

SUBJECT: Making video of officer interactions for intoxication offenses available

COMMITTEE: Homeland Security and Public Safety — favorable, without amendment

VOTE: 9 ayes — Phillips, Nevárez, Burns, Dale, Johnson, Metcalf, Moody,
M. White, Wray

0 nays

WITNESSES: For — (*Registered, but did not testify*: Calvin Tillman)

Against — (*Registered, but did not testify*: Frederick Frazier, Dallas
Police Association; Ray Hunt, Houston Police Officers' Union)

DIGEST: HB 3791 would amend the Code of Criminal Procedure to entitle an individual who was stopped or arrested on suspicion of particular intoxication offenses to receive a copy of any video made of the stop or arrest from the relevant law enforcement agency.

An individual stopped or arrested on suspicion of driving while intoxicated, driving while intoxicated with a child passenger, intoxication assault, or intoxication manslaughter would be entitled to receive any video containing footage of:

- the stop;
- the arrest;
- the conduct of the person stopped during any interaction with the officer, including administration of a field sobriety test; or
- a procedure in which a specimen of the person's breath or blood was taken.

The bill would take effect September 1, 2015, and would apply only to a recording of conduct that occurred after that date.

SUPPORTERS SAY: HB 3791 would allow a person stopped or arrested for certain intoxication

offenses to obtain a video of the arrest, which could help ensure that the events recorded in the video were known to all parties. Many stops and arrests for intoxication offenses are made on a judgment call. While one officer may believe someone is intoxicated, another may not. Sometimes these videos show conduct claimed by a police officer that an arrestee disputes. Allowing a person who was stopped or arrested to access the video would help establish the truth.

The bill could save defense attorneys and defendants time in reviewing evidence. Currently, defendants who wish to watch police videos must do so at their attorneys' offices, and the videos cannot be released to them. Many times a defendant is the best person to interpret what is being said or done in the video, and the defendant might be able to gather more information from watching the video in a setting other than the attorney's office, where the defendant might not have enough time to thoroughly view and interpret it.

OPPONENTS
SAY:

HB 3791 could create confusion about what is required of law enforcement. The bill would not specify a time frame by which the law enforcement agency would be required to provide a copy of the video. Sometimes these videos are not ready for at least 30 minutes after an officer returns to a police station, and it is not clear whether law enforcement agencies would be in violation of the law if a video was requested by an individual immediately after an arrest.

The bill would require that a law enforcement agency make a copy of the video available when the agency did not physically have the video available to provide. All agencies provide video evidence to the district attorney's office soon after the video is recorded, but police agencies may not keep copies, and it would drain valuable police resources to require a person on staff to make and provide video copies on request. The district attorney's office already provides the video to the defense attorneys.