

Editor's Note

Policing the Police: The Need for Law Enforcement Transparency

David Cuillier, Ph.D., Editor, *University of Arizona* *

When a former student shot his way into a St. Louis high school in October, injuring four and killing two, the public wanted to know what happened. Police and the school still haven't released video, or other records, claiming it's an "open investigation."¹

Meanwhile, this month in Nashville, police released surveillance and body camera video the day after the shooting at Covenant School.² Not the case in September in Maine,³ nor in Pennsylvania,⁴ nor in Kansas.⁵

Mass killings and officer-involved shootings in the United States are all too common, but the ability for people to find out what happened? Not so much.

A patchwork of state public record laws pertaining to policy body camera footage,⁶ inconsistent access to simple police reports and details of homicidal killings,⁷ secrecy shrouding

¹ *St. Louis Police Refuse to Release CVPA Surveillance as Nashville Police Release Footage Hours After School Shooting*, KMOV-TV (Mar. 28, 2023), <https://www.kmov.com/2023/03/28/st-louis-police-refuse-release-cvpa-surveillance-nashville-police-release-footage-hours-after-school-shooting/>.

² *Nashville Police Release School Shooting Body-Camera Footage*, WALL STREET JOURNAL (Mar. 28, 2023), <https://www.wsj.com/video/nashville-police-release-school-shooting-body-camera-footage/8FE510A6-238C-4EDF-B811-6334BE325743.html>.

³ Emily Duggan & Meg Robbins, *Access Denied: Authorities Refuse Records for Maine School Shooter Hoax Calls*, KENNEBEC JOURNAL (Mar. 4, 2023), <https://www.pressherald.com/2023/03/04/access-denied-authorities-refuse-to-release-records-for-maine-school-shooter-hoax-calls/>.

⁴ *City Denies Open Records Request for Police Video of Gunner Shooting*, LEBTOWN (Aug. 18, 2022), <https://lebtown.com/2022/08/18/city-denies-open-records-request-for-police-video-of-gunner-shooting/>.

⁵ Tim Hrenchir, *Topeka Attorney Won't Release Body Camera Video After Police Fired 34 Shots in Killing Man*, TOPEKA CAPITAL-JOURNAL (Feb. 14, 2023), <https://www.cjonline.com/story/news/local/2023/02/14/topeka-attorney-wont-release-body-camera-video-of-police-shooting/69900256007/>.

⁶ See, for example, the Reporters Committee for Freedom of the Press collection of state legislation and police department policies regarding body camera footage access: <https://www.rcfp.org/resources/bodycams/>.

⁷ Jack McElroy, *Uncovering the Police: Converging Trends Threaten Public Accountability of Local and State Law Enforcement Across the United States*, SEIGENTHALER REPORT (Nov. 2019), <https://www.mtsu.edu/seigenthaler/UncoveringThePolice.pdf>.

police misconduct,⁸ and increasing secrecy of police actions at the federal level for the past 40 years,⁹ leave a nation bewildered, and journalists left to seek out other sources for information, which may not have first-hand knowledge.

And it's not getting better, despite increasing calls for police transparency. Since the Movement for Black Lives in 2020, more states have made efforts to address police secrecy,¹⁰ but legislatures continue to take steps to hide law enforcement from the public.¹¹

Amanda N. Marino explores this threat to civic information in this issue's research article, "Deadly details: Why journalists need access to government-held information on homicide."

Marino looks closely at the case law and practice of releasing homicide records in Florida, Texas, Kentucky, and Michigan, pointing out the inconsistencies and possible paths for change.

This research follows in a line of studies published in the *Journal of Civic Information*, including documentation of the increasing secrecy pertaining to home addresses in law enforcement records,¹² secrecy in private prisons,¹³ and access to information about campus police at private universities.¹⁴

There's a reason for the keen interest in this research. Of all government agencies, law enforcement has the power to take away your rights, your children, your assets, your liberty, and even your life. How justice is administered – whether at a traffic stop or in the courts – is of critical importance to people, particularly to the disenfranchised who often suffer the worst from its abuses.

With the continuation of mass killings, police misconduct, judicial injustice, and abuse of the incarcerated, research in law enforcement transparency will remain of critical importance.

Society depends on it.

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* Send correspondence about this article to David Cuillier, University of Arizona, cuillier@arizona.edu.
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⁸ See, for example, Bridget DuPey, Margaret B. Kwoka, & Christopher McMichael, *Access Denied: Colorado Law Enforcement Refuses Public Access to Records of Police Misconduct*, UNIVERSITY OF DENVER (2018), <https://www.law.du.edu/documents/news/Access-Denied-Kwoka.pdf>.

⁹ A.Jay Wagner, *A Secret Police: The Lasting Impact of the 1986 FOIA Amendments*, 23 COMM. L. & POL'Y 4, 387-426 (2018).

¹⁰ Tolulope Sogade, *Body-Worn Camera Footage Retention and Release: Developing an Intermediate Framework for Public Access in a New Affirmative Disclosure-Driven Transparency Movement*, 122 COLUMBIA L.R. 6, 1729-1767 (2022).

¹¹ See, Morgan Lee, *New Mexico Seeks Limits on Release of Police Body-Cam Video*, ASSOCIATED PRESS (Mar. 13, 2023), <https://www.lcsun-news.com/story/news/local/new-mexico/legislature/2023/03/13/new-mexico-seeks-limits-on-release-of-police-body-cam-video/70003780007/>; and Jamison Keefover, *Oklahoma Law Could Block Police Body Cam Footage From Being Seen Publicly*, KTUL-TV (Apr. 13, 2022), <https://ktul.com/news/local/oklahoma-law-could-block-police-body-cam-footage-from-being-seen-publicly>. The National Conference of State Legislatures tracks state legislation regarding police transparency: <https://www.ncsl.org/civil-and-criminal-justice/legislative-responses-for-policing-state-bill-tracking-database>.

¹² Jodie Gil, Robert A. Smith, Jr., & Kauther S. Badr, *Home Address Exemptions in State FOI Laws*, 4 J. CIVIC INFO. 4, 1-45 (2022), <https://journals.flvc.org/civic/article/view/132763/136617>.

¹³ Alyssa M. Petroff, *Behind Bars: Secrecy in Arizona's Private Prisons' Labor Pool*, 4 J. CIVIC INFO. 2, 1-16 (2022), <https://journals.flvc.org/civic/article/view/132117/135749>.

¹⁴ Josh Moore, *Out from the Curtains of Secrecy: Private University Police and State Open Records Laws*, 2 J. CIVIC INFO. 2, 1-21 (2020), <https://journals.flvc.org/civic/article/view/126522/126100>.