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Despite vows of transparency, police block access to body camera videos

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By Kimberly Kindy, Julie Tate - Washington Post

Autumn Steele and her husband, Gabriel, were fighting again, so he called 911. A police officer sped to their home, pulled out his gun and then - frightened by the family dog - opened fire, killing Autumn with a bullet to her chest.

Since the Jan. 6 shooting, Steele's family has battled police in Burlington, Iowa, to see 28 minutes of body camera video recorded by the two officers who responded that day. Police have declared the videos confidential, saying the shooting was tragic but reasonable, given that the dog "attacked." State investigators have released a 12-second clip from the videos, but Steele's relatives say it raises more questions than it answers.



Muskogee, Okla., police officer Bryan Wilkins works a disturbance call in September. Officer Wilkins wears a body

"I deserve to know what happened to my daughter. The public deserves to know," said Steele's mother, Gail Colbert. "How can they keep this from us?"

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Ferguson, Missouri, and beyond, politicians, law enforcement officials and community activists have seized on body cameras as a vital reform capable of restoring transparency and trust to police interactions with the public. But in Burlington and elsewhere around the country, police and other officials are routinely blocking the release of body camera videos while giving officers accused of wrongdoing special access to the footage.

Nationwide, police have shot and killed more than 750 people since January, according to a Washington Post database tracking every fatal shooting. Of those, The Post has found 49 incidents captured by body camera, or about 6 percent.

Just 20 of those videos - less than half - have been publicly released. And in several of those cases, the footage, as in Burlington, was severely cut or otherwise edited.

Meanwhile, virtually all of the 36 departments involved in those shootings have permitted their officers to view the videos before giving statements to investigators, The Post found. Civil and human rights groups fear that access could help rogue officers tailor their stories to obscure misconduct and avoid prosecution.

"What point is there of even doing this if they are going to be treated this way? Why even spend the money on these cameras?" said Burlington Mayor Shane McCampbell, who has called on police to release video of the Steele shooting. He noted that police promised greater openness last year when they petitioned the city to buy body cameras.

If the videos "are going to be a secret, no one is being held accountable," McCampbell said. "And that was the point."

While individual police departments are adopting rules on the local level, police chiefs and unions are lobbying state officials to enshrine favorable policies into law. In 36 states and the District of Columbia this year, lawmakers introduced legislation to create statewide rules governing the use of body cameras, often with the goal of increasing transparency.

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Of 138 bills, 20 were enacted, The Post found. Eight of those expanded the use of body cameras. However, 10 set up legal roadblocks to public access in states such as Florida, South Carolina and Texas. And most died after police chiefs and unions mounted fierce campaigns against them.

Police officials defend that effort, saying overly lax rules could end up helping criminals. Jury pools could be tainted by the general release of video evidence, making it difficult to win convictions. Eyewitnesses and informants may be reluctant to come forward if there's a chance they were caught on a video that may be publicly released. Other people caught on camera may file lawsuits claiming police violated their right to privacy.

"If you have a kid who drank too much on his 21st birthday and the police are called, do you really want video of that kid, sick and throwing up, to be on YouTube for the rest of his life?" said Richard Beary, president of the International Association of Chiefs of Police and chief of the University of Central Florida's police force.

Those arguments prevailed in Los Angeles this spring, when the city's police commission adopted one of the most restrictive policies in the nation. Now, anyone who wants a body camera video from the Los Angeles Police Department will likely have to ask for it in court.

"A judge should be making this decision," said Craig Lally, president of the Los Angeles Police Protective League, the local police union. "They can listen to all sides of the argument, weigh everyone's interests and determine if there really is a public interest at stake."

Civil rights organizations say policies that restrict access subvert the promise of body cameras.

"If police departments and law enforcement become the sole arbiters of what video the public gets to see, body cameras will go from being a transparency and accountability tool to a surveillance and propaganda tool," said Chad Marlow, an attorney with the American Civil Liberties Union. "Are we going to let that happen?"

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Despite the growing popularity of body cameras, fatal police encounters are still rarely documented by department-owned video. Only about a third of the nation's 18,000 police departments have acquired body cameras, and some issue the devices only to a few officers.

