

Appendix

Minneapolis Body Camera Standard Operating Procedure.....	3
Community Comments on Body Camera Implementation.....	13
Community Comment Chart.....	13
Community Door Poll Data	29
Community Listening Session materials	35
Agenda Community Listening Session 1	37
Agenda Community Listening Session 2	38
Agenda Community Listening Session 3	39
Video Slides	40
Questions on Body Camera Implementation.....	71
Public Access to Body Camera Footage Note	75
Burnsville Police Department: Mobile Video Recorders	77
Duluth Police Department Manual: Mobile Video Recorder Policy	87
District of Columbia General Police Order: Body-Worn Video Procedures Established	97
Los Angeles Police Chief Special Order: Body Worn Video Procedures Established	131
New Orleans Police Department Policy Manual: Body Worn Cameras.....	143
Utah Police Regulations: Mobile Video Recorders	155
Seattle Police Manual: Body-Worn Video Pilot Program.....	161
ACLU: Police Body Mounted Cameras: With Right Policies in Place, a Win for All.....	169
Center for Democracy and Technology Letter to Members of the Task Force on 21st Century Policing	181
White, Michael: Police Officer Body-Worn Cameras: Assessing the Evidence.....	189
Atlanta Citizen Review Board: Study on Body-Worn Cameras (BWCs) & Discussion of Concerns and Recommendations on BWCs for Atlanta Police Officers	251
Miller, Police Executive Research Forum: Implementing a Body-Worn Camera Program Recommendations and Lessons Learned.....	297
The Beat Podcasts Series: Community Oriented Policing Services.....	391
Fraternal Order of Police: Body-Worn (“BWC”) Recommended Best Practices.....	397
ACLU: A Model Act for Regulating the Use of Wearable Body Cameras by Law Enforcement	409
Policy Link, Center for Popular Democracy: Building Momentum from the Ground Up: A Toolkit for Promoting Justice in Policing	419
CBS Minnesota: Burnsville First to Use Body Cameras	479
Minneapolis Police Department Policy Manual: Mobile and Video Recording Policy	483

Body Worn Video Steering Group: The Body Worn Video Steering Group Guide to Implementing a Large Scale Body Worn Video Programme.....	495
International Association of Chiefs of Police: Body-Worn Camera Model Policy.....	521
Color of Change: Minneapolis Body Camera Letter.....	533
Deputy Chief Glampe’s Presentation: MPD Body Camera Update Report.....	539
Labor Relations Information System: Model Body-Camera Policy.....	543
Colorado Public Radio: How Police Body Cams Help a Civil Rights Attorney’s Cases.....	551
7 News: Denver Police Department Body Cameras Were Off for Many Uses of Force during Test, Run, Report States.....	557
City of Minneapolis Internal Audit Department: Police Body Camera Consultation Memorandum	561
Government Technology: Body Camera in Schools Spark Privacy, Policy Discussion	577
Jay Stanley: Body-Worn Camera Programs—Privacy Perspective.....	581
International Association of Chiefs of Police: Body-Worn Cameras Concepts and Issues Paper	585
Ariel Arak: The Effect of Police Body-Worn Cameras on Use of Force and Citizen Complaints Against the Police: A Randomized Controlled Trial.....	593
Minnesota Statute § 626A.02	623
NPR: Can Cop-Worn Body Cameras Restore Faith in New Orleans Police?.....	629
Forensic Science Institute: 10 Limitations on Body Cameras	635
The Leadership Conference on Civil and Human Rights: Civil Rights, Privacy, and Media Rights Groups Release Principles for Law Enforcement Body Worn Cameras.....	643
Kentucky League of Cities: Policy Body Worn Video Recording (BWV).....	647
Minnesota Statute § 13.82	653
SC Code of Law 23-1-204	661
Laws of Florida Ch. 2015-41, 119.071.....	669
Minneapolis City Ordinance §§ 172.30, 172.40.....	675
Minnesota Statute § 628.26	679
U.S Department of Justice, Civil Rights Division: Albuquerque Police Department	683
Damon Mosler: Body-Worn Camera Programs—Prosecution Prospective	731
American Bar Association: ABA Task Force on Law Enforcement Body Camera to Establish Best Practices, Address Individual Liberty.....	735
Kathy Pzezdek: Should Cops Get to Review Video Before Report?	739
Communities United Against Police Brutality Materials Submitted at Listening Sessions	745
Daigle Law Group Webinar: Body Worn Cameras and Technology	755
Minneapolis Police Department Code of Conduct 5-100	809
Proposed Bill S.F. No. 498: Police Body Cameras, Minnesota Senate	819

1. Minneapolis Police Department Body Camera SOP

MPD BODY CAMERA SOP November 5, 2014

Purpose

The content of this SOP will provide MPD personnel with guidelines and procedures for the use, management, access, retention, handling of evidence, storage, and retrieval of recorded media captured by Portable Video Recording (PVR) equipment during the PVR trial period. The purpose of utilizing PVR equipment by Minneapolis Police Department officers during the trial period is to accomplish the following:

- Capture digital audio-video evidence for criminal, civil, and traffic-related court cases.
- Assist officers with recalling facts or other details captured by the equipment that will help them accurately articulate a chain of events when writing reports.
- Be used as a training tool for officer safety and best practices in the MPD.
- Assist in the assessment of contacts between officers and the public by reviewing procedures and interpersonal actions.
- Assist in the assessment of different manufactures of PVR equipment/systems
- Develop a future SOP
- Develop a policy and procedure

The PVR equipment is not to be used for the purpose of surveillance of officers, initiating an investigation or initiating disciplinary action against an officer. However, data captured by the PVR may be accessed and/or used as evidence: relating to a complaint of misconduct made against an officer; or in situations where evidence of officer misconduct is discovered during the course of authorized access or review of PVR data with regard to pending administrative, criminal, civil, or traffic matters.

For the PVR trial phase, Minneapolis Police Department employees will be responsible for performing assigned duties in accordance with the Portable Video Recording SOP. All officers who are issued a PVR must have a basic knowledge and understanding of the operation of the PVR. Officers must receive training in the use of the PVR by an authorized MPD employee and only those officers that have received the department authorized training may operate a PVR. All MPD employees who have access to the PVR systems shall receive training on these systems.

The term "officer" is used generically in this document and does not assume a level of rank, such as Patrol Officer. It includes all applicable sworn and non-sworn personnel. .

OFFICER RESPONSIBILITIES

Officers assigned the PVR shall use it in accordance with MPD training, MPD SOP guidelines, and the manufacturer's recommendations.

Officers assigned a PVR shall complete department authorized training in the use and operation of the PVR's.

Officers should wear the PVR during their shift at all times during which they could reasonably anticipate that they may become involved in a situation for which activation is appropriate in accordance with the "Activation" section of this policy. However, officers should not wear the PVR in situations where any recordings are prohibited, such as court.

Officers shall conduct a PVR equipment check to ensure that the equipment is working properly at the beginning of their shift and periodically throughout the shift.

Officers shall notify their immediate supervisor as soon as practical of any missing, damaged, or malfunctioning PVR equipment.

Officers should notify their immediate supervisor of any recorded event believed to be of value for administrative review or training purposes.

Officers shall upload all PVR digital data at the conclusion of their shift by placing their PVR in the assigned docking stations. Officers shall classify recorded events as appropriate based on the options available under the classification/storage software. This classification should be done shortly after the recorded incident is concluded, but must be done prior to upload at the end of the officer's shift.

Officers who are equipped with a PVR and are operating a squad car that is equipped with Mobile Video Recording (MVR) equipment shall activate the MVR as required by policy, procedures/guidelines, and should activate the PVR as soon as practical and without comprising officer safety.

If asked, officers should inform those inquiring that audio-video recording equipment is in use.

RESTRICTIONS

Officers shall not use the PVR to record interactions solely with or among other department employees; except in circumstances for which activation is appropriate in accordance with the "Activation" section of this policy.

Officers shall not use the PVR for personal use or any other reason inconsistent with the "purposes" as set forth in this policy.

Officers shall not use a PVR for off-duty employment without prior approval of the Chief or her designee.

Officers shall not use a PVR for SWAT related operations.

Disabling PVR equipment and/or altering, duplicating, deleting or destroying PVR recordings is prohibited, except by authorized personnel.

SUPERVISOR RESPONSIBILITIES

Supervisors shall ensure that officers follow established procedures for the use and maintenance of PVR equipment and the completion of PVR documentation.

Ensure that appropriate measures are taken when informed of any missing, damaged, or malfunctioning PVR equipment.

Respond to the scene of an incident that requires immediate retrieval of recordings and ensure that the appropriate downloading procedures are followed.

When conducting force reviews, supervisors should view any pertinent PVR video as part of the review.

ACTIVATION

Officers should manually activate the PVR to Record Mode when reasonably safe and practical in the following situations:

- Traffic stops
- Suspicious vehicle stops
- Suspicious person stops
- Priority responses
- Vehicle pursuits
- Arrest situation
- Work-related transports
- Vehicle searches
- Physical confrontations
- Crimes in progress
- In any situation that the officer feels appropriate when taking a statement and/or gathering information from a victim, suspect or witness
- Any Significant Incident (see definitions)
- When advising an individual of their Miranda rights
- When ordered to do by a supervisor
- Any time an officer feels it is appropriate to preserve audio or visual evidence consistent with the purposes stated in this policy.

DEACTIVATION

Once activated, the PVR may be deactivated during activities such as:

- While protecting accident scenes
- Monitoring assigned traffic posts
- Assisting motorists
- To protect the identity of an officer in an undercover capacity
- To protect the identity of a confidential reliable informant
- The incident or event is such duration that the PVR is deactivated to conserve power and/or storage.
- The officer reasonable believes that the stopping of the recording will not result in the loss of critical evidence.
- Once an event has been stabilized, if it is necessary to discuss issues surrounding the incident/investigation with a supervisor or another officer in private, officers may turn off their PVR. This includes discussions between Field Training Officers with officers in training that are specific to training issues.
- If a request is made for a PVR to be turned off by a party being contacted, the officer should take into account the overall circumstances and what is most beneficial to all involved, before deciding to honor the request. For example, an officer may choose to turn off the PVR if its operation is inhibiting a victim or witness from giving a statement. It is up to the officer to make the determination as to what is best for the investigation or contact. If the PVR is deactivated, the officer should note the reason in their report/supplement.
- When ordered by a supervisor

When a PVR is deactivated officers should note the reason by narration prior to deactivation. If a report is prepared, the deactivation and the reason therefore should also be noted in the officer's report or supplement.

REPORT WRITING

To ensure the accuracy of reports, an officer should review audio and video data before making a report or statement. An officer shall note the following in his/her report:

- Whether audio or video evidence was gathered relating to the events described in the report.
- If the PVR was deactivated prior to the conclusion of the event, the fact that the PVR was deactivated and the basis for deactivation.
- Any malfunction of the PVR equipment in either the recording or the uploading of the event.

PVR DATA RETENTION

Data that is not classified under one of the specified classification options shall be retained for one year. All data that is classified under one of the specified classification options shall be retained at least six years but in no event less than as otherwise provided under the Minneapolis Records Management Policy, whichever is longer.

PVR ACCESS/REQUESTS FOR DUPLICATION OF RECORDINGS

All PVR recordings are the property of the MPD and original PVR recordings shall remain in the sole custody of the MPD, unless necessary for the preparation of civil, criminal or administrative matters, used in court as evidence, provided to an expert for analysis, or required to be provided to another by lawful order.

Nothing herein shall preclude MPD personnel from reviewing or using recorded data for the purposes of investigation or prosecution of crimes or preparation of reports. Recorded data may only be used for training purposes with the approval of the Deputy Chief of Professional Standards.

An officer is entitled to access audio and video data: derived from PVR equipment issued to him/her; in which his/her voice or image appears; when reasonable and necessary for the officer to perform the essential functions of his/her job; or to defend against allegations of substandard performance or misconduct. Requests by MPD personnel for duplication of PVR data for purposes of official MPD business shall be directed to the Crime Lab Video Forensics section via submission of the Crime Lab Video Request for Services form (MP-9069)

Requests by MPD personnel for duplication of PVR data for non-work related purposes (e.g. teaching, personal reasons) shall be submitted to the Records Information Unit and are subject to the Minnesota Government Data Practices Act and City of Minneapolis data charges.

Requests made by the public for PVR video will be processed by the Records Information Unit (RIU), in conjunction with Precinct Supervisors, the Crime Lab Video Forensics Section and the Public Information Office.

Records Information Unit responsibilities:

- Determine nature of the request;
- Ensure video is not part of an active criminal or internal investigation;
- Submit Crime Lab Video Request for Services form (MP-9069) to the CLU requesting duplication of video;
- Receive recorded media intended for release;
- Ensure the Public Information Office reviews video prior to release to make certain that only public information is released;
- Notify requestor video is ready;
- Collect fees and release video.

- Crime Lab Video Forensics Section responsibilities:
- Receive requests via Crime Lab Video Request for Services form (MP-9069).
- Process requests according to Crime Lab Division SOP's.

Public Information Office responsibilities:

- Coordinate with Records Information Unit to manage requests.
- Review all videos to be released.

Whenever PVR Data (or access to review such data) is provided to a person or entity other than MPD personnel, the requestor shall be given the Video Advisory attached hereto as Appendix A.

DEFINITIONS

Activation: Any process which causes the PVR system to record audio and/or video data. Activation will be done manually.

Categorize: To classify an event that has been recorded and for which a predetermined retention period has been set.

Critical Incident: An incident involving any of the following situations occurring in the line of duty:

- The use of Deadly Force by or against a Minneapolis Police Officer;
- Death or Great Bodily Harm to an officer;
- Death or Great Bodily Harm to a person who is in the custody or control of an officer;
- Any action by an officer that causes or is intended to cause Death or Great Bodily Harm.

Deadly Force: Minn. Stat. §609.066 states that: "Force which the actor uses with the purpose of causing, or which the actor should reasonably know creates a substantial risk of causing death or great bodily harm. The intentional discharge of a firearm other than a firearm loaded with less-lethal munitions and used by a peace officer within the scope of official duties, in the direction of another person, or at a vehicle in which another person is believed to be, constitutes deadly force."

De-activation: Any process in which causes the PVR system to stop recording. De-activation will be done manually.

Designated Upload Site: Location where officers complete the task of uploading PVR recordings to a storage server through a PC or docking station.

Great Bodily Harm: Bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ, or other serious bodily harm.

Mobile Video Recorder (MVR): Audio/video recording equipment designed for fixed installation in patrol vehicles that includes at a minimum, a camera, microphone, recorder and LCD monitor • Digital: Digitized (text, graphics, audio, and video).

Portable Video Recording (PVR) System: Digital audio-video recording equipment designed to be worn on a person.

PVR Equipment Check: An audio-video test to ensure that the PVR equipment is in working order. This check shall include a test of the video and microphone recording components and a date and time check.

PVR Operational Guide: Training manual/guide which outlines the protocol for operating the PVR system/equipment.

Pre-Event Recording: Video stored by the PVR system prior to manual activation. This is a configurable feature for the digital PVR system and is preset to record video prior to manual activation. The pre-event recording is included as part of the incident and is viewable during playback.

PVR Uploading: The act of transferring recorded data from the PVR to the storage server.

Record Mode: Any time PVR equipment is recording audio and video as indicated on the LCD monitor, wireless microphone and/or DVR.

Recorded Media: Audio-video signals recorded on any of several storage devices, including but not limited to, portable digital storage devices (e.g. CD, DVD, hard drive, flash drive).

Significant Incident: Includes, but are not limited to, any of the following situations occurring in the line of duty:

- Critical incident;
- Domestic abuse incident interview;
- Felony crime;
- Pursuit;
- Squad accident;
- Any incident in which the officer or sworn supervisor believes the recording to be of evidentiary and/or administrative value;
- The identity of someone in the video needs to be protected;
- Man-made or natural disaster or act of terrorism;
- Any event that an officer or supervisor believes should be brought to the immediate attention of police command staff;
- Any time that a citizen makes allegations of police misconduct or discrimination during the incident.

2.1 Community Comments Chart

#	Source	Point	Brief Explanation
General Positive Comments on Body Cameras			
1	Listening Session 1	Can assist when officers are interacting with non-English speakers	Footage can clarify what happened in an interaction, better represent the non-English speaking community member's perspective
2	Listening Session 1	Without video footage, the word of the officer is the only evidence of a particular incident	
3	Listening Session 1	Cameras could prevent physical abuse by officers	
4	Listening Session 1	Cameras will go a long way to repair strained trust between communities and the justice system	Notes strained relations following the death of Treyvon Martin and Michael Brown and need for transparency and protection against police misconduct
5	Listening Session 1, Written Comment	Cameras will assist officers in defending against false allegations	Provides an objective eye on a situation
6	Listening Session 1, Listening Session 3	Cameras make interactions between public and the police more civil on both sides	Note less likely to use profane, derogatory language
7	Listening Session 1	Cameras provide more evidence, which is always a positive	
8	Listening Session 1	Body cameras are the reason the public knows about certain incidents	Cites New Mexico case of policy shooting of a homeless man
9	Listening Session 2	Cameras are a small step in the right direction and could be helpful to the community	
10	Listening Session 2	Cameras will show that police do a good job most of the time	Police Federation Comment
11	Listening Session 2	Body cameras can assist in deescalating conflicts	
12	Listening Session 3	Cameras will save taxpayers money in payouts for officer misconduct	
13	Listening Session 3	Cameras can show structural problems, emotional and psychological issues with police officers	In reference to who police officers see as "criminals" and who they do not view that way
14	Listening Session 3	Cameras can show structural and emotional issues towards communities of color	
15	Listening Session 3	Cameras will assist communities of color who lack access to the justice system	Referencing the difference in white and minority access to lawyers who can sue the police and receive payouts
16	Listening Session 3	Cameras can show exactly what	

		happened in a situation	
17	Listening Session 3	Body cameras with good policy in place supporting accountability, deterring misconduct and providing objective evidence to help resolve civilian complaints against officers, all without significantly infringing on privacy	ACLU Comment
18	Listening Session 3	Evidence shows cameras reduce complaints, use of force	
19	Listening Session 3	Cameras are vital to allow America to see what is going on in our country	
20	Written Comment (noted by 2 community members)	Body cameras will help all people, officers and those interacting with officers	
21	Written Comment	Cameras can counter racial profiling by showing who is getting stopped stopped by police and how those people are treated	
22	Written Comment	Body cameras can show harmful intent or bias in treatment	
23	Written Comment	Body cameras should be one part of a comprehensive plan to impact policing culture from controlling citizenry to working more in partnership with communities	
General Negative Comments on Body Cameras			
24	Listening Session 1	As tax payer, do not want to pay for body cameras	
25	Listening Session 1, Listening Session 2, Listening Session 3	Cameras do not capture officer actions but actions of the public	Where camera is mounted faces toward whoever an officer is interacting with. May miss some abuses that could happen
26	Listening Session 1	The audio on cameras is of poor quality	
27	Listening Session 1	The public was unable to truly weigh in on the body camera program going forward	The program seems to for sure be happening, even though policy not fully developed yet
28	Listening Session 1	Not enough information on the pilot program has been released for the public to make relevant policy recommendations	Notes issue with not knowing the choice of vendor for body cameras
29	Listening Session 1	There are more fundamental policies to be taken care of before body cameras	

30	Listening Session 1	Cameras are just a distraction	From real accountability
31	Listening Session 2	Body cameras cannot be depended on to solve all police behavior issues	
32	Listening Session 2	Focusing on body cameras ignores the real issues of police conduct	Cites prison industrial complex, incarceration rates, arrest rates
33	Listening Session 2	Body camera footage could be used to increase prosecution of low level offenders in heavily policed areas	
34	Listening Session 2	Too much money is being spent on something that will not be effective	
35	Listening Session 2 (noted by 2 community members)	Cameras should not distract from broader issues	
36	Listening Session 2	Money spent on cameras should be spent stopping abusive police officers	
37	Listening Session 2	Cameras are a way to improve police community relations instead of improving the police	
38	Listening Session 2, Listening Session 3 *duplicate speaker*	Cameras can be used for surveillance, and there is enough surveillance already	
39	Listening Session 2, Written Comment	Cameras will be used against citizens because of their being in the hands of officers	
40	Listening Session 3, Written Comment (noted 2 community members)	Cameras are a useful tool in the rights hands, the MPD is not prepared for cameras	
41	Listening Session 3	Redaction and erasing of videos will be a problem with footage	
Activation			
42	Listening Session 1	Cameras should be activated at all times excluding breaks and rest stops	
43	Listening Session 1 (noted by 2 community members)	Cameras should be activated for all calls for service	Police have much power and responsibility and the potential for abuse is too high without activation for all calls for service
44	Listening Session 1	Cameras should be activated for all law enforcement related activities	
45	Listening Session 1	Cameras should be activated for all	

	(noted by 3 community members), Listening Session 2, Listening Session 3 (community member and ACLU Comment)	community contacts	
46	Listening Session 1 (noted by 2 community members), Listening Session 2 (noted by 2 community members, *1 duplicate speaker*), Written Comment	There must be consequences when an officer fails to activate a camera	Safety and public trust at stake, officers cannot decide what to record or not record. Not recording an incident creates suspicion. Written Comment suggested administrative discipline and if it continued to happen, dismissal
47	Listening Session 1, Listening Session 2 *duplicate speaker*	Officers should not have discretion as to when to activate a camera	Officers have a stake and interest in not accounting for all their actions
48	Listening Session 1	The “should” activate language must be changed to “shall” in the SOP	
49	Listening Session 2	Activating a camera when an officer gets out a squad car could prevent potential abuse	Abuse reference was the making and tasing of an individual
50	Listening Session 2	Cameras should be on when officers respond to loitering and disorderly conduct	
51	Listening Session 2	Cameras should be activated for low level (misdemeanor) citations	This would prevent profiling of marginalized people
52	Listening Session 2, Written Comment	Cameras should be on all the time	
53	Listening Session 2	Cameras should be activated even when children are present	
54	Listening Session 2, Written Comment	Officers should have to explain why a camera was not activated	
55	Listening Session 2	Cameras should be activated for a call from start to finish	
56	Listening Session 2	If officers are telling civilians to stop	

		recording them, cannot trust that officers will record themselves	
57	Listening Session 3	Cameras should be activated for domestic violence situations	Citing a personal experience of mistreatment by an officer after being a victim of rape
58	Listening Session 3	Recording First Amendment activities is an issue as it is a form of surveillance	
59	Listening Session 3	Any time a license plate is run, a body camera should be running	
60	Listening Session 3	Cameras cannot be continuously recording, there is not enough bandwidth to support that	
61	Listening Session 3	Cameras should be on unless using the restroom	
62	Listening Session 3	Cameras should not be activated for general surveillance gathering	ACLU Comment
63	Listening Session 3	Activation/filming could be intermittent, random	Officers would still improve behavior because of the possibility of being filmed. Resources would be saved and the focus could be on healthier interactions instead of punishment for specific bad actions
64	Listening Session 3	Camera should be activated as soon as officer exits the car	
65	Written Comment	Cameras should be on all the time in order to protect police from false accusations	
66	Written Comment	There is no situation that should not be recorded since a situation can always escalate	
Deactivation			
67	Listening Session 1	Body cameras should not be able to be deactivated, justice is done by recording everything	There is belief that any deactivation would be done only in order to commit misconduct off camera
68	Listening Session 1	Officers should not have discretion as to when to deactivate a camera	
69	Listening Session 1	The “may deactivate” language in the SOP should be changed	The language is contradicted by one of the potential situations listed- “when ordered by a supervisor”
70	Listening Session 2	A camera should not be deactivated until it breaks	
71	Listening Session 3	The Fourth Amendment should provide residents in a private home with the right to give or withhold consent to be filmed in a non-emergency situation	

72	Listening Session 3	There have been issues with officers turning off cameras to support a particular interpretation of a situation	
73	Listening Session 3	Cameras should not be deactivated until an interaction is completed	ACLU Comment
74	Listening Session 3	Cameras should only be deactivated after leaving the scene of an incident, driving away without a suspect in the vehicle	
75	Listening Session 3	Victims and witnesses should have to give consent to be filmed on camera, otherwise the camera should be deactivated	
76	Written Comment	Supervisors should not have the power to order that a camera be deactivated	
77	Written Comment	Officers should have to explain why a camera was deactivated	
78	Written Comment	A camera should be deactivated upon the request of a civilian, unless under duress or intoxicated	
79	Written Comment	Consent to be filmed should be informed consent	The individual should understand the implications of the Data Practices Act
Restrictions			
80	Listening Session 1 (noted by 2 community members), Listening Session 2, Listening Session 3, Written Comment	Cameras should be used by SWAT teams	Comments made that not using for SWAT was just for pilot, Department planning on changing
81	Listening Session 1, Listening Session 3, Written Comment	Cameras should be used in off-duty employment	Civilian complaints can and do come from officers when employer off-duty
82	Listening Session 3	As long as off-duty officers are in uniform and have the power to arrest, they should wear body cameras	
83	Listening Session 3	Cameras should not be used in elementary and secondary schools	ACLU Comment
84	Written Comment	Cameras should not be used for personal use	
Notification			
85	Listening Session	Officers should have to announce	

	1, Listening Session 3	they are recording when entering a home	
86	Listening Session 1	Officers should notify individuals of recording if they are participating in an investigation	
87	Listening Session 3	Citizens should be informed that a camera is running and also that they can request the footage	ACLU Comment- this will also help prevent surreptitious video
88	Listening Session 3	Witnesses and victims should be informed of recording	
89	Written Comment	Officers should notify all citizens of recording and explain the policies	
90	Written Comment	Cameras should have a light to notify of recording	Would also remind officers that cameras are on
Viewing			
91	Listening Session 2	Supervisors should be able to review videos for policy violations	
92	Listening Session 3	If officers can view footage before writing reports, information may be falsified	
93	Listening Session 3 (noted by 2 community members and in the ACLU Comment)	Officers should not be able to view footage before writing a report	
94	Listening Session 3	Someone needs to ensure that officers do not view footage before writing a report	Even if this is required by policy, that policy must be enforced
95	Listening Session 3 (noted by 3 community members)	An outside agency should view footage to ensure no bias	
96	Listening Session 3	Viewing footage before writing reports removes any independent evidentiary value of those reports	
97	Listening Session 3	There should be regular auditing to ensure policy compliance	ACLU Comment
98	Listening Session 3	It is important that officers not view footage before writing reports for the sake of comparison between the video and report	Noting that perception, memory and judgment can be faulty
99	Listening Session 3	Supervisors should "check" video footage regularly, randomly but also when there is a particular concern or complaints made about a particular officer	

100	Listening Session 3	There should be a way to show when a report is changed following video viewing	
101	Listening Session 3	If officers view video, their statements and reports may be tailored to what they see and they could testify to what they saw in the video instead of their experience at the actual incident	
102	Written Comment	Officers should be able to view footage before writing a report but not tamper with the footage	
103	Written Comment	Supervisors should review footage when a complaint has been made	
Public Access and Retention			
104	Listening Session 1 (noted by 2 community members), Listening Session 3	There needs to be public access to body camera footage	There is concern that obtaining footage will be challenging due to bureaucracy and “red tape”
105	Listening Session 1	Courts and defense attorney’s need access to body camera footage	
106	Listening Session 1	Creating policy to keep camera footage from the public is wrong	
107	Listening Session 1, Listening Session 2 *duplicate speaker*	Footage must be available to the subject of the footage	This should be the minimum availability of camera footage, as it should not impose a privacy issue
108	Listening Session 1, Listening Session 2 *duplicate speaker*	Footage must be available to the legal representative of the subject of the footage	
109	Listening Session 1, Listening Session 3	Footage must available to the public to ensure accountability for police action	
110	Listening Session 1	The city should not advocate for making footage private	Even if inconvenient to release footage, essential for accountability tool
111	Listening Session 1	Long waiting periods for body camera footage should not happen	Cites 9-11 months as too long
112	Listening Session 1	The vendor negotiations and decisions should be public	MPD has been considering a body camera model from Taser and another from Viewu
113	Listening Session 2 (noted by 2	Video must be properly retained	In reference to a cases where it was not retained, alleged to contain

	community members)		misconduct
114	Listening Session 2	Footage should be available to the public so they can understand how policing is done in their community	
115	Listening Session 2	Public access requests should be granted if there is not an open investigation	
116	Listening Session 2	Public access requests should be granted for any use of force, even if children are present they can be redacted	
117	Listening Session 2	The narrowest definition of what is private is what should be advocated for	
118	Listening Session 2	When a subject is recorded, they should be notified as to what classification the footage will have	
119	Listening Session 2	Data should be retained for as long as you can make a complaint against a police officer	Police Federation Comment
120	Listening Session 2	There should be public access to video, so the public can see the police doing a good job	Police Federation Comment
121	Listening Session 3	MPD staff needs to be well trained to handle data requests	
122	Listening Session 3	There needs to be a process for public access, who handles what	
123	Listening Session 3	Access to written reports needs to be provided with access to footage	Written reports should be made of all arrests, video should not replace written reports
124	Listening Session 3	Current policy makes it very easy to abuse privacy	Officers ability to view assault victims, mental health issues, civilians naked in homes
125	Listening Session 3	Those in footage who are not a part of the incident should be redacted before public release	
126	Listening Session 3	Body cameras could be harmful in that much can be captured but the only footage released will be only what the police want the public to see	ACLU Comment
127	Listening Session 3	Videos should be flagged for arrests and complaints and then retained longer	ACLU Comment
128	Listening Session 3	Videos that are irrelevant should not be retained	ACLU Comment

129	Listening Session 3	Current requested data is not often provided in a timely manner or in a convenient format	This makes it therefore unhelpful to community groups
130	Listening Session 3	The retention schedule is currently set based on officer classification of footage, and therefore an opportunity for abuse and lack of appropriate retention	
131	Listening Session 3	Public access must be provided even when not convenient or painful	
132	Listening Session 3	Danger in allowing MPD to not release footage for “privacy reasons”	
133	Listening Session 3	Public availability of footage is an additional incentive to officers for better behavior	
134	Written Comment	Releasing video of domestic violence situations, or gruesome crime scenes could be problematic, an independent body could weigh the benefit of publicity and any legitimate privacy concerns	
135	Written Comment	Videos should only be public with the subject’s approval	
Accountability			
136	Listening Session 1	Good officer’s should want body cameras	
137	Listening Session 1	Cameras hold officers accountable for violence and derogatory language	
138	Listening Session 1	Cameras are only a “gadget” that claims to make police more accountable	Presented negatively, as one of many gadgets law enforcement has used over the years that have not done what claimed would do (ex. tasers)
139	Listening Session 1	Policies must be crafted to ensure accountability and transparency, current SOP does not provide that	
140	Listening Session 1	Even if evidence is available via body camera footage, it does not mean accountability is guaranteed	Noting past instances where video was available, appeared to show misconduct but no discipline imposed
141	Listening Session 1	There is no accountability for not following policies	
142	Listening Session 1	Cameras can allow for criminal charges against officers	
143	Listening Session 1	Police awesome power must be supervised	

144	Listening Session 2	Camera footage may tell a different story than what an officer tells	
145	Listening Session 2	Judicial oversight is what will make cameras useful, note Fourth Amendment violations	
146	Listening Session 2	There is no accountability without public accessibility to footage, cameras become useless to the community	
147	Listening Session 2	Police department has no incentive and no interest in holding itself accountable	
148	Listening Session 2	A better tool for accountability would be to support citizens to film the police	A central database to hold such recordings was suggested
149	Listening Session 2	Cameras as one small piece in creating a system of accountability	
150	Listening Session 2	If a video shows that an officer lied about an incident, they should be prosecuted	
151	Listening Session 2	Body cameras can strengthen accountability	
152	Listening Session 3	Even when there is clear video, officers have not be disciplined	
153	Listening Session 3	Body cameras and dash cams are a part of a comprehensive strategy for accountability and safety	
154	Listening Session 3	Officers should be made to understand that using body cameras as a surveillance tool undermines public trust and accountability	ACLU Comment
Policy Creation			
155	Listening Session 1 (noted by 3 community members)	The details of the policy must be paid attention to	
156	Listening Session 1	The current SOP needs to be revised and updated	
157	Listening Session 1	Policy should implement cameras to the fullest extent while respecting privacy concerns	Notes entering private residences as a difficult issue
158	Listening Session 1	Policy should go as far as possible to give the public confidence that there is accountability for police	
159	Listening Session 1	The policy needs consequences, and needs to go beyond body	Issue with general policies and lack of consequences

		cameras	
160	Listening Session 1	The created body camera policy must be followed	
161	Listening Session 1	There needs to be education in regards to the policy	
162	Listening Session 2, Written Comment	There must be mechanisms in place to ensure some discipline if the body camera policy is not followed	
163	Listening Session 2, Listening Session 2 *duplicate speaker*	The body camera policy is just too complicated	
164	Listening Session 3 (noted by 2 community members)	Attention must be paid to changing technology	
165	Listening Session 3	Funding needs to accompany policy	
166	Listening Session 3	Policies need to be transparent, available to everyone	
167	Listening Session 3	Policy should deal with potential data tampering	
168	Listening Session 3	Language in current SOP stating cameras cannot be used for surveillance of officers or for initiating an investigation against an officer must be changed. The point of the cameras is to keep officers in check	
169	Listening Session 3	Citizens should be more involved in policy making	
170	Listening Session 3	The Commission should not just redline the current policy, it should create its own	
171	Listening Session 3	There needs to be accountability for changes made to the policy	
Other*			
172	Listening Session 1, Listening Session 2 *duplicate speaker*	Footage needs to be permanently stored in "the cloud"	
173	Listening Session 1, Listening Session 2 *duplicate speaker*	Footage needs to be non-alterable, unable to delete	

174	Listening Session 1	Technology changes	
175	Listening Session 1, Listening Session 3 (noted by 2 community members)	Body cameras should not replace dash cameras	And they are in some places
176	Listening Session 2	There is a possibility of racial inequality through media's use of body camera footage	In reference to inequality when media shows images or mug shots of people of color but not whites
177	Listening Session 2	Cameras watch over police and community as a whole	
178	Listening Session 2	If a video shows that a community member lied in a complaint, that person should be prosecuted	Police Federation Comment
179	Listening Session 2	Cameras cannot be used to intimidate people	
180	Listening Session 3 (noted by 2 community members)	It is important that the footage have audio	Audio capabilities would make the footage more useful than other video including civilian videos
181	Listening Session 3	The Commission should provide input on policy at the legislative level	
182	Listening Session 3	The City needs to issue a policy on filming the police	Citing DOJ call to all cities to create such a policy
183	Listening Session 3	Implementing security for the video footage is very important	
184	Listening Session 3	If an officer is able to download footage to laptops or phones, situation is ripe for abuse	
185	Listening Session 3	There still needs to be documentation beyond video footage	
186	Listening Session 3	No one should have access to download video footage, they will be able to edit it	
187	Listening Session 3	Tampering with footage must not be allowed	
188	Listening Session 3	Video footage should be used for training officers	
189	Listening Session 3	Both taser and viewu cameras have significant flaws	Based on pre activation recording, storage, and access to videos
190	Listening Session 3	There is not enough material to determine how one should feel about body cameras	
191	Listening Session 3	There is concern over the MPD's technological abilities	

192	Listening Session 3	All costs must be taken into account, not just the devices but also storage which will keep escalating, and staff costs for complying with the data practices act	
193	Listening Session 3	Cameras cannot capture everything, every angle of a situation	
194	Listening Session 3	Footage use in training may require a different data practice policy	
195	Written Comment	The body camera used should be one that can stream live video back to the storage site	This is reference to officers not bringing cameras back and uploading the data themselves when they have committed misconduct
196	Written Comment	Footage needs timestamps, to be able to better access it as evidence	

*The “Other” category contains Comments made relating to body cameras but not fitting within any of the previously stated categories. Community Comments made that did not concern body cameras were not recorded in this chart or the report as a whole.

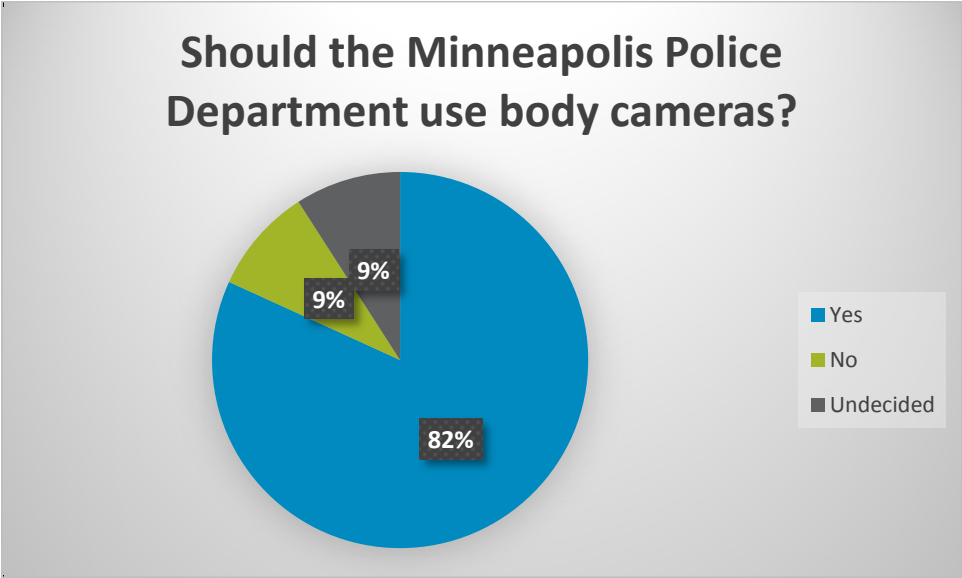
Duplicate speaker- because there were multiple avenues to express thoughts on body camera implementation through multiple listening sessions and public Comments, some community members made multiple Comments stating the same thought/suggestion.

2.2 Community Door Poll Data

Community Door Poll Data

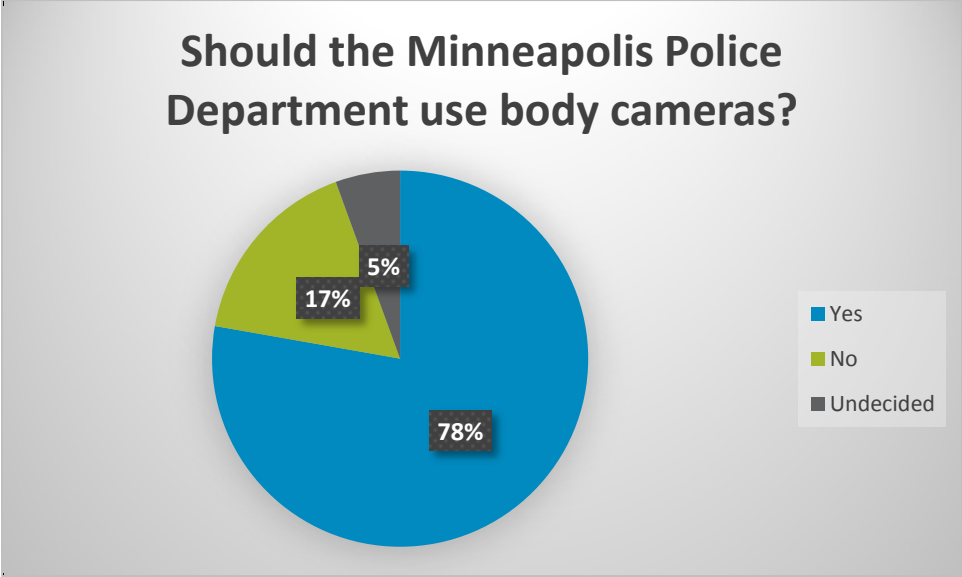
Listening Session 1

Total Participants: 11



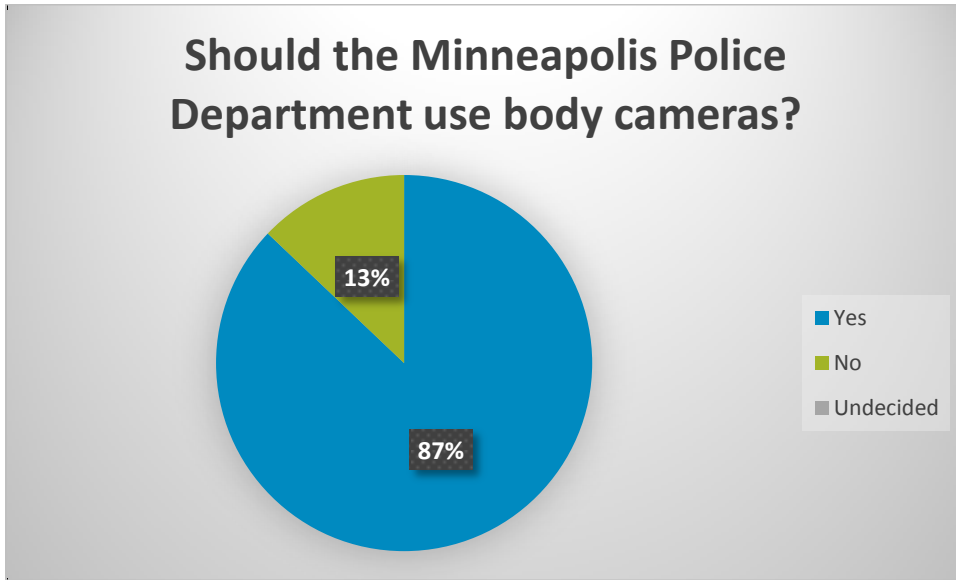
Listening Session 2

Total Participants: 18



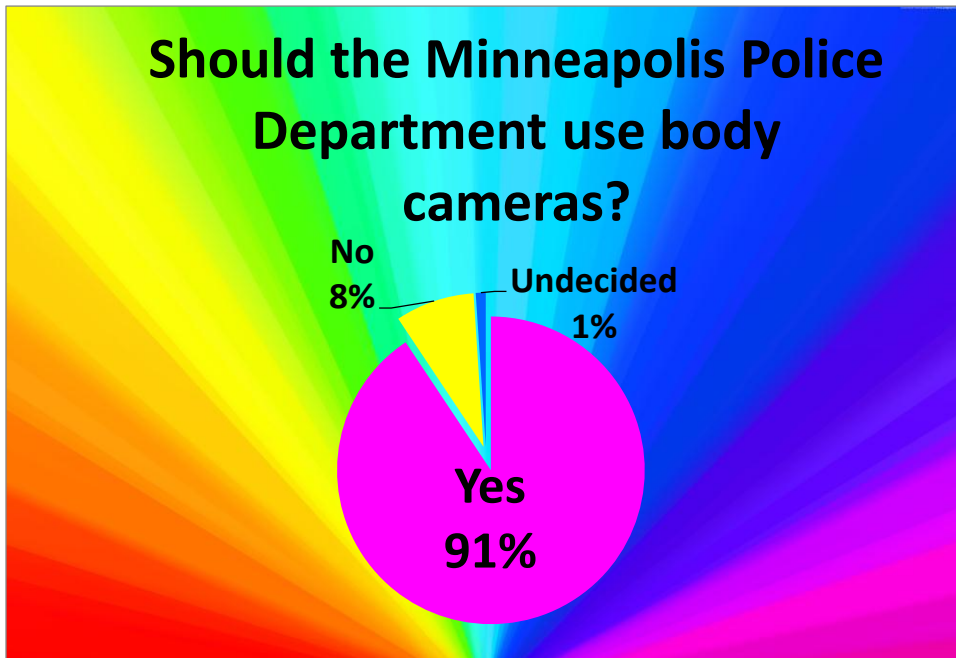
Listening Session 3

Total Participants: 31



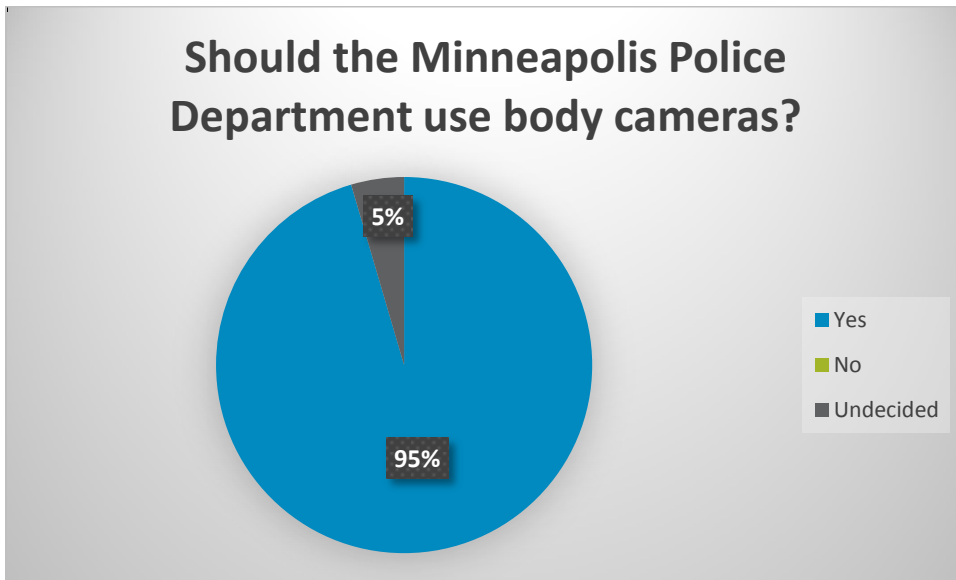
Twin Cities Pride Festival

Total Participants: 385



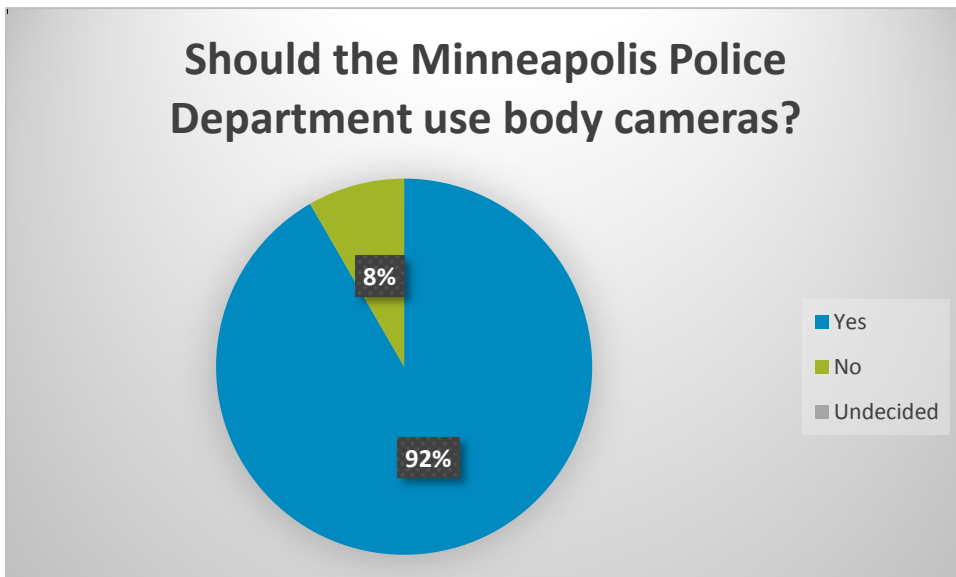
American Disabilities Act Celebration

Total Participants: 22



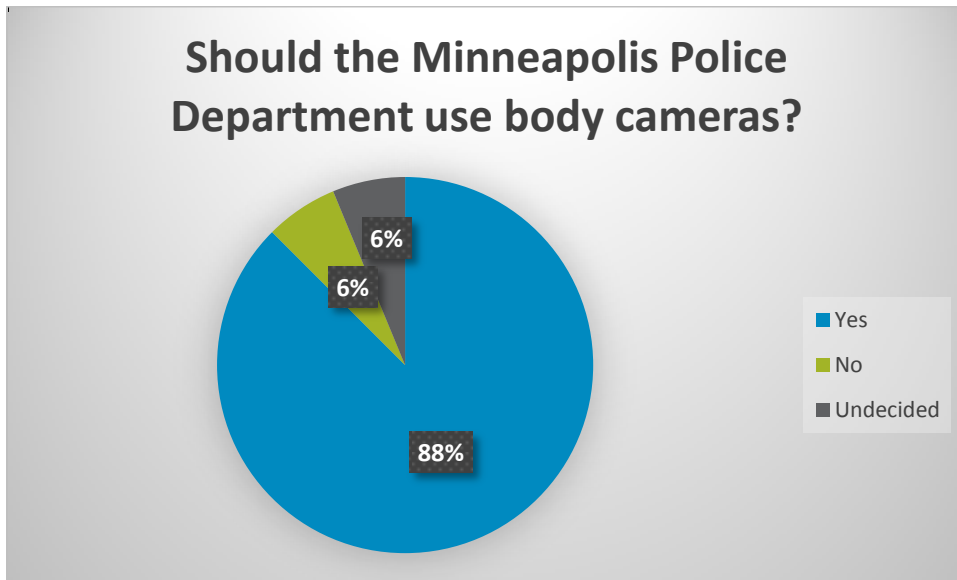
National Night Out: Near North

Total Participants: 48



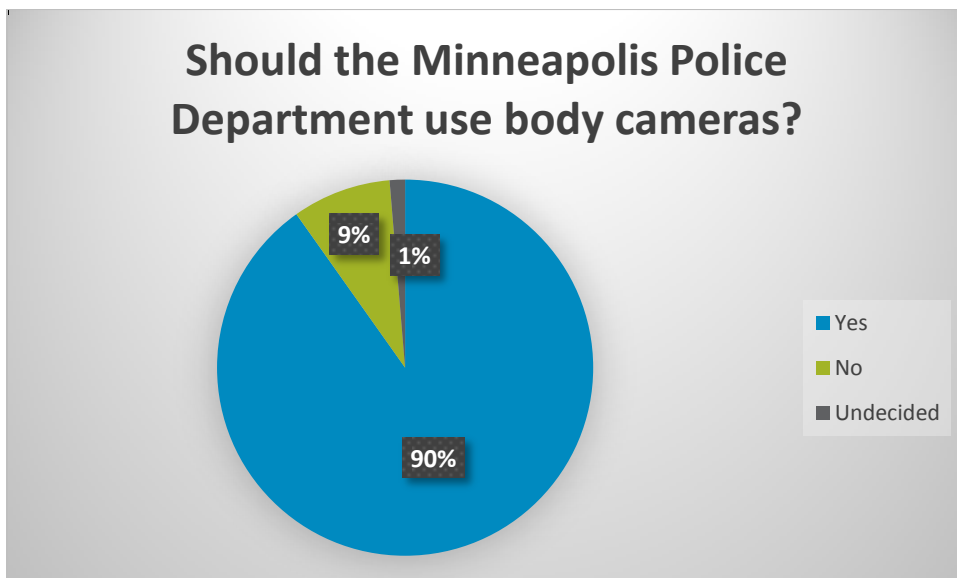
National Night Out: Camden

Total Participants: 15



Total: All Events

Participants: 529



2.3 Community Listening Session Materials

Agenda

Body Camera Listening Session 1 June 27, 2015

- **Opening Remarks from Police Conduct Oversight Commission Chair**
Andrea Brown

- **Video**
Body Camera Footage and Policy Questions

- **Small Group Discussion**

- **Feedback Session**
 - Activation
 - Deactivation
 - Restrictions
 - Notification
 - Viewing

- **Closing Remarks**
Next Meeting: July 11th, 10am
Sabathani Community Center
310 E 38th St, Minneapolis, MN 55409

Please send any additional Comments, Questions, or Feedback to pcoc@minneapolismn.gov

Agenda

Body Camera Listening Session 2 July 11, 2015

- Opening Remarks from Police Conduct Oversight Commission Chair
Andrea Brown
- Introductions of Commissioners
- Video
Body Camera Footage and Policy Issues
- Feedback Session
 - Activation
 - Deactivation
 - Restrictions
 - Notification
 - Viewing
- Closing Remarks
Next Meeting: July 25th, 10am
Minneapolis Adult Education Center
2225 East Lake Street, ROOM 140
Minneapolis, Minnesota 55407

Please send any additional Comments, Questions, or Feedback to pcoc@minneapolismn.gov

Agenda

Body Camera Listening Session 3 July 25, 2015

- Opening Remarks from Police Conduct Oversight Commission Chair
Andrea Brown
- Introductions of Commissioners
- Feedback Session
 - Activation
 - Deactivation
 - Restrictions
 - Notification
 - Viewing
- Closing Remarks

Please send any additional Comments, Questions, or Feedback to pcoc@minneapolismn.gov

CITY OF MINNEAPOLIS

Police Conduct Oversight Commission

Body Camera Listening Sessions

Video 1

Activation

When should an officer activate a Body Camera?

For the Current Policy, see “Activation” on
page 3 of the Standard Operating Procedure

Should a Body Camera
be activated for all
calls for service?

(ex. report crime, assistance at
traffic scene, welfare check)

Should a Body Camera
be activated for all law
enforcement related
activities?

(ex. traffic stop, suspicious
individual)

Are there activities
that should not be
recorded?

(ex. health emergencies,
entering private homes)

Should an officer be
required to explain
why an incident was
not recorded?

(ex. forgot to activate camera,
chose not to record because
entering a private home)

Should there be consequences for failure to activate a Body Camera?

(ex. administrative discipline,
number of failures, potential
grace period)

Video 2

Deactivation

When should a Body Camera be deactivated?

For the Current Policy, see “Deactivation” on page 4 of the Standard Operating Procedure

Should a Body Camera
be deactivated at the
end of an incident?

How should the end of
an incident be
determined?
(ex. officer discretion, when
officer leaving scene)

Should supervisors
have the power to
order that a Body
Camera be
deactivated?

Should officers be
required to explain the
reason for deactivation
on camera?

(ex. private home, civilian
request)

Should an officer
deactivate a camera
upon request by a
civilian?
(ex. because civilian wants
privacy)

Video 3

Restrictions

When should Body Camera use be restricted?

For the Current Policy, see “Restrictions” on page 2 of the Standard Operating Procedure

Should officers wear
cameras during off-
duty employment?
(ex. while providing security at a
store, private gathering)

Should SWAT officers
wear cameras?

Notification

Should officers be required to notify civilians that they are being recorded?

For the Current Policy, see “Officer Responsibilities” on page 2 of the Standard Operating Procedure

Viewing

Should officers review
videos before
writing a report or
giving a statement?

For the Current Policy, see “Report Writing”
on page 4 of the Standard Operating
Procedure

Should supervisors be
able to review videos
for policy compliance?
(ex. activation/deactivation
standards)

Should supervisors be
able to review videos
for police misconduct?

Should supervisors be
able to review videos
when a civilian
complaint has been
made?

For more information about the
Police Conduct Oversight
Commission visit:

[www.ci.minneapolis.mn.us/civil
rights/conductcomm/index.htm](http://www.ci.minneapolis.mn.us/civilrights/conductcomm/index.htm)

Additional Comments?

Email:

PCOC@minneapolis.gov

Questions on Body Camera Implementation



- **Activation**

1. When should an officer activate a Body Camera?
2. Should a Body Camera be activated for all calls for service?
3. Should a Body Camera be activated for all law enforcement related activities?
4. Are there activities that should not be recorded?
5. Should an officer be required to explain why an incident was not recorded?
6. Should there be consequences for failure to activate a Body Camera?

- **Deactivation**

1. When should a Body Camera be deactivated?
2. Should a Body Camera be deactivated at the end of an incident?
3. How should the end of an incident be determined?
4. Should supervisors have the power to order that a Body Camera be deactivated?
5. Should officers be required to explain the reason for deactivation on camera?

- **Restrictions**

1. When should Body Camera use be restricted?
2. Should officers wear cameras during off-duty employment?
3. Should SWAT officers wear cameras?

- **Notification**

1. Should officers be required to notify civilians that they are being recorded?

- **Viewing**

1. Should officers review videos before writing a report or giving a statement?
2. Should supervisors be able to review videos for policy compliance?
3. Should supervisors be able to review videos for police misconduct?
4. Should supervisors be able to review videos when a civilian complaint has been made?

Notes

Should the Minneapolis
Police Department use
body cameras?

Yes

No

Should the Minneapolis
Police Department use
body cameras?

Yes

No

Should the Minneapolis
Police Department use
body cameras?

Yes

No

Should the Minneapolis
Police Department use
body cameras?

Yes

No

Public Access to Body Camera Footage

This Listening Session does not cover the issue of who will have access to the body camera footage. This is because the issue is governed by state law and can only be altered by the Minnesota Legislature.

Body camera footage is currently public and governed by Minnesota Statute 13.82. This Statute only allows for a small number of exceptions to footage being public, including the identities of undercover police officers, victims of sexual assault, informants, and mandated reporters. Beyond these exceptions, body camera footage being public means that anyone can request the footage, receive it, and have no restrictions on how it is used.

Public access is a concern for community members who do not want their interactions with police to be publicly released, whether it is interactions in their home, at their work, when reporting a crime, or when engaged in criminal activity. It is also a concern for the Police Department, since requests for large amounts of footage are probable and their preparation and release will drain Department resources.

Last legislative session, a bill was proposed but failed to pass that would have classified body camera footage as private, with the exception of footage taken in public places, of a police officer using a deadly weapon or force that resulted in substantial bodily harm, which would remain public. Under the bill, footage deemed private would still be available to community members recorded in the video, just not other members of the public.

Though that proposed bill did not pass, there will likely be similar efforts in the future. If you are interested in expressing your views on how body camera footage should be classified, please contact your Minnesota legislators.

To find your district representatives, search by zip code at:

<http://www.gis.leg.mn/OpenLayers/districts/>

Or call: 1 (800) 657-3550

3. Burnsville Police Department Mobile Video Recorders

Mobile Video Recorders

800.1 PURPOSE AND SCOPE

The Burnsville Police Department has equipped uniformed officers with Mobile Video Recording (MVR) systems to document events during the course of an incident. This policy provides guidance on the use and management of the systems and the recorded media.

800.1.1 DEFINITIONS

- (a) **Activate** - Any process that causes the MVR system to transmit or store audio-visual signals.
- (b) **Evidence.com** - The online web-based digital media storage facility. The virtual warehouse stores digitally-encrypted data (photographs, audio and video recordings) in a highly secure environment. The digital recordings are accessible to authorized personnel based upon a security clearance and maintains an audit trail of user activity.
- (c) **MGDPA** - The Minnesota Government Data Practices Act, Minn. Stat. Chapter 13.
- (d) **Mobile Video Recorder (MVR)** - This refers to any system that captures audio and video signals that is capable of installation in a vehicle or individually worn by officers.
- (e) **MVR Administrator** - Designated personnel certified or trained in the operational use of MVRs, storage and retrieval methods and procedures who assigns, tracks and maintains MVR equipment, oversees needed repairs or replacement equipment through the vendor, controls user rights and access, and acts as a liaison with the vendor. Also responsible for the training of law enforcement operators on the use of the MVR.
- (f) **Recorded Media** - Audio-video signals recorded or digitally stored on a storage device or portable media.

800.2 POLICY

The Burnsville Police Department may equip officers with access to Mobile Video Recorders for use during the performance of their duties. Use of recorders is intended to enhance the Department's mission by accurately documenting contacts between officers of the Department and the public.

800.2.1 MOBILE VIDEO RECORDER OBJECTIVES

The Burnsville Police Department has adopted the use of MVRs to accomplish the following objectives:

- (a) To enhance officer safety.
- (b) To document statements and events during the course of an incident.
- (c) To enhance the officer's ability to document and review statements and actions for both internal reporting requirements and for courtroom preparation/presentation.
- (d) To preserve audio and visual information for use in current and future investigations.
- (e) To provide a tool for self-critique and field evaluation during officer training.

Burnsville Police Department

Policy Manual

Mobile Video Recorders

- (f) To enhance the public trust by preserving factual representations of officer-citizen interactions in the form of audio-video recordings.
- (g) To assist with the defense of civil actions against law enforcement officers and the City of Burnsville.
- (h) To assist with the training and evaluation of officers.

800.3 OFFICER RESPONSIBILITIES

Officers who are issued an MVR will, as part of their uniform, wear and activate the MVR consistent with this policy. Prior to going into service each officer will properly equip him/herself to record audio and video in the field. The exception is if the officer's MVR system is not functioning and the MVR administrator and Watch Commander have been notified.

At the start of each shift, officers will confirm the MVR system is operational in accordance with manufacturer specifications and department operating procedures and training.

During their shift, officers will follow the established policies and procedures for documenting, categorizing and retaining any recorded media.

Any time an officer reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the officer should promptly notify a supervisor of the existence of the recording.

Malfunctions, damage, loss or theft of MVR equipment shall immediately be reported to the Watch Commander and MVR administrator.

MVRs shall not be worn while officers are engaged in outside agency employment, unless previously authorized by a Watch Commander.

800.4 SUPERVISOR RESPONSIBILITIES

Supervisors shall ensure officers are using their MVR equipment per policy.

Supervisors should determine corrective action for non-functioning MVR equipment.

When an incident arises that requires the immediate retrieval of the recorded media (e.g., serious crime scenes, peace officer-involved shootings, department-involved collisions), a supervisor shall respond to the scene and ensure that the MVR is properly uploaded.

800.5 ACTIVATION OF THE MVR

The MVR system will be used to document events and the media recordings are to be preserved in a webbased digital storage facility. If no recording is made, the officer should be able to explain why their MVR was not activated.

800.5.1 REQUIRED ACTIVATION OF THE MVR

This policy is not intended to describe every possible situation in which the MVR system may be used, although there are many situations where its use is appropriate. An officer may activate the

Burnsville Police Department

Policy Manual

Mobile Video Recorders

system any time the officer believes its use would be appropriate and/or valuable to document an incident.

At no time is an officer expected to jeopardize his/her safety in order to activate the MVR. However, the MVR should (a generally required or expected action) be activated in the following situations as soon as practicable:

- (a) All field contacts involving actual or potential criminal conduct, including but not limited to:
 - 1. Traffic stops (to include, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops).
 - 2. Priority responses.
 - 3. Vehicle pursuits.
 - 4. Suspicious Vehicles.
 - 5. Arrests.
 - 6. Vehicle searches.
 - 7. Physical or verbal confrontations or use of force.
 - 8. Prisoner transports.
 - 9. Non- custody transports.
 - 10. Pedestrian checks.
 - 11. DWI investigations including field sobriety tests.
 - 12. Taking a statement or information from a suspect or witness.
 - 13. Medical incidents attended to by members of the Department.
- (b) All self-initiated activity in which an officer would normally notify the Dakota Communications Center.
- (c) Any call for service involving a crime where the MVR may aid in the apprehension and/or prosecution of a suspect, including but not limited to:
 - 1. Family violence calls.
 - 2. Disturbance of peace calls.
 - 3. Offenses involving violence or weapons.
- (d) Any other contact that becomes adversarial after the initial contact, in a situation that would not otherwise require recording.
- (e) Any other circumstance where the officer, through training and experience, believes that a recording of an incident would be appropriate.

800.5.2 CESSATION OF RECORDING

Once activated the MVR system should remain on continuously until the officer's direct participation in the incident is complete or the situation no longer fits the criteria for activation.

Mobile Video Recorders

Recording may be temporarily ceased to exchange information with other officers. The reason to cease and resume recording will be noted by the officer either verbally on the MVR or in a written report.

Recording may cease during non-enforcement activities such as waiting for a tow truck or a family member to arrive, or in other similar situations.

800.5.3 WHEN ACTIVATION IS NOT REQUIRED

Activation of the MVR system is not required:

- (a) During encounters with undercover officers or informants.
- (b) When an officer is on break or is otherwise engaged in personal activities.
- (c) In any location where individuals have a reasonable expectation of privacy, such as a restroom, locker room or break room.
- (d) When not in service or actively on patrol.

Officers will try to avoid recording videos of persons who are nude or when sensitive human areas are exposed.

800.5.4 USE OF RECORDERS

Minnesota law permits an individual to record any conversation in which one party to the conversation has given his/her permission (Minn. Stat. § 626A.02).

Officers of the Department may record any conversation during the course of a criminal investigation in which the officer reasonably believes that such a recording will be lawful and beneficial to the investigation.

Members shall not record another department member without a court order unless lawfully authorized by the Chief of Police, or authorized designee, for the purpose of conducting a criminal investigation.

800.6 PROHIBITED USE OF RECORDERS

Intentional interference with the MVR system is strictly prohibited.

Officers are prohibited from using department-issued MVR equipment for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity.

The MVR will not be intentionally activated to record conversations of fellow employees without their knowledge during routine, non-enforcement related activities.

There shall be no audio or video recordings made in any court of law, unless authorized by a judge (Minn. Court Rule 4, General Rules of Practice).

Mobile Video Recorders

800.8 DOCUMENTING MVR USE

If any incident or video statements are recorded with the MVR system, the existence of that recording shall be documented in the officer's report. A video statement is not a replacement for a written or audio tape-recorded statement.

If a citation is issued, the officer shall make a notation on the citation indicating that the incident was recorded.

800.9 RECORDING MEDIA STORAGE AND INTEGRITY

At the end of their shift, officers shall place the MVR into the docking station. This will allow the data to be transferred from the MVR through the docking station to Evidence.com. The data is considered impounded at this point and the MVR is cleared of existing data. The MVR should not be removed from the docking station until the data has been uploaded and the battery has been fully recharged.

800.9.1 COPIES OF RECORDING MEDIA

Evidentiary copies of digital recordings will be accessed and copied from Evidence.com for official law enforcement purposes only. Access rights may be given to the Dakota County Attorney, the Burnsville City Attorney, or other prosecutorial agencies associated with any future prosecution arising from an incident in which the MVR was utilized.

Officers shall ensure relevant recordings are preserved. Officers or MVR administrators may prevent automatic deletion by changing the category of the media at any time prior to deletion.

800.10 SYSTEM OPERATIONAL STANDARDS

- (a) MVR system use should be based on officer safety requirements and device manufacturer recommendations.
- (b) The MVR system should be configured to minimally record for 30 seconds prior to activation.
- (c) Officers shall select a category (case file, citation, miscellaneous, permanent, extraneous or training) for each digital recording.
- (d) Digital recordings shall be retained according to the Department's retention schedule or as required by the rules of evidence, unless a specific request is made to store them for a longer period of time by an authorized person.
- (e) Officers shall not attempt to delete, alter, reuse, modify or tamper with MVR recordings.

800.11 MVR ADMINISTRATOR RESPONSIBILITIES

The MVR administrator is responsible for deleting media:

- (a) Pursuant to a court order.
- (b) In accordance with established records retention policies, including reissuing all other media deemed to be of no evidentiary value.
- (c) In instances where privacy issues are noted.

Mobile Video Recorders

- (d) Ordering, issuing, retrieving and storing all MVR equipment.
- (e) Logs reflecting MVR equipment assignments, serial number, the date it was issued, and the officer to which it was issued.

800.12 CLASSIFICATION OF MVR DATA

Nothing in this policy shall be interpreted as changing the underlying classification of data collected by MVR systems. The classification of data collected by MVR systems will need to be determined on a case-by-case basis upon application and interpretation of the MGDPA and other laws.

800.13 TRAINING

Users of the MVR systems and supervisors shall successfully complete an approved course of instruction prior to being deployed. This training shall be documented by the Staff Sergeant.

800.13 USE AND REVIEW OF MVR RECORDINGS

All recordings are the property of the agency and subject to the provisions of the MGDPA. Dissemination outside of the agency is strictly prohibited except to the extent permitted or required under the MGDPA, Peace Officer Discipline Procedures Act (Minn. Stat. § 626.89), or other applicable law.

Supervisors are authorized to review recordings whenever such recordings would be beneficial in reviewing the officer's performance or actions.

Recorded files may also be reviewed:

- (a) For use when preparing reports or statements.
- (b) To review for court preparation.
- (c) By an officer who is captured on or referenced in the video or audio data and reviews and uses the data for any purpose relating to any legitimate law enforcement purpose.
- (d) To assess proper functioning of MVR systems.
- (e) By department personnel who are participating in an official investigation such as a personnel complaint, administrative inquiry or a criminal or civil investigation.
- (f) To determine applicable City Ordinance violations for subsequent actions.
- (g) By court and prosecutorial personnel through proper process or with permission of the Chief of Police or Division Commander.
- (h) By the media through a valid MGDPA request (Minn. Stat. § 13.01 et seq.).
- (i) To assess possible training value.
- (j) Officers will be notified if their recordings may be shown for staff or public safety training purposes. If an involved officer objects to showing a recording, his/her objection will be submitted to the Division Commander to determine if the training value outweighs the officer's objection.

Burnsville Police Department

Policy Manual

Mobile Video Recorders

- (k) Officers will typically not allow citizens to review the recordings; however, officer discretion is allowed to replay the video recording to citizens at the scene in order to mitigate possible complaints or as part of an investigation.

In no event shall any recording be used or shown for the purpose of ridiculing, embarrassing or intimidating any employee; this includes submission of any portion of a video recording to a media organization.

4. Duluth Police Department Policy Manual: Mobile Video recorder Policy

Mobile Video Recorder Policy

418.1 PURPOSE AND SCOPE

The Duluth Police Department has equipped marked patrol cars and law enforcement operators with Mobile Video Recording (MVR) systems. The purpose of this policy is to provide law enforcement operators with guidelines for the use, management, access, storage, retrieval and retention of audio-visual media recorded by MVR systems.

418.1.1 DEFINITIONS

Definitions related to this policy include:

Activate - Any process that causes the MVR system to transmit or store audio-visual signals

Audio Recording - any media that captures and records audio signals

Mobile Video Recorder (MVR) - Any system that captures audio-visual signals that is capable of installation in a vehicle or worn by an LEO and that includes at minimum, a camera, microphone and recorder.

Law Enforcement Operator (LEO) - Primarily a licensed peace officer but on occasion may be a non-licensed representative of the Duluth Police Department who is authorized and assigned to operate MVR equipment.

MGDPA - The Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13.

PODPA – The Peace Officer Discipline Procedures Act, Minnesota Statutes Section 626.89.

Property and Evidence Technician - Personnel certified or trained in receiving and storing evidence and property, maintaining property inventory reports with proper "chain of custody" notations and any and all actions associated with the property or evidence.

MVR Administrator – Typically a Sergeant or a designee, who assigns, tracks and maintains MVR equipment, oversees needed repairs or replacement equipment through the vendor, controls user rights and access, and acts as a liaison with the vendor.

MVR Technician - Personnel certified or trained in the operational use and repair of MVRs, duplicating methods, storage and retrieval methods and procedures, and who possess a working knowledge of video forensics and evidentiary procedures.

Recorded media – Audio-visual signals that are recorded or stored.

Smart Device - A smart device is a device that is digital, active, computer networked, is user reconfigurable and that can operate to some extent autonomously. Devices that fall into this category are smartphones, and tablets.

418.2 POLICY

It is the goal of the Duluth Police Department to use mobile video recording (MVR) technology to more effectively fulfill the department's mission and to ensure these systems are used securely,

Duluth Police Department

Policy Manual

Mobile Video Recorder Policy

efficiently and in compliance with the law. The MVR is not intended to be used for the purpose of surveillance of officers or initiating disciplinary action against an officer.

418.3 MVR OPERATIONAL OBJECTIVES

The Duluth Police Department has adopted the use of Mobile Video Recorders to accomplish the following objectives:

- A. To enhance LEO safety.
- B. To document statements and events during the course of an incident.
- C. To enhance the LEO's ability to document and review statements and actions for both internal reporting requirements and for courtroom preparation/presentation.
- D. To preserve visual and audio information for use in current and future investigations.
- E. To provide a tool for self-critique and field evaluation during LEO training.
- F. To enhance the public trust by preserving factual representations of LEO-citizen interactions in the form of recorded media.
- G. To assist with the defense of civil actions against LEO's and the City of Duluth.
- H. To assist with the training and evaluation fo officers.

418.4 LEO RESPONSIBILITIES

LEO safety shall be the primary consideration for the use and activation of the MVR system. LEOs that are issued a body-worn MVR will wear the MVR as part of their uniform. Inspection and general maintenance of MVR equipment shall be the responsibility of the LEO to whom the MVR is assigned. LEOs should periodically test the MVR system operation in accordance with manufacturer specifications and department operating procedures and training, as determined at the discretion of the Duluth Police Department. If a vehicle mounted MVR system is malfunctioning, the LEO shall as soon as reasonably possible, notify a supervisor who will determine whether the vehicle will remain in service. If the body worn MVR is malfunctioning the LEO shall as soon as reasonably possible notify a supervisor. If any MVR system is damaged or stolen, the LEO shall, as soon as reasonably possible, notify a supervisor.

At the end of each shift, the LEO will follow the established policies and procedures for documenting and retaining any recorded media.

The use of body-worn MVRs is optional while engaged in extra-duty employment. A LEO who chooses to wear an MVR while engaged in extra-duty employment is not required to activate the MVR for every contact made. However, such officer shall be expected to activate the MVR if a situation or incident occurs which would otherwise require activation, when safe to do so.

The body-worn MVR shall not be worn while LEOs are engaged in outside agency employment or non-duty employment.

Mobile Video Recorder Policy

418.5 MVR OPERATING PROCEDURES

The MVR may be activated either automatically in the case of vehicle mounted MVR's or manually by the LEO.

418.5.1 REQUIRED ACTIVATION OF THE MVR

This policy is not intended to describe every possible situation in which the MVR system may be used, although there are many situations where its use is appropriate. A LEO may activate the system at any dispatched call, on view or contact in which its use is appropriate.

In some circumstances it is not possible to capture images of the incident due to conditions or the location of the camera. However, even when the incident may be outside of the video range, the LEO is encouraged to activate the MVR to capture the audio portion of the incident.

An officer shall activate the MVR system, if practical and without compromising the safety of the officer or the public, in the following circumstances:

- traffic stops (to include, but not limited to traffic violations, stranded motorist assistance and all crime interdiction stops);
- priority responses;
- vehicle pursuits;
- arrests;
- vehicle searches;
- physical or verbal confrontations;
- use of force;
- prisoner transports;
- crimes in progress;
- taking a statement or information from a suspect or witness;
- when ordered by a supervisor for proper purposes; or
- any situation or incident that the officer, through training and experience, believes should be audibly and/or visually preserved.

Portable MVR equipment shall be activated in these circumstances even if the in-squad system is activated, pro

418.5.2 CESSATION OF RECORDING

Once activated, the MVR system should remain on until the incident has concluded unless:

- (a) the incident or event is of such duration that the MVR is deactivated to conserve power or storage capacity;
- (b) the officer does not reasonably believe that deactivation will result in the loss of critical evidence;
- (c) deactivation is reasonable and necessary to protect the safety of the officer or others; or
- (d) deactivation is approved or ordered by a supervisor.

Mobile Video Recorder Policy

- (e) deactivation is necessary to protect the identity of persons or other data entitled to protection under the M
- (f) upon request by the victim of a crime, provided that it does not conflict with (b) or (c) above.

For purposes of this section, conclusion of an incident has occurred when all arrests have been made, arrestees have been transported and witnesses and victims have been interviewed. Recording may be temporarily paused to exchange information with other LEOs. The intention to pause and resume the recording will be noted by the LEO either verbally on the MVR or in a written notation. Recording may cease during non-enforcement activities such as waiting for a tow truck or a family member to arrive, protecting accident scenes or in other non-enforcement situations.

418.5.3 PROHIBITED RECORDING

An MVR shall not be activated with regard to interactions solely among other employees.

The MVR shall not be used to record non-work related activity.

The LEO shall not use any external device to record media that has been captured by the MVR, nor shall they a

The LEO will cease recording once they have entered the sally port at the St. Louis County Jail.

418.5.4 SUPERVISOR RESPONSIBILITIES

Supervisors should determine if vehicles with non-functioning MVR systems should be placed into service. If these vehicles are placed into service, the appropriate documentation should be made. The MVR administrator is to be notified in writing of the suspected cause of equipment failure or recommendations for corrective action.

At reasonable intervals, supervisors should validate that:

- (a) MVR policies and procedures are followed.
- (b) Logs reflect the proper chain of custody, including:
 1. The tracking number of the MVR system media.
 2. The date it was issued.
 3. The LEO or the vehicle to which it was issued.
 4. The date it was submitted.
 5. LEO submitting the media.
 6. Holds for evidence indication and tagging as required.
- (c) It is recommended that the operation of MVR systems by new employees is assessed and reviewed no less than biweekly or until the new employee demonstrates a working knowledge of the MVR system and the applicable policies and procedures.

When an incident arises that requires the immediate retrieval of the recorded media (e.g., serious crime scenes, peace LEO-involved shootings, department-involved collisions), a supervisor should respond to the scene and ensure recorded media is secured in accordance with department

Mobile Video Recorder Policy

policy. The media shall be processed and retained in accordance with current procedures for recorded media.

418.6 REVIEW OF RECORDED MEDIA

All recorded media, recorded images and audio recordings are the property of the agency and is government data subject to the provisions of the MGDPA. Dissemination outside of the agency is strictly prohibited except to the extent permitted or required under the MGDPA, PODPA or other applicable law.

Access to MVR data will be determined in a manner consistent with the MGDPA, PODPA or other applicable law. When access to MVR data is authorized by applicable law, the Duluth Police Department will also provide to the person accessing the data a copy of the Department's Video and Audio Advisory (Appendix A). The Department's Video and Audio Advisory is not required to be given to partner agencies.

To prevent damage to, or alteration of, the original recorded media; it shall not be copied, viewed or otherwise inserted into any device not approved by the department MVR technician or forensic media staff. When reasonably possible a copy of the original media shall be used for viewing (unless otherwise directed by the courts) to preserve the original media.

Recorded media may be reviewed in any of the following situations.

- (a) For use when preparing reports or statements;
- (b) By a supervisor investigating an official complaint;
- (c) By a supervisor to assess LEO performance;
- (d) To assess proper functioning of MVR systems;
- (e) By department investigators assigned to a related criminal investigation, or after approval of a supervisor, for official investigations;
- (f) By an LEO who is captured on or referenced in the video or audio data and reviews and uses the data for any purpose relating to his/her employment;
- (g) By court personnel through proper process;
- (h) Recorded media may be shown for staff or public safety training purposes. If an involved LEO objects to showing a recording, his/her objection will be submitted to the staff to determine if the training value outweighs the LEO's objection.
- (i) An officer is entitled to access audio and video data: derived from MVR equipment issued to him/her; in which his/her voice or image appears; when reasonable and necessary for the officer to perform the essential functions of his/her job; or to defend against allegations of substandard performance or misconduct.
- (j) An officer shall not make a copy of any audio or video data without the prior approval of a supervisor.

Duluth Police Department

Policy Manual

Mobile Video Recorder Policy

- (k) Supervisors shall not access or review audio or video data involving an employee under their supervision for the purpose of surveillance of the employee or initiating disciplinary action against the employee. However, data collected by the MVR may be used as evidence relating to a complaint of misconduct made against an officer.
- (l) The Department shall restrict by password protection access to all audio and video data and shall maintain an electronic record of the date, time and person with regard to each access to data.

Employees desiring to view any previously uploaded or archived MVR data should submit a request in writing to the Watch Commander. Approved requests should be forwarded to the MVR technician for processing.

In no event shall any MVR data be used or shown for the purpose of ridiculing or embarrassing any employee.

See Attachment: [Attachment A.pdf](#)

418.7 DOCUMENTING MVR USE

If any incident is captured with the video or audio system, the existence of that recorded media shall be documented in the LEO's report. If a citation is issued, the LEO shall make a notation on the records copy of the citation indicating that the incident was recorded.

418.8 RECORDED MEDIA STORAGE AND RETENTION

Once submitted for storage all recorded media will be labeled and stored in a designated secure area. All recorded media that is not booked in as evidence will be retained in compliance with our evidence and property retention policies 801 and 802. Recorded media that is not evidence will be retained for 60 days.

The LEO, MVR Technician or MVR Administrator may prevent automated deletion by changing the category of the media at any time prior to deletion or within one week after the deletion date. Any media related to an internal investigation of a LEO or from an incident in which a signed complaint is made regarding a LEO, shall be retained for a minimum of six years. Destruction of data in accordance with this policy does not alter the duty to defend and indemnify set forth in Minnesota Statutes Section 466.07.

418.9 SYSTEM OPERATIONAL STANDARDS

- (a) MVR system vehicle installations should be based on LEO safety requirements, Duluth Police Department discretion and vehicle and device manufacturer recommendations.
- (b) The MVR system should be configured to minimally record no more than 30 seconds prior to an activation.
- (c) The MVR system should not be configured to record audio data occurring prior to activation.

Duluth Police Department

Policy Manual

Mobile Video Recorder Policy

- (d) LEOs using digital transmitters that are individually synchronized to their individual MVR should activate both audio and video recordings when responding in a support capacity in order to obtain additional perspectives of the incident scene.
- (e) With the exception of law enforcement radios or other emergency equipment other electronic devices should not be used within the law enforcement vehicle in order to intentionally interfere with the capability of the MVR system to record audio data.
- (f) LEOs shall not intentionally erase, alter, reuse, modify or tamper with MVR data. Only a supervisor, MVR administrator, MVR technician or other approved designee may erase and reissue previously recorded media in accordance with this policy.

418.10 PROPERTY AND EVIDENCE TECHNICIAN RESPONSIBILITIES

The Property and Evidence Technician is responsible for:

- (a) Retrieving, storing, erasing and duplicating of all recorded media.
- (b) Collecting all completed media for oversight. Once collected the Property and Evidence Technician:
 - 1. Ensures it is stored in a secured location with authorized controlled access.
 - 2. Makes appropriate entries in the chain of custody log.
- (c) Erasing of media:
 - 1. Pursuant to a court order.
 - 2. In accordance with established records retention policies.
- (d) Ensuring that an adequate supply of recording media is available.
- (e) Managing the long-term storage of media that has been deemed to be of evidentiary value in accordance with the department evidence storage protocols and the records retention schedule.

418.11 TRAINING

Users of the MVR systems and supervisors shall successfully complete an approved course of instruction prior to being deployed with MVR systems in operational settings.

418.12 CLASSIFICATION OF MVR DATA

Nothing in this policy shall be interpreted as changing the underlying classification of data collected by the MVR systems. The classification of data collected by the MVR systems will need to be determined on a case by case basis. The factors that will determine the classification include the specific facts and circumstances surrounding the data, the application of the relevant policies and procedures as well as application and interpretation of the MGDPA and other laws.

Duluth Police Department

Policy Manual

Mobile Video Recorder Policy

418.13 USE OF PERSONAL DIGITAL RECORDING DEVICES

The Duluth Police Department prefers that employees exclusively use their department-issued digital recording devices to record or collect evidence. However, the Department recognizes that, in rare or unforeseen situations, it may be necessary to use your personal digital recording equipment to record or collect evidence. If you use a personal digital recording device, you must upload that media into SHIELD or save to a DVD and place into evidence.

5. District of Columbia General Police Order: Body-Worn Video Procedures Established

GENERAL ORDER



DISTRICT OF COLUMBIA

Title		
Body-Worn Camera Program		
Topic	Series	Number
SPT	302	13
Effective Date		
June 29, 2015		
Rescinds:		
SO-14-14 (Body Worn Camera Pilot Program), Effective Date December 9, 2014		
TT 10-096-14 (Arrests Made When Body Worn Cameras are in Operation), Effective Date October 21, 2014		
Related to:		
GO-OPS-301.03 (Vehicle Pursuits)		
GO-PER-302.01 (Calls for Police Services)		
GO-SPT-303.01 (Traffic Enforcement)		
GO-OPS-304.11 (Intra-family Offenses)		
GO-SPT-401.01 (Field Reporting System)		

I.	Background	Page 1
II.	Policy	Page 1
III.	Definitions	Page 2
IV.	Regulations	Page 3
V.	Procedures	Page 6
V.A.	BWC-Equipped Members	Page 6
V.B.	BWC Recording Categories	Page 12
V.C.	Accidental Recordings	Page 14
V.D.	Access and Review	Page 15
V.E.	Investigative Reviews and Member Access	Page 15
V.F.	Warrants	Page 16
V.G.	Retention	Page 17
V.H.	BWC Recordings Used in Training	Page 18
VI.	Roles and Responsibilities	Page 18
VII.	Cross References	Page 24
VIII.	Attachments	Page 24

I. BACKGROUND

Law enforcement use of body worn cameras (BWCs) has proven effective in reducing violent confrontations, uses of force, and complaints against officers. The purpose of this order is to outline the policy and procedures for the use of BWCs by members of the Metropolitan Police Department (MPD).

II. POLICY

It is the policy of the MPD to use BWCs to further the mission of the Department, promote public trust, and enhance service to the community by accurately documenting events, actions, conditions, and statements made during citizen encounters, traffic stops, arrests, and other incidents, and to help ensure officer and public safety.

III. DEFINITIONS

1. Body-worn camera (BWC) – a camera system with secured internal memory for storage of recorded audio and video that is designed to be worn on the clothing of or otherwise secured to a person.
2. BWC Unit Coordinators – members the rank of lieutenant or above who are designated by their commander to assist with the implementation and use of BWCs within their district/element by providing assistance and guidance to members who are assigned BWCs.
3. Central complaint number (CCN) – the unique eight-digit number that the Office of Unified Communications (OUC) issues to MPD members upon request when recording events via an incident or offense report, arrest, or other type of event. The first two digits of the CCN correspond to the last two digits of the year in which the report is being taken.
4. Digital evidence – BWC files, including photographs, audio recordings and video footage, captured by a BWC and stored digitally.
5. Docking station – Hardware connected to MPD’s network that is designed to offload recordings from the BWC.
6. Metadata – central complaint numbers (CCNs) and other descriptors used to identify and determine the categorization and retention period for the BWC recordings.
7. MPD BWC Coordinator – member who is designated by the Chief of Police to oversee the body worn camera program. The MPD BWC Coordinator may be contacted at bwproject@dc.gov.
8. Member – sworn MPD employee or MPD Reserve Corps member.
9. Official – sworn member the rank of sergeant or above.
10. Operational readiness – an operational and charged BWC with any data from the previous shift uploaded to an MPD-approved storage database.
11. School-based events – Student or school-related crimes and incidents that involve students **and** occur on private, public, or charter school grounds or within close proximity to schools. School-based events **do not** include safe passage assignments, non-critical contacts with students, or mediations of minor incidents.

IV. REGULATIONS

- A. Members shall successfully complete MPD BWC training relating to this policy as well as for the activation, use, annotation, and uploading of data, prior to being issued a BWC.
- B. Members shall follow existing officer safety policies when conducting enforcement stops as outlined in Department policies and procedures. Member safety shall be the primary consideration when contacting citizens or conducting vehicle stops, not the ability to record an event.

NOTE: Members are reminded that their BWC will “beep” twice every two minutes to remind them that their camera is activated. Members are cautioned that they should turn the “beep” volume down in situations where it may compromise their safety.

- C. Members shall mount their BWCs at the beginning of their shift in one of the methods approved by the Department (Attachment A) using only the MPD-issued mounting equipment. The BWC shall be worn for the entire shift.
- D. During their shift, members shall maintain their BWC in a constant state of operational readiness.
- E. When practicable, members shall inform contact subjects that they are being recorded at the beginning of the contact (e.g. “Ma’am/Sir, I am advising you that our interaction is being recorded.”)
- F. The viewing of BWC recordings at the scene of an incident is prohibited.
 - 1. Requests for BWC recordings by the public shall be referred to the Freedom of Information Act (FOIA) Office, Office of the General Counsel.
 - 2. Upon receipt of allegations of serious misconduct as defined in GO-PER-120.23 (Serious Misconduct Investigations) that occurs during their shift, watch commanders shall review BWC recordings as soon as possible, but in all cases prior to the end of their shift.
- G. In accordance with GO-SPT-304.18 (Language Access Programs), members shall ensure that they provide language access services to all limited and non-English proficient (LEP/NEP) persons in a timely and effective manner. Members shall provide LEP/NEP persons with a MPD and Body Worn Camera Recording Notice (Attachment B) in the appropriate language at the beginning of the BWC recording when practicable.

