

AMENDED IN ASSEMBLY APRIL 27, 2015

AMENDED IN ASSEMBLY APRIL 20, 2015

AMENDED IN ASSEMBLY APRIL 9, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 66

Introduced by Assembly Member Weber
(Principal coauthor: Assembly Member Bonta)
(~~Coauthor: Assembly Member~~ Coauthors: Assembly Members Gipson
and Rodriguez)

December 17, 2014

An act to add Section 830.16 to the Penal Code, relating to peace officers.

LEGISLATIVE COUNSEL'S DIGEST

AB 66, as amended, Weber. Peace officers: body-worn cameras.

Existing law makes it a crime to intentionally record a confidential communication without the consent of all parties to the communication. Existing law exempts specified peace officers from that provision if they are acting within the scope of their authority.

This bill would impose specified requirements and prohibitions on a law enforcement agency that requires a peace officer employed by the agency to use a body-worn camera, including, among other things, a requirement that the agency conspicuously post its policies and procedures regarding body-worn cameras on its Internet Web site, and a prohibition on a peace officer operating a body-worn camera under certain circumstances. *The bill would further require that when a peace*

officer is involved in an incident involving a serious use of force, the officer may only review his or her body-worn camera video after making an initial statement and report. The bill would also require those law enforcement agencies to consider specified guidelines when adopting a body-worn camera policy, including, among others, a requirement that a peace officer equipped with a body worn camera activate the camera when responding to calls for assistance and when performing law enforcement activities in the field. Except as provided, the bill would specifically require that a request for a file from a body-worn camera be processed in accordance with the California Public Records Act.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares:
- 2 (a) Twenty-first century policing demands more transparency
- 3 in everyday interactions with the public. In light of a number of
- 4 high profile use of force incidents involving law enforcement,
- 5 body-worn cameras are seen as an important means toward
- 6 achieving this goal.
- 7 (b) Several law enforcement agencies in California are already
- 8 implementing body-worn camera programs. Because of the
- 9 potential of this technology to document law enforcement
- 10 interactions, we must be cognizant in protecting citizen privacy
- 11 and not violate civil liberties.
- 12 (c) The development of best practices will be necessary to ensure
- 13 the public’s trust in law enforcement. The use of the portable video
- 14 recording system provides documentary evidence for criminal
- 15 investigations, internal or administrative investigations, and civil
- 16 litigation.
- 17 (d) The Legislature intends for officers to utilize body-worn
- 18 cameras in accordance with the provisions in this act to maximize
- 19 the effectiveness of the audio and video documentation to achieve
- 20 operational objectives and to ensure evidence integrity.
- 21 SEC. 2. Section 830.16 is added to the Penal Code, to read:
- 22 830.16. (a) A law enforcement agency that requires a
- 23 body-worn camera to be used by a peace officer that the agency
- 24 employs shall comply with the following requirements:

1 (1) A law enforcement agency shall conspicuously post its
2 policies and procedures regarding body-worn cameras on its
3 Internet Web site.

4 (2) A peace officer shall only use the body-worn camera systems
5 issued and approved by the law enforcement agency that employs
6 him or her for official police duties.

7 (3) A peace officer shall not make copies of any body-worn
8 camera files for his or her personal use or use a recording device
9 such as a telephone camera or secondary video camera to record
10 a body-worn camera file.

11 (4) A peace officer shall not operate a body-worn camera under
12 any of the following circumstances:

13 (A) In a health facility or medical office when patients may be
14 in view of the body-worn camera or when a health care practitioner
15 is providing care to an individual.

16 (B) During an ambulance response to an accident or illness
17 where the victim is not involved in any criminal activity.

18 (C) Situations where recording would risk the safety of a
19 confidential informant or undercover peace officer.

20 (5) Operation of a body-worn camera shall begin with the officer
21 providing on-camera notice to a person being recorded that a
22 body-worn camera is recording video, and provide the person with
23 the option to request that the body-worn camera be turned off under
24 both of the following circumstances:

25 (A) When the subject of the video is a victim of rape, incest,
26 domestic violence, or other forms of domestic or sexual harm.

27 (B) When an officer is at a private residence without a warrant
28 and in a nonemergency situation.

29 (6) ~~Where (A) When a peace officer is involved in an incident~~
30 ~~involving use of force or an incident resulting in injury or death,~~
31 ~~a serious use of force,~~ a peace officer may only review his or her
32 body-worn camera video ~~only~~ after making his or her initial
33 statement and ~~report in an administrative or criminal inquiry or~~
34 ~~investigation. Once report.~~

35 (B) (i) ~~Once a peace officer's initial report has been submitted~~
36 ~~and approved and the officer has been interviewed by the~~
37 ~~appropriate investigator, the investigator shall approved, a~~
38 ~~supervisor may show the peace officer the body-worn camera~~
39 video. The peace officer may be given the opportunity to provide
40 additional information to supplement his or her ~~statement and may~~

1 ~~be asked additional questions by the investigators.~~ *statement.* If
2 the review results in a modified report, both of the reports shall be
3 provided to all parties to a civil, criminal, or administrative
4 investigation. *The fact that a modified or secondary report was*
5 *prepared shall not be the sole basis for placing an officer on a*
6 *Brady List.*