Last month, the Obama administration announced \$23 million in grants to expand the use of the cameras, with the goal of enhancing "transparency, accountability and credibility" in police encounters with the public, Attorney General Loretta Lynch said.

But even when a camera is present, things can go wrong. The cameras typically attach to an officer's lapel or eyeglasses, and they can fall off during struggles or be angled away from the action. And police acknowledge that one of their biggest challenges is getting officers to turn the cameras on.

Most departments require officers to flip the switch just before they engage a member of the public - while making a traffic stop, for example, or responding to a 911 call. In more spontaneous encounters, officers are required to activate their cameras as soon as it is safe.

Once an incident is over, the cameras are turned off. The devices typically store footage automatically and are often tamper-proof, meaning officers cannot edit or delete video without being detected.

Problems with activation also have plagued cameras mounted on patrol car dashboards - so-called dashcams - which have been standard equipment since the 1990s.

"Activating the cameras: This gets to the heart of transparency," said Ken Wallentine, vice president of Lexipol, a company that police departments subscribe to for help in crafting model police policies. "Oversight from the video can't happen if there is no video."

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In the 36 departments where body cameras captured an officer-involved shooting this year, policies for releasing the video vary dramatically.

Five departments say they will never release video without a court order. Five say they will always release the footage. The rest fall somewhere in between, saying they release videos at the discretion of the police chief or local prosecutor, or when investigations are complete.

In some places, policies seem to be in flux. Consider the case of Brandon Lawrence, 25, of Victoria, Texas. In April, shortly after the Victoria Police Department started its body camera program, two officers equipped with cameras approached Lawrence's apartment.

An Afghanistan war veteran who suffered from post-traumatic stress disorder, Lawrence had gotten into a fight with a neighbor and believed the man was coming to kill him, according to family and witnesses. Someone called 911, police knocked on Lawrence's door and he opened it holding a machete.

By all accounts, Lawrence was disoriented. The officers repeatedly asked him to drop the blade; Lawrence repeatedly asked the officers to identify themselves. The officers said they opened fire because he advanced toward them, pinning one of them against a car.

The next day, Lawrence's mother and stepfather drove 13 hours from Carbondale, Illinois, to look for answers. They found a giant bloodstain on the lawn, just outside the apartment.

"How much advancing could Brandon have done if he died just five feet from his front door?" said Lawrence's stepfather, Bryce Jacquot. "If they have video proof that their actions were righteous, show it to us. Release it."

Local reporters have also petitioned to see the videos. In July, Victoria City Attorney Thomas Gwosdz said it would be released "when the investigation is over. The city's practice and policy is that it is not confidential at that point."

Now, however, Gwosdz says the videos may never be publicly disclosed. He is asking the Texas attorney general to determine whether its release would violate the privacy rights of surviving family members.

Lawrence's mother and stepfather continue to seek full disclosure. Lawrence's father, Bryon, said the videos are "nobody's business." Lawrence's wife, Yasmine, has declined interview requests.

Meanwhile, Greg Cagle, an attorney for the two officers, insists the videos "100 percent support what the officers said happened." Last month, a grand jury declined to bring criminal charges against the officers.

The Burlington, Iowa, video policy falls into the most restrictive category. Burlington city and police officials said if it had been up to them, no video of Autumn Steele's shooting would have been released.

But the Iowa Department of Public Safety was called in to investigate the shooting, and state officials put out a 12-second excerpt.

On the day of the shooting, Steele, 34, had been released from jail on a domestic violence charge for hitting Gabriel with a spatula, according to a police report. Violating a court order, she returned home, and Gabriel called police.

The wobbly video opens with officer Jesse Hill running toward the Steeles on a snowy sidewalk outside their home. Autumn is chasing Gabriel, who is carrying their 3-year-old son, Gunner. Their dog, Sammy, a German shepherd-collie mix, trails behind.

As Hill approaches, Autumn yells, "He's got my kid!" Hill orders her to stop. Sammy starts barking and the dog disappears from view.

"Get your dog!" Hill yells.

Before anyone can respond, Hill fires two shots while falling backward into the snow. The camera points briefly to the sky.

