

January 31, 2024

*Testimony on Assembly Bill 837*

Good Afternoon, Chairman Swearingen and members of the Assembly Committee on State Affairs, and thank you for allowing me to testify on Assembly Bill 837. This bill allows law enforcement to charge a fee when redaction of video footage is necessary following an open records request.

To be clear, Assembly Bill 837 does not change access to public records that are currently available under the open records laws. The bill simply allows agencies to charge the requestor a fee for the actual, necessary, and direct cost of redacting recorded video or audio content.

Current law allows government officials or agencies to charge a fee for locating a record, reproducing or transcribing a record, copying or photographing a record, and mailing a record. When these provisions were enacted, the use of body cameras by law enforcement officers was not common.

Law enforcement agencies receive a high volume of open records requests, especially large agencies which receive hundreds of requests per month. When a department must redact video footage, for example if bystanders are in the video, it typically takes an hour and a half to redact every hour of video. This length, in addition to the volume of requests, puts a costly administrative burden on many departments. After discussing the issue with several local law enforcement leaders in my district, I have learned that agencies will soon be forced to redirect funds from actual policing to redacting if no action is taken.

This issue has previously come before the Wisconsin Supreme Court in a 2012 case, *Milwaukee Journal Sentinel v. City of Milwaukee*. The Court ruled that departments were unable to recuperate redaction costs given current law and precedent. However, the Court did specifically indicate that the Legislature, as the policy-making branch, has the authority to amend fee provisions. This bill does just that.

Assembly Bill 837 has been crafted in close coordination with law enforcement, and is supported by the Wisconsin Chiefs of Police Association, Badger State Sheriffs' Association, Wisconsin Sheriffs and Deputy Sheriffs Association, and the Fraternal Order of Police.

Again, thank you Chairman Swearingen and committee members for allowing me to testify on this common sense bill to support law enforcement.



January 31<sup>st</sup>, 2024

Representative Swearingen, Chair  
Members of the Assembly Committee on State Affairs

**Testimony on 2023 Assembly Bill 837**

*Relating to: fees for redacting certain records of law enforcement agencies.*

Thank you, Chairman Swearingen and other members of the committee, for hearing my testimony on Assembly Bill 837 today. Government transparency is something we aim to uphold every day in our jobs. As government employees, we are subject to open records laws that we must abide by, and local law enforcement departments are no exception.

Many law enforcement agencies receive a fair number of open records requests, with the amount varying per agency. Larger agencies can sometimes fulfil hundreds of requests per month. Unless you have an employee dedicated solely to locating, redacting, and sending out records, this can be a particularly tedious and time consuming task for members of the department to complete.

I want to focus on one specific part of that process: redacting. Police department records contain a wide range of information that is considered exempt from open records law that would need to be redacted before the items of the fulfilled request are sent. This information includes records that would contain personally-identifiable information that is connected to a complaint or investigation or that would endanger the individual's life or safety, reveal the identity of a confidential informant, endanger the security of any state prison, jail, or other secured facilities, or compromise the rehabilitation of an individual in custody. For law enforcement agencies with body camera footage, redacting this information in videos can take on average 1.5 hours for every hour of the video. Depending on the request itself, and the total amount of requests an agency has at a given time, fulfilling the request could take up valuable agency time, especially for departments that are already understaffed.

Current law allows government officials or agencies to charge the requester of the records for the actual, necessary, and direct cost incurred to locate, if the costs exceeds \$50. This bill would allow law enforcement and corrections agencies to charge the requester a fee for the actual, necessary, and direct cost of redacting, by pixilation or other means, recorded video content disclosed in a response to the open records request. This would help law enforcement agencies recuperate some of the time and resources spent on these administrative tasks.

Being a law enforcement officer, I know firsthand how our law enforcement departments and agencies can be scrutinized, especially in the last few years. They face open records request constantly, and while they are happy to fulfill them to keep our government open and transparent, they would appreciate an opportunity to be properly compensated for that time. Thank you, and I will take any questions at this time.

Respectfully,

A handwritten signature in black ink, appearing to read "Jesse James".

Senator Jesse James  
23<sup>rd</sup> Senate District  
[Sen.James@legis.wisconsin.gov](mailto:Sen.James@legis.wisconsin.gov)



January 31, 2024

To: Chairman Swearingen and Members of the Assembly Committee on State Affairs

From: Wisconsin Chiefs of Police Association

Re: Support Assembly Bill 837, Fees for redacting certain records of law enforcement agencies

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Chairman Swearingen and members of the committee, thank you for your willingness to hold a hearing on this legislation. We would also like to thank Senator James and Representative Spiros for authoring this legislation. As well as committee members Callahan and Ohnstad for co-sponsoring the legislation.