NOTE: MPD and Body Worn Camera Recording Notices are available in the following languages: Amharic, Chinese, French, Korean, Spanish, and Vietnamese.

- H. All recordings associated with BWCs are the sole property of MPD.
- I. Members shall only use MPD-issued BWCs.
- J. BWCs shall only be used by members while they are on-duty and working in an official law enforcement capacity.
- K. Members **shall not** wear their BWCs while working outside employment.
- L. BWCs shall be considered a member's required equipment when working Department sanctioned overtime (e.g., reimbursable details or nightlife deployments).
- M. Members **shall not**:
 - 1. Remove, dismantle, or tamper with any hardware or software component or part associated with BWCs applications.
 - 2. Destroy, disseminate, edit, alter, modify, tamper with, or otherwise use BWC recordings without the written permission of the Chief of Police. Members who tamper with BWC recordings may be subject to criminal investigation and/or prosecution.
 - 3. Copy or download a BWC recording without written approval of an official. BWC recordings shall only be shared for official law enforcement purposes.
 - 4. Delete any BWC recording except as specified in Part V.C of this order (i.e., accidental recordings).
 - 5. Record, view, download or convert any BWC recording for personal use.
 - 6. Use any other member's assigned BWC.
 - 7. Use MPD-issued BWCs while off-duty or take their BWCs home.
 - 8. Record on private space unless present for a lawful purpose.
 - 9. Record personal activity.
 - 10. Record conversations of members without their knowledge during routine, non-enforcement related activities.
 - 11. Record gratuitous or obscene images, such as the effects of extreme violence or injury, unless necessary for evidentiary documentation.

12. Record a particular person based solely on the person's race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, family responsibility, homelessness status, physical disability status, matriculation, or political affiliation.
 13. Record in places where a reasonable expectation of privacy exists, such as locker rooms or restrooms, unless the activation is required for the performance of official duties.
 14. Intentionally or willingly record confidential informants or undercover members.
 15. Use any other electronic device or other means in order to intentionally interfere with the capability of the BWC.
 16. Post recordings to any social media site.
 17. End a recording based solely on a citizen's request unless the citizen wishes to provide an anonymous tip. In cases where the citizen continues to request that a recording be turned off, and the member cannot resolve the issue, the member shall request that an official respond to the scene to assist.
 18. View recordings for anything other than official law enforcement purposes.
- N. BWC recordings shall only be stored on MPD-approved storage databases. Members shall ensure all BWC data is uploaded at the end of their shift, and when necessary, during their shift, to ensure storage capacity of their BWC is not exceeded.
- O. Members are reminded that BWC recordings do not replace field reports or other required documentation.
- P. Members shall ensure they turn in their BWC prior to or at the end of their shift and store BWC devices in designated, secured storage locations at MPD facilities when devices are not in use.
- Q. Members who are in a less than full duty status for more than 30 days shall turn in their cameras to their BWC Unit Coordinator for reassignment in accordance with Part VI.C.3 of this order.
- R. When reviewing BWC recordings, in accordance with GO-PER-120.21 (Disciplinary Procedures and Processes), members shall immediately notify officials upon observing, or becoming aware of, an alleged violation of Department policies, laws, rules, regulations, or directives.

V. PROCEDURES

A. BWC-Equipped Members

1. Members are responsible for the use and maintenance of their assigned BWC at all times.
2. Prior to deployment, members shall:
 - a. Inspect and test their BWCs to ensure that they are operational and functioning properly. Upon inspection and testing, or at any time during their shift:
 - (1) If a BWC is damaged, members shall immediately notify a sergeant, who shall complete a PD Form 43 (Loss or Damage to District Government Property), and notify the MPD BWC Coordinator.
 - (2) If a BWC is malfunctioning or inoperable, members shall notify their watch commander and contact the MPD Help Desk for assistance.
 - (3) If a member needs replacement accessories due to loss or damage (e.g., replacement cord), he or she may contact their BWC Unit Coordinator for a replacement.
 - b. Ensure that they begin their shift with a fully charged BWC that does **not** contain data from a prior shift.
 - c. Notify the Office of Unified Communication (OUC) that they are BWC-equipped over the radio.
 - d. Certify on their PD 775 (Daily Vehicle Inspection Report) that they are equipped with a BWC and document whether a recording was made for each run during their shift.
3. Members, including primary, secondary, and assisting members, shall start their BWC recordings as soon as a call is initiated via radio or communication from OUC on their mobile data computer (MDC), or at the beginning of any self-initiated police action.
4. In addition, members shall activate their BWCs for the following events:
 - a. All dispatched and self-initiated calls-for-service;
 - b. All contacts initiated pursuant to a law enforcement investigation, whether criminal or civil;

NOTE: Members are **not** required to record non-investigatory contacts (e.g., business checks).

- c. All stops (i.e., traffic, pedestrian, and bicycle), and frisks as defined in GO-OPS-304.10 (Police-Citizen Contacts, Stops, and Frisks);
- d. Vehicle and foot pursuits;
- e. All traffic crash scenes;
- f. Any incident or traffic crash in which the member is involved;
- g. DUI and consumption of marijuana investigations;
- h. High-risk encounters (e.g., barricade situations, active shooter situations);
- i. Tactical activities, to include canine, Emergency Response Team and Civil Defense Unit deployments;
- j. Mental health consumer encounters;
- k. Suspicious activities;
- l. Use of force situations;
- m. Arrests;
- n. Encounters requiring the advising of Miranda rights;
- o. All transports of prisoners and citizens;
- p. Any of the following searches of a person or property:
 - (1) Consent searches;
 - (2) Warrantless searches;
 - (3) Vehicle searches;
 - (4) Searches conducted incident to arrest;
 - (5) Inventory searches;
 - (6) Cursory searches;

- (7) Probable cause searches;
- (8) Execution of search or arrest warrants;
- (9) Frisks;
- (10) Field searches;
- (11) Full-custody searches;
- (12) Strip or squat searches;
- q. Hospital guard details as outlined in Part V.A.8 of this order;
- r. During the initial inventorying of seized money or any high value property;
- s. During school-based events as defined in Part III.11 of this order as well as other encounters with juveniles during events defined in this section;
- t. During First Amendment Assemblies;
- u. While assisting other law enforcement agencies (e.g., United States Park Police, District of Columbia Housing Authority Police) in handling incidents outlined in this section;
- v. While interacting with citizens inside a police facility (e.g., station personnel providing police services or information); and
- w. Any incident that the member deems it appropriate to activate the BWC in accordance with this order or upon direction from an official.

5. Traffic Posts

While assigned to traffic posts, members shall **only** activate their BWCs for the events listed in Part V.A.4 of this order.

6. First Amendment Assemblies

- a. Members shall activate their BWC when responding to a First Amendment assembly in accordance with Part V.A.3-4 of this order.
- b. In accordance with D.C. Official Code § 5-333.09, members **shall not** record First Amendment assemblies for the purpose

of identifying and recording the presence of individual participants who are not engaged in unlawful conduct.

- c. Members shall ensure BWC recordings of First Amendment assemblies, whether planned or spontaneous, are recorded in compliance with the law and MPD policy including SOP-11-01 (Handling First Amendment Assemblies and Mass Demonstrations).
- d. Members shall ensure BWC recordings of First Amendment assemblies are preserved and retained in accordance with this order and Appendix N, "*Records Retention*," of SOP-11-01 (Handling First Amendment Assemblies and Mass Demonstrations).
- e. Members shall ensure their recordings of First Amendment assemblies are categorized as "First Amendment Assembly" in the MPD-approved storage database.

7. Intrafamily Incidents and Events

When a member responds to an intrafamily incident or event, he or she shall continue to record but make every effort to provide the victim privacy such that they **do not** record any discussions between the On-Call Advocacy Program (OCAP) advocate and the victim, regardless of whether the conversation is in-person or over the phone. Members shall position themselves in such a way as to afford the victim as much privacy as possible.

8. Medical Facilities, Ambulances, and Patient Privacy

- a. Members shall record ambulance transports when they are present for law enforcement purposes.
- b. Members are reminded that they shall **only** activate their cameras in hospitals and other medical facilities for the events listed in Part V.A.4 of this order, including hospital guard details.
- c. Members shall not record in the common areas of medical facilities except when recording a required event as required by Part.V.A.4 of this order.
- d. When recording in hospitals or other medical or psychiatric facilities, members shall be careful to avoid, when possible, recording persons other than the suspect, complainant, and witnesses.

- e. When a member is in a hospital or medical facility pursuant to Part V.A.4, he or she shall continue to record and make every effort to provide patients with privacy such that they **do not** record patients during medical or psychological treatment or evaluations by a clinician or similar medical professional. Members shall position themselves in such a way as to afford the patients as much privacy as possible.
9. Members equipped with BWCs who are on the scene of an incident and are not the primary reporting member shall inform the reporting member of their BWC recording(s) so that the primary member may record this information in his or her report.
 - a. The notation "*BWC Activated*" shall be placed at the beginning of the reporting member's non-public narrative as defined in Part V.A.14 of this order. "*BWC*" shall also be handwritten on the top of the front page of all PD Forms 163.
 - b. The member with the BWC shall categorize the recording in accordance with Part V.B of this order.
 10. BWCs may be used to record initial interviews of victims, complainants and witnesses.
 11. Once activated in accordance with this order, members shall not deactivate their BWC until/unless:
 - a. They have notified the dispatcher of their assignment's disposition, and they have cleared the assignment or, in the case of arrest, have transferred custody of the arrestee to another member.
 - b. Their involvement in the citizen contact or detention has concluded.
 - c. They receive an order from a higher-ranking member. In such cases, members shall document the order and the name of the official in their associated incident or arrest reports and on the BWC when practicable.
 - d. The search requiring activation as outlined in Part V.A.4.p of this order has concluded, and the member believes he or she will have no further interaction with the person or property.
 - e. A pursuit has been terminated, and the member has returned to service through the dispatcher.

- f. In the event of a prolonged crime scene or an incident during which time they need to take a break (e.g., restroom break). In those cases, members shall contact the dispatcher to request a break and later document in the non-public narrative section of all related reports or their notebook the interruption of the BWC recording.
12. In accordance with Part V.A.4.w, when members activate their BWCs and such activation was not required by policy, and the circumstances do not require continued recordings, they may use their discretion when deciding to deactivate their BWC.
 13. After members deactivate their BWCs, it is their responsibility to ensure they reactivate their BWC should the circumstances require it, even if the subsequent recording is being made for the same event.
 14. Reporting Requirements: At the completion of their shift, members shall:
 - a. Document activation of the BWC device **at the beginning** of their non-public narrative on field contact reports, incident and offense reports, supplemental reports (PD Forms 252) accompanying incident and traffic crash reports, and arrest reports in the Records Management System (RMS), as well as PD Forms 42 (Injury or Illness Report), PD Forms 43, PD Forms 61D (Violation Citations) and notices of infraction (NOIs).
 - (1) **“BWC” shall be handwritten on the top of the front page of all PD Forms 163 (Arrest/Prosecution Report).**
 - (2) **The notation at the beginning of the narrative of associated reports shall be “BWC Activated.”**
 - (3) The member’s last name, first name, and CAD number only need to be recorded if different from the reporting member listed on the report.
 - b. Document in the non-public narrative section of all related reports or their notebook any delay or failure to activate their BWC and any interruption of a BWC recording required by this order.
 - c. Upload recorded data to the storage database.
 - d. Ensure a PD Form 81-C (Property Release) is submitted documenting their BWC recording for any arrests.

- e. Charge the camera in an MPD-approved BWC docking station.

B. BWC Recording Categories

1. BWC categories are either “automated,” meaning that MPD data systems [e.g., Computer Aided Dispatch (CAD) and the Records Management System (RMS)] may automatically assign a category to a BWC recording, or “manual,” meaning a member must assign a category to a BWC recording.
2. When BWC recordings are uploaded to the storage database, the recordings will be automatically compared against MPD data systems. For most police actions, the recordings will be assigned their respective central complaint number (CCN) and an “automated” category with an associated retention period. However, when the data systems are unavailable or when the systems are unable to assign a category and CCN, the member shall be responsible for manually categorizing the recording and for entering the CCN in the ID field.
3. **Members shall review the CCN and category information for their recordings on every shift to ensure all information from their previous shift is complete and correct.**

NOTE: There will be BWC recordings that the systems are not able to automatically categorize or match CCNs. Therefore, it is imperative that members perform this daily review.

- a. In the event any category information is missing or incorrect, members shall immediately assign the correct category/categories to the recording.
- b. Members shall ensure all of their recordings are associated with at least one category.
- c. In the event that the ID field is empty, members shall enter the 8-digit CCN (with no hyphens or dashes and without the word “CCN”) into the ID field.
- d. If no CCN numbers were drawn for the event:
 - (a) “NA” shall be typed in the ID field rather than leaving the field blank; or
 - (b) In the event a Notice of Infraction (NOI) was issued, the NOI number shall be entered into the ID field.
- e. Members shall not add any other information to this field.

4. **Member Categories:** The most relevant category that applies from the priority list below shall be chosen. Members shall not use any category other than those listed below. The categories for use by members, listed in priority order, are:
 - a. **“Requires Supervisory Review”** – (Manual Category)
 - (1) The “Requires Supervisory Review” category applies to any recording that needs review by an official and possible extended retention due to one or more of the following circumstances:
 - (a) The member is injured or another member is injured or killed during the performance of their duties;
 - (b) There is any use of force by the recording member or another member;
 - (c) The member is involved in an incident that results in a fatality including, but not limited to, in-custody deaths and crashes or vehicular pursuits resulting in a fatality; or
 - (d) The member has reason to believe that the event may result in a complaint or the recording may be of use in a future court proceeding.
 - (2) When a member categorizes a recording as “Requires Supervisory Review,” he or she shall notify their supervisor prior to the end of his or her shift.
 - (3) A supervisor shall review the recording within 24 hours in accordance with Part VI.A.5 of this order.
 - b. **“First Amendment Assembly”** – (Manual Category)
 - c. **“Murder / Manslaughter”** – (Automated Category)
 - d. **“First and Second Degree Sexual Assault”** – (Automated Category)
 - e. **“All Other Sexual Offenses”** – (Automated Category)
 - f. **“Death Report / Suicide”** – (Automated Category)
 - g. **“Crime Involving a Public Official - Misdemeanor”** – (Automated Category)

- h. **“Crime Involving a Public Official - Felony”** – (Automated Category)
 - i. **“All Other Felonies”** – (Automated Category)
 - j. **“All Other Misdemeanors”** – (Automated Category)
 - k. **“Incident, No Arrest”** – (Manual Category)
 - l. **“Contact/Stop/Civil Enforcement”** – (Manual Category) – Includes:
 - (1) All contacts initiated pursuant to a law enforcement investigation, whether criminal or civil (e.g., issuance of Notice of Violation (NOV)); and
 - (2) All stops (i.e., traffic, pedestrian, and bicycle), and frisks as defined in GO-OPS-304.10 (Police-Citizen Contacts, Stops, and Frisks).
 - m. **“BWC Testing”** – (Manual Category) – Includes recordings taken by members to ensure their BWCs are operating properly.
5. Only BWC Unit Coordinators, the MPD BWC Coordinator and the Court Liaison Division (CLD) shall record notes about BWC recordings.

C. Accidental Recordings

1. In the event of an accidental activation of their BWC where the resulting recording has no investigative or evidentiary value, members may submit a deletion request to their administrative captain thru their sergeant or will forward the same to the MPD BWC Coordinator at bwc.project@dc.gov for review and tracking.
2. Members shall ensure the request contains sufficient information (e.g., date, time, member CAD number) to locate the recording.
3. The MPD BWC Coordinator shall review accidental recordings and determine whether or not the recording had an official purpose. If the recording had no official purpose, the administrative captain or MPD BWC Coordinator shall document this in the recording notes and delete the recording. An audit log on the history of every recording will be maintained in the storage database.

D. Access and Review

1. Members may view their BWC recordings and BWC recordings that have been shared with them to assist in accurate report writing, testifying in court, for training purposes, and debriefing. Members may also view their recorded data when they are the subject of criminal or administrative investigations in accordance with Part V.E of this order.
2. Recordings **shall not** be routinely or randomly viewed by officials for the sole purpose of enforcing policy violations observed on the recordings.
3. In accordance with Part IV.M of this order, members may only share recordings with other MPD members who have accounts on the MPD-approved storage database. Under no circumstances shall members share recordings with any non-MPD persons or members who do not have an account.
4. Only members the rank of sergeant and above, civilian equivalents, or Internal Affairs Bureau (IAB) investigators are allowed to download BWC recordings for criminal or administrative investigations.
5. United States Attorney's Office (USAO), Office of Police Complaints (OPC) and Office of the Attorney General (OAG) staff have their own accounts to the storage database; therefore, MPD members shall not share or download BWC recordings for these organizations.

E. Investigative Reviews and Member Access

1. Members who are conducting criminal or administrative investigations (e.g., Investigators/Detectives, members assigned to Major Crash, Criminal Research Specialists, Supervisors, Internal Affairs Agents) shall:
 - a. Review and re-categorize the recordings related to their investigations after making a determination of whether the BWC recordings are of evidentiary value. (See Part V.G of this order for retention categories).
 - b. Document their reviews of BWC recordings in the final investigative packet.
2. Uses of Force, In-custody Deaths, and Criminal and Administrative Investigations

- a. Officials who request incident summary (IS) numbers shall inform the Internal Affairs Division (IAD) if the member was wearing a BWC.
- b. In the event of a serious use of force or in-custody death, the element watch commander shall ensure, and the responding IAD member shall verify, that all related BWC recordings are uploaded to the storage database as soon as possible.
- c. IAD shall restrict access to BWC recordings related to criminal or sensitive allegations.
- d. Officials or IAD members preparing preliminary reports shall indicate if BWCs were present and who was equipped with the cameras by name and CAD number.
- e. For investigative reports for matters requiring IS numbers, document whether BWC footage is available or known to exist. If there is footage, officials shall include the member's name, CAD number and CCN if applicable in the investigative report.

3. Member Access

- a. Members who are involved in a serious use of force, in-custody death, or are the subject of a criminal investigation may view their BWC recording related to the incident prior to completing and submitting any required reports and being interviewed by the appropriate investigative unit provided that:
 - (1) The member is in receipt of a declination from the prosecuting authority **or** after a Reverse Garrity is issued; **and**
 - (2) The recording is viewed at the IAD or at a location approved by an IAD official.
- b. Members who are the subject of an administrative investigation may view their BWC recording prior to completing and submitting any required reports and being interviewed by the appropriate investigative unit.

F. Warrants

Members who obtain warrants shall ensure that any associated BWC recordings are categorized as "Pending Warrant / Papered Case / Criminal Investigation".

G. Retention

1. BWC recordings shall be retained and accessible on the BWC database for a period of 90 calendar days unless they are categorized as follows:

Automatic Category	
Category	Retention
1. Murder / Manslaughter	65 Years
2. First and Second Degree Sexual Assault	15 Years
3. All Other Sexual Offenses	10 Years
4. Death Report / Suicide	10 Years
5. Crime Involving a Public Official Felony	9 Years
6. Crime Involving a Public Official Misdemeanor	6 Years
7. All Other Felonies	6 Years
8. All Other Misdemeanors	3 Years
Manual Categories	
9. FOIA/Civil Litigation Hold	Indefinite
10. Pending Warrant / Papered Case / Ongoing Criminal Investigation	Indefinite
11. Training	Indefinite
12. Internal Affairs / Office of Police Complaints Investigation	10 Years
13. Internal Investigations (e.g., Chain of Command Misconduct)	5 Years
14. First Amendment Assembly	3 Years
15. For Supervisory Review	90 Days
16. Incident, No Arrest	90 Days
17. Contact / Stop / Civil Enforcement	90 Days
18. No-Papered Arrest	90 Days
19. BWC Testing	90 Days

2. BWC recordings with an “indefinite” retention period shall be retained until all related criminal proceedings, claims, litigation, litigation holds, complaints, or related incidents are resolved.
3. Digital evidence captured by BWCs shall be treated as official records and handled pursuant to existing Department policies and procedures including, but not limited to, SO-06-03 [Records Retention and Evidence Preservation (Millicent Allewelt Act of 2004)].

H. BWC Recordings Used in Training

Members are encouraged to notify their officials of any recordings that may be of value for training purposes.

1. Members recommending the use of a BWC recording for training purposes shall submit the request through the chain of command to the Commanding Official, Metropolitan Police Academy (MPA) for approval.
2. Prior to approving the use of a BWC recording for training purposes, the Commanding Official, MPA, shall:
 - a. Take into consideration the identity of the persons involved, the sensitivity of the incident, and the benefit of using the file versus other means.
 - b. Ensure that involved parties who appear in the recording provide written consent on a MPD BWC Recording Release and Consent Form (Attachment C) prior to using the recordings for training purposes.
 - c. Ensure that signed MPD BWC Recording Release and Consent Forms are filed and maintained with the associated lesson plan.
 - d. Confirm with the MPD Privacy Officer that appropriate redactions are made to recordings prior to them being used in training.
3. The Commanding Official, MPA, shall ensure that videos authorized for training are categorized as “Training” in the MPD-approved storage database.

VI. ROLES AND RESPONSIBILITIES

A. Sergeants shall:

1. Ensure cameras are not issued to members who have not received MPD BWC training.

2. Ensure members are equipped with fully-charged, functioning BWCs, and have the appropriate mounting equipment to support the BWC, at the beginning of each shift.
 - a. Inspect each member who is issued a BWC to ensure that it is being worn correctly and functioning.
 - b. Ensure digital evidence recorded from previous shifts has been uploaded prior to issuing BWCs.
 - c. When notified of a damaged or inoperable BWC, ensure the malfunctioning BWC is replaced immediately, a PD Form 43 is completed, and any damaged or malfunctioning equipment is returned to the MPD BWC Coordinator for repair or replacement.
 3. Track and manage the assignment of the cameras daily.
 4. Ensure members who are deployed with BWCs are noted on the roll call and deployment statistical sheets, and that the number of members with BWCs is called into the CIC each shift.
 5. In accordance with Part V.B.4.a of this order, review and re-categorize all recordings categorized as "Requires Supervisory Review."
 6. Conduct regular inspections during check-off to ensure members have recorded required events and are categorizing their BWC recordings appropriately.
 7. Ensure members turn in their BWCs prior to the end of their shift and store BWC devices in designated, secured storage locations at MPD facilities when devices are not in use.
 8. Ensure PD Form 81-Cs are included in arrest packages during their review and approval.
- B. Watch Commanders
1. Citizen Complaints
 - a. Upon request, complainants shall be permitted to view un-redacted copies of alleged **non-criminal** misconduct at the district station in the district where the complaint occurred under the following conditions:

- (1) The watch commander must first view the recording and ensure that there are no other persons in the recording.
 - (2) The complainant must sign the PD Form 99-B (Citizen Consent Form to view BWC Recording) (Attachment D) prior to viewing the recording.
 - (3) The viewing must occur in the presence of the watch commander.
 - (4) The alleged incident must not involve an underlying criminal matter subject to prosecution (e.g., assault, driving under the influence).
 - (5) The recording must be viewed at least 48 hours after the alleged incident to ensure the video has been uploaded to the MPD-approved storage database.
 - (a) If the complainant makes a request to view a recording, and it has not yet been uploaded, the watch commander shall arrange a mutually agreeable time for the complainant to return and view the recording.
 - (b) If the watch commander is unable to locate the requested recording, he or she shall notify IAD of the complainant's request to view the video and of his or her negative search results when requesting IS numbers.
- NOTE: Watch commanders are reminded that most BWC recordings will be available for review by complainants for 90 calendar days from the date of the incident.

- (6) **Under no circumstances** shall the complainant:
 - (a) Be allowed to use any recording device to make a copy of the BWC recording.
 - (b) Be provided a copy of the recording. Complainants may contact the FOIA Office to request copies of the recording.

- b. The watch commander shall document his or her review of the video with the complainant when making his or her recommendation on the PD Form 99-A (Citizen Feedback Form

– Supervisor Review).

c. Notwithstanding the provisions of this order:

- (1) A complainant’s request to view a BWC recording prior to initiating a complaint is **voluntary**. Whether or not the complainant chooses to request to view the recording shall in no way be considered by MPD if the complainant chooses to proceed with the complaint.
- (2) Members are reminded that all citizen complaints shall be handled in accordance with MPD policy including GO-PER-120.25 (Processing Citizen Complaints).

C. BWC Unit Coordinators shall:

1. Provide assistance and technical support to members in their assigned units who have BWCs.
2. Conduct periodic reviews of BWC recordings to ensure that the members are recording mandatory events as outlined in this order.
3. Handle the reassignment of BWCs for members in a less than full duty status for more than 30 days to include notifying the MPD BWC Coordinator, Telecommunications, and the Equipment and Supply Branch of the reassignment.
4. Based on the BWC assignment information provided by the Equipment and Supply Branch on a quarterly basis, conduct reconciliation and ensure any incorrect BWC assignment information is corrected and that the Equipment and Supply Branch is notified.
5. Review and respond to the MPD Privacy Officer’s quarterly report of storage database users for their specific element.

D. District Commanders shall:

1. Ensure all members have been properly trained on all related BWC directives, procedures for operating the cameras, and instructions for resolving common recording, charging, and downloading issues.
2. Ensure that daily reviews of the recordings for that district are tagged and properly notated and assigned for corrective action by the next working day of the officer.

E. The MPD BWC Coordinator shall:

1. Serve as the designated custodian of records for all BWC recordings.

2. Serve as the system administrator of any BWC software applications.
 3. Track all requests for, release and sharing of all recordings, including but not limited to those from subpoenas, FOIA requests, and litigation holds.
 4. Monitor recordings that are about to reach the end of their retention period.
 5. Monitor the deletion of all accidental recordings of the recordings.
 6. Ensure BWC recordings are secured and retained as outlined in this order.
 7. Work with the MPD Property Officer and Office of the Chief Information Officer to ensure all recordings are stored in an MPD-approved storage database.
 8. Assist in coordinating all internal and external communications regarding BWC policies.
 9. Serve as the primary point of contact with the BWC vendor.
- F. The Commanding Official of the Equipment and Supply Branch shall:
1. Be responsible for the distribution and replacement of BWCs.
 2. Provide BWC Unit Coordinators a listing of all assigned BWCs on a quarterly basis for reconciliation.
- G. The Director of the FOIA Office shall ensure requests for BWC recordings and information from the public are received and processed in accordance with GO-SPT-204.05 (Freedom of Information Act Requests).
- H. The Director of the CLD shall ensure:
1. Papering packages contain a PD Form 81-C.
 2. BWC recordings of papered cases and non-papered arrests are categorized appropriately (i.e., "Warrant/Papered Arrest/Ongoing Criminal Investigation" or "No Papered Arrest").
- I. The Director of the Office of Risk Management shall:
1. Notify the MPD BWC Coordinator to retain BWC recordings associated with pending claims.

2. Ensure periodic audits are conducted of BWC recordings. The audits shall include an assessment of:
 - a. Member performance and training needs.
 - b. Consistency between written reports and recordings.
 - c. Compliance with this order.
- J. The MPD Privacy Officer shall:
1. Work with the Director of the Office of Risk Management on periodic audits to ensure:
 - a. Recordings do not violate the privacy of citizens or members and adhere to the required policy.
 - b. External and internal subscribers to MPD's BWC storage site are validated.
 2. Coordinate annual reviews of BWC recordings with "indefinite" retention periods to ensure they are still subject to being retained.
 3. Monitor the BWC vendor's privacy practices.
 4. Assist with drafting memorandums of understanding (MOUs) with outside agencies that want access to the BWC recordings.
- K. The Chief Technology Officer, MPD Office of the Chief Technology Officer shall ensure:
1. BWC equipment malfunctions and failures are documented and repairs are requested in a timely manner.
 2. Docking stations are installed and maintained.
 3. A tiered support response is coordinated to assist sergeants with fixing more complex camera and docking station issues.
 4. Ensure all members and approved staff from other agencies have accounts to the storage database.
- L. The Commanding Official of the Metropolitan Police Academy shall assist in coordinating training for members who will be assigned cameras.

VII. CROSS REFERENCES

- A. GO-PER-120.21 (Disciplinary Procedures and Processes)
- B. GO-PER-120.23 (Serious Misconduct Investigations)
- C. GO-PER-120.25 (Processing Citizen Complaints).
- D. GO-SPT-204.05 (Freedom of Information Act Requests)
- E. GO-OPS-304.10 (Police-Citizen Contacts, Stops, and Frisks)
- F. GO-SPT-304.18 (Language Access Programs)
- G. GO-RAR-306.01 (Canine Teams)
- H. GO-SPT-401.01 (Field Reporting System)
- I. SO-06-03 [Records Retention and Evidence Preservation (Millicent Allewelt Act of 2004)]
- J. SOP-11-01 (Handling First Amendment Assemblies and Mass Demonstrations)

VIII. ATTACHMENTS

- 1. Attachment A: TASER BWC Approved Wearing Methods
- 2. Attachment B: MPD Body Worn Camera Recording Notice
- 3. Attachment C: MPD BWC Recording Release and Consent Form
- 4. Attachment D: Citizen Consent Form to view BWC Recording



Cathy L. Lanier
Chief of Police

CLL:PAB:MOC

TASER BWC, Approved Wearing Methods

TASER AXON Body

The AXON Body Camera has the camera (audio and video) and the battery in the same device.

Directions for Wearing the AXON Body Camera

1. The top part of the AXON Body Camera is where the Power Button is located. The serial number is located on the back and bottom of the camera.



2. There are two mounts to the AXON Body Camera; the camera comes with an S-clip case that slides over your shirt button to lock into place, and there is also a holster that slides onto your pocket. Directions for the S-clip are slightly different for men versus women's shirts:

For men's shirts:

- a. Snap the camera into its case if it is not already attached. The straight edge of the clip will be at the top.
- b. Slide the right-hand side of the case between two buttons toward the top of the shirt. Push the right side of the shirt into the clip in the back. This part of the clip will be left *outside* the shirt.
- c. Next, tuck the left side of the case *under* the shirt, and push the left side of the shirt into the clip in the back.
- d. Slide the case down to snap over the shirt button. The case will lock in place.

For women's shirts:

- a. Snap the camera into its case if it is not already attached. The straight edge of the clip will be at the bottom.
- b. Slide the left-hand side of the case between two buttons toward the top of the shirt. Push the left side of the shirt into the clip in the back. This part of the clip will be left *outside* the shirt.
- c. Next, tuck the right side of the case *under* the shirt, and push the right side of the shirt into the clip in the back.

- d. Slide the case down to snap over the shirt button. The case will lock in place.

TASER AXON Flex

The AXON Flex Camera has two components: a smaller camera and a separate battery from which you operate the camera, called a Controller. The Flex Camera is linked to the Controller by a thin cable.

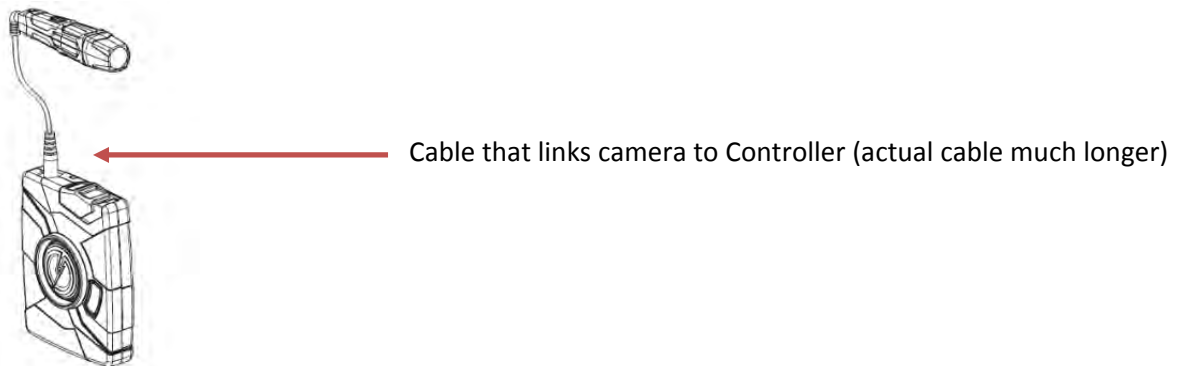
Directions for Wearing the AXON Flex Camera

Controller functions as the battery and the device used to turn the camera on/off, adjusting the volume, etc. The Controller looks like the AXON Body Camera, but has no lens on the front.

1. The top part of the Controller is where the Power Button is located. The speaker is on the smaller camera. The serial number is located on the back of the Controller, not the camera.



2. The Flex Camera must attach to the Controller in order to power up and record properly. The square end of the cable attaches to the bottom of the camera, and the other end of the cable to the top of the Controller.



3. The Controller can be stored in your pocket as is or in a holster attached to your belt. To attach to a belt, secure the Controller in its holster, ensuring the top of the camera aligns with the lever

on the top of the case that toggles back and forth to expose the cable port. Next, slide the metal clip that came with the holster into the back of the holster to secure to your belt.

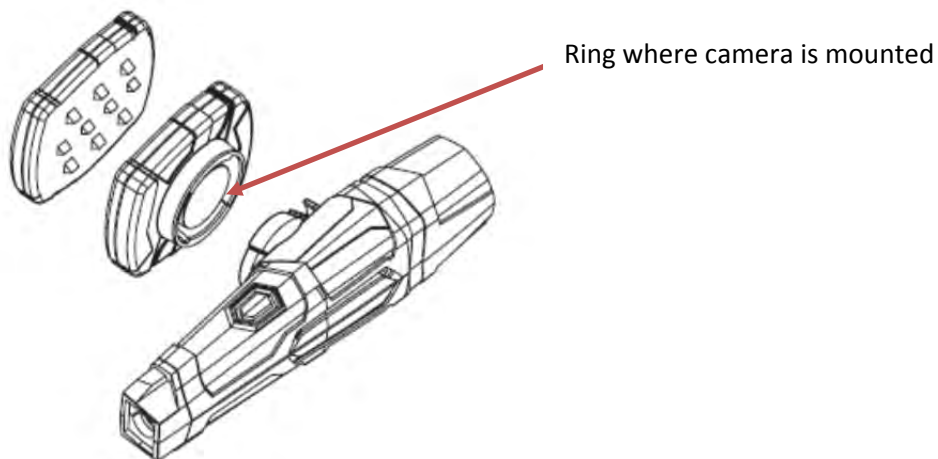
Directions for Mounting the AXON Flex Camera

There are several mounts for the Flex Camera, each clipped on using a strong magnet. The magnetic clip allows rotation of the camera up and down to adjust the angle after it has been connected to the mount.

The three mounts that MPD will be piloting are the Collar Mount, the Low-Rider Headband and the Oakley Glasses Mount. The mounts should always be worn so that the Flex Camera is on the side that the officer wears his/her firearm.

Collar Mount

There are two magnetic clips to hold the collar mount to your shirt collar, one for each side of the collar. Each clip features a set of teeth on one side and a ring on the other; the sides with the teeth are magnetically attracted to each other.



To use the collar mount:

1. Place the collar mount around the back of your neck.
2. Snap the teeth to the inside of the collar on the side of the shirt where the camera will not be mounted and attach the closed ring to the other side.
3. On the other side of the shirt, where the camera clip will be worn, snap the teeth to the inside of the inside of the shirt and attach the open ring to the other side.

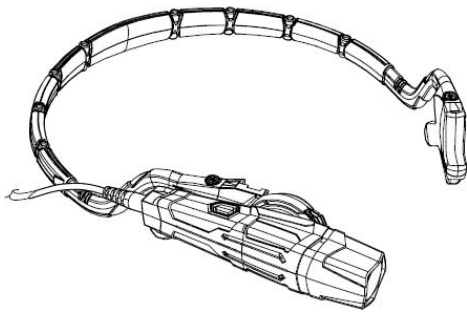
4. Snap the camera into the open ring, with the lens facing forward.
5. Connect the camera/Controller cable to the bottom of the camera. Ensure that the cable does not obstruct the motion of your head. If the cable is exposed down a good portion of your back, hide it under your shirt.
6. Plug the other side of the cable into the Controller.

Low-Rider Headband Mount

There are two sizes of the headband mount: regular and large.

To use the headband mount:

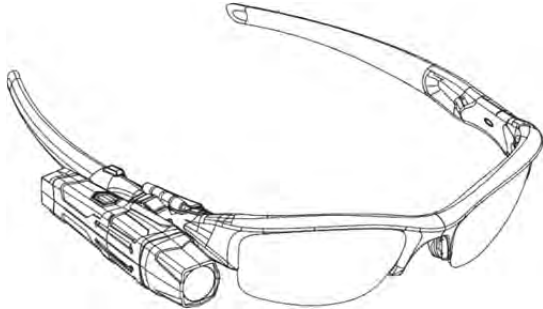
1. Slip the headband behind your head.
2. Snap the camera into the open ring, with the lens facing forward.
3. Connect the camera/Controller cable to the bottom of the camera. Ensure that the cable does not obstruct the motion of your head. If the cable is exposed down a good portion of your back, hide it under your shirt.
4. Plug the other side of the cable into the Controller.

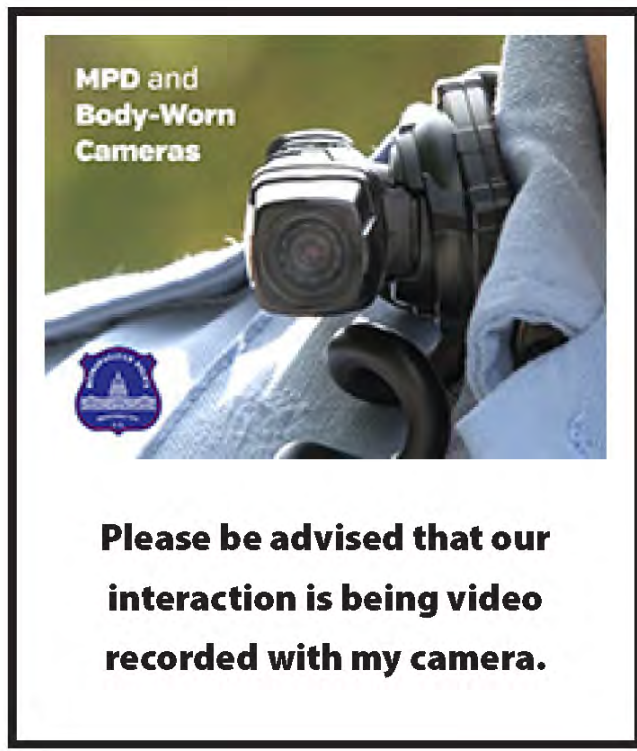


Oakley Eyewear Mount

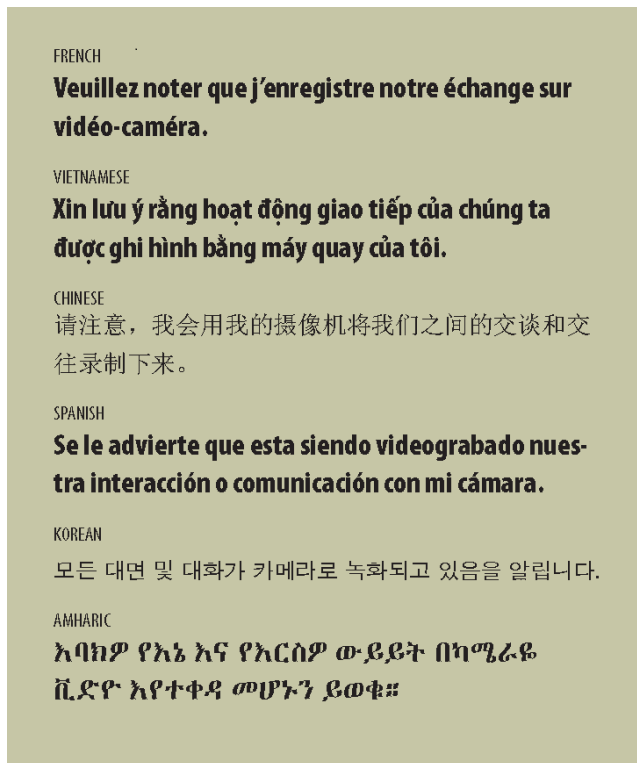
1. Select whether you want to have sunglasses or clear glasses on.
2. Slip the glasses on your head.
3. Snap the camera into the open ring, with the lens facing forward.

4. Connect the camera/Controller cable to the bottom of the camera. Ensure that the cable does not obstruct the motion of your head. If the cable is exposed down a good portion of your back, hide it under your shirt.
5. Plug the other side of the cable into the Controller.





FRONT



BACK

**METROPOLITAN POLICE DEPARTMENT
BWC RECORDING RELEASE AND CONSENT FORM**

By signing this Photo, Video and Sound Recording Release and Consent Form, you are irrevocably giving permission to the Metropolitan Police Department (MPD) to use photographs, video or sound recordings of you for training purposes. This is completely voluntary and up to you.

Your consent to the use of the photographs, video and sound recordings and your image, likeness, appearance, and voice is irrevocable. You will not receive compensation for the use of your image, likeness, appearance, and voice now or in the future. The photographs, video and sound recordings may be used in MPD training in whole or in part, alone or with other recordings. The photographs, video and sound recordings will not be used for any commercial uses. The MPD has the right and may allow approved contract employees to copy, edit, redact, retouch, or otherwise change the photographs, video and sound recordings at the MPD's discretion. All right, title, and interest in the photographs, video and sound recordings belong solely to the MPD.

I understand and agree to the conditions outlined in this form. I acknowledge that I am fully aware of the contents of this release and am under no disability, duress, or undue influence at the time of my signing of this instrument.

Printed Name of Involved Party

Signature of Involved Party

Date

**Citizen Consent Form to view BWC Recording
Metropolitan Police Department, Washington, D.C.**

I _____ request to view an unredacted video from an officer's body worn camera. *I would like to allege a complaint against a Metropolitan Police Department (MPD) officer and agree to verify the event by viewing the unredacted video.*

By signing this form I understand that to view the video I must be the only individual in this video except the officer wearing the body worn camera. I understand that I am viewing the video to observe alleged non-criminal misconduct. I agree to view the recording in the presence of an MPD official.

I will not use any recording device to duplicate the video or audio. I understand that I will not receive a copy of the recording. Body worn camera recordings are considered law enforcement records and are the property of MPD.

The alleged incident occurred at least 48 hours ago (to ensure the video is uploaded into the MPD storage database).

I understand that if I want to request a copy of the recording I need to contact the MPD Freedom of Information Act office.

Signature

Date

6. Los Angeles Police Chief Special Order: Body Worn Video Procedures Established

INTRADEPARTMENTAL CORRESPONDENCE

April 23, 2015
1.14

TO: The Honorable Board of Police Commissioners

FROM: Chief of Police

SUBJECT: BODY WORN VIDEO PROCEDURES

RECOMMENDED ACTIONS

1. That the Board of Police Commissioners REVIEW and APPROVE the attached Special Order regarding Body Worn Video Procedures.

DISCUSSION

The Los Angeles Police Foundation has enabled, through its generosity, the Los Angeles Police Department (LAPD) to deploy over 800 Body Worn Video (BWV) devices within the next several months. In addition, on December 16, 2014, Mayor Eric Garcetti announced that the City will equip 7,000 LAPD officers by the end of Fiscal Year 2016-17 and has included funding in his Fiscal Year 2015-16 proposed budget for approximately 4,500 BWV devices.

Over the past several months, the Department has worked collaboratively with community groups, union representatives, privacy advocates, legal experts, and other police agencies in developing the attached procedures for the use and deployment of Body Worn Video by Department personnel. The proposed Special Order reflects the insights provided by these stakeholders and the unique dynamics of protecting our vibrant and unique city. The use of BWV will not only assist officers in the performance of their duties but will promote accountability and continue strengthening the trust of the community we protect and serve.

If any additional information regarding this report is required, please contact Arif Alikhan, Director, Office of Constitutional Policing and Policy, at (213) 486-8730.



CHARLIE BECK
Chief of Police

Attachment

OFFICE OF THE CHIEF OF POLICE

SPECIAL ORDER NO.

APPROVED BY THE BOARD OF POLICE COMMISSIONERS ON XXXX XX, 2015

SUBJECT: BODY WORN VIDEO PROCEDURES - ESTABLISHED

PURPOSE: The purpose of this Order is to inform Department personnel of the responsibilities and procedures for the use and deployment of Body Worn Video (BWV).

PROCEDURE: Department Manual Section 3/579.15, *Body Worn Video Procedures*, has been established.

I. OBJECTIVES OF BODY WORN VIDEO. The following provisions are intended to provide LAPD Officers with instructions on when and how to use BWV to ensure reliable recording of enforcement and investigative contacts with the public. "Officers," as referenced below, include all sworn personnel. The Department has adopted the use of BWV by uniformed personnel to:

- Collect evidence for use in criminal investigations and prosecutions;
- Deter criminal activity and uncooperative behavior during police-public interactions;
- Assist officers with completing reports and providing testimony in court;
- Promote accountability;
- Assist in resolving complaints against officers including false allegations by members of the public; and,
- Provide additional information for officer evaluation, training, and continuous improvement.

Body Worn Video provides additional information regarding an investigative or enforcement contact with a member of the public. Body Worn Video recordings, however, provide a limited perspective of the encounter and must be considered with all other available evidence, such as witness statements, officer interviews, forensic analyses and documentary evidence, when evaluating the appropriateness of an officer's actions.

II. BODY WORN VIDEO EQUIPMENT. Body Worn Video equipment generally consists of a body-mounted camera with a built-in microphone and a handheld viewing device. The BWV camera is worn on the outside of an officer's uniform, facing forward to make video and audio recordings. The BWV video and audio recordings are stored digitally on the BWV camera and can be viewed on a handheld viewing device or an authorized computer. An officer cannot modify, alter, or delete video or audio once recorded by the BWV camera.

- III. WHEN ACTIVATION OF BODY WORN VIDEO EQUIPMENT IS REQUIRED.** Officers shall activate their BWV devices prior to initiating any investigative or enforcement activity involving a member of the public, including all:
- Vehicle stops;
 - Pedestrian stops (including officer-initiated consensual encounters);
 - Calls for service;
 - Code 3 responses (including vehicle pursuits) regardless of whether the vehicle is equipped with In-Car Video equipment;
 - Foot pursuits;
 - Searches;
 - Arrests;
 - Uses of force;
 - In-custody transports;
 - Witness and victim interviews (except as specified below);
 - Crowd management and control involving enforcement or investigative contacts; and,
 - Other investigative or enforcement activities where, in the officer's judgment, a video recording would assist in the investigation or prosecution of a crime or when a recording of an encounter would assist in documenting the incident for later investigation or review.
- IV. INABILITY TO ACTIVATE PRIOR TO INITIATING ENFORCEMENT OR INVESTIGATIVE ACTIVITY.** If an officer is unable to activate his or her BWV prior to initiating any of these enforcement or investigative activities, the officer shall activate the device as soon as it is practical and safe to do so. As in all enforcement and investigative activities including vehicle and pedestrian stops, the safety of the officers and members of the public are the highest priorities.
- V. RECORDING OF THE ENTIRE CONTACT.** The BWV shall continue recording until the investigative or enforcement activity involving a member of the public has ended. If enforcement or investigative activity with a member of the public resumes, the officer shall activate the BWV device and continue recording.
- VI. DOCUMENTATION REQUIRED FOR FAILING TO ACTIVATE BODY WORN VIDEO OR RECORDING THE DURATION OF THE CONTACT.** If an officer is unable or fails to activate the BWV prior to initiating an enforcement or investigative contact, fails to record the entire contact, or interrupts the recording for any reason, the officer shall set forth the reasons why a recording was not made, was delayed, was interrupted, or was terminated in the comments field of the incident in the Computer Aided Dispatch (CAD) System, Daily Field Activity Report (DFAR), Form 15.52.00, Traffic Daily Field Activity Report, Form 15.52.01, Sergeant's Daily Report, Form 15.48.00, Metropolitan Division Officer's Log, Form 15.52.04 or Gang Enforcement Detail – Supervisor's Daily Report Form, 15.49.00.

Exceptions: Officers are not required to activate and record investigative or enforcement encounters with the public when:

- A witness or victim refuses to provide a statement if recorded and the encounter is non-confrontational;
- In the officer's judgment, a recording would interfere with his or her ability to conduct an investigation, or may be inappropriate, because of the victim or witness's physical condition, emotional state, age, or other sensitive circumstances (e.g., a victim of rape, incest, or other form of sexual assault);
- Situations where recording would risk the safety of a confidential informant, citizen informant, or undercover officer; or
- In patient-care areas of a hospital, rape treatment center, or other healthcare facility unless an enforcement action is taken in these areas.

- VII. CONFIDENTIAL NATURE OF RECORDINGS.** Body Worn Video use is limited to enforcement and investigative activities involving members of the public. The BWV recordings will capture video and audio evidence for use in criminal investigations, administrative reviews, and other proceedings protected by confidentiality laws and Department policy. Officers shall comply with all applicable laws and policies regarding confidential information including Department Manual Section 3/405, *Confidential Nature of Department Records, Reports, and Information*. Unauthorized use or release of BWV recordings may compromise ongoing criminal and administrative investigations or violate the privacy rights of those recorded. Therefore, any unauthorized use or release of BWV or other violation of confidentiality laws and Department policies are considered serious misconduct and subject to disciplinary action.
- VIII. PROHIBITION AGAINST MODIFICATION OF RECORDINGS.** Officers shall not copy, edit, alter, erase, or otherwise modify in any manner BWV recordings except as authorized by law or Department policy. Any violation of this provision is considered serious misconduct and subject to disciplinary action.
- IX. NOTICE TO MEMBERS OF THE PUBLIC OF RECORDING.** Officers are encouraged to inform individuals that they are being recorded when feasible. Officers, however, are not required to obtain consent from members of the public when the officer is lawfully in the area where the recording takes place. For example, an officer who lawfully enters a business or residence shall record any enforcement or investigative activity, as set forth above, and is not required to obtain consent from members of the public who may also be present. In addition, officers are not required to play back BWV recordings to allow members of the public to review the video footage.
- X. PROHIBITION AGAINST RECORDING PERSONNEL IN NON-ENFORCEMENT OR INVESTIGATIVE SITUATIONS.** Body Worn Video equipment shall only be used in conjunction with official law enforcement and investigative activities involving members of the public. Body Worn Video

shall not be used to record Department personnel during briefings, meetings, roll calls or while in private spaces such as locker rooms or restrooms.

- XI. DEPARTMENT-ISSUED EQUIPMENT ONLY.** Officers assigned BWV equipment shall not use any other non-Department issued video or audio equipment, such as personally owned video or audio recorders, to record enforcement or investigative activities involving members of the public unless expressly authorized by a supervisor. Uniformed supervisory personnel, however, may use digital recording devices other than a BWV to record interviews when conducting use of force or personnel complaint investigations. Nothing in this provision precludes personnel from utilizing authorized still photography equipment.
- XII. PROPERTY OF THE DEPARTMENT.** Body Worn Video equipment and all data, images, video, and metadata captured, recorded, or otherwise produced is the sole property of the Department and any unauthorized release is strictly prohibited.
- XIII. TRAINING REQUIRED.** Officers who are assigned BWV must complete Department-approved training in the proper use and maintenance of the devices before deploying to the field.
- XIV. INSPECTION AND TESTING OF EQUIPMENT.** The BWV equipment is the responsibility of the assigned officer and will be used with reasonable care to ensure proper functioning and reliability. At the start of a field assignment, officers shall inspect and test their BWV and make sure it is undamaged and operating properly. Officers shall document the results of their inspection in the comments field of “Status Change – SW” entry within CAD, in the comments field of the DFAR or Traffic DFAR, the Sergeant’s Daily Report, Gang Enforcement Detail – Supervisor’s Daily Report, or Metropolitan Division Officer’s Log.
- XV. DAMAGED, MALFUNCTIONING OR INOPERABLE EQUIPMENT.** If an officer’s BWV malfunctions or is damaged, the officer shall notify an on-duty supervisor (who shall notify the watch commander) and complete an Employee’s Report, Form 15.07.00. The officer is required to provide the malfunctioning or damaged equipment to the kit room officer and obtain a functional BWV before deploying to the field.
- XVI. IDENTIFYING RECORDINGS.** For each incident recorded on a BWV, officers shall identify the event type and other information using the BWV equipment and software that best describes the content of the video (i.e. arrest, traffic stop, report). Body Worn Video recordings, however, are not a replacement for written reports or other required documentation such as a CAD summary or DFAR.
- XVII. STORAGE OF RECORDINGS.** At the end of each shift, officers shall upload all BWV recordings to secure storage by docking the device at the station.
- XVIII. VIEWING OF BODY WORN VIDEO RECORDINGS BY OFFICERS.** The accuracy of police reports, officer statements, and other official documentation is essential for the proper administration of justice and complying with the

Department's obligation to maintain full and complete records of enforcement and investigative activities. Investigators, supervisors, prosecutors, and other officials rely on complete and accurate records to perform their essential duties and responsibilities. Officers are therefore required to review BWV recordings on their assigned device or authorized computer prior to documenting an incident, arrest, search, interview, use of force, or other enforcement or investigative activity to ensure that their reports, statements, and documentation are accurate and complete.

XIX. PROCEDURE FOR REVIEWING BODY WORN VIDEO RECORDINGS IN CATEGORICAL USE OF FORCE INCIDENTS. If an officer is involved in a Categorical Use of Force (CUOF), such as an officer-involved shooting, an officer shall not review his or her BWV until authorized by the assigned Force Investigation Division (FID) investigator. Once authorized, the officer shall review his or her BWV recording, and any other relevant BWV footage as deemed necessary and appropriate by the assigned FID supervisor, prior to being interviewed by investigators. An officer may have an employee representative present during the review of the BWV recordings without the FID investigator or supervisor present. The separating and monitoring of officers involved in a CUOF shall be maintained during the review of BWV recordings and a review shall not occur jointly among involved employees.

XX. DOCUMENTATION OF RECORDINGS. Officers are required to document any portion of an incident captured on the BWV system under the heading "Photos, Recordings, Video, DICV, BWV and Digital Imaging" on all administrative and investigative reports (e.g., "The suspect's spontaneous statements and actions were recorded via BWV"). If an employee is unable to review the BWV recording before submitting a report, the officer must document in this section the circumstances that prevented his or her review. If any portion of an incident resulting in an arrest was captured by BWV equipment, officers shall identify the existence of a BWV recording on all necessary forms including the City Attorney's Disclosure Statement.

XXI. SUPERVISOR'S RESPONSIBILITIES. Supervisors assigned to any unit with BWV-equipped officers shall:

- Ensure that officers assigned BWV equipment have completed Department-required training and are familiar with applicable policies and procedures;
- Conduct periodic inspections of officers assigned BWV equipment and ensure that the BWV cameras are properly affixed to the officers' uniforms and fully operable;
- Ensure officers upload all BWV recordings at the end of their shifts; and,
- Review relevant BWV recordings prior to submitting any administrative reports (e.g. non-categorical use of force investigations, pursuits, officer-involved traffic collisions).

After conducting an inspection of an officer's assigned BWV equipment, the supervisor shall document the inspection in his or her Sergeant's Daily Report. If

any of the BWV equipment is found to be defective, the supervisor must ensure that the equipment is removed from service and immediately replaced. The supervisor must also complete an Employee's Report regarding the defective equipment and notify the system administrator at Information Technology Bureau via email at BWV@lapd.lacity.org. Watch commanders must document the supervisor's findings in their Watch Commander's Daily Report, Form 15.80.00, and take any appropriate action depending on the cause of the problem.

XXII. RECORDINGS IN NON-CATEGORICAL USE OF FORCE INCIDENTS

- SUPERVISOR'S RESPONSIBILITIES. Supervisors investigating Non-Categorical Use of Force (NCUOF) incidents shall, when available, allow involved officers to review their BWV recordings and, if deemed necessary, review other BWV recordings to ensure complete and accurate reports and documentation of the incident.

XXIII. RECORDINGS IN CATEGORICAL USE OF FORCE INCIDENTS

- SUPERVISOR'S RESPONSIBILITIES. Supervisors assigned to any unit with BWV-equipped officers must take possession of an officer's BWV equipment when the officer is involved in a Categorical Use of Force, ensure the recording has stopped, power off the camera, and maintain custody until transferred to FID personnel.

Note: Supervisors, however, shall not view the BWV recording without express authorization of FID.

Force Investigation Division investigators, upon arrival at the scene of a Categorical Use of Force incident, shall take possession of any involved officer's BWV camera and complete the upload process.

XXIV. WATCH COMMANDER'S RESPONSIBILITIES. Watch commanders assigned to any unit with BWV-equipped officers shall:

- Conduct roll call training on expectations, use, and maintenance of the BWV equipment and debrief BWV captured incidents of value;
- Review deviations from BWV policy and procedures and take appropriate action;
- Ensure all BWV anomalies identified by the Area training coordinator have been addressed and any appropriate documentation is returned to the Area training coordinator for commanding officer review;
- Review supervisor inspections regarding defective equipment, systems, and ensure necessary steps are taken to have them repaired;
- Review Sergeant's Daily Reports to ensure inspections of sworn personnel assigned BWV units are being conducted and documented. If field inspections are not properly documented, the watch commander must take appropriate action to correct the deficiency and appropriately document the findings (i.e., Employee Comment Sheet, Form 01.77.00, Supervisor Action Item, Notice to Correct Deficiencies, Form Gen. 78, or a Complaint Form, Form 01.28.00) and the

corrective action taken. The corrective action must also be documented within the Learning Management System (LMS); and,

- Log the appropriate disposition on the Video Evidence Control Log, Form 10.11.05, which must be maintained in the analyzed evidence locker at the concerned Area.

XXV. KIT ROOM OFFICER'S RESPONSIBILITIES. Officers assigned to the kit room shall:

- Conduct daily inspections of all BWV docking equipment to ensure they are active;
- Inspect any BWV devices returned to the kit room as inoperative;
- Assign spare units to sworn personnel who returned their primary unit to the kit room; and,

Note: If found to be defective, the kit room officer must declare the item inoperable and verify that an Employee's Report has been completed. If it is discovered that no documentation exists declaring the item inoperable, the kit room officer must complete an Employee's Report and submit the Employee's Report to the watch commander accompanied with the equipment log at the completion of the officer's shift.

- Provide a copy of the Employee's Report documenting the inoperable equipment to the Area training coordinator along, with any of the inoperable equipment.

XXVI. TRAINING COORDINATOR'S RESPONSIBILITIES. Area training coordinators shall:

- Verify officers have been trained on the use and deployment of BWV;
- Document all employees who have been trained on the use of BWV into the LMS including all traffic officers and reserve officers eligible for field duty;
- Ensure all employees transferring into the Area receive proper training on the use and deployment of BWV;
- Review all Employee's Reports documenting inoperable equipment and facilitate the equipment's repair;
- Deliver all inoperable equipment to the Information Technology Bureau (ITB), Tactical Technology Section; and,
- Notify the watch commander or specialized unit officer in charge (OIC) in the event that it appears that BWV equipment has been tampered with.

XXVII. COMMANDING OFFICER'S RESPONSIBILITIES. Area commanding officers (Areas with BWV) are responsible for ensuring compliance with BWV training, policies, and procedures by regularly monitoring and inspecting BWV equipment within their command. Area commanding officers are also responsible for supervising the proper maintenance and disposition of division records, ensuring adherence to record retention protocols and properly filing all BWV documents for future reference.

XXVIII. INFORMATION TECHNOLOGY BUREAU, TACTICAL TECHNOLOGY SECTION, RESPONSIBILITIES. The OIC of ITB, Tactical Technology Section, is responsible for:

- Coordinating warranty service and maintenance through Department-approved vendor(s);
- Providing technical assistance and subject matter experts related to investigations; and,
- Coordinating the replacement of inoperable, malfunctioning or damaged equipment and/or systems.

AMENDMENT: This Order adds Section 3/579.15 to the Department Manual.

AUDIT RESPONSIBILITY: The Commanding Officer, Audit Division, shall review this directive and determine whether an audit or inspection shall be conducted in accordance with Department Manual Section 0/080.30.

CHARLIE BECK
Chief of Police

DISTRIBUTION "D"

7. New Orleans Police Department Policy Manual: Body Worn Camera

New Orleans Police Department Policy Manual

BODY-WORN CAMERA (“BWC”)

447.1 POLICY

The New Orleans Police Department is committed to the belief that video/audio documentation of a department member’s daily encounters is an important and valuable resource for law enforcement. The New Orleans Police Department also is committed to respecting civilians’ reasonable privacy expectations, including but not limited to medical and health privacy and privacy in one’s home.

Selected uniformed field assignments may be equipped with **Body-Worn Camera (“BWC”)** devices. Use of this technology provides for video/audio documentation of a police officer’s enforcement and investigative activities from the perspective of the officer’s person. Benefits to using this equipment can be expected to promote officer safety, result in greater transparency, more effective prosecution, and improved protection against false allegations of excessive use of force, misconduct or racial profiling. This policy is intended to achieve an appropriate balance between the benefits of BWC devices and civilians’ reasonable expectations of privacy.

The BWC device is used to record certain activities, as set out in this policy and in procedure 447, thereby creating an unbiased visual and/or audio record of the incident and a supplement to the officer’s report. Audio or video recordings of enforcement or investigative actions are evidence, and subject to rules of disclosure. It is in the best interest of justice that the department regulate and control all forms of evidence collection and storage.

447.2 PURPOSE AND SCOPE

Certain uniformed law enforcement assignments within the New Orleans Police Department may be equipped with an on body audio/video recording system (BWC) as directed by the Superintendent of Police or his/her designee. This system will be used to document events and capture data to be preserved in a Web-based digital storage facility at [EVIDENCE.COM](https://evidence.com). Once captured, these recordings cannot be altered in any way and are protected with multiple layers of encryption. The New Orleans Police Department has adopted the use of *BWC* technology to accomplish the following objectives:

- (a) To promote officer safety.
- (b) To document statements and events during the course of an incident.
- (c) To enhance the law enforcement operator’s ability to document and review statements and actions for both internal reporting requirements and for courtroom preparation/presentation.
- (d) To preserve visual and audio information for use in current and future investigations.
- (e) To provide an impartial measurement for self-critique and field evaluation during officer training.
- (f) To enhance the public trust by preserving factual representations of officer-citizen interactions in the form of video and audio recordings.

New Orleans Police Department

Policy Manual

Body-Worn Camera (“BWC”)

447.2.1 DEFINITIONS RELATED TO THIS POLICY

Audio Recording – The electronic recording of conversation, spoken words, or other sounds.

Body-Worn Camera (“BWC”) – Equipment worn by a department member that captures audio/video signals and includes at a minimum a camera, microphone and recorder. There are two models of BWC systems in use by the New Orleans Police Department: 1) **AXON ‘body’ System** – Self-contained / clip-on audio/video recording device; and 2) **AXON ‘flex’ System** – Variable mount audio/video recording device that includes a cable tethered camera/DVR attached to a controller.

Controller Switch – Master on/off power switch located on the top left outward facing corner of the BWC device.

District/Division System Administrator (“DSA”) – Supervisor assigned to the district or division responsible for inventory control and operational maintenance of the BWC system equipment at a District/Division level.

Event Record Button – Push button activation switch located in the center of the BWC device.

EVIDENCE.COM – Online Web-based digital media storage facility. The virtual warehouse stores digitally encrypted data in a highly secure environment accessible to personnel based on assigned levels of security clearance. The New Orleans Police Department account is accessed at: <https://nopd.evidence.com>

Evidence Transfer Manager (“ETM”) – A router with built-in docking stations physically installed at a police department work site. The ETM simultaneously recharges the device while uploading all digitally encrypted data to EVIDENCE.COM.

Master System Administrator (“MSA”) – Supervisor(s) authorized by the New Orleans Police Department and assigned to the Information Support Section with full access to user rights; assigns and tracks master inventory of equipment; controls passwords and end-user security access rights; is responsible for quality checks of video and sound quality; coordinates with District/Division System Administrators; and serves as liaison to Taser International representatives on operational and equipment related matters.

Media or Data – For the purposes of this procedure, references to media or data include photographs, audio recordings and video footage captured by the BWC device. The media is stored digitally and encrypted.

Remote Camera/DVR – Cable tethered camera/DVR affixed to an approved Taser mounting device unique to the **AXON flex** system. Accessories provided with the **AXON flex** system offer a variety of mounting options, such as on glasses, collars, epaulettes, helmets, etc.

Video Recording – The electronic recording of visual images with or without audio component.

New Orleans Police Department

Policy Manual

Body-Worn Camera (“BWC”)

447.3 REQUIRED ACTIVATION OF THE BWC

This policy is intended to achieve an appropriate balance between the benefits of BWC devices and civilians’ reasonable expectations of privacy. Although this policy identifies those situations in which activation of the BWC is required, an officer has discretion to manually activate the system any time the officer believes it would be appropriate or valuable to document an incident. The BWC shall only be activated for legitimate law enforcement purposes.

Activation of the BWC is required in the following situations:

- 1) All field contacts involving actual or potential criminal conduct within video or audio range:
 - a) Traffic stops (to include, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops)
 - b) Emergency responses
 - c) Vehicle pursuits
 - d) Suspicious vehicles
 - e) Arrests and transports
 - f) Vehicle searches
 - g) Consent to Search (Consent to Search Form shall be completed per Policy 322/PR 322)
 - h) Physical or verbal confrontations or use of force
 - i) Pedestrian checks / Terry Stops
 - j) DWI investigations including field sobriety tests
 - k) Domestic violence calls
 - l) Statements made by individuals in the course of an investigation or complaint
 - m) Advisements of Miranda rights
 - n) Seizure of evidence
 - o) Swat Rolls
 - p) High Risk Warrants
 - q) On all calls for service
- 2) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.
- 3) Any other legitimate law enforcement contact where the officer believes that a recording of an incident would be appropriate. In exercising this discretion, officers should be aware of and sensitive to civilians’ reasonable privacy expectations.
- 4) The BWC may not be used for the purpose of intimidating an individual or to discourage an individual from observing police activity, making appropriate inquiries of an officer, or making a complaint.

447.4 OFFICER RESPONSIBILITIES

At the start of each shift, uniformed officers assigned to District patrol and the Special Operations Division (SOD) shall properly equip him/herself with a BWC to record audio and video in the field. Each officer shall have adequate recording media for the entire duty assignment. Officers assigned a BWC shall test the equipment prior to use according to manufacturer guidelines and testing procedures. Officers shall immediately report malfunctioning BWC systems to an immediate supervisor.

New Orleans Police Department

Policy Manual

Body-Worn Camera (“BWC”)

447.4.1 SUPERVISOR RESPONSIBILITIES

Supervisors shall issue and inspect BWC equipment to assigned personnel to ensure proper operability per testing protocols provided under training. Non-functioning BWC systems shall not be placed into service and the equipment malfunction shall be immediately reported in writing to the supervisor’s respective District/Division System Administrator (DSA) with a copy forwarded to the District/Division Commander. The DSA shall be responsible for coordinating maintenance or repairs issues directly to the Master System Administrator (MSA) assigned to the Information Systems Section.

447.4.2 MASTER SYSTEM ADMINISTRATOR (MSA)

The Master System Administrator (MSA) is a/are supervisor(s) authorized by the New Orleans Police Department and assigned to the Information Systems Section with full access to use rights.

The MSA is responsible for:

- a. Assigning and tracking inventory of equipment;
- b. Password control;
- c. End-user security access rights;
- d. Quality checks of video and sound quality;
- e. Coordinating with the District/Division System Administrators; and
- f. Serving as liaison to Taser International representative on operational equipment related matters.

447.5 CESSATION OF RECORDING

Once the BWC system is activated it shall remain on and shall not be turned off until an investigative or enforcement contact or incident has concluded. For purposes of this section, conclusion of an incident has occurred when an officer has terminated contact with an individual, cleared the scene of a reported incident, or has completed transport of a civilian or an arrestee. *Refer to PR447.4(b) for exceptions to this requirement.* In any instance in which cessation of the recording prior to the conclusion of the incident may be permitted, the officer must seek and obtain supervisory approval prior to deactivating the BWC. If supervisory approval cannot be reasonably obtained, officers must document on the BWC the reason for termination of the recording prior to deactivation of the BWC.

447.6 PROHIBITED AUDIO/VIDEO RECORDINGS BY EMPLOYEES IN THE WORK PLACE

The BWC **shall not** be used to record non-work related personal activity. The BWC shall not be activated in places where an employee has a reasonable expectation of privacy, such as locker rooms, dressing rooms or restrooms, unless a criminal offense has occurred in these locations, at which time every precaution shall be taken to respect the dignity of the victim by avoiding recording videos of persons who are nude or when sensitive areas are exposed. The BWC **shall not** be intentionally activated to record conversations of fellow employees during routine, non-enforcement related activities without their knowledge.

447.7 TRAINING

All members who are authorized to use BWC equipment must complete mandatory training provided by the NOPD Academy to familiarize themselves with the audio/video recording system and departmental procedures prior to its use.

BODY-WORN CAMERA (“BWC”)

PR447.1 PURPOSE

The following procedures govern the operation of **Body-Worn Camera (“BWC”)** devices issued to uniformed members of the New Orleans Police Department. The **AXON body** and **AXON flex** systems manufactured by **Taser International** are the only BWC equipment authorized for use by this agency. Uniformed department members assigned these devices are only authorized to audio or video record investigative and/or enforcement activities using departmentally assigned equipment following the practices prescribed within this procedure.

This procedure does not apply to or limit the use of Digital Mobile Video Audio Recording (“DMVAR”) equipment as defined under Policy 446 & PR446.

PR447.2 GENERAL PROCEDURES

- (a) Department members who have completed authorized training sanctioned by the NOPD Academy shall be the only personnel authorized to use a BWC in an operational setting.
- (b) Audio or video recording devices shall not be used in department locker rooms, restrooms or any other place where there would be a reasonable expectation of officer’s privacy, unless a criminal offense has occurred in these locations, at which time every precaution shall be taken to respect the dignity of the victim by avoiding recording videos of persons who are nude or when sensitive areas are exposed.
- (c) Department members shall not intentionally record confidential informants or undercover officers unless the recording is conducted specifically for the purpose of documenting a sting, drug purchase/sale or other undercover operation in furtherance of a criminal investigation.
- (d) Body-Worn Cameras, when worn by District Patrol Officers, shall be worn in center mass of the officer’s chest. Mounting options for SOD personnel shall provide for a frontal view in accordance with uniform specifications (i.e., helmets or other protective gear).
- (e) Body-Worn Cameras shall not be used for purpose of conducting departmental administrative investigations, including undercover/plainclothes operations, **without** the approval of the Superintendent of Police or his/her designee. However, this requirement shall not restrict the Public Integrity Bureau’s routine access to or review of BWC recordings when investigating complaints of misconduct.
- (f) Whenever a department member believes that a recorded event may lead to a citizen complaint, he/she shall bring the recording to the attention of his/her immediate supervisor as soon as possible. The supervisor should review the recording and conduct any further investigation that s/he deems appropriate. If no incident report or supplemental report directly related to the possible citizen complaint is warranted, details of the contact shall be documented via Interoffice Correspondence (Form 105). The department member’s immediate supervisor shall be responsible for ensuring a copy of any report or correspondence related to the contact is forwarded to their respective District/Division

New Orleans Police Department

Procedure Manual

Body-Worn Camera (“BWC”)

Commander, Bureau Deputy Superintendent and the Deputy Superintendent of the Public Integrity Bureau.

- (g) Department members shall not make covert recordings of conversations with other department members except when necessary in the course of a criminal investigation or for department administrative investigations **and** only with the express consent of the Superintendent of Police or one of his/her designees: the Deputy Superintendent of the Public Integrity Bureau, the Deputy Superintendent of the Field Operations Bureau, the Deputy Superintendent of the Investigations & Support Bureau, the Deputy Superintendent of the Compliance Bureau, and the Deputy Superintendent of the Management Services Bureau.
- (h) The department’s Master System Administrator (“MSA”) assigned to the Information Systems Section shall coordinate access requests to the recorded events for officers and investigators for legitimate law enforcement purposes or as directed by the Superintendent of Police or his/her designee.
- (i) Department members are **not** authorized to make copies of any recordings for their personal use and are prohibited from using a recording device (such as a phone camera or secondary video camera) to record media from EVIDENCE.COM.
- (j) When handling calls for service or incidents involving the treatment of individuals at a medical facility, department members may be required to restrict use of a BWC in accordance with facility privacy protocols. Where facility protocols do not allow for the recording of an event for which recording would otherwise be required, an officer must notify his or her supervisor as soon as reasonably practical, and shall document the reasons for the failure to activate the BWC in the incident report.
- (k) In any instance in which cessation of the recording prior to the conclusion of an incident may be permitted, the officer must seek and obtain supervisory approval prior to deactivating the BWC. If supervisory approval cannot be reasonably obtained, the officer must document on the BWC the reason for termination of the recording prior to deactivation of the BWC.

PR447.3 BODY-WORN CAMERA MODES OF OPERATION

- (a) **Pre-Event Buffering Mode:** Device feature where the camera continuously records and holds the most recent 30 seconds of video prior to record activation. With this feature, the initial event that causes the officer activate recording is likely to be captured automatically, thereby increasing the capability of recording the entire activity. Pre-event buffering does not occur when the Controller Switch is in the off position.
- (b) **Event Record Mode:** In this mode, the BWC device saves the buffered video and continues recording audio and video for up to eight hours or the life of the battery. To activate, the end-user must double click the Event Record Button located on the center of the OCM device (an audible tone will sound to alert the end-user the device is now recording). To stop recording, the end-user must push and hold the Event Record Button for three seconds to return to the Pre-Event Buffering Mode.

New Orleans Police Department

Procedure Manual

Body-Worn Camera (“BWC”)

Operational LED

1. Solid Red LED - Device Boot up
2. Blinking Green LED – Device Buffering
3. Blinking Red – Device Recording
4. Blinking Yellow – Remote Camera/DVR Disconnect / Other Device Malfunction

PR447.4 OPERATIONAL PROTOCOLS

- (a) The BWC shall be worn at all times while on duty when assigned this device.
- (b) The BWC shall be utilized by any department member assigned this device during all investigative or enforcement contacts (see Policy 447.3 – Required Activation of the BCW). However, there may be limited circumstances where the respect for an individual’s privacy or dignity outweighs the need to record an event (e.g. – a victim traumatized following a violent assault). Where an officer believes such circumstances exist, or that use of a BWC would impede or limit the cooperation of a victim or witness during an investigative contact, an officer may deactivate the BWC after receiving authorization from a supervisor consistent with PR 447.2(k). Department members have discretion whether to activate a BWC during consensual contacts of a non-criminal nature.
- (c) Department members issued a BWC shall place the device in the **Event Record Mode** as soon as practical at the onset of a given situation.
- (d) Once in the **Event Record Mode**, department members shall continue to record until the completion of the event, or they have left the scene (this includes recording of statements).
- (e) Additional arriving units to a scene shall place their BWC in the **Event Record Mode** as soon as practical (if so equipped), and continue to record until the completion of the event, or they have left the scene (this includes recording of statements).
- (f) BWC equipment will be assigned with priority given to each of the primary patrol shifts in each District and other uniform operations assigned under the Field Operations Bureau based on quantity of operational units in the department’s inventory.
- (g) Inspection, general care and maintenance of a BWC shall be the responsibility of the authorized department member who has been issued this equipment. BWC equipment shall be operated in accordance with the manufacturer’s recommended guidelines, department training and associated department policies/procedures.
- (h) Prior to beginning each shift, the assigned department member shall perform an inspection to ensure that the Body-Worn Camera is performing in accordance with the manufacturer’s recommendations. If problems are encountered with any component of the system, the BWC equipment will not be used.
- (i) Malfunctions, damage, loss or theft of BWC equipment shall be reported immediately by the assigned department member to an immediate supervisor. The department member’s immediate supervisor shall be responsible for providing written notice to the District/Division System Administrator documenting the suspected cause of equipment failure or corrective action initiated related to possible misuse. All lost or stolen BWC’s

New Orleans Police Department

Procedure Manual

Body-Worn Camera (“BWC”)

- shall be documented in an incident report. (Refer to Policy/PR 700, Department Owned and Personal Property).
- (j) Once the BWC is activated in the Event Record Mode for the purpose of documenting an investigative or enforcement contact, it should remain “**on**” until the incident has reached a conclusion or until the department member leaves the scene.
 - (k) Any review of a BWC by the officer shall be documented in the incident report corresponding with the incident.
 - (l) When the BWC is used in an investigative or law enforcement contact, this fact will be documented on any citation, summons, and/or report prepared.
 - (m) Whenever a department member obtains a video statement, the fact the statement was recorded will be listed in the Incident Report. A video statement is not a replacement for a written or tape recorded statement.
 - (n) Department members shall not use other electronic devices or other means in order to intentionally interfere with the capability of the BWC equipment.
 - (o) Department members assigned a BWC shall not erase, alter, reuse, modify, destroy, abuse, or tamper with BWC audio-video recordings or the device.
 - (p) Department members are to select a system defined category for each digital recording (e.g. – field interview, case file, citation, traffic stop, traffic accident, miscellaneous, training or other appropriate category listed for the event, provided, however, that miscellaneous shall be used only where the activity does not reasonably fall within another category). Specific instructions on system use are provided through training.
 - (q) Digital Recordings shall be preserved for at least two years, or if a case under investigation or litigation longer than two years, at least three years after the final disposition of the matter, including appeals unless a written request is made to store them for a longer period of time for a legitimate law enforcement purpose.
 - (r) When an incident arises that requires the immediate retrieval of a BWC digital recording (e.g., serious crime scenes, officer-involved shootings, department vehicle crashes) a supervisor from the involved member’s chain of command or the assigned investigator shall respond to the scene to secure the device and maintain a chain of custody.

PR447.5 CHARGING & UPLOADING PROCEDURE

At the end of their shift, a department member issued a BWC shall place the device into an open slot on the Evidence Transfer Manager (ETM docking station) located at their District/Division assignment. This will allow for recharging of the device and media or data transfer from the BWC through the docking station to EVIDENCE.COM. At the conclusion of recharge/upload cycle, the device is automatically cleared of all previously recorded data. The BWC device shall not be removed from the ETM until media or data has been uploaded and the battery has been fully recharged. When complete, a green light will illuminate on the device’s associated ETM docking port signifying the BWC is ready for use. Under normal use (routine shift), a recharge/upload cycle can be expected to take between one to three hours to complete.

New Orleans Police Department

Procedure Manual

Body-Worn Camera (“BWC”)

PR447.6 AUTHORIZED USER ACCESS TO UPLOADED MEDIA OR DATA

General access to digital recordings shall be granted to department authorized users only. It is the responsibility of authorized users to keep their user name and password confidential. Accessing, copying, or releasing any recordings for other than official law enforcement purposes is strictly prohibited, except as required by law.

- (a) A department member who has been assigned a BWC device may review his or her own BWC recording to help ensure accuracy and consistency of accounts. This can be done by accessing EVIDENCE.COM. To prevent damage, original recordings shall only be viewed by members who are assigned a BWC device through means authorized by the department.
- (b) A department member involved in any use of force incident or accident causing injuries will be permitted, but will not be required, to review their own BWC video recordings prior to providing a recorded statement or completing reports. Witness department members will only be allowed to review BWC video if it can be determined that their on-scene position would allow them to simultaneously perceive events in question from the same perspective as the involved member.
- (c) The Superintendent of Police or one of his/her designees (the Deputy Superintendent of the Public Integrity Bureau, the Deputy Superintendent of the Field Operations Bureau, the Deputy Superintendent of the Investigations & Support Bureau, the Deputy Superintendent of the Compliance Bureau, and the Deputy Superintendent of the Management Services Bureau) may authorize an investigator participating in an official department investigation of a personnel complaint, claims investigation, administrative inquiry, or criminal investigation, access to review specific incidents contained on BWC recordings. Access for any other purpose shall require the express approval of the Superintendent of Police.
- (d) A supervisor may review specific BWC media or data for the purpose of training, performance review, critique, early intervention inquiries, civil claims, administrative inquiry, or other articulable reason.
 - 1. **Exception:** Field Training Officers may use media captured via a BWC device to provide immediate training to recruits and to assist with the completion of the Daily Observation Report (DOR).
- (e) Under no circumstances shall members with access to BWC media or data files be allowed to use, show, reproduce or release recordings for the purpose of ridicule or embarrassment of any officer or individual or for other non-law enforcement related purposes. This includes submission of any portion of a BWC recording to a media organization unless release has been approved in advance by the Superintendent of Police.

PR447.7 DELETION OF UNINTENTIONAL RECORDINGS

In the event of an unintentional activation of BWC equipment during non-enforcement or non-investigative activities (e.g. - restroom or meal break, other areas where reasonable expectation of employee privacy exists) a department member may request recording deletion. An Interoffice Correspondence detailing the circumstances of the unintentional recording will be forwarded via the chain of command to the member’s District/ Division Commander. If approved, the actual deletion requires two-party authorization. One of those parties will be the member’s District/Division

New Orleans Police Department

Procedure Manual

Body-Worn Camera (“BWC”)

Commander; the other will be the Master System Administrator. Only the Master System Administrator shall facilitate the actual removal of any record approved for deletion. Records related to any request for the deletion of records shall be maintained by the Master System Administrator.

8. Utah Police Regulations: Mobile Video Recorders

III-535 MOBILE VIDEO RECORDERS

Definitions

Audio recording: The electronic recording of sounds, conversation, or other spoken words.

Battery Controller Pack: Enables control of the body camera through simple commands to place the camera in the various operational modes.

Body Camera System Administrator: Department employee with authority to:

- Maintain/assign Department user groups in video storage system;
- Conduct appropriate training for user groups within the Department;
- Address network and hardware issues with the City IMS team; and
- Interface with vendor on hardware/software performance issues.

Event Mode: The mode of operation in which the body camera captures the buffered video and is recording video images with an audio component.

Evidence.com: An on-line web-based media storage facility which stores digitally encrypted data such as photographs and video recordings and which is accessible to authorized personnel based upon a security clearance and which maintains an audit trail of user activity.

Camera Dock: A docking station, which simultaneously recharges the controller and uploads all data captured on the camera to Evidence.com.

Mobile Video Recorder: A body worn digital video camera and recorder, which may be worn in various mounting configurations on an officer's uniform.

Normal (Buffering) Mode: The mode of operation in which the Camera continuously loops video without an audio component for 30 seconds.

Privacy Mode: The mode of operation in which the Camera is not recording at all.

SYNC: A computer program, which allows officers to view but not alter video recordings captured by the Camera on the MDT screen. The program also allows officers to attach meta-data such as a video title and the incident case number to the video file and to upload video files to Evidence.com.

Video recording: The electronic recording of visual images either with or without an audio component.

Mobile Video Recordings

The body camera is utilized to record legitimate law enforcement contacts to include, but not limited to, the following types of events: traffic stops; pursuits; vehicle searches; confrontational citizen contacts; use of force situations; statements made by subjects, victims and witnesses; advising an individual of their Miranda rights; during interrogations.

In order to capture the above types of contacts and events, officers wearing a camera shall activate the body camera whenever they interact with the public with the exceptions noted below.

Officers who are found to have a pattern of not recording interactions will be subject to disciplinary action.

Prohibited Mobile Video Recordings

The body camera shall not be used to record non- work related personal activity and will not be activated in places where a reasonable expectation of privacy exists, such as locker rooms, dressing rooms or restrooms. The body camera will not be intentionally activated to record the conversations of fellow employees without their knowledge during routine, non- enforcement related activities.

Officers will not record undercover officers or confidential informants.

Officers shall not use privately owned body cameras.

Exceptions to Recording Requirement

Officers have the discretion to turn off the camera during conversations with sensitive crime victims/witnesses and members of the community who wish to report or discuss criminal activity but officers should be mindful of the protections a video would provide against unwarranted accusations of misconduct. Any decision to turn off the camera and reasons why should be documented in the written report.

Camera Assignment and Wear

Body cameras will be issued to officers whose primary duties include responding to calls for service, traffic enforcement, and members of SWAT, Public Order and other units as determined by the department.

Only those officers who have completed approved training will be allowed to operate the body camera system.

Officers who have been issued the body camera system shall wear it at all times the officer may become involved in an enforcement situation, including secondary employment. Officers shall activate the camera whenever they interact with the public, with the noted exceptions.

Officers may only wear the body camera in the following locations:

- Glasses Mount
- Epaulet/TAC Vest Mount
- Collar Mount
- Helmet Mount
- Cap Mount
- Headband Mount

Officers will inspect the body camera system for any physical damage and to ensure the device is in working order at the beginning of their shift. Any problems will be immediately reported to their supervisor.

Officers will immediately report the loss of or damage to any part of the body camera equipment to their supervisor, the Department Quartermaster, and the Body Camera System Administrator. If available, a replacement camera will be issued. The officer will complete a G.O. report. Supervisors will forward associated reports and notifications to their chain of command.

Camera Use Procedures

Once activated, the body camera shall remain in recording mode until the conclusion of the incident/encounter, the officer has left the scene or a supervisor has authorized that a recording may cease. The authorizing supervisor must be identified on camera or in a written report.

If the body camera system is in use and it becomes necessary to discuss issues or concerns with another officer or supervisor in private, the camera may be placed in Privacy Mode. The intention to stop the recording will be noted by the officer verbally on the video and as soon as the private conversation has ended the camera will be returned to Event Mode. Officers will verbally note the date and time the video is reinitiated.

In the event of a critical incident requiring the immediate retrieval of a digital recording a supervisor shall respond to the scene to secure the body camera system and maintain chain of custody. The detectives that will be investigating the case shall coordinate the download minimizing the chain of custody.

Officers will document in their written reports whether or not the body camera system was used to record an incident and will attach the appropriate case number and video category to the video either by accessing the video on Evidence.com or through the MDT via the Sync system.

If an officer fails to record an incident or activity that is required to be recorded, the officer shall articulate on camera or in a written report or street check the reason for the failure to record.

While it is understood that the use of the body camera will capture scenes of evidentiary value, these video recordings will not be used in lieu of Crime Lab personnel for photo or video-graphic incident documentation.

Supervisors may view recordings in the field in order to mitigate citizen complaints.

At the end of each shift, officers will place the camera and controller into the docking station for charging and uploading of media.

The camera should not be removed from the dock until all data has been uploaded.

In addition to attaching a case number to recorded media as required above, Officers must select a video category to allow for proper retention of the video. Recorded media captured by the camera will be retained according to the Department's retention schedule.

Retention Schedule

- Arrests - 1 year, unless categorized as evidence.
- Contacts and Detentions - 1 Year
- Critical Incidents (Non Arrest) - 2 Years
- Evidence - Until adjudication or final disposition. The case agent or initial officer (if no case agent is assigned) is responsible to ensure video is not deleted before adjudication or final disposition.
- Pursuits (Non Arrest) - 1 Year
- Traffic Stops/no citation issued - 1 Year
- Use of Force - 1 Year
- Miscellaneous - 1 Year
- Video footage of interactions where no arrest or citations were made shall be kept for 1 year.
- Accidental camera activations will only be retained for 60 days.
- When an IA Complaint or Notice of Claim against the City is received by the Internal Affairs Unit, the IA Lieutenant is responsible to change the video category to Evidence.

