

October 14, 2015

City of Brentwood, Tennessee  
Ms. Debbie Hedgepath  
City Recorder  
5211 Maryland Way  
P. O. Box 788  
Brentwood, Tennessee 37024

VIA ELECTRONIC MAIL

Dear Ms. Hedgepath:

You have asked for the record retention schedule for police in-car video systems. To that end, the advice of MTAS Legal Consultants Melissa Ashburn and Elisha Hodge, as well as Police Consultant Rex Barton, was sought.

Please be advised that it is our collective opinion that the retention period for dash cam videos will be based upon the content of the video. In those situations where no criminal activity, arrest, etc., is captured on the video, nothing that creates liability for the police department is captured and no internal affairs issue is captured, the retention period can be for a very short amount of time. When criminal activity is captured or acts that potentially create civil liability for the police department, the video should be maintained until such time as the statute of limitations runs on the criminal activity or the acts that potentially create civil liability for the police department. It is our understanding that the statute of limitations on civil rights claims is one year and property damage claims is three years, so the videos that capture acts that create potential civil liability should be maintained for at least as long as the statute of limitations and probably a little longer after the statute has run, just in case someone files a lawsuit at the last minute. Video involving internal affairs issues should be maintained until such time as the internal affairs case is closed. When a person is arrested and charged with a crime, any video related to the arrest and charge needs to be maintained until the final adjudication of the case, which includes appeals.

You may also be interested in knowing that with regard to body worn cameras, the collective opinion of the group is that the retention period for videos will also be content based. At this time, it is suggested that law enforcement agencies use the same retention periods as those set out for dash cam videos. However, please be advised that this recommendation on the body cam videos are not definitive. The General Assembly is set to begin studying body cam videos at a meeting later this month. We are hopeful that the legislature will provide guidance as to how long body cam videos should be maintained so that MTAS can then develop definitive retention guidelines.

Finally, given the fact that the retention period for each type of video will be based upon the content of the video, it is recommended that all video taken by an officer be reviewed by the officer or his/her supervisor or both so that the video can be maintained appropriately.

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Please let us know if you have further questions regarding this matter.

Very truly yours,

A handwritten signature in blue ink, consisting of a large, sweeping loop followed by a long horizontal stroke that tapers to the right.

Jeffrey J. Broughton  
Municipal Management Consultant

Cc: Elisha Hodge  
Melissa Ashburn  
Rex Barton