

Hamilton County LAW LIBRARY NEWS

Professional legal information, services, and education

September 2015

As Police Begin to Wear Body Cameras, Can They Deny Access to Footage?

By Christopher Holland of Faruki, Ireland, & Cox P.L.L.

Last summer a police officer in Ferguson, Missouri fatally shot Michael Brown, an unarmed black teenager. The incident sparked a nationwide debate over the relationship between police and the communities they serve, and whether the shooting itself was justified. Fueling the controversy were widely-divergent accounts of the incident, which was not recorded on video. By contrast, when a police officer in North Charleston, South Carolina later shot and killed Walter Scott – who also was black and unarmed – the officer faced widespread condemnation. That time a bystander happened to record the shooting on his cell phone. The video provided indisputable evidence that Scott was shot in the back while running away.

In the wake of those and other high-profile police-involved shootings, there have been increasing calls for officers to record their interactions with the

public on body cameras. Indeed, a recent YouGov poll indicated that 88% of Americans support the use of body cams by police. Several Ohio cities have implemented the technology, and others – including Dayton and Cincinnati – are considering their use. Supporters argue that body cams will build public trust in police by increasing professionalism, ensuring accountability, and promoting transparency.

Of course, those goals depend on someone actually watching the body-cam footage, i.e., independent oversight. Consequently, as cities equip their officers with body cams, an important issue for journalists and other concerned citizens will be access to those records.

The Ohio Public Records Act – Ohio Rev. Code § 149.43 – does not specifically address footage recorded by body cams. However, the statute allows

Inside this issue:

Body Cameras	1
Tech Tip: Hein Online	2
Free CLE	3
Bloomberg BNA Resources	5
You and the Legal System: Neighbor Law	6
Law Practice Management Resources	7

Hamilton County Law Library

Hamilton County
Courthouse
1000 Main Street
Room 601
Cincinnati, OH 45202
T:513.946.5300
F:513.946.5264

Open Monday-Friday 8 - 4

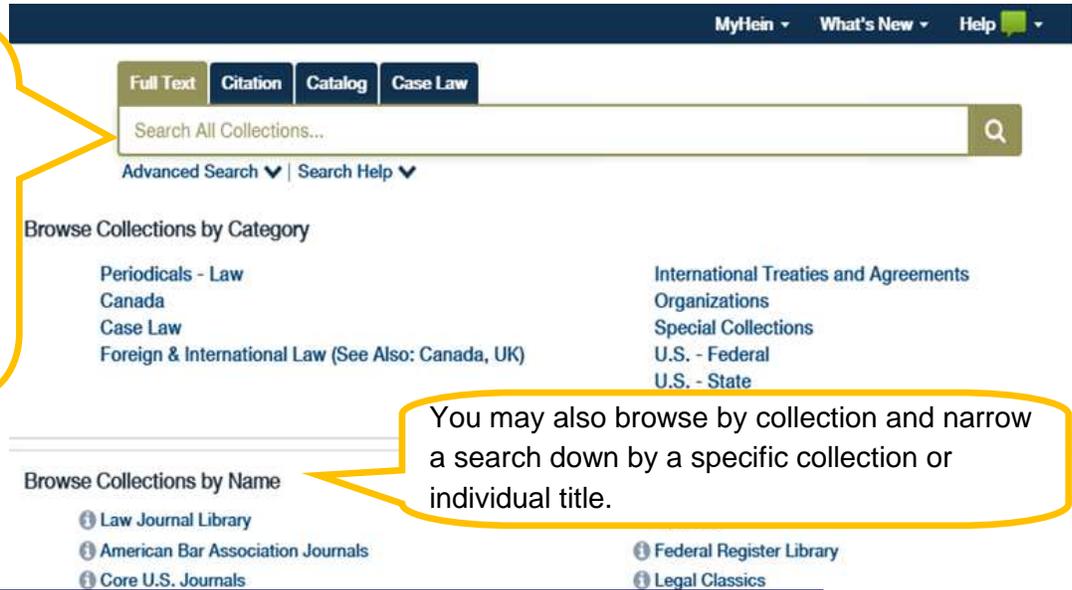
<http://lawlibrary.hamilton-co.org>

(Continued on page 4)

Tech Tip: HeinOnline has a New Look and Better Searching!

By Julie Koehne, Systems Librarian

Enhancements to the interface include a stationary search bar which is available on all pages in HeinOnline.



You may also browse by collection and narrow a search down by a specific collection or individual title.

Search Syntax

Note that all Boolean operators must use capital letters.

