

*The Forum for America's Ideas*

# **Wisconsin Legislative Council Study Committee on the Use of Police Body Cameras**

## **State Activity Addressing Police Body Cameras and Data Management Practices**

### **National Conference of State Legislatures**

July 26<sup>th</sup>, 2018



NATIONAL CONFERENCE *of* STATE LEGISLATURES

# National Conference of State Legislatures



- Non-profit, bi-partisan organization.
- Members are all 7,383 legislators and 30,000 legislative staff in 50 states, D.C. and U.S. territories.
- Offices in Denver and D.C.
- Among our goals - To provide legislatures with information and research about policy issues, both state and federal.
- NCSL tracks state policy developments in all public policy areas.

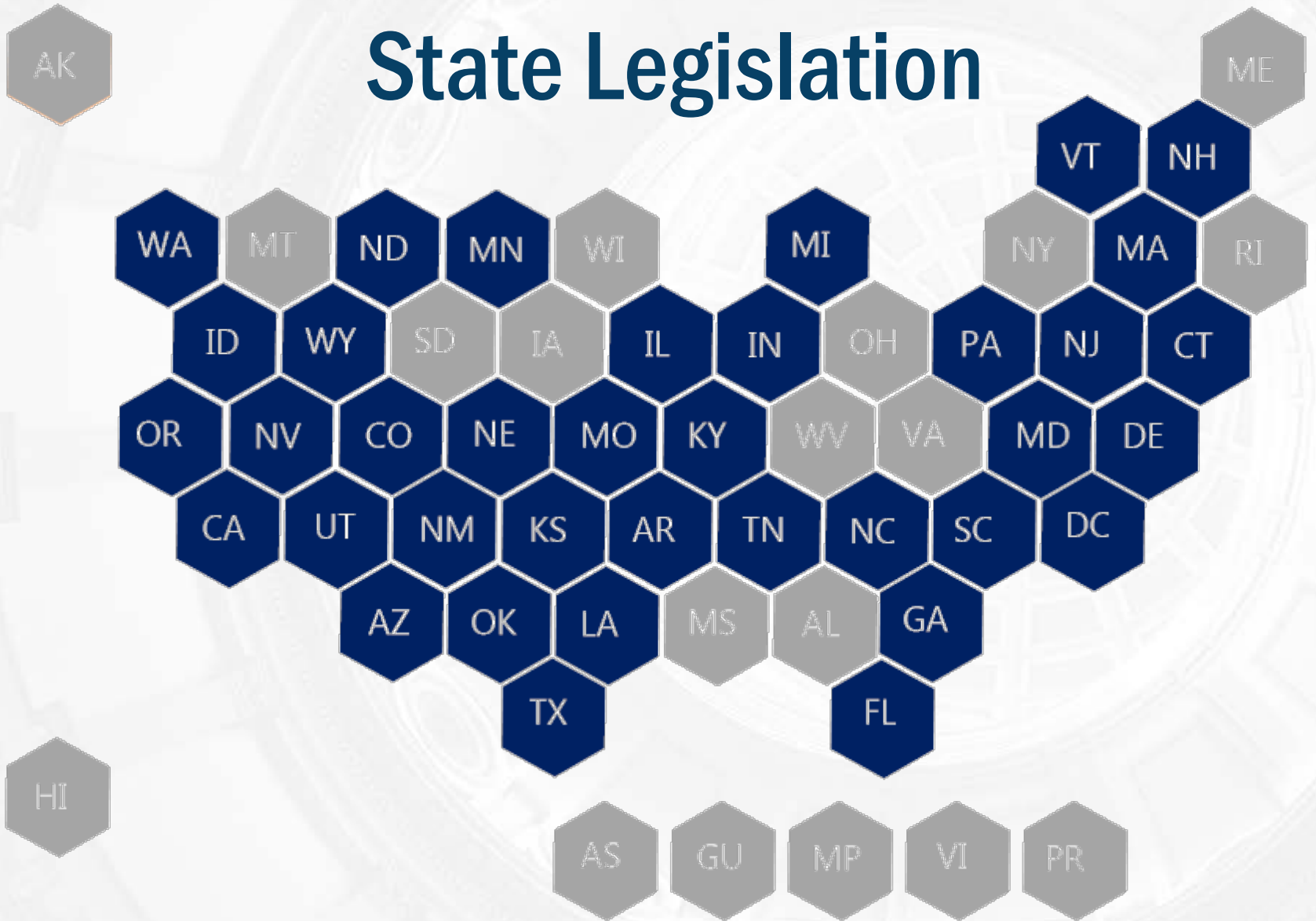


# Outline

- **Overview of legislative trends**
- **Body camera data management legislation**