Assembly Bill 837 would allow law enforcement agencies to charge a fee for staff time when redaction of body camera footage is required, by state statute, when processing an open records request. This proposal makes no other changes to the current statutorily defined open records process and does not impact access to records.

Current law prescribes when fees can be charged while processing an open records request. Fees may be charged for locating a record, reproducing, or transcribing a record, copying, or photographing a record, and mailing a record.

Many law enforcement agencies receive a high volume of open records requests. Some larger agencies receive hundreds of monthly requests, often including requests for multiple videos. Video redaction typically takes 1.5 hours for every hour of video.

The volume of requests involving video footage has been increasing. There has been a corresponding increase in staff time dedicated to processing and fulfilling this increased workload. Some departments have reported losing an average of \$8,000 per month in staff time. While others now have staff solely dedicated to fulfilling requests.

We are before you with this request after the 2012 Wisconsin Supreme Court ruling in *Milwaukee Journal Sentinel v. City of Milwaukee*. The Justices found that “*Such costs do not fit within the fees set forth in Wis. Stat. § 19.35(3)(a)-(d).*”

Law enforcement strongly believes in and supports an individual’s ability to receive information. This legislation does not impact access to this information. What the legislation does is include video redaction of statutorily prohibited information in the list of actions that are allowable charges when an open records request is fulfilled.



I want to be clear; my colleagues and I are dedicated to keeping our communities safe. The taxpayer dollars dedicated to fulfilling these time-consuming requests are dollars that cannot be allocated to officer training or other public safety investments to improve and protect our communities.

We believe that the passage of AB 837 will improve the open records process for all parties. Among the many reasons for this belief are:

- Allow adequate resource allocation within the department through cost recovery of staff time dedicated to processing requests
- Discourage frivolous requests for video footage, but retain the ability for responsible requesters to receive records
- Reducing frivolous requests leads to more efficient processing of legitimate requests for records

In addition to the Chiefs, this legislation is supported by the Badger State Sheriffs' Association, the Wisconsin Sheriffs and Deputy Sheriffs Association, and the Wisconsin State Fraternal Order of Police.

Thank you again for your attention to this matter and I would be happy to take questions at this time.



To: Members, Assembly Committee on Judiciary and Public Safety  
From: Badger State Sheriffs' Association (BSSA)  
Wisconsin Sheriffs and Deputy Sheriffs Association (WS&DSA)  
Date: January 31, 2024  
**RE: Testimony in Support of Assembly Bill 837**

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The Badger State Sheriffs' Association and Wisconsin Sheriffs and Deputy Sheriffs Association respectfully submit our support for AB 837. This bill will allow law enforcement and corrections agencies to recoup costs associated with redacting recorded content in response to a public records request.

Complying with public record requests in accordance with the Open Records Law is a common occurrence for law enforcement agencies. As technology has become more mainstream, law enforcement agencies now receive numerous requests for video of body cameras and dash cam footage. Redaction involves editing or obscuring certain parts of a video, such as faces, license plates, or other identifying information, to prevent the disclosure of sensitive details or to ensure compliance with privacy laws. This process helps balance the need for transparency with the need to protect individuals' identities and sensitive information.

For example, one Wisconsin sheriff recently reported that they are being inundated with requests for squad/body camera video from YouTubers who make money by sharing law enforcement videos on their YouTube channel. In fact, the YouTubers submitted six requests over the course of one night! These types of requests put a huge strain on resources and several agencies have had to hire new clerical staff to comply. In another recent example, a Sheriff stated that after a fatal crash, his agency spent a tremendous amount of time redacting portions of the video to protect the victim.

AB 837 will ensure law enforcement agencies can recoup costs associated with the "actual, necessary, and direct cost of redacting." This will help alleviate the financial strain and support the resources to fulfil the requests to comply with constitutional, statutory, or common law.

Thank you for your consideration of this bill.

*The Badger State Sheriffs' Association represents all of Wisconsin's 72 elected county sheriffs. The Wisconsin Sheriffs and Deputy Sheriffs Association is a professional organization representing over 1,000 members, including sheriffs, deputies, and jail officers. Our organizations have a joint legislative committee and work closely on public safety issues of concern to our members.*