

STATE OF NEW YORK

727--A

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sens. MYRIE, COMRIE -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the civil practice law and rules and the criminal procedure law, in relation to recordings found on police cameras and establishing the Panel of Experts on the Use and Disclosure of Recorded Video, Digital Audio, Film and Photographs

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision (i) of section 3101 of the civil practice law
2 and rules, as added by chapter 574 of the laws of 1993, is amended to
3 read as follows:

4 (i) In addition to any other matter which may be subject to disclo-
5 sure, there shall be full disclosure of any films, photographs, video
6 tapes ~~[ex]~~, audio tapes, or all recordings found on a police or peace
7 officer's body camera and/or camera installed in a police or peace offi-
8 cer's vehicle, including transcripts or memoranda thereof, involving a
9 person referred to in paragraph one of subdivision (a) of this section.
10 There shall be disclosure of all portions of such material, including
11 out-takes, rather than only those portions a party intends to use. The
12 provisions of this subdivision shall not apply to materials compiled for
13 law enforcement purposes which are exempt from disclosure under section
14 eighty-seven of the public officers law.

15 § 2. Paragraph (g) of subdivision 1 of section 245.20 of the criminal
16 procedure law, as amended by section 2 of part HHH of chapter 56 of the
17 laws of 2020, is amended to read as follows:

18 (g) All tapes or other electronic recordings, including all electronic
19 recordings of 911 telephone calls made or received in connection with
20 the alleged criminal incident and all recordings found on a police or

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD02338-03-1

1 peace officer's body camera and/or camera installed in a police or peace
2 officer's vehicle, and a designation by the prosecutor as to which of
3 the recordings under this paragraph the prosecution intends to introduce
4 at trial or a pre-trial hearing. If the discoverable materials under
5 this paragraph exceed ten hours in total length, the prosecution may
6 disclose only the recordings that it intends to introduce at trial or a
7 pre-trial hearing, along with a list of the source and approximate quan-
8 tity of other recordings and their general subject matter if known, and
9 the defendant shall have the right upon request to obtain recordings not
10 previously disclosed. The prosecution shall disclose the requested mate-
11 rials as soon as practicable and not less than fifteen calendar days
12 after the defendant's request, unless an order is obtained pursuant to
13 section 245.70 of this article. The prosecution may withhold the names
14 and identifying information of any person who contacted 911 without the
15 need for a protective order pursuant to section 245.70 of this article,
16 provided, however, the defendant may move the court for disclosure. If
17 the prosecution intends to call such person as a witness at a trial or
18 hearing, the prosecution must disclose the name and contact information
19 of such witness no later than fifteen days before such trial or hearing,
20 or as soon as practicable.

21 § 3. a. The attorney general shall establish a panel entitled the
22 "Panel of Experts on the Use and Disclosure of Recorded Video, Digital
23 Audio, Film and Photographs". The panel shall consist of at least 15
24 members selected by the attorney general and appointed from the follow-
25 ing fields:

26 (1) attorneys practicing or having practiced in the field of criminal
27 defense;

28 (2) former police officers;

29 (3) former district attorneys;

30 (4) public advocates;

31 (5) attorneys practicing or having practiced in the field of civil
32 rights;

33 (6) experts in videography; and

34 (7) experts in digital audio recording.

35 b. The panel shall develop and propose statewide uniform regulations
36 and rules regarding the use and disclosure of:

37 (1) all content from body cameras or any recording device worn by a
38 police officer or peace officer during the execution of his or her
39 duties, including, but not limited to, recordings, films, photographs,
40 videotapes and/or audiotapes; and

41 (2) all content from cameras or recording devices used at any facility
42 by police officers or peace officers during the execution of their
43 duties.

44 c. All state, county, city and town law enforcement departments shall
45 adopt as their standard operating procedures the statewide uniform regu-
46 lations and rules proposed by the panel within ninety days of the final-
47 ization of such operating procedures.

48 § 4. This act shall take effect immediately.