# State Legislation

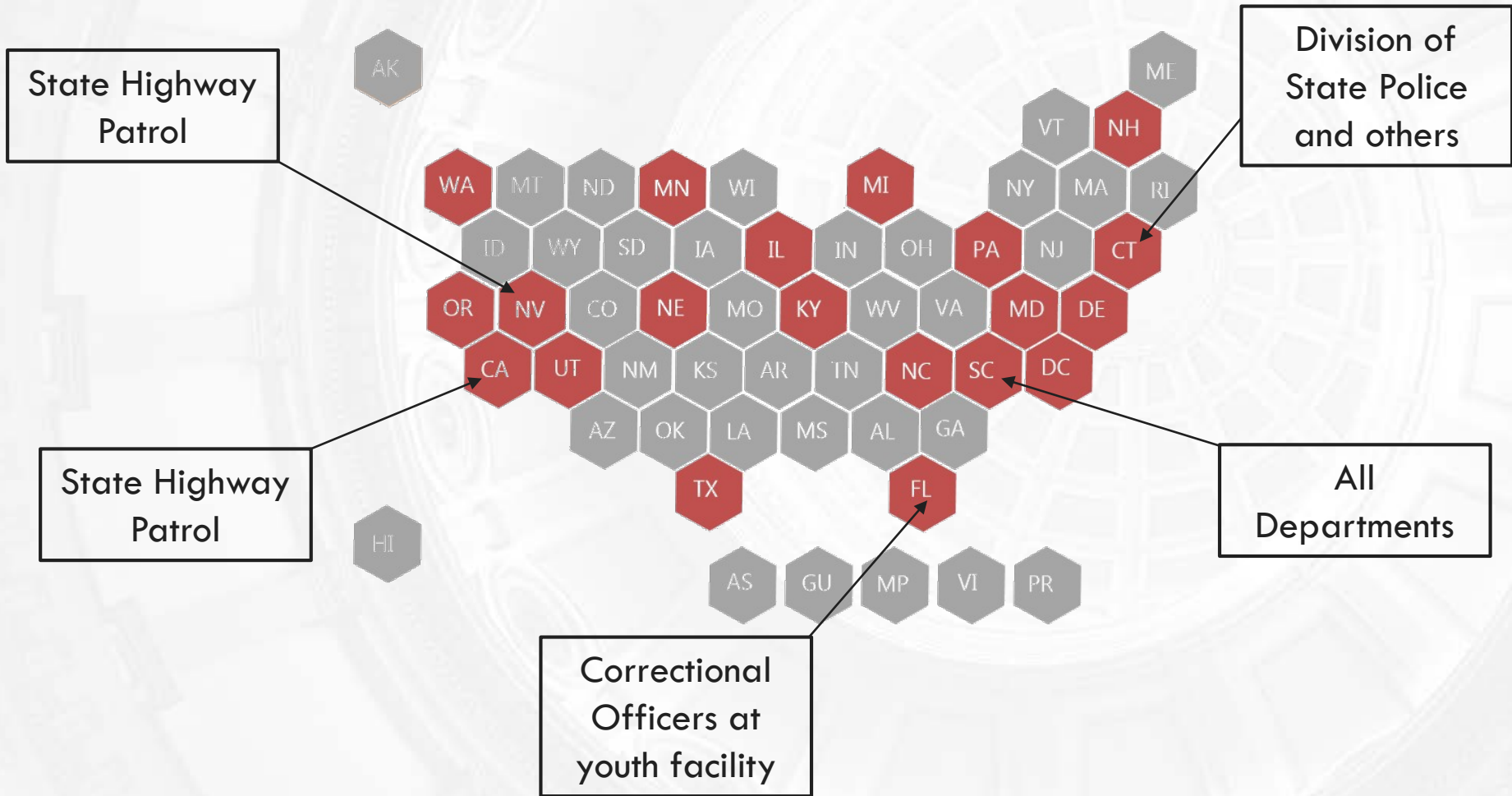


# Trends in Legislation

- Requiring use
- Requiring Written Policies
- Studies and Task Forces
- Body camera funding
- Eavesdropping laws
- Open Records implications



# Requiring Use and Written Policies



# Studies and Task Forces

- California – pilot program
- Colorado Body-Worn Camera Study Group [Report](#)
- New Mexico – 2018 resolution