Gabriel stops running and turns to his wife: "He shot you?"

Autumn slumps to the sidewalk. The excerpt ends there.

Nearly 28 additional minutes of video were recorded that day, and Steele's mother believes it would tell her much that she wants to know.

What did Hill say after firing the shots? Did Sammy bite him, as Hill claimed? And what did Hill do to try to save Steele's life?

"How can you kill people and keep any of that evidence a secret?" Colbert said.

Hill told investigators he was forced to shoot because Sammy attacked him, and that he accidentally hit Steele. But Gabriel Steele and a neighbor who witnessed the shooting said Hill was blaming the dog to justify his own reckless behavior.

In February, both men testified at an animal control board hearing called to determine whether Sammy should be euthanized.

"As soon as that officer seen my dog, he pulled his weapon," Gabriel Steele testified, periodically choking back tears. "That man stepped backward on the snow and he slipped. . . . That was when he fired his weapon twice because he had his finger on the trigger."

The neighbor, Ed Ranck, testified that Sammy "startled" Hill, who overreacted.

"The dog basically jumped and put his paws on [Hill]," Ranck said. "I think it was more a playful action because he did the same thing to [Autumn Steele]."

Hill did not show up for the hearing. A different officer testified that Hill had been treated for a dog bite but presented no evidence.

"In the past, when we've had a bite like this, we have photographs of the bite," said board Chairman Mark Cameron. The board voted unanimously to let Sammy live.

Burlington police declined to comment on the case, as did Hill. Beyond labeling the videos confidential, Holly Corkery, an attorney representing the city, also declined to discuss the case, saying city officials believe "litigation is imminent."

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Some departments have embraced disclosure. In Muskogee, Oklahoma, police released an unedited 10-minute video six days after one of their officers shot and killed a man outside Old Agency Baptist Church, where a wedding was underway.

"It's nice to be out in front of something. We are usually the last with these things," said Deputy Police Chief Chad Farmer.

The shooting occurred in January after Terence Walker, 21, told his former girlfriend he "had a bullet with her name on it." The woman took shelter in the church, and the pastor called 911.

The video begins as Officer Chansey McMillin pulls into the church parking lot and begins to pat down Walker. Suddenly, Walker breaks free and starts running down a two-lane road.

Walker has a gun, which he drops twice. As he retrieves it, he turns toward McMillin with the gun in his hand. McMillin raises his own gun and shoots Walker five times.

As Walker rolls into a drainage ditch, Pastor Andre Jones rushes into the frame, yelling, "Don't shoot no more!"

Rumors quickly spread about the shooting: Walker was unarmed. McMillin killed him, execution-style, as Walker lay bleeding in the street. But threats of civil unrest subsided once people saw the video.

Farmer knows it may not always turn out that way. Still, he said, the department "will continue to release the videos. That's our

policy. That's not going to change if we think it isn't going to make us look good."

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In most fatal shootings where there is body camera evidence, the officers involved have been allowed to view the footage before talking to investigators. This spring, LAPD Chief Charlie Beck urged the Los Angeles Police Commission to adopt that practice as official policy.

The practice is becoming standard nationwide, thanks in part to a 2014 report funded by the Justice Department and prepared by the Police Executive Research Forum (PERF). The report says prior review will "lead to the truth," and that officers will have to "account for their actions, regardless of what the video shows."

Beck's proposal provoked a heated debate, in part because of the March 1 shooting of Charly Leundeu Keunang, 43, a homeless man who lived in an orange tent on skid row.

Police say Keunang was a robbery suspect who became dangerously combative when confronted and tried to grab an officer's gun. Witnesses say Keunang was not dangerous, and that police created a volatile situation by beating on his tent and swarming him when he emerged.

Two police body cameras captured the altercation. Officers who fired shots at Keunang were allowed to see the video. Non-police witnesses were not.

Civil rights attorneys and community groups argue that the practice could aid corrupt officers in covering up misconduct.

"If you are going to concoct a story that isn't true, it is awfully helpful to know if you will or will not be contradicted by your body camera video," said Marlow of the ACLU.

Attorney Dan Stormer, who represents the Keunang family in a \$20 million claim against the LAPD, said the practice could help police discredit witnesses who disagree with the official account.