- AND** to search for multiple terms i.e. `evidence AND admissibility` will produce documents that contain both terms.
- OR** to search for either one of a pair of similar terms i.e. `brief OR evidence` will produce documents that contain either of these terms.
- NOT** to exclude a term from a search i.e. `evidence NOT briefs` will exclude every search result containing the word "briefs"
- **** use quotes to search for a phrase i.e. `"love canal"` will search for documents containing the exact phrase "love canal"
- ()** to search grouped clauses to form sub queries i.e. `(watershed OR "water rights") AND planning` will produce documents that contain either watershed or water rights and planning
- to search for words within a particular proximity of each other i.e. `"watershed planning"-10` will search for watershed within 10 words of planning
- ?** to search for words where there may be variations of the word that you want included in your search i.e. `te?t` will product documents that contain text or test

Display of search results is clean and easy to use. Facets remain on the left side of the page and options, such as PDF/Download and MyHein, are neatly grouped on the right.



For more help go to <http://heinonline.org/HeinDocs/GettingstartedinHOLnew.pdf>

Upcoming CLE

Free to subscribers; \$50 for non-subscribers

To register, call 513.946.5300, email reference@cms.hamilton-co.org, or register via the website

<http://lawlibrary.hamiltoncountyohio.gov/classes/cle/>

Ten Things You and Your Elder Client Need to Know About Long Term Care

Tuesday, September 15

Noon-1pm

Presenters: Mary Ann Jacobs and James T. O'Reilly

Approved for 1.0 general hour of CLE credit in Ohio and Kentucky.

Lexis CLE: Finding the Needle in the Haystack

Learn how to navigate Lexis Advance and use Ebooks through the Lexis Digital Library

Wednesday, September 16

1pm-2pm

1.0 general hour of CLE credit pending in Ohio

Government Records: The What, How, When and Why of Public Access

Thursday, September 24

Noon-1pm

Presenter: James T. O'Reilly

Approved for 1.0 hour of general CLE credit in Ohio and Kentucky.

**Note: this is the same CLE that was presented at the Law Library last year on September 25, 2014.*

ALI Content on HeinOnline

The Law Library has offered comprehensive, searchable American Law Institute content via HeinOnline for a long time but there's a new development that we are pleased to announce: Due to a new contract with the Institute, there is no longer a delay in adding current material to HeinOnline's ALI Library. Content includes everything from drafts, historical content, and now current content including pocket parts. Browse options now align with the American Law Institute's categorizations. It also includes the Restatements of the Law, Uniform Commercial Code, Model Penal Code, ALI-ABA Periodicals, and the Statement of Essential Human Rights (a pioneering ALI project of the mid-1940s). HeinOnline is available to all of our users on-site. Off-site access is limited by contract to local government officials and to attorneys in solo practice and to subscribing 100% firms of fewer than fifty attorneys. [Ask a librarian](#) for more information about ALI material on HeinOnline.

Renovated Coffee Area

A bequest by long-time Law Library public services assistant Charles E. Kallendorf, Jr. made possible a new counter and cabinetry in the Law Library's coffee area. These updates, performed capably by County Facilities staff, complement the paint and carpeting completed last year. It seemed fitting to use Chuck's bequest for this purpose, since he brewed the coffee here each morning for many years, fueling legal research by hundreds of people, himself included.

(Continued from page 1)

police departments to withhold any records that are “confidential law enforcement investigatory records,” also known as “CLEIRs.” Ohio Rev. Code § 149.43(A)(1)(h). For a record to qualify as a CLEIR, it must pertain to a law enforcement matter, and its release must create a “high probability” of disclosing (1) the identity of an uncharged suspect or a confidential information source or witness, (2) information provided by a confidential information source or witness, (3) “specific confidential investigatory techniques or procedures or specific investigatory work product,” or (4) “information that would endanger the life or physical safety of law enforcement personnel, a crime victim, a witness, or a confidential information source.” Ohio Rev. Code § 149.43(A)(2).

