

FINAL BILL REPORT

SHB 2876

C 38 L 06

Synopsis as Enacted

Brief Description: Clarifying procedures for sound and video recordings by law enforcement officers.

Sponsors: By House Committee on Judiciary (originally sponsored by Representatives Ericksen, Wood, Dunn, Armstrong and Ericks; by request of Washington State Patrol).

House Committee on Judiciary
Senate Committee on Judiciary

Background:

The Privacy Act.

Washington's Privacy Act generally prohibits the interception or recording of any private communication or conversation without the consent of all parties to the communication or conversation. There are several exceptions to this general prohibition, including exceptions allowing one-party consent in a variety of cases. There are also conditions under which a court may authorize an interception or recording without the consent of any participant in a communication or conversation.

In addition, there are many exceptions from the Privacy Act's provisions, including exceptions for: certain common carrier services; 911 services; police, fire, emergency medical service and poison centers when recording incoming calls; the Department of Corrections recording of inmate conversations; and video and sound recordings of arrested persons by police officers responsible for making arrests.

Communications or conversations that are intercepted or recorded without the consent of all parties are generally not admissible in court, except in limited circumstances.

Simultaneous Sound and Video Recordings by Law Enforcement.

The Privacy Act's provisions prohibiting the interception or recording of a private communication or conversation without the consent of all parties do not apply to sound recordings that correspond to video images recorded by video cameras mounted in law enforcement vehicles, as long as certain conditions are met. One of these conditions is that the recording device only be operated simultaneously with the video camera. Other conditions that must be met are:

- the officer wearing the recording device must be in uniform;
- the recording device may not be turned off by the officer during the operation of the video camera;
- any sound or video recording may not be duplicated and made available to the public until final disposition of criminal or civil litigation arising from the incident recorded;

- the sound recording may not be divulged or used by law enforcement for commercial purposes; and
- the officer must inform the person being recorded that a sound recording is being made, unless the person is being recorded under exigent circumstances, and the statement informing the person must be included in the recording. The officer is not required to inform the person of a video recording.

It is a gross misdemeanor to knowingly alter, erase, or wrongfully disclose any recording in violation of these restrictions. Sound recordings made under this provision are not inadmissible in court under the Privacy Act.

Summary:

The requirement that sound recording equipment be operated simultaneously with video recording equipment that is mounted in a police vehicle is modified. Simultaneous operation is required only "when the operating system has been activated for an event." Once an event has been recorded, the audio equipment may be turned off and the operating system may be placed in its "pre-event" mode.

Votes on Final Passage:

House	93	4
Senate	43	0

Effective: June 7, 2006