crucial to providing the public with accurate information and facilitating oversight. But Section 7, if enacted, would deny the public access to all such video.

The privacy concerns that have been raised to justify a need for Section 7 are unwarranted because such interests are addressed under current law. The Public Records Law includes an exemption that permits law enforcement and other agencies to withhold information if disclosure constitutes an unwarranted invasion of personal privacy. See G.L. c. 4, § 7, Twenty-sixth (c). Robust, affordable, and easy-to-use technological solutions exist to implement that provision

³ Eric Hornig, *Police reports in Laquan McDonald case appear to contradict dashcam video*, ABC 7 Eyewitness News (Dec. 4, 2015), <https://abc7chicago.com/news/police-reports-in-laquan-mcdonald-case-appear-to-contradict-video/1110627/>.

⁴ Don Babwin, *Video of shooting on repeat at Chicago cop's murder trial*, The Associated Press (Sept. 17, 2018), <https://apnews.com/f02242330bac48bea8bc77acf8f6e3ae>.

⁵ Megan Flynn, "A Florida cop planted meth on random drivers, police say. One lost custody of his daughter," July 11, 2019. Available at <https://www.washingtonpost.com/nation/2019/07/11/florida-cop-meth-drugs-arrests-scandal/>; accessed July 12, 2019.

⁶ Brian Maass, *New DPD Body Cam Video Shows Excessive Force*, CBS Denver (Mar. 12, 2015), archived at <https://perma.cc/SP7Y-ZYTH>

⁷ Tom Roussey, *Family Says Man Killed in Police-Involved Christmas Day Shooting in D.C. was 'not armed'*, ABC7: WJLA (Dec. 27, 2016), <http://bit.ly/2oEvQmc>

⁸ Garrett Haake, *Body Camera Video Shows D.C. Man Armed with Knife When Shot by Police*, WUSA9 (updated Jan. 5, 2017), <http://on.wusa9.com/2BN5IW7>.

⁹ Greg Lee, *91 Fwy Shooting: Video shows moments leading up to officer-involved shooting that killed 17-year-old girl*, ABC7-KABC (July 15, 2019), <https://t.co/MyoEeyuupV>.

through video redaction.¹⁰ The proposed blanket exemption for recordings from police dashboard-mounted cameras and body-worn cameras is, accordingly, unnecessary and overbroad.

Bodycam and dashcam videos should remain subject to the Public Records Law to ensure public access to accurate information about interactions between law enforcement and the communities they serve. We urge you to remove Section 7 of House Bill 2120 before moving forward with the legislation.

If you have any questions regarding this letter, or to otherwise follow up, please contact RCFP's policy director, Rick Blum, at rblum@rcfp.org or 202-795-9305. We welcome the opportunity to discuss our concerns.

Signed,

Reporters Committee for Freedom of the Press
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Cc: The Honorable Denise Provost

¹⁰ See, e.g., *Redaction Studio*, Axon, <https://www.axon.com/info/redaction-studio>.