It is uncertain how Ohio courts will interpret the CLEIR exemption in the context of police body cams. Looking to analogous cases, the Supreme Court of Ohio has ruled that routine incident reports that initiate a criminal investigation are not CLEIRs, even when they include narrative statements from witnesses and law enforcement officials. *State ex rel. Beacon Journal Publishing Co. v. Mauer*, 91 Ohio St.3d 54, 57, 741 N.E.2d 511 (2001). Similarly, the Supreme Court has held that 9-1-1 recordings are not CLEIRs because they are too far “removed from the initiation of the criminal investigation.” *State ex rel. Cincinnati Enquirer v. Hamilton Cty.*, 75 Ohio St.3d 374, 378, 662 N.E.2d 334 (1996) (emphasis added). On the other hand, last year an Ohio intermediate appellate court decided that “dash-cam” footage depicting an OVI stop qualified as a CLEIR because its release would disclose “specific investigatory work product.” *State*

ex rel. Miller v. Ohio State Highway Patrol, 12th Dist. Clermont No. CA2012-05-034, 2014-Ohio-2244, ¶19. Distinguishing the dash-cam footage from routine incident reports and 9-1-1 calls, the court said that the video was created by a State Highway Patrol trooper “to preserve a crucial aspect of his investigation [into the OVI] and information-gathering specific to a probable violation of Ohio law.” *Id.* at ¶25. In other words, it related to a specific investigation. Of course, don’t all incident reports relate to a specific investigation?

Other states have considered exempting body cam footage from their public records statutes. Indeed, at least 16 states have introduced bills to limit public access to such footage, including Florida, Michigan, and Washington . Even South Carolina – where the Walter Scott rallied support for police body cams – recently exempted such footage from the state’s Freedom of Information Act. Ohio has yet to go so far.

Therefore, given Ohio’s precedent, courts here will likely focus on the content of body-cam footage, rather than its nature, in assessing whether a requested video qualifies as a CLEIR and can be withheld. The cases further suggest that courts will grapple with when an “investigation” begins under the Public Records Act. That question may be easy when an officer stops a vehicle or executes a search warrant; however, it may be difficult when an officer faces a rapidly-changing situation on patrol. Decisions likely will be fact-specific and, at least at first, difficult to predict. Thus, even as cities begin equipping their officers with body cams, the technology’s promise of transparency is – at this point – unclear.

For more information, contact [Christopher Hollon](#).

We Offer CALI Lessons

CALI Lessons are interactive tutorials designed to help law students and practicing attorneys improve their knowledge of legal concepts through a process of presenting a concept and then immediately testing on it. These tutorials are available to all of our subscribers and to local government officials here at the Law Library and off-site by registration. Just [ask a librarian for the CALI sign up information](#). Topics include Accounting, Wills & Trusts, and everything in between. The lessons are great as refreshers on legal topics, including dozens of tutorials on legal research.

Bloomberg BNA Tax and Accounting

Besides the U.S., state, and Estates, Gifts, and Trusts Tax Management Portfolios that many of our users value, the Law Library's online Bloomberg BNA service offers additional content and tools that may be useful to you. BNA has been known for its exceptional editorial work for decades, evident here with the *Daily Tax Report* and other commentary and analysis. BNA Tax & Accounting (including estate planning and comp & benefits resources) is available at the Law Library to all of our subscribers and to local government users. Here are some of the content areas that our librarians see as beneficial: federal tax cases, forms, & guides, visual aids and transactional diagrams, BNA Insights, and email alerts for tax and accounting news. [Ask a librarian about Bloomberg BNA](#) tax and accounting resources.

New Research Guides: Copyright & Bankruptcy

HCLL librarians recently published more online research guides, available on our website for anyone to use. They point to information available freely online and here at the library. Our copyright guide suggests material useful in registering a copyright, researching the copyright status of a work, and learning about the law of copyright. Our bankruptcy guide provides basic information about bankruptcy law, including jurisdiction, courts' contact information, and bankruptcy laws, rules, and procedure. You'll find all of our guides on our website at <http://libguides.hamilton-co.org/>.

Lexis Advance

We have offered Lexis Advance, the new Lexis interface, along with Lexis.com this summer. September 1 marks our cutover to just Lexis Advance. Law schools and law firms migrated to Lexis Advance already so it's old hat to many of our users. If you are new to Lexis Advance and want some tips or support, [ask a librarian here](#) or see the wealth of [online tutorials and tips](#) that Lexis offers. Lexis says, "We built a solution for life at the speed of lawyer. With a clean, intuitive interface and streamlined navigation, Lexis Advance® gets you where you need to go—fast." If you ever need help after our library hours, you can call Lexis at 1-800-543-6862 and identify yourself as a HCLL user.