7 (ii) *For the purposes of this subparagraph, “Brady List” means*
8 *any system, index, list, or other record containing the names of*
9 *peace officers whose personnel files are likely to contain evidence*
10 *of dishonesty or bias, which is maintained by a prosecutorial*
11 *agency or office in accordance with the holding in Brady v.*
12 *Maryland (1963) 373 U.S. 83.*

13 (C) *For the purpose of subparagraph (A), “serious use of force”*
14 *means any of the following:*

15 (i) *Force resulting in death.*

16 (ii) *Force resulting in a loss of consciousness.*

17 (iii) *Force resulting in protracted loss, impairment, serious*
18 *disfigurement, or function of any body part or organ.*

19 (iv) *Weapon strike to the head.*

20 (v) *Intentional firearm discharge at a person, regardless of*
21 *injury.*

22 (vi) *Unintentional firearm discharge if a person is injured as a*
23 *result of the discharge.*

24 (b) In addition to subdivision (a), a law enforcement agency
25 shall consider the following guidelines when adopting a body-worn
26 camera policy:

27 (1) A peace officer equipped with a body-worn camera shall
28 activate the camera when responding to calls for assistance and
29 when performing law enforcement activities in the field, including,
30 but not limited to, traffic or pedestrian stops, pursuits, arrests,
31 searches, seizures, interrogations, and any other investigative or
32 enforcement encounters in the field.

33 (2) A peace officer shall ensure that a body-worn camera is fully
34 functional, including, but not limited to, ensuring that the camera
35 can be turned on and off and record video and audio, and that the
36 camera is properly charged, prior to going into the field. A peace
37 officer shall not violate a person’s reasonable expectation of
38 privacy when ensuring that a body-worn camera is fully functional
39 pursuant to this paragraph.

1 (3) A peace officer wearing a body-worn camera shall position
2 the camera on his or her chest, head, shoulder, collar, or any area
3 above the mid-torso of his or her uniform to facilitate optimum
4 recording field of view.

5 (4) Both video and audio recording functions of a body-worn
6 camera shall be activated when an officer is responding to a call
7 for service or at the initiation of any other law enforcement or
8 investigative encounter between a police officer and a member of
9 the public. During an encounter with a member of the public, the
10 officer shall notify the member of the public that the body-worn
11 camera is recording, and shall not deactivate the body-worn camera
12 until the conclusion of the encounter.

13 (5) A peace officer may stop recording when an arrestee is
14 secured inside a fixed place of detention, as defined in paragraph
15 (3) of subdivision (g) of Section 859.5.

16 (6) A peace officer shall record any interview of a suspect or
17 witness in its entirety, unless paragraphs (4) and (5) of subdivision
18 (a) apply.

19 (7) When recording interviews of a ~~suspect or witness~~, *suspect*,
20 a peace officer shall, where applicable, inform the suspect ~~or~~
21 ~~witness~~ of his or her rights under *Miranda v. Arizona* (1966) 384
22 U.S. 436.

23 (8) In the event of contradicting requests made by a homeowner,
24 occupant, or renter to stop recording the encounter, the
25 contradicting requests shall be recorded on video and the peace
26 officer shall continue to operate and record the encounter.

27 (9) A peace officer shall not remove, dismantle, or tamper with
28 any hardware or software components or parts of a body-worn
29 camera.

30 (10) A peace officer shall not use body-worn camera functions,
31 when there is no investigatory interaction with a member of the
32 public, to record any personal conversation of or with another
33 agency member or employee without the permission of the
34 recorded member or employee.

35 (11) A peace officer shall not use a body-worn camera to record
36 non-work-related activity or to record in places where a reasonable
37 expectation of privacy exists.

38 (12) A peace officer shall not allow a computerized facial
39 recognition program or application to be used with a body-worn

1 camera or a recording made by a body-worn camera unless the
2 use has been authorized by a warrant issued by a court.

3 (13) When safe and practical, an on-scene supervisor may
4 retrieve a body-worn camera from an officer. The supervisor shall
5 be responsible for ensuring the camera data is uploaded into the
6 desired data processing and collection method.

7 (c) This section does not require a peace officer, in a public
8 venue, to cease recording an event, situation, or circumstance
9 solely at the demand of a citizen.

10 (d) (1) Any request from within a law enforcement agency for
11 recordings from a body-worn camera from that agency shall be
12 completed by the system administrator with the approval of the
13 head of the agency.

14 (2) All other requests for recordings from a body-worn camera
15 shall be processed in accordance with the California Public Records
16 Act (Chapter 3.5 (commencing with Section 6250) of Division 7
17 of Title 1 of the Government Code).

18 (e) *Any use of body-worn cameras by a peace officer not*
19 *otherwise prescribed by this section or any other law is subject to*
20 *bargaining pursuant to the Myers-Milias-Brown Act (Chapter 10*
21 *(commencing with Section 3500) of Division 4 of Title 1 of the*
22 *Government Code).*