# Studies and Task Forces

- Washington Joint Legislative Task Force on Body Worn Cameras [Report](#)
- ▣ Purpose of body cameras
  - Accountability
  - Transparency
  - Evidentiary Tool
  - Enhancement to Public Safety





# Body Camera Funding

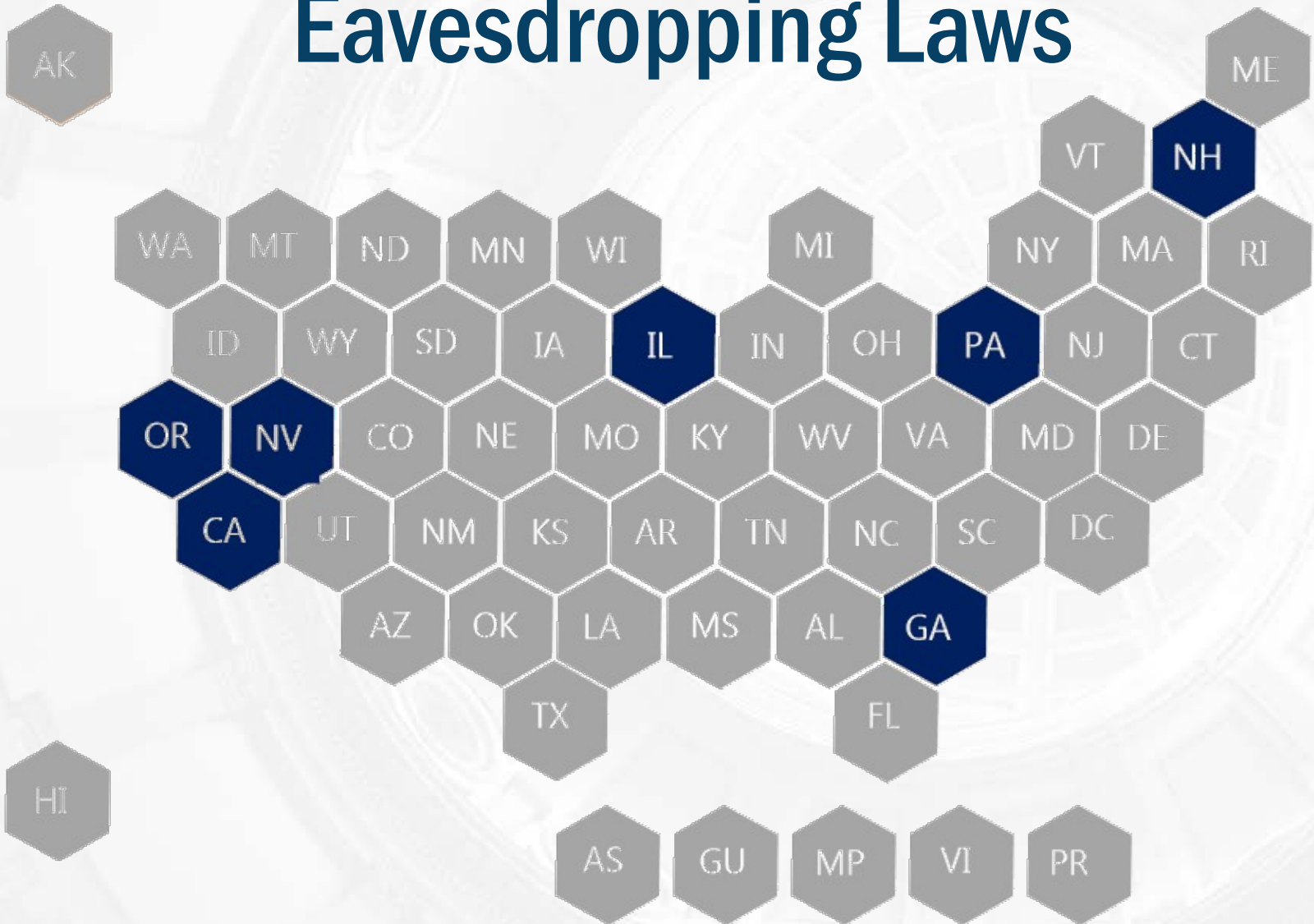
- 13 states and Washington, D.C.
- Pilot programs
- Grant programs



This Photo by Unknown Author is licensed under [CC BY-SA](#)