Copies of Video

The media captured will only be uploaded to Evidence.com and will only be used for official purposes. Officers will not make copies of any audio or video recordings for personal use and are prohibited from using a recording device such as a telephone camera or secondary video camera to record media from Evidence.com or the MDT if video is viewed through the sync system.

Video may be downloaded and copied for training purposes, but must be approved by the officer's Lieutenant. The reason for download and approving authority's name shall be noted in the notes section in the on-line storage system. No further copies should be made and all copies should be destroyed once no longer needed.

Review of Body Camera Media

Officers should use captured media to assist with investigations and in the completion of reports.

Officers involved in any significant use of force incident or accident resulting in injuries will be permitted to review their own camera video or audio recordings prior to completing a report or interview.

All other access to body camera media will be governed by Salt Lake City Police Department Policy **IV-320 RECORDS (Guidelines for Accessing Official Records)**.

Release of Body Camera Media to Third Parties

The release of media captured by body cameras to defense counsel in pending criminal proceedings will be processed like any other discovery request. Detectives/Investigators will be assigned to the Investigator user group in Evidence.com. Detectives/Investigators shall provide discovery access to prosecutorial agencies as requested. The Department Body Camera System Administrator shall assist Detectives/Investigators, when needed, in facilitating these requests.

Requests for body camera video from the news media and other third parties must be made in writing and will be routed to the Records Unit Government Records Access and Management Act (GRAMA) Coordinator. Once granted, the GRAMA coordinator will notify the Department Body Camera System Administrator to facilitate access for the person/entity making the request.

9. Seattle Police Manual: Body-Worn Video Pilot Program

SEATTLE POLICE DEPARTMENT MANUAL

16.091 - BODY-WORN VIDEO PILOT PROGRAM

Effective Date: 04/01/2015

16.091 POL-1

This policy applies to officers who have volunteered to participate in the Body-Worn Video (BWV) Pilot Program and all employees that view recorded videos. The pilot program's primary focus is to evaluate the business process of recording, storing, and public disclosure of body-worn video.

The Memorandum of Agreement between the City of Seattle and the Seattle Police Officers' Guild outlines the scope of the program. Pursuant to that agreement, there will be no discipline that follows from not recording a particular incident with BWV. However, the Department may remove volunteer officers from participation in the pilot program for failure to record events as outlined in this policy.

Officers must also continue to follow the ICV policies if they are sworn employees who operate In-Car Video (ICV) systems (including Patrol, Traffic, Gang Unit, Canine, SWAT, etc.).

1. All Officers Operating BWV Must Have Completed BWV Training

Before officers deploy with a BWV camera, they will complete Department training on the proper use of the equipment and procedures for uploading recorded video. This training will include:

- * Objectives of the BWV Pilot Program
- * Camera operation
- * Proper placement of the camera
- * Department policy on camera usage
- * Recording advisements

2. Officers Operating BWV Must Wear the Camera Properly

Officers will wear the camera in a location consistent with the training that allows the camera to record events.

3. Officers Will Perform Pre-Shift Function Checks and Note Malfunctions

At the start of the shift, officers will perform a check, as outlined in the BWV training, for issues with any of the following:

- * Damage
- * Camera mounting
- * Recording functionality
- * Previous uploads
- * Battery charging

Any time the officer is aware of equipment malfunctions, the officer will:

- * Notify a sergeant,
- * Note the malfunction on the MDC/CAD log including the screening sergeant's name
- * Notify IT staff for troubleshooting

4. Officers Will Record Police Activity

Officers will record the following police activity:

- * Response to 911 calls, starting when the officer begins travel to the call and ending consistent with paragraph 5 below
- * Terry stops
- * Traffic stops
- * On-View Criminal Activity
- * Arrests and seizures
- * Searches and inventories of vehicles or persons
- * Transports (excluding ride-alongs and passengers for meetings)
- * Vehicle Eluding/Pursuits
- * Questioning suspects or witnesses

If circumstances prevent recording with BWV at the beginning of an event, the officer shall begin recording as soon as practical.

Employees will activate the BWV to record the above, even if the event is out of view of the camera.

Unless there is reasonable suspicion to believe that criminal activity is occurring or will occur, employees shall not intentionally record:

- * People who are lawfully exercising their freedom of speech, press, association, assembly, religion, or the right to petition the government for redress of grievances. (Protected activity which is unintentionally captured while recording an event as otherwise required by this policy is not a violation.)
- * Places where a heightened expectation of privacy exists, such as restrooms, jails, or hospitals, unless for a direct law enforcement purpose such as a crime in progress or the recording of the location is material to a criminal investigation.

5. Once Recording Has Begun, Employees Shall Not Stop Recording Until the Event Has Concluded

Once BWV recording has begun, officers will record the entire event. An event has concluded when all of the following apply:

- * The employee has completed his or her part of the active investigation;
- * There is little possibility that the employee will have further contact with any person involved in the event; and
- * The employee is leaving the area of the event

For transports, the event has concluded when the officer reaches the transport destination, such as the jail, hospital, or precinct, and is exiting the vehicle.

Exception: For residences or other private areas not open to the public, officers will ask for consent to record with BWV. The request and any response will be recorded. If the request is denied, officers will stop recording with BWV during the time that they are in the private area.

This exception does not apply to crimes in progress or other circumstances that would allow the officer to be lawfully present without a warrant.

Officers who stop recording with the BWV during an event must document the reason(s) for doing so in the GO report. If there is no GO created, the officer will document the reason(s) in an update to the call.

6. Officers Shall Notify Persons of Recording

Officers using BWV shall notify persons that they are being recorded as soon as practical, and the notification must be on the recording.

Officers shall repeat the notification, if practical, for additional people that become involved in the recording.

7. Officers Will Document the Existence of Video or Reason for Lack of Video

Employees will document the existence of video, lack of video, or delay of the start of video in a call update and any related GO report, Street Check, Notice of Infraction, Criminal Citation, or Traffic Contact Report (TCR).

Employees who are not logged to a call or event but capture video of the event will log to the call and note that the event was recorded in a call update.

If this policy requires that an event be recorded, and there is no recording or there was a delay in recording, employees must explain in writing why it was not recorded or why the start of the recording was delayed.

8. Officers Will Enter Data for Recorded Events

Employees will assign the appropriate event type for all recordings and enter any related GO or event number(s) in the proper format. (YYYY-#####)

Officers will "flag" videos if any portion of the videos may contain images or audio of any of the following:

- * Complainant/victim/witness requesting non-disclosure
- * Complainant/victim/witness not requesting nondisclosure but disclosure would endanger life, physical safety, or property
- * Information that if disclosed, would be highly offensive to a reasonable individual and of no legitimate interest to the public
- * Medical information or treatment
- * Mental Health information or treatment
- * Any identifiable juveniles
- * Confidential informants
- * Entry into a private residence

9. Officers Shall Upload Recorded Video Before Going Out of Service

Officers will upload recorded video according to the training guidelines for the relevant unit model. If this is not completed before the end of shift, officers will notify a sergeant.

10. Officers Will Wear Only BWV Equipment Issued by the Department

Officers may not wear any personally-owned camera device for the purpose of recording enforcement activity. Only those camera units issued by the Department are authorized.

16.091-POL-2 Reviewing Body-Worn Video

This policy applies to all employees who review body-worn video recordings.

1. All Body Worn Videos and Related Data are the Property of the Seattle Police Department

Department policy governs all access, review, and release of body-worn video.

2. Employees May Review Recorded Video

Employees may view body-worn video for the following purposes:

- * Complaint
- * Criminal investigation
- * Officer-involved collision, including Collision Review Board investigations
- * Vehicle Pursuit investigation or review
- * Force Review Board
- * Public Disclosure request
- * Use of Force review or investigation
- * Performance appraisal
- * As part of the Early Intervention System (EIS)
- * Training purposes, with the permission of the involved officers.
- * Audit and Quality Control/Troubleshooting

3. Minor Misconduct Discovered During BWV Review Will Not Result in Discipline

If, in the course of viewing BWV, minor acts of misconduct unrelated to the original reason for viewing the video are discovered, they will not result in discipline or a sustained finding. However, such acts may result in a training referral or career counseling and may be included in an employee's performance evaluation.

In the context of BWV review, minor acts of misconduct will be handled either through mediation or the named officer's chain of command for appropriate follow up. In the context of BWV review, examples of minor misconduct include but are not limited to uniform violations, rudeness, and profanity.

Exception: Profanity and slurs that disparage a protected class under city, state, or federal law are not considered minor misconduct.

4. Users Shall Note the Purpose for Viewing Video

Any employee viewing a video shall manually make an entry in the application stating the purpose for viewing the video.

Each vendor's viewing application automatically logs the identity of a user who accesses a particular video, as well as the date and time of access.

5. Employees Shall Not Make Copies of Recorded Video Without Written Authorization From a Captain

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10. ACLU: “Police Body-Mounted Cameras: With Right Policies in Place, a Win For All”

Police Body-Mounted Cameras: With Right Policies in Place, a Win For All

Version 2.0

By Jay Stanley, ACLU Senior Policy Analyst

Originally published: October 2013

Last updated: March, 2015

Introduction to Version 2.0¹

Since we published the [first version](#) of this policy white paper in October 2013, interest in police body cameras has exploded. The August 2014 shooting of Michael Brown in Ferguson, Missouri and the subsequent protests focused new public attention on the problem of police violence—and on the possibility that body cameras might be part of the solution. The following December, a grand jury's decision not to indict an officer in the videotaped chokehold death of Eric Garner in New York City further intensified discussion of the technology.

With so much attention being paid to body cameras, we have received a lot of thoughtful feedback on our policy recommendations. Overall, considering how early in the discussion we issued our paper, we believe our recommendations have held up remarkably well. But in this revision of the paper we have seen fit to refine our recommendations in some areas, such as when police should record. And of course, the intersection of technology and human behavior being highly complex and unpredictable, we will continue to watch how the technology plays out in the real world, and will most likely continue to update this paper.

"On-officer recording systems" (also called "body cams" or "cop cams") are small, pager-sized cameras that clip on to an officer's uniform or are worn as a headset, and record audio and video of the officer's interactions with the public. [Recent surveys](#) suggest that about 25% of the nation's 17,000 police agencies were using them, with fully 80% of agencies evaluating the technology.

¹ I would like to thank Doug Klunder of the ACLU of Washington, who did much of the thinking behind the analysis set forth in the original draft of this paper; Scott Greenwood of Ohio; and my colleagues at the national office, for their valuable feedback and advice.

Much interest in the technology stems from a growing recognition that the United States has a real problem with police violence. In 2011, [police killed](#) six people in Australia, two in England, six in Germany and, according to an FBI count, 404 in the United States. And that [FBI number](#) counted only “justifiable homicides,” and was comprised of *voluntarily submitted* data from just 750 of 17,000 law enforcement agencies. Attempts by journalists to compile more complete data by collating local news reports have resulted in estimates as high as 1,000 police killings per year in the United States. Fully a quarter of the deaths involved a white officer killing a black person.

The ACLU’s Interest

Although we at the ACLU generally take a dim view of the proliferation of surveillance cameras in American life, police on-body cameras are different because of their potential to serve as a check against the abuse of power by police officers. Historically, there was no documentary evidence of most encounters between police officers and the public, and due to the volatile nature of those encounters, this often resulted in radically divergent accounts of incidents. Cameras have the potential to be a win-win, helping protect the public against police misconduct, and at the same time helping protect police against false accusations of abuse.

We’re against pervasive government surveillance, but when cameras primarily serve the function of allowing public monitoring of the government instead of the other way around, we generally support their use. While we have opposed government video surveillance of public places, for example, we have supported the installation of video cameras on police car dashboards, in prisons, and during interrogations.

At the same time, body cameras have more of a potential to invade privacy than those deployments. Police officers enter people’s homes and encounter bystanders, suspects, and victims in a wide variety of sometimes stressful and extreme situations.

For the ACLU, the challenge of on-officer cameras is the tension between their potential to invade privacy and their strong benefit in promoting police accountability. Overall, we think they can be a win-win—but *only* if they are deployed within a framework of strong policies to ensure they protect the public without becoming yet another system for routine surveillance *of* the public, and maintain public confidence in the integrity of those privacy protections. Without such a framework, their accountability benefits would not exceed their privacy risks.

On-officer cameras are a significant technology that implicates important, if sometimes conflicting, values. We will have to watch carefully to see how they are deployed and what their effects are over time, but in this paper we outline our current thinking about and recommendations for the technology. These recommendations are subject to change.

Control over recordings

Perhaps most importantly, policies and technology must be designed to ensure that police cannot “edit on the fly” — i.e., choose which encounters to record with limitless discretion. If police are free to turn the cameras on and off as they please, the cameras’

role in providing a check and balance against police power will shrink and they will no longer become a net benefit.

The primary question is how that should be implemented.

Purely from an accountability perspective, the ideal policy for body-worn cameras would be for continuous recording throughout a police officer's shift, eliminating any possibility that an officer could evade the recording of abuses committed on duty.

The problem is that continuous recording raises many thorny privacy issues, for the public as well as for officers. For example, as the Police Executive Research Forum (PERF) pointed out in their September 2014 [report](#) on body cameras, crime victims (especially victims of rape, abuse, and other sensitive crimes), as well as witnesses who are concerned about retaliation if seen cooperating with police, may have very good reasons for not wanting police to record their interactions. We agree, and support body camera policies designed to offer special privacy protections for these individuals.

Continuous recording would also mean a lot of mass surveillance of citizens' ordinary activities. That would be less problematic in a typical automobile-centered town where officers rarely leave their cars except to engage in enforcement and investigation, but in a place like New York City it would mean unleashing 30,000 camera-equipped officers on the public streets, where an officer on a busy sidewalk might encounter thousands of people an hour. That's a lot of surveillance. That would be true of many denser urban neighborhoods—and of course, the most heavily policed neighborhoods, poor and minority areas, would be the most surveilled in this way.

Continuous recording would also impinge on police officers when they are sitting in a station house or patrol car shooting the breeze — getting to know each other as humans, discussing precinct politics, etc. We have some [sympathy](#) for police on this; continuous recording might feel as stressful and oppressive in those situations as it would for any employee subject to constant recording by their supervisor. True, police officers with their extraordinary powers are not regular employees, and in theory officers' privacy, like citizens', could be protected by appropriate policies (as outlined below) that ensure that 99% of video would be deleted in relatively short order without ever being reviewed. But on a psychological level, such assurances are rarely enough. There is also the danger that the technology would be misused by police supervisors against whistleblowers or union activists — for example, by scrutinizing video records to find minor violations to use against an officer.

On the other hand, if the cameras do not record continuously, that would place them under officer control, which allows them to be manipulated by some officers, undermining their core purpose of detecting police misconduct. Indeed, this is precisely what we are seeing happening in many cases.

The balance that needs to be struck is to ensure that officers can't manipulate the video record, while also placing reasonable limits on recording in order to protect privacy.

One possibility is that some form of effective automated trigger could be developed that would allow for minimization of recording while capturing any fraught encounters — based, for example, on detection of raised voices, types of movement, etc. With dashcams, the devices are often configured to record whenever a car's siren or lights are activated, which provides a rough and somewhat (though not entirely) non-discretionary measure of when a police officer is engaged in an encounter that is likely to be a problem. That policy is not applicable to body cams, however, since there is no equivalent to flashing lights. And it's not clear that any artificial intelligence system in the foreseeable future will be smart enough to reliably detect encounters that should be recorded. In any case, it is not an option with today's technology.

Another possibility is that police discretion be minimized by requiring the recording of all encounters with the public. That would allow police to have the cameras off when talking amongst themselves, sitting in a squad car, etc., but through that bright-line rule still allow officers no discretion, and thus no opportunity to circumvent the oversight provided by cameras.

An all-public-encounters policy is what we called for in the first version of this white paper, but (as we first explained [here](#)), we have refined that position. The problem is that such a policy does not address the issues mentioned above with witnesses and victims, and greatly intensifies the privacy issues surrounding the cameras, especially in those states where open-records laws do not protect the privacy of routine video footage.

If a police department is to place its cameras under officer control, then it becomes vitally important that it put in place tightly effective means of limiting officers' ability to choose which encounters to record. Policies should require that an officer activate his or her camera *when responding to a call for service or at the initiation of any other law enforcement or investigative encounter between a police officer and a member of the public*. That would include stops, frisks, searches, arrests, consensual interviews and searches, enforcement actions of all kinds. This should cover any encounter that becomes in any way hostile or confrontational.

If officers are to have control over recording, it is important not only that clear policies be set, but also that they have some teeth. In too many places ([Albuquerque](#), [Denver](#), and [other cities](#)) officer compliance with body camera recording and video-handling rules has been terrible. Indeed, researchers report that compliance rates with body camera policies are as low as 30%.

When a police officer assigned to wear a body camera fails to record or otherwise interferes with camera video, three responses should result:

1. Direct disciplinary action against the individual officer.
2. The adoption of rebuttable evidentiary presumptions in favor of criminal defendants who claim exculpatory evidence was not captured or was destroyed.
3. The adoption of rebuttable evidentiary presumptions on behalf of civil plaintiffs suing the government, police department and/or officers for damages based on

police misconduct. The presumptions should be rebuttable by other, contrary evidence or by proof of exigent circumstances that made compliance impossible.

Evidentiary presumptions against a defendant-officer in a criminal proceeding should not be sought, as they are insufficient for meeting the burden of proof in a criminal case and might lead to false convictions.

Limiting the threat to privacy from cop cams

The great promise of police body cameras is their oversight potential. But equally important are the privacy interests and fair trial rights of individuals who are recorded. Ideally there would be a way to minimize data collection to only what was reasonably needed, but there's currently no technological way to do so.

Police body cameras mean that many instances of entirely innocent behavior (on the part of both officers and the public) will be recorded. Perhaps most troubling is that some recordings will be made inside people's homes, whenever police enter — including in instances of consensual entry (e.g., responding to a burglary call, voluntarily participating in an investigation) and such things as domestic violence calls. In the case of dashcams, we have also seen video of particular incidents released for no important public reason, and instead serving only to embarrass individuals. Examples have included [DUI stops of celebrities](#) and ordinary individuals whose [troubled](#) and/or [intoxicated](#) behavior has been widely circulated and now immortalized online. The potential for such merely embarrassing and titillating releases of video is significantly increased by body cams.

Therefore it is vital that any deployment of these cameras be accompanied by good privacy policies so that the benefits of the technology are not outweighed by invasions of privacy. The core elements of such a policy follow.

Notice to citizens

Most privacy protections will have to come from restrictions on subsequent retention and use of the recordings. There are, however, a few things that can be done at the point of recording.

1. Body cameras should generally be limited to uniformed police officers and marked vehicles, so people know what to expect. Exceptions should be made for non-uniformed officers involved in SWAT raids or in other planned enforcement actions or uses of force.
2. Officers should be required, wherever practicable, to notify people that they are being recorded (similar to existing law for dashcams in some states such as Washington). One possibility departments might consider is for officers to wear an easily visible pin or sticker saying "lapel camera in operation" or words to that effect. Cameras might also have blinking red lights when they record, as is standard on most other cameras.

3. It is especially important that the cameras not be used to surreptitiously gather intelligence information based on First Amendment protected speech, associations, or religion. (If the preceding policies are adopted, this highly problematic use would not be possible.)

Recording in the home

Because of the uniquely intrusive nature of police recordings made inside private homes, officers should be required to provide clear notice of a camera when entering a home, except in circumstances such as an emergency or a raid. And departments should adopt a policy under which officers ask residents whether they wish for a camera to be turned off before they enter a home in non-exigent circumstances. (Citizen requests for cameras to be turned off must themselves be recorded to document such requests.) Cameras should never be turned off in SWAT raids and similar police actions.

Retention

Data should be retained no longer than necessary for the purpose for which it was collected. For the vast majority of police encounters with the public, there is no reason to preserve video evidence, and those recordings therefore should be deleted relatively quickly.

- Retention periods should be measured in weeks not years, and video should be deleted after that period unless a recording has been flagged. Once a recording has been flagged, it would then switch to a longer retention schedule (such as the three-year period currently in effect in Washington State).
- These policies should be posted online on the department's website, so that people who have encounters with police know how long they have to file a complaint or request access to footage.
- Flagging should occur automatically for any incident:
 - involving a use of force;
 - that leads to detention or arrest; or
 - where either a formal or informal complaint has been registered.
- Any subject of a recording should be able to flag a recording, even if not filing a complaint or opening an investigation.
- The police department (including internal investigations and supervisors) and third parties should also be able to flag an incident if they have some basis to believe police misconduct has occurred or have reasonable suspicion that the video contains evidence of a crime. We do not want the police or gadflies to be able to routinely flag all recordings in order to circumvent the retention limit.

- If any useful evidence is obtained during an authorized use of a recording (see below), the recording would then be retained in the same manner as any other evidence gathered during an investigation.
- Back-end systems to manage video data must be configured to retain the data, delete it after the retention period expires, prevent deletion by individual officers, and provide an unimpeachable audit trail to protect chain of custody, just as with any evidence.

Use of Recordings

The ACLU supports the use of cop cams for the purpose of police accountability and oversight. It's vital that this technology not become a backdoor for any kind of systematic surveillance or tracking of the public. Since the records will be made, police departments need to be subject to strong rules around how they are used. The use of recordings should be allowed only in internal and external investigations of misconduct, and where the police have reasonable suspicion that a recording contains evidence of a crime. Otherwise, there is no reason that stored footage should even be reviewed by a human being before its retention period ends and it is permanently deleted. Nor should such footage be subject to face recognition searches or other analytics.

Subject Access

People recorded by cop cams should have access to, and the right to make copies of, those recordings, for however long the government maintains copies of them. That should also apply to disclosure to a third party if the subject consents, or to criminal defense lawyers seeking relevant evidence.

Public Disclosure

When should the public have access to cop cam videos held by the authorities? Public disclosure of government records can be a tricky issue pitting two important values against each other: the need for government oversight and openness, and privacy. Those values must be carefully balanced by policymakers. One way to do that is to attempt to minimize invasiveness when possible:

- Public disclosure of any recording should be allowed with the consent of the subjects, as discussed above.
- Redaction of video records should be used when feasible — blurring or blacking out of portions of video and/or distortion of audio to obscure the identity of subjects. If recordings are redacted, they should be discloseable.
- Unredacted, unflagged recordings should not be publicly disclosed without consent of the subject. These are recordings where there is no indication of police misconduct or evidence of a crime, so the public oversight value is low. States

may need to examine how such a policy interacts with their state open records laws.

- Flagged recordings are those for which there is the highest likelihood of misconduct, and thus the ones where public oversight is most needed. Redaction of disclosed recordings is preferred, but when that is not feasible, unredacted flagged recordings should be publicly discloseable, because in such cases the need for oversight generally outweighs the privacy interests at stake.

Good technological controls

It is important that close attention be paid to the systems that handle the video data generated by these cameras.

- Systems should be architected to ensure that segments of video cannot be destroyed. A recent case in Maryland illustrates the problem: surveillance video of an incident in which [officers](#) were accused of beating a student disappeared (the incident was also filmed by a bystander). An officer or department that has engaged in abuse or other wrongdoing will have a strong incentive to destroy evidence of that wrongdoing, so technology systems should be designed to prevent any tampering with such video.
- In addition, all access to video records should be automatically recorded with immutable audit logs.
- Systems should ensure that data retention and destruction schedules are properly maintained.
- It is also important for systems be architected to ensure that video is only accessed when permitted according to the policies we've described above, and that rogue copies cannot be made. Officers should not be able to, for example, pass around video of a drunk city council member, or video generated by an officer responding to a call in a topless bar, or video of a citizen providing information on a local street gang.
- If video is held by a cloud service or other third party, it should be encrypted end-to-end so that the service provider cannot access the video.

It is vital that public confidence in the integrity of body camera privacy protections be maintained. We don't want crime victims to be afraid to call for help because of fears that video of their officer interactions will become public or reach the wrong party. Confidence can only be created if good policies are put in place and backed up by good technology.

As the devices are adopted by police forces around the nation, studies should be done to measure their impact. Only very limited [studies](#) have been done so far. Are domestic

violence victims hesitating to call the police for help by the prospect of having a camera-wearing police officer in their home, or are they otherwise affected? Are privacy abuses of the technology happening, and if so what kind and how often?

Although fitting police forces with cameras will generate an enormous amount of video footage and raises many tricky issues, if the recording, retention, access, use, and technology policies that we outline above are followed, very little of that footage will ever be viewed or retained, and at the same time those cameras will provide an important protection against police abuse. We will be monitoring the impact of cameras closely, and if good policies and practices do not become standard, or the technology has negative side effects we have failed to anticipate, we will have to reevaluate our position on police body cameras.

Use of body cameras in different contexts

Body cameras are not justified for use by government officials who do not have the authority to conduct searches and make arrests, [such as](#) parking enforcement officers, building inspectors, teachers, or other non-law enforcement personnel. Police officers have the authority, in specific circumstances, to shoot to kill, to use brutal force, and to arrest people—and all too often, abuse those powers. The strong oversight function that body cameras promise to play with regards to police officers makes that deployment of the technology a unique one. For other officials, the use of body cameras does not strike the right balance between the oversight function of these cameras and their potential intrusiveness.

11. Center for Democracy and Technology: “Letter to Members of the Task Force on 21st Century Policing”



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January 28, 2015

President's Task Force on 21st Century Policing
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Dear Members of the Task Force on 21st Century Policing:

The Center for Democracy & Technology (CDT) writes to provide recommendations related to body-worn cameras in response to the Task Force's consideration of the issue and request for public comment.¹ CDT is a nonpartisan, non-profit technology policy advocacy organization dedicated to protecting civil liberties and human rights while encouraging the continued development of the Internet and other technological innovations that empower individuals. With use of body cameras rapidly expanding across the country² and federal legislation being offered for nationwide use,³ we are pleased to see the Task Force addressing this important new technology, and its impact on privacy and civil liberties.

Body cameras have significant promise to reduce misconduct and increase public confidence in law enforcement.⁴ However, they also represent a powerful new technology that could be co-opted as tool for

¹ COPS Office, *Listening Session: Technology and Social Media*, available at <http://www.cops.usdoj.gov/Default.asp?Item=2768>.

² See generally, Michael D. White, *Police Officer Body-Worn Cameras: Assessing the Evidence*, Office of Community Oriented Policing Services, available at <https://ojpdiagnosticcenter.org/sites/default/files/spotlight/download/Police%20Officer%20Body-Worn%20Cameras.pdf>, hereafter, *Assessing the Evidence Body Camera Study*.

³ See e.g., the Camera Authorization and Maintenance Act, which would require all state and local law enforcement agencies that receive Department of Justice grants to have their officers wear body cameras. H.R. 5865, 2014.

⁴ In one pilot program study, use of body cameras reduced citizen complaints against the police by 88 percent and decreased police use of force by 60 percent. *Assessing the Evidence Body Camera Study* at 20.

mass surveillance. While initial use of body cameras has been encouraging, varying standards threaten to cause serious privacy harms. We believe the Task Force should put forward recommendations for use of body cameras to serve as guiding principles for programs being implemented throughout the country, as well as for any federal legislation expanding the role of body cameras or requiring their use. Federal funding for camera use should be tied to both best practices and robust involvement from local communities controlling how camera technology is deployed and used.

Recommendations for use of body cameras⁵ must address the following areas:

1) Requirements and Limits for Recording: The most fundamental policy question is when cameras should be on. This policy should strive to make sure any potential interaction that could result in misconduct or a complaint is recorded, but also account for privacy interests of both officers and civilians, and questions of practicality. Research demonstrates that providing greater discretion for when cameras must be turned on results in a substantial decrease in video recordings.⁶ Therefore, a model general recording requirement should limit discretion, and require cameras generally be turned on whenever officers are interacting with the public. The Police Executive Research Forum also recommends a broad recording policy.⁷ However, a broad general recording policy should be paired with strong exceptions to compensate for privacy needs of both officers and civilians. An effective means of addressing this may be to require that cameras be turned off in locations where civilians have a reasonable expectation of privacy, such as bathrooms, dressing rooms, and locker rooms.⁸ However, a more strict recording policy may be necessary when responding to a call for service or engaging in a law enforcement activity to guarantee oversight of the most critical interactions between the police and public. Finally, policies should ensure that issues of practicality do not interfere with general recording requirements, such as requirements that cameras are equipped with a “pre-event video buffer” and standardized rules for switching batteries⁹ and maintenance checks of cameras.

⁵ While our recommendations discuss body cameras, similar guidelines should exist for other oversight technologies such as cameras mounted on firearms and Tasers.

⁶ A yearlong test study in Mesa resulted in a 42 percent decrease in body camera use when a more discretionary policy was in effect. For a six months period, the Mesa police department employed a policy that, “When practical, officers will make every effort to activate the on-officer body camera when responding to a call or have any contact with the public.” For the following six months, the policy was changed to have officers “exercise discretion and activate the on-officer body camera when they deem it appropriate.” Officers recorded 42 percent less video files during the second six-month period when the discretionary policy was in effect. *Assessing the Evidence Body Camera Study* at 8-9.

⁷ Miller, Lindsay, Jessica Toliver, and Police Executive Research Forum, *Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned*. Washington, DC: Office of Community Oriented Policing Services (2014), 40, available at <http://www.justice.gov/iso/opa/resources/472014912134715246869.pdf>, hereafter, *PERF Recommendations Report*.

⁸ This restriction already exists in some jurisdictions using body cameras such as Salt Lake City. See, Utah police regulations III-535 MOBILE VIDEO RECORDERS. Further, because federal wiretap laws and state peeping tom laws in many states prohibit video recording in such situations, the bounds of a “reasonable expectation of privacy” standard have strong legal foundation and can be readily adopted for body cameras.

⁹ TASER International's AXON system, a commonly used body camera system, includes a battery pack that generally lasts 12 to 14 hours. See, *PERF Recommendations Report* at 10.

2) Rules for Notification and Opting-Out: While a broad recording policy is advisable to ensure that important interactions and potential misconduct are recorded,¹⁰ individuals should be given as much control as possible in regulating what video directed at them, and the ability to “opt out” as desired. This will promote individual privacy from unwanted government surveillance, but also facilitate police interviews with witnesses that may be reluctant to discuss an investigation on video. Generally, requiring officers to turn off a body camera when requested by an individual being recorded is consistent with existing body camera guidelines in numerous jurisdiction where state law requires consent to record.¹¹ Additionally, allowing for individuals to opt out will better ensure that crime victims and witnesses will not refuse to interact with officers out of fear of being recorded as cooperating, a significant concern for police departments.¹² In order to achieve this goal, some form of notification should be required that cameras are recording. This could occur via an explicit statement – as is required by departments in jurisdictions with two-party consent laws¹³ – or through indirect notification such as a “recording” light accompanying a camera. Quite simply, individuals cannot exercise a right to opt out of being recorded if they do not know a video feed is on.

3) Requirements and Limits on Retention: Limitations on retention are a crucial after the fact method of ensuring that body cameras serve as an oversight tool, and prevent creeping use of cameras for dragnet surveillance. However, limits on retention must account for factors such as civilian complaints, evidentiary use, and examination of evidence by criminal defendants. As an overall baseline, departments should be required to retain all video for the length of time civilians may file complaints.¹⁴ Evidentiary video - video consisting of “an incident or encounter that could prove useful for investigative purposes, such as a crime, an arrest or citation, a search, a use of force incident, or a confrontational encounter with a member of the public,”¹⁵ – has significant potential value for civilian complaints of misconduct, criminal investigations, and criminal defendants. However, the range of criminal offenses should be taken into account in establishing longer retention periods for evidentiary video; the value of video related minor and non-violent crimes must be weighted against technical limits to storage and privacy concerns. State evidentiary rules could serve as an effective foundation for obtaining this balance, where evidence for minor crimes is limited, but evidence for more serious crimes – such as homicides – can be indefinite.¹⁶ At a minimum, evidentiary video should be retained until adjudication or final disposition of the relevant investigation, to permit

¹⁰ See, *PERF Recommendations Report* at 12-14.

¹¹ See, *Assessing the Evidence Body Camera Study* at 27; see also, *PERF Recommendations Report* at 14.

¹² *Id.*, at 12 (“[O]fficer discretion is needed in sensitive situations, such as encounters with crime victims or witnesses who are concerned about retaliation if they are seen as cooperating with the police”); see also, *Assessing the Evidence Body Camera Study* at 27.

¹³ *PERF Recommendations Report* at 56.

¹⁴ This is the leading factor for retention policy in a number of jurisdictions employing body cameras. *Id.* at 17.

¹⁵ *Id.*

¹⁶ See, *Id.* at 16 (“For example, many state laws require that footage involving a homicide be retained indefinitely, but video of a traffic citation must be kept for only a matter of months”).

review by potential criminal defendants.¹⁷ However, beyond these fairly narrow circumstance – evidence of a crime or police misconduct – video footage should be promptly deleted.

While video is being retained, access should be limited. Video should be generally inaccessible, unless needed as evidence or for internal investigations. Strict prohibitions should exist against any editing of video apart from the retention rules for scheduled deletion. Officers should not have access to their own feed prior to filing of reports to prevent retroactive development of justifications for police actions, such as a Terry stop or arrest. High standards for data security should exist, regardless of whether videos are directly held by the department or a third party storage provider.¹⁸

4) Limits and Protections Regarding Dissemination: While the added accountability of body cameras can only be achieved if video feed can be released to affected civilians and other parties devoted to oversight, dissemination rules must account for the privacy interests of those being recorded, especially given that such recordings can occur in intimate situations such as the execution of a search warrant or interviewing of a crime victim. Furthermore, dissemination rules should account for issues of practicality.¹⁹ While civilians alleging police misconduct will have the most direct interest in obtaining video from body cameras, other parties – such as civil rights groups, government transparency groups, and media – will also have a legitimate interest in obtaining video feed for legitimate goals related to enhancing accountability and supporting the public interest.

However, if body camera video feed is to be made generally available, precautions should exist to protect the privacy of individuals recorded, especially given potential sensitivity of police interactions. Therefore, body camera feeds should be redacted to block 1) any personally identifiable information and 2) video whose disclosure constitutes a clearly unwarranted invasion of personal privacy.²⁰ The Police Executive Research Forum supports a broad disclosure policy containing exemptions for sensitive private information.²¹ While redaction efforts will require time and resources, tools such as face blurring technology can make the process

¹⁷ However, maintaining ability to obtain video for civilian complaints should always be the dispositive rule. If this is shorter than the length of time civilians may file misconduct complaints, retention should be extended to this time period.

¹⁸ *PERF Recommendations Report* at 44 (“[A]gencies should take all possible steps to protect the integrity and security of the data . This includes explicitly stating who has access to the data and under what circumstances, creating an audit system for monitoring access, ensuring there is a reliable back-up system, specifying how data will be downloaded from the camera, and including protections against data tampering prior to downloading”).

¹⁹ In states such as Washington where video requests are governed by unrestricted public record laws, police departments have been overwhelmed with the magnitude of requests received. See, *Washington State police overwhelmed by public requests for dash- and body-cam footage*, Homeland Security News Wire (November 27, 2014), available at <http://www.homelandsecuritynewswire.com/dr20141127-washington-state-police-overwhelmed-by-public-requests-for-dash-and-bodycam-footage>.

²⁰ This requirement is adopted from the Utah public records request law – GRAMA – which governs the Salt Lake City Police Department’s rules for dissemination of video from its body camera program. See, UCA 63G-2-302(2)(d).

²¹ See, *PERF Recommendations Report* at 17.

significantly easier, and are already being employed by some departments.²² Required redactions could be waived if the affected party consents to their release.

5) Limits on Use of Facial Recognition: Use of facial recognition in combination with body cameras represents a significant risk to privacy. In order to prevent overbroad surveillance and monitoring, use of facial recognition for recordings from police body cameras should be barred or sharply limited. Development of face prints from body cameras represents a significant threat to privacy, and activities protected by the First Amendment. Face prints could be cataloged from officers' recordings of religious ceremonies, political rallies, or public protests, such as developing a face print identification lists of all individuals in a Mosque or attending a "Black Lives Matter" demonstration.²³

Allowing officers to run *existing* face prints against video that is being recorded from body cameras offers risks to privacy as well. This practice could be used to locate, and monitor the activities of individuals not suspected of wrongdoing, especially in cities with large police forces.²⁴ Courts and state legislatures are increasingly recognizing the privacy value of location information – including in public – and establishing warrant-for-location requirements. Use of facial recognition in combination with body cameras should not serve as a loophole for these protections.

We are confident that body cameras can be a significant aid to safe and effective policing in the 21st century, and that with appropriate guidelines, their use will not inhibit privacy or civil liberties. We look forward to the chance to work with the Task Force in achieving these goals. If you have any questions regarding our comments, please contact Chris Calabrese, Senior Policy Director, at ccalabrese@cdt.org, or Jake Laperruque, Fellow on Privacy, Surveillance, and Security, at jlaperruque@cdt.org.

Sincerely,

Chris Calabrese
Senior Policy Director

Jake Laperruque
Fellow on Privacy, Surveillance, and Security

²² See e.g., Jon Fingas, *Seattle police get help publishing body camera videos online*, Engadget (November 24, 2014), available at <http://www.engadget.com/2014/11/24/seattle-police-get-help-posting-body-camera-videos/>.

²³ The NYPD "Demographic Unit" tasked with monitoring the activities of Muslim communities and FBI presentation highlighting potential use of facial recognition technology to tag individuals at campaign rallies reflect that these are genuine concerns See, Matt Appuzo and Joseph Goldstein, *New York Drops Unit That Spied on Muslims*, The New York Times (April 15, 2014), available at http://www.nytimes.com/2014/04/16/nyregion/police-unit-that-spied-on-muslims-is-disbanded.html?_r=0; see also, Richard W. Vorder Bruegge, *Facial Recognition and Identification Initiatives*, Federal Bureau of Investigations, 4, available at https://www.eff.org/files/filenode/vorder_bruegge-facial-recognition-and-identification-initiatives_0.pdf

²⁴ Chicago and Washington DC contain on average over 50 officers per square mile, while New York City contains an average of 119 officers per square mile. All three cities are currently implementing body camera programs. Whet Moser, *City Size and Police Presence*, Chicago Magazine (August 30, 2012), available at <http://www.chicagomag.com/Chicago-Magazine/The-312/August-2012/City-Size-and-Police-Presence/>.

12. White, Michael: “Police Officer Body-Worn Cameras: Assessing the Evidence”

Police Officer Body-Worn Cameras

ASSESSING THE EVIDENCE

by Michael D. White, PhD



Data-Driven Crime Solutions Appendix P. 191

Police Officer Body-Worn Cameras

ASSESSING THE EVIDENCE

by Michael D. White, PhD



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Contents

Letter from the Assistant Attorney General	3
Executive Summary	5
Resources and research	5
Perceived benefits and concerns	6
Recommendations	10
Introduction	11
Resources and Research	15
A brief note on methodology	15
Studies in the United Kingdom	16
Studies in the United States	17
Perceived benefits and concerns	18
The Perceived Benefits of Officer Body-Worn Cameras	19
Increased transparency and police legitimacy	19
Improved police officer behavior	20
Improved citizen behavior	22
Expedited resolution of citizen complaints/lawsuits	23
Evidence for arrest and prosecution	24
Opportunities for police training	25
Concerns and Considerations Regarding Body-Worn Cameras	27
Concerns for citizens' privacy	27
Concerns for officers' privacy	28
Concerns for officers' health and safety	29
Investments in training and policy	30
Substantial financial, resource, and logistical commitment	32

Conclusion and Recommendations	35
Civilizing effect	35
Evidentiary benefits	36
Impact on law enforcement agencies and other stakeholders	36
Recommendations	37
References	38
Appendix A. Useful Guides to Body-Worn Camera Technology	41
Appendix B. Body-Worn Camera Policy Template	43
About the Author	54
Table 1. Empirical studies of officer body-worn cameras as of September 2013	16
Table 2. Perceived benefits and concerns with officer body-worn cameras	18

Letter from the Assistant Attorney General

Dear colleagues,

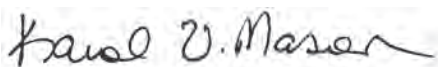
I am pleased to bring you this resource from the Office of Justice Programs (OJP) Diagnostic Center on body-worn video cameras. This review was produced for a Diagnostic Center client seeking to understand the costs and benefits to the law enforcement community to use body-worn camera technology, and we believe the information assembled by the Diagnostic Center can be of use to law enforcement departments throughout the country.

As you may know, OJP is committed to translating scientific evidence about what works in criminal justice and public safety to the field, ensuring it is both accessible and user friendly. OJP launched the Diagnostic Center in spring 2012 to facilitate this translation process of science into outcomes. The Diagnostic Center is a technical assistance resource for state, local, and tribal policymakers seeking to implement data-driven strategies to combat crime and improve public safety.

In pursuing that mission, the Diagnostic Center undertook this literature review of the current evidence on the challenges and benefits of body-worn video camera technology. I hope that this resource, which we are proud to be publishing jointly with our colleagues from the Office of Community Oriented Policing Services (COPS Office), helps inform your department's conversations about the use of body-worn video cameras in the field.

If you are interested in receiving services from the OJP Diagnostic Center, please visit www.OJPDiagnosticsCenter.org or call 1-855-657-0411 to learn more about how the Diagnostic Center engages with client communities to improve public safety.

Sincerely,



Karol V. Mason
Assistant Attorney General
Office of Justice Programs

Executive Summary

In recent years, technological innovation has continually shaped law enforcement, from less-lethal devices (e.g., TASER) and forensic evidence to advanced crime analysis. The most recent technological innovation that may redefine policing is officer body-worn camera systems.

The technology has received considerable attention in the media and among policing officials. For example, in her August 2013 ruling that declared the New York Police Department's (NYPD) stop, question, and frisk program unconstitutional, Judge Shira Scheindlin included body-worn cameras as part of the judicial order.

On September 11, 2013, the Police Executive Research Forum (PERF) held a conference on the technology. Although advocates and critics have made numerous claims regarding body-worn cameras, there have been few balanced discussions of the benefits and problems associated with the technology and even fewer discussions of the empirical evidence supporting or refuting those claims.

This publication provides a review of the available evidence on officer body-worn cameras. The goal is to provide a comprehensive resource that will help law enforcement agencies to understand the factors they should consider to make informed decisions regarding the adoption of body-worn camera technology.

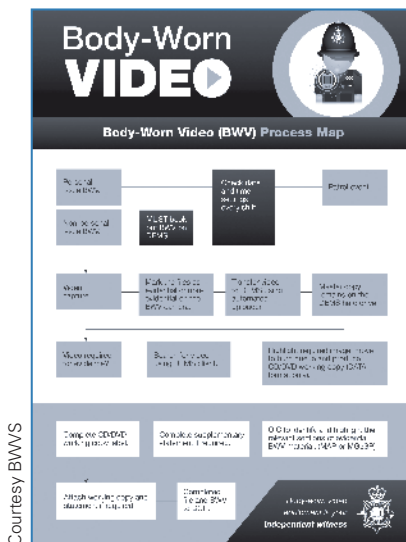
Resources and research

This publication reviews several available resources that offer a starting point for exploring the body-worn camera technology (see Appendix A for greater detail):

- The UK Home Office's Guidance for the Police Use of Body-Worn Video Devices (Goodall 2007)
- The National Institute of Justice's (NIJ) A Primer on Body-Worn Cameras for Law Enforcement (ManTech 2012)
- Body Worn Video Steering Group, www.bwvsg.com

This resource also provides an overview of empirical studies to date that have examined the implementation and impact of officer body-worn cameras. The overwhelming theme from this review is the lack of available research on the technology. This publication identifies five empirical studies:

1. Plymouth Head Camera Project (England)(Goodall 2007)
2. Renfrewshire/Aberdeen Studies (Scotland)(ODS Consulting 2011)



Courtesy BWVS

3. Rialto (California) Police Department (Farrar 2013)
4. Mesa (Arizona) Police Department (MPD 2013)
5. Phoenix (Arizona) Police Department (White 2013)

The five studies reviewed here, which vary widely in their methodological rigor, represent the entire body of evidence on body-worn cameras (see also Draisin 2011 for an internal review of the literature on in-car or body-worn cameras conducted for the Orlando Police Department).

Perceived benefits and concerns

The majority of this publication reviews the claims made by advocates and critics regarding body-worn camera technology and includes a discussion of the empirical evidence supporting each claim. Given the lack of research, there is little evidence to support or refute many of the claims, and there are outstanding questions regarding the impact and consequences of body-worn cameras. Nevertheless, the available studies have provided insight into several areas, suggesting that additional study of the technology is warranted. However, police departments should be cautious and deliberate in their exploration of the technology given the lack of research.

Perceived benefits (based on available research and conventional wisdom), along with a discussion of each claim, include the following:

- **Body-worn cameras increase transparency and citizen views of police legitimacy.** This claim has not been sufficiently tested. There have been virtually no studies of citizens' views of the technology.
- **Body-worn cameras have a civilizing effect, resulting in improved behavior among both police officers and citizens.** Several of the empirical studies have documented substantial decreases in citizen complaints (Rialto, Mesa, Plymouth, and Renfrewshire/Aberdeen studies) as well as in use of force by police (Rialto) and assaults on officers (Aberdeen). There is also anecdotal support for a civilizing effect reported elsewhere (Phoenix and in media reports cited in the references list).

However, the behavior dynamics that explain these complaints and use of force trends are by no means clear. The decline in complaints and use of force may be tied to improved citizen behavior, improved police officer behavior, or a combination of the two. It may also be due to changes in citizen complaint reporting patterns (rather than a civilizing effect), as there is evidence that citizens are less likely to file frivolous complaints against officers wearing cameras (Goodall 2007; Stross 2013). Available research cannot disentangle these effects; thus, more research is needed.

- **Body-worn cameras have evidentiary benefits that expedite resolution of citizen complaints or lawsuits and that improve evidence for arrest and prosecution.** The available research offers support for the evidentiary benefits of body-worn camera systems. Several of the empirical studies (Plymouth and Renfrewshire/Aberdeen studies) indicate that body-worn cameras assist in the resolution of citizen complaints against police officers. Findings also suggest that body-worn cameras may reduce the likelihood that citizens will file untruthful complaints (Plymouth and Renfrewshire/Aberdeen studies). While some research has looked into the technology's impact on resolution of citizen complaints (all five studies listed in "Resources and research"), no research has tested the technology's impact on lawsuits against police.

There is no evidence from the U.S. studies regarding the impact of body-worn cameras on arrest and prosecution practices. Evidence from the UK studies indicates that the technology reduces officers' paperwork, enhances their ability to determine whether a crime occurred, and increases the likelihood that cases will end in a guilty plea rather than criminal trial. However, more research is needed.

- **Body-worn cameras provide opportunities for police training.** This claim is mostly untested. There is anecdotal evidence from the UK Home Office guide (Goodall 2007) regarding the use of the technology in police training, and there is one report of a U.S. police department (Miami) doing so (Local 10 2013). More research is needed.

Perceived concerns and problems (based on available research and conventional wisdom), along with a discussion of each claim, include the following:

- **Body-worn cameras create citizen privacy concerns.** Although civil rights advocates have generally supported the use of body-worn cameras by police (Stanley 2013), the impact of the technology on citizen privacy is not fully understood. Federal and state laws regarding the expectation of privacy place some restrictions on using audio and video recording. Moreover, body-worn cameras capture in real time the traumatic experiences of citizens who are victims of crime, who are involved in medical emergencies and accidents, and who are being detained or arrested. Recording these events may exacerbate citizens' trauma. In their model policy template (see Appendix B), the Body Worn Video Steering Group cautions law enforcement agencies about the collateral intrusion of the technology, particularly with regard to religious sensitivities, intimate searches, witnesses and confidential informants, victims, and communications governed by legal privilege. More research is needed.
- **Body-worn cameras create concerns for police officer privacy.** Law enforcement circles have not universally accepted the technology. Police unions in several cities, most recently New York, have claimed that the cameras represent a change in working conditions that must be negotiated

during contract talks (Schoenmann 2012; Celona 2013). There are also concerns that officers may be subjected to unsolicited fishing expeditions by supervisors (White 2013). Experiences from Phoenix and Rialto suggest that including line-level staff in the implementation process from the start, particularly with regard to policy development governing camera use, can alleviate many of these concerns. Nevertheless, everything an officer records is discoverable, even if the officer records events unintentionally (e.g., forgets to stop recording). The implications of the technology for officer privacy are not fully understood, and more research is needed.

- **Body-worn cameras create concerns for officer health and safety.** The UK Home Office guide (Goodall 2007) details a wide range of potential health and safety concerns, from neck injury resulting from the weight of the camera to electrical shock. The vast majority of concerns are rated as low risk. The guide does cite a few concerns as medium risk, including the potential for head injury (i.e., the camera striking the officer's head during an assault), soreness and headaches from the headband (most UK agencies use a unit attached to a headband), and transferred bodily fluids or infectious agents from shared cameras. However, wearing the camera on part of the uniform (e.g., lapel or torso) instead of the head can mitigate nearly all of the stated risks. Nevertheless, there has been no research examining health and safety issues associated with body-worn cameras.
- **Body-worn cameras require investments in terms of training and policy development.** Available research clearly demonstrates the importance of training and policy governing the deployment of body-worn cameras. Officers who wear cameras need to be trained in their use, from recording and downloading video to proper equipment maintenance. Departments must develop clear administrative policies that provide guidance to officers on a wide range of issues, such as when to record and when not to, whether to announce that the encounter is being recorded, and when supervisors can review video. The policies should also address video download procedures, video redaction procedures, preparation of video for prosecution, and data storage and management.

The Body Worn Video Steering Group developed a comprehensive policy template (see Appendix B) that can be used by agencies as a framework for developing their own policies.

Moreover, the Mesa (Arizona) Police Department's evaluation, which focused on the cameras' impact on reducing civil liability, addressing departmental complaints, and enhancing criminal prosecution, clearly demonstrates that administrative policy influences camera usage (MPD 2013). During the one-year evaluation, Mesa employed two different policies governing use of the

camera: one that was restrictive (implemented the first six months) and one that gave officers much more discretion in determining when to record events (implemented the last six months). Camera use declined by 42 percent when the discretionary policy was in effect. The Mesa evaluation also demonstrated that officers who volunteer to wear the technology are more likely to record encounters than officers who are required to wear it.

- **Body-worn cameras require substantial commitment of finances, resources, and logistics.** Available research demonstrates that the resource and logistical issues surrounding adoption of body-worn cameras are considerable and, in many cases, difficult to anticipate. There are direct costs associated with purchasing the hardware (from \$800 to \$1,000 per camera) as well as replacement costs as components break down (MPD 2013). One of the primary resource issues revolves around data storage and management. Body-worn cameras produce an enormous amount of video data that must be properly and securely stored. There are also questions about how quickly specific video can be retrieved (White 2013). The major vendors offer cloud-based storage solutions at a cost, or agencies can choose to manage and store the video locally.



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Further, when body-worn camera video footage is used in court, there are potential expenses associated with reviewing and redacting footage. The more frequently that body-worn camera footage is introduced in court, the greater these expenses will be.

The evaluations in Mesa and Phoenix clearly indicate that adopting body-worn camera technology has a substantial impact, both positive and negative, on the agency that far exceeds the effect on officers who wear the technology. Adopting the technology requires creating an agency-wide process to manage the program that includes nearly every unit, from line supervisors and patrol officers to detectives, technology and data analysts, legal staff, internal affairs, and agency leaders. The technology also impacts other stakeholders outside the law enforcement agency, including the prosecutor's office, defense attorneys, and the courts.

Recommendations

Based on the review of available literature on body-worn camera technology, this publication offers several recommendations for next steps to improve the knowledge base on the technology. These recommendations center on continued exploration of body-worn cameras through deliberate and cautious deployment of the technology, coupled with a methodologically rigorous portfolio of research.

- Agencies interested in adopting body-worn camera technology should proceed cautiously and consider the issues described in the previous section to fully inform their decisions.
- Agencies should collaborate with researchers to design rigorous implementation and impact evaluations of the technology and with experimental research designs.
- Leadership organizations in law enforcement, such as the International Association of Chiefs of Police (IACP), the Police Foundation, and PERF, should consider developing guidelines for implementation and evaluation of body-worn camera technology. IACP and other organizations should collaborate with their UK partners who have been experimenting with this technology for nearly a decade.
- Independent research on body-worn camera technology is urgently needed. Most of the claims made by advocates and critics of the technology remain untested. Federal agencies that support research and development should consider providing funding streams for comprehensive research and evaluation of body-worn camera systems. Researchers should examine all aspects of the implementation and impact of the technology—from its perceived civilizing effect, evidentiary benefits, and impact on citizen perceptions of police legitimacy to its consequences for privacy rights, the law enforcement agency, and other outside stakeholders.
- Body-worn camera systems hold great promise as a training tool for law enforcement, both in the academy and as part of performance evaluation. Post-hoc review of officer (or cadet) behavior during recorded encounters can serve as a mechanism for positive feedback, can identify problems in officer behavior, can help identify best practices in handling critical incidents (e.g., de-escalation), and can eliminate traditional reliance on “final frame” review of officer decisions to use force (i.e., the “split second syndrome” [Fyfe 1986]).

Introduction

“When you put a camera on a police officer, they tend to behave a little better, follow the rules a little better. And if a citizen knows the officer is wearing a camera, chances are the citizen will behave a little better.”

– William A. Farrar, Chief of Police,
Rialto (California) Police Department
(Lovett 2013)

“It would be a nightmare. We can’t have your camera-man follow you around and film things without people questioning whether they deliberately chose an angle, whether they got the whole picture in.”

– Michael R. Bloomberg, Mayor,
New York City (Santora 2013)

Over the past several years, technological innovation has redefined numerous facets of policing, most notably as an extension of law enforcement’s authority to use force (e.g., TASER [see White and Ready 2010]), as a tool for criminal investigation (e.g., DNA testing [see Roman et al. 2008]), and as a mechanism for improving their efficiency and effectiveness (e.g., hot spot analysis and CompStat [see Braga and Weisburd 2010; Weisburd et al. 2003; Braga et al. 2012]).

Technology has also been increasingly used as a mechanism for surveillance and observation, both by citizens and the police. In the early 1990s, dashboard cameras emerged as a new method for capturing the real-time encounters between police and citizens.

Despite early resistance to the dashboard cameras by officers (see Pilant 1995), research demonstrated that the cameras led to increased officer safety and accountability and reduced agency liability. As a result, the technology has been widely embraced by law enforcement (see IACP 2003).

Closed circuit surveillance systems (CCTV) have also become increasingly popular among city leaders and law enforcement as both a method of surveillance (crime prevention) and as a tool for post-hoc criminal investigation (e.g., Boston Marathon bombing)(see Ratcliffe 2011; Welsh and Farrington 2009). And of course the proliferation of smartphones has also exponentially increased the ability to record events as they transpire, especially police-citizen encounters (see Erpenbach 2008; Harris 2010). As a result, video and audio recording has become a ubiquitous part of life in the 21st century.¹

The latest technological development for law enforcement in the area of surveillance involves officer body-worn cameras. There are a number of body-worn camera manufacturers, including Panasonic, VIEVU, TASER International, WatchGuard, and Wolfcom Enterprises.²

The technology includes several components that vary across manufacturers. For example, TASER International's AXON system includes a small camera worn by the officer (on a shirt lapel, hat, or sunglasses) that captures what the officer sees; a device (e.g., smartphone) that records and stores the video (similar to a DVR); and a battery pack that lasts typically from 12–14 hours and that includes the on/off switch for recording. The AXON system comes with a cloud-based data storage service (www.evidence.com) whereby the officer places the recording device in a docking station at the end of the shift, and the storage service securely uploads and stores all video evidence.³ The VIEVU system is a self-contained, pager-sized device that officers wear on their torso, and device includes a docking station for video download and cloud-based data storage.

Police officer body-worn camera technology received significant media attention in 2013. In August 2013, Judge Shira Scheindlin of the Federal District Court in Manhattan ruled that the New York Police Department's (NYPD) stop, question, and frisk (SQF) program is unconstitutional, and as part of the ruling, the judge ordered officers in the highest volume SQF precincts to wear cameras in an effort to prevent racial profiling (Santora 2013).⁴

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1. For example, the American Civil Liberties Union's smartphone app, called "Police Tape," records encounters with police (see ACLU-NJ n.d.). Consequently, many police leaders instruct their officers to always assume that their actions are being recorded.
 2. Though there are a number of competitor manufacturers, this publication refers primarily to the products developed by VIEVU and TASER International. There are two reasons for this. First, nearly all of the empirical studies reviewed for this publication were based on either the VIEVU or TASER International camera systems. Second, the author conducted an extensive literature review for this publication, and the manufacturers most commonly cited in the identified literature and media sources were, by far, VIEVU and TASER International. VIEVU claims that more than 3,000 police agencies are currently using their product (VIEVU LLC 2014). TASER offers the AXON FLEX and the AXON Body camera systems.
 3. Both VIEVU and TASER have protections in place to insure that video cannot be tampered with or destroyed.
 4. The New York case has continued to evolve. In October 2013, a federal court of appeals issued a stay on the lower court ruling and removed Judge Scheindlin from the case (questioning her objectivity). In November, Bill de Blasio was elected mayor of New York, and he replaced former Police Commissioner Raymond Kelly with Bill Bratton. At the time of this writing, the court of appeals had not scheduled a hearing to review evidence on the case. The implications of these developments for the adoption of body-worn cameras in the NYPD remain unknown.

On September 11, 2013, PERF held a one-day conference on law enforcement's use of the technology. Moreover, there have been dozens of media reports describing police use of the technology.

Unfortunately, there have been few balanced discussions of the merits and drawbacks of police officer body-worn cameras and even fewer empirical studies of the technology in the field. The perceived yet widely touted benefits of the camera technology range from improved citizen and police behavior (e.g., civilizing effect) to reduced use of force, citizen complaints, and lawsuits. The perceived benefits are grounded in a body of literature establishing that human beings change their behavior when they are observed and are more likely to "experience public awareness, become more prone to socially-acceptable behavior and sense a heightened need to cooperate with the rules," (Farrar 2013, 2).⁵ There have been fewer discussions of the technology's drawbacks, but criticism often centers on citizen privacy concerns, officer apprehension regarding unsolicited supervisor review of video, union concerns about changes to officer working conditions, and cost and resource concerns.

The goal of this publication is to provide law enforcement agencies, researchers, and other interested parties with a comprehensive, objective resource that describes the key issues to consider with the technology, that outlines the perceived advantages and limitations of the technology, and that assesses the body of empirical evidence supporting or refuting those claims.

The publication is divided into several major sections. The first section includes a discussion of the methodology employed for this review, as well as brief descriptions of available reports and resources that are useful for understanding body-worn camera technology. This section also provides an overview of the empirical studies that have tested officer body-worn cameras, as well as a summary of the perceived benefits and concerns with the technology. The empirical evaluations, which vary in methodological rigor and independence (e.g., internal agency reviews), serve as the foundation for the current knowledge base on body-worn camera technology.

The next two sections examine the benefits and drawbacks identified by advocates and critics of the technology and include descriptions of available empirical evidence to support or refute those claims. The last section summarizes the evidence on the technology's impact and outlines a series of recommendations for next steps to assess and understand the future of body-worn cameras in law enforcement.

Overall, this review provides a comprehensive discussion of the issues and evidence surrounding officer body-worn cameras. The review also provides a framework that will allow law enforcement agencies to consider the full range of issues regarding adoption of the technology.

5. Farrar (2013) provides a brief review of this literature (for original sources, see Gervais and Norenzayan 2012; Sproull et al. 1996; Milinski et al. 2002; Bateson et al. 2006). Deterrence theory may also be relevant (see Nagin 2013): e.g., risk of apprehension increases with the presence of a body-worn camera.

Resources and Research

A brief note on methodology

To identify the relevant literature on police officer body-worn cameras, the author conducted Internet searches using Google, the National Criminal Justice Reference Service (NCJRS), and the primary scholarly criminal justice and criminology electronic databases, which include the Academic Search Premier (EBSCOhost), HeinOnline, LexisNexis Academic, and Criminal Justice Abstracts. The author also reviewed works cited in identified documents and vetted the list of identified documents with several police scholars. In addition, the author reviewed the websites of the two popular manufacturers of body-worn cameras: i.e., TASER International for the AXON system at www.taser.com and VIEVU at www.viewu.com.

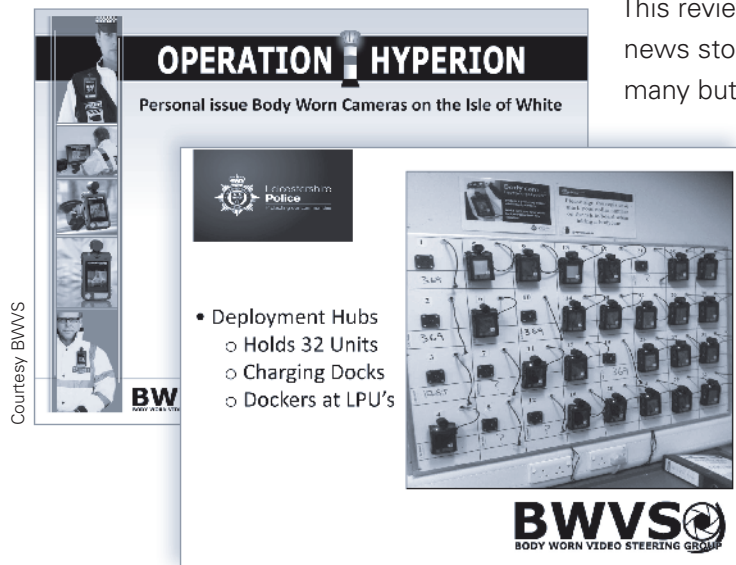
This review also uncovered dozens of newsprint and television news stories on body-worn cameras. This publication reviews many but not all of these news reports. Rather, it summarizes the key themes based on results from a handful of empirical studies and uses the media reports as supplemental documentation.

The following resources describe the technology and offer guidance on its adoption and deployment by police (see Appendix A for greater detail):

- The UK Home Office's *Guidance for the Police Use of Body-Worn Video Devices* (Goodall 2007)
- Body Worn Video Steering Group, www.bwvsg.com
- National Institute of Justice's (NIJ) *A Primer on Body-Worn Cameras for Law Enforcement* (ManTech 2012)
- System Assessment and Validation for Emergency Responders' (SAVER) *Wearable Camera Systems Focus Group Report* (SAVER 2011)
- SAVER's *Camera Systems, Wearable* (SAVER 2012)

These resources represent a starting point for law enforcement agencies considering adoption of body-worn camera technology. The UK Home Office guide, the Body Worn Video Steering Group website, and the National Institute of Justice guide are especially useful.

A handful of reports identified for this review describe evaluations of officer body-worn camera programs (see Table 1). These evaluations represent the only empirical tests to date of the implementation and impact of the technology, and they serve as the foundation of this publication.



Courtesy BWVS

Table 1. Empirical studies of officer body-worn cameras as of September 2013

Country	Study	Citation	Independent evaluation	Comparative design
England	Plymouth Head Camera Project	Goodall 2007	Yes: Process Evolution, Ltd.	No
Scotland	Renfrewshire/Aberdeen Studies	(ODS Consulting 2011)	Yes: ODS Consulting	No
United States	Rialto (CA) Police Department	(Farrar 2013)	No	Yes
United States	Mesa (AZ) Police Department	(MPD 2013)	No*	Yes
United States	Phoenix (AZ) Police Department	(White 2013)	Yes: Arizona State University	Yes

* Arizona State University has conducted survey research of Mesa police officers and collected field contact reports for 400 police-citizen encounters; however, the Mesa Police Department directed the outcome evaluation.

Most of the evaluations described here have significant methodological limitations, either because the study does not employ a comparative design (i.e., no comparison group), or the study was carried out internally by the law enforcement agency deploying the technology (raising questions of independence). Also, several of the studies rely heavily on officer surveys that ask about perceptions and attitudes rather than measuring behavior.⁶ The absence of rigorous, independent studies using experimental methods has limited understanding of the impact and consequences of body-worn cameras.

Studies in the United Kingdom

British police agencies were among the first to experiment with and test officer body-worn camera technology. Harris (2010, 6) notes that “the initial pilot studies, small in size, transpired in Plymouth, England, in 2005 and 2006.” Based on positive results from the early pilot studies, the Plymouth Basic Command Unit initiated the “Plymouth Head Camera Project” in October 2006.

As part of the project, which lasted 17 months, the agency purchased 50 camera systems and trained 300 officers to use the technology (Goodall 2007). The camera systems were available for trained officers to sign out voluntarily. Officers recorded 3,054 incidents during the study. Although the Plymouth Head Camera Project study did not use a comparative research design, the goals of the project were as follows (Goodall 2007):

- To provide police officers with optical evidence that would reduce bureaucracy, improve sanction detections, and streamline the criminal justice process

6. See Draisin 2011 for literature review on in-car and body-worn cameras conducted for the Orlando Police Department. Also, the National Institute of Justice recently made an award to the CNA Corporation to evaluate the impact of body-worn cameras in the Las Vegas Metropolitan Police Department. The study is set to begin in early-2014.

- To reduce challenges to police officer evidence in court
- To increase early guilty pleas, reducing wasted police officer and court time
- To reduce the number of malicious complaints made against police officers
- To reduce the incidence of violent crime

Several police agencies in Scotland have also evaluated body-worn camera technology. In July 2011, ODS Consulting published evaluations of the technology in Renfrewshire and Aberdeen (Strathclyde and Grampian Police, respectively).⁷ In Renfrewshire, the Strathclyde police deployed 38 body-worn camera systems for eight months. In Aberdeen, the Grampian police deployed 18 camera systems for three months. Neither study employed a comparative research design. The evaluations focused on the technology's impact on citizen attitudes, criminal justice processing (guilty pleas), citizen complaints, and assaults on officers. In each department, the camera systems recorded approximately 2,500 events.

Studies in the United States

There have been three studies of the technology in the United States. The first study is an evaluation of the Rialto (California) Police Department body-worn camera project, led by Chief of Police William Farrar (Farrar 2013). The Rialto study began in February 2012 and continued through July 2013. The study involved a randomized controlled trial in which half of the department's 54 patrol officers were randomly assigned to wear the TASER AXON body-camera system (ibid.). The work shift was the study's unit of analysis.

"There are 19 shifts during any given week and 54 frontline officers conducted patrols in six teams: two teams work day shifts, three teams work nights, and two teams are cover shifts" (Farrar 2014). Shifts were randomly allocated to treatment and control conditions on a weekly basis. In total, the study assigned 988 shifts into 489 treatment and 499 control conditions over a 12-month period (Farrar, 5–6).

The Rialto experiment tested the impact of the cameras on citizen complaints and police use of force incidents, comparing officers who wear the cameras to officers who do not.⁸

For the second evaluation, the Mesa (Arizona) Police Department outfitted 50 officers with TASER AXON FLEX body-worn cameras on October 1, 2012, and the year-long study was completed in September 2013. The evaluation "focused on the system's impact on reducing civil liability, addressing departmental complaints and enhancing criminal prosecution" (MPD 2013, 1). The evaluation

7. The Strathclyde and Grampian police agencies applied for and received evaluation support from the Scottish Government's Community Safety Unit. The Community Safety Unit appointed ODS Consulting to conduct the evaluation.

8. The Rialto project served as the foundation for Farrar's master's thesis at the University of Cambridge. In 2013, Farrar received the award for Excellence in Evidence-Based Policing, from the Society of Evidence-Based Policing, for this study of body-worn cameras.

also examined officer perceptions of the technology at multiple points in time throughout the study period. The 50 AXON users are compared to a group of demographically similar officers who are not equipped with cameras.

The third evaluation, conducted by the Phoenix (Arizona) Police Department and Arizona State University, is part of the Bureau of Justice Assistance’s Smart Policing Initiative (SPI). The Phoenix study, which involves 56 officers wearing the VIEVU camera system, is testing whether the cameras deter unprofessional behavior from officers, lower citizen complaints, reduce citizen resistance, and disprove allegations against officers. The Phoenix SPI team is also assessing whether the cameras enhance response to domestic violence cases (e.g., increased charging, prosecution, and conviction rates).

Moreover, the third study includes both an extensive process evaluation, which captures implementation of the body-worn camera system, and an assessment of officer perceptions of the technology throughout the project period. The study has a comparative research design, focusing on differences in outcomes between two squads in the Maryvale precinct: the 56 officers wearing body cameras and 50 comparison officers. The officers began wearing the cameras during their shifts in April 2013 (shift periods covered 24 hours a day, seven days a week), and they will continue to do so for one year.

Perceived benefits and concerns

Table 2 provides a summary of the perceived merits and drawbacks of the technology. Such perceived benefits include enhanced transparency and legitimacy, improved behavior (citizen and officer), quicker resolution of complaints/lawsuits, improved evidence for arrest and prosecution and training opportunities. Critics of the technology have raised concerns about privacy (citizen and officer), officer health and safety, training and policy requirements and logistical/resource requirements. The next two sections describe each of the perceived benefits and concerns, as well as the available empirical evidence supporting or refuting each claim.

Table 2. Perceived benefits and concerns with officer body-worn cameras

Benefits	Concerns
<ul style="list-style-type: none"> ■ Increased transparency and legitimacy ■ Improved police officer behavior ■ Improved citizen behavior ■ Expedited resolution of complaints and lawsuits ■ Improved evidence for arrest and prosecution ■ Opportunities for police training 	<ul style="list-style-type: none"> ■ Citizens’ privacy ■ Officers’ privacy ■ Officers’ health and safety ■ Training and policy requirements ■ Logistical and resource requirements, including data storage and retrieval

The Perceived Benefits of Officer Body-Worn Cameras

Increased transparency and police legitimacy

Transparency, or willingness by a police department to open itself up to outside scrutiny, is an important perceived benefit of officer body-worn cameras. Transparency can demonstrate to the community that officers aim to act in a fair and just manner (e.g., procedural justice) when interacting with citizens, which can increase perceptions of police legitimacy (Tyler 1990). A recent article in *Police Magazine* stated that “officer-worn cameras represent the pinnacle of transparency in law enforcement,” and according to the American Civil Liberties Union, “transparency leads to public trust and trust benefits the community” (Clark 2013).

In her recent ruling against the NYPD’s stop, question, and frisk program, Judge Scheindlin wrote that cameras

will provide a contemporaneous, objective record of stop-and-frisks allowing for the review of officer conduct [that] may either confirm or refute the belief of some minorities that they have been stopped simply as a result of their race.... Thus, the recordings should also alleviate some of the mistrust that has developed between the police and the black and Hispanic communities, based on the belief that stops and frisks are overwhelmingly and unjustifiably directed at members of these communities. (Floyd v. City of New York 2013, 26–27)



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Unfortunately, the assertion that body-worn cameras enhance the transparency of a police department has not

been sufficiently tested. To date, there has been little research examining the views and perceptions of citizens regarding police officer body-worn cameras, with the exception of a few studies overseas. The Renfrewshire/Aberdeen studies queried citizens through an online survey in Renfrewshire (n=97) and as part of a citizens panel in Aberdeen (n=701). Citizen support for the technology was high in both cities, at 64 to 76 percent (ODS Consulting 2011).

Also, the Plymouth Head Camera Project in England included brief surveys of 36 crime victims, and the responding officer was wearing a camera. Of the 36 victims, 26 (72 percent) reported that the body-worn camera was beneficial during the encounter with police, and 29 victims (81percent)

The Perceived Benefits of Officer Body-Worn Cameras

reported that they felt safer as a result of the cameras (Goodall 2007, 68). However, these results are far from definitive. Citizen support for use of body-worn cameras remains unclear, as does the impact of the technology on citizens' trust in the police (e.g., increased transparency and legitimacy).

Improved police officer behavior

Advocates of body-worn cameras have argued the technology will change police officer behavior during encounters with citizens. In the NYPD ruling, the judge noted:

If, in fact, the police do, on occasion, use offensive language—including racial slurs—or act with more force than necessary, the use of body-worn cameras will inevitably reduce such behavior. (*Floyd v. City of New York* 2013, 26–27)

Harris (2010) suggests the technology could increase officer compliance with the Fourth Amendment provisions governing search and seizure.⁹ Several of the empirical evaluations sought to test the potential for improving police officer behavior.

The Rialto evaluation reported that, following implementation of the body-worn camera program, citizen complaints against police declined by 88 percent—from 24 in 2011, a year before the study, to just three complaints during the camera project study period (Farrar 2013). Moreover, use of force by police officers dropped by 60 percent, from 61 to 25 instances, following the start of the body-worn camera study (*ibid.*).



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Farrar (2013) reported two findings that seek to tie the use of force reduction to the body-worn cameras:

1. First, “shifts without cameras experienced twice as many incidents of use of force as shifts with cameras” (8).
2. Second, a qualitative review of all use of force incidents determined that officers without cameras were more likely to use force without having been physically threatened. This occurred in five of the 17 use of force incidents involving officers without cameras.

All use of force incidents involving camera-wearing officers began with a suspect physically threatening the officer.

Questions remain regarding the behavior dynamics that led to the decline in use of force and citizen complaints. For example, are the declines a result of changes in officer behavior (e.g., officers less

9. Harris (2010) notes that approximately 30 percent of police searches are unconstitutional, and the vast majority of those illegal searches produce no evidence. As a result, citizens who experience those violations have no recourse through the exclusionary rule because there is no evidence to exclude.

likely to use force or behave improperly), citizen behavior (e.g., citizens act less aggressively), or some combination of the two? The drop in complaints may also be due to changes in citizen reporting patterns, as evidence suggests that body-worn cameras may reduce the filing of frivolous complaints by citizens.

The Mesa Police Department also assessed the impact of body-worn cameras on officer attitudes and officer behavior. With regard to attitudes, researchers at Arizona State University surveyed officers at multiple points in time regarding the body-worn camera project. To date, the results from only the first survey, as the project began, are available. Officers generally had positive views about the potential impact of the body-worn cameras: i.e., 77 percent believed the cameras would cause officers to behave more professionally (MPD 2013).¹⁰

The Phoenix evaluation addresses similar questions about attitudes and behavior and also includes officer surveys at multiple points in time. Preliminary results indicate that, prior to the start of the project, officers' attitudes were either ambivalent or negative. However, after wearing the camera for three months, some officers' attitudes improved significantly (White 2013).

The Mesa study also examined officer behavior measured through citizen complaints. The first part of the analysis compared the 50 officers who wore AXON cameras to 50 non-camera wearing officers. During the first eight months of the evaluation, the AXON users were the subject of eight complaints; during that same time, the control officers were the subject of 23 complaints.

The second part of the analysis examined the complaint trends of AXON users before and after they started wearing the cameras. In the year before the camera project started, officers were the subject of 30 complaints; at the officers' current pace, they were estimated to generate 12 complaints during the camera project study. If this trend holds, implementing the body-worn camera system will be associated with significant declines in complaints against officers, including:

- 60 percent decline among AXON users (year before compared to study period);
- 65 percent fewer complaints about AXON users compared to non-camera officers.

As with the Rialto study, the behavior dynamics that caused the decline in complaints remain unknown (e.g., civilizing effect on citizens, officers, or both or a change in complaint reporting).¹¹

10. However, officers were not entirely supportive of the body-worn camera project. Only 23 percent of the officers stated that the department should adopt a body-worn camera system, and less than half believed that their fellow officers would welcome the presence of a camera at a scene (MPD 2013).

11. Alternatively, critics have suggested that the body-worn cameras will have a "chilling effect" on police officers, meaning they will become less proactive and as a result, will become less effective in dealing with crime. There is currently no available evidence to support this claim. Farrar, chief of the Rialto Police Department, did address this concern in a recent interview. He stated, "The thinking was that some officers wearing cameras might try to hide and not really do their job. We found the opposite. We actually had 3,000 more officer-citizen contacts during the year (of the experiment)" (Dillon 2013).

The Perceived Benefits of Officer Body-Worn Cameras

The UK studies also sought to test the impact of the technology on officer behavior. For example, the Plymouth Head Camera Project reported a 14.3 percent reduction in citizen complaints during the first six months of the project as compared to the same six-month period from the prior year. During the project, there were no complaints filed against officers wearing head cameras (Goodall 2007). In the Renfrewshire/Aberdeen studies, officers wearing body cameras recorded more than 5,000 citizen encounters, and only five citizens filed complaints as a result of those incidents. There was no comparison to officers who did not wear cameras.¹²

Improved citizen behavior

Proponents of body-worn cameras have also argued that the technology will improve citizen behavior during encounters with police, suggesting that they will be more respectful and compliant. Unfortunately, there is currently very little evidence to support this assertion outside of anecdotal reports in the media (Lovett 2013) and preliminary results from a few evaluations (Goodall 2007).

The UK Home Office guide (ibid.) states that citizen behavior improves as a result of officer body-worn cameras, though the evidence used to support this statement is not clear:



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Officers using [body-worn cameras] at anti-social behavior hotspots noted that persons present significantly reduce the level of their behavior when officers with head cameras attend, more so than just with the presence of a police officer or PCSO. The equipment can have a greater impact than street CCTV or vehicle-borne cameras as they can be deployed at any position within the incident; those present quickly learn that the recordings include sound, and [body-worn cameras] are more obvious than other CCTV systems that can blend into the background after a short time. (Goodall 2007, 8).

The Renfrewshire/Aberdeen studies examined assaults on officers to ascertain whether officer body-worn cameras change citizen behavior. During the 5,000 recorded encounters in both sites, officers were assaulted on four occasions (ODS Consulting 2011). In the Aberdeen study, there were 62 assaults on officers: 61 against officers not wearing cameras and one against a camera-wearing officer. The researchers concluded that “if police officers wearing [body-worn cameras] had been assaulted in proportion to the overall number of assaults in Aberdeen, it might have been expected that 18 assaults would have taken place” rather than one (ODS Consulting 2011, 12).¹³

12. It is unknown whether any of the agencies described here changed their citizen complaint intake and screening process, which could also explain changes in citizen complaint patterns.

13. The researchers' logic is based on the premise that if 30 percent of officers on patrol are wearing cameras, those officers should experience about 30 percent of assaults against police (30 percent of 61 assaults is 18 assaults). This, of course, does not allow for any differences among officers wearing cameras and those not wearing cameras in terms of the number of encounters, types of encounters, patrol assignments, or time on patrol.

The U.S. empirical evaluations of body-worn cameras provide some insight into the potential for improved citizen behavior. First, the Mesa evaluation asked officers their perceptions of the impact of the cameras on citizen behavior. However, officers were skeptical: only 45 percent of surveyed officers stated that cameras would cause citizens to act more respectfully (MPD 2013). Second, anecdotal evidence from the Phoenix evaluation suggests the technology appears to have a “civilizing effect” on citizens once they realize that a camera is recording their behavior (White 2013).

Last, the Rialto experiment documented a substantial drop in officer use of force. It is possible that this finding may be explained in part by changes in citizen behavior. To be more specific, citizens may have altered their behavior during encounters with officers who are wearing cameras, such as being more respectful and compliant, which led to fewer incidents in which officers needed to use force. Farrar (2013) acknowledges this possibility but notes that his study is unable to offer definitive evidence on citizen behavior:

Members of the public with whom the officers communicated were also aware of being videotaped and therefore were likely to be cognizant that they ought to act cooperatively. However, we did not collect any evidence from these individuals to be able to ascertain this question. (ibid., 10)

Additional research on the dynamics of encounters between citizens and police who wear cameras is required to better understand the nature of the behavior changes that are occurring.¹⁴

Expedited resolution of citizen complaints/lawsuits

Advocates of body-worn cameras have also argued that the technology will facilitate quick resolution of complaints and lawsuits against police officers. While there is no empirical evidence regarding the impact of body-worn cameras on lawsuits against police, there is evidence of a positive impact on citizen complaint resolution. Police departments devote considerable resources to the investigation of citizen complaints (Walker and Katz 2013). However, complaints against police are often adjudicated as “not sustained” because typically no witnesses are present and the complaint involves the officer’s word against the citizen’s. Video evidence changes this dynamic. The researchers of the Renfrewshire/Aberdeen studies concluded:

What is clear is that the process of considering any complaint was made much easier by using the evidence from [body-worn] cameras. This will have provided some reassurance to the officer involved; reduced the time taken to resolve the complaint; and reduced police time in resolving complaints. (ODS Consulting 2011, 12)

14. The Plymouth Head Camera Project sought to reduce crime by 10 percent in the areas where the body-worn cameras were deployed. The simple pre-/post-comparison of crime (year before project compared to year of implementation) indicated little change at 1.2 percent. The Renfrewshire/Aberdeen studies of body-worn cameras documented a significant drop in crime in Aberdeen following deployment of the technology, but limitations in the research design prevent any definitive conclusions about the connection between the cameras and the crime trends (ODS Consulting 2011).

The Perceived Benefits of Officer Body-Worn Cameras

Harris (2010) notes that the video evidence can provide citizens with additional information that helps them understand the police officer's behavior:

If citizens can see that they were, perhaps, mistaken, or that they did not understand the situation from the officer's point of view, or that they did not have all the facts, they may come away with a better grasp of the situation and feeling that they need not continue with the complaint process. (ibid., 7)

Citizens may be less likely to file "frivolous" or untruthful complaints against officers wearing cameras because citizens know that the video evidence can instantly refute their claims. Rialto Chief of Police Farrar has noted in interviews that the ability to access video has led to quick resolution of potential complaints (Stross 2013). The UK Home Office guide draws similar conclusions, noting that "in a number of cases the complainants have reconsidered their complaint after this [video] review, thus reducing investigation time for unwarranted complaints" (Goodall 2007, 7).¹⁵

Even if we assume that in most cases the recording supports the officer's version of events and not the citizen's, the opposite will surely be true some of the time. In such a case, the officer's conduct can be examined and he or she held accountable for mistakes made or violations committed (Harris 2010, 10).

Evidence for arrest and prosecution

Advocates of body-worn cameras state that the video evidence will facilitate the arrest and prosecution of offenders, as it offers a real-time, permanent record of the events that transpired.

Though U.S. studies have not sufficiently examined this claim, results from several UK studies lend support. The Plymouth Head Camera Project reported that the technology increased officers' ability to document that a violent crime had occurred, and the incidents recorded by body cameras were more likely to be resolved through guilty pleas rather than criminal trials (Goodall 2007).

The UK Home Office guide also noted that quicker resolution of cases led to a 22.4 percent reduction in officer time devoted to paperwork and file preparation and an increase of 9.2 percent in officer time spent on patrol, which amounts to an extra 50 minutes per nine-hour shift. The Renfrewshire/Aberdeen studies also documented quicker resolution of criminal cases through guilty pleas. In Renfrewshire, body-worn camera cases were 70 to 80 percent less likely to go to trial, compared to other court cases. In Aberdeen, none of the body-worn camera cases resulted in a criminal trial (ODS Consulting 2011). The UK Home Office guide comments on this benefit for domestic violence cases:

15. For additional discussion, see also Stecklein 2012.

The evidence gathered using [body-worn cameras] at the scene of a domestic abuse incident has assisted greatly in supporting reluctant witnesses through the court process. In providing an exact record of the demeanor and language of the accused, the disturbance throughout the scene and the emotional effect on the victim, the use of [body-worn cameras] can significantly strengthen the prosecution case. (Goodall 2007, 8)

Results from the Mesa officer survey support the UK Home Office, showing that 80 percent of officers believe that the cameras will improve evidence quality and 76 percent believe that video evidence will facilitate prosecution of domestic violence cases (MPD 2013).

Opportunities for police training

Advocates of body-worn cameras have also suggested the technology can serve as an important training tool (Harris 2010). Post-hoc review of officer behavior could be especially useful when critical incidents, such as use of force, are recorded. The UK Home Office guide identifies professional development as one of the most important benefits of the technology:

[A body-worn camera] has been used by Professional Development Units as a training aid for student officers. The ability to review their performance in detail after an incident is a powerful tool for officers to highlight effective and ineffective actions. When reviewing their evidence, experienced officers who have used the equipment have also been able to assess their behavior and can professionalize their performance accordingly. (Goodall 2007, 8)

There is evidence of at least one police department in the U.S. employing the technology as a training tool. As part of its exploration of the technology, the Miami Police Department has been using body-worn cameras in the training academy since 2012. Miami Police Major Ian Moffitt stated that “we can record a situation, a scenario in training, and then go back and look at it and show the student, the recruit, the officer what they did good, what they did bad, and [what they can] improve on” (Local 10 2013).



Body-worn cameras could also be very useful during investigations of critical incidents, such as use of force. Fyfe (1986) argued that departmental review of officer decision-making during critical incidents traditionally focuses only on the circumstances immediately preceding the use of force or

The Perceived Benefits of Officer Body-Worn Cameras

what he calls the “split-second syndrome.” However, reliance on the split-second syndrome inhibits “the development of greater police diagnostic expertise” by ignoring the decisions that an officer made prior to the use of force (ibid.). But body-worn cameras can address this problem:

Instead of asking whether an officer ultimately had to shoot or fight his way out of perilous circumstances, we are better advised to ask whether it was not possible for him to have approached the situation in a way that reduced the risk of bloodshed and increased the chances of a successful and nonviolent conclusion. (Fyfe 1986, 224)

The limited available evidence shows that body-worn camera technology could hold great promise both as a training tool for police and as a mechanism for more thorough and fair reviews of officer behavior during critical incidents. Future research should explore these areas.

Concerns and Considerations Regarding Body-Worn Cameras



Concerns for citizens' privacy

Critics of body-worn cameras have cited numerous concerns over citizen privacy. First, the National Institute of Justice (NIJ) guide (ManTech 2012, 7) notes that “federal law blocks the warrantless capturing of photo or video images of people where they have an expectation of privacy, and most states have similar laws.”

Moreover, a number of states require two-party consent before lawful recording of private conversations. The NIJ guide (ManTech 2012, 7) states that “When using [body-worn cameras], considerations on whether or not audio recording is allowed during video recording will require specific research prior to purchases or even

piloting devices” (see also Draisin 2011). For example, in September 2011, the Seattle Police Department determined that use of body-worn cameras would violate Washington state law:

State law bars audio recording of private conversations without the consent of all directly involved. Unauthorized recording exposes police to potential civil suits. State law does allow an exception for dashboard-mounted cameras in police cars but not body cameras on police officers.... The city law department has informed the police department that “it would be unwise to implement a body camera program without first obtaining a legislative exception to the Washington Privacy Act.” (Rosenberg 2011)

In addition, police scholar Sam Walker noted in a recent interview that “the camera will capture everything in its view and that will include people who are not suspects in the stop” (Hinds 2013).

Skeptics have also suggested that citizens, including witnesses and confidential informants, may be less willing to provide information to police, knowing that the encounter is recorded and can be viewed by others later (Harris 2010). A sergeant with the Albuquerque Police Department observed that “officers a lot of times are seeing people on the worst day of their lives, and we’re capturing that on video that’s now a public record” (Hinds 2013).

Body-worn cameras capture in real time the potentially traumatic experiences of citizens who are victims of a crime, those who are involved in medical emergencies and accidents, or those who are being detained or arrested. As such, citizens’ emotional trauma could be exacerbated when they

Concerns and Considerations Regarding Body-Worn Cameras

realize that the experience has been caught on video. Moreover, the potential for body-worn cameras to be coupled with other technologies, such as facial recognition software, may present additional concerns for citizen privacy.

