



First Amendment Foundation

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FIRST AMENDMENT FOUNDATION

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LEGISLATIVE ALERT

April 10, 2015

Florida Senate set to pass legislation exempting body camera videos from state's public records law

Despite growing public concern regarding the use of excessive force by law enforcement officers, Senator Chris Smith (*D-Fort Lauderdale*) is pushing legislation that will create a broad public record exemption for body camera

videos.

<http://www.flsenate.gov/Session/Bill/2015/0248/?Tab=BillHistory>

The bill, CS/CS/CS/SB 248, is on the Senate Special Order Calendar for Tuesday, April 14, and could pass out of the Senate next week.

As amended in the Senate Rules Committee last week, CS/CS/CS/SB 248 creates a public record exemption for body camera recordings taken:

- (1) within the interior of a private residence;
- (2) at a health care, mental health care, or social services facility;
- (3) at the scene of a medical emergency involving death or an injury requiring transport; and
- (4) in a place where a person recorded or depicted in the recording has a reasonable expectation of privacy.

Doesn't *every* use of excessive force involve a medical emergency?

Interestingly, a *law enforcement agency* can disclose the video in furtherance of its "official duties and responsibilities," but the public and the media can get access only by court order. In issuing an order for

disclosure, a judge *must* specifically consider *eight* issues, including whether disclosure may harm "the reputation or jeopardize the safety of a *person* depicted in the recording."

Can't it be said that the release of the body cam video by the Orlando Police Department harmed the reputation of Officer William Escobar? <http://www.wesh.com/news/new-body-cam-video-released-in-orlando-police-excessive-force-case/31366688>

There are compelling reasons why the public *should* have access to body cam videos. The Daytona Beach Police Department started using body cameras in 2012. According to Police Chief Mike Chitwood, "the video cameras will protect everyone: the city from baseless lawsuits, the officers from false accusation and the public from police misconduct." [*Daytona Beach News-Journal*, Sep. 16, 2014]

What we need are sensible policies regarding the use of body camera videos by law enforcement agencies. We *do NOT* need an over-broad public record exemption that frustrates the very purpose of law enforcement use of body cameras.

Finally, in case you didn't see yesterday's **WORD on Journalism** from Ted Pease, here it is:

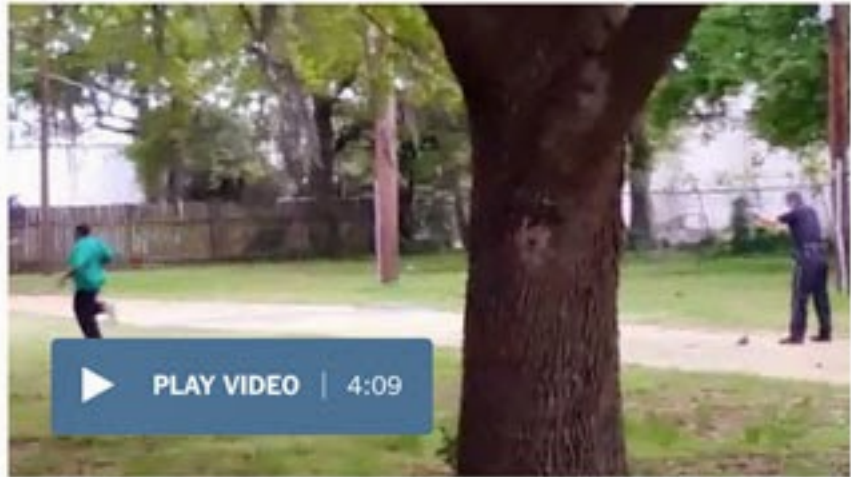
Justified Video

South Carolina Officer Gets Murder Charge in Man's Death

By MICHAEL S. SCHMIDT and MATT APUZZO 6:26 PM ET

A white police officer in North Charleston, S.C., has been charged with murder after a video surfaced showing him shooting and killing an apparently unarmed black man while he fled.

1114 Comments



FATAL POLICE SHOOTING: In a video provided to The New York Times, a police officer in North Charleston, S.C., is seen shooting an apparently unarmed man after a scuffle following a traffic stop.

"This video goes well beyond its shock value. The public has a need to know that police are acting within the law and this video draws that truth into question. Journalists are in the truth-telling business. Sometimes the truth is hard to watch. But the public has to be able to trust that when police make mistakes, journalists will hold them accountable, just as when the police shoot a suspect out of legitimate fear for their safety, journalists will report that fairly and aggressively, too."

-Al Tompkins, "*Graphic New York Times video seems justified,*" *The Poynter Institute*, April 8, 2015

If you have any questions about this legislation or any of the other three dozen exemption bills currently on our tracking list, please contact Barbara Petersen at 800/337-3518 or sunshine@floridafaf.org.

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