Subscriber Benefits

All subscribers have access to the following valuable resources and services:

Circulation privileges to borrow from over 40,000 print volumes for up to six weeks at a time

Access to extensive electronic databases from the Law Library, including LexisNexis, Shepards', Westlaw, IntelliConnect, Hein Online Law Journals and Federal Register, and over 70 Aspen /LOISLaw treatises in 16 substantive areas

Wireless network throughout the Law Library

Polycom videoconferencing

Five meeting rooms with speaker phones

Professional reference service by our law librarians, available via e-mail, telephone, and in person

Free document delivery by fax or e-mail of print and electronic materials

Inexpensive CLE seminars throughout the year, on legal research and substantive topics

Bi-weekly news updates in various practice areas

In addition, solos and attorneys whose firm has a subscription have 24 hour remote access to Fastcase.com case law, Aspen/ LOISLaw treatises, HeinOnline and IntelliConnect.

You and the Legal System: Neighbor Law: Neighbor Disputes

Attorney Nathan Little is our next speaker in the *You and the Legal System* series for the public. Mr. Little will discuss Neighbor Law on Friday, September 18 at noon in the Law Library.

The program is free to the public. To register, call 513.946.5300 or register via our website at <http://lawlibrary.hamiltoncountyohio.gov/classes/you-and-the-legal-system/>

Please note that this is not a CLE event; it is intended for the general public. However, attorneys are welcome to attend and may want to pass along the program announcement to clients, staff and community organizations. If you would like more information, please contact [Laura Dixon-Caldwell](#).

You and the Legal System is brought to you as a public service by the Hamilton County Law Library, in conjunction with the Cincinnati Bar Association's Lawyer Referral Service. Save the date for the next event in the *You and the Legal System* series. Attorney Elizabeth Zak will discuss Veterans' Benefits on Friday, October 23.



Law Practice Management Resources

Law Library subscribers have access to a variety of resources on Law Practice Management. If you have questions about accessing these resources, contact the reference staff at reference@cms.hamilton-co.org or 513.946.5300

Build your practice and retain your clients: a roadmap to effective, ethical business development and client service
KFO77.5 B835 2012

Connecting with your client: success through improved client communication techniques
KF311 .N45 2015

Decision-making for lawyers: distraction, deception and drunkenness
KF076.5.A2.Z9 D24 2014

Ethically creating an innovative law practice in the recovery
KFO77 O357 2013

Going solo: a new lawyer's guide to starting & building a law practice on a tight budget
KF318 .C37 2013

Help me get organized!; sixty proven case management and billing tips
KFO77 .M23 2012

How to start a successful law practice
KFO77 .O356 2013

Lawyer's desk book
KF386 .L39 2011

Lawyer's guide to building your practice with referrals
KF316.5 S52 2012

Lawyer's toolkit for creating both personal and professional success
KF297 .M664 2013

Minding your own business: the solo and small firm lawyer's guide to profitable practice
KF318 .G85 2010

Passing the torch without getting burned: a guide to law firm retirement and succession planning
KF315 .G58 2013

Surviving and thriving as a new lawyer: what you need to know about managing your new practice
KFO77 .S87 2014

Ultimate guide to solo and small firm Success
KF318 .B56 2009

Online Resources-Remote Access**

Aspen/LoisLaw

Forms & Checklists
Lawyer's Desk Book
The Lawyer's Almanac
The Law of Lawyering
Social Media: Legal Risk & Corporate Policy
Just Memos
Hillman on Lawyer Mobility

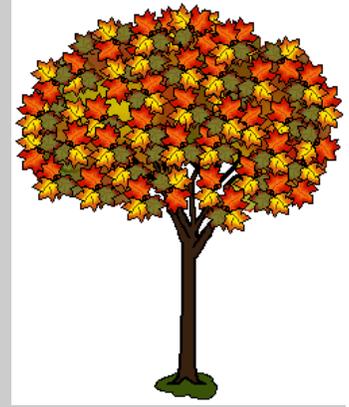
**Remote access is available to subscribers who are solos or firm attorneys whose entire firm has a subscription to the Law Library.

Upcoming Events:

September 15: CLE: Ten Things You and Your Elder Client Need to Know About Long Term Care
September 16: Lexis CLE: Finding the Needle in the Haystack
September 18: You and the Legal System: Neighbor Law
September 24: CLE: Government Records: The What, How, When and Why of Public Access
October 23: You and the Legal System: Veterans' Benefits

Law Library Holidays

The Law Library will be closed on Monday, September 7 in observation of Labor Day.



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INSIDE THIS MONTH

- Body Cams
- Tech Tip: Hein Online
- Free CLE
- Bloomberg BNA Resources
- You and the Legal System: Neighbor Law

ADDRESS CORRECTION REQUESTED

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Hamilton County Courthouse
1000 Main Street, Room 601
Cincinnati, OH 45202