These concerns highlight the importance of developing detailed policies governing when the body-worn cameras should be turned on and off. For example, the model policy template developed by the Body Worn Video Steering Group provides specific guidance on how to minimize the “collateral intrusion” of the technology, specifically with regard to private dwellings, religious sensitivities, intimate searches, vulnerable witnesses and victims,¹⁶ and communications governed by legal privilege (see Appendix B).

Detailed policies and careful officer training can assuage some citizens’ objections to body-worn cameras. Nevertheless, there are many unanswered questions regarding citizens’ privacy concerns, and additional research is needed.

Concerns for officers’ privacy

Some resistance to body-worn cameras has come from officers themselves. These concerns have echoed the response to dashboard cameras in the mid-1990s (Pilant 1995). Officers expressed concerns over the potential for supervisors to go on unsolicited “fishing expeditions” in an effort to find behavior that will get an officer into trouble (White 2013).

The response from the NYPD following the judicial order to deploy body-worn cameras has been almost universally negative. Former Police Commissioner Raymond Kelly stated that “the body camera issue opens up certainly more questions than it answers” (Lovett 2013).

In May 2012, the Las Vegas Metropolitan Police Department announced that it planned to pilot test body-worn cameras. The Las Vegas Police Protective Association, a police union, responded by threatening to file suit against the department because the cameras represented a “clear change in working conditions” that would have to be negotiated through the union contract (Schoenmann 2012). The NYPD union has made similar claims (Celona 2013).

The experiences of several other police departments shed light on how leaders can respond to officers’ concerns. In Phoenix, police leadership engaged officers from the beginning of the project. Leadership attended every briefing to explain the goals and objectives of the project and to answer officer questions. Line officers were invited to participate in the “scope of work” group that developed the request for proposals from vendors, and they participated in pilot and durability testing

16. The policy template developed by the Body Worn video Steering Group does not provide a definition of “vulnerable witnesses and victims.” Presumably, this category of citizens would include confidential informants, witnesses whose safety may be in jeopardy as a result of the information they provide, and victims of certain types of crime such as domestic violence and sexual assault.

(White 2013). The leadership also engaged the officer union in developing policies and procedures governing camera use. Commander Michael Kurtenbach of the Phoenix Police Department stated that it is “just as important to be transparent with officers as it is with the community” (White 2013).

Similarly, Rialto’s police union participated in developing their department’s administrative policy (Dillon 2013), and the Mesa Police Department created a stakeholder workgroup to manage the implementation of the body-worn camera project. The workgroup included officials from the department’s records unit, evidence section, information technology unit, policy management unit, training unit, and internal affairs as well as the Mesa City Prosecutor’s Office. “The objectives of the workgroup were to minimize the impact on officers and to integrate the on-officer body camera system into existing processes” (MPD 2013, 1).

Although the experiences from Mesa and Phoenix provide important insight, more research is needed to understand police officers’ concerns with the technology.

Concerns for officers’ health and safety

Critics of body-worn cameras have raised questions about the impact of the technology on officer health and safety. For example, Pat Lynch, head of the NYPD’s Patrolmen’s Benevolent Association (PBA), recently questioned numerous aspects of body-worn cameras, including their effect on officer health and safety:

There is simply no need to equip patrol officers with body cams.... Our members are already weighed down with equipment like escape hoods, Mace, flashlights, memo books, ASPs, radio, handcuffs and the like. Additional equipment becomes an encumbrance and a safety issue for those carrying it. (Celona 2013)

The UK Home Office guide (Goodall 2007) provides a comprehensive list of potential hazards to officers who wear cameras and rates the risk level for each hazard.¹⁷ The guide deems many of the hazards low-risk, such as being targeted for assault because of the camera, neck injury from the weight of the camera, and electrical shock. However, the guide does rate several hazards as medium-risk, such as assailants strangulating officers with the camera strap or wire; assailants hitting officers with the camera and causing head injury; cameras transferring infectious agents or bodily fluids when officers share units; and headbands causing soreness, discomfort, and headache (Goodall 2007, 29). The guide also offers measures to reduce the risks. For example, wearing the camera on other parts of the uniform (e.g., a lapel or torso) can mitigate many of the cited health concerns.

Nevertheless, there is little empirical evidence on the potential health and safety risks associated with the technology.

17. The UK Home Office guide (Goodall 2007) deals solely with head-mounted cameras.

Concerns and Considerations

Regarding Body-Worn Cameras

Investments in training and policy

There is consensus from numerous sources regarding the critical importance of developing policies and procedures regarding camera use and training officers in how to use the camera. Many of the camera systems are simple and intuitive in terms of use, but training and policy requirements vary depending on the system.

The NIJ guide (ManTech 2012) states that officer training should emphasize that the technology's primary purpose is for evidence collection, officer safety, and improved public relations, but monitoring officer performance is also a benefit of the system. Police officer reluctance to accept the technology can be minimized by their active involvement in policy development. The NIJ guide highlights the importance of department policy:

If cameras are to be used, policies and procedures will have to be put in place, or expanded on, to address several legal issues. These issues extend beyond the more obvious privacy and civil liberties protections toward which agencies must be sensitive. For example, a policy would have to address when a camera should be used and when it should be turned on or not turned on to ensure fair treatment of all citizens. Parameters would need to be set for voluntary, compulsory and prohibited use of the camera. Camera video may also be considered a public record item and a procedure would need to be created for public assessment and information requests. This policy should be in place before any testing or deployment. (ManTech 2012, 8)

There is a wide range of important issues that should be governed by administrative policy. The Body Worn Video Steering Group's policy template (see Appendix B) outlines many of the key policy areas, such as the following:

- Selection of technology vendor
- Elements of officer training
- Data storage and management
- Video download procedures
- Redaction of video
- Preparation of video for prosecution
- Maintenance and upkeep of the equipment

The policy template also addresses the following questions:

- Will officers volunteer to wear cameras, or will it be required?
- When should officers turn on the camera; when should they turn it off?
- How should officers divide responsibilities if multiple cameras are on scene?
- Whether or not (and how) officers should announce that an encounter is being recorded?
- What should officers record and not record during an encounter?
- When can supervisors review video?

Departments that have adopted body-worn cameras have varied widely on many of these issues. For example, many departments have set limits on how long video will be archived, but the Oakland (California) Police Department is currently storing video indefinitely (Lovett 2013). In terms of camera activation, the Rialto Police Department requires officers to turn on the camera whenever they leave the patrol car to speak with a civilian (Stross 2013).

The Mesa Police Department employed two different policies during their evaluation period. For the first six months, the policy stated, “When practical, officers will make every effort to activate the on-officer body camera when responding to a call or have any contact with the public” (MPD 2013, 2). During the second six months, the policy was less restrictive, asking officers to “exercise discretion and activate the on-officer body camera when they deem it appropriate” (ibid.). The two different administrative policies resulted in the following:

- During the first six months of the Mesa project (with the restrictive policy), the 50 camera-wearing officers averaged 2,327 video files per month (ibid.).
- During the second six-month period (with the less restrictive policy), the same 50 officers averaged 1,353 video files per month (ibid.).

These results represent a 42 percent decline in camera system activations and clearly demonstrate that department policy affects how often officers use the technology.



Concerns and Considerations Regarding Body-Worn Cameras

Furthermore, the Mesa project included officers who volunteered to wear the camera as well as officers who were assigned to wear it. Results showed that volunteers were more likely to activate the system: each volunteer averaged 71 video files per month, compared to just 28 video files for assigned officers (ibid.).

The Mesa results suggest that officers' use of the technology may decline with less restrictive policies about activation. Discretionary activation may raise concerns among the public and advocacy about the potential for police to record encounters only when it suits them (and failing to record when it may not serve the interests of the officer). As a result, police leaders should consider the activation policy question from an accountability and transparency perspective.

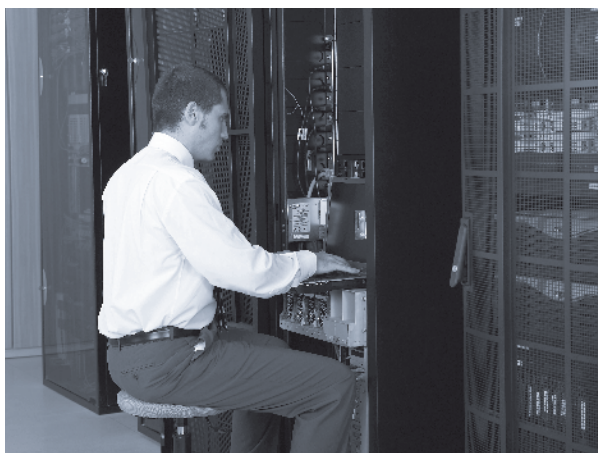
Substantial financial, resource, and logistical commitment

The resource and logistical issues surrounding adoption of body-worn camera technology are considerable and, in many cases, difficult to anticipate. There are direct costs associated with the technology, most notably the costs of each camera (from \$800 to \$1,000 for the TASER AXON and VIEVU models).¹⁸ There may also be replacement costs for hardware such as batteries and cameras. One

of the most important logistical issues involves how the agency will manage the vast amounts of video data that are generated. The NIJ guide states:

This leads to one of the more important items for an agency to consider before purchasing [body-worn camera] units: data storage, management and retention. Not only must the data be protected and backed up regularly, but it must be accessible to all parties involved. Some data needs to be retained forever; other data can be deleted quickly. Crime recordings must be managed by law and through

policies. Even video of standard officer interaction may be retained for a default period of time to cover potential performance complaints. Policies should control the period of time this data is maintained. As recordings become more or less important to [the] agency, adjustments need to be made. The length of storage time can cost numerous man-hours in addition to the actual cost of the storage device. (ManTech 2012, 9)



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18. Departments have dealt with the financial costs of body-worn camera technology in several ways, including state and federal grants, confiscated drug money, and asset forfeiture funds.

The major manufacturers of body-worn cameras offer cloud-based data storage solutions at an annual subscription cost, though a department can also choose to manage the video internally. The Phoenix Police Department has chosen to maintain the video internally while both Rialto and Mesa have employed Evidence.com, which

eliminates the need for on-site storage space by storing the files off-site and allowing agencies to share the files via secure access to the server. Prosecutors can simply log into a remote portal and get the videos they need for their cases. Additionally, the system tracks every activity associated with every file and stores it in an audit log. (Clark 2013)

Regardless of the approach taken, the cost of data storage and management can be significant. The Mesa (2013, 10) report states that “the initial purchase of fifty AXON FLEX cameras, including applicable sales tax was \$67,526.68. The current proposal includes a second year pricing option for video storage with Evidence.com for \$93,579.22 and a third year option for \$17,799.22.”

The Phoenix Police Department has had to devote considerable staff and resources to manage the video data internally, to conduct video redaction for publicly requested files, and to coordinate with the city and county prosecutor offices (White 2013).

The Mesa report (2013) describes the integration issues between Evidence.com and the department’s internal data system (CAD/RMS) that had to be overcome to facilitate evidence discovery and public records requests. The initial procedure required officers to manually record the department report number associated with each video file. However, officers initially failed to record this number in 60 percent of video files, which significantly increased the workload associated with locating files (MPD 2013). Department officials worked with Evidence.com to create a system that would auto-populate the department number, thereby reducing the workload of the officers and the records unit staff. The Mesa report also describes in detail the process and resources required for redacting video footage:

All public records requests involving on-officer video are forwarded to the officer who produced the video.... When an officer receives the public records video request, the officer is required to review the video in its entirety. The review consists of identifying images and information that should not be released, including NCIC/ACJIS information, personal biographical information, juvenile faces, undercover officers, informants, nudity and other sensitive information as determined by the staff attorney. Any items that need to be redacted are identified by the officer by providing a description and time stamp of the selected images. The request is then forwarded to the MPD Video Services Unit (VSU) for action. (MPD 2013, 10)

Concerns and Considerations Regarding Body-Worn Cameras

This redaction process requires substantial time commitment from the officers, as well as record management and video technician staff. During the Mesa project period, the department received three to four video records requests each month (MPD 2013). If no redaction is necessary, the resource burden is limited to the officer who must review the video (and those who manage the process to release the video). In three cases, redaction was necessary, and each case required about 10 hours to complete the video editing (ibid.).

The experiences in both Mesa and Phoenix highlight the considerable resources required to manage a body-worn camera project. Commander Michael Kurtenbach of the Phoenix Police Department noted that the project has a “profound” impact on the police department and other outside agencies (White 2013). The Mesa report concluded:

Program management of 50 on-officer body camera systems requires a considerable amount of operational commitment.... These duties will exponentially increase with any expansion of the on-officer body camera program.... Properly managed, the program is an asset to the organization; however, it can also expose the department to increased liability without effective oversight. (MPD 2013, 5–6)

Conclusion and Recommendations

This publication seeks to provide a comprehensive, objective review of the available evidence on police officer body-worn cameras. The overall goal is to provide a document that describes the primary issues departments should consider when weighing adoption of the technology and that assesses the empirical support for claims made about the technology.

The handful of resources reviewed for this publication represents a good starting point for exploring body-worn cameras. The UK Home Office guide (Goodall 2007), the Body Worn Video Steering Group website (www.bwvsg.com), and the NIJ guide (ManTech 2012) are particularly useful (see Appendix A).

There is little evidence regarding most of the perceived benefits and drawbacks of the technology. For example, little is known about citizen attitudes toward body-worn cameras, most notably whether the technology increases trust, legitimacy, and transparency of the police. The potential for the technology to serve as a training tool for police is also largely unexplored. Moreover, the privacy implications of body-worn cameras, for both citizens and police officers, are not clearly understood and may vary considerably as a result of differences in state law.

Simply put, there is not enough evidence to offer a definitive recommendation regarding the adoption of body-worn cameras by police. Departments considering body-worn cameras should proceed cautiously, consider the issues outlined in this review, and recognize that most of the claims made about the technology are untested.

That said, the evaluations described in this review do offer insights in several key areas, including a potential civilizing effect; evidentiary benefits; and the logistical, resource, and stakeholder commitment required to successfully manage a body-worn camera program. These insights provide an early glimpse into the potential impact and consequences of body-worn cameras.

Civilizing effect

Most of the empirical studies document a reduction in citizen complaints against the police and, in some cases, similar reductions in use of force and assaults on officers.

- The evaluations in Mesa and Rialto documented substantial drops in citizen complaints following deployment of the technology. The UK studies documented a similar effect.
- The Rialto study also documented a substantial drop in use of force incidents, and review of video indicated that officers wearing cameras appeared to be more restrained in their use of force.
- The Aberdeen study documented substantially fewer assaults on camera-wearing officers compared to other officers.

Conclusions and Recommendations

These findings, which are supported by anecdotal evidence from Phoenix, suggest that the cameras may have a civilizing effect. However, the dynamics of police-citizen encounters are complex, and there are numerous potential explanations for the decline in citizen complaints and use of force. One explanation is that body-worn cameras dissuade citizens from filing complaints, especially frivolous complaints (see “Evidentiary benefits” below). Under this explanation, the reductions are not caused by a civilizing effect; rather, they are driven by changes in citizen complaint reporting patterns.

An alternative explanation is that the reduction in complaints, and use of force, is a consequence of improved behavior (i.e., the civilizing effect) – whether it is citizen behavior, officer behavior, or both.

The majority of studies are unable to disentangle these potential effects. Additional independent research, with rigorous methodologies, is required to substantiate these preliminary findings and to identify the underlying dynamics of behavior that are driving the noted reductions.

Evidentiary benefits

The available research offers credible support for the evidentiary benefits of body-worn camera technology:

- Evidence from several studies (Goodall 2007; ODS Consulting 2011) indicates that body-worn cameras assist in the investigation and resolution of citizen complaints and that the technology may reduce the likelihood that citizens will file frivolous or untruthful complaints.
- Results from the UK studies suggest that video evidence from body-worn cameras reduces officer time devoted to paperwork, enhances officers’ ability to determine whether a crime occurred, and increases the likelihood that cases will end in guilty plea rather than criminal trial.

Body-worn cameras create a real-time, permanent record of what transpires during a police-citizen encounter. This video is useful for police, citizens, and prosecutors. Additional research should continue to explore this benefit and quantify the impact in a more formal cost-benefit analysis that assesses both financial and resource savings as well as costs.

Impact on law enforcement agencies and other stakeholders

Results strongly suggest that adopting body-worn camera technology requires a substantial commitment by the law enforcement agency, a commitment that far exceeds the initial outlay of funds to purchase the cameras. Several agencies have described the considerable groundwork that they must complete before camera deployment, such as selecting a vendor; overcoming officer (and union) objections; and developing training and a policy that covers a wide range of critically important issues, from when to turn the cameras on and off to supervisor review and video redaction.

One of the most pressing resource decisions involves storing and managing the video data. Departments that choose to maintain the data locally as opposed to using a storage service must overcome numerous challenges to manage effectively the vast amount of video that officers record and to respond to requests from the public, prosecutors, etc., for that data.

Commander Kurtenbach of the Phoenix Police Department notes that agencies must fully articulate the goals they seek to accomplish with body-worn cameras and that they should be deliberate in their decision-making process because the technology affects all aspects of the law enforcement agency as well as other stakeholder agencies (White 2013).

Recommendations

The following recommendations, which are based on the literature reviewed for this publication, are to help improve and expand the knowledge base on body-worn camera technology:

1. Any agency interested in adopting body-worn camera technology should proceed cautiously and consider the issues described in this review to fully inform their decisions. Other available resources include the UK Home Office guide (Goodall 2007), the published evaluations in the United States (Mesa and Rialto) and abroad (Plymouth and Renfrewshire/Aberdeen evaluations), and the forthcoming proceedings of the September 2013 PERF conference.
2. Independent research on body-worn camera technology is urgently needed. Most of the claims made by advocates and critics of the technology remain untested. Federal agencies that support research and development should consider providing funding streams for comprehensive research and evaluation of body-worn camera systems. Law enforcement agencies that adopt the technology should partner with researchers to evaluate the implementation and impact of body-worn camera systems.
3. Professional organizations in law enforcement, such as the IACP, the Police Foundation, and PERF, should consider developing guidelines for implementation and evaluation of body-worn camera technology. U.S. professional organizations should collaborate with their UK partners who have been experimenting with the technology for nearly a decade.
4. Law enforcement agencies that are planning to adopt officer body-worn cameras should employ rigorous evaluations of the implementation and impact of such systems. The evidence base for this technology is scant, and agencies can increase this knowledge by partnering with independent evaluators to empirically study the impact of the cameras.
5. Research on implementation and impact of body-worn cameras should include citizen surveys that capture perceptions of the technology, particularly with regard to trust, satisfaction, transparency, and legitimacy.
6. Body-worn camera systems hold great promise as a training tool for law enforcement, both in the academy and as part of performance evaluation. Post-hoc review of officer (or cadet) behavior during recorded encounters can serve as a mechanism for positive feedback, can identify problems in officer behavior, can help identify best practices in handling critical incidents (e.g., de-escalation); and can eliminate traditional reliance on “final frame” review of officer decisions to use force (i.e., the “split second syndrome” [Fyfe 1986]).

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APPENDIX A

Useful Guides to Body-Worn Camera Technology

This publication has identified several documents and reports that describe body-worn camera technology and offer guidance on its adoption and deployment by police (see “A brief note on methodology” on page 15). Law enforcement agencies in the United Kingdom have been experimenting with this technology for nearly a decade, and there are a number of valuable resources based on their work.

For example, the UK Home Office published *Guidance for the Police Use of Body-Worn Video Devices* (Goodall 2007). This comprehensive document provides recommendations for policy and practice across a wide range of operational issues, as well as discussions of legal requirements, implementation issues, and health and safety concerns. The document’s executive summary provides definitive statements on the benefits of police body-worn camera systems:

- **Evidential quality:** The cameras provide accurate, real-time evidence of what occurred.
- **Time saving:** The cameras create less written record keeping and enable quicker resolution of cases (guilty pleas).
- **Public order policing:** When citizens see officers wearing cameras, they are less likely to engage in anti-social behavior, and when they do, the cameras help to resolve cases faster.
- **Critical incidents:** The cameras provide a detailed record of police use of force.
- **Domestic abuse:** The cameras aide in prosecution of domestic violence by assisting reluctant witnesses.
- **Professional development:** The cameras provide an excellent tool to review cadet performance at the academy as well as post-hoc review of critical incidents. (Goodall 2007, 7–8)

Police in the United Kingdom have also created the Body Worn Video Steering Group (BWVSG). According to its website (www.bwvsg.com), the mission of the BWVSG is

to bring together organizations experienced in deploying and using Body Worn Video technology so that a code of best practice can be developed and shared with others; to provide a central library of information, a forum for debate, a group of experienced people willing to help others; to promote the use of Body Worn Video; and to design the future of Body Worn Video.

Appendix A: Useful Guides to Body-Worn Camera Technology

The BWVSG holds quarterly meetings (the first was in January 2013) to share information, discuss new and emerging practices, and learn from subject matter experts. The BWVSG website also makes available a range of resources, most notably a comprehensive administrative policy template (see Appendix B) that departments can use as a starting point for developing their own policies.

The U.S. Department of Justice has also developed resources to guide police departments in their consideration of body-worn camera technology. In September 2012, the National Institute of Justice published *A Primer on Body-Worn Cameras for Law Enforcement* (ManTech 2012), which covers a range of important topics, including the reasons why body-worn cameras are useful for law enforcement and the implementation issues that come with the technology (e.g., policies, training, and data storage). The document also includes a “camera market survey” that compares the products of seven leading camera manufacturers along a range of operational and technical specifications as well as cost (see also TechBeat 2010; 2012).

Last, the U.S. Department of Homeland Security (DHS) has examined body-worn camera technology through its System Assessment and Validation for Emergency Responders (SAVER). The goal of the SAVER program is to provide local, state, tribal, and federal authorities with information to assist with purchasing emergency responder equipment, from physical security and decontamination equipment to information technology. SAVER has produced two documents on body-worn cameras, a *Wearable Camera Systems Focus Group Report* with recommendations for product selection and a detailed assessment report, *Camera Systems, Wearable*, that includes a comparative evaluation of different systems.¹⁹

19. At the time this publication was completed, the SAVER resources were in the process of being transferred to <https://www.llis.dhs.gov/>. Note that many of the documents available through SAVER are restricted access.

APPENDIX B

Body-Worn Camera Policy Template

The follow text is reprinted with permission from the Body-Worn Video Steering Group. A Word document version can be downloaded from its website by clicking the "Police BWV Policy Document" hyperlink at www.bwvsg.com/resources/procedures-and-guidelines/.

Title: Body Worn Video

Policy

1 Introduction

- 1.1 This policy is required to ensure police officers using Body Worn Video (BWV) equipment as part of their operational duties are aware of their responsibilities in relation to its use to secure 'best evidence' and to safeguard the integrity of the digital images captured should they need to be produced for evidential purposes.

2 Application

- 2.1 This policy is effective immediately and applies to all police officers and police staff who use BWV or come into contact with the material recorded by BWV.

3 Purpose

- 3.1 The purpose of this policy is to ensure BWV is used correctly so that the Force gains maximum benefit from the operational use of BWV, and that all staff coming into contact with either the equipment or the images are able to comply with legislation and Force requirements.

4 Scope

- 4.1 This policy covers all aspects of the use of BWV equipment by members of staff and the subsequent management of any images obtained.

5 Policy Statement

- 5.1 *X Police* is committed to making the best use of its resources to capture best evidence by taking full advantage of new technology and the use of Body Worn Video in all appropriate circumstances.

6 Benefits

- 6.1 This policy will facilitate the use of BWV to:
 - Enhance opportunities for evidence capture;
 - Increase early guilty pleas, reducing officer case preparation and court time;

Appendix B: Body-Worn Camera Policy Template

- Assist police officers and PCSOs to control anti-social behavior;
- Reduce protracted complaint investigations by providing impartial, accurate evidence;
- Give greater insight into service delivery and identifying good practice.

7 Responsibilities

7.1 This policy will be monitored and reviewed by *X Department*.

The practical implementation of this policy at local level will be monitored by the Divisional Operations Chief Inspectors, District Single Point of Contacts (SPOCS) and supervisors of the BWV users.

Procedure (All procedures are ****RESTRICTED****)

1 Introduction

- 1.1 The use of BWV devices must complement the use of other video and digital evidence gathering devices within the Force. These procedures should be considered a minimum standard for the use of BWV devices.
- 1.2 These procedures have been designed with regard to the current legislation and guidance for the use of overt video recording of police evidence.
- 1.3 All images recorded are the property of the Force and must be retained in accordance with force procedures and the Association of Chief Police Officers (ACPO) Practice Advice on Police Use of Digital Images. They are recorded and retained for policing purposes and must not be shown or given to unauthorized persons other than in accordance with specified exemptions.

2 Objectives

- 2.1 BWV is an overt method by which officers can obtain and secure evidence at the scene of incidents and crimes. These procedures are intended to enable officers to comply with legislation and guidance to create evidence for use in court proceedings.
- 2.2 When used effectively BWV can promote public reassurance, capture best evidence, modify behavior, prevent harm and deter people from committing crime and anti-social behavior. Recordings will provide independent evidence that will improve the quality of prosecution cases and may reduce the reliance on victim evidence particularly those who may be vulnerable or reluctant to attend court.
- 2.3 Using recordings can also affect the professionalism of the service and in the professional development of officers. Officers, trainers and supervisors can use the equipment to review and improve how incidents are dealt with.
- 2.4 The use of BWV relates to crime reduction and investigation strategies and should NOT be confused with the deployment of Public Order trained Evidence Gatherers, which is the subject of other policies.

2.5 Professional Standards Department and line management will not routinely search the back office system for misdemeanors or offences committed by users, but if a complaint is received interrogation of the system can be an appropriate line of enquiry.

3 Equipment

3.1 The BWV equipment is generally a body-mounted camera with built in microphone. The camera stores digital files that, once recorded, cannot be deleted or amended by the operator. Each file carries a unique identifier and is time and date stamped throughout.

3.2 To support the camera systems, stand-alone computers and appropriate software have been purchased for the downloading and storage of digital video files. These provide a full audit trail ensuring evidential continuity is maintained.

4 Upkeep of Equipment

4.1 It will be the responsibility of X supported by Single Points of Contact (SPOC) to keep records of the serial numbers and location of the cameras on their division.

4.2 Any malfunction of the equipment must be reported immediately to the SPOC for that division.

4.3 The divisions will be responsible for the upkeep of the cameras, including the cost of any repairs or damage to equipment.

4.4 Any new equipment must be purchased via the divisional SPOC.

4.5 It will be the responsibility of Divisional Support Services Managers to ensure that there are sufficient DVDs available for use. If staff notices that resources are running low, they should notify the Divisional Support Services Manager accordingly.

5 Training

5.1 All uniform frontline Officers and PCSOs will be trained and have access to BWV.

5.2 Training in the use of the BWV device will be available via an eLearning package on NCALT. Additional guidance on the X software has also been produced by L&D and is available via the Neighborhood Policing Branch intranet site (part of the Communications Department).

5.3 In order to use BWV equipment officers should receive training in all necessary technical aspects of the specific equipment being used and its use. A training package for the equipment will include:

- Legal implications
- Practical use issues
- Evidential continuity
- Health and safety

Appendix B: Body-Worn Camera Policy Template

- Diversity issues
 - Professional standards
- 5.4 The eLearning may be completed individually or as a team led by a supervisor. Once a supervisor is satisfied that a member of staff has completed the eLearning, details of authorized users will be supplied to the SPOC who will issue the necessary log on details.
- 6 Equipment Issue
- 6.1 When not in use all equipment must be securely stored in a suitable location within the police station.
- 6.2 Only officers and PCSOs who have received the appropriate training will be able to “self issue” the equipment. Priority will be given to Neighborhood Response Team (NRT) officers, with any remaining cameras available for issue to Local Support Team (LST) or Neighborhood Policing Team (NPT) staff.
- 6.3 Cameras will be signed out by the user using their network login and BWV password on *X software*.
- 6.4 The user must ensure it is working correctly prior to leaving the station, check that the battery is fully charged and the date and time stamp is accurate.
- 7 Recording an Incident
- 7.1 The following is guidance on the use of BWV when recording incidents.
- a. Decide
 - Guiding principles are:
 - NRT officers will wear BWV when on operational response duty.
 - The camera should be switched on when footage might support ‘professional observation’ or would corroborate what would be written in a pocket book.
 - The decision to record or not to record any incident remains with the user.
 - The user should be mindful that failing to record incidents that are of evidential value may require explanation in court.
 - b. Start recording early
 - It is evidentially important to record as much of an incident as possible; therefore recording should begin at the earliest opportunity from the start of an incident.
 - c. Recordings to be Incident specific
 - Recording must be incident specific. Users should not indiscriminately record entire duties or patrols and must only use recording to capture video and audio at incidents that would normally be the subject of PNB entries or as ‘professional observation’, whether or

not these are ultimately required for use in evidence. There are a few instances where recording should not be undertaken and further guidance on when not to record is included later in this section.

d. Talk

At the commencement of any recording the user should, where practicable, make a verbal announcement to indicate why the recording has been activated. If possible this should include:

- Date, time and location
- Confirmation, where practicable, to those present that the incident is now being recorded using both video and audio

e. Inform

If the recording has commenced prior to arrival at the scene of an incident the user should, as soon as is practicable, announce to those persons present at the incident that recording is taking place and that actions and sounds are being recorded. Specific words for this announcement have not been prescribed in this guidance, but users should use straightforward speech that can be easily understood by those present, such as, “I am wearing and using body worn video.”

f. Collateral intrusion

In so far as is practicable, users should restrict recording to areas and persons necessary in order to obtain evidence and intelligence relevant to the incident and should attempt to minimize collateral intrusion to those not involved.

g. Private dwellings

In private dwellings, users may find that one party objects to the recording taking place; for example, where domestic abuse is apparent. In such circumstances, users should continue to record and explain the reasons for recording continuously. These include:

- That an incident has occurred requiring police to attend
- That the officer’s presence might be required to prevent a Breach of the Peace or injury to any person
- The requirement to secure best evidence of any offences that have occurred, whether this is in writing or on video and the video evidence will be more accurate and of higher quality and therefore in the interests of all parties
- Continuing to record would safeguard both parties with true and accurate recording of any significant statement made by either party
- An incident having previously taken place may reoccur in the immediate future
- Continuing to record will safeguard the officer against any potential allegations from either party

Appendix B: Body-Worn Camera Policy Template

h. Sensitivities connected with faith.

The filming in domestic circumstances could be an issue with some faiths. An example may be a situation in which the female may not have a face covering within the home. Officers should be aware of this fact and be sensitive to the wishes of those involved in these cases.

i. Do not interrupt filming.

Unless specific circumstances dictate otherwise (see below) recording must continue uninterrupted from commencement of recording until the conclusion of the incident or resumption of general patrolling.

j. Concluding filming.

It is considered advisable that the officer continues to record for a short period after the incident to demonstrate clearly to any subsequent viewer that the incident has concluded and the user has resumed other duties or activities.

Recording may also be concluded when the officer attends another area such as a custody center where other recording devices are able to take over the recording.

Prior to concluding recording the user should make a verbal announcement to indicate the reason for ending the recording this should state:

- Date, time and location
- Reason for concluding recording

k. Don't delete!

Once a recording has been completed this becomes police information and must be retained and handled in accordance with the Code of Practice on the Management of Police Information. **Therefore, any recorded image must not be deleted by the recording user and must be retained as required by the procedures.** Any breach of the procedures may render the user liable to disciplinary action or adverse comment in criminal proceedings.

7.2 Stop & Search

All 'stop and search' encounters should be recorded unless the search is an 'intimate search' or 'strip search' or if the search requires removal of more than outer clothing.

A video recording does not replace the need for a 'record of search' to be completed by the officer.

There is currently no specific power within PACE to take a photographic or video image of a person during a stop search, although such action is not explicitly prohibited.

8 Selective Capture and Bookmarking

8.1 Selective capture does not involve deletion of any images, merely the user making a choice of when to record and when not to record. It also describes the process of temporarily stopping and restarting recording in order to 'bookmark' the recorded footage.

There are no circumstances in which the deletion by the user of any images already recorded can be justified and any such action may result in legal or disciplinary proceedings.

8.2 Selective Capture

In general, the BWV user should record entire encounters from beginning to end without the recording being interrupted. However, the nature of some incidents may make it necessary for the user to consider the rationale for continuing to record throughout entire incidents.

For example, the recording may be stopped in cases of a sensitive nature or if the incident has concluded prior to the arrival of the user. In all cases, the user should exercise their professional judgment in deciding whether to record all or part of an incident.

In cases where the user does interrupt or cease recording at an ongoing incident, they should record their decision in a PNB or similar log including the grounds for making such a decision.

8.3 Bookmarking

In recording an incident, it is likely that BWV users will encounter victims, offenders and witnesses as well as recording the visual evidence at the scene itself. Bookmarking is a means by which users may separate encounters with each of these types of person or occurrence in order to allow for easier disclosure later. For example if a police officer has recorded an encounter with a witness including disclosure of their name and address, this section should not be shown to the suspect or their legal representative.

It is recognized that bookmarking is not always practicable due to the nature of incidents and therefore this should only be attempted if the situation is calm and the operator is easily able to undertake this procedure.

Prior to any temporary suspension for the purpose of bookmarking the user should make a verbal announcement for the recording to clearly state the reason for suspending recording. The user should also announce that they have recommenced recording at the same incident as before.

The bookmarking process will be demonstrated on the final whole recording by a missing section of a few seconds. In creating the master disk exhibit for court the user must include all bookmarked sections for the incident as one complete master recording of the incident.

Appendix B: Body-Worn Camera Policy Template

9 Witness First Accounts

- 9.1 If the BWV user is approached by victims or witnesses who are giving their first account of the crime the user may record the encounter using BWV but this should be considered against the needs of the individual with due sensitivity to the nature of the offence being reported. Any initial disclosure from victims and witnesses recorded by BWV should be treated as an evidential recording and submitted to the investigating officer. This is important to ensure compliance with statutory identification procedures under PACE Code D.
- 9.2 Such recordings do not replace the need for formal written statements from victims or witnesses but they can be used as supporting evidence for the statements and can also be considered as hearsay evidence and used in accordance with the provisions of the Criminal Justice Act 2003.
- 9.3 If this recording amounts to the victim's first notes or initial description of suspects they may refer to the relevant section of the video when making their written statement. Care must be taken to ensure that only the witnesses account is reviewed by the witness and they must not be allowed access to other sections of the recording. The extent of any review by the witness to assist with making their statement must also be recorded in their statement.
- 9.4 Care should be taken to ensure that should a victim or witness provide a 'first description' of the offender on video, that this fact should be recorded and submitted to the investigating officer. This is important to ensure compliance with statutory identification procedures under PACE Code D.
- 9.5 In the case of victims of serious sexual offences the user must consider the guidance in ACPO (2009) Guidance on Investigating and Prosecuting Rape. The victim's explicit permission for video recording of the initial disclosure should be sought and if the victim is in any way unsure of the need for the recording to be made or is uncomfortable with the thought of being recorded then the user should not record using video.
- 9.6 If the victim does not consent to being video recorded the user may consider the option to divert the camera away from the victim, or obscuring the lens and then record the encounter using the audio only facility. Again in these circumstances the explicit consent of the victim must be obtained prior to audio only recording.
- 9.7 Initial accounts from the victim should be limited to asking about:
 - Need for medical assistance
 - Nature of the incident (to ascertain if a Sexual Offences Liaison Officer is required)
 - Identity of the suspect (if known)
 - Location of the suspect (if known)
 - First description of the suspect (for circulation if appropriate)
 - Time of the offence in order to prioritize action

- Location of the crime scene(s)
- Identification of forensic opportunities, including information for forensic medical examinations
- Activities since the offence took place (to establish forensic evidence opportunities)
- Identity of any other person(s) informed of the incident by the victim (to ascertain early complaint)
- Identity or existence of any witness(es) to the offence or to events immediately prior to or after the offence

10 Recording of Interviews

- 10.1 BWV should not be used to record interviews of suspects under caution that occur at a police station. It may be used to record interviews that take place other than at a police station. However, recording of interviews under such circumstances does not negate the need for them to be recorded contemporaneously. There is no provision within the Police and Criminal Evidence Act 1984 for this.
- 10.2 BWV can and should be used to capture hearsay evidence. An example of this is a situation in which a store detective gives his account of a suspected shoplifter's actions to an investigating officer, in the presence and hearing of the suspect.

11 Scene Review

- 11.1 An additional use of BWV is to record the location of objects and evidence at the scene of a crime or incident. This can be particularly beneficial in allowing the Senior Investigating Officer an opportunity to review scenes of serious crime or in effectively recording the positions of vehicles and debris at the scene of a serious road traffic collision.
- 11.2 If reviewing a scene this should be treated as an evidential recording and where possible the officer should provide a running commentary of factual information to assist later viewers.

12 Limitations on Use

- 12.1 BWV is an overt recording medium and can be used across a wide range of policing operations. There are a few examples of situations where the use of BWV is not appropriate. In all cases users and supervisors must use their professional judgment with regard to recording.
- 12.2 The following examples of where the use of BWV is not appropriate are for guidance only and this list is not exhaustive.
- *Intimate searches* – BWV must not be used under any circumstances for video or photographic recording to be made of intimate searches.
 - *Legal privilege* – users must be careful to respect legal privilege and must not record material that is or is likely to be subject of such protections.

Appendix B: Body-Worn Camera Policy Template

- *Private dwellings* – whilst use of video at the scene of domestic violence incidents is covered in other sections, users must consider the right to private and family life, in accordance with Article 8 of the Human Rights Act, and must not record beyond what is necessary for the evidential requirements of the case.
- *Vulnerable Witness interview (VWI)* - the use of BWV is not a replacement for VWI and vulnerable victims must be dealt with in accordance with force policy 1130/2012 - Investigative Interviewing Policy.
- *Explosive devices* - like many electrical items, BWV cameras could cause electrostatic interference, which may trigger explosive devices. Therefore, BWV equipment **MUST NOT** be used in an area where it is believed that explosive devices may be present.

13 Audit Trail

13.1 An audit trail is covered by use of the *X software*.

14 Production of Exhibits

14.1 All footage recorded to the BWV unit will be downloaded at the end of the officer's tour of duty. Officers should return the units to their home station.

14.2 Evidential footage downloaded will be saved on the relevant stand-alone BWV computer as per the approved procedure. It will be identified by exhibit number, incident type, name(s) of any accused person(s) and the Storm reference, if appropriate.

14.3 Evidential footage will be considered any data that is:

- Evidence of an offence
- Supporting evidence for any process (e.g., charge, Fixed Penalty Notice, Penalty Notice for Disorder)
- Footage that is required for a relevant and proportionate policing purpose - i.e. footage taken of an overcrowded town center taxi-rank to highlight the need for an extended facility to Local Authority partners
- Footage that is revealable under The Criminal Procedure and Investigations Act of 1997

14.4 Data will not be downloaded to any device other than the dedicated stand-alone BWV computer provided.

14.5 *X software* will be used to book out BWV units.

- 14.6 Data downloaded as **non-evidential** will be stored on DEMS for 31 days. During that time it is searchable and can be retrieved and marked as evidential. After this period it will be automatically deleted.
- 14.7 As soon as reasonably practical, the user will make two DVD copies. The first will be a master copy, which will be sealed, labeled, and entered into the G83. The second will be a 'working copy' for investigation and file preparation purposes. DVDs should be retained in line with force policy 610/2012 - Audio and Video Unit Procedures Policy.
- 14.8 If the 'working' copy contains any sensitive information, i.e. witness details, and has not been sanitized, clearly mark it '**Do not disclose.**'
- 14.9 BWV is supporting evidence and officers will be required to provide written statements, which must include the audit trail for the capture of the footage and the subsequent production of the master disc/DVD. This can be complied with through *X software*. A separate statement evidencing arrests or evidence not captured on BWV should be supplied to the investigation.
- 14.10 For details of what to include in a statement refer to the File Preparation Guidance on the Force intranet.
- 14.11 In order that the recorded evidence can be presented in court the master copy must be preserved as an exhibit. It is recommended for reasons of security that this takes place as soon as practicable after the footage is recorded and that users do not start duty with a recording device that contains evidence of cases from a previous duty or day.
- 14.12 Where more than one BWV device is present at the scene of an incident or the area of the incident is also covered by a CCTV system the officer in the case (OIC) must ensure that all available footage of the incident is secured as exhibits in consideration of any defense arguments that may be presented.

About the Author

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Body-worn cameras represent the latest technological innovation for law enforcement. The perceived benefits of these cameras are far-ranging and touch on core elements of the police mission, including enhanced police legitimacy, reduced use of force, and fewer citizen complaints. Criticism of the technology centers on equally important issues, such as violations of citizen and officer privacy, and on enormous investments in terms of cost and resources. Unfortunately, there have been few balanced discussions of body-worn cameras and even fewer empirical studies of the technology in the field. As such, *Police Officer Body-Worn Cameras: Assessing the Evidence* provides a thorough review of the merits and drawbacks regarding the technology and assesses the available empirical evidence on each of those claims. Overall, this publication articulates the key questions surrounding the technology and provides a framework for informed decision-making regarding adoption and empirical evaluation of body-worn cameras.



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13. Atlanta Citizen Review Board: “Study On Body-Worn Cameras (BWCs) & Discussion of Concerns and Recommendations on BWCs for Atlanta Police Officers”

Atlanta Citizen Review Board
Study on
Body-Worn Cameras (BWCs)
&
Discussion of Concerns and
Recommendations on BWCs
for Atlanta Police Officers

2014 Report



Executive Summary

The Atlanta Citizen Review Board (“ACRB”) conducted this study on body-worn cameras (“BWCs”) to gain an understanding of the law enforcement’s and public’s perspectives on the use of BWCs by Atlanta police officers. BWCs could be a valuable tool that can aid the accountability systems, which currently provide checks and balances on officer behavior and actions.

The ACRB has been watching the development of BWCs over the past two years. As the calls for BWCs intensified after the officer-involved shooting of Michael Brown¹ in Ferguson, Missouri, the ACRB initiated this study.

Extensive research and communication with other police departments across the country produced over 40 sources, which included agency reports, media articles, and conversations with law enforcement agencies, particularly the Las Vegas Metropolitan Police Department (“LVMPD”) and the Bay Area Rapid Transit Police Department.²

The ACRB identified several concerns that should be thoroughly examined during the early stages of the discussions on BWCs. The concerns addressed in this study include:

- privacy,
- access to recordings,
- retention period,
- BWC operation,
- redaction,
- training,
- and other issues that may affect the success of a BWC program within the Atlanta Police Department (“APD”).

The study also provides ACRB policy recommendations for the BWC program and discussion on how the program will affect the ACRB. Most importantly, the study highlights the need for strong policies and enforcement to build and maintain trust with the communities that have experienced a history of alleged officer misconduct.

While BWCs are tools to help reduce officer misconduct and liability, it cannot be stressed enough that BWCs alone will not yield the anticipated results unless there is strong policy, effective management and enforcement, and a general change in policing culture.

¹ Eighteen-year old black male killed by a Ferguson, Missouri police officer.

² The ACRB obtained model BWC policies and a BWC policy recently adopted by the LVMPD. The agency also obtained a BWC from the Bay Area Rapid Transit (BART) Police Department.

Study written and prepared by the Atlanta Citizen Review Board (ACRB)
September 30, 2014

Table of Contents

Executive Summary	3
Section I	8
Background	8
Section II	8
Perceived Benefits, Challenges, and Policy Considerations associated with BWCs	8
Section III	10
ACRB Discussion of BWC Considerations	10
Privacy	11
Access to Recordings	12
Auditing of BWC Program	13
Notice of Recording	14
Consent	14
Retention Period	15
Officer Discretion to Record	15
Discrimination in Recordings	17
Redaction	17
Training	17
Enforcement	18
Officer Review of Recordings	18
Supervisor Reviews	20
Extra Job Employment	21
Policy Changes associated with BWCs	21
Duplicating Recordings	21
Chain of Custody	22
False Sense of Citizen Confidence and Trust	22
Section IV	24
Effect of BWCs on ACRB Operations	24
Section V	26
Policy Example	26
Section VI	27
Citizen Trust and BWCs	27
Section VII	28
Implementation Recommendations	28
Section VIII	29
BWC Devices	29
BWC Costs	29
Conclusion	31
Appendix	33

Introduction

The ACRB³ presents this study of body-worn cameras⁴ (“BWCs”) to participate in the public discussion on BWCs.⁵ The purpose of this study on BWCs is to advance the examination of the issues involved in the use of BWCs by Atlanta police officers. An early robust discussion of all issues associated with BWCs will ensure the successful implementation of a BWC program. This report is an objective and independent contribution to the consideration of BWCs and presented to aid in the making of informed decisions.

This report is not intended to be a comprehensive in-depth analysis of every contention that is brought forth from the reviewed materials. The ACRB conducted this study by examining various reports, media articles, and government materials. In addition, the ACRB contacted the Las Vegas Metropolitan Police Department and the Bay Area Rapid Transit Police Department to discuss their experiences with implementing a BWC program. From the study and the experiences of ACRB civilian oversight professionals, the ACRB identified perceived benefits, challenges, policy and implementation recommendations that should be considered by the citizens, police department, officers, and elected officials before the investment and full implementation of BWCs.

It is hoped that the implementation of a BWC program will lead to improved policing where police actions are reviewed and evaluated fairly and where officers who violate police policy and/or the law receive fair and swift correction under the Atlanta Police Department’s (APD) disciplinary policy. The BWC along with strong support systems may usher in changes in policing culture that will benefit citizens, officers, and the police department.

The BWC along with strong support systems may usher in changes in policing culture that will benefit citizens, officers, and the police department.

It should be noted that the available empirical research and data on BWCs is limited; therefore, many of the expected benefits and concerns raised by supporters and critics lack the necessary data to support them.⁶

³ The Atlanta Citizen Review Board (“ACRB”) is authorized to conduct this study, pursuant to Atlanta Code of Ordinances, Part II, Chapter 2, Division 11, Section 2-2211 (d).

⁴ Body-worn cameras are small video cameras – typically attached to an officer’s clothing, helmet, or sunglasses – that can capture, from an officer’s point of view, video and audio recordings of activities, including traffic stops, arrests, searches, interrogations, and critical incidents such as officer-involved shootings. – Community of Oriented Policing Services (COPS), Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned, U.S. Department of Justice and Police Executive Research Forum (2014), 1, <http://www.justice.gov/iso/opa/resources/472014912134715246869.pdf>.

⁵ On August 18, 2014, the Atlanta City Council passed a resolution requiring the Atlanta Police Department to submit a feasibility study on BWCs for APD officers to the Atlanta City Council.

⁶ Michael D. White, PhD, “Police Body-Worn Cameras: Assessing the Evidence,” (2014), 6, <https://ojpdiagnosticcenter.org/sites/default/files/spotlight/download/Police%20Officer%20Body-Worn%20Cameras.pdf>.

This report is divided into eight sections.

- Section I provides the background of this report.
- Section II provides the perceived benefits, challenges, and policy considerations of BWCs.
- Section III provides ACRB's discussion of the BWC considerations.
- Section IV provides a discussion on the effect of the BWCs on the ACRB operation.
- Section V provides a discussion of several BWC policies.
- Section VI provides a discussion on community trust with regard to BWCs.
- Section VII provides ACRB's implementation recommendations.
- Section VIII provides discussion on the potential costs of a BWC program.

Section I

Background

As with every new technological tool, a thorough analysis of the benefits and concerns must be conducted to ensure that the technology yields the anticipated results. The thought behind the use of BWCs is that these devices will provide an objective view of the interaction between officers and citizens.

The thought behind the use of BWCs is that these devices will provide an objective view of the interaction between officers and citizens.

Since the officer-involved shooting death of Michael Brown, police departments, elected officials, and many citizen groups and organizations have called for increased recordings of officer and citizen interactions. The APD and many other law enforcement agencies have increased their interests in acquiring and implementing BWCs. Many police departments have started testing BWCs and operating pilot programs, including the APD. A few departments have fully implemented BWC programs.

Section II

Perceived Benefits, Challenges, and Policy Considerations associated with BWCs

This section provides a table of the considerations associated with BWCs: (1) Perceived Benefits, (2) Challenges, and (3) Policy Considerations. As used in this report, perceived benefits are outcomes that may be achieved with a BWC program. The challenges are the issues that have been identified that could affect the success of a BWC program. Policy considerations are the concerns that policy should address that will guide the officers' use of the BWCs.

These considerations were identified from the literature sources that were reviewed for the study. It is hoped that the information presented in a table format will be easily digestible for the reader.

A detailed description of the perceived benefits, challenges, policy considerations is in Appendix A. There the perceived benefits, challenges, and policy considerations are presented in three tables. Each table has the consideration and a corresponding explanation of why the consideration should be examined or the general thought behind it. The tables also provide which stakeholders may be affected by the consideration. Several of the considerations mentioned in this section will be discussed in greater detail in Section III.

Perceived Benefits	Challenges	Policy Considerations
Visual documentation of officer's and citizen's activities	Privacy of citizen/ Consent to record Privacy of officers	Obstruction of Cameras
Prevent and Reduce False Arrest and False Imprisonment	May inhibit citizen cooperation	Ongoing recording of Cameras
Reduce False Police Reports	Will not stop intentional acts of officer misconduct	Stopping/Starting Cameras (Control of Cameras)
Criminal Convictions/ evidence documentation	Point of view of camera	Redaction of recordings
Diffuses Situations	Citizen/Officer access to recordings	Privacy
Reinforce policy and increase officer professionalism	Computer infrastructure/technology	Enforcement
Used for training	Retention (time limit of storage of recordings)	Retention (Storage of Video)
Prevent false misconduct claims	Costs	Criteria for storage
Protect against false property damage claims	False Sense of Confidence and Trust	Review of video
Improve citizen behavior	Positioning of camera and body to avoid recording actions	Camera placement
More even distribution of power	Coercion, threats, or embarrassment to prevent misconduct complaint filings	Policy considerations
Reduce Use of Force incidents	Georgia Open Records	Camera malfunction and compromise of camera operation
Encourage misconduct complaint filings	Officers Less Proactive/ Hesitancy to Act	Chain of custody
Faster resolution of citizen complaints	Notice of recording	All recordings on a scene maintained not just the recording of the officer who is writing the incident report

Perceived Benefits	Challenges	Policy Considerations
Encourage officer cooperation with administrative investigations	Redaction and Exclusion	Notices
Officer point of view of an incident	Prosecutorial	Extra job use
	Officer acceptance and compliance	Auditing
	Data Storage	
	Improper use of recordings	
	Over-reliance on recording	

Section III

ACRB Discussion of BWC Considerations

The ACRB supports BWCs for Atlanta police officers; however, as stated in various materials and based on our experience, the purchase and implementation of BWCs must be carefully and deliberately considered to achieve expected results.⁷ The success of the BWC program will depend on the department's full consideration of all aspects of the use of the cameras to ensure that the citizens, officers, and taxpayers receive maximum benefits of the cameras. Adherence to strong policy will be the backbone of the success of a BWC program.

Adherence to strong policy will be the backbone of the success of a BWC program.

The ACRB has identified several policy considerations that require further examination, such as:

- privacy;
- access to recording;
- auditing of BWC program;
- notice of recording;
- consent;
- retention period;
- officer discretion to record;
- discrimination in recordings;
- redaction;
- training;
- enforcement;
- officer review of recording;
- supervisors;

⁷ White, 6.

- extra job performance;
- duplicating recordings;
- policy changes associated with BWCs; and
- false sense of citizen confidence.

Privacy

Fourth Amendment considerations should not be easily dismissed during discussions about the BWCs.⁸ Because BWCs would be considered a public record, privacy concerns should be thoroughly and openly discussed with input from citizens and officers.

Georgia has a broad open records law that could potentially make many recordings subject to public viewing, including those recordings that do not involve crimes. Safeguards should be established to ensure that the public is not placed in the position of having to worry about their identities being revealed when they choose to assist police but want to remain anonymous.⁹ Moreover, citizens should not have to worry about recordings being used to embarrass or harass.¹⁰ Citizens who are not the subject of police action should have the ability to refuse to be recorded.¹¹

Recordings should only be used for internal and external misconduct investigations, civil misconduct litigation, criminal litigation, and training. To the extent possible, non-subject citizens captured on recordings should be given the opportunity to provide consent to any viewing or duplication of them on the recording or have their images redacted.¹² Citizens should also be able to review recordings when wanting to file a complaint against officers.¹³

Policies should forbid officers from accessing records for personal use and from uploading to social media.¹⁴ Violations of privacy have proven to be costly.¹⁵

Fourth Amendment considerations should not be easily dismissed during discussions about the BWCs.

To the extent possible, non-subject citizens captured on recordings should be given the opportunity to provide consent to any viewing or duplication of them on the recording or have their images redacted.

⁸ See Jared Blair, Law Enforcement's Unfettered Use of Video Technology Is Strangling the Fourth Amendment's Right to Privacy, *Kentucky Law Journal*, (2012), <http://law-apache.uky.edu/wordpress/wp-content/uploads/2012/11/Blair-BVD-Note.pdf>.

⁹ White, 24; Recommendations and Lessons Learned, 13.

¹⁰ Jay Stanley, "Police Body-Mounted Cameras: With Right Policies in Place, a Win for All," *ACLU*, https://www.aclu.org/files/assets/police_body-mounted_cameras.pdf, October 2013, p. 6; Ronald Bailey, "Watched Cops are Polite Cops," *Reason.com*, December 2013, <http://reason.com/archives/2013/11/26/watched-cops-are-polite-cops>.

¹¹ Recommendations and Lessons Learned, 14.

¹² Stanley, 5.

¹³ *Ibid.*

¹⁴ Recommendations and Lessons Learned, 46.

¹⁵ Rick Rojas, "CHP Settles Over Leaked Photos of Woman Killed in Crash," *Los Angeles Times*, January 31, 2012, <http://articles.latimes.com/2012/jan/31/local/la-me-chp-photos-20120131>.

The Atlanta Law Department and APD may need to research issues concerning recording inside citizen's homes to ensure that citizens' privacy is not placed in jeopardy by interacting with police at their homes. While the Georgia wiretapping law is a "one-party consent" ¹⁶ law in public spaces, the law places restrictions on recording in any private place and out of the public view unless the person making the recording obtains consent from all persons observed.¹⁷ Recordings in citizens' home should be limited to high-risk entry and certain calls or with the use of an investigation warrant.¹⁸ In non-emergency situations occurring in a citizen's home, the citizen should be able to request not to be recorded and receive acknowledgment from the officer that BWC is not recording.¹⁹ The request and acknowledgement should be captured on the recording. The police department may want to consider a more strict policy of no recording in a citizen's home unless under certain circumstances and even then no random recording of the inside of a residence.

Recordings in citizens' home should be limited to high-risk entry and certain calls or with the use of an investigation warrant.

Limitations should be placed on the amount of recording that officers should be subjected to when not performing an active policing function – personal needs, breaks, lunch, and appropriate citizen requests. Officers should also not have to fear reprisals for recordings depicting normal workday activities, whistleblowers, and union activities that do not interfere with their policing functions.²⁰

The APD should only consider BWC systems that have redaction capabilities and recording indicator light.

Access to Recordings

One of the basic premises for BWCs is the transparency that the recordings may provide to citizens.²¹ The release of BWC critical incident recordings may provide the answers that citizens seek when questionable police action occurs. This need for the public to know will have to be balanced with the law enforcement needs and law that allows the police department to keep some information from the public.

The release of BWC critical incident recordings may provide the answers that citizens seek when questionable police action occurs.

Georgia law provides an exemption for the pending investigative records and records that will disclose the identity of a confidential source,

¹⁶ O.C.G.A. §16-11-66 (2014).

¹⁷ O.C.G.A. §16-11-62 (2) (2014).

¹⁸ O.C.G.A §§16-11-64 (c) and 16-11-64.3 (2014).

¹⁹ Recommendations and Lessons Learned, 15.

²⁰ Tim Donovan, "Make Cops Wear Cameras: A Simple Way to Hold Police Accountable," *Salon*, August 22, 2014, http://www.salon.com/2014/08/22/make_cops_wear_cameras_a_simple_way_to_hold_the_police_accountable/.

²¹ Recommendations and Lessons Learned, 32-33.

confidential investigation or prosecutorial material that may endanger the safety of a person.²² The law also allows the police department to deny the existence of a record classified as confidential surveillance or investigation.²³

The law also allows the police department to deny the existence of a record classified as confidential surveillance or investigation.

The challenge for the police department will be to resist using the law surreptitiously by slowly releasing recordings or failing to release recordings, without any justification other than that the recording may show officers in a negative light. Slow release of recordings or failing to release recordings to the public will certainly erode citizens' trust of the system and may lead to increased lawsuits.²⁴ There is no easily accessible mechanism to compel the release of recordings.

Slow release of recordings or failing to release recordings to the public will certainly erode citizens' trust of the system and may lead to increased lawsuits.

APD should maintain strict records of access to recordings. The records should contain the name of the authorized officer/civilian employee accessing the record, date and time, and purpose for the access. Logs of access should be routinely audited, internally and externally.

APD policy should affirmatively provide that access to recordings will be granted to the full extent that the law allows without interruption.

The city may want to consider seeking a state legislative action to limit the access and use of recordings containing private data.

Auditing of BWC Program

The BWC program should undergo an internal and external audit to ensure the public that the program is meeting the citizens' and department's expectations. These audits should be provided to the Mayor and City Council.²⁵

The auditing report should include dates, times, access names, purpose of access, duplication, random reviewing of selected recorded footage, and deletions. The report should also include equipment malfunctions and repairs.

²² O.C.G.A. §50-18-72 (a) (3) and (4) (2014).

²³ O.C.G.A. §50-18-72 (a) (3).

²⁴ Christopher Moraff, "Why We Shouldn't Leave Police Departments to Work Out Body camera Rules," *PublicCEO.com*, August 22, 2014, <http://www.publicceo.com/2014/08/commentary-why-we-shouldnt-leave-police-departments-to-work-out-body-camera-rules/>.

²⁵ Recommendations and Lessons Learned, 25.

Notice of Recording

The ACRB believes that citizens should be made aware that an officer is recording when possible so that a citizen who is not under police control may elect to terminate contact and leave the area in order to preserve their right of privacy.²⁶ The notice of recording may assist in diffusing tense situations,²⁷ depending on how the notice is announced to the citizen. If the announcement is made in a threatening manner, it may cause an opposite reaction.

Citizens should be made aware that an officer is recording when possible so that a citizen who is not under police control may elect to terminate contact and leave the area in order to preserve their right of privacy.

Officers should state verbal starts and stops on the recordings.²⁸ In cases where a non-subject citizen is requesting not to be recorded, the officer should be required to capture the request on the recording prior to stopping the recording, when possible.

As previously stated, cameras should be equipped with a light indicator that shows that the device is recording.²⁹

In addition to the above, APD policy should require officers to note the existence of a camera on the scene in their report.³⁰ The policy should also require officers to articulate on camera or in writing their reasoning if they fail to record an activity that is required to be recorded.³¹

Policy should require officers to articulate on camera or in writing their reasoning if they fail to record an activity that is required to be recorded.

Consent

If officers have discretion to record, a policy providing for citizen consent for recording is important to ensure that those citizens who are not the subject of a police action and choose not to be recorded are protected from arbitrary decisions that would turn a consensual stop into an investigative stop merely because the person wished not to be recorded. Certainly, consent would not be an option during police action with the subject of the encounter.

Policy should require consent to record citizen who are not the subject of a police encounter.

²⁶ White, 47.

²⁷ Recommendations and Lessons Learned, 14.

²⁸ White, 47.

²⁹ http://www.wolfcomusa.com/wolfcom_vision_police_body_worn.html.

³⁰ Recommendations and Lessons Learned, 39.

³¹ Ibid.

Retention Period

Retention periods are important to privacy concerns.³² The ACRB believes that the retention period of recordings should be well publicized and citizens should be informed of the retention period during their contact with a police officer that is operating a BWC.³³ The announcement of the retention period should be made on the recording. Retention period should be openly and proactively communicated to the public. Publication and notification of the retention period would inform citizens that they have limited time to file a complaint. The retention period should be conspicuously placed on the police department and ACRB websites and social media pages.

Retention period of recordings should be well publicized and citizens should be informed of the retention period during their contact with a police officer that is operating a BWC.

A common concern among police departments is the cost associated with maintaining recordings, especially for larger departments.³⁴ One of the advantages of a short retention period (30-60 days) is that it limits requests for release of recordings that are not connected to misconduct; however, the retention period should be long enough to demonstrate transparency and allow footage to be available for when a complaint is received.³⁵

Retention period should be long enough to demonstrate transparency and allow footage to be available for when a complaint is received.

Officer Discretion to Record

Many departments do not require continuous recording and allow their officers the discretion to start and stop recordings with guidelines for what must be recorded. This is important to ensure even and appropriate application and usage of the BWC.³⁶ The most common approach to recording is requiring officers to record all calls for service and law enforcement related encounters and to deactivate the camera only at the conclusion of the event or with supervisor approval.³⁷

Discretion to operate the cameras must be balanced with the need for the community to know that officers will not abuse their discretion.

Control of recording is a difficult concern to resolve because the discretion to operate the cameras must be balanced with the need for the community to know that officers will not

³² Recommendations and Lessons Learned, 16.

³³ Recommendations and Lessons Learned, 19.

³⁴ Global Banking and Finance, "Police Face 'Admin Nightmare' in Dealing with Footage From Body-Worn Cameras," *Global Banking and Finance Review*, January 31, 2014, <http://www.globalbankingandfinance.com/police-face-admin-nightmare-in-dealing-with-footage-from-body-worn-cameras/>.

³⁵ Recommendations and Lessons Learned, 17.

³⁶ U.S. Department of Justice, Officer of Justice Programs, National Institute of Justice and Mantech Advances Systems International, Inc., *A Primer on Body-Worn Cameras for Law Enforcement*, <https://www.justnet.org/pdf/00-Body-Worn-Cameras-508.pdf> (September 2012), 8.

³⁷ Recommendations and Lessons Learned, 18.

abuse their discretion. While continuous recording would be preferable, officer morale could suffer, citizens may be exposed to needless recording with no law enforcement need, and the expense to retain recordings could be too costly. In addition, the more recording, the more reviewing of recordings that would need to occur, which could open the door to other unintended issues, such as misuse of recordings of officers' private conversations and exposure of recordings of citizens who are not subjects of police encounters.³⁸

Some departments have taken advantage of the continuous streaming capabilities that only retains the streaming footage when the camera has been activated to record.³⁹ This approach allows the officer to have discretion over when to record and when to stop recording. Strict guidelines for what must be recorded would need to be in the policy and compliance with guidelines would need to be strictly monitored and enforced.⁴⁰ In addition, an officer's decision not to record would need to be based on reasonable articulation and provided in the officer's written report.⁴¹ The failure to provide a reasonable articulation to not record would be held as a presumption against an officer should a complaint arise from an encounter.⁴² The APD should only use a BWC system that has a pre-event buffer mechanism (pre-event recording) that allows the streaming to capture a certain period before the activation of the recording. Officers should not be allowed to edit footage under any circumstances.⁴³

Officers should not be allowed to edit footage under any circumstances.

Additionally, officers who are experiencing proven misconduct violations involving citizens should be required to have continuous recordings for a certain period as a part of their discipline or a last chance agreement.⁴⁴

If the APD considers continuous recording, the officers' should have strict guidelines that allow for personal needs, breaks, lunch, and appropriate citizen requests not to record. This policy would avoid officers abusing their discretion regarding what needs to be recorded and when recording should stop. Officers should be required to provide a verbal statement on the recording when they have to stop the camera.

³⁸ Donovan.

³⁹ C. W. Nevius, S.F. Seek Cameras to Capture Whole Picture, SF Gate, January 23, 2014, <http://www.sfgate.com/bayarea/nevius/article/S-F-police-seek-cameras-to-capture-whole-picture-4997404.php>.

⁴⁰ Recommendations and Lessons Learned, 18.

⁴¹ Ibid.

⁴² Martin Kaste, "As More Police Wear Cameras, Policy Questions Arise," *NPR*, November 7, 2011, <http://www.npr.org/2011/11/07/142016109/smile-youre-on-cop-camera>.

⁴³ Recommendations and Lessons Learned, 11.

⁴⁴ The Beat Podcasts Series, Community of Oriented Policing Services, U.S. Department of Justice, Interview of Daytona Beach, FL, Chief of Police Mike Chitwood, (January 2014) http://www.cops.usdoj.gov/html/podcasts/the_beat/01-2014/TheBeat-012014_Chitwood.txt, 05:43.

Discrimination in Recordings

If the APD should adopt a policy allowing officer discretion as it relates to the stopping and starting of BWC recordings, the policy should be very clear on what the criteria is for recording an event and what is prohibited.⁴⁵ The policy should explicitly state that protective class status should not be a deciding factor in whether to record or not.

If officer discretion is allowed for BWC recordings, policy should explicitly state that protective class status should not be a deciding factor.

Redaction

It is understandable that the police department may need to establish safeguards to protect confidential informant development, on scene officer side bar conversations, on scene tactical planning and decision-making, victim identity, in-home privacy concerns, and personal identification information.⁴⁶ The APD should have a policy that explicitly states what must be redacted before the release of a video to the public.⁴⁷ Administratively, redaction requests could be resource intensive.⁴⁸

Citizens who are not involved in an enforcement action should be able to request that their image be removed from the recording and public viewing.

Training

Many police departments that have tested or implemented BWC programs have used the recordings for officer training. Because of the ability of the camera systems to provide relatively quick review, supervisors and trainers are able to provide feedback much closer to the actual incident, which is an optimal time for the recruits and officers to learn from the recordings.⁴⁹

Training should be one of the major goals of the police department. Proactive will need to be established to review recordings for training opportunities.

Training should be one of the major goals of the police department. The police department will need to establish proactive measures to review recordings for training opportunities. This will allow the APD to catch some issues before a citizen complaint can occur.⁵⁰ Unfortunately, in order to maximize the training potential of the recordings, the APD may experience a resource

⁴⁵ Mantech, 8.

⁴⁶ Joe Fiumara, "The Future is Near: Getting Ahead of the Challenges of Body-Worn," Technology Talk, *The Police Chief* 79 (September 2012) 00:54, http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=display_arch&article_id=2753&issue_id=92012.

⁴⁷ White, 33.

⁴⁸ White, 34.

⁴⁹ White, 25.

⁵⁰ Recommendations and Lessons Learned, 35.

allocation issue because reviewing recordings and providing feedback will be time intensive.

As training relates to camera operation, the APD should provide extensive initial and refresher training on rotation. The training should include the legal aspects and the enforcement of policies for non-compliance.

Enforcement

As stated earlier, BWCs are tools that will only yield the expected results that come from appropriate enforcement of policies.⁵¹ As the literature and our experience shows, a violation on a recording does not necessarily result in discipline. In order for the best results to occur with BWCs, enforcement of policies will be important to meet the taxpayers and departments' expectations of perceived benefits.

Enforcement of policies will be important to meet the taxpayers and departments' expectations of perceived benefits.

Recordings of misconduct should make it more difficult to avoid disciplining officers and make it easier to remove officers from the department when needed.

Officer Review of Recordings

Officers should not be allowed to review BWC recordings before writing official reports or providing a statement during a critical incident.⁵² Samuel Walker, emeritus professor of criminal justice at the University of Nebraska, opined that "in order for transparency (with BWCs) to mean something, the BWCs cannot appear to be for the sole benefit of officers."⁵³ Some departments believe that officers should not be able to review their recordings before writing reports or providing a statement to a critical incident.

"In order for transparency (with BWCs) to mean something, the BWCs cannot appear to be for the sole benefit of officers." – Samuel Walker

Allowing officers to view recordings prior to writing their reports or providing statements may bring into question the credibility of the officers' statements or reports. It may also raise questions as to whether the reports or statements were provided to fit the

Allowing officers to view recordings prior to writing their reports or providing statements may bring into question the credibility of the officers' statements or reports.

⁵¹ Candice Bernd, "Watching the Watchmen: Are Police Officers' Body-Worn Cameras a Win for Accountability," *TruthOut.Org* (April 12, 2014), <http://truth-out.org/news/item/23045-watching-the-watchmen-are-police-officers-body-worn-cameras-a-win-for-accountability>.

⁵² Martin Kaste, "Can Cop-Worn Cameras Restore Faith in New Orleans Police?" *NPR*, May 22, 2014, <http://www.npr.org/blogs/alltechconsidered/2014/05/22/314912840/can-cop-worn-cameras-restore-faith-in-new-orleans-police>.

⁵³ *Ibid.*

recordings. This may also cause courts to rely on the video more than the officers' report or testimony, which may cause the absence of a recording to weigh against an officer and the criminal case.⁵⁴

BWCs are to document what has happened. Since the officer was present on the scene and the law provides that the totality of the circumstances must be considered and reasonable mistakes are allowed, officers are not placed at disadvantage of not viewing the recording. The law requires that during an examination of an officer's actions, the actions must be viewed from the time of the action taking in consideration of the facts on the scene.⁵⁵

Some departments believe that viewing the recordings will aid the officer's memory of what occurred during an incident, thereby improving the accuracy and consistency of reports.⁵⁶ These departments assert that not allowing the officers to view recordings may create inconsistencies between officers' reports/statements and the recordings, which may damage a case or unfairly undermine an officer's credibility. According to some police executives, the fear is that by not allowing officers to review the recordings the perception may be created that the department is trying to catch officers in a lie.⁵⁷

Inconsistencies in officers' statements and recordings have always been present, especially in situations involving multiple officers. This is more of an indication of officers needing to be better trained to articulate the basis for their actions, than not remembering why they took an action or potentially looking for additional justification that was not originally considered when the officer took the action.

In the event that the APD should choose to allow officers to view recordings for reports and statements, officers should be required to provide within their reports or statements that they have viewed the recordings to prepare to write the reports or give the statements. Officer reviews of recordings should not occur until the recording has been uploaded or saved to the data system. This will allow the transparency needed for citizens to consider the weight of the statements or reports. The department should also consider requiring supervisor approvals for viewing recordings prior to the officers writing report or statements.

If officers are allowed to review recordings during report writing or before providing critical incident statements, officers should be required to provide within their reports or statements that they have viewed the recordings to prepare to write the reports or give the statements.

Another possibility is for officers to write their reports without viewing the camera and later provide a supplemental report after they have reviewed the recording. The reports should indicate whether the recording had been reviewed.

⁵⁴ Recommendations and Lessons Learned, 29.

⁵⁵ *Graham v. Connor*, 490 U.S. 386 (1989).

⁵⁶ Recommendations and Lessons Learned, 29.

⁵⁷ *Ibid.*

Supervisor Reviews

Some of the study literature raised concerns about supervisor and internal affairs reviews of recordings. Much of the concern was about supervisors participating in “headhunting”⁵⁸ and internal affairs conducting “fishing expeditions.”⁵⁹ The ACRB recommends that internal affairs and training supervisors should jointly review all recordings randomly. This would allow compliance with policy (internal affairs) and training of policy (training) to efficiently review and discuss officers’ actions.

Another option for supervisor reviews could be to have first line supervisors randomly review officers’ recordings. Since first line supervisors are responsible for maintaining discipline and professionalism, supervisor reviews of recordings will promote supervisor accountability. A supervisor other than an officer’s direct supervisor should randomly conduct the review. Any issues uncovered should be directed to the direct supervisor for further action. The APD could require supervisors to conduct a certain number of random reviews every week with sign-off documentation to support adherence to policy. This would promote supervisory accountability, which is important to reducing liability and improving organizational image.

Since first line supervisors are responsible for maintaining discipline and professionalism, supervisor reviews of recordings will promote supervisor accountability.

Supervisors will need time to review recordings and follow the department’s disciplinary policy. Department policy should provide guidelines for when a supervisor review shall occur and the next steps following the review of the recording. Records should be maintained to ensure that supervisor reviews are occurring.

Authorized civilian personnel with access to the BWC system should make the random selections for the supervisory reviews.

Another benefit of supervisor reviews is the ability to spot actions or behaviors that may qualify for early warning intervention.

A balance would need to be achieved because officers may reject cameras if they believe the cameras are merely a tool to monitor their actions.⁶⁰

⁵⁸ “Headhunting” in this context is when a supervisor is targeting particular officers for violations; Eugene P. Ramirez, A Report on Body Worn Cameras, Manning & Kass, Ellrod, Ramirez, Trester LLP, 14, http://www.parsac.org/parsac-www/pdf/Bulletins/14-005_Report_BODY_WORN_CAMERAS.pdf.

⁵⁹ “Fishing expedition” in this context is when management/supervisor is looking for any infraction to use against an officer even when there is no citizen complaint. ZushaElinson, More Officers Wearing Body Cameras, Wall Street Journal, August 15, 2014, <http://online.wsj.com/articles/body-cameras-on-police-can-reduce-use-of-force-citizen-complaints-1408134549>; German Lopez, How Body Cameras Could Change Police, VOX Media, September 18, 2014, <http://www.vox.com/2014/9/17/6113045/police-worn-body-cameras-explained>.

⁶⁰ Mantech, 9.

Extra Job Employment

The APD should consider a requirement that officers use BWCs during extra job assignments.⁶¹ This will be valuable to ensure that officers are upholding the law and operating within APD policy as opposed to carrying out private business interests that may violate citizens' rights. Officers will be able to enforce laws and perform their duties by the APD policies with less concern about pleasing the extra job contract.

It should be noted, however, that this policy may raise concerns about government cameras operating in a private business or establishment.

Policy should require officers to wear BWCs on extra job assignments to ensure that officers are operating within APD policy as opposed to carrying out private business interests that may violate citizens' rights.

Policy Changes associated with BWCs

Policy changes within policing usually occur within an insular environment. Police departments usually discuss policy changes among the department and its legal representative within the city. Because of the potential of the BWCs to violate the privacy expectations of many citizens and contribute to distrust through misuse (inappropriate releasing of recordings) and abuse (inappropriately shielding recordings), policies related to BWCs should not be able to change surreptitiously or without the involvement of external input. The requirement of external input will not weaken the police department's ability to make policy changes, slow down the process, or micro manage the department.⁶² The benefit of the external input is to ensure the public that these costly tools are managed and controlled in a way that benefits the public, while assisting the police department to carry out its functions.⁶³

Because of the potential of the BWCs to violate the privacy expectations of many citizens and contribute to distrust through misuse and abuse, policies related to BWCs should not be able to change surreptitiously or without the involvement of external input.

Duplicating Recordings

Duplication of video recordings should be centralized and recorded. Access for recordings should be restricted to a limited number of authorized personnel and safeguards should be in place to ensure that proper authorization is provided for duplication.

⁶¹ Extra job employment is an officer's employment outside of their normal APD duties.

⁶² Tristin Hallman, "Dallas Police Chief David Brown Quietly Changes Shooting Investigations Policy," *Dallas News*, <http://www.dallasnews.com/news/metro/20131127-chief-david-brown-quietly-changes-a-police-shooting-investigations-policy.ece>.

⁶³ Bernd; Vivian Ho, "Hard Questions Raised by Officers Wearing Cameras," *SF Gate*, (August 23, 2014) <http://www.sfgate.com/crime/article/Hard-questions-raised-by-officers-wearing-cameras-5708345.php>.

Chain of Custody

The chain of custody of recordings is an issue that will need to be specifically addressed in the BWC policy. The policy should ensure that recordings would not be tampered with or deleted by officers.⁶⁴ A record of all actions related to the recordings should be strictly maintained on audit trail and chain of custody reports.⁶⁵

False Sense of Citizen Confidence and Trust

Many proponents and manufactures of BWCs have touted that BWCs will provide an objective image of what occurred on the scene and therefore protect the officer and city from false claims and provide citizens with confidence that if officers engage in misconduct the camera will record it. However, the reality is that this narrative on BWCs may create a false sense of confidence in BWCs and in the APD, if citizens' expectations are not met.

BWCs may create a false sense of confidence and trust in BWCs and in the APD, if citizens' expectations are not met.

The APD will need to shape citizens expectations with regard to BWCs and officer accountability.

Below are several messages that the citizens need to receive during the discussion of BWCs.

- Citizens will need to understand that recordings may not be public if the recording involves a criminal or internal investigation.⁶⁶
- Unless a policy prohibits officer from reviewing recordings prior to giving statements and writing reports, citizens need to understand that officers may review the recordings before writing a report or providing a critical incident statement. This is important because citizens may question the credibility of the interview and written report because of the ability to provide answers to fit the recording.
- Citizens need to know that no camera captures everything that occurs at an incident due to situations on the scene – dislodged camera, fighting, running, etc. Officers will still be able to use the totality of the circumstances that would include actions and words not necessarily capture on the video.⁶⁷

Citizens need to know that no camera captures everything.

⁶⁴ Stanley, 5; Craig E. Ferrell, Jr., "The Future is Here: How Police Officer's Video Protect Officers and Departments," *The Police Chief* 80, October 2013, 16-18, http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=display_arch&article_id=3139&issue_id=102013.

⁶⁵ Ferrell.

⁶⁶ Recommendations and Lessons Learned, 18.

- Citizens need to know that different impressions of recordings may happen between what the citizens see and what reviewing officers see.⁶⁸
- Citizens need to know whether officers will be allowed to start and stop the video or if the video will be constantly operating.

Discussions involving these messages early in the consideration of BWCs will help citizens understand the limitations and shape expectations that will benefit all stakeholders should a critical incident occur that involves a BWC recording.

To shape the expectations of law enforcement, the Force Science Institute⁶⁹ released two reports related to BWCs. These reports are worth considering as the City of Atlanta and the APD discuss BWCs. Dr. William Lewinski, founder and director of The Force Science Institute, wrote a report providing ten limitations of BWCs that officers should know for their protection.⁷⁰

1. A camera does not follow your eyes or see as they see.
2. Some important danger cues cannot be recorded.
3. Camera speed differs from the speed of real life.
4. A camera may see better than you do in low light.
5. Your body may block the view.
6. A camera only records in 2-D.
7. The absence of sophisticated time-stamping may prove critical.
8. One camera may not be enough.
9. A camera encourages second-guessing.
10. A camera can never replace a thorough investigation.

While these limitations are for officers, citizens also need to understand Dr. Lewinski's ten limitations of BWCs. These limitations may be used as legitimate reasons that the recording that shows images of a use of force incident may not result in the discipline or conviction of an officer that some citizens will demand.

As Dr. Lewinski points out, a camera can never replace a thorough investigation and is only one piece of evidence. This should caution citizens and officers that, even with a BWC recording, witness statements, forensics, officer statements, witness officer statements, and all other evidence that would normally go into a complete investigation must still be considered before making a judgment on an officer's actions.⁷¹ BWCs

⁶⁷ Recommendations and Lessons Learned, 28; Justin T. Ready and Jacob T.N. Young, "Three Myths About Police Body Cams," *Slate*, September 2, 2014, http://www.slate.com/articles/technology/future_tense/2014/09/ferguson_body_cams_myths_about_police_body_worn_recorders.html; Ho.

⁶⁸ Ready and Young.

⁶⁹ The Force Science Institute brings together experts from a wide variety of academic and research disciplines to study officer behavior in force encounters.

⁷⁰ William Lewinski, "10 Limitations of Body Cams You Need to Know for Your Protection," Force Science Institute, Special Report.

⁷¹ Ramirez, 14.

recordings should not result in quick judgments or short cuts on administrative or criminal investigations.

Dr. Lewinski's second report poses the question whether head cameras always see what an officer sees in a force encounter.⁷² In this article, Dr. Lewinski stated, "... there is no camera in existence that can record an event exactly as it was perceived by an officer who experienced it." He states further that, an officer's actions may be the result of focusing on a certain aspect within the context of the encounter, which the recording would not be able to interpret. Dr. Lewinski recommends that officers receive an advisory that stresses limitations of field of view, focus of attention, interpretation, before reviewing any recording of an incident that the officer was involved in or before persons responsible for judging the officer's actions sees it.

"...there is no camera in existence that can record an event exactly as it was perceived by an officer who experienced it." – Dr. William Lewinski.

Dr. Lewinski's comments, while stated to bring better understanding of BWC limitations from a police officer defense perspective, citizens' understanding of this position is important to shaping citizens' expectations with regard to BWC recordings and officer accountability. In the end, the totality of the circumstances and the objective reasonableness of the officer on the scene will determine whether the officer actions were justified.⁷³

Section IV

Effect of BWCs on ACRB Operations

A constant criticism of civilian oversight is that the agencies have "no teeth" to make meaningful action against police misconduct.⁷⁴ Much of that criticism is related to the fact that many police departments believe that civilians do not understand policing and refuse to acknowledge the work that the agencies do because of fears that any acknowledgement of civilian oversight will bring legitimacy and confirm the need for oversight. It is hoped that full access to BWCs recordings for investigations, studies, and audits, will provide some of the "teeth" that so many oversight agencies and their supporters have called for over the years. BWC recordings should make it easier for the civilian oversight agencies to make

It is hoped that full access to BWCs recordings for investigations, studies, and audits, will provide some of the "teeth" that so many oversight agencies and their supporters have called for over the years.

⁷² William Lewinski, "Do Head Cameras Always See What you see in a force encounter?," Force Science Institute News #145, Force Science Institute.

⁷³ Beshers v. Harrison, 495 F.3d 1260, 1266 (11th Cir. 2007).

⁷⁴ Jamelle Bouie, "Keeping the Police Honest: America's Police Departments Need Greater Accountability—and It Must Come From Outside the Forces," *Slate*, August 29, 2014, http://www.slate.com/articles/news_and_politics/politics/2014/08/policing_the_police_america_sLaw_enforcement_needs_greater_accountability.html.

decisions with stronger evidence which will be more difficult for police departments to ignore.

APD policy should reaffirm the ACRB’s access to recordings for investigations and studies. The ACRB ordinance and APD policy currently includes the ACRB’s access to APD records and files.⁷⁵ It is reasonable to conclude that this access should continue with the implementation of a BWC program.

Quick access to recordings will enable the ACRB to make decisions on complaints sooner. The recordings would be used to enhance the questions that investigators ask during complainant and officer interviews.⁷⁶ The ACRB agrees with the District of Columbia’s Office of Police Complaints that the more objective evidence combined with enhanced interview questions will allow the ACRB to resolve allegations more quickly and efficiently.⁷⁷ These recordings will be most helpful with abusive language, false arrests, false imprisonment, and excessive force allegations.

The ACRB agrees with the District of Columbia’s Office of Police Complaints that the more objective evidence combined with enhanced interview questions will allow the ACRB to resolve allegations more quickly and efficiently.

BWC recordings with actual wrongdoing and subsequent police department actions based on oversight investigations will be a true measuring stick for agency/police department alignment, transparency, and accountability.

As the table shows below, BWCs will allow the ACRB to reach faster conclusions on complaints, provide clearer facts, enhanced questioning, and more studies and policy recommendations with visual aids; however, as with civilian oversight, BWCs will not be effective without the proper investments in support mechanisms and political encouragements to police departments to enforce policies.

ACRB Investigative Benefits	Explanation	Affected Stakeholder
Quicker Resolutions	BWC recordings may assist the agency in resolving allegations faster.	Citizens, Officers, and Police Department
More thorough questioning	BWC recordings will aid investigators in preparing for citizen and officer interviews.	Citizens, Officers, and Police Department

⁷⁵ C.O.A. § 2-2211 (h) (2014) and A.P.D. S.O.P 2300 (September 15, 2013).

⁷⁶ District of Columbia, “Enhancing Police Accountability Through an Effective On-Body Camera Program for MPD Officers,” District of Columbia, Office of Police Complaints, (May 8, 2014), 3-4, <http://policecomplaints.dc.gov/sites/default/files/dc/sites/office%20of%20police%20complaints/publication/attachments/Final%20policy%20rec%20body%20camera.pdf>.

⁷⁷ Ibid.

ACRB Investigative Benefits	Explanation	Affected Stakeholder
Clearer facts	BWC recordings may assist the agency in developing stronger facts for sustained complaints, which will allow the agency to make arguments that are more effective when discipline is not imposed on officers. In complaint incidents where the officer failed to record the incident, APD policy should create an evidentiary presumption against the officer. ⁷⁸	Citizens, Officers, and Police Department
More studies and policy recommendations	BWC recordings will provide additional documentation to support studies and recommendations – dog shooting policy, search and seizure, racial profiling, disorderly conduct, and obstruction of justice.	Citizens and Police Department

The retention period of recordings will affect the ACRB operation, if the retention period is shorter than 180 days. The ACRB has a filing limited of 180 days from the date of an incident, which would mean that any retention period shorter than that could mean that a timely filed complaint filed after the retention period would not have any available recordings.

At the very least, the APD should maintain recordings for six months (180 days) which would correspond to ACRB's complaint filing limitation.

The ACRB recommends that the APD should implement a retention period of one year for general recordings (those other than evidence). At the very least, the APD should maintain recordings for six months (180 days) which would correspond to ACRB's complaint filing limitation.

Section V

Policy Example

During the course of this study, the ACRB received BWC policies from Bay Area Rapid Transit (BART) Police Department and the Las Vegas Metropolitan Police Department (LVMPD). Both of these policies addressed many of the concerns that were raised in the literature and this study, e.g. privacy, access to recordings, supervisory roles, retention periods, control of the cameras, critical incidents, when to use the cameras, etc.⁷⁹ However, the ACRB does not recommend allowing officers to review the recordings before writing their statements or providing a statement in a critical incident investigation.

⁷⁸ Stanley, 3.

⁷⁹ BART and LVMPD BWC policies are available upon requests.

The ACRB would like to thank Sergeant Tanzanika Carter of BART for providing the BART BWC policy. Sergeant Carter explained that after the implementation of the BWC policy, one of the challenges was getting the officers used to turning on the cameras. With two years into the program, officers are no longer having a problem with operating the cameras.

The ACRB would like to thank Lieutenant Daniel Zehnder of the LVMPD for providing the LVMPD BWC policy. Lieutenant Zehnder explained that a challenging aspect of implementing the BWCs in LVMPD was ensuring the community that the BWCs were not just for the benefit of police officers.

The ACRB also reviewed an International Association of Chiefs of Police⁸⁰ (IACP) model BWC policy. Three key provisions of the IACP model policy are:

1. Monthly random supervisor reviews of recordings to check for compliance with departmental BWC policies and training opportunities.
2. If an officer is a suspect of wrongdoing or involved in an officer-involved shooting or other serious use of force, the department reserves the right to limit or restrict an officer from reviewing the recording.
3. It explicitly provides that the recording is not a replacement for written reports.

The model appears to be silent on whether officers should be able to review recordings prior to writing reports or providing a critical incident statement.

Section VI

Citizen Trust and BWCs

Failures of police departments to effectively address officer misconduct have resulted in loss of life, low-levels of citizen trust and confidence in law enforcement, and costly payouts from public treasuries. There are areas in Atlanta where the trust between the police department and the community is fragile because of a history of alleged police misconduct that was not timely addressed. Through civilian oversight and the APD's commitment to community policing, much hard work has been done to improve the community's trust of police officers. While there is still much work to do, BWCs may provide an extra boost to the level of trust between citizens and the police department.

BWCs may provide an extra boost to the level of trust between citizens and the police department.

⁸⁰ The International Association of Chiefs of Police serves as the professional voice of law enforcement by addressing issues confronting law enforcement through advocacy, programs and research, and training. International Association of Chiefs of Police, <http://www.theiacp.org/About-US>.