# Eavesdropping Laws



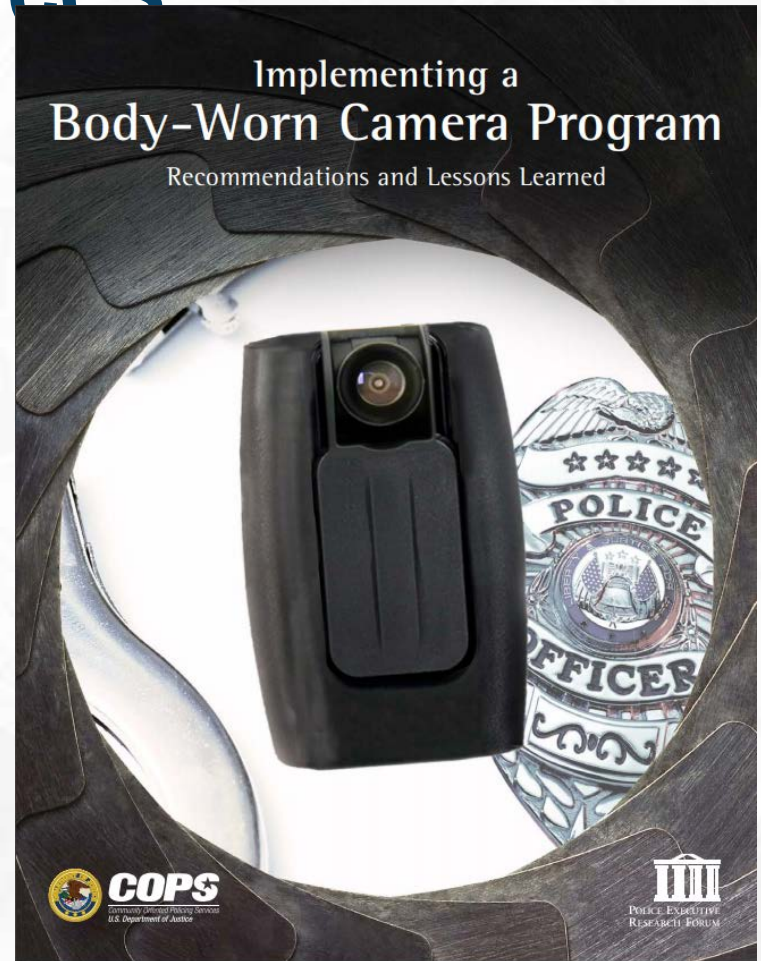
# Data Management Legislation



NATIONAL CONFERENCE *of* STATE LEGISLATURES

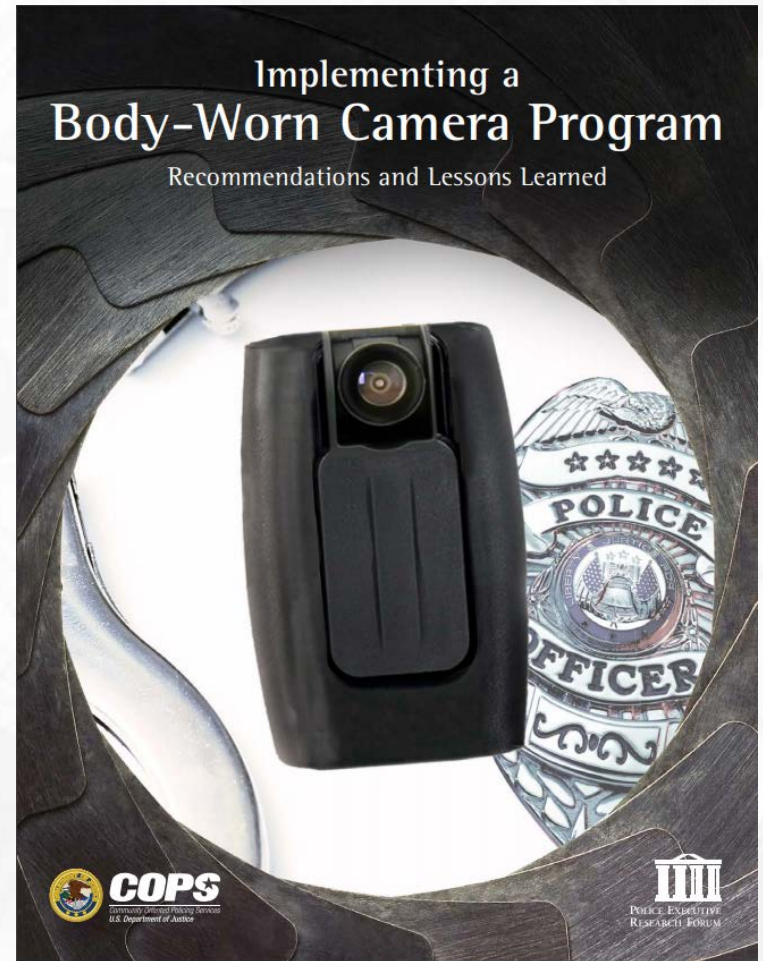
# Data Storage and Retention Best Practices

