

Colorado State Archives Body Camera Policy

During the 2020 legislative session the Colorado General Assembly passed Senate Bill 20-217, better known as the “Police Accountability Act.” Within this act is the mandate that all political subdivisions of the State which includes local law enforcement Peace Officers (defined below) and the Colorado State Patrol Officers to wear body worn cameras for each Peace Officer who interacts with members of the public by July 1, 2023, unless exempted by statute. Also stated within the statute is all law enforcement agencies and Colorado State Patrol shall establish a records retention schedule in accordance and guidance of the Colorado State Archives, § 24-31-902(1)(b), C.R.S.

In an effort for consistency and to streamline the process for law enforcement agencies, the Colorado State Archives, in collaboration with subject matter experts, has created the following records retention guidelines for body worn camera recordings. A big thank you to Sarah Albaugh, City of Ft. Collins Police Department; Cherokee Blake, Gilpin County Sheriff’s Office; Erica Gallegos, City of Arvada Police Department; and John Lynkiewicz, Colorado State Patrol.

Pursuant to the Colorado Open Records Act (“CORA”) and the legislative declaration, it is the public policy of the State that all public records shall be open for inspection by any person at reasonable times, except as provided by exception to CORA. As such, the definition of “Public Records” is set forth at § 24-72-202(6)(a)(I), C.R.S. However, Public Records do not include “recordings.” It is important to note that “recordings” fall under the definition of a criminal justice record pursuant to § 24-72-302(4), C.R.S. as set forth below and is an exception to the disclosure of Public Records.

The following guidance for body worn camera recordings has been divided into two categories, non-evidentiary and evidentiary recordings. While the retention periods were created specifically for body camera recordings it is highly recommended that guidance be applied to all video and audio recordings potentially captured by local enforcement agencies and the Colorado State Patrol. Examples may be dashboard cameras, drone footage, firearm camera, and taser cameras. The retention periods provided are the minimum any recordings should be held. An office may choose to keep recordings longer if it is in their best interest. Recordings that have been redacted for CORA requests or for other reasons should follow the same retention periods as the original recordings.

Colorado law enforcement agencies should familiarize themselves with state law and industry standards in regards to the creation, storage, maintenance and destruction of electronic records. This includes but not limited to § 24-73-101, C.R.S. and Criminal Justice Information Services (CJIS) Security Policy, Version 5.9.1 – 10/01/2022.

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If your office currently has an approved retention schedule on file within the Colorado State Archives that covers body worn camera recordings, it is advisable to compare your current retention schedule with the retention periods below.

While Senate Bill 20-217 specifically addresses local law enforcement and Colorado State Patrol it is highly recommended that any and all political subdivisions and Peace Officer agencies and offices follow the guidelines as well. This is especially the case if your officers undergo P.O.S.T. certifications and training.

DEFINITIONS

“Criminal Justice Records” means all books, papers, cards, photographs, tapes, recordings, or other documentary materials, regardless of form or characteristics, that are made, maintained, or kept by any criminal justice agency in the state for use in the exercise of functions required or authorized by law or administrative rule, including but not limited to the results of chemical biological substance testing to determine genetic markers conducted pursuant to sections 16-11-102.4 and 16-23-104, C.R.S.

“Peace Officer” means any person employed by a political subdivision of the State required to be certified by the P.O.S.T. Board pursuant to section 16-2.5-102, C.R.S., a Colorado State Patrol Officer as described in section 16-2.5-114, C.R.S., and any noncertified deputy sheriff as described in section 16-2.5-103(2), C.R.S.

“P.O.S.T. Board” means the peace officers standards and training board created in § 24-31-302, C.R.S.

NON-EVIDENTIARY RECORDINGS

1. Accidental Activations – 30 calendar days
2. Testing Before Shift Starts – 30 calendar days
Camera activations to verify equipment is operating accordingly.
3. Training Recordings – 1 year
Recordings used or captured by officers and supervisors in the initial and ongoing training on how to use a body worn camera device.
4. Citizen Interactions – 2 years
Traffic incidents with no summons issued, non-criminal incidences, any routine contact that does not result in enforcement action or a case report or summons.
5. Uncategorized or Unclassified Video Recordings – 181 calendar days



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EVIDENTIARY RECORDINGS

Recordings should be retained according to case record retention.

1. Death Case Records: Noncriminal – 10 years
2. Felony Case Records (Major Felonies and Violent Crimes): Cases such as arson with fatalities, forgery, unrecovered firearms, homicides, kidnapping, deaths, and officers killed – **Permanent**
3. Felony Case Records (Other): Other felony cases, special investigations related to aggravated assault, arson without fatalities and similar cases – 10 years
4. Misdemeanor Case Records: Misdemeanor cases, petty offenses, traffic offenses and similar cases – 3 years
5. Missing Person Records Including Runaways: Until located
6. Sex Offender and Sexual Assault Case Records: Includes case files related to sex offenders, investigations of sexual assault crimes including on a child. – **Permanent**
7. Traffic Accident Case Records: Fatal Traffic Accidents -10 years
8. Traffic Accident Case Records: Non-Fatal Traffic Accidents – 3 years

PLEASE NOTE: NO RECORDING(S) SHALL BE DESTROYED SO LONG AS IT PERTAINS TO ANY LEGAL CASE, CLAIM, ACTION OR AUDIT.