Many supporters of BWCs hope that a BWC program will provide increased transparency and accountability. Police departments across the country are touting that BWCs will have a direct and immediate impact on officer and citizen behavior. The ultimate test for the police department will be the handling of public requests for recordings, availability of recordings, and the handling of officers who are recorded engaged in policy violations.⁸¹ With the implementation of BWCs, citizens will expect more openness and truth concerning incidents.⁸² Citizens' hopes of trust could be established with the use of BWCs; however, those hopes of trust will diminish sharply if the police department mishandles an event that is captured with the use of a BWC.⁸³ The APD and other police departments have an opportunity to mend the circle of trust that has been broken over the years.

The ultimate test for the police department will be the handling of public requests for recordings, availability of recordings, and the handling of officers who are recorded engaged in policy violations.

Citizens' hopes of trust could be established with the use of BWCs; however, those hopes of trust will diminish sharply if the police department mishandles an event that is captured with the use of a BWC.

Section VII

Implementation Recommendations

The ACRB makes the following implementation recommendations for a BWC program.

1. The formation of an advisory group of stakeholders, such as citizens, ACRB, officers, to discuss the issues related to body worn cameras.⁸⁴ The advisory group should present a slate of recommendations for the APD to consider.⁸⁵
2. The APD should implement the BWCs on a limited basis to zones that have the most complaints and the highest potential of citizen engagements and include those officers who are experiencing trouble interacting with the public or who choose to volunteer to wear cameras.⁸⁶
3. The APD should review the progress of the BWC program one year from the date of implementation.
4. The APD should consider engaging officers early in the process to address their questions and concerns.⁸⁷

⁸¹ Kaste, "Restore Faith in New Orleans Police?"

⁸² Ibid.

⁸³ Stanley, 5.

⁸⁴ Andrea Noble, "D.C. Cops Making Big Investment in Body Cameras for Patrol," *The Washington Times*, Wednesday, September 3, 2014, <http://www.washingtontimes.com/news/2014/sep/3/dc-police-to-test-costly-body-mounted-cameras-in-p/?page=all#!>

⁸⁵ District of Columbia, 10.

⁸⁶ Recommendations and Lessons Learned, 27.

⁸⁷ White, 28; Ken Miller, 00:42.

5. Because of the serious privacy issue concerns, the ACRB should be required to audit and report the APD's use of BWCs. This will provide an external review of the BWC system to ensure that the integrity of the system is maintained.

Section VIII

BWC Devices

BWC systems typically include a camera, microphone, battery pack, and video storage. As stated in the Office of Police Complaints, Washington, DC report, the audio component of the video recording is critical to complaint resolution and training. The literature shows that placement of the camera is another consideration that will need to be considered. Cameras may be attached to helmet, hat, lapel, pocket, badge, and other places. Most police departments that have experimented with BWCs have required officers to place cameras on the chest or head. Some departments prefer the head placement because it provides a better viewpoint of the officers' sightlines. Other departments prefer the chest placement because of the stability it offers.

Placement of the camera is another consideration that will need to be considered.

Recordings can be stored within the camera device and downloaded at a location to a local server or stored in a cloud. Officers can upload, label, flag, and review) Data storage is a critical aspect of the BWC system.⁸⁸ Security, data space storage, ease of use (uploading and retrieving), and back up capabilities are important considerations that will affect costs.⁸⁹ Market research, surveys, and trials are available online. Several of these reports rank BWCs.

BWC Costs

The costs of the BWC program will most likely include equipment, training, storage, equipment replacements. The additional costs will be in staff time to review recordings and transfer data. The Atlanta Police Department has an operational strength of 2000 officers. According to the TASER and VIEVU websites, the typical video recording device could cost approximately \$400.00 – \$900.00, depending on the model.⁹⁰

⁸⁸ Mantech, 12.

⁸⁹ Ibid.

⁹⁰ TASER AXON Flex, TASER International (September 24, 2014) available at <http://www.taser.com/products/on-officer-video/axon-flex-on-officer-video>; TASER AXON Body, TASER International (September 24, 2014), available at <http://www.taser.com/products/on-officer-video/axon-body-on-officer-video>; VIEVU², VIEVU (September 24, 2014), available at <http://www.vievu.com/vievu-store/vievu-store-vievu%20b2/>; VIEVU LE3, VIEVU (September 24, 2014) available at <http://www.vievu.com/vievu-store/vievu-store-le3/>.

Product	Number of Units	Cost per unit	Costs ⁹¹
Cameras	2000	\$600	\$1.2 million
Video Storage (TASER) ⁹²	2000	\$25/mo.	\$50,000/month
On-Site Storage ⁹³			Determined by DIT ⁹⁴

The APD could reduce the cost by rolling out a pilot program that only includes BWCs for patrol officers in two zones, initially.⁹⁵ This would reduce initial costs and allow the department to experiment with the cameras and develop effective policies on a large scale. As mentioned earlier, some police departments have started their BWC programs on a limited roll out. In addition to the above, the APD could consider using the cameras as a part of their disciplinary policy. Officers who receive a certain number of complaints within a period would be required to wear a camera for a period, while other officers could wear the cameras on a voluntary basis.⁹⁶ The costs for cameras for 25% of the officer would cost approximately \$300,000.00.

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Product	Number of Units	Cost per unit	Costs
Cameras	500	\$600	\$300,000
Video Storage (TASER)	500	\$25/mo.	\$12,500/month
On-Site Storage			Determined by DIT

There appears to be a consensus of the BWC material that storage costs are the most expensive aspect of a BWC program.⁹⁷ The costs will either include cloud storage costs to a vendor or an in-house server that will require additional equipment purchases and staff to maintain security.⁹⁸ There is debate as to whether cloud storage or on-site storage best meets the needs of law enforcement. Wolfcom, a body-worn camera device and software storage management manufacture, asserts that on-site storage offers the best protection because of the control and security that the police departments will have over the recordings as opposed to a third-party manager.⁹⁹ Proponents of cloud storage believe that the security offered by cloud storage ensures that the once the recordings are

⁹¹ Costs do not include replacement cameras and parts. Many of the cameras manufactures include a one-year warranty.

⁹² Evidence.com, TASER International Cloud Storage, <http://www.taser.com/products/digital-evidence-management/evidence>.

⁹³ Recordings stored on City of Atlanta equipment and maintained by City of Atlanta.

⁹⁴ DIT – City of Atlanta Department of Information Technology

⁹⁵ Ken Miller, 08:24.

⁹⁶ Chitwood, 05:43.

⁹⁷ Recommendations and Lessons Learned, 32-33.

⁹⁸ Ibid; Vern Sallee, “Outsourcing the Evidence Room: Moving Digital Evidence to the Cloud,” The Police Chief 81 (April 2014): 42–46, http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=display_arch&article_id=3319&issue_id=42014.

⁹⁹ Wolfcom, Police Body Worn Video Management: Cloud-Hosted Storage v. On-Site Storage, http://www.wolfcomusa.com/cloudhosted_storage_vs_on.html.

uploaded they cannot be altered, tampered, or erased and the police departments can have the benefit of technical assistance and forensic auditing.¹⁰⁰

Some departments have waited for the new technology to be thoroughly tested by other departments before making the investment,¹⁰¹ while other departments have sought funding from various sources. To secure funding for the cameras, the APD could consider aggressively pursuing federal grants, private funding,¹⁰² and funds from forfeiture and seizures¹⁰³ to get the program started.¹⁰⁴

Administrative costs associated with BWCs will increase with the number of cameras and the number of public requests for recordings.¹⁰⁵

Conclusion

BWCs are another tool that can provide benefits for the department and citizens. The use of BWCs will test police departments to be more transparent than they have ever been because citizens will demand access to the recordings, which may at times prove to be disconcerting to the department. The investment of resources for a BWC program is a substantial commitment that requires corresponding investments in training, supervision, and oversight in order to maximize the returns to the taxpayers. Strong policies and consistent enforcement are essential to the integrity of the program. Avoidance of proper supervision, management, or leadership may result in officers and citizens losing invaluable privacy rights and a downward spiraling of the very trust that the use of the cameras can provide. **Human nature always finds a way to adjust to technology; however, the tried and true concepts of effective management, strong policies, consistent application and enforcement of policies, and respect are more important than technology; otherwise, the only beneficiaries of the BWCs are the companies that make them.**

¹⁰⁰ Recommendations and Lessons Learned, 32.

¹⁰¹ Nate A. Miller, "Body-Mounted Cameras Offers Benefits, Questions for Police, Residents," *Greeley Tribune*, September 2, 2014, <http://www.greeleytribune.com/news/12776688-113/cameras-officers-police-body>.

¹⁰² Los Angeles Police Department Officers Begin Wearing Body Cameras, KABC-TV/DT, January 15, 2014, http://abclocal.go.com/story?section=news/local/los_angeles&id=9395264

¹⁰³ Evan Schreiber, "Mayor: Criminals to Pay for Police Label Cameras," *KRCR News*, August 20, 2014, <http://www.krcrtv.com/mayor-criminals-paying-for-police-lapel-cameras/27654926>

¹⁰⁴ PoliceHelpsGrant.Com, Police Grants Announcement, PoliceOne.com, accessed September 29, 2014, <http://www.policegrantshelp.com/official-announcements/>.

¹⁰⁵ Recommendations and Lessons Learned, 32-33.

Appendix

(1) Perceived Benefits

Perceived Benefits	Explanations	Affected Stakeholder
Visual documentation of departments' questionable patterns and practices ¹⁰⁶	<p>BWC recordings may be valuable for discovering patterns of search and seizure violations and claims of racial profiling and may assist those in communities that are concerned about those issues. The BWCs may also reduce inappropriate charges of disorderly conduct and obstruction of justice.</p> <p>In addition, these recordings may help with determining the extent of violations to civil liberties involving enforcement of livability crimes that affect the homeless and others who are frequently living in the public.</p>	Citizens
Documented proof of officers and citizens' actions ¹⁰⁷	BWCs may provide visual proof of officers' actions during interactions with citizens and vice versa.	Citizens and Officers
Prevent and reduce False Arrest and False Imprisonment ¹⁰⁸	BWCs may cause officers to provide better legal justifications for arrests and detainments, which should reduce false arrests and false imprisonment claims. Considering the detrimental impacts of wrongful arrests – family and social embarrassment, loss of economic opportunity, loss of housing, etc. – this opportunity will provide a direct benefit to the citizens.	Citizens
Reduce false police reports ¹⁰⁹	As mentioned above, BWCs may provide visual documentation of what occurred during an encounter, which may reduce false statements in police reports thus providing reports that are more accurate.	Citizens

¹⁰⁶ Marc Santora, "Order That Officers Wear Cameras Stirs Unexpected Reaction," *New York Times*, August 13, 2013; http://www.nytimes.com/2013/08/14/nyregion/order-that-police-wear-cameras-stirs-unexpected-reactions.html?_r=0; Azi Paybarah, "What's so Hard about Police Video," *Capital*, August 26, 2014, <http://www.capitalnewyork.com/article/city-hall/2014/08/8551249/whats-so-hard-about-police-video>; Recommendations and Lessons Learned, 8.

¹⁰⁷ Ibid.

¹⁰⁸ Tony Farrar, Self-Awareness to Being Watched and Socially-Desirable Behavior: A Field Experiment on the Effect of Body-Worn Cameras on Police Force Use-of-Force, (March 2013), <http://www.policefoundation.org/sites/g/files/g798246/f/201303/The%20Effect%20of%20Body-Worn%20Cameras%20on%20Police%20Use-of-Force.pdf>

¹⁰⁹ Santora.

Perceived Benefits	Explanations	Affected Stakeholders
Criminal convictions/ evidence documentation ¹¹⁰	The use of BWCs would allow in-field interviews of witnesses and victims that may be used to prosecute even when the witness or victim is no longer available. BWCs may aid in criminal prosecutions by accelerating convictions with earlier guilty pleas – confessions, victim, and witness statements.	Citizens, Officers, and Criminal Justice System
Diffuse situations ¹¹¹	BWCs may cause citizens to be more compliant with officers on the scene in tense situations.	Officers
Reinforce policy and increase officer professionalism ¹¹²	BWCs may aid in reinforcing adherence to departmental policy. The presence of the BWC may cause officers to put a little more thought into their actions before they violate department policy, resulting in fewer complaints.	Citizens, Officers, and Police Department
Used for training ¹¹³	BWCs may be used to improve training during the academy and in the field, provided feedback is timely. ¹¹⁴ Timely supervisor feedback is critical to the success of the program.	Officers and Police Department
Prevent false misconduct claims ¹¹⁵	BWCs may discourage citizens from making false misconduct claims against officers. Citizens may be more reluctant to file complaints against officers to help their criminal case or to get back at the officer.	Officers and Police Department
Protect against false property damage claims ¹¹⁶	BWCs may provide proof against false claims of property damage during police interactions.	Officers and City Liability

¹¹⁰ Recommendations and Lessons Learned, 9. U.S. Department of Justice, Officer of Justice Programs, National Institute of Justice and Mantech Advances Systems International, Inc., A Primer on Body-Worn Cameras for Law Enforcement, <https://www.justnet.org/pdf/00-Body-Worn-Cameras-508.pdf> (September 2012) 3.

¹¹¹ Sky Chadde, “Dallas Cops Should All Wear Body Cameras, Pretty Much Everyone Agrees,” *Dallas Observer*, August 26, 2014; http://blogs.dallasobserver.com/unfairpark/2014/08/dallas_police_body_cameras.php; Recommendations and Lessons Learned, 9.

¹¹² Recommendations and Lessons Learned, 9; Ronald Bailey, “Watched Cops are Polite Cops,” *Reason*, August 30, 2014, <http://reason.com/archives/2013/08/30/watched-cops-are-polite-cops>.

¹¹³ Daniel Bear and Johannes Rieken, “Those Cheering for Police Body-Worn Cameras Must Think A Little Deeper,” *The Guardian*, August 15, 2014, <http://www.theguardian.com/commentisfree/2014/aug/15/police-body-worn-cameras-liberal-democrats-proposals-policies>; Jay Stanley, “Police Body-Mounted Cameras: With Right Policies in Place, a Win for All,” *ACLU*, October 2013, 3-6, https://www.aclu.org/files/assets/police_body-mounted_cameras.pdf,
¹¹⁴

¹¹⁵ The Beat Podcasts Series, Community of Oriented Policing Services, U.S. Department of Justice, Interview of Daytona Beach, FL, Chief of Police Mike Chitwood, (January 2014) http://www.cops.usdoj.gov/html/podcasts/the_beat/01-2014/TheBeat-012014_Chitwood.txt, 00:42; Doug Wylie, “Case Study: Lake Havasu PD Cuts Complaints, Cost with TASER AXON,” *Police One.com*, October 23, 2012, <http://www.policeone.com/police-products/body-cameras/articles/6017758-Case-Study-Lake-Havasu-PD-cuts-complaints-costs-with-TASER-AXON/>.

Perceived Benefits	Explanations	Affected Stakeholders
Improve citizen behavior ¹¹⁷	BWCs may cause citizens to modify their behavior as use of BWCs become more widespread.	Citizens and Officers
More evenly distribution of power	BWCs may alleviate citizens' feelings of helplessness during an encounter with officers.	Citizens
Reduce use of force incidents ¹¹⁸	BWCs may reduce the number of use of force incidents when supervision and discipline are effective.	Citizens, Officers, Police Department, and City Liability
Encourage misconduct complaint filings	BWCs may cause citizens to feel more certain about filing legitimate complaints against police officers. Citizens may feel that with the BWCs they will have the support needed to hold officers accountable.	Citizens, Officers, Police Department
Faster resolution of citizen complaints ¹¹⁹	BWCs may provide reassurance that the police accountability systems are working properly.	Citizens, Officers, Police Department
Provides officer point of view of an incident ¹²⁰	BWCs may provide a more complete account of the officers' actions.	Citizens and Officers
Encourage officer cooperation with administrative investigations	Officers are in the best position to encourage policy compliance. BWCs may make it easier for witness officers to participate in administrative investigations because they will be able to provide a more accurate account because of the recordings.	Citizens, Officers, Police Department, and ACRB

¹¹⁶ Cody Winchester and Juan Perez, Jr., "Law Officers' Body-Worn Cameras Can Diffuse Conflict," *Omaha World Herald*, April 5, 2014, http://www.omaha.com/news/law-officers-body-worn-cameras-can-defuse-conflicts/article_ff6842cc-14f4-5872-a558-5b32040f0096.html.

¹¹⁷ White, 22.

¹¹⁸ Tony Farrar, "Self-Awareness to Being Watched and Socially-Desirable Behavior: A Field Experiment on the Effect of Body-Worn Cameras on Police Force Use-of-Force," (), <http://www.policefoundation.org/sites/g/files/g798246/f/201303/The%20Effect%20of%20Body-Worn%20Cameras%20on%20Police%20Use-of-Force.pdf>; Chitwood, 01:27

¹¹⁹ White, 23.

¹²⁰ The Beat Podcasts Series, Community of Oriented Policing Services, U.S. Department of Justice, Interview of Greensboro, NC, Chief of Police Ken Miller, (January 2014) http://www.cops.usdoj.gov/html/podcasts/the_beat/01-2014/TheBeat-012014_Miller.txt, 02:45.

(2) Challenges

Challenges	Explanations	Affected Stakeholder
Privacy of citizen ¹²¹	Privacy concerns for citizens are especially critical for innocents, victims, juveniles, and witnesses who may be collaterally damaged due to public display of recordings. Also, there could be privacy concerns related to situations involving nudity, injury, criminal sex, cleanliness of home. ¹²²	Citizens
Privacy of officers ¹²³	Privacy concerns for officers may involve recording of officers' private conversations, breaks and lunchtime. It may also prevent officers from showing the "human side" of officers. ¹²⁴	Officers
May inhibit citizen cooperation ¹²⁵	Video recordings may hinder witnesses who want to remain anonymous or not get involved to the extent that they need to be recorded from volunteering to come forward on the scene. This is a special concern in areas with high crime and high distrust of police.	Citizens and Officers
Will not stop intentional acts of officer misconduct ¹²⁶	Recordings will not stop citizens and officers from doing intentional acts.	Police Department
Point of view of camera ¹²⁷	BWCs will not replace officers' perceptions or capture all actions that occur on a scene, especially as it relates to possible limitations of view and situational lighting.	Citizens and Officers

¹²¹ Anna Almendrala, "As LA Campaigns for Cameras, Privacy Questions Emerge," *Huffington Post*, September 25, 2013, http://www.huffingtonpost.com/2013/09/25/lapd-body-cameras_n_3985430.html; White, 27.

¹²²

¹²³ Recommendations and Lessons Learned, 41; White, 28.

¹²⁴ Recommendations and Lessons Learned, 12.

¹²⁵ Recommendations and Lessons Learned, 18 and 41; White, 27.

¹²⁶ David Fitzpatrick and Drew Griffin, "Video Shows Albuquerque Police Killing Homeless Man," *CNN*, June 22, 2014, <http://www.cnn.com/2014/06/20/us/albuquerque-police-investigation/>.

¹²⁷ Recommendations and Lessons Learned, 28.

Challenges	Explanations	Affected Stakeholder
Citizen access to recordings ¹²⁸	<p>In general, recordings should be fully available to the public; however, Georgia law provides exemptions.¹²⁹</p> <p>The misuse of exemptions to hold recordings from the public under the guise of an ongoing investigation may cause distrust.¹³⁰</p> <p>Releasing partial recordings may cause distrust.</p> <p>There is no easily accessible mechanism to compel the release of video recordings.</p>	Citizens
Officer access to recordings ¹³¹	<p>Possible tampering with recordings.</p> <p>Officer access to recordings before writing reports and providing statements during critical incidents may cause distrust.¹³²</p> <p>Access to recordings should be limited to only personnel who have a special clearance and responsibility</p>	Officers
Computer infrastructure ¹³³	Technology infrastructure may need to be improved to allow easy and efficient loading, storing, retrieving, duplicating of recordings.	Police Department
Retention (time limit of storage of recordings) ¹³⁴	Adequate retention of recordings will be critical to public access to recordings especially with regard to complaint filings and evidentiary purposes; however, there should be strict guidelines on the length of time that a recording will remain in the system.	Citizens and Police Department
Costs ¹³⁵	Costs of BWCs must include purchase, maintenance, upgrades, and data storage.	Police Department and City Budget

¹²⁸ Martin Kaste, “Policy Questions Arise,”; Jay Stanley, “Police Body-Mounted Cameras: With Right Policies in Place, a Win for All,” *ACLU*, https://www.aclu.org/files/assets/police_body-mounted_cameras.pdf, , October 2013, p. 3-6.

¹²⁹ Georgia Code 50-18-72 (a)(4) and (26) (2012).

¹³⁰ Christopher Moraff, “Why We Shouldn’t Leave Police Departments to Work Out Body Camera Rules,” *Next City*, August 22, 2014, <http://nextcity.org/daily/entry/police-wear-cameras-new-york-philadelphia-ferguson-reaction>.

¹³¹ Recommendations and Lessons Learned, 28 and 43.

¹³² Recommendations and Lessons Learned,16; White, 12.

¹³³ Recommendations and Lessons Learned, 32.

¹³⁴ Recommendations and Lessons Learned, 16.

¹³⁵ Recommendations and Lessons Learned, 33.

Challenges	Explanations	Affected Stakeholder
False sense of confidence and trust ¹³⁶	Citizens will need to know that there are limitations to citizen access to recordings and that the recordings are just one piece of evidence that will should be considered when evaluating the actions of an officer.	Citizens
Positioning of camera and body to avoid recording actions ¹³⁷	Views of recording may be manipulated through intentional obstruction or repositioning. Random panning during recordings should be discouraged.	Citizens and Police Department
Coercion, threats, or embarrassment to prevent misconduct complaint filings ¹³⁸	Citizens will need to be assured that the use of recordings will not be used to threatened or coerce a citizen to withdraw a complaint or prevent a citizen from filing a complaint.	Citizens and Police Department
Open Records ¹³⁹	Legal restrictions to public access to records. The city could face liability if the police department fails to release recording footage when required. ¹⁴⁰	Citizens, Police Department, and City Liability
Officers less proactive/ hesitancy to act ¹⁴¹	Hesitancy to act may become an issue if an officer is unsure of a certain action because his/her mistake will be recorded and potentially discovered.	Officers and Police Department
Notice of recording ¹⁴²	Citizens should be aware that officers are recording during an encounter.	Citizens and Police Department
Redaction and exclusion ¹⁴³	Privacy and certain police operations concerns may require redactions.	Citizens and Police Department

¹³⁶ Kaste, “Restore Faith in New Orleans Police”; Candice Bernd, “Watching the Watchmen: Are Police Officers’ Body-Worn Cameras a Win for Accountability,” *TruthOut.Org* (April 12, 2014), <http://truth-out.org/news/item/23045-watching-the-watchmen-are-police-officers-body-worn-cameras-a-win-for-accountability>; Vivian Ho, “Hard Questions Raised by Officers Wearing Cameras,” *SF Gate*, (August 23, 2014) <http://www.sfgate.com/crime/article/Hard-questions-raised-by-officers-wearing-cameras-5708345.php>

¹³⁷ Bear and Rieken.

¹³⁸ Stanley, page 3.

¹³⁹ Georgia Code 50-18-72.

¹⁴⁰ Kaste, “Policy Questions Arise”

¹⁴¹ Chadde; Chitwood, 01:27.

¹⁴² Stanley, p. 3 – 4; Recommendations and Lessons Learned, 40.

¹⁴³ Kaste, “Policy Questions Arise.”

Challenges	Explanations	Affected Stakeholder
Prosecutorial ¹⁴⁴	Additional time may be required to review recordings for court and to comply with disclosure associated with the criminal complaint. There may be additional opportunities for impeachment and the need to explain nonactivation and missing segments. ¹⁴⁵	Criminal Justice System
Officer acceptance and compliance ¹⁴⁶	Officer acceptance is critical to reduce accidental or intentional nonactivation and accidental or intentional deactivation. ¹⁴⁷	Officers
Technology ¹⁴⁸	Departments will need to establish safeguards to handle related but nonsequential or nonconsecutive event identification and merging of recordings and equipment failures. ¹⁴⁹	Police Department
Data storage ¹⁵⁰	Purchase, acquisition, duplication and storage of recorded media will require personnel time commitment, sources, and resources. Maintaining and guarding the integrity of the recorded media. ¹⁵¹ Policy should require what recordings must be captioned and categorized for easy retrieval from the system. ¹⁵²	Police Department
Improper use of recordings ¹⁵³	Officers will need to be assured that recordings would not be used by supervisors for “head hunting” and harassment. ¹⁵⁴ Officers cannot upload videos for personal use or social media. ¹⁵⁵ Citizens will need to be assured that recordings would not be used to threaten action or public embarrassment.	Citizens and Officers

¹⁴⁴ Kaste, “Policy Questions Arise”; Joe Fiumara, “The Future is Near: Getting Ahead of the Challenges of Body-Worn,” Technology Talk, *The Police Chief* 79 (September 2012) 00:54, http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=display_arch&article_id=2753&issue_id=92012.

¹⁴⁵ Fimura. Ramirez, 20.

¹⁴⁶ Fiumara; Recommendations and Lessons Learned, 24-26.

¹⁴⁷ Fimura

¹⁴⁸ Fiumara; White, 23; White, 32-34.

¹⁴⁹ Fimura

¹⁵⁰ Fiumara; Recommendations and Lessons Learned, 42-45; White, 36; Stanley, 5.

¹⁵¹ Fimura.

¹⁵² Recommendations and Lessons Learned, 43.

¹⁵³ Eugene P. Ramirez, A Report on Body Worn Cameras, Manning & Kass, Ellrod, Ramirez, Trester LLP, 14, http://www.parsac.org/parsac-www/pdf/Bulletins/14-005_Report_BODY_WORN_CAMERAS.pdf.

¹⁵⁴ Ibid.

¹⁵⁵ Recommendations and Lessons Learned, 46.

Challenges	Explanations	Affected Stakeholder
Over-reliance on recording ¹⁵⁶	The recording may become the total evidence at the exclusion of officer and eyewitness testimony.	Administrative Investigations and Criminal Justice System
Consent to record ¹⁵⁷	Citizens should have to give consent to recordings when they are not the subject of the police encounter or in places where there is an expectation of privacy.	Citizens, Officers, Police Department

(3) Policy Considerations

Policy Considerations	Explanations	Affected Stakeholder
Obstruction of cameras ¹⁵⁸	Policies should clearly indicate that intentional obstruction of camera is prohibited. Cameras should be located in a place where obstruction of cameras would have to be clearly intentional.	Citizens, Officers, and Police Departments
Ongoing recording of cameras ¹⁵⁹	Policy should require BWCs to be off when not engaged in enforcement action to calm fears about constant surveillance. ¹⁶⁰	Citizens, Officers, and Police Departments
Stopping and starting cameras (control of cameras) ¹⁶¹	Policy will need to establish clear rules for starting and stopping recordings and strong consequences and enforcement to deter inappropriate action. ¹⁶² Policy should have a two-step process to stop recording to prevent unintentional stops. ¹⁶³ Policy should provide safeguards to ensure that officers are operating the cameras within policy.	Citizens, Officers, and Police Departments

¹⁵⁶ Recommendations and Lessons Learned, 28.

¹⁵⁷ Recommendations and Lessons Learned, 41.

¹⁵⁸ Farad Manjoo, Police Cameras Can Shed Light, But Raise Privacy Concerns, August 20, New York Times, <http://www.nytimes.com/2014/08/21/technology/personaltech/police-cameras-can-shed-light-but-raise-privacy-concerns.html?smid=pl-share&r=12014>; The Beat Podcasts Series, Community of Oriented Policing Services, U.S. Department of Justice, Interview of Greenville, NC, Chief of Police Hasan Aden, (January 2014), http://www.cops.usdoj.gov/html/podcasts/the_beat/01-2014/TheBeat-012014_Aden.txt, 03:42

¹⁵⁹ Matt Brian, “London Police Testing Body-Worn Cameras for ‘Speedier Justice,’” Engadget, May 8, 2014, <http://www.engadget.com/2014/05/08/met-police-body-cameras-taser/>.

¹⁶⁰ Ibid.

¹⁶¹ Stanley, 2-3; Recommendations and Lessons Learned, 39.

¹⁶² Ho.

¹⁶³ Martin Goodall, Guidance for the Police Use of Body-Worn Video Devices, Police and Crime Standards Directorate, July 2007, 39, <https://www.cctvusergroup.com/downloads/file/Home%20Office%20guidance-body-worn-devices.pdf>

Policy Considerations	Explanations	Affected Stakeholder
Redaction of recordings ¹⁶⁴	Citizens who are not a party to the criminal activity should be able to have their images redacted from the recording, if the recording is released to the public.	Citizens and Police Department
Privacy ¹⁶⁵	Officer privacy concerns should be addressed	Officers and Police Department
Enforcement ¹⁶⁶	Policies should be clear and enforced to maintain consistency.	Citizens, Officers, Police Department
Retention (storage of video) ¹⁶⁷	Recordings should be maintained long enough to ensure that citizens have an opportunity to file a complaint; however, policy should ensure that recordings are purged from the system automatically once the use of the recording has been completed and the retention period has expired.	Police Department
Criteria for storage ¹⁶⁸	Policy should address what should be stored and communicated to the public.	Police Department
Review of video ¹⁶⁹	Some departments allow officers to review their recordings before the officers write reports or provide statements. Other departments do not believe the practice is a good idea.	Officers and Police Department
Camera placement ¹⁷⁰	Placement of cameras should be standard.	Officers/ Police Department
Camera malfunction and compromise of camera operation ¹⁷¹	Officers should have to verify operation of equipment prior to start of shift and at the conclusion of shift. If the camera stops working or becomes damaged during shift the officer should include the faulty equipment on a report that is logged with the camera. ¹⁷² Forensic examinations should be performed on faulty cameras that failed to record during an incident. ¹⁷³	Citizens, Officers, and Police Department

¹⁶⁴ Stanley, 5.

¹⁶⁵ Recommendations and Lessons Learned, 24-27.

¹⁶⁶ Stanley, 3.

¹⁶⁷ Recommendations and Lessons Learned, 16 -17.

¹⁶⁸ Recommendations and Lessons Learned, 16-17 and 42-45.

¹⁶⁹ Recommendations and Lessons Learned, 29-30.

¹⁷⁰ Recommendations and Lessons Learned, 39.

¹⁷¹ Tim Donovan, "Make Cops Wear Cameras: A Simple Way to Hold Police Accountable," *Salon*, August 22, 2014,

http://www.salon.com/2014/08/22/make_cops_wear_cameras_a_simple_way_to_hold_the_police_accountable/; Recommendations and Lessons Learned, 30.

¹⁷² Recommendations and Lessons Learned, 48.

¹⁷³ Recommendations and Lessons Learned, 43.

Policy Considerations	Explanations	Affected Stakeholder
Camera malfunction and compromise of camera operation (cont.)	Records of inoperable cameras and missing footage should be collected and audited. Reviews of faulty cameras should be routinely reviewed for patterns. Policy should be implemented that provides stiff discipline for manipulated, destroyed, or lost cameras. Supervisors should conduct random checks on cameras for operation compliance. ¹⁷⁴	Citizens, Officers, and Police Department
Chain of custody ¹⁷⁵	Policy should address maintaining chain of custody of recordings and cameras (especially BWCs involved in critical incidents). ¹⁷⁶ The policy should require audit trail and chain of custody reports for recordings and cameras.	Criminal Justice System, Officers, and Police Officers
All recordings on a scene maintained not just the recording of the officer who is writing the incident report ¹⁷⁷	All officers involved in an incident should be required to submit a report connected to the official report of the incident with their recordings attached. All BWCs at a critical incident should be collected while on the scene.	Citizens, Officers, and Police Department
Notices ¹⁷⁸	Officers should be required to state when the BWC is recording. BWCs should have an indicator that alerts citizens that the BWC is recording.	Citizens and Police Department
Extra job use	Officers should be required to use BWCs during extra job assignments.	Citizens, Officers, and Police Department
Auditing ¹⁷⁹	Policy should include auditing of the BWC program to include officer use, system access, malfunctions, and missing recordings. Auditing should be internal and external. Reports should be provided to the public for transparency.	Citizens

¹⁷⁴ Andy Cunningham, "Questions of Body-Worn Cameras Questioned in New Report," *WDSU News*, September 5, 2014, <http://www.wdsu.com/news/local-news/new-orleans/use-of-bodyworn-cameras-questioned-in-new-report/27903998>.

¹⁷⁵ Recommendations and Lessons Learned, 44.

¹⁷⁶ Craig E. Ferrell, Jr., "The Future is Here: How Police Officer's Video Protect Officers and Departments," *The Police Chief* 80, October 2013, 16-18, http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=display_arch&article_id=3139&issue_id=102013.

¹⁷⁷ Steve Lovell, Body Worn (Video) Evidence, *Evidence Technology Magazine*, http://www.evidencemagazine.com/index.php?option=com_content&task=view&id=1585.

¹⁷⁸ Recommendations and Lessons Learned, 40.

¹⁷⁹ Goodall, 39; Recommendations and Lessons Learned, 49.



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14. Police Executive Research Forum: “Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned”

Implementing a Body-Worn Camera Program

Recommendations and Lessons Learned



COPS

Community Oriented Policing Services
U.S. Department of Justice



Implementing a Body-Worn Camera Program

Recommendations and Lessons Learned

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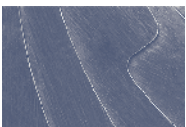
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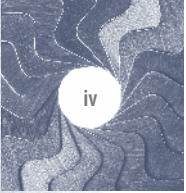
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Contents

Letter from the PERF Executive Director	v
Letter from the COPS Office Director	vii
Acknowledgments	ix
Introduction	1
State of the field and policy analysis	1
Project overview	2
Chapter 1. Perceived Benefits of Body-Worn Cameras	5
Accountability and transparency.	5
<i>Reducing complaints and resolving officer-involved incidents.</i>	5
<i>Identifying and correcting internal agency problems</i>	7
Evidence documentation	9
Chapter 2. Considerations for Implementation	11
Privacy considerations	11
<i>Determining when to record</i>	12
<i>Consent to record</i>	14
<i>Recording inside private homes.</i>	15
<i>Data storage, retention, and disclosure</i>	15
<i>Lessons learned on privacy considerations</i>	18
Impact on community relationships	19
<i>Securing community support</i>	21
<i>Protecting intelligence-gathering efforts.</i>	22
<i>Lessons learned about impact on community relationships.</i>	24
Addressing officer concerns	24
<i>Officer concerns about body-worn cameras.</i>	24
<i>Addressing officer concerns</i>	26
<i>Incremental implementation.</i>	27
<i>Lessons learned about addressing officer concerns.</i>	27
Managing expectations	28
<i>Officer review of video prior to making statements</i>	29
<i>Lessons learned about managing expectations.</i>	30
Financial considerations	31
<i>Cost of implementation</i>	32
<i>Cost-saving strategies</i>	33
<i>Lessons learned about financial considerations.</i>	34
Chapter 3. Body-Worn Camera Recommendations	37
General recommendations.	38
Recording protocols	40
Download and storage policies	42
Recorded data access and review	45
Training policies	47
Policy and program evaluation	48



Conclusion **51**

Appendix A. Recommendations Matrix. **53**

 Policy recommendations 53

General recommendations 53

Recording protocols. 55

Download and storage policies 59

Training policies. 65

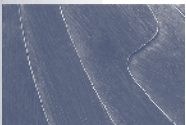
Policy and program evaluation 66

 Additional lessons learned: engaging officers, policymakers, and the community . . . 67

Appendix B. Conference attendees. **69**

 About PERF **77**

 About the COPS Office **79**



Letter from the PERF Executive Director

The recent emergence of body-worn cameras has already had an impact on policing, and this impact will only increase as more agencies adopt this technology. The decision to implement body-worn cameras should not be entered into lightly. Once an agency goes down the road of deploying body-worn cameras—and once the public comes to expect the availability of video records—it will become increasingly difficult to have second thoughts or to scale back a body-worn camera program.

A police department that deploys body-worn cameras is making a statement that it believes the actions of its officers are a matter of public record. By facing the challenges and expense of purchasing and implementing a body-worn camera system, developing policies, and training its officers in how to use the cameras, a department creates a reasonable expectation that members of the public and the news media will want to review the actions of officers. And with certain limited exceptions that this publication will discuss, body-worn camera video footage should be made available to the public upon request—not only because the videos are public records but also because doing so enables police departments to demonstrate transparency and openness in their interactions with members of the community.

Body-worn cameras can help improve the high-quality public service expected of police officers and promote the perceived legitimacy and sense of procedural justice that communities have about their police departments. Furthermore, departments that are already deploying body-worn cameras tell us that the presence of cameras often improves the performance of officers as well as the conduct of the community members who are recorded. This is an important advance in policing. And when officers or members of the public break the law or behave badly, body-worn cameras can create a public record that allows the entire community to see what really happened.

At the same time, the fact that both the public and the police increasingly feel the need to videotape every interaction can be seen both as a reflection of the times and as an unfortunate commentary on the state of police-community relationships in some jurisdictions. As a profession, policing has come too far in developing and strengthening relationships with its communities to allow encounters with the public to become officious and legalistic. Body-worn cameras can increase accountability, but police agencies also must find a way to preserve the informal and unique relationships between police officers and community members.

This publication, which documents extensive research and analysis by the Police Executive Research Forum (PERF), with support from the U.S. Department of Justice's Office of Community Oriented Policing Services (COPS Office), will demonstrate why police departments should not deploy body-worn cameras carelessly. Moreover, departments must anticipate a number of difficult questions—questions with no easy answers because they involve a careful balancing of competing legitimate interests, such as the public's interest in seeing body-worn camera footage versus the interests of crime victims who would prefer not to have their images disseminated to the world.

One of the most significant questions departments will face is how to identify which types of encounters with members of the community officers should record. This decision will have important consequences in terms of privacy, transparency, and police-community relationships. Although recording policies should provide officers with guidance, it is critical that policies also give officers



a certain amount of discretion concerning when to turn their cameras on or off. This discretion is important because it recognizes that officers are professionals and because it allows flexibility in situations in which drawing a legalistic “bright line” rule is impossible.

For example, an officer at a crime scene may encounter a witness who would prefer not to be recorded. By using discretion, the officer can reach the best solution in balancing the evidentiary value of a recorded statement with the witness’s reluctance to be recorded. The decision may hinge on the importance of what the witness is willing to say. Or perhaps the witness will agree to be recorded by audio but not video, so the officer can simply point the camera away from the witness. Or perhaps the witness will be willing to be recorded later, in a more private setting. By giving officers some discretion, they can balance the conflicting values. Without this discretion, body-worn cameras have the potential to damage important relationships that officers have built with members of the community. This discretion should not be limitless; instead, it should be guided by carefully crafted policies that set specific parameters for when officers may use discretion.

If police departments deploy body-worn cameras without well-designed policies, practices, and training of officers to back up the initiative, departments will inevitably find themselves caught in difficult public battles that will undermine public trust in the police rather than increasing community support for the police.

This publication is intended to serve as a guide to the thoughtful, careful considerations that police departments should undertake if they wish to adopt body-worn cameras.

Sincerely,



Chuck Wexler, Executive Director
Police Executive Research Forum

Letter from the COPS Office Director

Dear colleagues,

One of the most important issues currently facing law enforcement is how to leverage new technology to improve policing services. Whether using social media to engage the community, deploying new surveillance tools to identify suspects, or using data analysis to predict future crime, police agencies around the world are implementing new technology at an unprecedented pace.

Body-worn cameras, which an increasing number of law enforcement agencies are adopting, represent one new form of technology that is significantly affecting the field of policing. Law enforcement agencies are using body-worn cameras in various ways: to improve evidence collection, to strengthen officer performance and accountability, to enhance agency transparency, to document encounters between police and the public, and to investigate and resolve complaints and officer-involved incidents.

Although body-worn cameras can offer many benefits, they also raise serious questions about how technology is changing the relationship between police and the community. Body-worn cameras not only create concerns about the public's privacy rights but also can affect how officers relate to people in the community, the community's perception of the police, and expectations about how police agencies should share information with the public. Before agencies invest considerable time and money to deploy body-worn cameras, they must consider these and other important questions.

The COPS Office was pleased to partner with the Police Executive Research Forum (PERF) to support an extensive research project that explored the numerous policy and implementation questions surrounding body-worn cameras. In September 2013, the COPS Office and PERF hosted a conference in Washington, D.C., where more than 200 law enforcement officials, scholars, representatives from federal agencies, and other experts gathered to share their experiences with body-worn cameras. The discussions from this conference, along with interviews with more than 40 police executives and a review of existing body-worn camera policies, culminated in the recommendations set forth in this publication.

Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned offers practical guidance as well as a comprehensive look at the issues that body-worn cameras raise. I hope you find that the wide range of perspectives, approaches, and strategies presented in this publication are useful, whether you are developing your own body-worn camera program or simply wish to learn more about the topic. The goal of the COPS Office and PERF is to ensure that law enforcement agencies have the best information possible as they explore this new technology; therefore, we encourage you to share this publication, as well as your own experiences, with other law enforcement practitioners.

Sincerely,



Ronald L. Davis, Director
Office of Community Oriented Policing Services

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PERF would like to thank the U.S. Department of Justice’s Office of Community Oriented Policing Services (COPS Office) for supporting this research into body-worn cameras. We are thankful to COPS Office Director Ronald Davis and Principal Deputy Director Joshua Ederheimer for recognizing the increasingly important role this technology plays for law enforcement agencies across the globe. We are also grateful to our program managers at the COPS Office, Helene Bushwick and Katherine McQuay, for their support and encouragement throughout the project.

We would also like to thank the law enforcement agencies that participated in our survey on body-worn cameras. Their thoughtful responses guided our research and the agenda for the executive session in Washington, D.C., in September 2013. We are also grateful to the more than 200 police chiefs, sheriffs, scholars, and other professionals who participated in our executive session (see appendix B for a list of participants). These leaders provided valuable information about their experiences with body-worn cameras and prompted an insightful discussion regarding the issues these cameras raise.

We are especially thankful for the more than 40 police executives who shared their body-worn camera policies with PERF and who participated in interviews with PERF staff. Their candid assessments of how this technology has impacted their agencies shaped the findings and recommendations found in this publication.

Finally, credit is due to PERF staff members who conducted the survey, prepared for and hosted the executive session, conducted interviews, and helped write and edit this publication, including Jessica Toliver, Lindsay Miller, Steve Yanda, and Craig Fischer.

Introduction

State of the field and policy analysis

Over the past decade, advances in the technologies used by law enforcement agencies have been accelerating at an extremely rapid pace. Many police executives are making decisions about whether to acquire technologies that did not exist when they began their careers—technologies like automated license plate readers, gunshot detection systems, facial recognition software, predictive analytics systems, communications systems that bring data to officers’ laptops or handheld devices, GPS applications, and social media to investigate crimes and communicate with the public.

For many police executives, the biggest challenge is not deciding whether to adopt one particular technology but rather finding the right mix of technologies for a given jurisdiction based on its crime problems, funding levels, and other factors. Finding the best mix of technologies, however, must begin with a thorough understanding of each type of technology.

Police leaders who have deployed body-worn cameras¹ say there are many benefits associated with the devices. They note that body-worn cameras are useful for documenting evidence; officer training; preventing and resolving complaints brought by members of the public; and strengthening police transparency, performance, and accountability. In addition, given that police now operate in a world in which anyone with a cell phone camera can record video footage of a police encounter, body-worn cameras help police departments ensure events are also captured from an officer’s perspective. Scott Greenwood of the American Civil Liberties Union (ACLU) said at the September 2013 conference:

The average interaction between an officer and a citizen in an urban area is already recorded in multiple ways. The citizen may record it on his phone. If there is some conflict happening, one or more witnesses may record it. Often there are fixed security cameras nearby that capture the interaction. So the thing that makes the most sense—if you really want accountability both for your officers and for the people they interact with—is to also have video from the officer’s perspective.

The use of body-worn cameras also raises important questions about privacy and trust. What are the privacy issues associated with recording victims of crime? How can officers maintain positive community relationships if they are ordered to record almost every type of interaction with the public? Will members of the public find it off-putting to be told by an officer, “I am recording this encounter,” particularly if the encounter is a casual one? Do body-worn cameras also undermine the trust between officers and their superiors within the police department?

In addition to these overarching issues, police leaders must also consider many practical policy issues, including the significant financial costs of deploying cameras and storing recorded data, training requirements, and rules and systems that must be adopted to ensure that body-worn camera video cannot be accessed for improper reasons.

“Because technology is advancing faster than policy, it’s important that we keep having discussions about what these new tools mean for us. We have to ask ourselves the hard questions. What do these technologies mean for constitutional policing? We have to keep debating the advantages and disadvantages. If we embrace this new technology, we have to make sure that we are using it to help us do our jobs better.”

– Charles Ramsey, Police Commissioner,
Philadelphia Police Department

1. Body-worn cameras are small video cameras—typically attached to an officer’s clothing, helmet, or sunglasses—that can capture, from an officer’s point of view, video and audio recordings of activities, including traffic stops, arrests, searches, interrogations, and critical incidents such as officer-involved shootings.

Project overview

Even as police departments are increasingly adopting body-worn cameras, many questions about this technology have yet to be answered. In an effort to address these questions and produce policy guidance to law enforcement agencies, the Police Executive Research Forum (PERF), with support from the U.S. Department of Justice's Office of Community Oriented Policing Services (COPS Office), conducted research in 2013 on the use of body-worn cameras. This research project consisted of three major components: an informal survey of 500 law enforcement agencies nationwide; interviews with police executives; and a conference in which police chiefs and other experts from across the country gathered to discuss the use of body-worn cameras.

First, PERF distributed surveys to 500 police departments nationwide in July 2013. The exploratory survey was designed to examine the nationwide usage of body-worn cameras and to identify the primary issues that need to be considered. Questions covered topics such as recording requirements; whether certain officers are required to wear body-worn cameras; camera placement on the body; and data collection, storage, and review.

PERF received responses from 254 departments (a 51 percent response rate). Although the use of body-worn cameras is undoubtedly a growing trend, over 75 percent of the respondents reported that they did not use body-worn cameras as of July 2013.

"I really believe that body-worn cameras are the wave of the future for most police agencies. This technology is driving the expectations of the public. They see this out there, and they see that other agencies that have it, and their question is, 'Why don't you have it?'"

– Roberto Villaseñor, Chief of Police,
Tucson (Arizona) Police Department

Of the 63 agencies that reported using body-worn cameras, nearly one-third did not have a written policy governing body-worn camera usage. Many police executives reported that their hesitance to implement a written policy was due to a lack of guidance on what the policies should include, which highlights the need for a set of standards and best practices regarding body-worn cameras.

Second, PERF staff members interviewed more than 40 police executives whose departments have implemented—or have considered implementing—body-worn cameras. As part of this process, PERF also reviewed written policies on body-worn cameras that were shared by departments across the country.

Last, PERF convened a one-day conference of more than 200 police chiefs, sheriffs, scholars, representatives from federal criminal justice agencies, and other experts to discuss the policy and operational issues surrounding body-worn cameras. The conference, held in Washington, D.C., on September 11, 2013, gave participants the opportunity to share the lessons they have learned, to identify promising practices from the field, and to engage in a dialogue about the many unresolved issues regarding the use of body-worn cameras.

Drawing upon feedback from the conference, the survey results, and information gathered from the interviews and policy reviews, PERF created this publication to provide law enforcement agencies with guidance on the use of body-worn cameras.

The first chapter discusses the perceived benefits of deploying body-worn cameras, particularly how law enforcement agencies have used the cameras to resolve complaints and prevent spurious complaints, to enhance transparency and officer accountability, to identify and address structural problems within the department, and to provide an important new type of evidence for criminal and internal administrative investigations.

The second chapter discusses the larger policy concerns that agencies must consider when implementing body-worn cameras, including privacy implications, the effect cameras have on community relationships and community policing, officers' concerns, the expectations cameras create, and financial costs.

The third chapter presents PERF's policy recommendations, which reflect the promising practices and lessons that emerged from PERF's conference and its extensive discussions with police executives and other experts following the conference.

The police executives referenced throughout this publication are those who attended the September conference; participated in a discussion of body-worn cameras at PERF's October 2013 Town Hall Meeting, a national forum held in Philadelphia; provided policies for PERF's review; and/or were interviewed by PERF in late-2013 and early-2014.² A list of participants from the September conference is located in appendix B.

2. The titles listed throughout this document reflect officials' positions at the time of the September 2013 conference.

Chapter 1. Perceived Benefits of Body-Worn Cameras

Among the police executives whose departments use body-worn cameras, there is an overall perception that the cameras provide a useful tool for law enforcement. For these agencies, the perceived benefits that body-worn cameras offer—capturing a video recording of critical incidents and encounters with the public, strengthening police accountability, and providing a valuable new type of evidence—largely outweigh the potential drawbacks. For example, Chief Superintendent Stephen Cullen of the New South Wales (Australia) Police Force said, “After testing out body-worn cameras, we were convinced that it was the way of the future for policing.”

Accountability and transparency

The police executives whom PERF consulted cited many ways in which body-worn cameras have helped their agencies strengthen accountability and transparency. These officials said that, by providing a video record of police activity, body-worn cameras have made their operations more transparent to the public and have helped resolve questions following an encounter between officers and members of the public. These officials also said that body-worn cameras are helping to prevent problems from arising in the first place by increasing officer professionalism, helping agencies evaluate and improve officer performance, and allowing agencies to identify and correct larger structural problems within the department. As a result, they report that their agencies are experiencing fewer complaints and that encounters between officers and the public have improved.

“Everyone is on their best behavior when the cameras are running. The officers, the public—everyone.”

– Ron Miller, Chief of Police,
Topeka (Kansas) Police Department

Reducing complaints and resolving officer-involved incidents

In 2012, the police department in Rialto, California, in partnership with the University of Cambridge-Institute of Criminology (UK), examined whether body-worn cameras would have any impact on the number of complaints against officers or on officers’ use of force. Over the course of one year, the department randomly assigned body-worn cameras to various front-line officers across 988 shifts. The study found that there was a 60 percent reduction in officer use of force incidents following camera deployment, and during the experiment, the shifts without cameras experienced twice as many use of force incidents as shifts with cameras. The study also found that there was an 88 percent reduction in the number of citizen complaints between the year prior to camera implementation and the year following deployment.³ Chief of Police William Farrar of Rialto, who oversaw the study, said, “Whether the reduced number of complaints was because of the officers behaving better or the citizens behaving better—well, it was probably a little bit of both.”

Body-worn camera results for Rialto (California) Police Department

- 60 percent reduction in officer use of force incidents following camera deployment
- Half the number of use of force incidents for shifts with cameras compared to shifts without cameras
- 88 percent reduction in number of citizen complaints between the year prior to and following camera deployment

A study conducted in Mesa, Arizona, also found that body-worn cameras were associated with a reduction in complaints against officers. In October 2012, the Mesa Police Department implemented a one-year pilot program in which 50 officers were assigned to wear body-worn cameras, and 50 officers were assigned to a control group without the cameras. The two groups were demographically

3. William Farrar, “Operation Candid Camera: Rialto Police Department’s Body-Worn Camera Experiment,” *The Police Chief* 81 (2014): 20–25.

similar in terms of age, race, and other characteristics. The study, which was conducted by Arizona State University, found that during the first eight months of deployment, the officers without the cameras had almost three times as many complaints as the officers who wore the cameras.⁴ The study

also found that the officers assigned body-worn cameras had 40 percent fewer total complaints and 75 percent fewer use of force complaints during the pilot program than they did during the prior year when they were not wearing cameras.⁵

Body-worn camera results for Mesa (Arizona) Police Department

- Nearly 3x more complaints against officers without cameras, eight months after camera deployment
- 40 percent fewer total complaints for officers with cameras during pilot program
- 75 percent fewer use of force complaints for officers with cameras during pilot program

Police executives interviewed by PERF overwhelmingly report that their agencies experienced a noticeable drop in complaints against officers after deploying body-worn cameras. “There’s absolutely no doubt that having body-worn cameras reduces the number of complaints against officers,” said Chief of Police Ron Miller of Topeka, Kansas. One explanation for this is that the mere presence of a camera can lead to more civil interactions between officers and the public. “We actually encourage our officers to let

people know that they are recording,” said Chief of Police Ken Miller of Greensboro, North Carolina. “Why? Because we think that it elevates behavior on both sides of the camera.”

Lieutenant Harold Rankin, who oversaw the body-worn camera program in Mesa, agrees: “Anytime you know you’re being recorded, it’s going to have an impact on your behavior. When our officers encounter a confrontational situation, they’ll tell the person that the camera is running. That’s often enough to deescalate the situation.” Many police executives report that wearing cameras has helped improve professionalism among their officers. Chief Superintendent Cullen of New South Wales said,

“After testing out body-worn cameras, the overwhelming response from officers was that the cameras increased their professionalism because they knew that everything they said and did was being recorded.”

“In the testing we did [of body-worn cameras], we had a number of tenured officers who wanted to wear the cameras and try them out, and their feedback was very positive. They said things like, ‘You’ll be amazed at how people stop acting badly when you say this is a camera, even if they’re intoxicated.’ And we also know that the overwhelming majority of our officers are out there doing a very good job, and the cameras will show just that.”

– Douglas Gillespie, Sheriff,
Las Vegas Metropolitan Police Department

Many agencies have found that having video footage of an encounter also discourages people from filing unfounded complaints against officers. “We’ve actually had citizens come into the department to file a complaint, but after we show them the video, they literally turn and walk back out,” said Chief Miller of Topeka. Chief of Police Michael Frazier of Surprise, Arizona, reports a similar experience. “Recently we received an allegation that an officer engaged in racial profiling during a traffic stop. The officer was wearing his body-worn camera, and the footage showed that the allegation was completely unfounded,” Frazier said. “After reviewing the tape, the complainants admitted that they have never been treated unfavorably by any officers in my department.” As several police officials noted, preventing unfounded complaints can save departments the significant amounts of time and money spent on lengthy investigations and lawsuits.

When questions arise following an encounter, police executives said that having a video record of events helps lead to a quicker resolution. According to the results of PERF’s exploratory survey, the number one reason why police departments choose to implement body-worn cameras is to provide a more accurate documentation of police encounters with the public. Police executives report that when questions arise following an encounter or a major event such as an officer-involved shooting, having video from a body-worn camera can help resolve the questions.

4. Harold Rankin, “End of Program Evaluation and Recommendations: On-Officer Body Camera System” (Mesa, AZ: Mesa Police Department, 2013).

5. Ibid.

Agencies are also reporting that, in most of these cases, the resolution is in support of the officer's account of events. Chief of Police Mike Chitwood of Daytona Beach, Florida, recalled one example in which a member of the public threatened to file a complaint against officers following a contentious encounter. Alleging that the officers had threatened him and used racial epithets, the individual said that he would go to the news media if the department failed to take action. One of the officers involved had been wearing a body-worn camera. "We reviewed the video, and clearly the individual lied," recalled Chitwood. "The officer was glad to have the footage because the individual's allegations were absolutely not what was represented in the video."

Body-worn cameras have also helped to resolve more serious incidents, including officer-involved shootings. Chief Miller of Topeka said that the local district attorney cleared an officer in a deadly shooting incident after viewing the officer's body-worn camera footage. Miller described how the camera footage captured the event in real time and provided a record of events that would otherwise not have existed. "The entire event was captured on video from the perspective of the officer. Now tell me when that happened before the advent of body-worn cameras," said Miller.

Several police departments, including those in Daytona Beach, Florida, and Greenville, North Carolina, are finding that officers with a history of complaints are now actively requesting to wear cameras. For officers who behave properly but generate complaints because they have high levels of activity or frequent contacts with criminal suspects, cameras can be seen as beneficial. "We all have our small percentage of officers with a history of complaints," said Chief of Police Hassan Aden of Greenville. "Internal Affairs has told me that these officers have come in to request body-worn cameras so that they can be protected in the future."

Identifying and correcting internal agency problems

Another way that body-worn cameras have strengthened accountability and transparency, according to many police executives, is by helping agencies identify and correct problems within the department. In fact, PERF's survey found that 94 percent of respondents use body-worn camera footage to train officers and aid in administrative reviews.

Many police agencies are discovering that body-worn cameras can serve as a useful training tool to help improve officer performance. For example, agencies are using footage from body-worn cameras to provide scenario-based training, to evaluate the performance of new officers in the field, and to identify new areas in which training is needed. By using body-worn cameras in this way, agencies have the opportunity to raise standards of performance when it comes to tactics, communication, and customer service. This can help increase the perceived legitimacy and sense of procedural justice that communities have about their police departments.

Law enforcement agencies have also found that body-worn cameras can help them to identify officers who abuse their authority or commit other misconduct and to assist in correcting questionable behavior before it reaches that level. In Phoenix, for example, an officer was fired after his body-worn camera captured repeated incidents of unprofessional conduct. Following a complaint

"The use of body-worn video by frontline officers has real potential to reduce complaints of incivility and use of force by officers. The footage can also exonerate officers from vexatious and malicious complaints. In addition, I feel there are benefits to the criminal justice system in terms of more guilty pleas, reduced costs at court, and a reduction in the number of civil cases brought against the police service for unlawful arrest/excessive force. We already have good examples of body-worn video footage exonerating officers from malicious complaints."

– Paul Rumney, Detective Chief Superintendent,
Greater Manchester (UK) Police

"We have about 450 body-worn cameras actively deployed, and in the overwhelming majority of cases, the footage demonstrates that the officer's actions were appropriate."

– Sean Whent, Chief of Police,
Oakland (California) Police Department

against the officer, the police department reviewed footage from the incident along with video from prior shifts. Upon finding repeated instances of verbal abuse, profanity, and threats against members of the public, the department terminated the officer. “It clearly shocked the conscience when you saw all of the different incidents,” said Assistant Chief of Police Dave Harvey of Phoenix.

In Daytona Beach, Chief Chitwood requested that the officers with a history of complaints be among the first to be outfitted with body-worn cameras. Although he found that usually the videos demonstrated that “the majority of the officers are hardworking, good police,” he has also seen how body-worn cameras can help an agency address discipline problems. Chitwood said:

We had an officer who had several questionable incidents in the past, so we outfitted him with a camera. Right in the middle of an encounter with a subject, the camera goes blank, and then it comes back on when the incident is over. He said that the camera malfunctioned, so we gave him another one. A week later he goes to arrest a woman, and again, the camera goes blank just before the encounter. He claimed again that the camera had malfunctioned. So we conducted a forensic review of the camera, which determined that the officer had intentionally hit the power button right before the camera shut off. Our policy says that if you turn it off, you’re done. He resigned the next day.

Body-worn cameras can also help law enforcement officials to address wide-reaching structural problems within the department. Many police officials that PERF consulted said that body-worn cameras have allowed them to identify potential weaknesses within their agencies and to develop solutions for improvement, such as offering new training programs or revising their departmental policies and protocols.

In Phoenix, an officer was fired after his body-worn camera captured repeated incidents of unprofessional conduct.

For example, Chief of Police William Lansdowne of San Diego said that one reason his department is implementing body-worn cameras is to improve its understanding of incidents involving claims of racial profiling. “When it comes to collecting data, the raw numbers don’t always fully capture the true scope of a problem,” he said. “But by capturing an audio and video account of an encounter, cameras provide an objective record of whether racial profiling took place, what patterns of officer behavior are present, and how often the problem occurs.”

Police agencies have also found that implementing a body-worn camera program can be useful when facing consent decrees and external investigations. Roy Austin, deputy assistant attorney general for the Civil Rights Division at the U.S. Department of Justice, said, “We want to get police departments out from under consent decrees as soon as possible. What is important is whether you can show that your officers are engaged in constitutional policing on a regular basis. Although it isn’t an official Department of Justice policy, the Civil Rights Division believes that body-worn cameras can be useful for doing that.”

Many police departments that have faced external investigations, including those in New Orleans and Detroit, are in various stages of testing and implementing body-worn cameras. Police executives in these cities said that cameras help them to demonstrate they are improving policies and practices within their agencies. Police Superintendent Ron Serpas of New Orleans, whose department is in the process of deploying more than 400 body-worn cameras, said, “Body-worn cameras will be good for us. The hardworking officers say, ‘Chief, just give us a chance to show everyone that we are not like the people who went astray after Hurricane Katrina.’ The one thing that New Orleans police officers want more than anything else is the independent verification that they are doing what they’re

supposed to do.” The police departments in Las Vegas, Nevada, and Spokane, Washington are also implementing body-worn cameras to assist in complying with the collaborative agreements they entered into with the COPS Office of the U.S. Department of Justice.

Chief of Police Charlie Beck of Los Angeles, whose department is testing body-worn cameras, understands first-hand how video evidence can help in these situations. “We exited our consent decree last year, and one of the reasons that the federal judge signed off on us was that we implemented in-car video,” said Beck. “Recordings can help improve public trust.”

Evidence documentation

Police executives said that body-worn cameras have significantly improved how officers capture evidence for investigations and court proceedings. Along with documenting encounters with members of the public, body-worn cameras can provide a record of interrogations and arrests, as well as what officers witness at crime scenes.

Chief of Police Jason Parker of Dalton, Georgia, described how body-worn cameras have helped officers to improve evidence collection at accident scenes. “It is always hard to gather evidence from accident scenes,” Parker said. He explained that officers are often focused on securing the scene and performing life-saving measures and that witnesses and victims may not always remember what they had told officers in the confusion. This can lead to conflicting reports when victims and witnesses are asked to repeat their accounts in later statements. “Unlike in-car cameras, body-worn cameras capture everything that happens as officers travel around the scene and interview multiple people. The body-worn cameras have been incredibly useful in accurately preserving information.”

Some prosecutors have started encouraging police departments to use body-worn cameras to capture more reliable evidence for court, particularly in matters like domestic violence cases that can be difficult to prosecute. Chief Chitwood of Daytona Beach explained how body-worn cameras have changed how domestic violence cases are handled. “Oftentimes we know that the suspect is repeatedly abusing the victim, but either the victim refuses to press charges, or there is simply not enough evidence to go to trial,” he said. With the victim’s consent, Daytona Beach officers can now use body-worn cameras to videotape victim statements. “The footage shows first-hand the victim’s injuries, demeanor, and immediate reactions,” Chitwood noted. In some cases, officers capture the assault itself on video if they arrive on the scene while the incident is still ongoing. “This means that we can have enough evidence to move forward with the case, even if the victim ultimately declines to prosecute.”

Chief Miller of Topeka echoed this sentiment: “When we show suspects in domestic violence cases footage from the body-worn cameras, often they plead guilty without even having to go to trial.”

“Some police departments are doing themselves a disservice by not using body-worn cameras. Everyone around you is going to have a camera, and so everyone else is going to be able to tell the story better than you if you don’t have these cameras. And when the Civil Rights Division is looking at a police department, every piece of information that shows the department is engaged in constitutional policing is important. So of course body-worn cameras can help.”

– Roy L. Austin, Jr., Deputy Assistant Attorney General,
Civil Rights Division, U.S. Department of Justice

“Although body-worn cameras are just one tool, the quality of information that they can capture is unsurpassed. With sound policy and guidance, their evidentiary value definitely outweighs any drawbacks or concerns.”

– Jason Parker, Chief of Police,
Dalton (Georgia) Police Department



Photo: Shutterstock/John Roman Images

Chapter 2. Considerations for Implementation

New technologies in policing raise numerous policy issues that must be considered. This is especially true with body-worn cameras, which can have significant implications in terms of privacy, community relationships, and internal departmental affairs. As agencies develop body-worn camera programs, it is crucial that they thoughtfully examine how their policies and practices intersect with these larger questions. Policy issues to look at include the effect these cameras have on privacy and community relationships, the concerns raised by frontline officers, the expectations that cameras create in terms of court proceedings and officer credibility, and the financial considerations that cameras present.

Privacy considerations

The proliferation of camera phones, advances in surveillance technology, and the emergence of social media have changed the way people view privacy, contributing to the sense that, as Police Commissioner Charles Ramsey of Philadelphia said, it sometimes feels as though “everyone is filming everybody.” As technology advances and expectations of privacy evolve, it is critical that law enforcement agencies carefully consider how the technology they use affects the public’s privacy rights, especially when courts have not yet provided guidance on these issues.

Body-worn cameras raise many privacy issues that have not been considered before. Unlike many traditional surveillance methods, body-worn cameras can simultaneously record both audio and video and capture close-up images that allow for the potential use of facial recognition technology. In addition, while stationary surveillance cameras generally cover only public spaces, body-worn cameras give officers the ability to record inside private homes and to film sensitive situations that might emerge during calls for service.

There is also concern about how the footage from body-worn cameras might be stored and used. For example, will a person be able to obtain video that was recorded inside a neighbor’s home? Will agencies keep videos indefinitely? Is it possible that the body-worn camera footage might be improperly posted online?

When implementing body-worn cameras, law enforcement agencies must balance these privacy considerations with the need for transparency of police operations, accurate documentation of events, and evidence collection. This means making careful decisions about when officers will be required to activate cameras, how long recorded data should be retained, who has access to the footage, who owns the recorded data, and how to handle internal and external requests for disclosure.

“In London we have CCTVs, which are quite extensive and becoming even more so, but the distinction is that those cameras don’t listen to your conversations. They observe behavior and see what people do and cover public space, so you can see if there is a crime being committed. But CCTVs don’t generally seek out individuals. So I think there is an important distinction there.”

– Sir Bernard Hogan-Howe, Commissioner,
London Metropolitan Police Service

Determining when to record

The issue with perhaps the greatest privacy implications is deciding which types of encounters and activities officers should record. Should officers be required to record every interaction with a member of the public? Or are there some situations in which recording should be discretionary or prohibited?

One approach is to require officers to record all encounters with the public. This would require officers to activate their cameras not only during calls for service or other law enforcement-related

“For the [American Civil Liberties Union], the challenge of on-officer cameras is the tension between their potential to invade privacy and their strong benefit in promoting police accountability. Overall, we think they can be a win-win—but only if they are deployed within a framework of strong policies to ensure they protect the public without becoming yet another system for routine surveillance of the public, and maintain public confidence in the integrity of those privacy protections. Without such a framework, their accountability benefits would not exceed their privacy risks.”

—“Police Body-Mounted Cameras: With Right Policies in Place, a Win for All” (New York: ACLU, 2013).

encounters but also during informal conversations with members of the public (e.g., a person asking an officer for directions or an officer stopping into a store and engaging in casual conversation with the owner). This is the approach advocated by the American Civil Liberties Union (ACLU), which stated in a report released in October 2013, “If a police department is to place its cameras under officer control, then it must put in place tightly effective means of limiting officers’ ability to choose which encounters to record. That can only take the form of a department-wide policy that mandates that police turn on recording during every interaction with the public.”⁶

Scott Greenwood, an attorney with the ACLU, explained why the ACLU advocates recording all encounters. “You don’t want to give officers a list and say, ‘Only record the following 10 types of situations.’ You want officers to record all the situations, so when a situation does go south, there’s an unimpeachable record of it—good, bad, ugly, all of it. This is an optimal policy from a civil liberties perspective.”

Greenwood said this approach benefits not only the public but also officers. “Mandatory recording is also what will protect an officer from allegations of discretionary recording or tampering,” said Greenwood. “You want activating the camera to be a reflexive decision, not

something that officers have to evaluate with each new situation. If officers have to determine what type of incident it is before recording, there are going to be a lot of situations in which a recording might have exonerated an officer, but the recording was never made.”

However, PERF believes that requiring officers to record every encounter with the public would sometimes undermine community members’ privacy rights and damage important police-community relationships. There are certain situations, such as interviews with crime victims and witnesses and informal, non-law enforcement interactions with members of the community, that call for affording officers some measure of discretion in determining whether to activate their cameras. There are situations in which not recording is a reasonable decision. An agency’s body-worn camera policy should expressly describe these situations and provide solid guidance for officers when they exercise discretion not to record.

For example, officer discretion is needed in sensitive situations, such as encounters with crime victims or witnesses who are concerned about retaliation if they are seen as cooperating with the police. In other cases, officer discretion is needed for routine and casual situations—such as officers on foot or bike patrol who wish to chat with neighborhood residents—and turning on a video camera could make the encounter seem officious and off-putting.

6. Jay Stanley, “Police Body-Mounted Cameras: With Right Policies in Place, a Win for All” (New York: ACLU, 2013), https://www.aclu.org/files/assets/police_body-mounted_cameras.pdf.

Of the police departments that PERF consulted, very few have adopted the policy of recording all encounters with the public. The more common approach is to require officers to activate their cameras when responding to calls for service and during law enforcement-related encounters and activities, such as traffic stops, arrests, searches, interrogations, and pursuits. In many cases, the department's written policy defines what constitutes a law enforcement-related encounter or activity, and some policies also provide a specific list of which activities are included. Many policies generally indicate that when in doubt, officers should record. Most policies also give officers the discretion to not record when doing so would be unsafe, impossible, or impractical, but most require officers to articulate in writing their reasons for not activating the camera or to say on camera why they are turning the camera off.

Police executives cite several reasons for favoring a more limited and flexible approach rather than requiring officers to record all encounters. One reason is that it gives officers the discretion to not record if they feel that doing so would infringe on an individual's privacy rights. For example, many police departments, including those in Oakland and Rialto, California; Mesa, Arizona; and Fort Collins, Colorado, give officers discretion regarding whether to record interviews with victims of rape, abuse, or other sensitive crimes. Some departments also extend this discretion to recording victims of other crimes. The Daytona Beach (Florida) Police Department recently changed its policy to require that officers obtain consent, on camera, from all crime victims prior to recording an interview. "This new policy is a response to the privacy concerns that arise when you are dealing with victims of crime," said Chief of Police Mike Chitwood of Daytona Beach.

Of the police departments that PERF consulted, very few have adopted the policy of recording all encounters with the public. The more common approach is to require officers to activate their cameras when responding to calls for service and during law enforcement-related encounters and activities, such as traffic stops, arrests, searches, interrogations, and pursuits.

Some agencies encourage officers to use discretion when determining whether to record encounters with or searches of individuals who are partially or completely unclothed. Chief of Police Don Lanpher of Aberdeen, South Dakota, said, "We had an incident when officers were called to assist a female on a landing in an apartment building who was partially undressed. All of the officers had cameras, but they did not record her until she was covered. Officers are encouraged to use discretion in those cases."

In addition to privacy concerns, police executives cite the potential negative impact on community relationships as a reason for not requiring officers to record all encounters with the public. Their goal, always, is to maintain an open dialogue with community members and preserve the trust in their relationships.⁷ "There are a lot of issues with recording every citizen contact without regard to how cooperative or adversarial it is," said Chief of Police Ken Miller of Greensboro, North Carolina. "If people think that they are going to be recorded every time they talk to an officer, regardless of the context, it is going to damage openness and create barriers to important relationships."

Commissioner Ramsey of Philadelphia agrees. "There has to be some measure of discretion. If you have a police interaction as a result of a 911 call or a reasonable suspicion stop, it is one thing—you should record in those situations. But you have to give officers discretion whether to record if they are just saying 'hello' to someone or if they are approached by an individual who wants to give them information."

7. See "Impact on community relationships" on page 19, "Securing community support" on page 21, "Protecting intelligence-gathering efforts" on page 22, and "Lessons learned about impact on community relationships" on page 24 for strategies departments have taken to address this impact.

Some police executives also believe that requiring officers to record all encounters can signal a lack of trust in officers, which is problematic for any department that wants to encourage its officers to be thoughtful and to show initiative. For example, a survey of officers conducted in Vacaville, California, found that although 70 percent of officers were in favor of using body-worn cameras, a majority were opposed to a policy containing strict requirements of mandatory recording of all police contacts.

“In a sensitive investigation, such as a rape or child abuse case, if you have a victim who doesn’t want to be recorded, I think you have to take that into account. I think that you cannot just arbitrarily film every encounter. There are times when you’ve got to give your officers some discretion to turn the camera off. Of course, the officers should be required to articulate why they’re not recording or why they’re shutting it off, but we have to give them that discretion.”

– Charlie Beck, Chief of Police,
Los Angeles Police Department

“Legitimacy in policing is built on trust. And the notion of video-recording every interaction in a very tense situation would simply not be a practical operational way of delivering policing. In fact, it would exacerbate all sorts of problems. In the United Kingdom, we’re also subject to human rights legislation, laws on right to privacy, right to family life, and I’m sure you have similar statutes. It’s far more complicated than a blanket policy of ‘every interaction is filmed.’ I think that’s far too simplistic. We have to give our officers some discretion. We cannot have a policy that limits discretion of officers to a point where using these devices has a negative effect on community-police relations.”

– Sir Hugh Orde, President,
Association of Chief Police Officers (UK)

For departments whose policies do not require officers to record every interaction with the public, the goal is to sufficiently ensure accountability and adherence to the department’s body-worn camera policies and protocols. For example, when officers have discretion to not record an encounter, many departments require them to document, either on camera or in writing, the fact that they did not record and their reasons for not recording. Some departments also require officers to obtain supervisor approval to deactivate the camera if a subject requests to not be recorded.

Consent to record

In a handful of states, officers are legally required to inform subjects when they are recording and to obtain the person’s consent to record. This is known as a “two-party consent” law, and it can create challenges to implementing a body-worn camera program. In many two-party consent states, however, police executives have successfully worked with their state legislatures to have the consent requirement waived for body-worn police cameras. For example, in February 2014 Pennsylvania enacted a law waiving the two-party consent requirement for police using body-worn cameras.⁸ Efforts are under way to change two-party consent statutes in other jurisdictions as well. Each department must research its state laws to determine whether the two-party consent requirement applies.

Some police executives believe that it is good practice for officers to inform people when they are recording, even if such disclosures are not required by law. In Greensboro, for example, officers are encouraged—but not required—to announce when they are recording. Chief Miller of Greensboro said this policy is based on the belief that the knowledge that cameras are running can help defuse potentially confrontational situations and improve behavior from all parties.

However, many police executives in one-party consent states do not explicitly instruct officers to inform people that they are recording. “Kansas is a one-party consent state, so only the officer needs to know that the camera is running. But if a person asks, the officer tells them the truth,” said Chief of Police Ron Miller of Topeka, Kansas.

8. Police body cameras heading to Pennsylvania (February 10, 2014), ABC 27 News, <http://www.abc27.com/story/24686416/police-body-cameras-heading-to-pennsylvania>.

Recording inside private homes

Another privacy question is whether and under what conditions officers should be allowed to record while inside a person's home. Many law enforcement agencies have taken the position that officers have the right to record inside a private home as long as they have a legal right to be there. According to this approach, if an officer enters a home in response to a call for service, pursuant to a valid search warrant, or with consent of the resident, officers can record what they find inside.

There is a concern that footage taken inside a private home may be subject to public disclosure. Deputy Chief of Police William Roseman of Albuquerque described how this can be particularly problematic in states with broad public disclosure laws. "Here in Albuquerque, everything is open to public record unless it is part of an ongoing investigation. So if police come into your house and it is captured on video, and if the video isn't being used in an investigation, your neighbor can request the footage under the open records act, and we must give it to them." Scott Greenwood of the ACLU has expressed similar concerns:

An officer might be allowed to go into the residence and record, but that does not mean that everything inside ought to be public record. The warrant is an exception to the Fourth Amendment, not a waiver. We do not want this to show up on YouTube. My next-door neighbor should never be able to view something that happened inside my house without my permission.

Data storage, retention, and disclosure

Decisions about where to store video footage and how long to keep it can have a far-reaching effect on privacy. Many police executives believe that privacy concerns can be addressed through data storage, retention, and disclosure policies. However, when developing these policies, agency leaders must balance privacy considerations with other factors, such as state law requirements, transparency, and data storage capacity and cost.

Data storage policies

Among police executives interviewed by PERF, security, reliability, cost, and technical capacity were the primary factors cited for choosing a particular method for storing video files from body-worn cameras. Among the more than 40 departments that PERF consulted, all stored body-worn camera video on an in-house server (managed internally) or an online cloud database (managed by a third-party vendor).⁹

Police executives noted a number of strategies that can help agencies protect the integrity and privacy of their recorded data, regardless of which storage method is used. These lessons learned regarding data storage include the following:

- *Consult with prosecutors and legal advisors:* Legal experts can advise whether data storage policies and practices are in compliance with all relevant laws and adequately preserve evidentiary chain of custody.

"One of the things we are forgetting is that we already send officers into people's homes and have them document all these bits of information that we're worried about recording. If an officer enters someone's home, they document the condition of the home, especially if it's a case about a child or involves domestic violence or physical injury. So videos are just a technologically advanced type of police report that should be treated no differently from an initial contact form that we currently fill out every day. The advantage of a camera is now you have a factual representation as opposed to an interpretation by an officer."

– Chris Burbank, Chief of Police,
Salt Lake City (Utah) Police Department

9. Cloud storage is a method for storing and backing up electronic data. The data is maintained and managed remotely, generally by a third party, and made available to users over a network, or "cloud."

- *Explicitly prohibit data tampering, editing, and copying.*
- *Include protections against tampering with the data prior to downloading:* This helps to mitigate concerns that officers will be able to alter or delete recordings prior to downloading them. Some body-worn camera systems are sold with technological safeguards that make it impossible for an officer to access the data prior to downloading.
- *Create an auditing system:* It is important to have a record of who accesses video data, when, and for what purpose. Some storage systems include a built-in audit trail.
- *Explicitly state who will be authorized to access data:* Many written policies outline who will have access to the data (e.g., supervisors, Internal Affairs, certain other officers and department personnel, and prosecutors) and for what purpose (e.g., administrative review, training, and investigations).

“Whether you store video internally or externally, protecting the data and preserving the chain of custody should always be a concern. Either way, you need something built into the system so that you know that video has not been altered.”

– Ken Miller, Chief of Police,
Greensboro (North Carolina) Police Department

- *Ensure there is a reliable back-up system:* Some systems have a built-in backup system that preserves recorded data, and some departments copy recordings to disc and store them as evidence.
- *Specify when videos will be downloaded from the camera to the storage system and who will download them:* The majority of existing policies require the camera operator to download the footage by the end of each shift. In the case of an officer-involved shooting or other serious incident, some policies require supervisors to step in and physically take possession of the camera and assume downloading responsibilities.
- *Consider third-party vendors carefully:* Overwhelmingly, the police executives whom PERF interviewed reported that their legal advisors and prosecutors were comfortable using a third-party vendor to manage the storage system. When deciding whether to use a third-party vendor, departments consider the vendor’s technical assistance capabilities and whether the system includes protections such as an audit trail, backup system, etc. Police executives stressed the importance of entering into a legal contract with the vendor that protects the agency’s data.

These strategies are important not only for protecting the privacy rights of the people recorded but also for preserving evidence and resolving allegations of data tampering.

Data retention policies

The length of time that departments retain body-worn camera footage plays a key role for privacy. The longer that recorded videos are retained, the longer they are subject to public disclosure, which can be problematic if the video contains footage associated with privacy concerns. And community members’ concerns about police departments collecting data about them in the first place are lessened if the videos are not retained for long periods of time.

The retention times are generally dictated by the type of encounter or incident that the footage captures. Although protocols vary by department, footage is typically categorized as either “evidentiary” or “non-evidentiary.”

Evidentiary video involves footage of an incident or encounter that could prove useful for investigative purposes, such as a crime, an arrest or citation, a search, a use of force incident, or a confrontational encounter with a member of the public. Evidentiary footage is usually further categorized by specific incident type, and the retention period is governed by state evidentiary rules for that incident. For example, many state laws require that footage involving a homicide

be retained indefinitely, but video of a traffic citation must be kept for only a matter of months. Departments often purge evidentiary videos at the conclusion of the investigation, court proceeding, or administrative hearing for which they were used.

Non-evidentiary video involves footage that does not necessarily have value to aid in an investigation or prosecution, such as footage of an incident or encounter that does not lead to an arrest or citation or of general activities that an officer might perform while on duty (e.g., assisting a motorist or clearing a roadway). Agencies often have more leeway in setting retention times for non-evidentiary videos, which are generally not subject to state evidentiary laws.

Of the departments that PERF consulted, the most common retention time for non-evidentiary video was between 60 and 90 days. Some departments retain non-evidentiary video for an even shorter period. Fort Collins, Colorado, for example, discards footage after seven days if there is no citizen contact recorded and after 30 days if contact is made but no enforcement action is taken. On the other end of the spectrum, some departments, such as Albuquerque, retain non-evidentiary video for a full year.

Many police executives express a preference for shorter retention times for non-evidentiary video. Shorter retention periods not only address privacy concerns but also reduce the costs associated with data storage. On the other hand, police executives noted that they must keep videos long enough to demonstrate transparency and to have footage of an encounter in case a complaint arises about an officer's actions. For example, departments in Rialto, Fort Collins, Albuquerque, Daytona Beach, and Toronto base retention times in part on how long it generally takes for complaints to be filed.

Public disclosure policies

State public disclosure laws, often known as freedom of information laws, govern when footage from body-worn cameras is subject to public release. However, most of these laws were written long before law enforcement agencies began deploying body-worn cameras, so the laws do not necessarily account for all of the considerations that must be made when police departments undertake a body-worn camera program.

Although broad disclosure policies can promote police agency transparency and accountability, some videos—especially recordings of victims or from inside people's homes—will raise privacy concerns if they are released to the public or the news media. When determining how to approach public disclosure issues, law enforcement agencies must balance the legitimate interest of openness with protecting privacy rights.¹⁰

In most state public disclosure laws, exceptions are outlined that may exempt body-worn camera footage from public release. For example, even the broadest disclosure laws typically contain an exception for video that contains evidence or is part of an ongoing investigation. Some state disclosure laws, such as those in North Carolina, also exempt personnel records from public release. Body-worn camera videos used to monitor officer performance may fall under this type of exception.

"It is important to have retention policies that are directly linked to the purposes of having the video, whether that purpose is to have evidence of a crime or to hold officers and the public accountable. Agencies should not retain every video indefinitely, or else those videos could be used down the road for all sorts of inappropriate reasons."

— Lorie Fridell, Associate Professor,
University of South Florida

10. Scott Greenwood of the ACLU recommends that police executives work with the ACLU to ensure that state disclosure laws contain adequate privacy protections for body-worn camera videos. "If interpreted too broadly, open records laws can undermine the accountability of law enforcement agencies," said Greenwood. "You want to make sure that the video is not subject to arbitrary disclosure. It deserves the highest level of protection."

These exceptions to public disclosure can help police departments to avoid being required to release videos if doing so could jeopardize a criminal prosecution. The exceptions can also help police to protect the privacy of crime victims and witnesses. However, by policy and practice, law enforcement

“When developing body-worn camera policies, agencies have to consider how open the public disclosure laws are in their state. Are they going to have to give up all of their footage to any person that requests it? Or are there some protections? This is important to think about when it comes to privacy.”

– Ron Miller, Chief of Police,
Topeka (Kansas) Police Department

agencies should apply these exceptions judiciously to avoid any suspicion by community members that police are withholding video footage to hide officer misconduct or mistakes. In launching body-worn camera programs, law enforcement agencies should convey that their goal is to foster transparency and accountability while protecting civil liberties and privacy interests. When an agency decides whether to release or withhold body-worn camera footage of a particular incident, the agency should articulate its reasons for doing so.

In addition, some agencies have adopted recording and retention policies that help to avoid violations of privacy. For example, some agencies allow officers to deactivate their cameras during interviews with crime victims or witnesses. And short retention times for non-evidentiary video footage can reduce the window of opportunity for requests for release of video footage that would serve no legitimate purpose.

Lessons learned on privacy considerations

In their conversations with PERF staff members, police executives and other experts revealed a number of lessons that they have learned regarding body-worn cameras and privacy rights:

- Body-worn cameras have significant implications for the public’s privacy rights, particularly when it comes to recording victim interviews, nudity, and other sensitive subjects and when recording inside people’s homes. Agencies must factor these privacy considerations into decisions about when to record, where and how long to store data, and how to respond to public requests for video footage.
- In terms of when officers should be required to activate their cameras, the most common approach is requiring officers to record all calls for service and law enforcement-related encounters and activities and to deactivate the camera only at the conclusion of the event or with supervisor approval.
- It is essential to clearly define what constitutes a law enforcement-related encounter or activity in the department’s written body-worn camera policy. It is also useful to provide a list of specific activities that are included, noting that the list is not necessarily all inclusive. Many agencies give a general recommendation to officers that when they are in doubt, they should record.
- To protect officer safety and acknowledge that recording may not be possible in every situation, it is helpful to state in policies that recording will not be required if it would be unsafe, impossible, or impractical.
- Significant privacy concerns can arise when interviewing crime victims, particularly in situations involving rape, abuse, or other sensitive matters. Some agencies prefer to give officers discretion regarding whether to record in these circumstances. In such cases, officers should take into account the evidentiary value of recording and the willingness of the victim to speak on camera. Some agencies go a step further and require officers to obtain the victim’s consent prior to recording the interview.
- To promote officer accountability, most policies require officers to document, on camera or in writing, the reasons why the officer deactivated the camera in situations that are otherwise required to be recorded.

- In one-party consent states, officers are not legally required to notify subjects when officers are recording. However, some agencies have found that announcing the camera is running promotes better behavior and defuses potentially confrontational encounters.
- When making decisions about where to store body-worn camera footage, how long to keep it, and how it should be disclosed to the public, it is advisable for agencies to consult with departmental legal counsel and prosecutors.
- Regardless of the chosen method for storing recorded data, agencies should take all possible steps to protect the integrity and security of the data. This includes explicitly stating who has access to the data and under what circumstances, creating an audit system for monitoring access, ensuring there is a reliable back-up system, specifying how data will be downloaded from the camera, and including protections against data tampering prior to downloading.
- It is important that videos be properly categorized according to the type of event contained in the footage. How the videos are categorized will determine how long they are retained, who has access, and whether they can be disclosed to the public.
- To help protect privacy rights, it is generally preferable to set shorter retention times for non-evidentiary data. The most common retention time for this video is between 60 and 90 days.
- When setting retention times, agencies should consider privacy concerns, the scope of the state's public disclosure laws, the amount of time the public needs to file complaints, and data storage capacity and costs.
- Evidentiary footage is generally exempt from public disclosure while it is part of an ongoing investigation or court proceeding. Deleting this video after it serves its evidentiary purpose can reduce the quantity of video stored and protect it from unauthorized access or release. It is important to always check whether deletion is in compliance with laws governing evidence retention.
- Informing the public about how long video will be retained can help promote agency transparency and accountability. Some agencies have found it useful to post retention times on the department's website.
- It is important for the agency to communicate its public disclosure policy to the community when the body-worn camera program is deployed to develop public understanding of the technology and the reasons for adopting it.

In launching body-worn camera programs, law enforcement agencies should convey that their goal is to foster transparency and accountability while protecting civil liberties and privacy interests.

Impact on community relationships

Building positive relationships with the community is a critical aspect of policing, and these relationships can exist only if police have earned the trust of the people they serve. Police rely on these community partnerships to help them address crime and disorder issues.

At the PERF conference, a number of participants expressed concern that excessive recording with body-worn cameras may damage the relationships officers have developed with the community and hinder the openness of their community policing interactions. Some police executives fear, for

example, that people will be less likely to come forward to share information if they know their conversation is going to be recorded, particularly in high-crime neighborhoods where residents might be subject to retaliation if they are seen as cooperating with police.

“Before we make a decision on where to go with body-worn cameras, I really think that all of us need to stop and consider some of these larger unanswered questions. We need to look at not only whether the cameras reduce complaints but also how they relate to witnesses on the street coming forward, what they mean for trust and officer credibility, and what messages they send to the public.”