- ❑ Designate person to download data
- ❑ Procedures for when to download and how to tag/categorize
- ❑ Measures to prevent tampering, deletion, etc.
- ❑ Records of access/deletion retained permanently
- ❑ Specify data storage location
- ❑ Reputable third-party vendors if needed



# Best Practices

- Length of time to maintain recordings
  - ▣ Non-evidentiary – minimum 60 days
  - ▣ 2 years in specified instances
  - ▣ Any length of time relevant to criminal



# Length of time to maintain recordings

- Reasons for longer time periods
  - ▣ Arrest or detention
  - ▣ Use of Force
  - ▣ Filing of a complaint



# Length of time to maintain recordings

- Specifically enumerated
  - Georgia – generally 180 days, 30 months in certain instances
  - Idaho – 200 days if evidentiary value, 60 days if not
  - Illinois – 90 days without being altered, two years in certain instances



# Length of time to maintain recordings

- Specifically enumerated
  - ▣ Indiana
    - State agencies: unaltered, unobscured law enforcement recordings for at least 280 days
    - Localities: 190 days
  - ▣ Minnesota
    - A subject may request additional 180 days
  - ▣ Oregon
    - Seven years for certain recordings
    - At least one year for all others





# Length of time to maintain recordings

- Incorporated in written policy
  - ▣ Florida: “A law enforcement agency that permits its law enforcement officers to wear body cameras shall establish policies and procedures addressing the proper use, maintenance, and storage of body cameras and the data recorded by body cameras...”
  - ▣ Nevada: Highway Patrol procedures



# Length of time to maintain recordings

- Governed by other statute or regulation
  - ▣ Kentucky – governed by regulations of the Department of Libraries and Archives
  - ▣ North Carolina – required to be retained pursuant to the Department of Natural and Cultural Resources, Division of Archives and Records



# Open Records Implications

- Subject to open records laws
  - ▣ Range of exceptions
    - Presence of minors
    - Communication with undercover officers, informants
    - Footage in location where expectation of privacy
- Not subject to open records requests
  - ▣ Limited exceptions
    - Subject of video may view it
    - Court order
    - Public interest



# Other Data Practices

- California, Oregon – data is property of law enforcement agency
- Connecticut, Indiana, Utah – prohibits editing, erasing, copying, sharing, etc.
- Minnesota – requires agencies conduct biennial audits of their data by an independent agency
- Pennsylvania – comply with FBI's Criminal Justice Information Services Security

# NCSL Body-Worn Camera Laws Database

**NCSL**  
NATIONAL CONFERENCE of STATE LEGISLATURES

ABOUT US | LEGISLATORS & STAFF | RESEARCH | MEETINGS & TRAINING | NCSL IN D.C. | MAGAZINE | BLOG

## BODY-WORN CAMERA LAWS DATABASE

2/28/2018

[State Body-Worn Camera Laws](#) (See all laws)

AK ME

WA MT ND MN WI MI NY MA RI

ID WY SD IA IL IN OH PA NJ CT

OR NV CO NE MO KY WV MD DE DC

CA AZ UT KS AR TN VA NC

NM OK LA MS AL SC

TX GA FL

HI

AS GU MP PR VI

### BODY CAMERA ISSUE SUMMARY

### BODY CAMERA LAWS

#### NAVIGATE

Home

- ▶ About State Legislatures
- ▶ Agriculture and Rural Development
- ▼ **Civil and Criminal Justice**
  - Corrections and Sentencing
  - DNA and Forensics
  - Juvenile Justice
  - Pretrial Release
- ▶ Education
- ▶ Elections and Campaigns
- ▶ Energy
- ▶ Environment and Natural Resources
- ▶ Ethics
- ▶ Financial Services and Commerce
- ▶ Fiscal Policy
- ▶ Health
- ▶ Human Services
- ▶ Immigration
- ▶ International
- ▶ Labor and Employment
- ▶ Military and Veterans Affairs
- ▶ Redistricting
- ▶ State-Tribal Institute

<http://www.ncsl.org/research/civil-and-criminal-justice/body-worn-cameras-interactive-graphic.aspx>



# Questions?

**Amanda Essex**  
**Senior Policy Specialist**  
**Criminal Justice**

[Amanda.Essex@ncsl.org](mailto:Amanda.Essex@ncsl.org)