"If you get to see the video and you know exactly what happened, you can totally destroy someone else's credibility who has a less firm view of what took place," Stormer said.

Before the commission, Beck dismissed such concerns. "The officers cannot alter the video," he said. "The video shows what it shows."

In April, the commission voted with Beck, 3-1. Commissioner Robert Saltzman was the lone dissenter.

"Research shows that watching videos affects memory. It alters it," Saltzman said. "If they watch it first, we will miss what the officer's perception was at the time they used force and why they felt force was necessary."

PERF Executive Director Chuck Wexler agreed, saying his position has shifted since the group issued its report. In an interview, Wexler cited academic research showing that video can "essentially erase and record over" an officer's memory.

"If [police] are going to review the video, other [eyewitnesses] should be allowed to see it, too," Wexler said. "How can they expect to have any credibility if they keep it to themselves?"

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This year, lawmakers in dozens of states entered the debate, introducing bills often intended to supersede restrictive local policies.

California Assemblywoman Shirley Weber (D) was among the first. She offered AB66, a measure that proposed dozens of new regulations, including a provision that would bar officers from viewing videos before giving statements or writing reports.

"The policies need to be fair not only to police officers, but to the public," Weber said.

The California Police Chiefs Association took aim at that provision. When the measure came before the assembly's privacy committee, dozens of uniformed police chiefs descended

on the state capitol, telling lawmakers that AB66 was a "gotcha" bill aimed at stripping officers of their badges should their statements not align with the videos.

In the hearing room, the chiefs lined up to declare their opposition. Committee members were soon at their microphones, saying they, too, were worried about the bill.

Weber was stunned. Weeks earlier, she had added protections for honest officers with imperfect memories - at the request of police lobbyists.

"This was not a 'gotcha' thing," she told the committee.

Still, Weber backed down, granting officers the right of review they were seeking, and the privacy committee approved the measure. But the fight wasn't over. Two weeks later, police lobbyists sought prior review of dashcam video as well. This time, Weber said no.

"I've never seen lobbying at this level," she said. "The bill that got out of the committee is not the bill I wanted."

So Weber tucked AB66 in her dead-letter box and refused to let it proceed. As amended, she said, "it would do more harm than good."

Lawmakers in other states also rewrote or killed body camera measures under pressure from police lobbyists. According to a Post analysis, only 20 of 138 proposals were enacted. A handful of those created new requirements for police, such as mandating use of body cameras. Most gave police the authority to establish their own rules - or gave them greater power to keep videos secret.

Texas, for example, passed SB158, which created more than a dozen new obstacles to public access. Sen. Royce West (D), the former prosecutor who authored the law, calls it a "national model," noting that it provides \$10 million to expand the use of body cameras in the state. West said studies show that the mere presence of cameras significantly reduces police use of force and citizen complaints.

But the ACLU calls the law "a mess." One of its most controversial provisions bans the release of video shot in a "private space." West said that provision extends to footage from traffic stops: "When someone is in their car, we consider that to be a private area."

Citizens can appeal to see such a video. But the law requires every person who appears in it - and is not an accused felon - to sign off first.

Civil rights groups have complained about the substance of the law, as well as the process West used to draft it. When West was unable to attend meetings, for example, he often let Dallas Deputy Police Chief Gary Tittle take over.

"To say I was the unofficial co-chair of the working group would be appropriate," Tittle said. He called the law "a very good balance for the people of Texas and law enforcement."

In Iowa, where Autumn Steele was killed, lawmakers proposed a series of body camera bills, including one that would have made videos public record as soon as any criminal investigations were concluded. Strongly opposed by police organizations, the measure died when the legislature adjourned in June.

Now Steele's mother says she feels "stuck." The family is considering a lawsuit.

"I want justice," Colbert said. Referring to officer Hill, she added: "I want [his] badge. [His] job."

For now at least, that seems unlikely. In February, a local prosecutor cleared Hill of wrongdoing. In March, he returned to patrol duty.

He faced no disciplinary action.

Washington Post staffers Jennifer Jenkins and Alice Crites contributed to this report.

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