– Bob Cherry, Detective of Baltimore Police Department and President of Baltimore City Fraternal Order of Police

Detective Bob Cherry of the Baltimore Police Department, who is also the president of the Baltimore City Fraternal Order of Police, said, “Trust builds through relationships, and body-worn cameras start from a position of mistrust. The comments I hear from some officers are, ‘I’m worried that if I wear a camera, it is going to make it hard to continue the relationship I have with a business owner or the lady down the street. These are the people I’m working with now to clean up the neighborhood.’”

Some police executives reported that deploying body-worn cameras has in fact had a negative impact on their intelligence-gathering activities, particularly when officers are not allowed the discretion to turn off the camera. Chief of Police Sean Whent of Oakland, California, explained, “Our policy is to film all detentions and to keep recording until the encounter is over. But let’s say an officer detains someone, and now that person wants to give up information. We are finding that people are not inclined to do so with the camera running. We are considering changing our policy to allow officers to turn off the camera in those situations.”

The Mesa (Arizona) Police Department has also found that body-worn cameras can undermine information-gathering efforts. “We have definitely seen people being more reluctant to give information when they know that they are being videotaped,” said Lieutenant Harold Rankin.

However, other police executives said that these types of situations are rare and that body-worn cameras have not had a significant impact on their ability to gather information from the public. For some agencies, public reaction to the cameras has been practically nonexistent. Major Stephen Willis of the Charlotte-Mecklenburg (North Carolina) Police Department said, “We have had in-car cameras for many years, and in most instances the public has an expectation that they will be recorded. We encountered very little resistance from the public when we piloted body-worn cameras.” Deputy Chief of Police Cory Christensen of Fort Collins, Colorado, said, “We are not seeing much pushback from the community. Often people do not even notice the presence of the cameras.”

“I disagree that cameras hurt community relationships,” said Chief of Police William Farrar of Rialto, California. “We have not seen any evidence of that. People will ask officers if they have a camera on, but it does not seem to bother them.” In fact, in its evaluation of its body-worn camera program, the Rialto Police Department found that officers made 3,178 more contacts with the public (not counting calls for service) during the year that cameras were deployed than in the prior year.¹¹

Some police executives reported that body-worn cameras have actually improved certain aspects of their police-community relationships. These executives said that the presence of cameras leads to better behavior by both the officer and the person being recorded. “The cameras help defuse some of the tensions that might come up during encounters with the public. I think that 98 percent of the time, cameras help improve relationships with the community,” said Chief Chitwood of Daytona Beach. Deputy Chief Christensen of Fort Collins agreed: “Officers wearing cameras have reported a noticeable improvement in the quality of their encounters with the public. With both sides behaving better, community relations will improve.”

11. William Farrar, “Operation Candid Camera: Rialto Police Department’s Body-Worn Camera Experiment,” *The Police Chief* 81 (2014): 20–25.

Sir Robert Peel's Principles of Policing

Sir Robert Peel, who created London's Metropolitan Police Force in 1829, is known as the father of modern policing. He helped to establish a policing philosophy grounded in professionalism, ethics, and strong police-community cooperation, which continues to influence policing to this day. The "Nine Principles of Policing," which were issued to the first officers of the London Metropolitan Police and reflect Sir Robert Peel's philosophy, provide guidance on the role of police and the importance of maintaining strong police-community relationships.

The following principles attributed to Peel seem to have relevance for a discussion of how body-worn cameras can affect police officers' relationships with community members:

Police must recognize always that the power of the police to fulfill their functions and duties is dependent on

public approval of their existence, actions and behavior and on their ability to secure and maintain public respect.

Police must recognize always that to secure and maintain the respect and approval of the public means also the securing of the willing cooperation of the public in the task of securing observance of laws.

Police must maintain at all times a relationship with the public that gives reality to the historic tradition that the police are the public and that the public are the police, the police being only members of the public who are paid to give full time attention to duties which are incumbent on every citizen in the interests of community welfare and existence.*

* "Principles of Good Policing," Institute for the Study of Civil Society, <http://www.civitas.org.uk/pubs/policeNine.php>.

Cameras have also helped assure the public that an agency is serious about transparency and officer accountability, according to several police executives. "We have found that body-worn cameras can actually help strengthen trust and police legitimacy within the community," said Chief of Police Hassan Aden of Greenville, North Carolina. To illustrate this point, Aden shared the following story:

A local community group approached me with a genuine concern that certain officers were racially profiling subjects during traffic stops. We went back and looked at the footage from these officers' body-worn cameras and found that there was indeed a pattern of using flimsy probable cause when making stops. However, we determined that it was a training problem and immediately changed the relevant training protocols. The organization that had raised the complaint was happy with the outcome. They appreciated that we had the body-worn camera footage, that the officers' behavior was investigated, and that we used the video to help us improve.

Securing community support

To mitigate community concerns, many police executives found it useful to engage the community before rolling out their camera programs. The Rialto Police Department, for example, used social media to inform the public about its body-worn camera program. "You have to engage the public before the cameras hit the streets," said Chief Farrar of Rialto. "You have to tell people what the cameras are going to be used for and how everyone can benefit from them."

"We want our officers to go out, get out of their cars, and talk to the public about football or whatever it may be to establish an informal relationship. That's how you build partnerships and persuade people to give you information about crime in their area. I think if we say that every single interaction is going to be recorded, the danger is that it will lead to a more officious relationship. Maybe the public will get used to it, just as in our country they've gotten used to cameras on the streets. But as we start off, I think there's a danger that every interaction will become a formal interaction, and the informal relationships may be eroded."

– Sir Peter Fahy, Chief Constable,
Greater Manchester (UK) Police

The Los Angeles Police Department, which is in the process of testing body-worn cameras, plans to solicit public feedback when developing its camera policies. The Greensboro (North Carolina) Police Department partnered with the Greensboro Police Foundation, which launched a “Put Cameras on Cops” public information campaign that included posting billboards and reaching out to the community.

Chief Lanpher of Aberdeen said that it is also important for agencies to engage local policymakers and other stakeholders. “Police departments cannot do this alone,” he said. “We went to the mayor, the city council, and the state’s attorney’s office and showed them actual footage that officers had recorded to demonstrate why these cameras would be useful. Without their support, implementing the program would have been a challenge. Communication and developing those partnerships is critical.”

“My opinion is that body-worn cameras will help with community relationships. They will show when officers are doing a good job and help us correct when they aren’t. This is good for the community.”

— Lieutenant Dan Mark,
Aurora (Colorado) Police Department

“I think it’s absolutely critical that we talk to the public about [body-worn cameras]. We need to bring them on board and have them understand what this is about and go through the advantages and disadvantages and the issues.”

– Sir Peter Fahy, Chief Constable,
Greater Manchester (UK) Police

There are also indications that the public is more accepting of body-worn cameras if agencies are transparent about their camera policies and practices. Some agencies post their camera policies on their websites. In addition, some agencies, such as the Oakland Police Department, have proactively posted body-worn camera footage on their websites to demonstrate transparency and to help resolve questions surrounding controversial incidents.

In Phoenix, the police department released to the media body-worn camera footage from an officer who was fired for misconduct. Assistant Chief of Police Dave Harvey of Phoenix explained that the police union requested the release to demonstrate transparency.

“It is important that agencies are open and transparent with the community,” said Deputy Chief Christensen of Fort Collins. “If we only show the good and hide the bad, it will foster distrust of the police.”

Protecting intelligence-gathering efforts

In addition to engaging the public to mitigate concerns, some agencies have adopted recording policies that seek to minimize the potential damage that body-worn cameras have on police-community relationships. These agencies limit body-worn camera recordings to calls for service and law enforcement-related contacts, rather than recording every encounter with the public, so that officers do not feel compelled to record the kinds of casual conversations that are central to building informal relationships within the community.

Chief Miller of Topeka said that this approach has worked well. “I recently witnessed a community policing officer having a casual conversation with two citizens,” he said. “The officer was wearing a camera, but it was not running at the time. The camera was clearly visible, but it did not create a problem.” Chief Miller of Greensboro said, “From a community policing aspect, it does not make sense to record every single interaction with the public. If an officer sees someone on the street and just wants to talk about what is going on in the neighborhood, it is easier to have that conversation if the camera is not running.”

A number of agencies also give officers the discretion to turn off their cameras when talking with a person who wants to share information about a crime. This situation can occur when a person approaches an officer with information or if an officer interviews witnesses at a crime scene. In either case, police executives said that officers must weigh the evidentiary value of recording the statement with the reality that some people who share information may not want to talk on camera. “If officers encounter an informant or witness who isn’t comfortable being recorded, they have to decide whether obtaining the information outweighs recording the statement,” said Lieutenant Rankin of Mesa. “If so, our officers can either turn the camera off or position the camera so that they capture audio but not video. People usually feel more comfortable with just the audio.”

Chief Farrar of Rialto said that it is important for officers to maintain credibility with people who might want to share information. “We teach our officers to consider the facts of each incident before they record,” he said. “When officers encounter reluctant witnesses, I would suggest that they develop a rapport by being honest and not pressuring them to talk, especially on camera.”

Many agencies, while allowing officers to turn off the camera at the request of the person being interviewed, nonetheless strongly encourage officers to record if at all possible. “It is important to remain flexible, as there are no absolutes,” said Commander Michael Kurtenbach of Phoenix. “But we would generally recommend an officer to keep the camera on if possible when gathering information from witnesses.”

Inspector Danny Inglis of Greater Manchester, United Kingdom, agreed. “I generally think there is more to gain than lose in terms of recording these kinds of statements,” he said. “Recording is a way to capture critical intelligence and evidence. Our officers can turn the camera off at the person’s request, but they should confirm the reason for this on camera.”

The Topeka Police Department takes a similar approach. “Officers should try to leave the camera on to record exactly what a person says. If the person does not want to talk on camera, the officer can turn it off after stating the reason why,” said Chief Miller. Again, it is important that officers weigh the situation before making a decision. “The detectives and the prosecutors will want witness interviews on camera if possible. But they would also rather have the good information than have the witness refuse to talk because of the camera,” said Miller.

Some police executives said that the decision to record witnesses at a crime scene may depend on whether the scene is live or if it has been controlled. In many places, including Greensboro, Daytona Beach, and Rialto, officers typically leave their cameras running when responding to a live crime scene so they can capture spontaneous statements and impressions. Once the scene has been controlled (crime scene tape is put up, detectives arrive, etc.), it transitions into an investigative scene, and officers can turn the cameras off. Then they can determine whether to record more detailed statements taken from witnesses at the scene.

Agencies often include protections in their policies to ensure officers do not abuse their recording discretion. If an officer chooses not to record an encounter with someone giving information, he or she must typically document, on camera or in writing, the reason for not recording. In addition, many agencies require officers to activate the camera if an interaction becomes adversarial after the initial

“If officers are talking to a member of the community just to say hello or to ask what is going on in the neighborhood, it is usually better for the relationship if the officer does not record the conversation.”

– Stephen Cullen, Chief Superintendent,
New South Wales (AUS) Police Force

“We view evidence collection as one of the primary functions of cameras. So in the case of interviewing witnesses, we would make every attempt to capture the statement on video. However, we do allow discretion if the person we approach requests that the camera be turned off. Officers just need to understand what the tradeoff is.”

– Cory Christensen, Deputy Chief of Police, Fort Collins
(Colorado) Police Department

contact. Chief Chitwood said this approach has worked in Daytona Beach. “Between their experience and training, the officers know when they need to turn on their cameras. Activating the camera in these situations has become second nature to them,” he said.

Lessons learned about impact on community relationships

In their conversations with PERF staff members, police executives and other experts revealed a number of lessons that they have learned when addressing the impact body-worn cameras can have on community relationships:

- Engaging the community prior to implementing a camera program can help secure support for the program and increase the perceived legitimacy of the program in the community.
- Agencies have found it useful to communicate with the public, local policymakers, and other stakeholders about what the cameras will be used for and how the cameras will affect them.
- Social media is an effective way to facilitate public engagement.
- Transparency about the agency’s camera policies and practices, both prior to and after implementation, can help increase public acceptance and hold agencies accountable. Examples of transparency include posting policies on the department website and publicly releasing video recordings of controversial incidents.
- Requiring officers to record calls for service and law enforcement-related activities—rather than every encounter with the public—can ensure officers are not compelled to record the types of casual conversations that are central to building informal relationships within the community.
- In cases in which persons are unwilling to share information about a crime if they are being recorded, it is a valuable policy to give officers discretion to deactivate their cameras or to position the camera to record only audio. Officers should consider whether obtaining the information outweighs the potential evidentiary value of capturing the statement on video.
- Recording the events at a live crime scene can help officers capture spontaneous statements and impressions that may be useful in the later investigation or prosecution.
- Requiring officers to document, on camera or in writing, the reasons why they deactivated a camera in situations that they are otherwise required to record promotes officer accountability.

Addressing officer concerns

For a body-worn camera program to be effective, it needs the support not only of the community but also of the frontline officers who will be wearing the cameras. Securing this support can help ensure the legitimacy of a camera program and make its implementation more successful. Agency leaders should engage in ongoing communication with officers about the program’s goals, the benefits and challenges of using cameras, and the agency’s expectations of the officers.

Officer concerns about body-worn cameras

One of the primary concerns for police executives is the fear that body-worn cameras will erode the trust between officers and the chief and top managers of the department. Some officers may view the cameras as a signal that their supervisors and managers do not trust them, and they worry that supervisors would use the cameras to track and scrutinize their every move. Inspector Inglis of Greater Manchester explained, “I have heard some resentment about the level of scrutiny that

officers will be under if they wear body-worn cameras. This is especially true with the first-level response officers, who already feel they are under an extraordinary amount of pressure to get everything right. I can understand this concern.”

Given these concerns, one of the most important decisions an agency must make is how it will use camera footage to monitor officer performance. Most agencies permit supervisors to review videos so they can investigate a specific incident or complaint, identify videos for training purposes, ensure the system is working, and monitor overall compliance with the camera program.

However, there is some debate over whether supervisors should also periodically and randomly review videos to monitor officer performance. Some agencies allow periodic monitoring to help proactively identify problems and hold officers accountable for their performance. Other agencies permit periodic monitoring only in certain circumstances, such as when an officer is still in a probationary period or after an officer has received a certain number of complaints. Some agencies prohibit random monitoring altogether because they believe doing so is unnecessary if supervisors conduct reviews when an incident occurs.

In Greater Manchester, Inspector Inglis encourages supervisors to randomly review camera footage. “We use random review as a teaching tool, not just a supervision tool,” he said. “Supervisors might not get a lot of face time with officers, so reviewing the video is a good way for supervisors to appraise officers and provide feedback. It also helps hold officers accountable and gives them incentive to record.”

Other agencies expressly prohibit supervisors from randomly monitoring body-worn camera footage. “Per our policy, we do not randomly review videos to monitor officer performance,” said Chief Chitwood of Daytona Beach. “Instead, our review is incident-based, so if there is an issue, we will review the footage. In those cases, we can also review prior videos to see if there is a pattern of behavior.”

The Topeka Police Department generally prohibits random monitoring, though supervisors can periodically review videos if officers have received numerous complaints. Chief Miller of Topeka said that this policy strikes a balance between showing trust in the officers and holding them accountable. “If an officer does something wrong, you do not want to be accused of deliberate indifference because you had the videos but ignored them,” he said. “You have to show that you reviewed the footage once you had a reason to do so.”

Some police officials suggested that an agency’s internal audit unit, rather than direct supervisors, should be responsible for periodic, random monitoring. They said this approach allows agencies to monitor compliance with the program and assess officer performance without undermining the trust between an officer and his or her supervisor. These officials stressed that internal audit reviews should be truly random (rather than targeted to a specific officer or officers) and should be conducted in accordance with a written standard of review that is communicated to the officers. Chief of Police Jeff Halstead of Fort Worth, Texas, said, “Random review of the camera footage, either by an internal auditor or a supervisor, is critical to demonstrating that an agency is doing what it is supposed to do and is serious about accountability.”

In addition to concerns about trust and supervisor scrutiny, police executives said that some officers worried about the difficulty of operating the cameras and learning a new technology. “Officers can feel inundated with technology,” said Chief of Police Roberto Villaseñor of Tucson. “In the past few

“I have heard officers say that while they are not opposed to using body-worn cameras, they do have some concerns. Some of these concerns are more practical, like whether adding new equipment will be overly burdensome. But the larger philosophical concern is whether these cameras send the wrong message about the trust we place in officers. What does it say about officer professionalism and credibility if the department has to arm every officer with a camera?”

– Bob Cherry, Detective of Baltimore Police Department and President of Baltimore City Fraternal Order of Police

years, our department has introduced a new records management system and a new digital radio system. So some officers see body-worn cameras as another new piece of technology that they will have to learn.” Some officers also said that cameras can be cumbersome and challenging to operate, and agencies often have to test several different camera models and camera placement on the body to determine what works best.

Addressing officer concerns

Agencies have taken various steps to address officer concerns about body-worn cameras. One of the most important steps, according to many police executives, is for agency leaders to engage in open communication with officers about what body-worn cameras will mean for them.

For example, a survey of officers conducted by the Vacaville (California) Police Department found that including officers in the implementation process—and allowing them to provide meaningful input—generated support for the cameras. Some police executives, like Chief Chitwood of Daytona Beach and Chief Lanpher of Aberdeen, have found it useful to attend officer briefings, roll calls, and meetings with union representatives to discuss the camera program. “My staff and I invested considerable time talking at briefings and department meetings with all employees who would be affected by body-worn cameras,” said Chief of Police Michael Frazier of Surprise, Arizona. “This has helped us gain support for the program.”

“I think police agencies can help the officer and fulfill their duties to the public by saying, ‘We have an officer [whom] we think is having problems, and we are going to look at those videos to determine behavioral patterns.’ You do not want to have a problem come up later and claim that you did not know about it even though you had videos. So to me, targeted monitoring makes sense.”

– Christy Lopez, Deputy Chief,
Special Litigation Section,
Civil Rights Division,
U.S. Department of Justice

Many police executives said that creating implementation teams comprised of representatives from various units within the department can help improve the legitimacy of a body-worn camera program. For example, as agencies develop body-worn camera policies and protocols, it can be useful to receive input from patrol commanders and officers, investigators, training supervisors, the legal department, communications staff, Internal Affairs personnel, evidence management personnel, and others across the agency who will be involved with body-worn cameras.

Police executives also said it is important to emphasize to officers that body-worn cameras are useful tools that can help them perform their duties. Chief Terry Gainer, U.S. Senate sergeant at arms, believes that framing body-worn cameras as a check on officer behavior is the wrong approach. “It’s going to be hard to encourage our officers to be the self-actualized professionals that we want them to be if we say, ‘Wear this because we’re afraid you’re bad, and cameras will help you prove that you’re good,’” said Gainer. “Body cameras should be seen as a tool for creating evidence that will help ensure public safety.”

Lieutenant John Carli of Vacaville, California, suggests that agencies frame the cameras as a teaching tool, rather than a disciplinary measure, by encouraging supervisors to review footage with officers and provide constructive feedback. One suggestion to accomplish this goal is to highlight officers whose videos demonstrate exemplary performance by showing their footage at training programs or by showing the video during an awards ceremony.

Incremental implementation

Some police executives have also found it helpful to take an incremental approach when implementing body-worn cameras. For example, the San Diego Police Department plans to deploy 100 cameras as part of a pilot program with the eventual goal of outfitting 900 uniformed officers with cameras.

The Greensboro Police Department took a similar approach. “When we first deployed the cameras, there was an undercurrent of apprehension on the part of the officers. So we rolled it out in small increments to help officers get more comfortable with the program,” said Chief Miller of Greensboro. Gradual implementation can also help agencies learn which policies, practices, and camera systems are the best fit for their departments. Some agencies, such as the Mesa Police Department, initially assigned cameras to the most tech-savvy officers as a way to ease implementation.

Many agencies have found that officers embrace body-worn cameras when they see evidence of the cameras’ benefits. “Our officers have been fairly enthusiastic about body-worn cameras because they have seen examples of how the cameras have cleared fellow officers of complaints,” said Lieutenant Dan Mark of Aurora, Colorado. “One officer was threatened by an individual, and it was captured on the officer’s camera. We took the footage to the city attorney’s office, and the individual was successfully prosecuted. Once that story got out among the officers, we saw a lot more acceptance of the cameras.”

Police executives said that in many cases, officers see these benefits once they begin wearing the cameras. “The more officers use the cameras, the more they want to have them,” said Lieutenant Gary Lewis from Appleton, Wisconsin. “If I could put cameras on all of my patrol officers, I would have 100 percent support.” Chief Farrar of Rialto agreed: “Now that the officers wear the cameras, they say that they could not do without them.”

Lessons learned about addressing officer concerns

Police executives revealed a number of lessons about addressing officers’ concerns about body-worn cameras:

- As with any other deployment of a new technology, program, or strategy, the best approach includes efforts by agency leaders to engage officers on the topic, explain the goals and benefits of the initiative, and address any concerns officers may have.
- Briefings, roll calls, and meetings with union representatives are effective means to communicate information about a body-worn camera program.
- Creating an implementation team that includes representatives from across the department can help strengthen program legitimacy and ease implementation.

“You have to ask yourself, what is the main reason you are implementing the program? Is it because you want to give officers a helpful tool, or because you do not trust them? The answer to that question—and how you convey it—will influence how officers receive the program.”

– Lieutenant John Carli,
Vacaville (California) Police Department

“At first, officers had a lot of concerns about the ‘Big Brother’ aspect of body-worn cameras. But once they wear them and see the benefits, they are much more likely to embrace them. Resistance has been almost nonexistent.”

– Chris Burbank, Chief of Police,
Salt Lake City (Utah) Police Department

- Departments have found that officers support the program if they view the cameras as useful tools: e.g., as a technology that helps to reduce complaints and produce evidence that can be used in court or in internal investigations.
- Recruiting an internal “champion” to help inform officers about the benefits of the cameras has proven successful in addressing officers’ hesitation to embrace the new technology.
- Body-worn cameras can serve as a teaching tool when supervisors review footage with officers and provide constructive feedback.
- Taking an incremental approach to implementation can help make deployment run more smoothly. This can include testing cameras during a trial period, rolling out cameras slowly, or initially assigning cameras to tech-savvy officers.

Managing expectations

“In the beginning, some officers were opposed to the cameras. But as they began wearing them, they saw that there were more benefits than drawbacks. Some officers say that they would not go out on the street without a ballistic vest; now they say they will not go out without a camera.”

– Lieutenant Harold Rankin,
Mesa (Arizona) Police Department

Police executives said that it has become increasingly common for courts, arbitrators, and civilian review boards to expect police departments to use body-worn cameras. “If your department has a civilian review board, the expectation now is that police should have cameras,” said Chief of Police Chris Burbank of Salt Lake City. “If you don’t, they will ask, ‘Why don’t your officers have cameras? Why aren’t your cameras fully deployed? Why does the next town over have cameras, but you don’t?’”

In addition, people often expect that officers using body-worn cameras will record video of everything that happens while they are on duty. But most police departments do not require officers to record every encounter. Many agencies have policies against recording when it is unsafe or impossible, and some agencies give officers discretion to deactivate their cameras in certain sensitive situations, such as during interviews with victims or witnesses. Camera malfunctions may also occur. Some agencies have taken steps to inform judges, oversight bodies, and the public about these realities of using body-worn cameras.

Police executives said that these expectations can undermine an officer’s credibility if questions arise about an incident that was not captured on video. This is one reason why many agencies require officers to articulate, either on camera or in writing, their reasons for turning a camera off in the middle of an incident or for not turning it on in the first place. These issues of credibility are also why it is important to provide rigorous, ongoing officer training on body-worn camera policies and

practices. Some agencies find that situational training can be particularly useful. For example, the Oakland Police Department incorporated a program into its police academy that involves officers participating in situational exercises using training model cameras.

Expectations about body-worn cameras can also affect how cases are prosecuted in criminal courts. Some police executives said that judges and juries have come to rely heavily on camera footage as evidence, and some judges have even dismissed a case when video did not exist. “Juries no longer want to hear just officer testimony—they want to see the video,” said Detective Cherry of Baltimore. “But the video only

“There is a learning curve that comes with using body-worn cameras. And the video cannot always be taken at face value—the full story has to be known before conclusions are reached about what the video shows.”

– Major Stephen Willis,
Charlotte-Mecklenburg
(North Carolina) Police Department

gives a small snapshot of events. It does not capture the entire scene, or show the officer's thought process, or show an officer's investigative efforts. This technology shouldn't replace an officer's testimony. I'm concerned that if juries rely only on the video, it reduces the important role that our profession plays in criminal court."

Officer review of video prior to making statements

Given the impact that body-worn cameras can have in criminal and administrative proceedings, there is some question as to whether officers should be allowed to review camera footage prior to making a statement about an incident in which they were involved. According to many police executives, the primary benefit to officer review is that it allows officers to recall events more clearly, which helps get to the truth of what really happened. Some police executives, on the other hand, said that it is better for an officer's statement to reflect what he or she perceived during the event, rather than what the camera footage revealed.

The majority of police executives consulted by PERF are in favor of allowing officers to review body-worn camera footage prior to making a statement about an incident in which they were involved. They believe that this approach provides the best evidence of what actually took place. PERF agrees with this position.

"When you're involved in a tense situation, you don't necessarily see everything that is going on around you, and it can later be difficult to remember exactly what happened," said Police Commissioner Ramsey of Philadelphia. "So I wouldn't have a problem with allowing an officer to review a video prior to making a statement."

Chief Burbank of Salt Lake City agreed. "Officers should be able to review evidence that is gathered about an event, and that includes body-worn camera footage," he said. "Some of the most accurate reports are generated by officers who take a moment to go back and review the circumstances. For example, I was once involved in a pursuit that lasted 30 minutes. I went back and re-drove the route and documented every turn before filing my report. Otherwise, it would have been impossible to remember everything that happened."

Chief Miller of Topeka said that if an officer is not allowed to review video, and if the footage conflicts with the officer's statement, it can create unfair doubts about the officer's credibility. "What we are after is the truth," he said. "If you make a statement that you used force because you thought a suspect had a gun but the video later shows that it was actually a cell phone, it looks like you were lying. But if you truly thought he had a gun, you were not lying—you were just wrong. An officer should be given the chance to make a statement using all of the evidence available; otherwise, it looks like we are just trying to catch an officer in a lie."

Police executives who favor review said that officers will be held accountable for their actions regardless of whether they are allowed to watch the video recordings prior to making a statement. "Officers are going to have to explain their actions, no matter what the video shows," said Chief Burbank of Salt Lake City. Chief Frazier of Surprise, Arizona, said, "If an officer has acted

"Right from the start, officers now learn how to use the cameras as part of their regular training on patrol procedures. We want activating the cameras to become a muscle memory so that officers do not have to think about it when they are in a real-world situation."

– Sean Whent, Chief of Police,
Oakland (California) Police Department

"I tell the officers every day: You usually don't get hurt by the videos you have. What hurts you is when you are supposed to have a video but, for whatever reason, you don't."

– Ron Miller, Chief of Police,
Topeka (Kansas) Police Department

inappropriately, and those actions were recorded, the officer cannot change the record and will have to answer for his or her actions. What will be gained by a review of the video is a more accurate accounting of the incident.”

The majority of police executives consulted by PERF are in favor of allowing officers to review body-worn camera footage prior to making a statement about an incident in which they were involved.

Other police executives, however, said that the truth—and the officer’s credibility—are better served if an officer is not permitted to review footage of an incident prior to making a statement. “In terms of the officer’s statement, what matters is the officer’s perspective at the time of the event, not what is in the video,” said Major Mark Person of the Prince George’s County (Maryland) Police Department. “That perspective is what they are going to have to testify to. If officers watch the video before making a statement, they might tailor the statement to what they see. It can cause them to second-guess themselves, which makes them seem less credible.”

Lessons learned about managing expectations

In interviews with PERF staff members, police executives discussed lessons that they have learned for managing expectations about body-worn cameras:

- With more and more agencies adopting body-worn cameras, courts, arbitrators, and civilian review boards have begun to expect not only that agencies will use cameras but also that officers will have footage of everything that happens while they are on duty. If this footage does not exist, even for entirely legitimate reasons, it may impact court or administrative proceedings and create questions about an officer’s credibility. Agencies must take steps to manage expectations while also working to ensure that officers adhere to agency policies about activating cameras.
- Educating oversight bodies about the realities of using cameras can help them to understand operational challenges and why there may be situations in which officers are unable to record. This can include demonstrations on how the cameras operate.
- Requiring an officer to articulate, on camera or in writing, the reason for not recording an event can help address questions about missing footage.
- Rigorous, ongoing officer training on body-worn camera policies and protocols is critical for improving camera usage. Situational training in which officers participate in exercises using mock cameras can be particularly useful in helping officers to understand how to operate cameras in the field.
- Many police executives believe that allowing officers to review body-worn camera footage prior to making a statement about an incident in which they were involved provides the best evidence of what actually occurred.

Financial considerations

While body-worn cameras can provide many potential benefits to law enforcement agencies, they come at a considerable financial cost. In addition to the initial purchasing cost, agencies must devote funding and staffing resources toward storing recorded data, managing videos, disclosing copies of videos to the public, providing training to officers, and administering the program.

For some agencies, these costs make it challenging to implement a body-worn camera program. PERF's survey revealed that 39 percent of the respondents that do not use body-worn cameras cited cost as a primary reason. Chief Villaseñor of Tucson said that cost was a major obstacle to getting cameras. "In recent years, we've faced serious budget cuts and have had to reduce staffing levels," he said. "It can be hard to justify spending money on cameras when officers are fighting for their jobs." However, Villaseñor has put together a review committee to evaluate costs and explore how to implement body-worn cameras in Tucson.

Police Commissioner Ramsey said that in departments the size of Philadelphia's, which has 6,500 sworn officers, the cost of implementing a body-worn camera program would be extraordinary. "We've considered using cameras in Philadelphia, and we see all of the benefits they can provide," he said. "Cost is the primary thing holding us back."

Some police executives, however, said that body-worn cameras can save departments money. They said that by improving officer professionalism, defusing potentially confrontational encounters, strengthening officer training, and documenting encounters with the public, body-worn cameras can help reduce spurious lawsuits and complaints against officers. They also said that these savings more than make up for the considerable financial cost of implementing a camera program.

"If there is a lawsuit against the department, the settlements come from the department's operational budget," said Chief Chitwood of Daytona Beach. "By preventing these suits, the department has more money to spend on cars, technology, and other things that benefit officers."¹²

The London Metropolitan Police Service, working together with the College of Policing, is planning to conduct a cost-benefit analysis in conjunction with its upcoming pilot program of 500 cameras. The analysis will measure whether the cameras contribute to cost savings in terms of promoting early guilty pleas in criminal cases and quicker resolution of complaints against officers. The study will also measure community and victim satisfaction with the cameras, as well as how the cameras impact the length of sentences that offenders receive.

"I absolutely think that officers should be allowed to review camera footage from an incident in which they were involved, prior to speaking with internal investigators. With what we know of the effect of stressful incidents on the human mind, officers in most instances may not recall every aspect of the incident. Or they may recall events out of sequence or not remember everything until much later. For this reason alone, allowing an officer to review the video prior to making a statement seems prudent."

– Michael Frazier, Chief of Police,
Surprise (Arizona) Police Department

12. See "Perceived Benefits of Body-Worn Cameras" on page 5 for additional discussion of cost-benefit analysis.

Cost of implementation

The price of body-worn cameras currently ranges from approximately \$120 to nearly \$2,000 for each device. Most of the agencies that PERF consulted spent between \$800 and \$1,200 for each camera. Prices vary depending on factors such as functionality, storage capacity, and battery life. Agencies must make this initial purchase up front, and sometimes they purchase cameras as part of a contract with the manufacturer for related services, such as data storage and technical assistance.

“Once you put cameras in the field, you’re going to amass a lot of data that needs to be stored. Chiefs need to go into this with their eyes wide open. They need to understand what storage is going to cost, what their storage capacities are, and the amount of time it takes to review videos for public release. It is a major challenge.”

– Kenton Rainey, Chief of Police,
Bay Area Rapid Transit Police Department

Although the initial costs of purchasing the cameras can be steep, many police executives said that data storage is the most expensive aspect of a body-worn camera program. “Data storage costs can be crippling,” said Chief Aden of Greenville. Captain Thomas Roberts of Las Vegas agreed. “Storing videos over the long term is an ongoing, extreme cost that agencies have to anticipate,” said Roberts.

The cost of data storage will depend on how many videos are produced, how long videos are kept, and where the videos are stored. If the videos are stored on an online cloud database, the costs typically go toward paying a third-party vendor to manage the data and to provide other services, such as technical assistance and forensic auditing. If videos are stored on an in-house server, agencies must often purchase additional computer equipment and spend money on technical staff and systems to ensure the data are secure.

The New Orleans Police Department has launched a plan for deploying 350 body-worn cameras at an anticipated cost of \$1.2 million over five years—the bulk of which will go to data storage.¹³ One department reported that it will pay \$2 million per year, mostly toward data storage, to outfit 900 officers with cameras. Another department spent \$67,500 to purchase 50 cameras and will spend approximately \$111,000 to store the video on a cloud for two years. In terms of storage, Chief Miller of Topeka said, “I’ve seen a formula that says that if you have 250 officers that have body-worn cameras, in three years you will produce 2.3 million videos. If the officer was required to run the camera continuously during his or her entire shift, it would produce even more. Managing and storing that data is usually more expensive than buying the cameras.”

In addition to the cost of purchasing cameras and storing data, administering a body-worn camera program requires considerable ongoing financial and staffing commitments. Many agencies appoint at least one full-time officer to manage the camera program. Agencies must provide ongoing training programs, ensure that cameras are properly maintained, fix technical problems, and address any issues of officer noncompliance. Some agencies also devote resources toward public information campaigns aimed at educating the community about the program.

According to many police executives, one of the most significant administrative costs—at least in terms of staff resources—involves the process of reviewing and categorizing videos. Although the exact process varies depending on the camera system, officers must typically label, or “tag,” videos as evidentiary or non-evidentiary. Evidentiary videos are further categorized according to the type of incident captured in the footage (e.g., homicide, robbery, or traffic citation). This tagging process is critical for determining how a video will be used and how long it will be retained. Most agencies that PERF consulted require officers to download and tag videos by the end of each shift.

13. “NOPD Wearable Cameras Expected to Cost \$1.2 Million,” The Times-Picayune, September 30, 2013, http://www.nola.com/crime/index.ssf/2013/09/post_346.html. Since The Times-Picayune published this article, New Orleans has increased the number of body-worn cameras it expects to deploy from 350 to more than 400.

Some officers have expressed concern about this increase to their administrative workload. “One of the major complaints we heard from officers was that they were spending so much time, after their shifts were over, downloading and tagging their videos,” said Commander Tony Filler from Mesa. The department explored several solutions to this problem, ultimately creating an automated process that linked videos to the department’s records management system (RMS). The department also purchased from the camera manufacturer electronic tablets that allow officers to view and tag videos while they are in the field. “The tablets were an additional cost, but they were worth it because they save officers a lot of time,” said Filler.

Police executives said that there are also significant administrative costs involved with responding to requests from the public or the news media for body-worn camera videos. When an agency receives a disclosure request, often under the Freedom of Information Act, officers or other department personnel must spend time reviewing videos to find the relevant footage, determining whether an exception to the presumption of disclosure applies, identifying portions that by law must be redacted, and performing the redaction process.

Cost-saving strategies

Police executives discussed several strategies that their agencies have employed to mitigate the considerable financial and staffing costs associated with body-worn cameras. These strategies focus primarily on managing the costs of data storage, which many police executives said represent the most expensive aspect of their programs.

Although managing data storage costs is not the primary reason why many agencies have decided against recording non-law enforcement related encounters with the public, it can be a factor. “There is a huge difference in the amount of money it would take to record all encounters versus adopting a more restrictive recording policy,” said Chief Miller of Greensboro. “If you record everything, there are going to be astronomical data storage costs. With 500 officers using cameras, we have already produced over 40,000 videos in just seven months. And we would have a lot more if we didn’t use a more restrictive recording policy.”

Some agencies, such as the police departments in Oakland and Daytona Beach, are working to adopt shorter data retention periods for non-evidentiary footage in an effort to keep data storage costs manageable. Although it is important to keep videos long enough to demonstrate transparency and preserve a record of an encounter, keeping these videos indefinitely would overwhelm an agency’s resources. Some agencies may even decide against adopting body-worn cameras due to the extraordinary costs of data storage.

“The two biggest challenges that we face in terms of cost are data storage and responding to records requests,” said Chief Chitwood of Daytona Beach. “We had to brainstorm about how to address those costs, and one way was through changing our retention times.”

As the public becomes more familiar with the existence of police body-worn camera programs, it is reasonable to expect that members of the public and the news media will increasingly want to obtain video recordings. Such public records requests will add to the workload of managing a camera program. Captain James Jones of the Houston Police Department said, “The cost of responding to

“Responding to public disclosure requests is one of the biggest challenges that my department faces. When a request for a video comes in, an officer has to sit for at least two hours and review the videos to find the footage and identify which portions must by law be redacted. And the actual redactions can take over 10 hours to complete.”

– Lieutenant Harold Rankin,
Mesa (Arizona) Police Department

open records requests played a role when we were deciding how long to keep the video. To protect privacy, you have to go through every video and make sure that you're not disclosing something that you shouldn't. It takes a lot of time, and personnel, to review and redact every tape. If you keep video for five years, it is going to take even more."

Agencies have also explored cheaper storage methods for videos that by law must be retained long-term, such as those containing evidence regarding a homicide or other serious felony. For example, the Greensboro Police Department deletes videos requiring long-term storage from the online cloud after importing them into its RMS or Internal Affairs case management systems. This reduces overall consumption of expensive cloud storage for videos that are required for future court proceedings or long-term retention under state personnel laws. The Charlotte-Mecklenburg Police Department recently completed a body-worn camera trial program, and Major Willis said that the department is exploring alternative storage methods. "Long-term storage costs are definitely going to be a problem. We are looking at cold storage, offline storage, and shorter retention times as a way to keep those costs more manageable," he said.

Many police agencies have also found it useful to conduct a cost-benefit analysis when exploring whether to implement body-worn cameras. For example, agencies can conduct an audit of their claims, judgments, and settlements related to litigation and complaints against officers to determine what costs they may already be incurring. The costs associated with deploying body-worn cameras may be offset by reductions in litigation costs, and agencies should carefully assess their ongoing legal expenses to determine how they could be reduced through the use of body-worn cameras.

Lessons learned about financial considerations

In interviews with PERF staff members, police executives and other experts revealed a number of lessons that they have learned about the financial costs of body-worn cameras:

- The financial and administrative costs associated with body-worn camera programs include costs of the equipment, storing and managing recorded data, and responding to public requests for disclosure.
- It is useful to compare the costs of the camera program with the financial benefits (e.g., fewer lawsuits and unwarranted complaints against officers, as well as more efficient evidence collection).
- Setting shorter retention times for non-evidentiary videos can help make the significant costs of data storage more manageable.
- Videos requiring long-term storage (e.g., those involving serious offenses) can be copied to a disc, attached to the case file, and deleted from the internal server or online cloud. This frees up expensive storage space for videos that are part of an ongoing investigation or that have shorter retention times.
- Linking recorded data to the agency's records management system or using electronic tablets, which officers can use in the field, can ease the administrative burden of tagging and categorizing videos.

The Los Angeles Police Department's Approach to Financing Body-Worn Cameras

In September 2013, Los Angeles Police Commission President Steve Soboroff launched a campaign to raise money to purchase on-body cameras for the Los Angeles Police Department (LAPD). “Before being elected commission president, I heard from numerous leaders in the LAPD that getting on-body cameras was a top priority with a huge upside,” said Soboroff in an interview with PERF. “After hearing all of the benefits that this technology could offer, I wanted to find a way to proactively jump-start the project.”^{*}

Realizing that trying to secure city funds for cameras would be challenging—the LAPD’s in-car camera project has been going on for two decades and is only 25 percent complete—Soboroff devised a plan to identify private donors. Within five months, he had raised \$1.3 million for a body-worn camera program, exceeding its original goal. Contributors included a number of local companies, executives, and philanthropists, including the Los Angeles Dodgers, movie director Steven Spielberg, entertainment executive Jeffrey Katzenberg, and former Los Angeles Mayor Richard Riordan.[†]

This money will go toward purchasing 600 body-worn cameras for LAPD officers and for video storage, repairs, and other costs over two years.[‡] The LAPD said it would test several camera models before implementing its program.[§] According to Soboroff, the LAPD will eventually need hundreds more cameras to outfit every patrol officer, but he hopes the pilot program will convince city officials that the cameras are worth the money. “I think that the pilot will show that body-worn cameras are transformative. I think it will show so many public safety benefits, and so many savings in litigation settlement dollars, man hours, and attorney hours, that the return on the investment will be apparent and significant,” he said.^{**}

Soboroff believes that other places can look at the LAPD’s fundraising approach as a model. “Probably every city in America has financial concerns. But I believe that there are always going to be local businesses and philanthropists who are willing to help. You just have to show them that there is going to be a positive community and financial return on their investment or donation.”^{††} However, Soboroff also said it is important that law enforcement agencies retain independence as they develop their programs: “The LAPD has complete control over which cameras it chooses and its camera policies. That is critical—there should be no outside influence from donors.”^{§§}

As Soboroff indicates, police agencies outside of Los Angeles have also sought private funding for body-worn cameras. For example, the Greensboro (North Carolina) Police Department told PERF that the Greensboro Police Foundation raised \$130,000 from private donors to purchase 125 cameras. The Greensboro Police Foundation also created awareness by launching the “Put Cameras on Cops” public information campaign that included reaching out to potential donors and posting billboards in support of the program.

* Steve Soboroff (president, Los Angeles Police Commission), in discussion with PERF staff members, fall 2013.

† “LAPD to Soon Start Testing Body Cameras,” *CBS Los Angeles*, January 13, 2014, <http://losangeles.cbslocal.com/2014/01/13/lapd-officers-to-soon-start-testing-body-cameras/>.

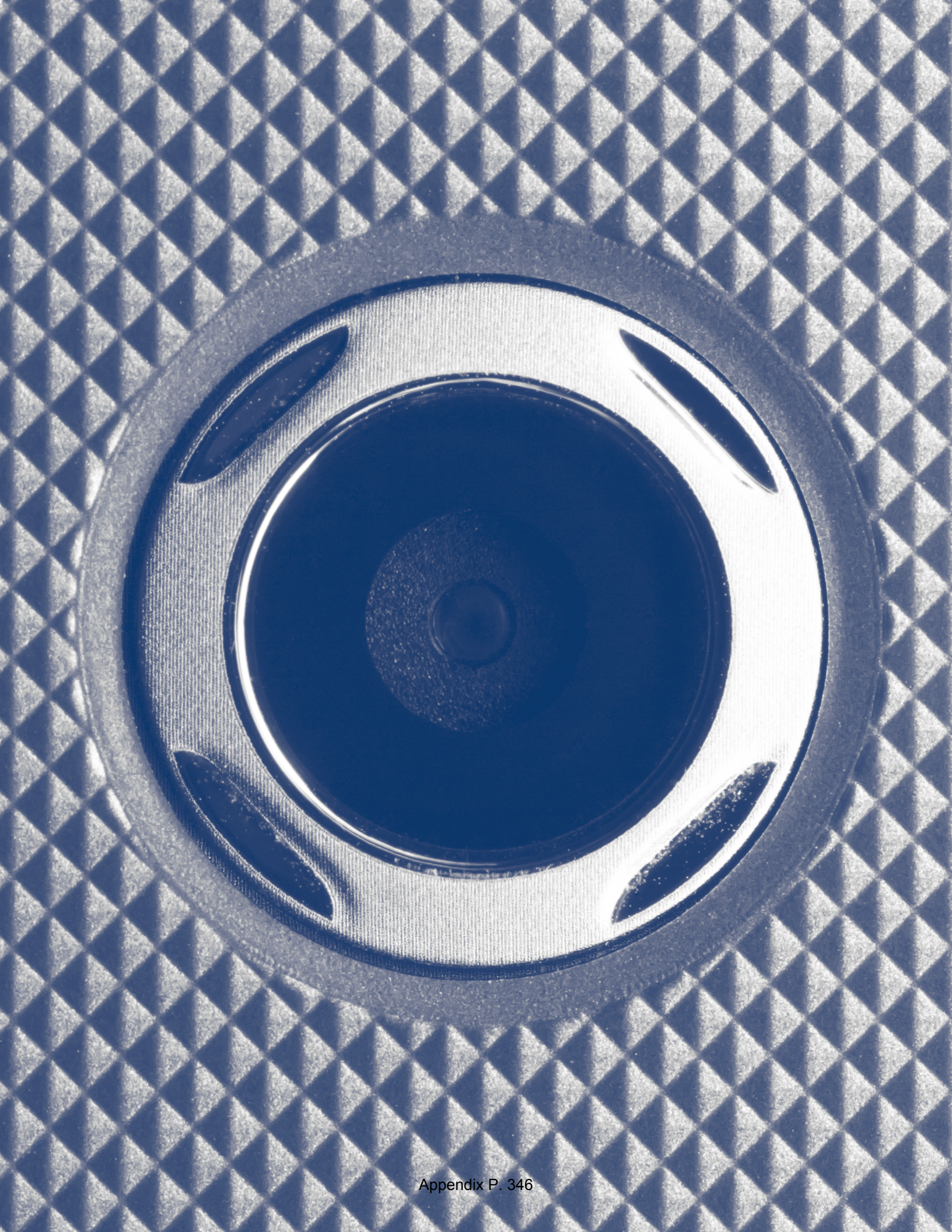
‡ “LAPD Surpasses Fundraising Goal for Officers’ On-Body Cameras,” *Los Angeles Times*, November 6, 2013, <http://articles.latimes.com/2013/nov/06/local/la-me-ln-lapd-cameras-20131106>.

§ “LAPD to Soon Start Testing Body Cameras.”

** Soboroff, discussion with PERF staff members.

†† Ibid.

§§ Ibid.



Chapter 3. Body-Worn Camera Recommendations

The list of recommendations beginning on page 38 is intended to assist law enforcement agencies as they develop body-worn camera policies and practices. These recommendations, which are based on the research conducted by PERF with support from the COPS Office, reflect the promising practices and lessons that emerged from PERF's September 2013 conference in Washington, D.C., where more than 200 police chiefs, sheriffs, scholars, and federal criminal justice officials shared their experiences with body-worn cameras and their perspectives on the issues discussed in this publication. The recommendations also incorporate feedback gathered during PERF's interviews of more than 40 law enforcement officials and other experts, as well as findings from PERF's review of body-worn camera policies submitted by police agencies across the country.

Each law enforcement agency is different, and what works in one department might not be feasible in another. Agencies may find it necessary to adapt these recommendations to fit their own needs, budget and staffing limitations, state law requirements, and philosophical approach to privacy and policing issues.

When developing body-worn camera policies, PERF recommends that police agencies consult with frontline officers, local unions, the department's legal advisors, prosecutors, community groups, other local stakeholders, and the general public. Incorporating input from these groups will increase the perceived legitimacy of a department's body-worn camera policies and will make the implementation process go more smoothly for agencies that deploy these cameras.

PERF recommends that each agency develop its own comprehensive written policy to govern body-worn camera usage. Policies should cover the following topics:

- Basic camera usage, including who will be assigned to wear the cameras and where on the body the cameras are authorized to be placed
- The designated staff member(s) responsible for ensuring cameras are charged and in proper working order, for reporting and documenting problems with cameras, and for reissuing working cameras to avert malfunction claims if critical footage is not captured
- Recording protocols, including when to activate the camera, when to turn it off, and the types of circumstances in which recording is required, allowed, or prohibited
- The process for downloading recorded data from the camera, including who is responsible for downloading, when data must be downloaded, where data will be stored, and how to safeguard against data tampering or deletion
- The method for documenting chain of custody
- The length of time recorded data will be retained by the agency in various circumstances
- The process and policies for accessing and reviewing recorded data, including the persons authorized to access data and the circumstances in which recorded data can be reviewed

- Policies for releasing recorded data to the public, including protocols regarding redactions and responding to public disclosure requests
- Policies requiring that any contracts with a third-party vendor for cloud storage explicitly state that the videos are owned by the police agency and that its use and access are governed by agency policy

In summary, policies must comply with all existing laws and regulations, including those governing evidence collection and retention, public disclosure of information, and consent. Policies should be specific enough to provide clear and consistent guidance to officers yet allow room for flexibility as the program evolves. Agencies should make the policies available to the public, preferably by posting the policies on the agency website.

General recommendations

1. **Policies should clearly state which personnel are assigned or permitted to wear body-worn cameras and under which circumstances.**

It is not feasible for PERF to make a specific recommendation about which officers should be required to wear cameras. This decision will depend on an agency's resources, law enforcement needs, and other factors.

Lessons learned: Some agencies have found it useful to begin deployment with units that have the most frequent contacts with the public (e.g., traffic or patrol officers).

2. **If an agency assigns cameras to officers on a voluntary basis, policies should stipulate any specific conditions under which an officer might be required to wear one.**

For example, a specified number of complaints against an officer or disciplinary sanctions, or involvement in a particular type of activity (e.g., SWAT operations), might result in an officer being required to use a body-worn camera.

3. **Agencies should not permit personnel to use privately-owned body-worn cameras while on duty.**

Rationale: Most of the police executives whom PERF interviewed believe that allowing officers to use their own personal cameras while on duty is problematic. PERF agrees with this position. Because the agency would not own the recorded data, there would be little or no protection against the officer tampering with the videos or releasing them to the public or online. In addition, chain-of-custody issues would likely prevent the video evidence from being admitted as evidence in court.

This recommendation applies regardless of whether the agency has deployed body-worn cameras.

4. Policies should specify the location on the body on which cameras should be worn.

The most appropriate camera placement will depend on several factors, such as the type of camera system used. Agencies should test various camera locations to see what works for their officers in terms of field of vision, comfort, functionality, and ease of use.

Lessons learned: Police executives have provided feedback regarding their experiences with different camera placements:

- **Chest:** According to the results of PERF's survey, the chest was the most popular placement location among agencies.
- **Head/sunglasses:** This is a very popular location because the camera "sees what the officer sees." The downside, however, is that an officer cannot always wear sunglasses. Some officers have also reported that the headband cameras are uncomfortably tight, and some expressed concern about the potential of injury when wearing a camera so close to the eye area.
- **Shoulder/collar:** Although some officers like the perspective that this placement offers, others have found the camera can too easily be blocked when officers raise their arms. One agency, for example, lost valuable footage of an active shooter incident because the officer's firearm knocked the camera from his shoulder.
- **Shooting side:** Some agencies specify that officers should wear cameras on the gun/shooting side of the body, which they believe affords a clearer view of events during shooting incidents.

5. Officers who activate the body-worn camera while on duty should be required to note the existence of the recording in the official incident report.

Rationale: This policy ensures that the presence of video footage is accurately documented in the case file so that investigators, prosecutors, oversight boards, and courts are aware of its existence. Prosecutors may need to give potentially exculpatory materials to defense attorneys.

6. Officers who wear body-worn cameras should be required to articulate on camera or in writing their reasoning if they fail to record an activity that is required by department policy to be recorded. (See recommendations 7–13 for recording protocols.)

This may occur, for example, if an officer exercises recording discretion in accordance with the agency's policy because he or she cannot record due to unsafe conditions or if a person does not give consent to record when consent is required.

Rationale: This holds officers accountable and helps supervisors investigate any recording irregularities that may occur.

Recording protocols

7. As a general recording policy, officers should be required to activate their body-worn cameras when responding to all calls for service and during all law enforcement-related encounters and activities that occur while the officer is on duty. Exceptions include recommendations 10 and 11 below or other situations in which activating cameras would be unsafe, impossible, or impractical.

7a: Policies and training materials should clearly define what is included in the description “law enforcement-related encounters and activities that occur while the officer is on duty.” Some agencies have found it useful to provide a list of examples in their policies, such as traffic stops, arrests, searches, interrogations or interviews, and pursuits.

7b: Officers should also be required to activate the camera during the course of any encounter with the public that becomes adversarial after the initial contact.

Rationale:

- The policy affords officers discretion concerning whether to record informal, non-law enforcement-related interactions with members of the community, such as a person asking an officer for directions or officers having casual conversations with people they see on patrol. If officers were always required to record in these situations, it could inhibit the informal relationships that are critical to community policing efforts.
 - The policy can help to secure officer support for a body-worn camera program because it demonstrates to officers that they are trusted to understand when cameras should and should not be activated. Protocols should be reinforced in officer training.
 - The policy is broad enough to capture the encounters and activities that, because they are the most likely to produce evidence or lead to complaints from community members about the police, are most in need of accurate documentation. However, the policy is narrow enough to help keep the amount of recorded data more manageable. This can help reduce the costs associated with storing data, reviewing and tagging data, and responding to public records requests.
8. Officers should be required to inform subjects when they are being recorded unless doing so would be unsafe, impractical, or impossible.

Some states have two-party consent laws that require a person making a recording to obtain the consent of the person or persons being recorded. In this case, officers must obtain consent unless the law provides an exception for police recordings. Most states have one-party consent policies, which allow officers to make recordings without obtaining consent.

PERF recommends that police in all states inform subjects that they are being recorded, aside from the exceptions stated already. This policy does not mean that officers in one-party consent states must obtain consent prior to recording; rather, they must inform subjects when the camera is running.

Rationale: The mere knowledge that one is being recorded can help promote civility during police-citizen encounters. Police executives report that cameras improve both officer professionalism and the public’s behavior, an observation that is supported by evaluations of body-worn camera programs.

9. **Once activated, the body-worn camera should remain in recording mode until the conclusion of an incident/encounter, the officer has left the scene, or a supervisor has authorized (on camera) that a recording may cease.**

Officers should also announce while the camera is recording that the incident has concluded and the recording will now cease.

See further discussion in recommendation 11b, “Lessons learned.”

10. **Regardless of the general recording policy contained in recommendation 7, officers should be required to obtain consent prior to recording interviews with crime victims.**

Rationale: There are significant privacy concerns associated with videotaping crime victims. PERF believes that requiring officers to obtain consent prior to recording interviews with victims is the best way to balance privacy concerns with the need to accurately document events.

This policy should apply regardless of whether consent is required under state law.

Crime victims should give or deny consent in writing and/or on camera.

11. **Regardless of the general recording policy contained in recommendation 7, officers should have the discretion to keep their cameras turned off during conversations with crime witnesses and members of the community who wish to report or discuss criminal activity in their neighborhood.**

11a: When determining whether to record interviews with witnesses and members of the community who wish to share information, officers should always consider both the evidentiary value of recording and the subject’s comfort with speaking on camera. To better capture evidence, PERF recommends that officers record statements made by witnesses and people sharing information. However, if a person will not talk unless the camera is turned off, officers may decide that obtaining the information is more important than recording. PERF recommends allowing officers that discretion.

11b: Policies should provide clear guidance regarding the circumstances under which officers will be allowed to exercise discretion to record, the factors that officers should consider when deciding whether to record, and the process for documenting whether to record.

Situations in which officers may need to exercise discretion include the following:

- When a community member approaches an officer to report a crime or share information
- When an officer attempts to interview witnesses, either at a crime scene or during follow-up interviews

Rationale: Some witnesses and community members may be hesitant to come forward with information if they know their statements will be recorded. They may fear retaliation, worry about their own privacy, or not feel comfortable sharing sensitive information on camera. This hesitancy can undermine community policing efforts and make it more difficult for officers to collect important information.

Lessons learned: Agencies have adopted various approaches for recording conversations with witnesses or other people who want to share information:

- Record unless the subject requests otherwise; after receiving such a request, the officer can turn the camera off.
- Require officers to proactively obtain consent from the subject prior to recording.
- Allow officers to position the camera so they capture only audio, and not video, of the person making the statement.
- Instruct officers to keep their cameras running during the initial response to an ongoing/live crime scene to capture spontaneous statements and impressions but to turn the camera off once the scene is controlled and moves into the investigative stage. Officers may then make a case-by-case decision about whether to record later interviews with witnesses on the scene.

If an officer does turn the camera off prior to obtaining information from a witness or informant, the officer should document on camera the reason for doing so.

12. Agencies should prohibit recording other agency personnel during routine, non-enforcement-related activities unless recording is required by a court order or is authorized as part of an administrative or criminal investigation.

Under this policy, for example, officers may not record their partner while they are patrolling in their vehicle (unless they are responding to a call for service), are having lunch at their desks, are on breaks, are in the locker room, etc.

Rationale: This policy supports officer privacy and ensures officers feel safe to engage in routine, informal, non-law enforcement-related conversations with their colleagues.

13. Policies should clearly state any other types of recordings that are prohibited by the agency.

Prohibited recordings should include the following:

- Conversations with confidential informants and undercover officers (to protect confidentiality and officer safety)
- Places where a reasonable expectation of privacy exists (e.g., bathrooms or locker rooms)
- Strip searches
- Conversations with other agency personnel that involve case tactics or strategy

Download and storage policies

- 14. Policies should designate the officer as the person responsible for downloading recorded data from his or her body-worn camera. However, in certain clearly identified circumstances (e.g., officer-involved shootings, in-custody deaths, or other incidents involving the officer that result in a person's bodily harm or death), the officer's supervisor should immediately take physical custody of the camera and should be responsible for downloading the data.**

15. Policies should include specific measures to prevent data tampering, deleting, and copying.

Common strategies include the following:

- Using data storage systems with built-in audit trails
- Requiring the supervisor to physically take custody of the officer's body-worn camera at the scene of a shooting or at another serious incident in which the officer was involved and to assume responsibility for downloading the data (see recommendation 14)
- Conducting forensic reviews of the camera equipment when questions arise (e.g., if an officer claims that he or she failed to record an incident because the camera malfunctioned)

16. Data should be downloaded from the body-worn camera by the end of each shift in which the camera was used.

Rationale: First, many camera systems recharge and clear old data during the downloading process, so this policy helps to ensure cameras are properly maintained and ready for the next use. Second, events will be fresh in the officer's memory for the purpose of tagging and categorizing. Third, this policy ensures evidence will be entered into the system in a timely manner.

17. Officers should properly categorize and tag body-worn camera videos at the time they are downloaded. Videos should be classified according to the type of event or incident captured in the footage.

If video contains footage that can be used in an investigation or captures a confrontational encounter between an officer and a member of the public, it should be deemed "evidentiary" and categorized and tagged according to the type of incident. If the video does not contain evidence or it captures a routine, non-confrontational encounter, it should be considered "non-evidentiary" or a "non-event."

Rationale: Proper labeling of recorded data is critical for two reasons. First, the retention time for recorded data typically depends on the category of the event captured in the video. Thus, proper tagging is critical for determining how long the data will be retained in the agency's system. Second, accurate tagging helps supervisors, prosecutors, and other authorized personnel to readily identify and access the data they need for investigations or court proceedings.

Lessons learned: Some agencies report that reviewing and tagging recorded data can be a time-consuming process that is prone to human error. One agency addressed this issue by working with the camera manufacturer to develop an automated process that links the recorded data to the agency's records management system. Some camera systems can also be linked to electronic tablets that officers can use to review and tag recorded data while still in the field.

18. Policies should specifically state the length of time that recorded data must be retained. For example, many agencies provide 60-day or 90-day retention times for non-evidentiary data.

Agencies should clearly state all retention times in the policy and make the retention times public by posting them on their websites to ensure community members are aware of the amount of time they have to request copies of video footage.

Retention times for recorded data are typically subject to state laws and regulations that govern other types of evidence. Agencies should consult with legal counsel to ensure retention policies are in compliance with these laws.

- For evidentiary data, most state laws provide specific retention times depending on the type of incident. Agencies should set retention times for recorded data to meet the minimum time required by law but may decide to keep recorded data longer.
- For non-evidentiary data, policies should follow state law requirements when applicable. However, if the law does not provide specific requirements for non-evidentiary data, the agency should set a retention time that takes into account the following:
 - Departmental policies governing retention of other types of electronic records
 - Openness of the state's public disclosure laws
 - Need to preserve footage to promote transparency and investigate citizen complaints
 - Capacity for data storage

Agencies should obtain written approval for retention schedules from their legal counsel and prosecutors.

19. Policies should clearly state where body-worn camera videos are to be stored.

The decision of where to store recorded data will depend on each agency's needs and resources. PERF does not recommend any particular storage method. Agencies should consult with their department's legal counsel and with prosecutors to ensure the method for data storage meets any legal requirements and chain-of-custody needs.

Common storage locations include in-house servers (managed internally) and online cloud databases (managed by a third-party vendor). Some agencies burn recorded data to discs as part of the evidence file folder.

Lessons learned: Factors that agency leaders should consider when determining storage location include the following:

- Security concerns
- Reliable methods for backing up data
- Chain-of-custody issues
- Capacity for data storage

Lessons learned: Police executives and prosecutors report that they have had no issues to date with using a third-party vendor to manage recorded data on an online cloud, so long as the chain of custody can be properly established. When using a third-party vendor, the keys to protecting the security and integrity of the data include the following:

- Using a reputable, experienced third-party vendor
- Entering into a legal contract that governs the vendor relationship and protects the agency's data
- Using a system that has a built-in audit trail to prevent data tampering and unauthorized access
- Using a system that has a reliable method for automatically backing up data
- Consulting with prosecutors and legal advisors

Recorded data access and review

20. **Officers should be permitted to review video footage of an incident in which they were involved, prior to making a statement about the incident.**

This can occur, for example, if an officer is involved in a shooting and has to give a statement about the shooting that may be used in an administrative review or a criminal or civil court proceeding.

Rationale:

- Reviewing footage will help officers remember the incident more clearly, which leads to more accurate documentation of events. The goal is to find the truth, which is facilitated by letting officers have all possible evidence of the event.
 - Real-time recording of the event is considered best evidence. It often provides a more accurate record than an officer's recollection, which can be affected by stress and other factors. Research into eyewitness testimony demonstrates that stressful situations with many distractions are difficult even for trained observers to recall correctly.
 - If a jury or administrative review body sees that the report says one thing and the video indicates another, this can create inconsistencies in the evidence that might damage a case or unfairly undermine the officer's credibility.
21. **Written policies should clearly describe the circumstances in which supervisors will be authorized to review an officer's body-worn camera footage.**

Common situations in which supervisors may need to review footage include the following:

- To investigate a complaint against an officer or a specific incident in which the officer was involved
- To identify videos for training purposes and for instructional use

PERF also recommends that supervisors be permitted to review footage to ensure compliance with recording policies and protocols, specifically for the following situations:

- When officers are still in a probationary period or are with a field training officer
- When officers have had a pattern of allegations of verbal or physical abuse
- When officers, as a condition of being put back on the street, agree to a more intensive review
- When officers are identified through an early intervention system

22. An agency's internal audit unit, rather than the officer's direct chain of command, should periodically conduct a random review of body-worn camera footage to monitor compliance with the program and assess overall officer performance.

Rationale: PERF recommends that an agency's internal audit unit (e.g., the Staff Inspection Unit) conduct these random footage reviews to avoid undermining the trust between an officer and his or her supervisor.

The internal audit unit's random monitoring program should be governed by a clearly-defined policy, which should be made available to officers.

23. Policies should explicitly forbid agency personnel from accessing recorded data for personal use and from uploading recorded data onto public and social media websites.

Rationale: Agencies must take every possible precaution to ensure body-worn camera footage is not used, accessed, or released for any unauthorized purpose. This prohibition should be explicitly stated in the written policy.

Written policies should also describe the sanctions for violating this prohibition.

24. Policies should include specific measures for preventing unauthorized access or release of recorded data.

Some systems have built-in audit trails. All video recordings should be considered the agency's property and be subject to any evidentiary laws and regulations.

25. Agencies should have clear and consistent protocols for releasing recorded data externally to the public and the news media (a.k.a. Public Disclosure Policies). Each agency's policy must be in compliance with the state's public disclosure laws (often known as Freedom of Information Acts).

Policies should state who is allowed to authorize the release of data and the process for responding to public requests for data. PERF generally recommends a broad disclosure policy to promote agency transparency and accountability.

However, there are some videos—such as recordings of victims and witnesses and videos taken inside private homes—that raise privacy concerns if they are publicly released. These privacy considerations must be taken into account when deciding when to release video to the public. The policy should also identify any exemptions to public disclosure that are outlined in the state Freedom of Information laws.

In certain cases, an agency may want to proactively release body-worn camera footage. For example, some agencies have released footage to share what the officer's video camera showed regarding controversial incidents. In some cases, the video may support a contention that an officer was in compliance with the law. In other cases, the video may show that the department is taking appropriate action against an officer. Policies should specify the circumstances in which this type of public release is allowed. When determining whether to proactively release data to the public, agencies should consider whether the footage will be used in a criminal court case, and the potential effects that releasing the data might have on the case.

Lessons learned:

- While agencies that have implemented body-worn cameras report that responding to public disclosure requests can be administratively complicated, departments must implement systems that ensure responses to these requests are timely, efficient, and fully transparent. This process should include reviewing footage to locate the requested video, determining which portions are subject to public release under state disclosure laws, and redacting any portions that state law prohibits from disclosure (e.g., images of juveniles' faces).
- The most important element of an agency's policy is to communicate it clearly and consistently within the community.

Training policies

26. Body-worn camera training should be required for all agency personnel who may use or otherwise be involved with body-worn cameras.

This should include supervisors whose officers wear cameras, records/evidence management personnel, training personnel, Internal Affairs, etc.

Agencies may also wish to offer training as a courtesy to prosecutors to help them better understand how to access the data (if authorized), what the limitations of the technology are, and how the data may be used in court.

27. Before agency personnel are equipped with body-worn cameras, they must receive all mandated training.

28. Body-worn camera training should include the following:

- All practices and protocols covered by the agency's body-worn camera policy (which should be distributed to all personnel during training)
- An overview of relevant state laws governing consent, evidence, privacy, and public disclosure
- Procedures for operating the equipment safely and effectively
- Scenario-based exercises that replicate situations that officers might encounter in the field

- Procedures for downloading and tagging recorded data
- Procedures for accessing and reviewing recorded data (only for personnel authorized to access the data)
- Procedures for preparing and presenting digital evidence for court
- Procedures for documenting and reporting any malfunctioning device or supporting system

29. A body-worn camera training manual should be created in both digital and hard-copy form and should be readily available at all times to agency personnel.

The training manual should be posted on the agency's intranet.

30. Agencies should require refresher courses on body-worn camera usage and protocols at least once per year.

Agencies should also require ongoing monitoring of body-worn camera technology for updates on equipment, data storage options, court proceedings, liability issues, etc.

Policy and program evaluation

31. Agencies should collect statistical data concerning body-worn camera usage, including when video footage is used in criminal prosecutions and internal affairs matters.

Statistics should be publicly released at various specified points throughout the year or as part of the agency's year-end report.

Rationale: Collecting and releasing statistical information about body-worn camera footage helps to promote transparency and trust within the community. It also allows agencies to evaluate the effectiveness of their body-worn camera programs and to identify areas for improvement.

32. Agencies should conduct evaluations to analyze the financial impact of implementing a body-worn camera program.

These studies should analyze the following:

- The anticipated or actual cost of purchasing equipment, storing recorded data, and responding to public disclosure requests
- The anticipated or actual cost savings, including legal fees and other costs associated with defending lawsuits and complaints against officers
- Potential funding sources for a body-worn camera program

33. Agencies should conduct periodic reviews of their body-worn camera policies and protocols.

Evaluations should be based on a set standard of criteria, such as the following:

- Recording policies
- Data storage, retention, and disclosure policies
- Training programs
- Community feedback
- Officer feedback
- Internal audit review discoveries
- Any other policies that govern body-worn camera usage

An initial evaluation should be conducted at the conclusion of the body-worn camera pilot program or at a set period of time (e.g., six months) after the cameras were first implemented. Subsequent evaluations should be performed on a regular basis as determined by the agency.

Rationale: Body-worn camera technology is new and evolving. In addition, the policy issues associated with body-worn cameras are just recently being fully considered and understood. Agencies must continue to examine whether their policies and protocols take into account new technologies, are in compliance with new laws, and reflect the most up-to-date research and best practices. Evaluations will also help agencies determine whether their policies and practices are effective and appropriate for their departments.

Conclusion

The recent emergence of body-worn cameras has already impacted policing, and this impact will increase as more agencies adopt this technology. Police agencies that are considering implementing body-worn cameras should not enter into this decision lightly. Once an agency travels down the road of deploying body-worn cameras, it will be difficult to reverse course because the public will come to expect the availability of video records.

When implemented correctly, body-worn cameras can help strengthen the policing profession. These cameras can help promote agency accountability and transparency, and they can be useful tools for increasing officer professionalism, improving officer training, preserving evidence, and documenting encounters with the public. However, they also raise issues as a practical matter and at the policy level, both of which agencies must thoughtfully examine. Police agencies must determine what adopting body-worn cameras will mean in terms of police-community relationships, privacy, trust and legitimacy, and internal procedural justice for officers.

Police agencies should adopt an incremental approach to implementing a body-worn camera program. This means testing the cameras in pilot programs and engaging officers and the community during implementation. It also means carefully crafting body-worn camera policies that balance accountability, transparency, and privacy rights, as well as preserving the important relationships that exist between officers and members of the community.

PERF's recommendations provide guidance that is grounded in current research and in the lessons learned from police agencies that have adopted body-worn cameras. However, because the technology is so new, a large body of research does not yet exist regarding the effects body-worn cameras have on policing. Additional research and field experience are needed before the full impact of body-worn cameras can be understood, and PERF's recommendations may evolve as further evidence is gathered.

Like other new forms of technology, body-worn cameras have the potential to transform the field of policing. To make sure this change is positive, police agencies must think critically about the issues that cameras raise and must give careful consideration when developing body-worn camera policies and practices. First and foremost, agencies must always remember that the ultimate purpose of these cameras should be to help officers protect and serve the people in their communities.

Appendix A. Recommendations Matrix

The tables below include the 33 policy recommendations and other lessons learned that are found throughout this publication. These recommendations, which are based on the research conducted by PERF with support from the COPS Office, reflect the promising practices and lessons that emerged from PERF's September 2013 conference in Washington, D.C., where more than 200 police chiefs, sheriffs, scholars, and federal criminal justice officials shared their experiences with body-worn cameras and their perspectives on the issues discussed in this report. The recommendations also incorporate feedback gathered during PERF's interviews of more than 40 law enforcement officials and other experts, as well as findings from PERF's review of body-worn camera policies submitted by police agencies across the country.

Policy recommendations

General recommendations

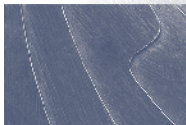
No.	Recommendation	Rationale for Recommendation and Tips for Implementation	Page Reference(s)
1	Policies should clearly state which personnel are assigned or permitted to wear body-worn cameras and under which circumstances.	The decision about which officers should wear body-worn cameras will depend on an agency's resources, law enforcement needs, and other factors. Implementation tip: <ul style="list-style-type: none"> Some agencies find it useful to begin deployment with units that have the most frequent contacts with the public (e.g., traffic or patrol officers). 	Assignment of cameras: p. 38 Incremental implementation: p. 27
2	If an agency assigns cameras to officers on a voluntary basis, policies should stipulate any specific conditions under which an officer might be required to wear one.	Officers who are not otherwise assigned body-worn cameras may become required to wear one in certain circumstances, such as the following: <ul style="list-style-type: none"> After receiving a specified number of complaints or disciplinary actions When participating in a certain type of activity, such as SWAT operations 	Use of body-worn cameras to improve officer performance: p. 7-9 Assignment of cameras: p. 38
3	Agencies should not permit personnel to use privately-owned body-worn cameras while on duty.	The agency would not own recordings made from personal devices; thus, there would be little or no protection against data tampering or releasing the videos to the public or online. There would also be chain-of-custody issues with admitting personal recordings as evidence in court.	Personal cameras: p. 38 Data protection: pp. 15-16; 17-19; 42-47
4	Policies should specify the location on the body on which cameras should be worn.	Implementation tips: <ul style="list-style-type: none"> Factors to consider when determining camera placement include field of vision, comfort, functionality, ease of use, and the type of camera system used. Agencies should field test various camera locations. 	Camera placement: p. 39

No.	Recommendation	Rationale for Recommendation and Tips for Implementation	Page Reference(s)
5	Officers who activate the body-worn camera while on duty should be required to note the existence of the recording in the official incident report.	This policy ensures that the presence of video footage is accurately documented in the case file so that investigators, prosecutors, oversight boards, and courts are aware of its existence.	Documentation of camera usage: p. 39
6	Officers who wear body-worn cameras should be required to articulate on camera or in writing their reasoning if they fail to record an activity that is required by department policy to be recorded. (See Recommendations 7-13 for Recording Protocols.)	<p>There may be times when an officer fails to record an event or activity that is otherwise required by agency policy to be recorded. This may arise under the following circumstances:</p> <ul style="list-style-type: none"> • When conditions make it unsafe or impossible to activate the camera • When an officer exercises discretion, per agency policy, to not record because doing so would be detrimental to other agency priorities (e.g., protecting privacy rights, preserving community relations, or facilitating intelligence gathering) • When the camera malfunctions or otherwise fails to capture the event/activity <p>In these situations, officers should document in writing and/or on camera their reasons for not recording. This holds officers accountable, allows supervisors to investigate recording irregularities, and documents the absence of video footage for investigations and court proceedings.</p> <p>Implementation tips:</p> <ul style="list-style-type: none"> • The failure to record should be noted in the officer's written report. • If the officer deactivates the camera in the middle of recording, the officer should state on camera the reasons why. 	<p>Documenting the failure to record: pp. 13; 14; 18-19; 23; 28; 30; 39</p> <p>Recording discretion: pp. 12-14; 18-19; 22-23; 40</p>



Recording protocols

No.	Recommendation	Findings in Support of Recommendation and Tips for Implementation	Page Reference(s)
7	<p>General recording policy: Officers should be required to activate their body-worn cameras when responding to all calls for service and during all law enforcement-related encounters and activities that occur while the officer is on duty. Exceptions include recommendations 10 and 11 below or other situations in which activating cameras would be unsafe, impossible, or impractical.</p>	<p>Rather than requiring officers to record all encounters with the public, most agencies that PERF consulted require officers to record during calls for service and during all law enforcement-related encounters and activities. PERF agrees with this approach. This means that officers have discretion whether to record informal, non-law enforcement-related interactions with the public.</p> <p>The reasons for adopting this approach include the following:</p> <ul style="list-style-type: none"> • Protecting relationships between the police and the community • Promoting community policing efforts • Securing officer support for the body-worn camera program by signaling that they are trusted to know when to record • Keeping data storage manageable 	<p>Recording discretion: pp. 12–14; 18–19; 22–23; 40</p>
7a	<p>Policies and training materials should clearly define what is included in the description “law enforcement-related encounters and activities that occur while the officer is on duty.”</p>	<p>Officers should have clear guidance about which specific types of activities, events, and encounters they are required to record.</p> <p>Implementation tip:</p> <ul style="list-style-type: none"> • Some agencies have found it useful to provide a list of specific examples in their policies, such as traffic stops, arrests, searches, interrogations or interviews, and pursuits. Policies should note that these types of lists are not exhaustive. • These recording policies should be reinforced in training. 	<p>Recording guidance: pp. 13; 18–24; 40</p>
7b	<p>Officers should also be required to activate the camera during the course of any encounter with the public that becomes adversarial after the initial contact.</p>	<p>If officers are given discretion to not record informal, non-law enforcement-related encounters with the public, they should nonetheless be instructed to activate their cameras if the encounter becomes adversarial. This provides documentation of the encounter in the event that a complaint later arises. It also may help to defuse tense situations and prevent further escalation.</p> <p>Implementation tip:</p> <ul style="list-style-type: none"> • Officers may be called upon to activate their cameras quickly and in high-stress situations. Therefore, training programs should strive to ensure that camera activation becomes second-nature to officers. Situational training is particularly useful to achieve this goal. 	<p>Recording adversarial encounters: pp. 23; 40</p> <p>Preserving documentation for complaints: pp. 5–7</p> <p>Situational training: pp. 28–29; 47</p>



No.	Recommendation	Findings in Support of Recommendation and Tips for Implementation	Page Reference(s)
8	Officers should be required to inform subjects when they are being recorded unless doing so would be unsafe, impractical, or impossible.	<p>The mere knowledge that one is being recorded can help promote civility during police encounters with the public. Many police executives have found that officers can avoid adversarial situations if they inform people that they are being recorded.</p> <p>Implementation tips:</p> <ul style="list-style-type: none"> • In states with two-party consent laws, officers are required to announce they are recording and to obtain the subject's consent. Agencies should consult their state laws to determine whether this requirement applies. • In one-party consent states, PERF's recommendation that officers inform a person that he or she is being recorded does <i>not</i> mean that officers must also obtain the person's consent to record. • An officer may exercise discretion to not announce that he or she is recording if doing so would be unsafe, impractical, or impossible. 	<p>Consent (in general): pp. 14; 40</p> <p>Improving police-citizen encounters: pp. 6; 14</p> <p>Informing when recording: pp. 6; 14; 18–19; 40</p>
9	Once activated, the body-worn camera should remain in recording mode until the conclusion of an incident/encounter, the officer has left the scene, or a supervisor has authorized (on camera) that a recording may cease.	<p>Implementation tip:</p> <ul style="list-style-type: none"> • Prior to deactivating the camera, officers should announce that the incident has concluded and that the recording will now cease. 	Camera deactivation: pp. 18–19; 41
10	Regardless of the general recording policy contained in recommendation 7, officers should be required to obtain consent prior to recording interviews with crime victims.	<p>There are significant privacy concerns associated with videotaping crime victims. PERF believes that requiring officers to obtain consent prior to recording interviews with victims is the best way to balance privacy concerns with the need to accurately document events.</p> <p>Implementation tips:</p> <ul style="list-style-type: none"> • Victims should give or deny consent in writing and/or on camera. • This policy should apply regardless of whether consent is required under state law. 	Recording crime victims: pp. 13; 18–19; 40–41

No.	Recommendation	Findings in Support of Recommendation and Tips for Implementation	Page Reference(s)
11	Regardless of the general recording policy contained in recommendation 7, officers should have the discretion to keep their cameras turned off during conversations with crime witnesses and members of the community who wish to report or discuss criminal activity in their neighborhood.	<p>One of the most important jobs of police officers is to gather information about crime that occurs in their communities. These intelligence-gathering efforts may be formal (e.g., through interviews with witnesses of a crime) or informal (e.g., through conversations with community members with whom the officer has a relationship). Some police executives report that body-worn cameras can inhibit intelligence-gathering efforts, as some witnesses and community members may be hesitant to report information if they know their statements will be recorded. They may fear retaliation, worry about their own privacy, or not feel comfortable sharing sensitive information on camera. Officers should have the discretion to keep their cameras turned off in these situations.</p> <p>Implementation tips:</p> <ul style="list-style-type: none"> • If a person is not comfortable sharing information on camera, some agencies permit officers to position the camera so that they capture only audio, not video, recordings of the person making the statement. This affords greater privacy protections while still preserving evidentiary documentation. • It is useful for officers to keep their cameras running during the initial response to an ongoing/live crime scene to capture spontaneous statements and impressions made by people at the scene. Once the scene is controlled and has moved into the investigative stage, officers may make a case-by-case decision about whether to record later interviews with witnesses. • When encountering a reluctant witness, officers should attempt to develop a rapport by being honest and not pressuring the person to talk on camera. • If an officer turns the camera off prior to obtaining information, the officer should document on camera the reason for doing so. 	<p>Impact on intelligence-gathering efforts: pp. 19–21</p> <p>Recording statements from witnesses or citizen informants: pp. 22–23; 41–42</p>
11a	When determining whether to record interviews with witnesses and members of the community who wish to share information, officers should always consider both the evidentiary value of recording and the subject's comfort with speaking on camera. To better capture evidence, PERF recommends that officers record statements made by witnesses and people sharing information. However, if a person will not talk unless the camera is turned off, officers may decide that obtaining the information is more important than recording. PERF recommends allowing officers that discretion.	<p>Recorded statements made by crime victims and members of the community can provide valuable evidence for investigations and prosecutions. Therefore, it is always preferable to capture these statements on camera when possible.</p> <p>Implementation tips:</p> <ul style="list-style-type: none"> • Many agencies instruct officers to keep the camera activated when speaking with witnesses or informants unless the person actively requests otherwise. • Agencies should work with prosecutors to determine how best to weigh the importance of having a recorded statement versus the importance of gathering information when a witness refuses to speak on camera. 	<p>Recording statements from witnesses or citizen informants: pp. 22–23; 41–42</p>
11b	Policies should provide clear guidance regarding the circumstances under which officers will be allowed to exercise discretion to record, the factors that officers should consider when deciding whether to record, and the process for documenting whether to record.	<p>Although discretion is important for protecting community policing efforts, this discretion must not be unlimited. Officers should always adhere to agency policies regarding discretion and should document when they exercise this discretion.</p>	<p>Recording statements from witnesses or citizen informants: pp. 22–23; 41–42</p>

No.	Recommendation	Findings in Support of Recommendation and Tips for Implementation	Page Reference(s)
12	Agencies should prohibit recording other agency personnel during routine, non-enforcement-related activities unless recording is required by a court order or is authorized as part of an administrative or criminal investigation.	<p>This policy supports officer privacy and ensures officers feel safe to engage in routine, informal, non-law enforcement-related conversations with their colleagues. Situations that should not be recorded include the following:</p> <ul style="list-style-type: none"> • Non-law enforcement-related conversations held between officers while on patrol (except while responding to a call for service) • Conversations between agency personnel held during breaks, at lunch, in the locker room, or during other non-law enforcement-related activities 	Prohibited recordings: p. 42
13	<p>Policies should clearly state any other types of recordings that are prohibited by the agency. Prohibited recordings should include the following:</p> <ul style="list-style-type: none"> • Conversations with confidential informants and undercover officers to protect confidentiality and officer safety • Places where a reasonable expectation of privacy exists (e.g., bathrooms or locker rooms) • Strip searches • Conversations with other agency personnel that involve case tactics or strategy 	When determining whether a recording should be prohibited, agencies should consider privacy concerns, the need for transparency and accountability, the safety of the officer and the citizen, and the evidentiary value of recording.	<p>Prohibited recordings: pp. 37–38; 42</p> <p>Privacy considerations (in general): pp. 11–20</p>

Download and storage policies

No.	Recommendation	Findings in Support of Recommendation and Tips for Implementation	Page Reference(s)
14	Policies should designate the officer as the person responsible for downloading recorded data from his or her body-worn camera. However, in certain clearly identified circumstances (e.g., officer-involved shootings, in-custody deaths, or other incidents involving the officer that result in a person's bodily harm or death), the officer's supervisor should immediately take physical custody of the camera and should be responsible for downloading the data.	In most cases, it is more efficient for an officer to download recorded data from his or her own body-worn camera. The officer will have the best access to the camera and knowledge of the footage for tagging/documentation purposes. However, if the officer is involved in a shooting or other incident that results in someone's bodily harm or death, it is prudent for the officer's supervisor to take immediate custody of the officer's camera for evidence preservation purposes.	Data protection: pp. 15–16; 18–19; 42–44
15	Policies should include specific measures to prevent data tampering, deleting, and copying.	Implementation tips: <ul style="list-style-type: none"> Agencies should create an audit system that monitors who accesses recorded data, when, and for what purpose. Some camera systems come with a built-in audit trail. Agencies can conduct forensic reviews to determine whether recorded data has been tampered with. 	Data protection: pp. 15–16; 18–19; 42–45
16	Data should be downloaded from the body-worn camera by the end of each shift in which the camera was used.	The majority of agencies that PERF consulted require officers to download recorded data by the conclusion of his or her shift. The reasons for this include the following: <ul style="list-style-type: none"> Many camera systems recharge and clear old data during the downloading process. Events will be fresh in the officer's memory for the purpose of tagging and categorizing. Evidence will be entered into the system in a timely manner. 	Data protection: pp. 15–16; 18–19; 42–45
17	Officers should properly categorize and tag body-worn camera videos at the time they are downloaded. Videos should be classified according to the type of event or incident captured in the footage.	Properly categorizing and labeling/tagging recorded video is important for the following reasons: <ul style="list-style-type: none"> The type of event/incident on the video will typically dictate data retention times. It enables supervisors, investigators, and prosecutors to more easily identify and access the data they need. Implementation tips: <ul style="list-style-type: none"> Some camera systems can be linked to an agency's records management system to allow for automated tagging and documentation. Some camera systems can be linked to electronic tablets that officers can use to review and tag recorded data while in the field. This saves the officer time spent tagging data at the end of his or her shift. 	Data tagging: pp. 16–17; 18–19; 33–34; 43

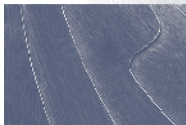
No.	Recommendation	Findings in Support of Recommendation and Tips for Implementation	Page Reference(s)
18	Policies should specifically state the length of time that recorded data must be retained. For example, many agencies provide 60-day or 90-day retention times for non-evidentiary data.	<p>Most state laws provide specific retention times for videos that contain evidentiary footage that may be used for investigations and court proceedings. These retention times will depend on the type of incident captured in the footage. Agencies typically have more discretion when setting retention times for videos that do not contain evidentiary footage.</p> <p>When setting retention times, agencies should consider the following:</p> <ul style="list-style-type: none"> • State laws governing evidence retention • Departmental policies governing retention of other types of electronic records • The openness of the state's public disclosure laws • The need to preserve footage to promote transparency • The length of time typically needed to receive and investigate citizen complaints • The agency's capacity for data storage <p>Implementation tips:</p> <ul style="list-style-type: none"> • Agencies should make retention times public by posting them on their websites. • When setting retention times, agencies should consult with legal counsel to ensure compliance with relevant evidentiary laws. Agencies should obtain written approval for retention schedules from prosecutors and legal counsel. 	Data retention: pp. 16–19; 33–34; 43–45

No.	Recommendation	Findings in Support of Recommendation and Tips for Implementation	Page Reference(s)
19	Policies should clearly state where body-worn camera videos are to be stored.	<p>Common storage locations include in-house servers (managed internally) and online cloud databases (managed by a third-party vendor). Factors that agencies should consider when determining where to store data include the following:</p> <ul style="list-style-type: none"> • Security concerns • Reliable methods for backing up data • Chain-of-custody issues • Capacity for data storage <p>Implementation tips:</p> <ul style="list-style-type: none"> • Agencies should consult with prosecutors and legal advisors to ensure data storage methods meet all legal requirements and chain-of-custody needs. • For videos requiring long-term storage, some agencies burn the data to a disc, attach it to the case file, and delete it from the internal server or online database. This frees up expensive storage space for videos that are part of an ongoing investigation or that have shorter retention times. • The agencies that PERF consulted report having no issues to date with using a third-party vendor to manage recorded data. To protect the security and integrity of data managed by a third party, agencies should use a reputable, experienced vendor; enter into a legal contract with the vendor that protects the agency's data; ensure the system includes a built-in audit trail and reliable backup methods; and consult with legal advisors. 	Data storage: pp. 15–16; 18–19; 32–34; 43–44

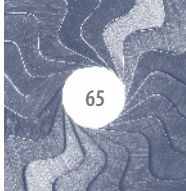
Recorded data access and review

No.	Recommendation	Findings in Support of Recommendation and Tips for Implementation	Page Reference(s)
20	Officers should be permitted to review video footage of an incident in which they were involved, prior to making a statement about the incident.	<p>Most agencies that PERF consulted permit officers to review video footage of an incident in which they were involved, such as a shooting, prior to making a statement that might be used in an administrative review or court proceeding. The reasons for this policy include the following:</p> <ul style="list-style-type: none"> • Reviewing footage will help lead to the truth of the incident by helping officers to remember an incident more clearly. • Real-time recording is considered best evidence and provides a more accurate record than the officer's recollection. • Research into eyewitness testimony has demonstrated that stressful situations with many distractions are difficult for even trained observers to recall correctly. • Officers will have to explain and account for their actions, regardless of what the video shows. 	Officer review of footage: pp. 29–30; 45–47
21	Written policies should clearly describe the circumstances in which supervisors will be authorized to review an officer's body-worn camera footage.	<p>PERF recommends that supervisors be authorized to review footage in the following circumstances:</p> <ul style="list-style-type: none"> • When a supervisor needs to investigate a complaint against an officer or a specific incident in which the officer was involved • When a supervisor needs to identify videos for training purposes and for instructional use • When officers are still in a probationary period or are with a field training officer • When officers have had a pattern of allegations of abuse or misconduct • When officers have agreed to a more intensive review as a condition of being put back on the street • When an officer has been identified through an early intervention system 	Supervisor review of footage: pp. 24–26; 27–28; 45–47

No.	Recommendation	Findings in Support of Recommendation and Tips for Implementation	Page Reference(s)
22	An agency's internal audit unit, rather than the officer's direct chain of command, should periodically conduct a random review of body-worn camera footage to monitor compliance with the program and assess overall officer performance.	<p>Randomly monitoring an officer's camera footage can help proactively identify problems, determine noncompliance, and demonstrate accountability. However, unless prompted by one of the situations described in recommendation 21, PERF does not generally recommend that supervisors randomly monitor footage recorded by officers in their chain of command for the purpose of spot-checking the officers' performance. Instead, an agency's internal audit unit should be responsible for conducting random monitoring. This allows agencies to monitor compliance with the program and assess performance without undermining the trust between an officer and his or her supervisor.</p> <p>Implementation tips:</p> <ul style="list-style-type: none"> • Internal audit reviews should be truly random and not target a specific officer or officers. • Audits should be conducted in accordance with a written standard of review that is communicated to officers. 	Internal audit unit review of footage: pp. 24–26; 28; 45–47
23	Policies should explicitly forbid agency personnel from accessing recorded data for personal use and from uploading recorded data onto public and social media websites.	<p>Agencies must take every possible precaution to ensure that camera footage is not used, accessed, or released for any unauthorized purposes.</p> <p>Implementation tips:</p> <ul style="list-style-type: none"> • Written policies should describe the sanctions for violating this prohibition. 	Data protection: pp. 15–16; 18–19; 45–46
24	Policies should include specific measures for preventing unauthorized access or release of recorded data.	All video recordings should be considered the agency's property and be subject to any evidentiary laws and regulations. (See also recommendations 15 and 23.)	Data protection: pp. 15–16; 18–19; 45–46

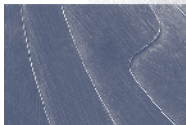


No.	Recommendation	Findings in Support of Recommendation and Tips for Implementation	Page Reference(s)
25	Agencies should have clear and consistent protocols for releasing recorded data externally to the public and the news media (a.k.a. Public Disclosure Policies). Each agency's policy must be in compliance with the state's public disclosure laws (often known as Freedom of Information Acts).	<p>PERF generally recommends a broad public disclosure policy for body-worn camera videos. By implementing a body-worn camera program, agencies are demonstrating that they are committed to transparency and accountability, and their disclosure policies should reflect this commitment.</p> <p>However, there are some situations when an agency may determine that publicly releasing body-worn camera footage is not appropriate. These include the following:</p> <ul style="list-style-type: none"> • Videos that contain evidentiary footage being used in an ongoing investigation or court proceeding are typically exempted from disclosure by state public disclosure laws. • When the videos raise privacy concerns, such as recordings of crime victims or witnesses or footage taken inside a private home, agencies must balance privacy concerns against the need for transparency while complying with relevant state public disclosure laws. <p>Implementation tips:</p> <ul style="list-style-type: none"> • Policies should state who is allowed to authorize the release of videos. • When determining whether to proactively release videos to the public (rather than in response to a public disclosure request), agencies should consider whether the footage will be used in a criminal court case and the potential effects that releasing the data may have on the case. • Policies should clearly state the process for responding to public disclosure requests, including the review and redaction process. • Agencies should always communicate their public disclosure policies to the public. 	Public disclosure: pp. 17–19; 33–34; 46–47



Training policies

No.	Recommendation	Findings in Support of Recommendation and Tips for Implementation	Page Reference(s)
26	Body-worn camera training should be required for all agency personnel who may use or otherwise be involved with body-worn cameras.	<p>Personnel who receive training should include the following:</p> <ul style="list-style-type: none"> • Officers who will be assigned or permitted to wear cameras • Supervisors whose officers wear cameras • Records/evidence management personnel • Training personnel • Internal Affairs • Anyone else who will be involved with the body-worn camera program <p>Implementation tip:</p> <ul style="list-style-type: none"> • As a courtesy, agencies may wish to offer training to prosecutors so they can better understand how to access the data, what the limitations of the technology are, and how the data may be used in court. 	Training: pp. 47–49
27	Before agency personnel are equipped with body-worn cameras, they must receive all mandated training.	This ensures officers are prepared to operate the cameras safely and properly prior to wearing them in the field.	Training: pp. 25; 28–29; 47–49
28	<p>Body-worn camera training should include the following:</p> <ul style="list-style-type: none"> • All practices and protocols covered by the agency’s body-worn camera policy (which should be distributed to all personnel during training) • An overview of relevant state laws governing consent, evidence, privacy, and public disclosure • Procedures for operating the equipment safely and effectively • Scenario-based exercises that replicate situations that officers might encounter in the field • Procedures for downloading and tagging recorded data • Procedures for accessing and reviewing recorded data (only for personnel authorized to access the data) • Procedures for preparing and presenting digital evidence for court • Procedures for documenting and reporting any malfunctioning device or supporting system 	<p>Implementation tips:</p> <ul style="list-style-type: none"> • Agencies can use existing body-worn camera footage to train officers on the proper camera practices and protocols. • Scenario-based training can be useful to help officers become accustomed to wearing and activating their cameras. Some agencies require officers to participate in situational exercise using training model cameras. 	Training: pp. 7; 26–30; 47–49
29	A body-worn camera training manual should be created in both digital and hard-copy form and should be readily available at all times to agency personnel.	<p>Implementation tip:</p> <ul style="list-style-type: none"> • The training manual should be posted on the agency’s intranet. 	Training: pp. 47–49
30	Agencies should require refresher courses on body-worn camera usage and protocols at least once per year.	Body-worn camera technology is constantly evolving. In addition to yearly refresher courses, training should occur anytime an agency’s body-worn camera policy changes. Agencies should also keep abreast of new technology, data storage options, court proceedings, and other issues surrounding body-worn cameras.	Training: pp. 47–49



Policy and program evaluation

No.	Recommendation	Findings in Support of Recommendation and Tips for Implementation	Page Reference(s)
31	Agencies should collect statistical data concerning body-worn camera usage, including when video footage is used in criminal prosecutions and internal affairs matters.	<p>Collecting and releasing data about body-worn cameras helps promote transparency and trust within the community. It also helps agencies to evaluate the effectiveness of their programs, to determine whether their goals are being met, and to identify areas for improvement. Agencies can also use the findings when presenting information about their body-worn camera programs to officers, oversight boards, policymakers, and the community.</p> <p>Implementation tip:</p> <ul style="list-style-type: none"> Statistics should be publicly released at various specified points throughout the year or as part of the agency's year-end report. 	Engaging the public: pp. 21–22; 24; 28–29; 47–48
32	Agencies should conduct evaluations to analyze the financial impact of implementing a body-worn camera program.	<p>A cost-benefit analysis can help an agency to determine the feasibility of implementing a body-worn camera program. The analysis should examine the following:</p> <ul style="list-style-type: none"> The anticipated or actual cost of purchasing equipment, storing recorded data, and responding to public disclosure requests The anticipated or actual cost savings, including legal fees and other costs associated with defending lawsuits and complaints against officers Potential funding sources for a body-worn camera program 	<p>Financial considerations: pp. 30–34; 48–49</p> <p>Cost-benefit analysis: p.31</p> <p>Reducing complaints and lawsuits: pp. 6–9</p>
33	Agencies should conduct periodic reviews of their body-worn camera policies and protocols.	<p>Body-worn camera technology is new and evolving, and the policy issues associated with body-worn cameras are just recently being fully considered. Agencies must continue to examine whether their policies and protocols take into account new technologies, are in compliance with new laws, and reflect the most up-to-date research and best practices. Evaluations will also help agencies determine whether their policies and practices are effective and appropriate for their departments.</p> <p>Implementation tips:</p> <ul style="list-style-type: none"> Evaluations should be based on a set of standard criteria and outcome measures. An initial evaluation should be conducted at the conclusion of the body-worn camera pilot program or at a set period of time (e.g., six months) after the cameras were first implemented. Subsequent evaluations should be conducted on a regular basis as determined by the agency. 	Program evaluation: p. 48–49

Additional lessons learned: engaging officers, policymakers, and the community

According to the police officials whom PERF consulted, it is critical for agencies to engage the community, policymakers, courts, oversight boards, unions, frontline officers, and other stakeholders about the department's body-worn camera program. Open communication—both prior to and after camera deployment—can strengthen the perceived legitimacy of the camera program, demonstrate agency transparency, and help educate stakeholders about the realities of using body-worn cameras. The following table presents lessons that agencies shared with PERF with respect to engaging stakeholders.

