

GENERAL OFFICE MEMORANDUM 19-040

TO: ALL DISTRICT ATTORNEY PERSONNEL

FROM:  JOSEPH P. ESPOSITO
Chief Deputy District Attorney

SUBJECT: MOTION FOR PROTECTIVE ORDER FOR BODY-WORN
CAMERA/DASH CAM RECORDINGS

DATE: APRIL 2, 2019

Police body-worn cameras (BWC) routinely capture personal identifying information or other confidential information of victims and witnesses. Recognizing this unique capability of BWCs to capture the entirety of police interactions with the public and the potential impact of disclosure of the videos on an individual's right to privacy and confidentiality, the California Legislature enacted Penal Code (PC) § 832.18 to address issues related to the downloading and storage of BWC videos. (PC § 832.18, subd. (a).)

Among its list of best practices, the Legislature directed law enforcement agencies to establish measures to prevent data tampering, deleting, and copying, including prohibiting the unauthorized use, duplication, or distribution of BWC data. (PC § 832.18, subd. (b)(3).) In addition to prescribing retention and deletion schedules, (PC § 832.18, subd. (b)(5)), the Legislature determined law enforcement agencies should require that:

all recorded data from body-worn cameras are property of their respective law enforcement agency and shall not be accessed or released for any unauthorized purpose, explicitly prohibit agency personnel from accessing recorded data for personal use and from uploading recorded data onto public and social media Internet Web sites, and include sanctions for violations of this prohibition.

(PC § 832.18, subd. (b)(8).) These best practices evince the Legislature's intent to promote good police practices while protecting the public's right to privacy and confidentiality.

As a result, the Office has created a motion for protective order template to be used when BWC or dash cam recordings contain personal identifying information or other confidential information of victims and witnesses captured by the recordings and to limit defense counsel's use of the police BWC recording[s] to proceedings in the current case.

The motion template can be found in PIMS. It is entitled "Body Worn Cameras; Motion for Protective Order."

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