No.	Lesson Learned	Page Reference(s)
1	Engaging the community prior to implementing a camera program can help secure support for the program and increase the perceived legitimacy of the program within the community.	pp. 21–22; 24
2	Agencies have found it useful to communicate with the public, local policymakers, and other stakeholders about what the cameras will be used for and how the cameras will affect them.	pp. 21–22; 24
3	Social media is an effective way to facilitate public engagement about body-worn cameras.	pp. 21–22; 24
4	Transparency about the agency's camera policies and practices, both prior to and after implementation, can help increase public acceptance and hold agencies accountable. Examples of transparency include posting policies on the agency's website and publicly releasing video recordings of controversial incidents.	pp. 21–22; 24
5	When presenting officers with any new technology, program, or strategy, the best approach includes efforts by agency leaders to engage officers on the topic, explain the goals and benefits of the initiative, and address any concerns officers may have.	pp. 26–27
6	Briefings, roll calls, and meetings with union representatives are effective means to communicate with officers about the agency's body-worn camera program.	pp. 26–27
7	Creating an implementation team that includes representatives from across the agency can help strengthen program legitimacy and ease implementation.	pp. 26–27
8	Agencies have found that officers support a body-worn camera program if they view the cameras as useful tools: e.g., as a technology that helps to reduce complaints and produce evidence that can be used in court or in internal investigations.	pp. 26–27
9	Recruiting an internal "champion" to help inform officers about the benefits of the cameras has proven successful in addressing officers' concerns about embracing the new technology.	pp. 26–27
10	Taking an incremental approach to implementation can help make deployment run more smoothly. This can include testing cameras during a trial period, rolling out cameras slowly, or initially assigning cameras to tech savvy officers.	pp. 26–27
11	Educating oversight bodies about the realities of using cameras can help them to understand operational challenges and why there may be situations in which officers are unable to record. This can include demonstrations to judges, attorneys, and civilian review boards about how the cameras operate.	pp. 28–30

Appendix B. Conference attendees

PERF and the COPS Office convened this one-day conference on September 11, 2013, in Washington, D.C., to discuss the policy and operational issues surrounding body-worn cameras. The titles listed below reflect attendees' positions at the time of the conference.

Albuquerque (NM) Police Department

William Roseman
Deputy Chief of Police

Alexandria (VA) Police Department

David Huchler
Deputy Chief of Police

Eddie Reyes
Deputy Chief of Police

Anne Arundel County (MD) Police Department

Herbert Hasenpusch
Captain

Thomas Kohlmann
Lieutenant

Appleton (WI) Police Department

Gary Lewis
Lieutenant

Arlington County (VA) Police Department

Jason Bryk
Lieutenant

Michael Dunne
Deputy Chief of Police

Lauretta Hill
Assistant Chief of Police

Arnold & Porter LLP

Meredith Esser
Associate

Peter Zimroth
Partner

Atlanta (GA) Police Department

Todd Coyt
Lieutenant

Joseph Spillane
Major

Aurora (CO) Police Department

Dan Mark
Lieutenant

Baltimore County (MD) Police Department

Karen Johnson
Major

James Johnson
Chief of Police

Baltimore (MD) Fraternal Order of Police

Bob Cherry
President

Baltimore (MD) Police Department

Jeronimo Rodriguez
Deputy Police Commissioner

Bay Area Rapid Transit Police Department

Kenton Rainey
Chief of Police

Boyd (VA) Police Department

Michael Brave
Training Officer

Bureau of Justice Assistance

U.S. Department of Justice

David Adams
Senior Policy Advisor

Steve Edwards
Senior Policy Advisor

Kristen Mahoney
Deputy Director of Policy

Denise O'Donnell
Director

Brian Reaves
Senior Statistician

Cornelia Sigworth
Senior Advisor

Christopher Traver
Senior Policy Advisor

Calgary (AB) Police Service

Trevor Daroux
Deputy Chief of Police

Evel Kiez
Sergeant

Asif Rashid
Staff Sergeant

Camden County (NJ) Police Department

Orlando Cuevas
Deputy Chief of Police

Charlotte-Mecklenburg (NC) Police Department

Michael Adams
Major

Stephen Willis
Major

Cincinnati (OH) Police Department

Thomas Streicher
Chief of Police (Retired)

City of Akron (OH) Police Department

James Nice
Chief of Police

Civil Rights Division

U.S. Department of Justice

Roy L. Austin, Jr.
Deputy Assistant Attorney General

Christy Lopez
Deputy Chief

Zazy Lopez
Attorney

Jeffrey Murray
Attorney

Tim Mygatt
Special Counsel

Rashida Ogletree
Attorney

CNA Corporation

James Stewart
Director of Public Safety

Columbus (OH) Division of Police

Gary Cameron
Commander, Narcotics Bureau

Commission on Accreditation for Law Enforcement Agencies, Inc.

Craig Hartley
Deputy Director

CP2, Inc.

Carl Peed
President

Dallas (TX) Police Department

Andrew Acord
Deputy Chief of Police

Dalton (GA) Police Department

Jason Parker
Chief of Police

Daytona Beach (FL) Police Department

Michael Chitwood
Chief of Police

Denver (CO) Police Department

Magen Dodge
Commander

Des Moines (IA) Police Department

Judy Bradshaw
Chief of Police

Todd Dykstra
Captain

Stephen Waymire
Major

Detroit (MI) Police Department

James Craig
Chief of Police

Digital Ally, Inc.

Matthew Andrews
Engineer

Stan Ross
CEO

Eugene (OR) Police Department

James Durr
Captain

Fairfax County (VA) Police Department

Bob Blakley
Lieutenant

Fayetteville (NC) Police Department

Wayne Burgess
Lieutenant

Bradley Chandler
Assistant Chief of Police

Timothy Tew
Lieutenant

Federal Bureau of Investigation

Jacques Battiste
Supervisory Special Agent

Federal Emergency Management Agency

Roberto Hylton
Senior Law Enforcement Advisor

Edward Welch
Director

Fort Collins (CO) Police Department

Cory Christensen
Deputy Chief of Police

Garner (NC) Police Department

Chris Hagwood
Lieutenant

Glenview (IL) Police Department

William Fitzpatrick
Chief of Police

Grand Junction (CO) Police Department

John Camper
Chief of Police

Greater Manchester (UK) Police

Paul Rumney
Detective Chief Superintendent

Greensboro (NC) Police Department

Kenneth Miller
Chief of Police

George Richey
Captain

Wayne Scott
Deputy Chief of Police

Greenville (NC) Police Department

Hassan Aden
Chief of Police

Greenwood & Streicher LLC

Scott Greenwood
CEO

Gulf States Regional Center for Public Safety Innovations

Daphne Levenson
Director

Harrisonburg (VA) Police Department

John Hancock
Officer

Roger Knott
Lieutenant

Hayward (CA) Police Department

Lauren Sugayan
Program Analyst

Henrico County (VA) Division of Police

Douglas Middleton
Chief of Police

Herndon (VA) Police Department

Maggie DeBoard
Chief of Police

Steven Pihonak
Sergeant

Houston (TX) Police Department

Jessica Anderson
Sergeant

James Jones
Captain

Charles McClelland
Chief of Police

Indianapolis (IN) Department of Public Safety

David Riggs
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Innovative Management Consulting, Inc.

Thomas Maloney
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International Association of Chiefs of Police

Mike Fergus
Program Manager

David Roberts
Senior Program Manager

Jersey City (NJ) Police Department

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Police ID Officer

Stephen Golecki
Sr. Police ID Officer

Samantha Pescatore
Officer

John Scalcione
Officer

Daniel Sollitti
Captain

L-3 Communications

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Executive Director, Public Safety

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Chief of Police

Lansing (MI) Police Department

Michael Yankowski
Chief of Police

Las Vegas Metropolitan (NV) Police Department

Liesl Freedman
General Counsel

Thomas Roberts
Captain

Leesburg (VA) Police Department

Carl Maupin
Lieutenant

Lenexa (KS) Police Department

Dawn Layman
Major

Los Angeles County Sheriff's Department

David Betkey
Division Chief

Kevin Goran
Division Chief

James Hellmold
Assistant Sheriff

Chris Marks
Lieutenant

Los Angeles Police Department

Greg Meyer
Captain (Retired)

Louisville (KY) Metro Police Department

Robert Schroeder
Major

Lynchburg (VA) Police Department

Mark Jamison
Captain

Ryan Zuidema
Captain

Madison (WI) Police Department

June Groehler
Lieutenant

Manning & Kass, Ellrod, Ramirez, Trester

Mildred Olinn
Partner

Eugene Ramirez
Senior Partner

Maryland State Police Department

Michael Brady
Sergeant

Clifford Hughes
Assistant Bureau Chief

Thomas Vondersmith
Director

Meriden (CT) Police Department

Jeffry Cossette
Chief of Police

Timothy Topulos
Deputy Chief of Police

Mesa (AZ) Police Department

Tony Filler
Commander

Metropolitan Nashville (TN) Police Department

Michael Anderson
Chief of Police

John Singleton
IT Security Manager

Metropolitan (DC) Police Department

Brian Bobick
Sergeant

Alfred Durham
Assistant Chief of Police

Barry Gersten
CIO

Lamar Greene
Assistant Chief of Police

Cathy Lanier
Chief of Police

Thomas Wilkins
Executive Director

Miami Beach (FL) Police Department

David De La Espriella
Captain

Milwaukee (WI) Police Department

Mary Hoerig
Inspector of Police

Minneapolis (MN) Police Department

Bruce Folkens
Commander

Janeé Harteau
Chief of Police

Montgomery County (MD) Police Department

Brian Acken
Director

Luther Reynolds
Assistant Chief of Police

Motorola Solutions, Inc.

Domingo Herraiz
Vice President

Kelly Kirwan
Corporate Vice President

Steve Sebestyen
Business Development Manager

MPH Industries Inc.

Larry Abel
Senior Training Officer

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U.S. Department of Justice

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Social Science Analyst

William Ford
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Associate Curator

National Press Photographers Association

Mickey Osterreicher
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Luiz Casanova
Assistant Chief of Police

New Orleans (LA) Police Department

Ronal Serpas
Superintendent of Police

New South Wales (AUS) Police Force

Stephen Cullen
Chief Superintendent

New York City Police Department

Terrence Riley
Inspector

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Chief of Police

Samuel DeMaio

Director

Michele MacPhee

Lieutenant

Brian O'Hara

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Mark Person

Major

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Hector Velez

Deputy Chief of Police

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Chief of Police (Retired)

Javid Elahi

Lieutenant

Thomas Pulaski

Senior Administrative Manager

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Director of Planning and Policy Analysis

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Richmond (CA) Police Department**Allwyn Brown**

Deputy Chief of Police

Richmond (VA) Police Department**Scott Booth**

Major

Sydney Collier

Major

Roger Russell

Captain

Riverside (CA) Police Department**Bruce Loftus**

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Roanoke (VA) County Police Department**Mike Warner**

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Robinson & Yu LLC**David Robinson**

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Seattle (WA) Police Department**David Puente**

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Spokane (WA) Police Department**Bradley Arleth**

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Tim Schwering

Deputy Director

Springfield (MO) Police Department**Paul Williams**

Chief of Police

Tampa (FL) Police Department**Michael Baumaister**

Captain

TASER International**Jeff Kukowski**

Chief Operating Officer

Tennessee Association of Chiefs of Police**Maggi McLean Duncan**

Executive Director and CEO

Thomasville (NC) Police Department**Rusty Fritz**

Sergeant

Topeka (KS) Police Department**Ronald Miller**

Chief of Police

Toronto (ON) Police Service**Mike Federico**

Deputy Chief of Police

John Sandeman

Unit Commander

Peter Sloly

Deputy Chief of Police

Tucson (AZ) Police Department

Sharon Allen
Deputy Chief of Police

Jim Rizzi
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UCLA Anderson School of Management

Peter Scranton

**University of California,
San Diego Police Department**

Orville King
Chief of Police

David Rose
Captain

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Lorie Fridell
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U.S. Capitol Police Department

Kim Dine
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James Cervera
Chief of Police

Richard Cheatham
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Todd Jones
Lieutenant

West Palm Beach (FL) Police Department

Anthony Kalil
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Sarah Mooney
Captain

Yakima (WA) Police Department

Jeff Schneider
Captain

About PERF

The **Police Executive Research Forum** (PERF) is an independent research organization that focuses on critical issues in policing. Since its founding in 1976, PERF has identified best practices on fundamental issues such as reducing police use of force, developing community policing and problem-oriented policing, using technologies to deliver police services to the community, and evaluating crime reduction strategies.

PERF strives to advance professionalism in policing and to improve the delivery of police services through the exercise of strong national leadership, public debate of police and criminal justice issues, and research and policy development.

In addition to conducting research and publishing reports on our findings, PERF conducts management studies of individual law enforcement agencies, educates hundreds of police officials each year in a three-week executive development program, and provides executive search services to governments that wish to conduct national searches for their next police chief.

All of PERF's work benefits from PERF's status as a membership organization of police officials, academics, federal government leaders, and others with an interest in policing and criminal justice.

All PERF members must have a four-year college degree and must subscribe to a set of founding principles, emphasizing the importance of research and public debate in policing, adherence to the Constitution and the highest standards of ethics and integrity, and accountability to the communities that police agencies serve.

PERF is governed by a member-elected president and board of directors and a board-appointed executive director. A staff of approximately 30 full-time professionals is based in Washington, D.C.

To learn more, visit PERF online at www.policeforum.org.

About the COPS Office

The **Office of Community Oriented Policing Services (COPS Office)** is the component of the U.S. Department of Justice responsible for advancing the practice of community policing by the nation's state, local, territory, and tribal law enforcement agencies through information and grant resources.

Community policing is a philosophy that promotes organizational strategies that support the systematic use of partnerships and problem-solving techniques, to proactively address the immediate conditions that give rise to public safety issues such as crime, social disorder, and fear of crime.

Rather than simply responding to crimes once they have been committed, community policing concentrates on preventing crime and eliminating the atmosphere of fear it creates. Earning the trust of the community and making those individuals stakeholders in their own safety enables law enforcement to better understand and address both the needs of the community and the factors that contribute to crime.

The COPS Office awards grants to state, local, territory, and tribal law enforcement agencies to hire and train community policing professionals, acquire and deploy cutting-edge crime fighting technologies, and develop and test innovative policing strategies. COPS Office funding also provides training and technical assistance to community members and local government leaders and all levels of law enforcement. The COPS Office has produced and compiled a broad range of information resources that can help law enforcement better address specific crime and operational issues, and help community leaders better understand how to work cooperatively with their law enforcement agency to reduce crime.

- Since 1994, the COPS Office has invested more than \$14 billion to add community policing officers to the nation's streets, enhance crime fighting technology, support crime prevention initiatives, and provide training and technical assistance to help advance community policing.
- To date, the COPS Office has funded approximately 125,000 additional officers to more than 13,000 of the nation's 18,000 law enforcement agencies across the country in small and large jurisdictions alike.
- Nearly 700,000 law enforcement personnel, community members, and government leaders have been trained through COPS Office-funded training organizations.
- To date, the COPS Office has distributed more than 8.57 million topic-specific publications, training curricula, white papers, and resource CDs.

COPS Office resources, covering a wide breadth of community policing topics—from school and campus safety to gang violence—are available, at no cost, through its online Resource Center at www.cops.usdoj.gov. This easy-to-navigate website is also the grant application portal, providing access to online application forms.

In recent years, many law enforcement agencies have been deploying small video cameras worn by officers to record encounters with the public; investigate officer-involved incidents; produce evidence; and strengthen agency performance, accountability, and transparency. While body-worn cameras have the potential to improve police services, they also raise issues involving privacy, police-community relationships, procedural justice, and technical and cost questions, all of which agencies should examine as they consider this technology.

The Police Executive Research Forum, with support from the Office of Community Oriented Policing Services, conducted research in 2013 on the use of body-worn cameras. This research included interviews with police executives, a review of agencies' policies, and a national conference at which 200 police executives and other experts discussed their experiences with body-worn cameras. This publication describes the findings of this research, explores the issues surrounding body-worn cameras, and offers policy recommendations for law enforcement agencies.



COPS

Community Oriented Policing Services
U.S. Department of Justice

U.S. Department of Justice
Office of Community Oriented Policing Services
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To obtain details on COPS Office programs, call the
COPS Office Response Center at 800-421-6770.

Visit the COPS Office online at www.cops.usdoj.gov.



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15. The Beat Podcasts Series: “Community of Oriented Policing Services”

Daytona Beach (FL): Body-Worn Cameras

January 2014

Voiceover: Beat Intro

00:00

This is The Beat, a podcast series that keeps you in the know about the latest community policing topics facing our nation.

Debra McCullough

00:08

With us today is Chief Mike Chitwood from Daytona Beach Police Department in Daytona Beach, Florida. He is here to discuss his department's use of body-worn cameras, including the challenges to implementing a body-camera program and the benefits that body cameras can have for both police officers and the greater community. Chief Chitwood, welcome.

Chief Mike Chitwood

00:32

Good morning.

Debra

00:33

Good morning. What effect has the use of body-worn cameras had on the number of complaints received since the cameras were implemented?

Mike

00:42

Preliminarily, cause we've only been up and running for six months, we have seen a decrease.

The decrease that we are seeing is when people who come in to make a complaint against the officer discover that the officer is wearing a body camera or was wearing a body camera at the time, they elect not to file a complaint at that time. That's what we're seeing right now. Statistically, we haven't been up and running long enough to get to that point yet, but we're hoping that we're going to see the same reduction in complaints against the police as other police departments who have been using this technology a little bit longer than us have been seeing.

Debra

01:18

How has recording an officer's activities affected the way an officer administers force when dealing with citizens?

Mike

01:27

I can use one anecdotal story. I have an officer who is a very aggressive officer. He is a good officer. In 2012, he had used force, whether it was his Taser or his ASP or physical hold controls, 12 times in a 12-month period in 2012. Since being outfitted with the camera, he has used force twice. It makes you wonder why has that drop occurred. The officers are good officers and aggressive officers, but it makes you wonder if maybe officers now think twice about using the type of force that they were using.

Which is good and bad, in a way. We don't want our officers to be afraid to use the appropriate

amount of force when they're confronted with a situation. What we don't want to see is the excessive force that's used. That's the catch we try to preach to the officers. What our experience

has been is that officers, when they use force, they want to see that video. They want their supervisors to see, they want the public to see, "Hey, this is what I was confronted with and this is

the amount of force that I had to use.”

The technology that we have with the Axon cameras that are mounted either on glasses or on the officer’s shoulder, you get a panoramic view for what has happened. We’ve taken it a step further

and my SWAT team now also has body cameras on them. They use a different brand. They use a Contour camera. Where the officers who are the breachers, the officers who are the first through

the door, and the perimeter officers—you’re getting an entire view when a search warrant is served.

The SWAT team is able to go back and review it after every raid, where they look for things they may

have done incorrectly or to improve themselves through training.

The uses for these cameras—it’s amazing what we can do, from a training perspective, from complaints against the police perspective, from protecting the public, from documenting evidence.

Debra

03:33

Speaking of documentation, has your department used body-worn cameras to help document evidence to prosecute perpetrators and can you provide us with a few examples?

Mike

03:45

Absolutely. And that’s what the beauty of these cameras are. The cameras are not only there for

complaints against the police. They can be used to document, in the field, incidents that occur.

One of the problems I think we all face in law enforcement in particular is domestic violence.

We get

there, we make the arrest, we do everything that we can do to document it, and then the victim for a

multitude of reasons will decide, you know what, maybe I don’t want to prosecute now.

We have one case in particular that occurred last March where the officers respond to a woman screaming for help. When the officers get there, they peer into the window, and the officer has his

body camera right on his glasses—the camera is right where his head is. You see the defendant is on

top of the woman, choking her. She is basically passing out. He’s screaming, “I’m going to kill you. I’m

going to kill you. Today’s your day to die.” Then the officers kick the door in and then they go and

make the arrest. As a matter of fact, Taser has that video posted on their website.

That case goes to court and the woman’s like, “Look, you know, I broke up with him. I’m not going to

go forward with the court case.” But the state attorney’s office says, “You know what, this is great

video evidence. This is not the first time this guy’s been abusive toward a woman. We’re going to go

forward with the video.”

That’s something that would never have happened in my 26 years as a law enforcement officer, but

now we’re seeing these types of things that are documented. Whether it be a search warrant, whether it be consent when you’re out on the street and you talk to a person, “Hey, we’d like to get

consent to search your car.” “Sure officer, go ahead, I’ve got nothing to hide.” And then the officer

goes in and finds two pounds of weed in the car or two pounds of cocaine. Then when it goes to court, the guy’s like, “Well, I never gave consent.” Well, here it is, right on video. Your

consent was,

we gave you the warnings, you didn’t have to consent to us, you have the right to have us request a

search warrant, and then, “nope, nope, nope, there’s nothing in there. Feel free to search.”

Here’s

what we discovered. It's kinda hard to refute that.

Debra

05:34

How were you able to garner support for the use of body-worn cameras vs. vehicle mounted cameras? What's the difference?

Mike

05:43

The vehicle mounted cameras do not go everywhere the officer goes. That's one of the limitations.

Of course, we have in-car cameras. At the time, they were cutting-edge technology and that's where

we wanted to go. When the body-worn cameras came into play, it was a no-brainer. It's the new technology. We in law enforcement always are after the newest, best, and latest technology. It helps

us do our jobs. It's a force multiplier.

When we started in Daytona Beach, because of the number of lawsuits, because of the use-of-force

complaints, we targeted our "problem children." Officers that needed a little more guidance, a little

more structure, a little more training. Then we called for volunteers. Within six months of the

program, more officers were saying, "Hey, the next time we get cameras in, I want one of them. I

had an incident where I went to court and, boy, if I'd had that kind of documentation, it would have

been a slam-dunk of a court case."

We have morphed away from the dashboard cameras. More and more officers are requesting—and it's just a matter of funding—to have these body-worn cameras. From my experience, it's a win-win.

From the next batch of cameras, I myself as the police chief will be wearing a camera. Because every

Friday, the command staff goes out on the street as we are during special events because it's a

special event city, and if my officers are going to wear it, all the commanders are going to wear one

too. We're going to lead by example. You can't go wrong.

Our policy, we want you to turn the camera on when you get out of the car. Clearly, if someone's

coming up and giving you information, you're not going to record that person. There's no reason to

record that person. But when you're going to step out of that car, to have a citizens' encounter, or a

radio call, or a traffic stop, well then we want you to activate it. You have to use a little bit of common

sense, depending on what you're trying to do.

I think our policy for the most part, while it's in flux because this is all emerging technology, I think our

policy kind of outlines that pretty clearly. Just turn the thing on—you'll be glad you turned it on later

on down the line. We can deal with transgressions from an officer from a training standpoint. Again, if

it captures wrongdoing, well then so be it. That's the fate of the officer. The officer doesn't belong

working for us anyway.

The overwhelming—I just believe in 2013, this is what modern policing is all about. If you don't get on

board with this wave, you're doing a disservice to your department and your city.

Debra

08:15

Chief Chitwood, thank you so much for your time and your expertise on the subject. Thank you.

Mike

08:19

Thank you very much. Have a good day.

Voiceover: Beat Exit

08:22

The Beat was brought to you by the United States Department of Justice, COPS Office. The COPS Office helps to keep our nation's communities safe by giving grants to law enforcement agencies,

developing community policing publications, developing partnerships, and solving problems.

Voiceover: Disclaimer

08:38

The opinions contained herein are those of the authors and do not necessarily represent the official

position or policies of the U.S. Department of Justice. References to specific agencies, companies,

products, or services should not be considered an endorsement by the authors or the U.S.

Department of Justice. Rather, the references are illustrations to supplement discussion of the

issues.

16. Fraternal Order Of Police: “Body-Worn Camera (“BWC”) Recommended Best Practices”

FRATERNAL ORDER OF POLICE BODY-WORN CAMERA (“BWC”) RECOMMENDED BEST PRACTICES

000.1 POLICY

This Policy is intended to outline the objectives and intent of the use of **Body-Worn Cameras (“BWC”)** in conjunction with the BWC Procedure that follows. Procedures are enumerated with a prefix of “PR.”

Advances in technology have enhanced the Department’s investigative and evidence gathering capabilities as well as officer safety and security. These same advances increase concerns of encroachment on the right to privacy of both citizens and employees. The objective of this policy is to increase the efficiency and integrity of the Department’s law enforcement mission, increase officer safety, and safeguard the rights of the citizens and employees in the use of such technology. The Department shall at all times employ and enforce this policy consistent with the co-equal, non-competing interests of providing the best possible law enforcement services to the community and the best possible working environment for Department employees.

Selected uniformed field assignments may be equipped with BWCs. Use of this technology provides for video and audio documentation of a police officer’s citizen contacts and enforcement and investigative activities from the perspective of the officer’s person. It is anticipated that the use of this equipment will promote officer safety, result in greater transparency, more effective prosecution, and improve the investigation of citizen complaints and protect against false allegations of officer misconduct. This policy is intended to achieve an appropriate balance between the benefits of BWC devices and civilians’ and officers’ reasonable expectations of privacy.

The BWC device is used to record certain activities and create a visual and audio record to supplement an officer’s report. Video and audio recordings of enforcement or investigative actions are evidence and public record, and, therefore, subject to rules of evidence and laws of disclosure. It is in the best interest of justice that the Department regulate and control all forms of evidence collection and storage in accordance with the laws and rules of evidence as well as the retention and dissemination of public records and information.

000.2 PURPOSE AND SCOPE

Certain uniformed law enforcement assignments within the Department may be equipped with a BWC. This system will be used to document events and capture data to be preserved in a Web-based digital storage facility”) Once captured, these recordings cannot be altered in any way and are protected with multiple layers of encryption. The Department has adopted the use of BWC technology to accomplish the following objectives:

- (a) To promote officer safety.
- (b) To document statements and events during the course of an incident.
- (c) To enhance the law enforcement operator’s ability to document and review statements and actions for both internal reporting requirements and for courtroom preparation/presentation. Officers shall have access to view and utilize the recordings from their BWC for training purposes and to further investigate their cases.
- (d) To preserve visual and audio information for use in current and future investigations.
- (e) To provide an impartial measurement for self-critique and field evaluation during officer training.

(f) To enhance the public trust by preserving factual representations of officer-citizen interactions in the form of video and audio recordings.

000.2.1 DEFINITIONS RELATED TO THIS POLICY

Audio Recording – The electronic recording of conversation, spoken words, or other sounds

Body-Worn Camera (“BWC”) – Equipment worn by a Department member that captures audio/video and audio signals and includes at a minimum a camera, microphone, and recorder

Controller Switch – Master on/off power

System Administrator (“SA”) – Supervisor responsible for inventory, control, and operational maintenance of the BWC system equipment

Event Record Button – Push-button activation switch located in the center of the BWC device

Web-Based Storage Facility – A virtual warehouse that stores digitally encrypted data in a highly secure environment accessible to personnel based on assigned levels of security clearance (i.e., an online Web-based digital media storage facility)

Evidence Transfer Manager (“ETM”) – A router with built-in docking stations physically installed at Department work site. The ETM simultaneously recharges the device while uploading all digitally encrypted data to the Web Based Storage Facility.

Master System Administrator (“MSA”) – Supervisor(s) authorized by the Department and assigned to the Information Support Section with full access to user rights; assigns and tracks master inventory of equipment; controls passwords and end-user security access rights; is responsible for quality checks of video, audio, and sound quality; coordinates with SAs; and serves as liaison to the BWC manufacturer’s representatives on operational and equipment-related matters.

Media or Data – For the purposes of this procedure, references to media or data include photographs, audio recordings and video and audio footage captured by the BWC device. The media is stored digitally and encrypted.

Remote Camera/DVR – Cable-tethered camera/DVR affixed to an approved mounting. Accessories provided with the system may offer a variety of mounting options, such as on glasses, collars, epaulettes, helmets, etc.

Video Recording – The electronic recording of visual images with or without audio component

000.3 REQUIRED ACTIVATION OF THE BWC

Although this policy identifies those situations in which activation of the BWC is required, an officer has discretion to manually activate the system any time the officer believes it would be appropriate or valuable to document an incident. The BWC shall only be activated for legitimate law enforcement purposes.

Activation of the BWC is required in the following situations:

1) All field contacts involving actual or potential criminal conduct within video and audio or audio range, including:

- a) Traffic stops (to include, but not limited to, traffic violations, stranded motorist assistance, and all crime interdiction stops)
- b) Emergency responses
- c) Vehicle pursuits
- d) Suspicious vehicles
- e) Arrests and transports
- f) Vehicle searches
- g) Consent to Search
- h) Physical or verbal confrontations or use of force
- i) Pedestrian checks/Terry Stops
- j) DWI investigations including field sobriety tests
- k) Domestic violence calls
- l) Statements made by individuals in the course of an investigation or complaint
- m) Advisements of Miranda rights
- n) Seizure of evidence
- o) Swat Rolls
- p) High Risk Warrants
- q) On all calls for service

2) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.

3) Any other legitimate law enforcement contact where the officer believes that a recording of an incident would be appropriate. In exercising this discretion, officers should be aware of and sensitive to civilians' reasonable privacy expectations.

4) The BWC may not be used for the purpose of intimidating an individual or to discourage an individual from observing police activity, making appropriate inquiries of an officer, or making a complaint.

5) Officers may happen upon a situation requiring immediate action to prevent injury, destruction of evidence, or escape. In these situations, officers should activate the recorder if doing so does not place them or others in danger. Otherwise they shall activate the camera at the first available opportunity when the immediate threat has been addressed. The officer will document the reasons for the delayed activation in a supplement or after action report.

000.4 OFFICER RESPONSIBILITIES

At the start of each shift, uniformed officers shall properly equip themselves with a BWC to record video and audio in the field. Shift supervisors shall ensure that each officer has adequate recording media for the entire duty assignment. Officers assigned a BWC shall test the equipment prior to use according to manufacturer guidelines and testing procedures. Officers shall immediately report insufficient recording media or malfunctioning BWC systems to an immediate supervisor.

000.4.1 SUPERVISOR RESPONSIBILITIES

Supervisors shall issue and inspect BWC equipment to assigned personnel to ensure sufficient recording media and proper operability per testing protocols provided under training.

Non-functioning BWC systems shall not be placed into service and the equipment malfunction shall be immediately reported in writing to the supervisor's respective SA.

The SA shall be responsible for coordinating maintenance or repair issues directly to the MSA.

000.4.2 MASTER SYSTEM ADMINISTRATOR (MSA)

The MSA is a supervisor authorized by the Department with full access to use rights.

The MSA is responsible for:

- a) Assigning and tracking inventory of equipment;
- b) Password control;
- c) End-user security access rights;
- d) Quality checks of video and audio as well as sound quality;
- e) Coordinating with the System Administrators; and
- f) Serving as liaison to manufacturer's representatives on operational equipment related matters.

000.5 CESSATION OF RECORDING

Once the BWC system is activated it shall remain on and shall not be turned off until an investigative or enforcement contact or incident has concluded. For purposes of this section, conclusion of an incident has occurred when an officer has terminated contact with an individual, cleared the scene of a reported incident, or has completed transport of a civilian or an arrestee. Refer to PR000.4 (b) for exceptions to this requirement. In any instance in which cessation of the recording prior to the conclusion of the incident may be permitted, the officer should seek and obtain supervisory approval prior to deactivating the BWC, whenever possible. If supervisory approval cannot be reasonably obtained, officers must document on the BWC the reason for termination of the recording prior to deactivation of the BWC by noting the date, time, and the reason for the deactivation on the recording and in subsequent written reports as applicable.

000.6 PROHIBITED AUDIO/VIDEO RECORDINGS BY EMPLOYEES IN THE WORK PLACE

The BWC **shall not** be used to record non-work-related personal activity. The BWC shall not be activated in places where an employee has a reasonable expectation of privacy, such as locker rooms, dressing rooms, or restrooms. If a criminal offense has occurred in these locations, the BWC may be activated and every precaution shall be taken to respect the dignity of the victim by avoiding recording video and audio of persons who are nude or when sensitive areas are exposed. The BWC **shall not** be intentionally activated to record conversations of fellow employees during routine, non-enforcement-related activities without their knowledge or during rest or break periods, or in designated break areas unless an active pre-existing investigation is underway and authorized by law.

000.7 TRAINING

All members who are authorized to use BWC equipment must complete mandatory training provided by the Department to familiarize themselves with the recording system and Departmental procedures prior to its use.

BODY-WORN CAMERA (“BWC”) PROCEDURE

PR000.1 PURPOSE

The following procedures govern the operation of **Body-Worn Camera (“BWC”)** devices issued by the Department. Uniformed Department members assigned these devices are only authorized to record investigative and/or enforcement activities using departmentally-assigned equipment following the practices prescribed within this procedure.

PR000.2 GENERAL PROCEDURES

(a) Department members who have completed authorized training sanctioned by the Department shall be the only personnel authorized to use a BWC in an operational setting.

(b) Video and audio recording devices shall not be used in Department locker rooms, restrooms or any other place where there would be a reasonable expectation of officer’s privacy, including, without limitation, break rooms, rest areas, or off-duty gatherings. If a criminal offense has occurred in these locations, the BWC may be activated and every precaution shall be taken to respect the dignity of the victim by avoiding recording video and audio of persons who are nude or when sensitive areas are exposed. Recordings of Department personnel shall not be made unless an authorized pre-existing investigation is being conducted. Only the Chief/Sheriff or the Chief’s/Sheriff’s designee may authorize such recordings, and such authorization must be in writing before the recording is made. If such authorization is not given, the recording shall be destroyed and shall not be used for disciplinary purposes.

(c) Department members shall not intentionally record confidential informants or undercover officers unless the recording is conducted specifically for the purpose of documenting a sting, drug purchase/sale, or other undercover operation in furtherance of a criminal investigation.

(d) BWCs, when worn by Patrol Officers, shall be worn in a manner consistent with the manufacturer’s recommendations. Mounting options for SWAT or other specialty units shall provide for a frontal view in accordance with uniform specifications (e.g., helmets or other protective gear).

(e) BWCs shall not be used for the purpose of conducting Departmental administrative investigations, including undercover/plainclothes operations, without the prior written authorization of the Chief/Sheriff or the Chief’s/Sheriff’s designee. However, this requirement shall not restrict internal investigators’ access to or review of BWC recordings when investigating complaints of misconduct.

(f) If an officer believes that a recorded event may lead to a citizen complaint, he/she shall bring the recording to the attention of his/her immediate supervisor as soon as possible. The supervisor should review the recording and conduct any further investigation that the supervisor deems appropriate. The Department shall not solicit citizen complaints. If an officer self-reports minor violations of policy (i.e., any violation of policy that would by policy or practice result in a suspension of 30 hours or lesser discipline) and no citizen complaint is received, the Department shall not take disciplinary action against the officer. Officer shall be granted such amnesty once per each 180 days. If a citizen complaint is received, the officer’s self-reporting shall mitigate the discipline to a verbal counseling. Failure to self-report shall not be a basis for additional discipline.

(g) Department members shall not make covert recordings of conversations with other Department employees, except as provided by policy.

(h) The assigned MSA shall coordinate access requests to the recorded events for officers and investigators for legitimate law enforcement purposes or as directed by the Chief/Sheriff. Officers shall have unlimited

access to view their own recordings at any time via issued usernames and passwords. Officers shall not have the ability to edit, delete, or otherwise modify their own recordings

(i) Department members are not authorized to make copies of any recordings for their personal use and are prohibited from using a recording device (such as a phone camera or secondary video and audio camera) to record media from the Web Based Storage Facility.

(j) When handling calls for service or incidents involving the treatment of individuals at a medical facility, Department members may be required to restrict use of a BWC in accordance with facility privacy protocols according to state law. Where facility protocols or state law do not allow for the recording of an event for which recording would otherwise be required, an officer must notify his or her supervisor as soon as reasonably practical, and shall document the reasons for the failure to activate the BWC in the incident report.

(k) In any instance in which cessation of the recording prior to the conclusion of an incident may be permitted, the officer must seek and obtain supervisory approval prior to deactivating the BWC. If supervisory approval cannot be reasonably obtained, the officer must document on the BWC the reason for termination of the recording prior to deactivation of the BWC and document the date, time, and reason for the deactivation on the recording and in subsequent written reports as applicable.

(l) Whenever an officer is subject to internal administrative investigation, discipline, or questioning during an internal administrative investigation, the officer and his or her representative or legal counsel shall be given an opportunity to review all relevant recordings prior to being questioned.

PR000.3 BODY-WORN CAMERA MODES OF OPERATION

(a) **Pre-Event Buffering Mode:** Device feature where the camera continuously records and holds the most recent 30 seconds of video and audio prior to record activation. With this feature, the initial event that causes the officer to activate recording is likely to be captured automatically, thereby increasing the capability of recording the entire activity.

(b) **Record Mode:** In this mode, the BWC device saves the buffered video and audio and continues recording video and audio for up to eight hours or the life of the battery. BWC devices should be equipped to provide a manner to save the buffered video along with actions recorded after activation of the record mode.

(c) Officers shall be permitted to disable or cover the blinking LED for operational safety considerations so as to limit the officers' exposure or visibility. This may be done at the beginning of each shift as long as the officer is able to verify at the beginning of the shift that the modes are operating in accordance with the manufacturer's specifications.

PR000.4 OPERATIONAL PROTOCOLS

(a) The BWC shall be worn at all times while on duty when assigned this device.

(b) The BWC shall be utilized by any Department member assigned this device during all investigative or enforcement contacts (see Policy 000.3 – Required Activation of the BWC). However, there may be limited circumstances where the respect for an individual's privacy or dignity outweighs the need to record an event (e.g., a victim traumatized following a violent assault). Where an officer believes such circumstances exist, or that use of a BWC would impede or limit the cooperation of a victim or witness during an investigative contact, an officer may deactivate the BWC after receiving authorization from a supervisor consistent with PR 000.2(k). Department members have discretion whether to activate a BWC during consensual contacts of a non-criminal nature.

- (c) Department members issued a BWC shall place the device in the Record Mode as soon as practical at the onset of a given situation.
- (d) Once in the Record Mode, Department members shall continue to record until the completion of the event, or they have left the scene (this includes recording of statements).
- (e) Additional arriving units to a scene shall place their BWC in the Record Mode as soon as practical (if so equipped), and continue to record until the completion of the event, or they have left the scene (this includes recording of statements).
- (f) BWC equipment will be assigned with priority given to each of the primary patrol shifts in each patrol area and other uniform operations assigned under the division based on quantity of operational units in the Department's inventory.
- (g) Inspection, general care, and maintenance of a BWC shall be the responsibility of the authorized Department member who has been issued this equipment. BWC equipment shall be operated in accordance with the manufacturer's recommended guidelines, Department training and associated Department policies/procedures.
- (h) Prior to beginning each shift, the assigned Department member shall perform an inspection to ensure that the Body-Worn Camera is performing in accordance with the manufacturer's recommendations. If problems are encountered with any component of the system, the BWC equipment will not be used.
- (i) Malfunctions, damage, loss or theft of BWC equipment shall be reported immediately by the assigned Department member to an immediate supervisor. The Department member's immediate supervisor shall be responsible for providing written notice to the SA documenting the suspected cause of equipment failure or corrective action initiated related to possible misuse. All lost or stolen BWCs shall be documented in an incident report. Officers shall not be disciplined or be responsible for damage to BWC equipment that occurs in the ordinary course of duty.
- (j) Once the BWC is activated in the Record Mode for the purpose of documenting an investigative or enforcement contact, it should remain "on" until the incident has reached a conclusion or until the Department member leaves the scene.
- (k) When the BWC is used in an investigative or law enforcement contact, this fact will be documented on any citation, summons, and/or report prepared.
- (l) Whenever a Department member obtains a video and audio statement, the fact that the statement was recorded will be listed in the incident report. A video and audio statement is not a replacement for a written or tape-recorded statement.
- (m) Department members shall not use electronic devices or other means in order to intentionally interfere with the capability of the BWC equipment.
- (n) Department members assigned a BWC shall not erase, alter, reuse, modify, destroy, abuse, or tamper with BWC audio-video and audio recordings or the device.
- (o) Department members are to select a system-defined category for each digital recording (e.g., field interview, case file, citation, traffic stop, traffic accident, miscellaneous, training, or other appropriate category listed for the event, provided, however, that miscellaneous shall be used only where the activity does not reasonably fall within another category). Specific instructions on system use are provided through training.

(p) Digital Recordings shall be preserved in accordance with state law, for at least two years, or if a case is under investigation or litigation longer than two years, at least three years after the final disposition of the matter (including appeals) unless a written request is made to store them for a longer period of time for a legitimate law enforcement purpose.

(q) When an incident arises that requires the immediate retrieval of a BWC digital recording (e.g., serious crime scenes, officer-involved shootings, and Department vehicle crashes) a supervisor from the involved member's chain of command or the assigned investigator shall respond to the scene to secure the device and maintain a chain of custody. Subject officers shall not be questioned about critical incidents before being given an opportunity review the recordings.

PR000.5 CHARGING & UPLOADING PROCEDURE

At the end of their shift, a Department member issued a BWC shall place the device into an open slot on the docking station. This will allow for recharging of the device and media or data transfer from the BWC through the docking station to the Web Based Storage Facility. At the conclusion of recharge/upload cycle, the device is automatically cleared of all previously recorded data. The BWC device shall not be removed from the ETM until media or data has been uploaded and the battery has been fully recharged. When complete, a green light will illuminate on the device's associated ETM docking port signifying the BWC is ready for use. Under normal use (routine shift), a recharge/upload cycle can be expected to take between one to three hours to complete.

PR000.6 AUTHORIZED USER ACCESS TO UPLOADED MEDIA OR DATA

General access to digital recordings shall be granted to Department-authorized users only. It is the responsibility of authorized users to keep their username and password confidential. Accessing, copying, or releasing any recordings for other than official law enforcement purposes is strictly prohibited, except as required by law or this policy and procedure.

(a) A Department member who has been assigned a BWC device may review his or her own BWC recording to help ensure accuracy and consistency of accounts. This can be done by accessing the videos in a manner consistent with the storage and viewing procedures. The original recordings shall only be viewed by member(s) who are assigned a BWC device through means authorized by The Department.

(b) A Department member involved in any use of force incident or accident causing injuries will be permitted, but will not be required, to review their own BWC video and audio recordings prior to providing a recorded statement or completing reports. Witness Department members will be allowed to review BWC video and audio.

(c) The Chief/Sheriff may authorize an investigator to review specific incidents contained on BWC recordings if that investigator is participating in an official Department investigation of a personnel complaint, claims investigation, administrative inquiry, or criminal investigation.

(d) A supervisor may review specific BWC media or data for the purpose of training, performance review, critique, early intervention inquiries, civil claims, and administrative inquiry. Routine audits of recording devices shall be used for maintenance and training purposes only and not for discipline, absent additional corroborating evidence or civilian complaint.

(e) Field Training Officers may use media captured via a BWC device to provide immediate training to recruits and to assist with the completion of the Daily Observation Report (DOR).

(f) Under no circumstances shall members with access to BWC media or data files be allowed to use, show, reproduce or release recordings for the purpose of ridicule or embarrassment of any officer or individual or for other non-law enforcement related purposes. This includes submission of any portion of a BWC recording to a media organization unless release has been approved in advance by the Chief/Sheriff or his designee.

PR000.7 DELETION OF UNINTENTIONAL RECORDINGS

In the event of an unintentional activation of BWC equipment during non-enforcement or non-investigative activities (e.g., in the restroom, during a meal break, or in other areas where reasonable expectation of employee privacy exists), a Department member may request a recording deletion. An interoffice correspondence detailing the circumstances of the unintentional recording will be forwarded via the chain of command to the member's appropriate supervisor. If approved, the actual deletion requires two-party authorization. One of those parties will be the member's Commander; the other will be the MSA. Only the MSA shall facilitate the actual removal of any record approved for deletion. Records related to any request for the deletion of records shall be maintained by the MSA.

17.ACLU: “A Model Act for Regulating the Use of Wearable Body Cameras by Law Enforcement”



**A MODEL ACT FOR REGULATING THE USE OF
WEARABLE BODY CAMERAS BY LAW ENFORCEMENT**

Be it enacted by the [*NAME OF THE STATE LEGISLATIVE BODY OF THE STATE OR COMMONWEALTH*]:

SECTION 1.

- (a) Only law enforcement officers with the authority to conduct searches and make arrests shall be permitted to wear a body camera. Such body cameras shall be worn in a location and manner that maximizes the camera's ability to capture video footage of the officer's activities.
- (b) Both the video and audio recording functions of the body camera shall be activated whenever a law enforcement officer is responding to a call for service or at the initiation of any other law enforcement or investigative encounter between a law enforcement officer and a member of the public, except that when an immediate threat to the officer's life or safety makes activating the camera impossible or dangerous, the officer shall activate the camera at the first reasonable opportunity to do so. The body camera shall not be deactivated until the encounter has fully concluded and the law enforcement officer leaves the scene.
- (c) A law enforcement officer who is wearing a body camera shall notify the subject(s) of the recording that they are being recorded by a body camera as close to the inception of the encounter as is reasonably possible.
- (d) Notwithstanding the requirements of subsection (b):
 - (1) Prior to entering a private residence without a warrant or in non-



exigent circumstances, a law enforcement officer shall ask the occupant if the occupant wants the officer to discontinue use of the officer's body camera. If the occupant responds affirmatively, the law enforcement officer shall immediately discontinue use of the body camera;

(2) When interacting with an apparent crime victim, a law enforcement officer shall, as soon as practicable, ask the apparent crime victim, if the apparent crime victim wants the officer to discontinue use of the officer's body camera. If the apparent crime victim responds affirmatively, the law enforcement officer shall immediately discontinue use of the body camera; and

(3) When interacting with a person seeking to anonymously report a crime or assist in an ongoing law enforcement investigation, a law enforcement officer shall, as soon as practicable, ask the person seeking to remain anonymous, if the person seeking to remain anonymous wants the officer to discontinue use of the officer's body camera. If the person seeking to remain anonymous responds affirmatively, the law enforcement officer shall immediately discontinue use of the body camera.

(e) All law enforcement offers to discontinue the use of a body camera made pursuant to subsection (d), and the responses thereto, shall be recorded by the body camera prior to discontinuing use of the body camera.

(f) Body cameras shall not be used surreptitiously.

(g) Body cameras shall not be used to gather intelligence information based on



First Amendment protected speech, associations, or religion, or to record activity that is unrelated to a response to a call for service or a law enforcement or investigative encounter between a law enforcement officer and a member of the public.

- (h) Law enforcement officers shall not activate a body camera while on the grounds of any public, private or parochial elementary or secondary school, except when responding to an imminent threat to life or health.
- (i) Body camera video footage shall be retained by the law enforcement agency that employs the officer whose camera captured the footage, or an authorized agent thereof, for six (6) months from the date it was recorded, after which time such footage shall be permanently deleted.
- (j) Notwithstanding the retention and deletion requirements in subsection (i):
 - (1) Video footage shall be automatically retained for no less than three (3) years if the video footage captures images involving:
 - (A) Any use of force;
 - (B) Events leading up to and including an arrest for a felony-level offense, or events that constitute a felony-level offense; or
 - (C) An encounter about which a complaint has been registered by a subject of the video footage.
 - (2) Body camera video footage shall also be retained for no less than three (3) years if a longer retention period is voluntarily requested by:
 - (A) The law enforcement officer whose body camera recorded the video footage, if that officer reasonably



asserts the video footage has evidentiary or exculpatory value;

- (B) Any law enforcement officer who is a subject of the video footage, if that officer reasonably asserts the video footage has evidentiary or exculpatory value;
- (C) Any superior officer of a law enforcement officer whose body camera recorded the video footage or who is a subject of the video footage, if that superior officer reasonably asserts the video footage has evidentiary or exculpatory value;
- (D) Any law enforcement officer, if the video footage is being retained solely and exclusively for police training purposes;
- (E) Any member of the public who is a subject of the video footage;
- (F) Any parent or legal guardian of a minor who is a subject of the video footage; or
- (G) A deceased subject's next of kin or legally authorized designee.

(k) To effectuate subsections (j)(2)(E), (j)(2)(F) and (j)(2)(G), any member of the public who is a subject of video footage, the parent or legal guardian of a minor who is a subject of the video footage, or a deceased subject's next of kin or legally authorized designee, shall be permitted to review that specific video footage in order to make a determination as to whether they will



voluntarily request it be subject to a three (3) year retention period.

- (l) The following video footage shall be exempt from the public inspection requirements of the [*NAME OF STATE OPEN RECORDS ACT/FOIA LAW*]:
 - (1) Video footage not subject to a minimum three (3) year retention period pursuant to subsection (j);
 - (2) Video footage that is subject to a minimum three (3) year retention period solely and exclusively pursuant to subsection (j)(1)(C), where the subject of the video footage making the complaint requests the video footage not be made available to the public;
 - (3) Video footage that is subject to a minimum three (3) year retention period solely and exclusively pursuant to subsection (j)(2)(A), (j)(2)(B), (j)(2)(C) or (j)(2)(D); and
 - (4) Video footage that is subject to a minimum three (3) year retention period solely and exclusively pursuant to subsection (j)(2)(E), (j)(2)(F), or (j)(2)(G), where the person making the voluntary request requests the video footage not be made available to the public.
- (m) Any video footage retained beyond six (6) months solely and exclusively pursuant to subsection (j)(2)(D) shall not be admissible as evidence in any criminal or civil legal or administrative proceeding.
- (n) No law enforcement officer shall review or receive an accounting of any body camera video footage that is subject to a minimum three (3) year retention period pursuant to subsection (j)(1) prior to completing any required initial reports, statements and interviews regarding the recorded event.



- (o) Video footage not subject to a minimum three (3) year retention period shall not be viewed by any superior officer of a law enforcement officer whose body camera recorded the footage absent a specific allegation of misconduct, nor shall it be subject to automated analysis or analytics of any kind.
- (p) Video footage shall not be divulged or used by any law enforcement agency for any commercial or other non-law enforcement purpose.
- (q) Where a law enforcement agency authorizes a third-party to act as its agent in maintaining body camera footage, the agent shall not be permitted to independently access, view or alter any video footage, except to delete videos as required by law or agency retention policies.
- (r) Should any law enforcement officer, employee or agent fail to adhere to the recording or retention requirements contained in this chapter, or intentionally interfere with a body camera's ability to accurately capture video footage:
 - (1) Appropriate disciplinary action shall be taken against the individual officer, employee or agent;
 - (2) A rebuttable evidentiary presumption shall be adopted in favor of criminal defendants who reasonably assert that exculpatory evidence was destroyed or not captured; and
 - (3) A rebuttable evidentiary presumption shall be adopted on behalf of civil plaintiffs suing the government, a law enforcement agency and/or law enforcement officers for damages based on police misconduct who reasonably assert that evidence supporting their claim was destroyed or not captured.



- (s) The disciplinary action requirement and rebuttable presumptions in subsection (r) may be overcome by contrary evidence or proof of exigent circumstances that made compliance impossible.
- (t) Any body camera video footage recorded in contravention of this or any other applicable law shall be immediately destroyed and shall not be admissible as evidence in any criminal or civil legal or administrative proceeding.
- (u) Nothing in this chapter shall be read to contravene any laws governing the maintenance and destruction of evidence in criminal investigations and prosecutions.
- (v) As used in this section, “law enforcement officer” means any person authorized by law to conduct searches and effectuate arrests and who is employed by the state, or a county, municipality, or metropolitan form of government.
- (w) As used in this section, “subject of the video footage” means any law enforcement officer or any suspect, victim, detainee, conversant, injured party or other similarly situated person who appears on the body camera recording, and shall not include people who only incidentally appear on the recording.

SECTION 2. This act shall take effect [DATE].

18. Policy Link, Center for Popular Democracy: “Building Momentum From The Ground Up: A Toolkit for Promoting Justice in Policing”

BUILDING MOMENTUM FROM THE GROUND UP:

A TOOLKIT FOR PROMOTING JUSTICE IN POLICING

June 2015



PolicyLink



This report was co-authored and edited by Marbre Stahly-Butts from the Center for Popular Democracy and Anand Subramanian from PolicyLink. Emily Tucker, Josie Duffy and Karl Kumodzi from the Center for Popular Democracy as well as Sam Sinyangwe, Christopher Brown and Jordan Tucker from PolicyLink contributed content.

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Graphic design by Micah Bazant, micahbazant.com

**WE ARE
ALL 1 BULLET
AWAY FROM
BECOMING A
HASHTAG**

CONTENTS

1	Acknowledgements
2	Introduction
	Policy Reforms
	Ending Mass Criminalization
4	Policy 1: Decriminalization
8	Policy 2: Municipal Court Reforms
11	Policy 3: Immigration Detainer Policies
14	Policy 4: Diversion Programs
16	Policy 5: Racial Impact Tool for all criminal justice legislation
	Safe and Just Police Interactions
19	Policy 6: Bans on Bias Based Policing
22	Policy 7: Consent to Search
	Community Control
25	Policy 8: Community Oversight
29	Policy 9: Data Reporting
32	Policy 10: Body Cameras
	Independent Oversight
35	Policy 11: Special or Independent Prosecutors
37	Policy 12: Inspectors General or Oversight Commissions
40	Policy 13: Demilitarize Local Police Forces
	Improving Police Department Practices
42	Policy 14: Use of Force
44	Policy 15: Improved Training
47	Organizing 101
49	Beyond Policy
49	Mayor's Pledge
50	Rethinking Our Investments
52	Alternatives to Policing

Opposite page: Protester at rally against police violence in Silver Spring, MD, Jan. 24, 2014. Photo by Stephen Melkisetian.

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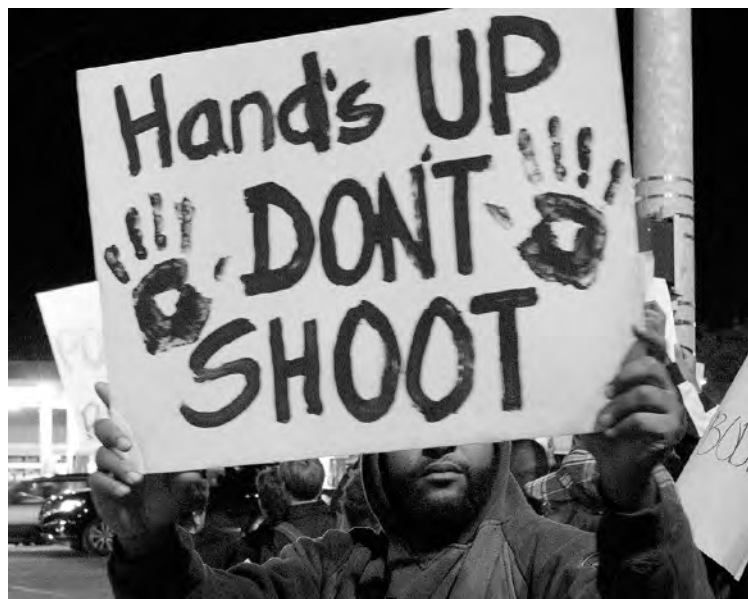
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INTRODUCTION

The killing of Eric Garner, Mike Brown, John Crawford III, and Ezell Ford over the span of four weeks last summer, and the subsequent failure to hold any officers involved responsible, spurred a national conversation about police violence and systemic racism. The conversation has intensified in the intervening months as additional incidents of police violence and misconduct continue to expose the systemic and widespread failures of our policing and criminal justice systems. Community members, often led by tenacious young leaders, planned direct actions, die-ins, walk-outs, and acts of civil disobedience to demand accountability and recognition that Black lives matter. From New York to Seattle, outraged elected officials walked out of city council meetings and state buildings with their hands up to express solidarity with, and commitment to, the movement for police and criminal justice reform.

Communities across the country that have lived for too long under the weight of discriminatory policing and mass incarceration are calling for a transformation of our policing and criminal justice systems. They are making it clear that it is time for policies to first and foremost reflect the concerns and solutions of communities most affected by flawed policing practices. Communities are demanding meaningful oversight of law enforcement, accountability, an end to the criminalization of communities of color, and state investments beyond federal-ly-sponsored tanks and additional police.

While media attention waxes and wanes, the groundswell of anger and grief unearthed by the public killings of sons, daughters, fathers, mothers, and transgender sisters and brothers has started to translate into meaningful policy reform at the local, state and national level. Organizers, community leaders, advocates, elected officials, and law enforcement are thinking through how to address the endemic problem of police brutality and mass criminalization.



Ferguson protest in Memphis November 24, 2013.
Photo by Chris Wieland.

To support the efforts of community organizations and elected officials, the Center for Popular Democracy (CPD) and PolicyLink have created *Building Momentum from the Ground Up: A Toolkit for Promoting Justice in Policing*. The *Toolkit* is a direct response to organizers, elected officials, and community members from across the country seeking support and resources for campaigns

aimed at transforming the policies and practices of local law enforcement. The *Toolkit* reflects the aspirations of many and is the product of conversations with base building organizations and local elected officials.

The *Toolkit* elevates fifteen policy reforms. Not all of the reforms included are ideal for all communities. Some, such as body cameras, are controversial. The aim of the *Toolkit* is not to suggest that these are the fifteen best or most important reforms. Instead, the *Toolkit* provides resources, information and sometimes precautions about reforms that have been enacted, as well as more visionary proposals.

The policy reforms are organized into five categories:

- ✓ Ending Mass Criminalization
- ✓ Safe and Just Police Interactions
- ✓ Community Control
- ✓ Independent Oversight
- ✓ Improving Police Department Practices

Each recommendation includes information about the policy, examples of successful implementation, best practices, sample legislation, and additional resources from think tanks, base building organizations, and government agencies.

The second section of the *Toolkit*, “Organizing 101,” provides resources and guiding questions for those attempting to develop campaigns around specific policy reforms.

The final section of the *Toolkit*, “Beyond Policy,” includes resources for developing community based alternatives to policing and suggestions on how to frame these reforms as part of a larger vision of change that goes beyond specific policy fixes and addresses the need for a government and society that invests in Black and Brown health, education, and wealth—not just criminalization and incarceration.

We hope that by providing resources and model policies, and by elevating the inspirational and transformational work underway, we can support organizers and elected officials in their continuing struggle for a fundamental reorientation of both the purpose and practice of policing in this country.

If you have any questions about this toolkit or want assistance or support for your policy campaign, please contact Marbre Stahly-Butts at Mstahly-butts@populardemocracy.org. For additional information and updated versions of the toolkit please go to justiceinpolicing.com.

POLICY REFORMS

ENDING MASS CRIMINALIZATION

POLICY 1: DECRIMINALIZATION

Police are the frontline enforcers of a criminal justice system that incentivizes incarceration. While much attention has been paid to police practices, there has been less focus on the foundation of police authority — the laws which give police and courts wide discretion to arrest and incarcerate people for offenses that have nothing to do with public safety.

From 1980 to 2008, the number of Americans incarcerated increased from 500,000 to 2.3 million. Nearly half of the people incarcerated in state facilities are there for nonviolent offenses. Black and Latina/o people make up nearly 60% of all incarcerated people, even though they only make up one quarter of the US population. This increase in incarceration is, in part, due to thousands of new laws at the federal, state, and local levels that allow police to arrest people for anything from breaches of minor school policies to violations of park rules. Michigan, for instance, has at least 3,102 crimes on the books and has created an average of 45 new crimes annually. California has created 1,000 new crimes in the last 25 years. Cities across the country have also enacted countless new municipal level violations. In New York City alone there are nearly 10,000 laws, violations, rules, and codes that police can enforce.

As a result of the onslaught of new “crimes,” law enforcement priorities have shifted from the investigation of violent crimes to an emphasis on administrative and regulatory violations, including things like public consumption of alcohol, spitting or even wearing sagging pants. It is estimated that the average officer spends 90% of their time dealing with minor infractions that violate local administrative codes and only 10% of their time dealing with violent crimes. The new laws broadened officer discretion and increased targeting of low-income Black and Latina/o communities. More than 80% of those ticketed in New York City for low-level offenses are Black or Latina/o people. Similar discrepancies exist in



Millions March NYC, December 13, 2014. Photo by The All-Nite Images.

the enforcement of drug laws despite the fact that Black and Latina/o communities use drugs at similar rates as white communities. Moreover, nearly 50% of drug arrests are for marijuana-related offenses. One in every 15 Black men and one in every 36 Latino men are incarcerated in comparison to one in every 106 white men.

Police and prisons have become the government's answer to nearly every social problem in low income communities of color. The criminalization of poverty, mental illness, perceived anti-social behavior, and drug addiction has led to mass incarceration. Increased criminalization also worsens community members' interactions with police and leaves them vulnerable to the whims of law enforcement, who are often incentivized by quotas and political pressure to arrest and incarcerate as many people as possible. The key to transforming police and community relations is the decriminalization of behavior that does not pose a threat to public safety and an investment in alternative solutions to social and health issues.

IN PRACTICE

A number of jurisdictions across the country have decriminalized marijuana—most recently Colorado, Washington, and Washington, D.C. In Washington, D.C. community organizations gathered sufficient signatures to place the issue on the November 2014 ballot and in February 2015, recreational marijuana use was decriminalized. Now the campaign is focused on ending discrimination through full legalization and refocusing police priorities on more important issues than marijuana use or possession of small amounts of marijuana.

In New York City, the prioritization of low-level offenses resulted in more people being arrested for marijuana possession in 2011 than the total number arrested for the offense between 1981 and 1995. Eighty four percent were Black or Latino, even though most marijuana users in New York are white. Grassroots advocacy and public pressure are changing the political climate around marijuana throughout the state. Organizations such as VOCAL NY and the Drug Policy Alliance have waged an advocacy, public education, and grassroots organizing campaign. In 2013, a coalition of grassroots organizations hosted a forum for the Brooklyn District Attorney candidates to discuss the connections between the failed war on drugs and mass incarceration and encouraged candidates to consider different approaches to dealing with drug addiction. A similar mayoral forum was hosted, and organizers were able to successfully change the public narrative so much so that both Republican and Democratic candidates publicly supported decriminalizing small amounts of marijuana. Most recently, Brooklyn's District Attorney said that his office would not prosecute low-level marijuana possessions. However, without legislation, there is no way to enforce non-prosecution or departmental de-prioritization. To guarantee the permanence and effectiveness of any reforms legislation must ultimately be passed. Advocacy groups across the state are now pushing New York to introduce a bill that would demote possession of small amounts of marijuana from a misdemeanor to a violation that comes with a fine.

Recently, in recognition of the financial and human costs of the criminalization of low level offenses, a number of city council members in New York City have called for changing some of the City's most common offenses from criminal to civil charges.

Similarly, in November 2014 voters in California passed Proposition 47, which reduces certain drug possession felonies to misdemeanors and reinvests the estimated \$150 million a year in savings to support school truancy and dropout prevention, victim services, mental health and drug abuse treatment, and other programs designed to expand alternatives to incarceration. The Proposition passed as a result of the efforts of a coalition of advocates, base building organizations, and policy makers from across the state.

BEST PRACTICES: Steps can be taken at the state, city, or county level to decriminalize formerly criminal behavior and reduce mass incarceration and abusive police conduct.

- ✓ When possible, municipalities should revise their municipal codes to reclassify current misdemeanors into civil infractions. Municipalities should also ensure that fines associated with civil infractions do not become excuses to incarcerate or financially exploit people. Some of the most common offenses criminalized throughout the 1980s and 1990s include: Consumption of Alcohol on Streets, Disorderly Conduct, Public Urination, Bicycle on Sidewalk, Trespassing (which can include being in a building without identification), Failure to comply with park signs, Unlawfully in parks after hours, Marijuana possession, Littering, Loitering, Panhandling, Transit Offenses (including sleeping on subway, taking up multiple seats, traveling between subway cars, dancing on subway), Loud Music, Truancy, and Spitting.
- ✓ Municipalities should change their city charters or local municipal laws to limit the administrative, health, park, and tax code offenses that police are responsible for enforcing.
- ✓ States – and where possible, cities – should reduce collateral consequences resulting from all minor offenses, so that individuals' employment, immigration, parenting, voting, and public housing statuses are not compromised.
- ✓ States should decriminalize marijuana and include provisions that allow possession of marijuana for persons of all ages, allow those who have already been convicted for possession of marijuana to clear their records, fix definitions of what constitutes sale of marijuana so that sharing is not legally seen as selling, and include racial impact analysis and data collection mandates to ensure that enforcement of any existing laws is not racially biased.
- ✓ Cities can also take steps to mitigate the harms of marijuana and other low-level offenses by encouraging police to deprioritize enforcement of these crimes and encouraging local district attorneys to stop prosecuting low-level offenses.
- ✓ Cities and states should reinvest a percentage of any savings resulting from criminal justice reforms in community-based efforts, prevention, intervention, treatment, education, and other programs that have been shown to promote healthier, stronger, and safer communities.

SAMPLE LEGISLATION AND POLICY

For text of the proposed New York State Fairness and Equity Act, see: <http://open.nysenate.gov/legislation/api/1.0/pdf/bill/S7927-2013>.

The Fairness and Equity Act was introduced in 2013. It proposes to: end the racially biased arrests of tens of thousands of New Yorkers by fixing the law regarding possession of small amounts of marijuana, create a process for those who have been convicted of public possession of small amounts of marijuana to clear their records, reduce collateral consequences resulting from marijuana possession arrests and non-criminal offenses, seal marijuana possession violations immediately upon conviction, and establish a process to utilize racial and ethnic impact statements for legislation proposing to modify New York’s penal code.

For text of California’s Proposition 47, see: <http://vig.cdn.sos.ca.gov/2014/general/pdf/text-of-proposed-laws1.pdf#prop47>.

Proposition 47 was a ballot measure that passed in 2014 in California. It reclassified six low-level property and drug offenses from felonies to misdemeanors. These offenses include shoplifting, theft, and check fraud under \$950, as well as personal use of most illegal drugs. State savings resulting from the measure are estimated to be at least \$150 million a year and will be used to support school truancy and dropout prevention, victim services, mental health and drug abuse treatment, and other programs designed to expand alternatives to incarceration.

RESOURCES

- For more information about marijuana decriminalization campaigns across the country see the Drug Policy Alliance’s Website: <http://www.drugpolicy.org>.
- For more information about the disproportionate impact of marijuana enforcement see ACLU’s “The War on Marijuana in Black and White”: <https://www.aclu.org/files/assets/aclu-thewaronmarijuana-rel2.pdf>.
- For more information about over-criminalization: http://www.manhattan-institute.org/html/ib_31.htm#VTL4eSHBzGc.
- For more information about the California campaign to change sentencing practices and invest in communities: <http://www.unitedforprop47.com>.
- For more information about VOCAL NY’s campaign to decriminalize marijuana and other low-level offenses in New York: <http://www.vocal-ny.org>.

POLICY 2: MUNICIPAL COURT REFORMS

Under most state law, courts can issue bench warrants for the arrest of anyone who does not appear for a court date after being ticketed for a violation or given a summonses. As a result, too many individuals serve jail time for parking infractions or park code violations. Incarceration is not an appropriate response to the failure to pay a fine or appear in court for a minor or civil offense. Yet municipalities across the country use these fines, as well as the additional court fees and fines that pile up when people are unable to pay the original penalty, to supplement city and county budgets.

The Department of Justice's report on the Ferguson Police Department exposed the depth of the St. Louis County municipal court system and found "overwhelming evidence of minor municipal code violations resulting in multiple arrests, jail time, and payments that exceed the cost of the original ticket many times over." However, this practice is not unique to St. Louis County. It is estimated that over one million people in NYC, for example, have outstanding bench warrants.

Warrants have crippling consequences for communities. An outstanding bench warrant makes it impossible for individuals to get jobs or housing that require a background check. The overuse of warrants also leaves many community members fearful and vulnerable in interactions with law enforcement, because they are under the constant risk of arrest and incarceration.

IN PRACTICE

Bench warrants are used throughout the country when someone misses a court date. The practice is especially devastating for low-income individuals who are unable to pay fines and has a disproportionate impact on Black and Brown people, who are often targeted by police. In recognition of the discriminatory and crippling impact of bench warrants, many community organizations support the adoption of a range of policies to mitigate the effect on community members. These policies include: allowing individuals to attain background checks even with an outstanding bench warrant, instituting regular times where people can appear in court so that individuals do not spend significant time in jail waiting to appear before a judge over a bench warrant, eliminating bench warrants all together, and ensuring that individuals are not jailed multiple times for the same ticket or offense. A number of jurisdictions, from Baton Rouge to Atlanta, have offered amnesty for existing bench warrants. However, these amnesty programs



Protest in Milwaukee, WI on November 25, 2014.
Photo by Light Brigading.

have been limited in that they often require a one-time payment and do not address the underlying issues of criminalizing poverty and inappropriately using incarceration as a strategy for generating revenue.

In St. Louis, Missourians Organizing for Reform and Empowerment (MORE), Arch City Defenders, the Organization for Black Struggle (OBS), and others have been involved in a multiple year campaign to end the abusive municipal court practices in St. Louis County. The campaign has included the publishing of reports about the practice, direct actions targeting city and court leadership and a public education strategy. The campaign in St. Louis aims to provide relief to people who have outstanding bench warrants and municipal ordinance violation tickets, and to prevent the issuance of future bench warrants by addressing the structural racism and profit motive of the St. Louis County municipal courts. In response to increasing pressure, St. Louis County cancelled more than 220,000 arrest warrants for those with moving violations and at the state level both chambers of the Missouri Legislature passed a revenue bill, which caps the amount of general operating revenue from traffic tickets a municipality can collect at 12.5 percent, down from 30 percent.

BEST PRACTICES: Both city councils and municipal courts can lessen the devastating impact of bench warrants. City councils can make changes to the municipal code limiting the penalties for different municipal offenses and municipal courts can issue rules dictating how judges deal with cases.

- ✓ Any amnesty on bench warrants should include an elimination of all outstanding fines and permanently cancel any warrants associated with those offenses. Additionally, any amnesty should pardon all pending cases and recall any warrants associated with those cases.
- ✓ Municipalities should eliminate the “Failure to Appear” charge, which often is the municipal code violation that allows for bench warrants to be issued and results in unnecessary arrests.
- ✓ Municipal courts should eliminate additional fees and fines for missed court appearances.
- ✓ Municipalities should use less costly and more humane practices that have been proven to increase the likelihood that a defendant will appear in court—such as a reminder phone call or free transportation.
- ✓ Municipal courts, municipalities, and states should provide alternatives to monetary payment for fines including community service, as suggested by advocates in St. Louis.
- ✓ Municipalities or states should provide public defenders to indigent people who are facing charges in municipal court.
- ✓ Fines should be determined based on the income of the person fined and never imposed on individuals who are not deemed legally financially responsible (such as minors, people with severe medical or physical disabilities, etc.)

- ✓ States and city officials should end the practice of suspending people's licenses for failure to pay minor traffic violation fines or child support.
- ✓ Municipal courts should limit the violations that require court appearances to the extent possible under state law.
- ✓ Municipalities and states should enforce a cap on the amount of municipal revenue that can be generated from traffic tickets and other offenses.
- ✓ Municipal courts should be consolidated into regional courts to discourage the practice of using municipal courts to fund bankrupt municipalities.
- ✓ A percentage of municipal court revenue should be reinvested in communities and community based programs.

RESOURCES

- For more information about the Department of Justice findings on the St. Louis County Municipal Courts: http://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf
- For more information about the St. Louis campaign to end municipal court abuses see Missourians Organizing for Reform and Empowerment's report "Transforming St. Louis County's Racist Municipal Courts.": https://d3n8a8pro7vhmx.cloudfront.net/organizemo/pages/269/attachments/original/1422885660/Transforming_St._Louis_County's_Racist_Municipal_Courts.pdf?1422885660
- For more information on municipal reforms enacted in St. Louis: http://mediad.publicbroadcasting.net/p/kwmu/files/MondaySept_8_2014_CCAnnouncement.pdf
- For more information on alternatives to monetary payment of fines including Timebanking, which is a network of people engaged in a reciprocal exchange of services, skills, and goods through a web in which the currency is an hour of time instead of money: <http://timebanks.org/> and <http://danecountytimebank.org/projects/dctb-youth-court-community-justice>
- For more information about alternatives to pre-trial detention and strategies that increase rates of court appearances and compliance: <http://www.vera.org/sites/default/files/resources/downloads/aap.pdf>
- For more information on "structured fines" or fines based on ability to pay: <https://www.ncjrs.gov/pdffiles/156242.pdf>

POLICY 3: IMMIGRATION DETAINER POLICIES

Federal immigration policies also impact how communities are policed. The Obama administration detains and deports more than 400,000 people every year, separating countless families, funneling thousands of children into the foster care system, and hurting local economies that rely on immigrant labor. Federal immigration enforcement increasingly relies on local law enforcement—personnel, jails, and local police budgets are used to carry out punitive and overzealous enforcement programs. The centerpiece of the US Immigration and Customs Enforcement (ICE) detention and deportation infrastructure is something known as an “ICE detainer” or “ICE hold.” An ICE hold is a request from ICE to a local law enforcement agency to detain an individual for up to 48 hours, so that federal authorities can come take the person into custody. ICE issues these requests to hold all types of people with outstanding immigration issues, from recent immigrants to long-time permanent residents with green cards. Many localities are unaware that an ICE hold is merely a request, not an order, and that it is up to the discretion of each local law enforcement agency whether or not to honor an ICE hold request. Increasingly, state and local policy makers are recognizing that using local resources to enforce federal immigration law is bad policy. When local police participate in the enforcement of our broken federal immigration law, it incentivizes racial profiling, sows distrust for police in communities and deters immigrant residents from accessing vital health and educational services, reporting crimes, and participating in civic life. Not only is it expensive to incarcerate people on ICE’s behalf, it also diverts law enforcement personnel time that should be spent responding to the public safety needs of the community.



Protest on January 12, 2015, Washington, DC. Photo by Justin Norman.

IN PRACTICE

A recent wave of court decisions have held that localities that hold individuals on immigration detainers without a finding of probable cause are risking Fourth Amendment liability. This has helped to build momentum against detainer compliance around the country, and as of today over 250 jurisdictions have passed laws or policies limiting the circumstances in which local law enforcement will honor detainer requests. In addition to the many city and county level policies, the states of California, Connecticut, Rhode Island, and Maryland also have laws or policies

limiting detainer compliance at the state level. Different jurisdictions take different approaches to drafting detainer policies. The earliest policies made compliance with detainers contingent on reimbursement by ICE. Although this framework is not ideal, in practice, it has resulted in an end to all detainer compliance in Cook County, IL, and Santa Clara, CA. In New York City, a new detainer law in 2014 effectively put an end to all detainer compliance by requiring that detainers be accompanied by judicial warrants. The New York City policy also prevented ICE from having access to the city jail. State level policies tend to be more permissive than local policies. The legislation in California and Connecticut contained many exceptions for individuals with old criminal convictions. In light of the recent court cases, those states are currently considering amending their laws.

BEST PRACTICES: Cities, counties, and states can pass legislation or enact administrative policy severing ties between local law enforcement and ICE in order to protect their communities from aggressive and cruel immigration policies.

- ✓ Detainer policies should prohibit local law enforcement from handing any individual over to ICE, or holding any individual on ICE's behalf, solely on the basis of a suspected immigration violation.
- ✓ Detainer policies should prohibit local law enforcement from sharing information – such as addresses, names of family members, employment information, or release date – about individuals in their custody with immigration authorities. This is especially crucial since the President announced changes to his immigration enforcement tactics, which will rely heavily on local law enforcement agencies sharing release dates of immigrants in their custody with federal immigration authorities.
- ✓ If a detainer policy contains any exceptions to the prohibitions on honoring requests by ICE to hold individuals, those exceptions should only apply when ICE also presents a warrant for arrest issued by an Article III judge.
- ✓ Detainer policies should prohibit immigration authorities from interviewing or otherwise having access to any individuals in police custody for the purposes of investigating potential violations of immigration law.
- ✓ Localities can reinforce their detainer policies by requiring that, wherever the policy does permit the local law enforcement agency to comply with a detainer request, ICE must reimburse the locality for the cost of detaining the individual.

SAMPLE LEGISLATION

New York City, NY, Ordinance (Dept. of Corrections and Police Dept.)(2014):

- ✓ <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=1935438&GUID=0F-5303CD-D849-4451-A082-6C9997FC782D&Options=ID|Text|&Search=detainer>

✓ <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=1935437&GUID=0A456911-54A6-41E5-8C5A-1D3B231D56AA&Options=ID|Text|&Search=detainer>

Cook County, IL, Ordinance (2011):

✓ http://www.ilrc.org/files/documents/07_-_cook_county_ordinance.pdf

King County, WA, Ordinance (2014):

✓ www.ilrc.org/files/documents/king_co_ice_detainers_ordinance_-_amended_9-2-14.pdf

California Trust Act (2013):

✓ http://www.ilrc.org/files/documents/04_-_california_trust_act_o.pdf

RESOURCES

- For a map of current immigration detainer policies around the country and links to the text of individual policies see: <http://www.ilrc.org/enforcement>

National March Against Police Violence in Washington, DC, December 13, 2014. Photo by fuseboxradio.



POLICY 4: DIVERSION PROGRAMS

Historically, incarceration has been used as a one-size-fits-all solution for every person who is arrested by the police. This over-reliance on incarceration has meant that millions of people have had critical underlying issues, such as addiction or mental health concerns, go unaddressed. Many of these people are accused of low-level offenses and are stuck in a cycle of recidivism, repeatedly arrested and incarcerated as their issues worsen.

Diversion programs are one sensible and compassionate solution to this problem. Police diversion programs allow law enforcement to use discretion to identify and divert people who meet certain criteria, often before they are even booked in the system. These programs give cities the opportunity to save on prosecution and incarceration costs, lower recidivism, and improve the lives of residents. They also give police the chance to help those in need of services rather than rely on harsh punishments. By choosing a pragmatic and compassionate approach over criminalization, cities can begin to see a decline in crime rates and increased community health.

Police diversion makes sense where law enforcement is being used to address issues that stem from unmet public health or economic opportunity needs. Ultimately, a healthy society should not rely on the police to play this function. If police are called to respond to a situation that is technically a law violation, but stems from unmet service needs, those needs should be met through community-based diversion rather than through criminalization, which is more expensive and more destructive.

IN PRACTICE

In Seattle, the Law Enforcement Assisted Diversion Program (LEAD) has reduced recidivism by 34-58% and assisted hundreds of people in need of help, providing program participants everything from housing and addiction treatment to yoga and art supplies in order to prevent recidivism. Similarly, in Brooklyn, the Center for Court Innovation's Red Hook Community Justice Center has an on-site clinic as well as programs for youth participants. The Center has reduced the use of jail in misdemeanor cases by 50%.

BEST PRACTICES: Local legislators can support programs that divert people from the criminal justice system to more sensible and humane alternatives by allocating funds to support diversion programs.

- ✓ Ideally, local legislators should not adopt legislation around this issue, because any written rules limit the ability for case-by-case discretion. Instead, legislators can be helpful by funding and/or periodically evaluating diversion programs.
- ✓ Instead of enacting legislation, those wishing to implement such a program should discuss and engage stakeholders such as the police chief, sheriff, district attorney, county and city

councils, mayor, lead public defender, neighborhood public safety groups, harm reduction based social service providers, and others. A Memorandum of Understanding setting out guidelines and rules for the diversion program can then be created and agreed to by the relevant stakeholders.

- ✓ Community services could include mental health, addiction services, trauma-focused psychotherapy, housing and job assistance, healthcare, and other important services. Services should be provided in a harm reduction (not an abstinence-based or zero tolerance) paradigm.
- ✓ Data is important. Diversion programs must measure and record information at every step of the process to accurately assess the program's success.
- ✓ Evaluations should include recidivism, individual health outcomes, and specific indicators of community health.
- ✓ Community organizations and service professionals can partner with the city to provide relevant services and assist with the programmatic needs of the diversion program.
- ✓ Police departments need to clearly state and train officers on operation protocols, including clarity around decision-making power. These protocols should be structured and easily reviewable. Furthermore, monitoring and oversight, preferably done by an independent department or organization, are necessary when providing police this type of discretion.
- ✓ Money saved through enacting diversion programs should be reinvested in community based initiatives that reduce crime, such as mental and other health services, education, housing services, and job assistance.

RESOURCES

- For more on the various types of diversion programs, please check out the Center for Health and Justice's National Survey of Criminal Justice Diversion: <http://www.napsa.org/diversion/library/No%20Entry-%20A%20National%20Survey%20of%20Criminal%20Justice%20Diversion%20Programs%20and%20Initiatives%20-%20CHJ%202014.pdf>.
- For more on the LEAD program in Seattle: <http://leadkingcounty.org>.
- For a copy of the MOU establishing the LEAD program in Seattle: <http://www.scribd.com/doc/267032932/Seattle-Diversion-Program-MOU>
- For more on Red Hook Community Justice Center: <http://www.courtinnovation.org/project/red-hook-community-justice-center>
- For other innovative programs see the Center for Court Innovation's website: <http://www.courtinnovation.org>

POLICY 5: RACIAL IMPACT TOOL FOR ALL CRIMINAL JUSTICE LEGISLATION

Many policies in this country unfairly disadvantage people of color and result in large swaths of Black and Brown communities being harassed, arrested, and shipped off to prison. While we no longer have laws that explicitly target or discriminate against Black and Brown people, many laws which seem neutral have negative effects on Black and Brown communities. Each new law and policy can compound the problem of racism in our criminal justice system and harm communities of color. Too often, elected officials and policy makers make decisions that end up having severe negative consequences for Black and Brown communities.

The only way to end the systemic racism that has existed for generations is to stop passing laws and regulations that unfairly impact Black and Brown communities. In order to ensure racial equity, policy makers and government officials must consider the disproportionate racial impact that may result from any legislation. Leaders and officials must make themselves aware of the effects of their choices.

Like financial or environmental impact assessments, racial impact tools provide policymakers with critical information and force them to confront the real life effects of policies they pass. Before legislation or ordinances are enacted, elected officials should require an assessment of the potential impact on people of color. This is especially critical in criminal justice legislation, where racially biased policing and incarceration have destroyed lives and crippled communities across the country. By using racial impact tools, decision makers and communities have the opportunity to proactively eliminate disproportionate effects on people of color and start to chip away at systemic racism.

IN PRACTICE

A number of cities throughout the country have used racial impact tools to assess the impact of existing or potential policies. The information provided by racial impact tools can be powerful advocacy



and organizing resources. Philadelphia ended zero-tolerance discipline policies after seeing the disproportionate effect on students of color. Similarly, Seattle ended the use of criminal background checks in employment decisions after assessing the unfair impact that such policies had on men of color. Seattle also uses a racial equity tool in budget, policy, and program decisions. Minneapolis has recently created the Office of Equitable Outcomes to ensure the most equitable outcomes in every city department or division. In Madison, assessing racial impact has resulted in more inclusion of people of color in government. While there are no prominent examples, racial impact assessments can and should be used within police departments to evaluate the impact of different policing policies.

BEST PRACTICES: Racial impact tools, which reveal the impact of existing and potential legislation or regulations on communities of color, can be used to assess local, state, or federal legislation but have most commonly been used on the local level.

- ✓ These tools are most useful in jurisdictions that have an office or department of racial equity. The department's role is to ensure that policy decisions are assessed thoroughly for racial impact. The department can also ensure that internal government operations, such as hiring and contracting, are racially equitable.
- ✓ Jurisdictions must decide on common language to discuss racial equity and must define and provide examples of various forms of racism and inequity, including individual, institutional, and structural racism, as well as implicit and explicit bias. Government officials and staff should receive trainings on common language and on forms of racism or racial inequity.
- ✓ It is not enough to simply address racial inequity within city hall or the state capitol. Government officials must consult and include community organizations working directly with impacted racial or ethnic groups, as well as experts on racial equity. These partners should be involved at all steps of the process, including creating common language, assessing racial impact, and developing remedies to racially unequal policies.
- ✓ Being data-driven is important. Data about the racial impact of policies must be used to set baselines and goals, measure progress, and evaluate success of individual policies and programs. However, data alone is not enough – people's lived experiences and individual evaluations must also be taken into account when assessing impact.

SAMPLE ASSESSMENT TOOLS

- Seattle Race and Social Justice Initiative's Racial Equity Toolkit: http://www.seattle.gov/Documents/Departments/RSJI/RacialEquityToolkit_FINAL_August2012.pdf
- Race Forward's Racial Equity Impact Assessments for Economic Policies and Budgets Toolkit: <https://www.raceforward.org/practice/tools/racial-equity-impact-assessments-economic-policies-and-budgets>

- Race Forward's Racial Equity Impact Assessment Toolkit: <https://www.raceforward.org/practice/tools/racial-equity-impact-assessment-toolkit>

RESOURCES

- For more information on how your jurisdiction can address racial inequity and implement Racial Impact Tools, please contact the [Local and Regional Government Alliance on Race and Equity](#)
- For more information on how cities use Racial Impact Tools, [Seattle's Race and Justice Initiative](#) program is a great example of how a city integrates racial equity into their operations and processes.

Rally to reclaim Martin Luther King Day Day in Silver Spring, Maryland, January 24, 2014. Photo by Stephen Melkisetian.



SAFE AND JUST POLICE INTERACTIONS

POLICY 6: BANS ON BIAS BASED POLICING

Anti-profiling measures prohibit officers from stopping or targeting people based on their race, religion, or national origin. Bias-based profiling by law enforcement is not only racially discriminatory, it also erodes trust between communities and police, unnecessarily involves victims of profiling in the criminal justice system, and can have dangerous, even deadly consequences (as seen in the case of Eric Garner in Staten Island.) Moreover, there is no evidence that bias based profiling is an effective law enforcement strategy. According to a report released by the New York Attorney General in 2013, just 0.1% of stop-and frisks resulted in conviction for a violent crime or possession of a weapon.

Bias-based profiling is a daily reality for young people, communities of color, low-income communities, and LGBTQ communities. According to the NAACP's extensive study on racial profiling, "Born Suspect," not a single state in the country has anti-profiling legislation that is strong enough to be considered a model. An enforceable ban against bias-biased profiling can help curb police harassment and limit the amount of unnecessary contact Black and Brown community members have with law enforcement and the criminal justice system.

IN PRACTICE:

For decades in New York City, discriminatory profiling was the cornerstone of the New York Police Department's (NYPD) stop-and-frisk practices. Overwhelming numbers of Black and Brown residents were stopped and harassed with no cause. Although young Black and Latino men made up only 4.7% of New York City's population they accounted for 41.6% of those stopped in 2011. Racial disparity rates for women stopped by the NYPD equaled that of men—on average over 80% of women stopped by the NYPD were Black or Brown. Additionally, according to researchers at CUNY Graduate Center, LBGQT youth were more likely to report negative interactions with police than their heterosexual peers, and more than twice as likely to report sexual harassment by police.



Protest against the failure to indict Officer Darren Wilson, Washington, DC, on November 25, 2014. Photo by Stephen Melkisetian.

After years of organizing and advocating, Communities United for Police Reform led a coalition of community-based, policy, legal, research, faith-based, labor and other organizations in a public education, political advocacy and grassroots organizing campaign aimed at ending Broken Windows¹ policing in New York City. Through a combination of public education, political advocacy and legal strategy, the coalition worked to change the narrative and laws around policing in New York City. The coalition mobilized the membership of dozens of community-based organizations and created public education materials, including videos and testimonials featuring the stories of those most impacted by the practice. In 2013 they were able to pass a local law that outlawed targeting on the basis of characteristics such as immigration status, age, housing status, disability, sexual orientation, gender and gender identity or expression in addition to race, religion, and national origin. The New York City legislation established an enforceable ban on profiling and a “private right of action” so that individuals who are targeted can sue the NYPD. It also allows New Yorkers to bring both intentional discrimination and disparate impact claims—meaning that lawsuits could be brought based on NYPD practices that unfairly impact protected groups.

BEST PRACTICES: Profiling bans can be enacted at the state, county, or local level and can be passed on their own or incorporated into state or local human or civil rights laws. In some states it may require a state law in order to create a private right of action, which gives individuals the ability to take the police to court when they are profiled.

- ✓ Profiling bans should include a broad scope of protected categories including: immigration status, age, housing status, sexual orientation, gender, gender identity/gender expression, disability, and HIV status, in addition to race, religion and national origin.
- ✓ Effective bans must include meaningful enforcement mechanisms including: a private right of action allowing individuals who have been profiled to seek relief in court, recourse to existing enforcement bodies and mechanisms (i.e. local Human Rights Commission), and attorney fees.
- ✓ Profiling bans should hold local law enforcement responsible for both intentional discrimination as well as unintentional practices that unfairly impact specific communities (known as “disparate impact”). Bans should allow those profiled to bring claims both after incidents of intentional discrimination and when practices have a disproportionate impact on protected communities. Disparate impact prohibitions should not be phrased in terms of actions “based on” or “because of” race, which is hard to prove, but should prohibit practices that have a disparate and unwarranted impact on protected classes.
- ✓ Effective bans must create and adequately fund systems for collecting and monitoring community complaints. Ideally, these complaints will be incorporated into officer and

1. For more information on Broken Windows Policing in New York City see: <https://www.youtube.com/watch?v=iXl1QJRqPD8>

department-level performance evaluations so that law enforcement agents and agencies are held accountable for compliance with anti-profiling measures.

- ✓ Police departments should adopt department policies on both intentional profiling and avoiding disparate impact.

SAMPLE LEGISLATION AND POLICY

New York City, Community Safety Act (2013): <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=1444267&GUID=BCB20F20-50EF-4E9B-8919-C51E15182DBF&Options=ID|Text|&Search=1080>

RESOURCES

- For more information about the history of racial profiling, national statistics and model language see the National Association for the Advancement of Colored People's (NAACP) report "Born Suspect": http://action.naacp.org/page/-/Criminal%20Justice/Born_Suspect_Report_final_web.pdf
- For more information about the New York City-based Communities United for Police Reform organizing and advocacy strategy: <http://changethenypd.org>
- For more information about the impact of bias profiling on communities see Vera Institute of Justice's study, "Coming of Age with Stop and Frisk": <http://www.vera.org/project/stop-question-and-frisk-study>

POLICY 7: CONSENT TO SEARCH

The Fourth Amendment of the U.S. Constitution gives all Americans protections from unreasonable or unjustified searches. People stopped by the police have a constitutional right to deny requests to be searched, if the officer lacks legal cause. However, many people stopped by law enforcement don't know they have the right to refuse a search and are never asked for consent, when consent is required. Unjustified searches by law enforcement result in unnecessary arrests for low-level non-violent offenses—such as marijuana possession or loitering for the purposes of prostitution based on possession of condoms. Additionally, there are huge racial disparities in who is exposed to these searches. For instance in Chicago, Black and Latina/o motorists in 2013 were four times more likely than white motorists to have their vehicles searched during traffic stops, even though officers found contraband in the vehicles of white motorists twice as often. In North Carolina, Black motorists were twice as likely as white motorists to be searched during a stop.

Often people are misled into “consenting.” Officers will order (or “ask”) people to empty their pockets or open up their bags, without telling them that they have the right to refuse. These searches lead to negative interactions with police and unnecessarily funnel community members through the criminal justice system. Arrests—resulting from unlawful or coercive stop-and-frisk practices—and the convictions or pleas that often follow can have devastating consequences, including the loss of jobs and hiring prospects, inability to get student loans, housing evictions, and lengthy and costly court procedures. Consent to search legislation can mitigate the harms of these searches and reduce people's exposure to incarceration by ensuring that those stopped

Black Lives Matter march in Portland, Maine, on December 7, 2014. Photo by sunlightrunes.



by police are made aware that they have the right to refuse a search—similar to how police are required to tell those under arrest that they have the right to remain silent.²

IN PRACTICE

Across the country people are searched without any legal justification because they supposedly “consented” to a search. This practice results in thousands of unnecessary arrests and countless intrusive encounters between communities and law enforcement. The practice is also disproportionately used against Black and Brown community members. In recognition of the racially discriminatory impact and the devastating consequences of searches resulting from “consent,” a number of states have passed legislation that require law enforcement to get written or recorded proof that they advised community members of their right to refuse a search. Key to successful advocacy campaigns aimed at ending “consent” searches is the availability of data showing racial disparities in searches and the reality that those profiled—mostly Black and Latina/o community members—are often less likely than others to have contraband. The problem of consensual searches was highlighted by the Presidential Task Force on 21st Century Policing, which recommended that law enforcement be required to obtain written or recorded proof that they advised those searched of their right to refuse.

BEST PRACTICES: Consent to search legislation, which requires police to make people aware of their right to refuse a search and document it, can normally be passed at the local or state level. It can also be implemented administratively.

- ✓ Consent to search legislation should include a requirement that police officers obtain and document proof of voluntary and informed consent in either written or video or audio taped form. It should also require officers to inform individuals that there are no negative consequences to refusing a search request.
- ✓ Consent to search legislation should apply to both vehicle and pedestrian stops.
- ✓ Consent to search legislation can also include the requirement of a consent form including a tear off sheet with the officer’s name, rank, command and a phone number for how those stopped can file complaints. Research indicates that when officers are forced to share identifying information with those they stop they are less likely to engage in abusive or disrespectful behavior.
- ✓ One key to effective implementation of consent to search legislation is changing the training and patrol guide of local police departments. Police departments that offer training about when a search is lawful and discourage officers from coercing residents into consenting to searches, by making them aware of their rights, are less likely to engage in problematic consent searches.

2. For more information on consent to searches, see Interim Report of The President’s Task Force on 21st Century Policing recommendation 2.10

- ✓ Consent to search legislation should prohibit departments from assigning gender based on anatomical features and require that officers address, interact with, search and place individuals in a manner that is consistent with their gender identity and expression.
- ✓ Effective consent to search legislation should mandate meaningful consent including a provision accommodating non-English speakers and people with cognitive and other relevant disabilities.
- ✓ Effective consent to search legislation should include consequences for officers and departments who do not obtain objective proof of consent. One possibility is including language that makes clear that if consent is not obtained, when legally required, any evidence found in the search cannot be used in a criminal proceeding or that there will be a presumption that the search was unconstitutional—making it difficult for prosecutors to use the evidence.
- ✓ Effective legislation may also require that the officer articulate the reason they asked to search the person. Some jurisdictions, such as Fayetteville, North Carolina, require a justification for the consent search and have banned the use of justifications that correlate with race such as: “nervousness”, “presence in a high crime area” or “prior criminal record.”
- ✓ Even with safeguards, consensual searches are often abused and have a racially discriminatory impact. If possible police should be banned from conducting searches based on consent and should be limited to conducting searches based on probable cause, a warrant or one of the legally established exceptions to a warrant.

SAMPLE LEGISLATION AND POLICY

Rhode Island Ban on Consent to Search (2004): <http://webserver.rilin.state.ri.us/PublicLaws/law04/law04356.htm> *See Section 31-21.2-5

Colorado Consent to Search Legislation (2010): http://www.leg.state.co.us/CLICS/CLICS2010A/csl.nsf/fsbillcont3/34BDAFC4BDBE212B872576A8002BC0D3?Open&file=1201_enr.pdf

The proposed New York City “Right to Know Act”: <http://changethenypd.org/right-know-act>

Cincinnati Police Department Consent to Search Procedure Manual: <http://www.cincinnati-oh.gov/police/permits-auctions-references/police-department-procedure-manual>

RESOURCES

- For more information on the history, problems and discriminatory impact of consent searches see the American Civil Liberties Union of Illinois campaign to end consent searches in Illinois: <http://www.aclu-il.org/racial-disparity-in-consent-searches-and-dog-sniff-searches>.

COMMUNITY CONTROL

POLICY 8: COMMUNITY OVERSIGHT

More than 100 jurisdictions across the country have some type of civilian oversight commission or board, but few communities feel they have true control over their police departments. In recognition of the reality that community oversight is fundamental to the legitimacy of local law enforcement, many communities have renewed their call for meaningful community oversight. Traditionally, civilian or community oversight boards provide communities a say in the disciplining of officers accused of misconduct against community members. However, a number of jurisdictions, including Seattle, San Francisco, St. Louis and Newark, have started to advocate for review boards with a wider scope—including the power to investigate departmental practices, impact hiring decisions, and help identify policing priorities. Seattle’s Community Police Commission includes both the power to investigate individual cases and address systematic issues. Whatever the scope of the commission or board, community oversight is only meaningful if boards are independent, actually represent impacted communities, have adequate funding, and have full investigatory and disciplinary power.



Signs showing the eyes of Eric Garner held during Millions March, NYC, December 13, 2014. Photo by The All-Nite Images.

IN PRACTICE

The Los Angeles Sheriff’s Department is the fourth largest local policing agency in the country, operates in nearly 90 municipalities and oversees all LA County Jails, which have an average daily population of nearly 22,000 people. Organizers and advocates have been working to end widespread abuse, corruption and discrimination within the Department for decades. In 2002, the Department of Justice pressured Los Angeles officials into issuing some reforms to address the heinous mistreatment of those incarcerated in LA County Jails, but little changed. Over a decade later, ACLU began a lawsuit accusing the Sheriff’s Department of using excessive force in jails. The levels of abuse documented in county jails were horrific, and very few were paying any attention. The report galvanized an art project, which powerfully expressed the cruelty of the Sheriff’s department and galvanized community members and local artists. From the art project a coalition of organizers and community members was created called “Dignity and Power Now/ The Coalition to End Sheriff’s Violence in LA Jails.”

Over the course of two and a half years, the coalition published a comprehensive community-based research report and engaged in direct action to push for an appointed civilian oversight body with subpoena power and the ability to track violence in jails. They held a series of workshops and focus groups across the county to get a sense of what residents wanted out of an oversight board, organized those most impacted by the lack of oversight to lead the campaign, and corralled a group of UCLA law students and lawyers to research best practices and do other legal and policy research based on community priorities.

After years of organizing and advocacy Dignity and Power Now garnered the support of the County Supervisors on the issue of civilian oversight. In December 2014 the Board of Supervisors voted to create a civilian oversight system. The campaign demanding oversight of sheriffs is unique and important, because across the country sheriffs have been involved in countless acts of misconduct and police thousands of towns and unincorporated areas and control county jails. By insisting on oversight of the sheriffs the campaign will have an impact in numerous cities and jails across Los Angeles County.

San Francisco has one of the strongest civilian oversight boards in the country with significant disciplinary power. In their model, the Citizen Police Commission determines all disciplinary action beyond 10-day suspensions and is the appellate body for all officer appeals. Additionally, San Francisco uses a model that does not rely on internal divisions within the police department to conduct investigations. Typically, allegations of excessive force, civilian harassment, and other infractions by police while on duty are investigated by the Office of Civilian Complaints, rather than a unit within the police department. Many civilian oversight boards are forced to rely on the investigations of internal departments or units, which can limit their access to information. In San Francisco, the Office of Citizen Complaints (OCC) receives complaints from community members and has the power to investigate any allegations brought forth by residents.

Seattle's Community Police Commission (CPC) is an example of a hybrid oversight commission and civilian review board. It was established in 2013 as part of a consent decree with the Department of Justice. The fifteen member commission represents diverse community interests, including two police union representatives. The CPC provides system oversight for the civilian-led accountability process conducted by an independent civilian Auditor and a civilian Director of the Office of Police Accountability. In addition to its role overseeing the accountability system, the CPC, which includes police reform advocates, comments on police policies that affect community trust and fairness, and works with the Seattle Police Department training section to revise training curriculum in key areas, including bias-free policing, stops and detentions, crisis intervention training, and use of force.

BEST PRACTICES: Community oversight boards or commissions, which give communities a say in the discipline of officers, can be enacted at the county or municipal level. Due to state law, some communities may not be able to create a board with subpoena or disciplinary power without changing state law and/or the city or county charter.

- ✓ The commission or board should have full investigative powers—including the power to subpoena or compel testimony and documents.
- ✓ Local law enforcement and any other oversight bodies should be mandated to give complete access to internal affairs and relevant files to the commission or board.
- ✓ The commission or board must be fully funded and staffed—including an investigative staff.
- ✓ The commission or board should reflect the communities most impacted by police surveillance, abuse, and brutality. Legislation should mandate a majority of the board be made up of community members appointed or elected in a democratic way. Additionally, many communities have chosen to push for boards without membership from any law enforcement or former law enforcement, in order to avoid conflicts of interest.
- ✓ The commission or board may also require that all policies affecting community trust and fairness be submitted to the board for review and comment before passage.
- ✓ The commission or board should have a meaningful say in the discipline of officers. Ideally, these boards would have final say in discipline but this may be complicated by state or local law or by contracts between the city and law enforcement unions.
- ✓ The commission/board should make its disciplinary recommendations public regardless of barriers to disciplinary action due to state and local laws. This allows for public knowledge of any discrepancies between the commission/board's recommendations and the departments actions, allowing for more transparency and public scrutiny.
- ✓ Community oversight boards or commissions should accept anonymous complaints as well as complaints by third parties (including organizations) on behalf of individuals.

SAMPLE LEGISLATION AND POLICY

San Francisco Office of Citizen Complaints: <http://nacole.org/wp-content/uploads/1-San-Francisco-City-Charter-Section-4.127.pdf>

Executive Order by Mayor Ras Baraka of Newark, New Jersey for the establishment of a Civilian Oversight Board: http://www.ci.newark.nj.us/wp-content/uploads/2015/02/ExecutiveOrder-CivilianComplaintReviewBoardwithRules_FINAL.pdf

Los Angeles Charter and Administrative Code relating to the Los Angeles Board of Police Commissioners: [http://www.amlegal.com/nxt/gateway.dll/California/laac/administrative-code?f-templates\\$fn=default.htm\\$3.0\\$vid=amlegal:losangeles_ca_mc](http://www.amlegal.com/nxt/gateway.dll/California/laac/administrative-code?f-templates$fn=default.htm$3.0$vid=amlegal:losangeles_ca_mc)

*See Article V, Section 573

RESOURCES

- For information about effective models of community oversight and recommendations on best practices see “We The Protestors” Policy Brief on the topic: <http://www.scribd.com/doc/254134795/Policy-Brief-2-Community-Oversight-of-Police>.
- For more information about scope and powers of the Los Angeles Board of Police Commissioners see their website: http://www.lapdonline.org/police_commission/content_basic_view/900.
- For background and information about the Seattle Community Police Commission see: www.seattle.gov/policecommission.
- For a detailed description of oversight agencies across the country see: <https://nacole.org/nacole-resources/detailed-oversight-agency-profiles>.
- For more information about the Dignity and Power Now Campaign to enact meaningful oversight of the LA Sheriff’s Department see: <http://dignityandpowernow.org>.

Protesters outside the Ferguson, MO police station. Photo by Sarah-Ji, www.sarah-ji.com.



POLICY 9: DATA REPORTING

Data about law enforcement activity can be a powerful and effective tool in reforming policing and criminal justice practices. Collected data consistently shows that people of color are stopped more often and face more serious consequences—such as arrests, searches, or fines. Improved data collection and reporting policies are essential to understanding the severity and impact of discriminatory policing and making the case for reform to a variety of audiences. Comprehensive data allows states and localities to identify the scope of profiling, disparate enforcement, use of force and deaths resulting from police encounters/custody. As affirmed by the Presidential Task Force on 21st Century Policing, transparent data collection is also key to increasing community trust and police accountability. By creating and funding ongoing data collection programs, states can reward agencies that are reducing discrimination, identify departments and individual officers most involved in profiling, incentivize the development of new, non-discriminatory approaches to policing and even drive collaboration between police departments and the communities they serve.³ Essential to effective data collection is the funding and creation of accurate systems for collecting, organizing, and sharing the information collected.



Street art in Washington, DC in December 2014.
Photo by Ted Eytan.

IN PRACTICE

After a series of police-involved shootings of people of color in Durham, North Carolina, a coalition of ministers, lawyers, community leaders, and organizers formed to address police brutality and profiling. The coalition worked closely with lawyers and advocates to use state data from 2002 to 2013 to show that Durham police searched Black male motorists at more than twice the rate of white males, despite the reality that Black men were not more likely to be in possession of drugs or other illicit materials. The city, which did not respond adequately to demonstrations, did respond to the data. Soon after, Durham began to require that officers make individuals aware of their right to refuse a search and obtain written consent. Similar policy changes were spurred by data collected in Kalamazoo, Michigan and in a host of other localities including New York City. Data collection is also being used in places around the country by public defenders to show discriminatory practices and by police chiefs to discuss search patterns with individual officers.

3. For more information on the importance of data collection, see Interim Report of The President's Task Force on 21st Century Policing recommendations 2.2 and 2.6

In light of ineffective or non-existent data collection practices some communities have begun to collect and share their own data. In 2013, a group of Baltimore residents, organizers, and activists who were upset about reoccurring police violence and the lack of information about those injured and killed by the police, came together to compile information on police related deaths in Baltimore and established the Maryland Stolen Lives Project. Together the group began to engage in community research and data compiling. They came to the startling conclusion that every fourteen days in Maryland, someone is killed by law enforcement. In the immediate aftermath of the Michael Brown killing in 2014, Baltimore BLOC was able to use the data they had compiled on officer-involved deaths to galvanize community members into pushing for a host of police reforms at the local, county, and state levels.

BEST PRACTICES: Laws requiring the collection of data about law enforcement interactions—including with whom, why, and how—can be enacted at the state or local level through legislation or administrative action.

- ✓ Data collection statutes should mandate data collection for age, race and/or ethnicity, and sex/gender of individuals in police interactions as well as the date, time, location, and geographic location where the interaction took place. Data should be self-reported to ensure accuracy.
- ✓ Data collection statutes should require data on various law enforcement activities and outcomes including stops, frisks, searches, summonses, use of force, arrests, and deaths.
- ✓ An explanation of the reason for the law enforcement action at each stage of police contact should be required as part of the data collection statute, including whether contraband was found.
- ✓ Data collection statutes must include a mandate and funding to create data collection systems that accurately collect, maintain and analyze data and ensure that data can easily be disaggregated by age, ethnicity and/or race, sex, and shared across other systems.
- ✓ Data collection statutes should mandate consistent reporting of data to the public, the state government, and the federal government in disaggregated form. Data should be broken down by the age, ethnicity, and sex of those stopped. This data should be disaggregated by school and non-school interactions.
- ✓ Data collection should be implemented as part of a comprehensive early warning system, in which police departments, oversight bodies and the public use the data to monitor the patterns of the department and the behavior of individual officers. When used in this way data collection can help identify potential police misconduct and deter it.
- ✓ Data collection statutes should apply to both vehicle and pedestrian stops, searches of residences, businesses, faith institutions, and other locations.

- ✓ All data, including geo-mapping of stops, summonses, arrests, detentions, use of force, deaths and a break-down of departmental (and when available officer's) history of stops, should be made easily accessible on a website, which is available to the public and is regularly updated. Protecting the privacy of those stopped needs to be considered in the sharing of data.

SAMPLE LEGISLATION AND POLICY

Maryland State Law requiring the collection and sharing of data for all traffic stops: <http://law.justia.com/codes/maryland/2005/gtr/25-113.html>

While this legislation is strong in many respects it does not apply to pedestrian stops and searches of residences, businesses, faith institutions and other locations. Ideally any data collection legislation would include data collected in all of those settings.

Newark Police Department Order on Stop-and-Frisk Reporting: https://www.aclu-nj.org/files/6513/7338/2486/2013_07_09_snf.pdf.

RESOURCES

- For more information on Department of Justice recommendations and best practices around data collection see the DOJ's "A Resource Guide on Racial Profiling Data Collection and Systems": <http://justice.utah.gov/Documents/Research/Race/DOJResourceGuide.pdf>.
- For more information on the Stolen Lives Project: <http://stolenlives.org>.

National March against Police Violence, Washington, DC, December 13, 2014. Photo by fuseboxradio.



POLICY 10: BODY CAMERAS

Body cameras have become the most popular political response to recent incidents of police misconduct and brutality. There is much debate about the effectiveness and desirability of body worn cameras by community groups and advocates. Some communities and many elected officials believe that if properly regulated, body-worn cameras for police officers may be a tool to increase accountability, transparency, and collect evidence of police misconduct. Communities must decide whether these potential benefits outweigh privacy and other concerns, such as police misuse. Additionally, communities must be involved in the development of departmental protocols to shape when body cameras are mandated for use. If community members advocate for a body cameras, the policy should include a community agreed upon provision outlining when cameras must be activated and a provision applying a presumption of police misconduct if footage is unavailable (when it was supposed to be recorded).

Perhaps more than any other policy solution, body cameras should not be the sole police reform advocated for. To realize benefits, a body camera mandate must be preceded or accompanied by additional policies that support a community-centered culture shift and increased accountability with timely and appropriate discipline for misconduct and abuse in police departments. Otherwise, officers and departments may utilize body cameras only when it advantages them or exclusively as a surveillance tool to monitor community activity. Individuals' safety and privacy interests must also be weighed against accountability goals in considering whether body cameras are a net benefit to community interests. Other sources of video footage such as bystander cell phones are potentially equally or more valuable as they tend to capture police action, not just the behavior of the person the camera is facing. Protections for civilians who video record police behavior (who are commonly threatened with charges or actually charged) may be equally or more valuable than body worn cameras for officers, with few of the privacy downsides that police surveillance carries.

IN PRACTICE

A 2012 study evaluating the use of body cameras by the Rialto police department in California over a period of 12 months suggests more than a 50% reduction in the total number of incidents of use-of-force. Force was twice as likely to have been used by officers who were not wearing cameras. Complaints about police officers fell 88% compared to the previous 12-month period.

However, despite some success stories, the efficacy of body cameras is not clear. A U.S. Justice Department investigation into the Albuquerque police department found that the use of the cameras in practice was "highly inconsistent." Officers sometimes failed to turn their cameras on when they initiated encounters with civilians. Additionally, incidents involving body camera footage were not always properly documented, and the implementation of body cameras generally involved little oversight from the department.

BEST PRACTICES: Body cameras have become a popular reaction to police misconduct. Body cameras should only be enacted if they are supported by communities and include clear and enforceable regulations around their use and strong privacy protections for community members.

- ✓ Body camera mandates should include a provision outlining when cameras must be activated. These mandates should be a reflection of the desires of community members and advocates.
- ✓ Body camera mandates should include a provision applying a presumption of police misconduct if footage is unavailable for any interaction with civilians for any duration, regardless of cause.
- ✓ Police tampering of cameras or footage should carry criminal penalties.
- ✓ Body camera mandates must be preceded or accompanied by additional policies that support a community-centered culture shift and increased accountability in police departments.
- ✓ Body camera mandates must be preceded or accompanied by a policy mandating a special prosecutor in all cases of police use of force against civilians. Otherwise, the inherent conflict of interest due to relationships between local police and prosecutors may negate even the most compelling footage.
- ✓ There must be clear procedures for access to body camera footage, which both protect the privacy of individuals captured on body cameras and ensure public accountability for officers involved in misconduct.

National March against Police Violence, Washington, DC, December 13, 2014. Photo by fuseboxradio.



- ✓ City budgets typically earmark disproportionately high funding for police departments—departments should not receive additional funding for body cameras. Rather, body cameras should be supplied to departments by the state or locality.
- ✓ The civilian right to film police officers must be protected.
- ✓ A portion of money set aside for body-worn cameras should be diverted to establishing and supporting community-based video oversight programs like CopWatch.

SAMPLE PROPOSED LEGISLATION

There is no ideal legislation relating to body cameras but here are two examples of recently introduced legislation. Issues with these legislations include the lack of mandates that written policies exist and the lack of accountability around misuse.

California AB 65, Creating grant program for body cameras: http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB65

California AB 66, Regulating officer use of body cameras: http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB66

RESOURCES:

- For examples of model state legislation see the Harvard’s Black Law Student’s Association report, Independent Lens: Toward Transparency, Accountability, and Effectiveness in Police Tactics Model State Legislation for Body Worn Cameras: <http://www.charleshamiltonhouston.org/wp-content/uploads/2015/05/Independent-Lens-Cvr-Guts.pdf>
- For an analysis of body camera implementation, see the ACLU brief, Police Body-Mounted Cameras: With Right Policies in Place, a Win For All: https://www.aclu.org/sites/default/files/assets/police_body-mounted_cameras-v2.pdf
- For arguments against body camera implementation, see the Stop LAPD Spying Coalition brief, Body Cameras Have Not Helped Enforce Accountability Among Various Police Departments: <http://stoplapdspying.org/wp-content/uploads/2015/03/Body-Camera-Fact-Sheet-Jan-2015-1.pdf>
- And LAPD Spying Coalition brief, Body-Worn Cameras: An Empty Reform to Expand the Surveillance State: <http://stoplapdspying.org/wp-content/uploads/2015/04/Stop-LAPD-Spying-Coalition-Report-on-Use-of-Body-Cameras-by-Law-Enforcement-April-2015.pdf>
- For more information on CopWatch programs and how to establish one in your community, see Grassroots Thinking manual: <http://grassrootsthinking.com/2015/04/23/how-to-put-together-a-community-cop-watch-program/>

INDEPENDENT OVERSIGHT

POLICY 11: SPECIAL OR INDEPENDENT PROSECUTORS

When trying criminal defendants, district attorneys rely on testimony and evidence provided by police officers, many of whom they work with regularly. These relationships create conflicts of interest when prosecutors must determine whether and how to prosecute police officers accused of criminal acts. A special, or independent, prosecutor—someone external to the local jurisdiction and local governmental departments—should be assigned to investigate and determine whether criminal charges should be filed against a police officer, especially in cases where officers use force against civilians. Further, the special prosecutor should be provided with qualified investigators and resources to eliminate reliance on information provided by or investigations led by local police—another potential conflict of interest. The White House Task Force on 21st Century Policing reiterated the need for independent prosecutors in cases of police involved killings.

IN PRACTICE

After John Crawford, a Black man, was gunned down by white police officers in a Beavercreek, Ohio, Wal-Mart because he was holding a BB gun, organizations such as the Ohio Students Association and others rallied and pressured the county prosecutor to support the appointment of a special prosecutor. Against a backdrop of simmering national discussions about police use of force following the Eric Garner and Michael Brown shootings, the Ohio attorney general assigned a special prosecutor with experience in police-involved shootings to the case. Several states have proposed measures about appointing special prosecutors or providing independent investigation when there are officer-involved deaths, including California, [Indiana](#), New York, [Missouri](#), [Maryland](#), Colorado, New Jersey, and New Mexico. New York and Indiana are the only states to propose establishing an office at the state level.



BEST PRACTICES: States should establish a permanent and independent “Office of Police Investigations”, authorized to investigate and prosecute all police killings of civilians, use-of-force cases, sexual assault by law enforcement officers, and any other cases of police misconduct against civilians, at its discretion. Unlike civilian oversight bodies or Inspectors General Officers, (discussed below) these offices would have the power to prosecute officers accused of misconduct in criminal court.

- ✓ The Office should be equipped with sufficient resources, including investigators independent of local police departments.
- ✓ Absent the creation of a permanent office, independent, special prosecutors should be assigned in all cases where criminal misconduct against civilians is alleged against police and in all police encounters or custody that result in the death of a civilian.
- ✓ In cases that involve state police departments, Attorney Generals should be required to appoint a special, independent prosecutor.

SAMPLE LEGISLATION

No model legislation for independent prosecutors exist but the following is an example of a piece of legislation that may be helpful, along with the best practices section, in crafting legislation that reflects the needs of your community.

HR 5830: <https://www.congress.gov/bill/113th-congress/house-bill/5830>.

Directs the governor of a state to: (1) appoint a special prosecutor to present evidence on the state’s behalf at a hearing before a judge to determine whether probable cause exists to bring criminal charges against a law enforcement officer who uses deadly force against a person and thereby causes his or her death; and (2) use a random process to select the special prosecutor from among the prosecutors in the state, excluding the prosecutors of the locality in which the death took place.

RESOURCES

- For more information about efforts to establish state-level special prosecutor policies, visit the National Conference of State Legislatures website: <http://www.ncsl.org/research/civil-and-criminal-justice/law-enforcement.aspx>.
- For a fact sheet on establishing a permanent special prosecutor’s office, see WeTheProtestors’s policy brief: <https://www.scribd.com/doc/254133568/Policy-Brief-1-Special-Prosecutor>.
- For more information about the Ohio Student Association’s work: <http://www.ohiostudentassociation.org>

POLICY 12: INSPECTORS GENERAL OR OVERSIGHT COMMISSIONS

Subjecting law enforcement agencies to external oversight can provide some transparency and may help monitor the practices and policies of local police. Unlike community based oversight, Inspectors General or Oversight Commissions refer to oversight of police departments by third party government agencies or officials. The establishment of an Inspectors General or Auditor's Office or Oversight Commission by no means guarantees effective oversight, but may help the public access information about police abuses, ensure effective implementation of reforms, and proactively identify issues in the operations, policies, programs and practices of police departments. While the powers exercised by such an office will depend on state and local law, oversight bodies are most likely to be effective if they are not controlled by law enforcement, empowered to monitor police department practices related to civil rights and civil liberties, able to exercise subpoena power, and able to issue binding policy changes.

IN PRACTICE

Inspectors General, auditors and oversight agencies and commissions are not a silver bullet, but they can be an important part of the landscape of oversight necessary to ensure police accountability. Oversight agencies or commissions can often investigate systemic issues of misconduct and are well positioned to monitor reforms and provide information to the public about how effective reforms have been. Reports and recommendations from oversight agencies or commissions can be useful advocacy tools and can help persuade local elected officials (and sometimes law enforcement leadership) to make changes to policies or procedures. A number of cities have active Inspectors General Offices, which through reports and recommendations have unearthed problematic departmental practices. For instance a report by the recently created Inspector General in New York City documented the illegal use of chokeholds by NYPD officers and the flawed NYPD disciplinary system. A report by the Los Angeles Inspectors General high-

lighted the lack of data around use of force by the Sheriff's department, gaining a lot of media and community attention in late 2014 and early 2015. In New Orleans, a series of reports conducted by the Inspectors General Office throughout 2014 resulted in ten federal indictments and three convictions of officers involved in misconduct. While there are a number of examples of strong Inspectors General Offices, the effectiveness of the Office depends on the priorities and allegiances of whoever is appointed.

The Seattle Community Police Commission provides another model. Rather than being headed by a single person, who may be vulnerable to political pressure or just not be effective, the Community



Protest in Los Angeles, CA on December 13, 2014. Photo by Greg Lilly.

Police Commission is a fifteen member body representative of different community interests and appointed by the Mayor. Unlike most other civilian police commissions, it does not review individual misconduct cases; rather, it reviews the civilian oversight and accountability system, as well as police policies and practices of public significance. Seattle champions this approach because they believe the representative nature of the Community Police Commission ensures that the Office does not become bureaucratized and/or disconnected from community priorities or concerns. While information provided by oversight bodies has been helpful for advocates across the country, there is no clear evidence that these oversight bodies alone are effective in obtaining meaningful reforms.

BEST PRACTICES: Oversight agencies, which review law enforcement policy and practices, are normally instituted at the city or county level and can help make the public aware of systemic police misconduct and abuses.

- ✓ Oversight agencies or commissions are most effective if they are fully independent and have the freedom and power to choose what they investigate. City or state law may limit the ability to create truly independent bodies, but it is normally possible to ensure that oversight agencies are not controlled by law enforcement.
- ✓ Oversight agencies or commissions should be charged with monitoring and investigating patterns and practices of police interactions with particularly vulnerable populations, including: women, LGBTQ people, youth, homeless people, and people living in public housing, immigrants, and people with disabilities, as well as specific forms of police misconduct including sexual harassment and assault and discriminatory treatment against LGBTQ people and other populations.
- ✓ Oversight agencies or commissions should be charged with regularly analyzing data on a range of police department practices to determine if there are disparities based on race, age, gender, gender identity, or sexual orientation in enforcement practices.⁴
- ✓ Oversight agencies or commissions should have full access to all information needed to complete their investigations. To ensure access, they should have: subpoena power, ability to compel testimony, and access to all relevant internal documents, systems, and personnel of the police department and related departments or bodies that may have access to complaints against officers and departments.
- ✓ There should be legal protections from retaliation for people who provide information about potential abuses or misconduct to oversight agencies or commissions.
- ✓ Communities should have input in determining the priorities and topic of investigations. Oversight agencies or commissions should be mandated to report all of their findings to the

4. See Andrea Ritchie, Soros Justice Fellow, Testimony to White House Taskforce on 21st Century Policing. http://www.cops.usdoj.gov/pdf/taskforce/02-14-2015/Invited_Testimony_February_14.pdf

public and consult communities most impacted by police brutality and incarceration in the development of their priorities.

- ✓ The budget of oversight agencies or commissions should be adequate and consistent.
- ✓ There must be various accountability mechanisms, including mandated annual reporting and/or open public hearings.
- ✓ Oversight agencies or commissions should be responsible for monitoring and reporting on the status of prior recommendations.
- ✓ Police departments should be required to respond to and acknowledge the recommendations of oversight agencies or commissions.
- ✓ Oversight agencies or commissions should have public websites that include past reports, recommendations, and opportunities for community members to submit questions, complaints, or recommended investigations.

SAMPLE LEGISLATION AND POLICY

New York City Inspectors General Legislation: <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=1444266&GUID=EAB137A1-CEDE-434A-AC63-FE91DF78C337&Options=ID|Text|&Search=1079>.

Los Angeles Board of Police Commissioners, Policies and Authority relative to the Inspectors General: <http://www.oiglapd.org/documents/policies&authority.pdf>.

RESOURCES

- The Brennan Center for Justice has a number of resources on Inspectors General Offices, specifically around the need for an NYPD Inspectors General: <http://www.brennancenter.org/sites/default/files/legacy/Justice/NYPDInspectorGeneral-web.pdf>.

For more information about existing Inspectors General Offices, their scope of power and their past and present investigations see the following websites:

- The Seattle Community Police Commission: <http://www.seattle.gov/community-police-commission>.
- The Los Angeles Inspectors General: http://www.lapdonline.org/police_commission/content_basic_view/1076.
- The Washington D.C. Office of Police Complaints: <http://policecomplaints.dc.gov>.
- The New York City Inspectors General: <http://www.nyc.gov/html/doi/html/inspector/inspector-general.shtml>.

POLICY 13: DEMILITARIZE LOCAL POLICE FORCES

During the last few decades local police forces have become increasingly militarized.

Militarization has taken many forms including the use of military grade equipment. The dangers of distributing military grade weapons to local law enforcement was vividly exposed in the local police response to protestors in Ferguson after the murder of Michael Brown. Starting in 1997, the federal government began making excess military equipment available to local law enforcement agencies. Police agencies in all 50 states have requested military equipment from the Department of Defense that is cumulatively worth more than \$727 million. Over 100 college and university police departments also have access to this military equipment as do more than 20 school districts. The distribution of excess military equipment by the Department of Defense to local police forces through the Law Enforcement Support Office—known as the 1033 program—has contributed to troubling use of that weaponry by police and contributes to the already existing over-militarization of police. Ultimately, an end to this dangerous practice is in the hands of the federal government. The Obama administration announced in May 2015 that they are banning some military-style assault gear from local police departments, but the list of items banned is small and there is still a long way to go.

Some states have attempted to curtail the influx of military equipment through state law. Such laws are important in encouraging police departments to consider non-combative methods of engaging with communities. Localities can also stop requesting equipment from the Department

Police in Ferguson, MO, August 19, 2014. Photo by Justin Norman.



of Defense or put in place democratic checks on law enforcement's ability to request military grade equipment.

Militarization of local police goes beyond the use of military equipment. It has been decades in the making and is manifested in the growing employment of military tactics in policing strategies and training as well the recruiting of former military personnel. The popularity of SWAT teams and their increasingly common deployment are another symptom of over-militarization.

IN PRACTICE

The issue of police militarization is not limited to the 1033 program. It is part of a larger trend of increasingly large and war-like police forces. There is a need to engage in a more substantive debate about the militarization of police, the prevalence of SWAT teams and the growing warlike orientation of law enforcement across the country. Curtailing the 1033 program has caught the attention of elected officials and advocates across the country and is a way of bringing attention to the larger issue of police militarization.

New Jersey is the first state to pass a law providing a democratic check on the distribution of federal military equipment. The new law requires local, democratic approval before law enforcement agencies can receive surplus military equipment from the Department of Defense. Before the passage of the new law New Jersey law enforcement agencies acquired nearly \$33 million worth of military equipment, including armored vehicles, grenade launchers, and assault rifles. Under the new law, police departments must not only notify local governments of their intention to obtain used military gear, but also receive their explicit approval before doing so.

SAMPLE LEGISLATION AND POLICY

Recently passed New Jersey State Legislation requires law enforcement agencies obtain the permission of local governments before obtaining equipment through the 1033 program: <http://www.njleg.state.nj.us/bills/BillView.asp?BillNumber=S2364>

Proposed legislation in New Hampshire, while limiting the ability to obtain new military grade equipment does not call for restricting the use of previously purchased military grade equipment. Potential legislation may benefit from such a provision: <http://www.gencourt.state.nh.us/legislation/2014/HB1307.html>.

ADDITIONAL RESOURCES

- For more information on the nationwide phenomenon of militarization see the American Civil Liberties Union Report, "War Comes Home: The Excessive Militarization of American Police": <https://www.aclu.org/report/war-comes-home-excessive-militarization-american-police>.
- For more information about the Million Hoodies Movement for Justice campaign to end militarization see: <http://demilitarizepolice.mhoodies.org/>

DEPARTMENT STANDARDS & PRACTICES

POLICY 14: USE OF FORCE

There is no single national standard governing police use of force. The Supreme Court established a discretionary standard of “reasonable” use of force in 1989’s *Graham v. Connor*, stating that law enforcement interactions with suspects must be “judged from the perspective of a reasonable officer on the scene, rather than 20/20 vision of hindsight.” From a legal perspective, this benchmark makes it difficult to prosecute officers who use force to subdue a suspect, since the standard is so subjective.

This standard must be better defined and enforced in order to limit use of force cases. Further, police departments must adopt a culture of accountability and community partnership, implement processes to collect disaggregated data on use-of-force incidents, and be trained on implicit bias, de-escalation tactics, and procedural justice.⁵

IN PRACTICE

As part of a comprehensive consent decree reached in 2012 between the Department of Justice and the City of New Orleans, detailed principles and standards regarding use of force are mandated for the New Orleans Police Department, including de-escalation tactics, prohibitions on neck holds and head strikes, and limitations on firearm use.

The Las Vegas Police Department implemented a tactic called “No Hands On,” prohibiting an officer pursuing a suspect from being the same officer to physically apprehend him or her. The strategy was implemented in the context of a series of reforms, including training on treating people with respect and dignity at all times, reality-based training that used actual scenarios where department members had struggled, and refresher training to help officers act effectively with mentally ill suspects. Use-of-force reports in Las Vegas dropped from 1,400 in 2005 to 842 in 2012 and 734 in 2013.

The Miami-Dade Police Department established an early warning system flagging problem behavior by officers. Early warning systems are made possible by data collection practices that



5. For more information on use of force, see Interim Report of The President’s Task Force on 21st Century Policing recommendation 2.2

force departments to track stops and outcomes. Regular reports tally use of force complaints by citizens, and when an officer reaches a particular threshold, his or her supervisor may refer the officer to other services such as counseling, stress reduction, or additional training. Prior to implementing the system, only 4 percent of officers in the early warning study cohort had zero use of force reports. Following implementation, 50 percent of officers in the cohort had zero reports.

BEST PRACTICES: State and local jurisdictions can adopt policies that decrease the use of force and encourage the de-escalation of violent situations. Use of force policies should require police departments to:

- ✓ Develop a comprehensive use-of-force policy that outlines how and when force may be used, with a clear values statement affirming that officers should use minimal force to subdue an individual.
- ✓ Develop clear reporting, investigation, discipline, and accountability procedures and policies regarding use of-force incidents. Policies should be clear, concise, and open to the public.
- ✓ Develop policies that allow officers to intervene when other officers are using force that is not objectively reasonable and proportional to the risk presented.
- ✓ Implement proven training programs— including programs on implicit bias, procedural justice, and fairness in policing—designed to deescalate and minimize the use of unnecessary force and death, especially with vulnerable populations (people with emotional or cognitive disabilities, pregnant women, youth, and people with limited English proficiency).
- ✓ Maintain detailed records on the use of force and related injuries—disaggregated by race, ethnicity, age, gender, and other demographic characteristics—and make this data immediately available to the public.
- ✓ Implement early-warning systems to detect problematic officer behavior predicting a likelihood of using excessive force.
- ✓ Require training on and use of de-escalation techniques.

SAMPLE REGULATION

Seattle Police Department Manual, Title 8: <http://www.seattle.gov/police-manual/title-8>

RESOURCES

- For more information about promising practices to limit police use of force, see the PolicyLink and Advancement Project report, *Limiting Use of Force: Promising Community-Centered Strategies*: http://www.policylink.org/sites/default/files/pl_police_use%20of%20force_111914_a.pdf

POLICY 15: IMPROVED TRAINING

Police training in the academy and in the field tends to emphasize the technical and tactical aspects of policing, with insufficient focus on being community-centered. Balancing traditional training components with a broad focus on working with the community as partners to achieve safety is essential. Field training should support and strengthen community-centered policing practices by including role-playing scenarios that require critical thinking in the face of potential confrontations with civilians.

Training that addresses culture, diversity, mental illness, youth development, bias and racism, and mediation improves how police relate to the community and can help minimize use of force. Training elements should also emphasize skills that can avoid, prevent, or de-escalate a situation that might otherwise result in violence.

Without meaningful and timely disciplinary consequences for officers involved in misconduct, training alone can do little to curb police abuse or increase community trust. However, training can be an important reform when enacted with other changes to policing disciplinary procedure and departmental evaluations. Changes in training should be accompanied by changes in how departments evaluate the performance of officers. Officer evaluations based on the number of arrests or stops they initiate, as opposed to how they have built community trust, or their ability to diffuse violent situations, incentivizes unproductive and abusive policing practices.

In order to ensure that internal policies and trainings effectively improve the safety of communities—specifically youth, Black and Brown, and LGBTQ communities—trainings should be developed in partnership with community-based organizations working directly with individuals affected by discriminatory and abusive policing practices. Police departments should not be directly funded for training; state and local funding should be earmarked for community-based trainers selected through an application process with public input.



Reclaim MLK Day rally in Silver Springs, MD on January 24, 2015. Photo by Stephen Melkisetian.

IN PRACTICE:

The Seattle Police Department and Oakland Police Departments have implemented procedural justice and police legitimacy training programs. Oakland began its training process in June 2014 and has so far trained some 200 members of the officer and civilian staff. All Seattle Police employees received procedural justice training in a bias-free policing course in 2014 which also focused on implicit bias in individual decision-making. Institutional bias training will be provided to the SPD command staff in 2015, co-designed by the Community Police Commission and the Seattle Office for Civil Rights.

The police department in Richmond, California initiated a rigorous in-service training program regarding use of force in 2008. Since the program began, officer-involved shootings have occurred less than once per year. Tragically, the first fatal officer-involved shooting in seven years occurred when a Richmond police officer shot and killed 24-year-old Richard Perez in a confrontation at a liquor store on September 14, 2014.

The Oakland Police Department recently contracted with Stanford University researcher Jennifer Eberhart to conduct a comprehensive analysis of the department's police stops and train officers to understand how bias plays out in interactions with the public. According to department figures, Black people accounted for 62 percent of police stops between April and November 2014, although they comprise just 28 percent of the population.

In May 2014, Connecticut enacted a law that requires all police officers to complete crisis intervention training. The University of Memphis Crisis Intervention Team (CIT) Center provides resources developed in partnership with the National Alliance on Mental Illnesses, the International Association of Chiefs of Police, and CIT International, intended for police departments that start their own crisis intervention team training programs. Today, nearly 2,700 sites in 47 states operate crisis intervention teams.

The Oklahoma City Police Department has made language training for officers a major part of its overall training effort. New recruits in the academy receive 70 hours of Spanish instruction. The Lexington, Kentucky, Division of Police partnered with a local university to develop a U.S.-based Spanish language curriculum and collaborated with two Mexican law enforcement agencies to establish a subsequent five-week Spanish immersion program in Mexico where Lexington officers are hosted by Mexican police counterparts. They return with improved language skills and an increased understanding of Mexican immigrants' perspectives about interactions with law enforcement.

Current Arizona law requires that police determine the immigration status of someone arrested or detained when there is "reasonable suspicion" they are undocumented. According to Tucson police Chief Roberto Villaseñor, this policy places local police in an "untenable position" with regard to the Latino community. Villaseñor initiated steps to train the entire department in implicit bias in October 2014, using trainers and curriculum provided by the Department of Justice.

BEST PRACTICES: Police departments should ensure that academy training, field training, and continuing education of officers reinforces community-centered values and skills. State and local jurisdictions should fund community-based experts to provide required training to new police recruits and in-service officers on:

- ✓ Procedural justice and fairness in policing.
- ✓ Implicit bias.
- ✓ Institutional bias in enforcement patterns.
- ✓ Relationship-based policing and community interaction.
- ✓ Crisis intervention, mediation, conflict resolution, and rumor control.
- ✓ Appropriate engagement with youth based on the science of adolescent brain development
- ✓ De-escalation and minimizing the use of force in certain common situations, including vehicle pursuits, coping with mentally ill or cognitively disabled individuals, and encounters with youth.
- ✓ Increase language proficiency and cultural competency among law enforcement officers to effectively engage and partner with immigrant communities.
- ✓ Appropriate engagement with LGBTQ, transgender and gender nonconforming community members.
- ✓ Documenting, preventing, and addressing sexual harassment, abuse and assault by local law enforcement agents.

SAMPLE REGULATION

Illinois Police Training Act: <http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=731&ChapterID=11>

New Jersey Police Training Act: http://www.state.nj.us/lps/dcj/njptc/pdf/njsa52_17b-69-2.pdf

Connecticut SB 1089: <http://www.cga.ct.gov/2015/TOB/s/pdf/2015SB-01089-R00-SB.pdf>

RESOURCES

- For more information about police trainings, see the PolicyLink and Advancement Project series of briefs, *Beyond Confrontation: Community-Centered Policing Tools*: <http://www.policylink.org/equity-tools/beyond-confrontation-community-centered-policing-tools>

ORGANIZING 101

While communities must identify their most urgent priorities and opportunities, many—if not all—of the policy reforms proposed in this *Toolkit* will be needed in combination in order to create transformative change. Community and advocates must demand comprehensive change while still prioritizing policy reform options and deciding which reforms may be rendered useless unless tied to others. For example, implementing department-wide body cameras may not be useful unless filming is properly regulated, evidence collected is public, and other police accountability and transparency measures are also implemented. In addition, for each reform, community decisions need to be made about the acceptable range of compromise.

Identifying decision-makers who have the power to affect each of the policy arenas is a preliminary step in organizing—they are the targets of your campaign. Examples include::

- **State**
 - Attorney General or equivalent
 - State Legislature
 - ✓ Individual Committees
 - ✓ Representatives of highly affected districts
- **Governor**
 - Department of Corrections and other relevant agencies
 - State budget development and oversight
- **Local: City, County**
 - Mayors
 - City Managers
 - County Executives
 - City Council or Board of Supervisors
 - Police Chiefs
 - Agency Heads

To help identify your targets and develop an effective organizing campaign, consider the following questions:

- What is the structure of your local police departments or Sheriff's department?
 - What is the internal hierarchy and who has power?
 - Who do your police chiefs answer to?
- Who controls the budget for your particular police department?
 - Who allocates funding for your local police departments?
 - Can your state legislative committees or city council committees regulate police through the budgeting process?

- ✓ Consider: Learning your government structure for oversight and budgeting can help you engage in an effective campaign to limit the use of funds for certain activities, and to incentivize other types of desired activities, behavior, training, mandated data collection and data reporting, and community programming that can help build trust with communities.
- Is statewide legislation the best way? Are local laws or regulations better ways?
- Is your police chief willing to change internal practices, like training or hiring? Can your mayor or city council affect those changes?
- Who are potential allies (e.g., city council members, sympathetic police chiefs/officers)?
- Who is likely to challenge your efforts (e.g., police unions, law-and-order politicians)? Who can help you move past their opposition?

RESOURCES

- For a comprehensive review of the steps necessary to turn protest into policy, advocates should download the PolicyLink handbook, *Organized for Change: The Activist's Guide to Police Reform* at http://www.policylink.org/sites/default/files/ORGANIZEDFORCHANGE_FINAL.PDF.



BEYOND POLICY

This *Toolkit* provides information and resources about policy reforms that communities, advocates and elected officials are discussing and in many cases advocating for. However, we recognize that local policy reform alone is not enough. The policing and criminal justice systems in this country are predatory and fundamentally flawed. They remain deeply rooted in racism, profiteering, and victimize millions of Americans—a disproportionate number of whom are Black and Brown. The road to transforming these systems and making our communities stronger and safer is community-specific and cannot be translated into a toolkit or single set of policy recommendations. A fundamental shift in the purpose of our policing and criminal justice systems is necessary.

A shift in purpose requires an articulation of a different vision.

MAYOR'S PLEDGE

It may be helpful to ask elected officials and city leaders, including Mayors, to take a pledge committing themselves to a vision of public safety based on trust, legitimacy, accountability, respect, and the sanctity of all lives. A public pledge clearly positions policymakers as committed to needed changes and can help advocates hold them accountable for advancing those changes.

Here is a template of a Mayoral Pledge to end police violence:
www.policylink.org/node/29911.



Protest in Memphis, TN, November 24, 2013. Photo by Chris Wieland.

RETHINKING OUR INVESTMENTS

For most, the need for policy change is nested within a broader vision, of a government and society that invests in health, education, and wealth—not just criminalization and incarceration. Many communities are demanding a re-evaluation of our investment priorities.



Reclaim MLK Day rally in Silver Springs, MD on January 24, 2015. Photo by Stephen Melkisethian.

The United States has invested trillions in policing, jails, and military-grade weapons for domestic law enforcement. We spend \$100 billion annually on policing alone, despite a steady and dramatic decline in crime rates. More spending on policing and incarceration leaves fewer resources for other investments that support safe and strong communities. This pattern exists across the country at every level of government. Nationally, state spending on higher education rose by less than 6% between 1986 and 2013, but corrections spending jumped by 141%.

This disparity reflects an investment choice of public money by those in power. Neighborhoods that are afflicted most by aggressive policing and high incarceration rates also have high levels of poverty, unemployment, and racial segregation. In many urban neighborhoods, where millions of dollars are spent to lock up residents, the education infrastructure and larger social net are completely crippled.

The declaration that Black lives matter is a call to action for governmental officials and policy makers. Budgets are an articulation of who and what we choose to invest in. Policy makers should direct funds to true community-based efforts, prevention, intervention, treatment, education, and other programs that have been shown to promote healthier and stronger communities. Reinvestment can happen at the local, state and federal level. At the local level it requires an evaluation of the city or county budget—which can easily be accessed on official government websites. Many cities invest disproportionately in policing and incarceration. Instead, cities should invest in programs that provide opportunity and stability to neighborhoods that have been ravaged by the criminal justice system.

Studies show that jobs and education do not just make communities stronger—they make them safer. Investments in community-based drug and mental health treatment, education, universal Pre-K, and other social institutions can make communities safer while improving life outcomes for all. Some examples of alternative funding supported by communities include: community based alternatives to incarceration, restorative justice practices, community-based drug-treatment, transportation improvements, health services for the mentally ill, access to housing for the homeless, and summer job programs for youth.

Because cities and counties have limited funds, an investment strategy at the local level may require a re-allocation of funds from oversized and overtasked police departments into areas that we know will make us safer and will mean that we need less police in the long run.

RESOURCES

New York and Los Angeles have both begun campaigns that would fundamentally shift local investment. For more information on those campaigns see:

- The New York City, “Safety Beyond Policing” campaign has proposed alternative uses to the nearly \$100 million that would otherwise be spent on hiring additional police: <http://www.safetybeyondpolicing.com>.
- In Los Angeles the 1% Campaign is asking that 1% of the Los Angeles County Law Enforcement budget, according to them \$100 million, be invested in youth jobs, youth centers, and community intervention/peace builders. For more about the work of LA For Youth’s Campaign: <http://www.youth4justice.org/take-action/la-for-youth-1-campaign>

Sample resolution calling on local governments to change their investment priorities: https://docs.google.com/document/d/1Yfn71wtiQfbuschn24KcG_NGYXAJ1sJwPZTY8fckTdU/edit?usp=sharing

Sample letter requesting that the police give part of its allocated budget to community based safety initiatives: https://docs.google.com/document/d/1zvFgbUQP_pKvwDTYR-NxwuYE7mck-k4HHR7SNQGbEajQ/edit?usp=sharing

ALTERNATIVES TO POLICING

One of the fundamental issues with policing today, identified by community members and police officials alike, is that police have become responsible for dealing with a growing number of social problems. Police have been overburdened with tasks outside of their expertise—such as dealing with homelessness, drug use, educational discipline, and mental illness. Oftentimes, police are called to deal with issues that social workers, mental health experts, teachers, or other community members are better equipped to deal with.

Many communities have created community-based alternatives aimed at addressing issues of public safety that do not rely on police intervention or incarceration. For decades, communities across the world have recognized the limitations and dangers of overreliance on police and punitive state policies. People from South Africa to Brooklyn have created and sustained community-based organizations, safe spaces, and institutions that more holistically and humanely deal with community violence or anti-social behavior.

Community-based programs aimed at reducing the need for police intervention can be established at the street, school, city, or state level and include: street outreach workers to prevent community violence, community-based mediators to deescalate potentially violent situations, and restorative justice programs to deal with community conflict.

RESTORATIVE JUSTICE:

Restorative justice, as an example of an alternative to police and incarceration, has a long history in Canada, parts of South America and Southern Africa. Restorative justice deemphasizes punishment and focuses on making communities whole after incidents of violence or trauma. It uses techniques such as mediation, dialogue, and reconciliation. Restorative justice has been used by police, cities, and schools throughout the country. Some government-run programs include the threat of punitive consequences—which in many ways detracts from the purpose of instituting alternatives. Nonetheless, we have included examples of both state and community sponsored restorative justice programs in order to provide a variety of potentially helpful resources.

- ✓ The peacemaking program at the Red Hook Community Justice Center uses traditional Native American practices to resolve disputes that originate in either the justice system (in the form of a court case) or in the community. Peacemaking sessions, which are facilitated by trained peacemakers from the community, are designed to enable those affected by the dispute to “talk it out” and reach a consensus agreement for restitution and repair: <http://www.courtinnovation.org/project/peacemaking-program>
- ✓ The International Institute for Restorative Practices (IIRP) works with licensees and affiliates around the world to make certain restorative practices are presented in a culturally appropriate manner and that programs are affordable and sustainable within the framework of local needs and resources: <http://www.iirp.edu/>

- ✓ The Restorative Justice for Oakland Youth Program works to mitigate the consequences of punitive school and juvenile justice policies by promoting institutional shifts toward restorative approaches that actively engage families, communities, and systems to repair harm and prevent re-offending: www.rjoyoakland.org
- ✓ Project Nia has a number of resources to support restorative justice programs: www.project-nia.org

COMMUNITY ANTI-VIOLENCE PROGRAMS:

Many communities from Detroit to Los Angeles have created community based programs aimed at leveraging the power and expertise of community members to patrol their neighborhoods and curb violence before it starts, so that police and state intervention are unnecessary. Some examples of community anti-violence programs include:

- ✓ Audre Lorde Project's The Safe Neighborhood Campaign seeks to empower community members to be proactive in preventing anti-LGBTST violence, intervene when violent situations arise, and build stronger relationships between LGBTST people of color, our allies and the community as a whole: <http://alp.org/community/sos>
- ✓ CURE Violence is a state supported program which seeks to use community members to deter and deescalate violent situations in communities. Many organizations have noted that once programs are state-sponsored they may be co-opted or include undesirable punitive consequences: <http://cureviolence.org>

RESOURCES

For additional resources on alternatives to policing and examples of successful programs:

- Rose City Cop Watch "Alternatives to Policing": <https://rosecitycopwatch.wordpress.com/alternatives-to-police>
- Listing of local programs from across the country: http://www.derailthejail.org/site_derail/Alternatives.aspx

19. CBS Minnesota: “Burnsville Police First To Use Body Cameras”



Famous Atheists And Agnostics



This Week's Circulars



HOVER FOR CIRCULAR



HOVER FOR CIRCULAR



HOVER FOR CIRCULAR



HOVER FOR CIRCULAR



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By Caroline Lowe, WCCO-TV

BURNSVILLE, Minn. (WCCO) — The Burnsville Police Department was the first law enforcement agency in the state to use body cameras when it started equipping officers with the technology last summer.

Officers credit the video tool for helping them capture a much better image of what is going on when they are out on the streets. They have also helped clear cases of allegations of police misconduct in a matter of minutes instead of several weeks.

Officer Shaun Anselment said he can't imagine going out on patrol without his video tool.

"We are able to get the true emotions at the scene," he said. "We are able to see what officers did, what suspects did."

Anselment said he is happy to show video, which goes into a computer on his belt, to someone he has stopped for a traffic violation. In one case, a woman denied she ran a stop sign.

"I said, 'Ma'am, here's what happened.' She apologized and went on her way," he said.

The cameras, made by Taser, are usually worn on an officer's hat or on a headband.

So far, about half of the 40 officers on the Burnsville force use body cameras. The police chief hopes to have all of his officers wearing them by the end of the year.

Since they started using body cameras, the department no longer uses dash cam equipment in their squads, which they say are much more expensive and don't provide as good of view of a scene.

The Burnsville Fire Department is also looking to get their crews equipped with the cameras. Their interim chief, Dan Hove, said they played a big role in a recent fire at an apartment complex.

Officers on the scene with cameras were able to help them pinpoint the location of the fire and save critical time.

Several other Minnesota police agencies are also trying out the body cameras, including the Minnesota State Patrol.

WEATHER WATCHER



LATEST GALLERIES



Kat Perkins Live With WCCO Radio!

20. Minneapolis Police Department Policy Manual: Mobile and Video Recording Policy

photographic evidence, the entire camera shall be inventoried as Digital Photographic Evidence.

B. Crime Lab Responsibility

1. On a routine basis, Crime Lab personnel will sign out Digital Photographic Evidence for processing.
2. A CD containing photographs from the SD memory card will be returned to the Property & Evidence Unit as the “original” evidence.
3. SD memory cards (or digital cameras) will be formatted by the Crime Lab and will be available for pick up by Precinct/Units for reuse.

C. Digital Camera/SD Card Repair, Replacement and Supplies

1. Digital cameras in need of repair shall be brought to the Crime Lab Unit.
2. Each precinct Inspector or his/her designee will be responsible for maintaining an adequate supply of SD memory cards for the digital cameras.
3. SD memory cards may be obtained from MPD Stores by completing Supply Requisition form (MP-4022), authorized by a Lieutenant or above.

4-218 MOBILE AND VIDEO RECORDING (MVR) POLICY (05/25/04)
(9/19/08) (08/28/09) (08/01/11)

(A-D)

I. PURPOSE

The purpose of utilizing mobile video recording (MVR) equipment in Minneapolis Police Department vehicles is to:

- capture video evidence for criminal, civil and traffic-related court cases.
- assist officers with recalling facts or other details captured by the equipment that will help them accurately articulate a chain of events when writing reports.
- allow supervisors to review the contents of the recorded media as a management tool within their chain of command.
- be used as a training tool for officer safety and best practices in the MPD.
- assist in the assessment of contacts between officers and the public by reviewing procedures and interpersonal actions.

The content of this policy will provide MPD personnel with guidelines and procedures for the use, management, access, retention, handling of evidence, degaussing, storage, and retrieval of recorded media captured by MVR equipment.

II. POLICY

Minneapolis Police Department employees shall be responsible for performing assigned duties in accordance

with the Mobile Video Recording (MVR) System Policy and the MVR Operational Guide. All MPD employees who have access to the MVR systems shall receive training on these systems. Training may include, but not be limited to: department policy, directives, electronic or traditional classroom education. (08/01/11)

All stops and searches captured on the MVR are presumed to be legal and valid unless evidence indicates otherwise. (09/19/08) (08/28/09)

The term “officer” is used generically in this document and does not assume a level of rank, such as Patrol Officer. It includes all applicable sworn and non-sworn personnel. (08/01/11)

III. DEFINITIONS

Activate: Any process which causes the MVR system to record video or audio data. Activation may occur automatically due to a trigger event or be done manually.

“Categorize” an event: Term used to classify an event that has been recorded and for which a predetermined retention period has been set.

Critical Incident: An incident involving any of the following situations occurring in the line of duty:

- The use of Deadly Force by or against a Minneapolis Police Officer;
- Death or Great Bodily Harm to an officer;
- Death or Great Bodily Harm to a person who is in the custody or control of an officer;
- Any action by an officer that causes or is intended to cause Death or Great Bodily Harm.

Deadly Force: Minn. Stat. §609.066 states that: “Force which the actor uses with the purpose of causing, or which the actor should reasonably know creates a substantial risk of causing death or great bodily harm. The intentional discharge of a firearm other than a firearm loaded with less-lethal munitions and used by a peace officer within the scope of official duties, in the direction of another person, or at a vehicle in which another person is believed to be, constitutes deadly force.”

Degaussing: Electronic cleansing by overwriting, erasing, and/or destruction of electronic storage media of analog and digital recording media that returns the media to its original state so it is ready for the imprinting of new images.

Designated Upload Site: Location where MVR recordings stored on media cards are uploaded to server through wireless transmission.

Great Bodily Harm: Bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ, or other serious bodily harm.

Manual Activation: Activation of MVR equipment that is not caused by a trigger event. Officers may activate the MVR equipment at their own initiation or at the direction of a supervisor via the wireless microphone, in-car LCD monitor, or digital video recorder (DVR) box in the vehicle’s trunk.

Manual Upload: In the event a digital MVR system is unable to wirelessly upload recordings, the digital memory card may be removed and manually uploaded by Crime Lab Unit personnel.

Mobile Video Recorder (MVR): Audio/video recording equipment designed for fixed installation in patrol vehicles that includes at a minimum, a camera, microphone, recorder and LCD monitor. Can be a VHS or digital system.

- VHS: An electronic system for recording video and audio information on videocassettes.
- Digital: Digitized (text, graphics, audio, and video).

MVR Equipment Check: An audio/video test to ensure that the MVR equipment is in working order. This check shall include a test of the video and microphone recording components and a date and time check of the in-car LCD monitor.

MVR Operational Guide: Training manual/guide which outlines the protocol for operating the MVR system/equipment.

Pre-Event Recording : Video stored by the MVR system prior to activation. This is a configurable feature for the digital MVR system and is preset to record video prior to activation. The pre-event recording is included as part of the incident and is viewable during playback.

Record Mode: Any time MVR equipment is recording audio/video as indicated on the LCD monitor, wireless microphone and/or DVR.

Recorded Media: Audio-video signals recorded on any of several storage devices, including but not limited to, analog tape (VHS) or other portable digital storage devices (e.g. CD, DVD, hard drive, flash drive).

Significant Incident :Includes, but are not limited to, any of the following situations occurring in the line of duty:

- Critical incident;
- Domestic abuse incident interview;
- Felony crime;
- Pursuit;
- Squad accident;
- Any incident in which the officer or sworn supervisor believes the recording to be of evidentiary and/or administrative value;
- The identity of someone in the video needs to be protected;
- Man-made or natural disaster or act of terrorism;
- Any event that an officer or supervisor believes should be brought to the immediate attention of police command staff;
- Any time that a citizen makes allegations of police misconduct or discrimination during the incident.

Trigger Event: An event that causes the MVR system to begin a video and audio recording. Trigger events include the activation of emergency lights or vehicle collision sensor.

Wireless Upload: When the police vehicle is within range of the designated upload site, MVR (digital) recordings are automatically transferred over a wireless connection to a storage server.

IV. PROCEDURES / RULES / REGULATIONS

A. Conditions of Use (Digital and VHS Systems) (05/25/04) (09/19/08) (08/01/11)

1. MVR equipment installed in any MPD vehicle is the responsibility of the officer(s) assigned to that vehicle and shall be operated in accordance with MPD training, MPD policy and procedures, and the manufacturer's recommendations. (08/01/11)
2. When the activation indicator is illuminated, officers should be aware that activities are being recorded. (09/19/08) (08/28/09) (08/01/11)
3. Before placing any MVR-equipped vehicle in service, officers shall conduct an MVR Equipment Check

- to ensure that the equipment is working properly. (05/25/04) (09/19/08) (08/01/11)
- a. MVR Equipment Checks conducted on the digital MVR system shall be categorized “90 Day Retention”. (08/01/11)
 - b. The officer’s immediate supervisor shall immediately be notified of any missing or malfunctioning MVR equipment. (07/11/07) (08/01/11)
4. The driver shall wear the wireless microphone, verify that it is turned on and shall be responsible for ensuring that it is working properly throughout the shift. (07/11/07) (08/01/11)
 5. Record Mode can be activated in the following ways: (08/01/11)
 - a. Automatically, when a trigger event occurs; (08/01/11)
 - b. Manually, by an officer via the wireless microphone, LCD monitor console, or digital video recorder (DVR) box in the vehicle’s trunk. (08/01/11)
 6. MVR equipment shall be in Record Mode: (08/01/11)
 - For every stop/contact where a motor vehicle is involved and shall record the stop/contact in its entirety. (04/11/07) (08/01/11)
 - For domestic abuse incident interviews conducted inside or in close proximity to an MVR equipped vehicle. (08/01/11)
 - Any time a person is transported in a squad, regardless of the destination. This does not apply when an authorized ride-along is the only other person in the squad. When practical, officers shall begin recording when the person is placed in the squad, regardless if transportation begins immediately following activation. (06/09/15)
 7. MVR equipment may be manually deactivated during non-enforcement activities, such as protecting accident scenes, traffic posts, and/or assisting motorists. (08/01/11)
 8. MVR equipment shall not be manually deactivated for an arrest, DUI, Use of Force, traffic stop or a “Significant Incident” as defined in this policy. (08/01/11)
 9. Any sworn supervisor can direct an officer to activate or deactivate MVR equipment.
 10. Officers shall notify their immediate supervisor of any recorded event believed to be of value administrative review or training purposes. (08/01/11)
 11. Officers shall inform those who ask, that video/audio recording equipment is in use. (04/11/07)
 12. Nothing herein shall preclude MPD personnel from reviewing or using recorded data for the purposes of investigation or prosecution of crimes, or preparation of reports. Recorded data may only be used for training purposes with the approval of the Deputy Chief of Professional Standards. (09/19/08) (08/28/09) (05/24/13)
 13. An MPD employee who is captured on or referenced in any recorded media, may review such data and use the data for any purpose relating to his/her employment, provided such use complies with the Minnesota Government Data Practices Act, MPD policy and other laws. (09/19/08) (08/28/09) (08/01/11)
 14. All MVR recordings are the property of the MPD and original MVR recordings shall remain in the sole custody of the MPD, unless used in court as evidence, provided to an expert for analysis, or required to

be provided to another by lawful order.(08/28/09) (8/01/11)

15. An MVR-equipped vehicle can be used for off-duty employment with supervisor pre-approval. MVR-equipped vehicles and use of MVR equipment are subject to all requirements as outlined for on-duty use. (08/28/09)
16. Only MPD-issued videotapes, memory cards and microphones shall be used in MVR equipment. MPD Stores is responsible for distributing blank MVR media to the precincts and units. (08/28/09) (08/01/11)
17. Disabling MVR equipment and/or altering, duplicating or destroying MVR recordings is prohibited, except for authorized personnel. (08/01/11)
18. When reference is made to an MVR recorded event in a police report or supplement, the P# of the squad which captured the event shall be noted in the report. (05/24/13)

B. MVR System - Supervisor Responsibility (05/24/04) (09/19/08) (08/01/11)

1. Supervisors shall ensure that officers follow established procedures for the use and maintenance of MVR equipment, videotapes, and the completion of MVR documentation.
2. Supervisors shall periodically view recorded media to ensure proper procedures are being followed. (08/01/11)
3. Supervisors may review the contents of the MVR systems, as a management tool within their chain of command. (08/28/09) (08/01/11)

C. MVR Digital System (08/01/11)

1. Every recorded event shall be appropriately categorized in order to ensure proper data retention guidelines are followed.
2. Recorded events will be categorized using the following categories. Only one category can be chosen for each recorded event.
 - 90 day retention;
 - Citation;
 - Arrest or DUI;
 - Use of Force;
 - Significant Incident
3. MVR digital recorded events categorized as Arrest, Use of Force or Significant Incident shall be uploaded at designated upload sites by the officers assigned to the squad, prior to the end of their shift whenever possible.
4. When the display shows less than 4 gigabytes of available space, officers shall proceed to a designated upload site to upload recordings.
5. In the event a memory card which contains recording(s) needs to be removed from the DVR, only Crime Lab personnel are authorized to remove the memory card.
6. Only Crime Lab Unit personnel are authorized to remove a memory card from DVR equipment.

D. VHS System (05/25/04) (09/19/08) (08/01/11)

1. Only shift supervisors are authorized to possess a key to the MVR trunk vault. (08/01/11)

2. Only shift supervisors are authorized to load or unload videotape into the MVR. (08/01/11)
3. When the 30-minute warning light appears on the MVR overhead console display, officers shall notify their immediate supervisor and arrange to have the MVR videotape inventoried and replaced. (08/01/11)
4. If the original MVR recording is of evidentiary value, it shall be inventoried in the Property & Evidence Unit prior to the end of the officer's shift which encompasses the recorded event. A recording that is of evidentiary value includes the following: (08/28/09) (08/01/11)
 - a. Significant Incident;
 - b. Arrest;
 - c. DUI;
 - d. Use of force
5. MVR (VHS) recordings of non-evidentiary value will be stored at the precinct/unit where issued for a period of 1 year and then may be degaussed and re-used. (08/28/09) (08/01/11)
6. Exercise caution to ensure that repeated viewing of an original VHS recording is kept to a minimum. Repeated viewing may result in the quality of the recording to become degraded. (08/01/11)
7. In the event of a Critical Incident, Crime Lab personnel shall collect MVR VHS recorded media from all squads at the scene. (04/03/09) (08/28/09) (08/01/11)
 - a. In order to preserve the quality and integrity of the videotape, the recording shall not be reviewed in the squad car prior to collection. (04/03/09) (08/28/09) (08/01/11)
 - b. A duplicate copy of the VHS recorded media will be made as soon as possible by Crime Lab personnel. (04/03/09) (08/28/09) (08/01/11)
 - c. At the request of the Involved and/or Witness Officers, the Lead Investigator for the Critical Incident shall provide them an opportunity to view a copy of the MVR recorded media prior to giving a statement and completing a report. (04/03/09) (08/28/09) (08/01/11)

E. VHS System - Supervisor Responsibility (05/25/04) (09/19/08) (08/01/11)

1. Patrol supervisors are responsible for the installation, removal and storage of VHS videotapes. (08/01/11)
2. Precinct/Unit commanders or their designees are responsible for the usage, labeling, storage, degaussing, and recycling of VHS recordings intended for patrol use. (08/28/09) (08/01/11)
3. Unless otherwise noted, MVR VHS videotapes stored at precincts shall be retained for one year and then may be degaussed and/or reused. (08/28/09) (08/01/11)
4. Videotapes that have been degaussed three times shall be destroyed. (05/07/07) (07/11/07) (08/28/09) (08/01/11)
5. Supervisors shall maintain a logbook to ensure inventory control of videotapes.
6. Each precinct/unit shall track the installation/removal of MVR videotapes via the Precinct/Unit MVR Videotape Log (MP-8898). (08/01/11)

F. Property Inventorying MVR (VHS) Videotapes (05/25/04) (09/19/08) (08/01/11)

1. Mobile Video Recording (MVR) videotapes shall be property inventoried when the MVR equipment was in use in the following situations: (08/01/11)
 - a. Significant Incident;
 - b. Arrest;
 - c. DUI; and
 - d. Use of force
2. If the squad is involved in or responds to a Critical Incident:
 - a. Crime Lab Unit personnel will remove and property inventory MVR videotapes from all squads at the scene. (08/01/11)
 - b. MVR videotapes property inventoried for reasons related to a Critical Incident shall only be permanently released or destroyed by the Property and Evidence Unit at the direction of the Commander of the Internal Affairs Unit. (07/11/07) (04/03/09)
3. In cases where evidence is recorded, it shall be noted on the videotape and in the CAPRS report.

G. MVR Equipment Coordinator (08/01/11)

1. Each patrol precinct/unit will have a designated MVR Equipment Coordinator.
2. The MVR Equipment Coordinator will:
 - a. Ensure that all MVR equipment in vehicles is operational and accounted for;
 - b. Follow up when equipment and microphones are reported missing or in need of repair;
 - c. Conduct and/or coordinate training for personnel regarding MVR operations, MVR desktop software, and policy/procedure updates;
 - d. Liaison between the precinct/unit, the Business Technology Unit (BTU) and the Radio Shop;
 - e. Ensure videotapes from the MVR (VHS) system are maintained appropriately and requests for video duplication are handled in a timely manner.

H. MVR Equipment Maintenance, Repair and Replacement (05/25/04) (09/19/08) (08/01/11)

1. The Radio Shop is the liaison with the MVR vendor and will conduct all repair and replacement of MVR equipment, except wireless microphones. (08/01/11)
2. Officers are responsible for immediately notifying their supervisor of any missing or malfunctioning MVR equipment, including microphones. (08/01/11)
3. The supervisor is responsible for rectifying the problem by having the squad taken to the Radio Shop for repair as soon as it is practical. (08/01/11)
4. If a supervisor is notified of a missing microphone he/she shall make attempts to locate it. If it cannot

be located, this shall be reported to the precinct/unit MVR Coordinator who will again make attempts to locate it. (08/01/11)

5. If the microphone cannot be located the precinct/unit MVR Coordinator shall make a CAPRS report "Lost Property" and forward the report with a request for a replacement through his/her chain of command to the Business Technology Unit. (08/01/11)

I. Requests for Duplication of MVR Recordings (05/25/04) (09/19/08) (08/01/11)

1. Requests by MPD personnel for duplication of MVR video for purposes of official MPD business shall be directed to the Crime Lab Video Forensics section via submission of the Crime Lab Video Request for Services form (MP-9069).
2. Requests by MPD personnel for duplication of MVR video for non work-related purposes (e.g. teaching, personal reasons) shall be submitted to the Records Information Unit and are subject to the Minnesota Government Data Practices Act and City of Minneapolis data charges.
3. Requests made by the public for MVR video will be processed by the Records Information Unit (RIU), in conjunction with Precinct Supervisors, the Crime Lab Video Forensics Section and the Public Information Office.

a. Records Information Unit responsibilities:

- i. Determine nature of the request;
- ii. Ensure video is not part of an active criminal or internal investigation;
- iii. Submit Crime Lab Video Request for Services form (MP-9069) to the CLU requesting duplication of video;
- iv. Receive recorded media intended for release;
- v. Ensure the Public Information Office reviews video prior to release to make certain that only public information is released;
- vi. Notify requestor video is ready;
- vii. Collect fees and release video.

b. Precinct Supervisor responsibilities when an MVR VHS videotape recording is required for duplication:

- i. Receive request from Records Information Unit;
- ii. Locate and property inventory videotape;
 - If no CCN exists, one shall be generated and a CAPRS report completed using the code MISC.
- iii. Notify RIU via e-mail if the videotape is already inventoried under another CCN, if it no longer exists, or cannot be located.

c. Crime Lab Video Forensics Section responsibilities:

- i. Receive requests via Crime Lab Video Request for Services form (MP-9069).
 - ii. Process requests according to Crime Lab Division SOP's.
- d. Public Information Office responsibilities:
- i. Coordinate with Records Information Unit to manage requests.
 - ii. Review all videos to be released.

4-219 PROCUREMENT OF COMPUTER HARDWARE , SOFTWARE AND COMPUTER-RELATED SERVICES (12/21/01) (08/01/11) (09/19/08) (05/23/12)

(A-D)

The purpose of this policy is to ensure compliance with city Business Information & Technology Services (ITS) (BIS) hardware and software standards. (09/19/08)

The purchase or procurement of all computer hardware, software or computer-related services such as programming or consulting shall be facilitated through the supervisor of the MPD's Business Technology Unit (BTU). Any precinct, unit or division wishing to obtain or implement hardware, software or services shall submit a written request detailing specific needs and requirements, (including the Space ID and Asset Tag Number) to the BTU supervisor of the Business Technology Unit. The supervisor of the Business Technology Unit will evaluate the request and forward it to BIS ITS as appropriate. It is the responsibility of the requesting precinct, unit or division to make all necessary budgetary arrangements. (09/19/08)

All computer and related equipment (printer, scanner and accessories) procured by the MPD is managed by BIS ITS and may be subject to redeployment within the MPD based upon departmental needs. Computer equipment obtained through grant programs shall be maintained according to the grant guidelines.

Any computer equipment, software or service that is obtained outside of this procedure will not be supported by BIS ITS. All ongoing support, maintenance, repairs and upgrades shall be the responsibility of the purchasing precinct, unit or division. In addition, hardware/software that is obtained or purchased without the approval of BIS ITS may be removed from the network to prevent corruption or any adverse effect on the MPD or City network(s). (09/19/08)

Any employee found to have installed illegal or unauthorized copies of computer software may be subject to disciplinary action.

4-220 COMPUTER USE AND ELECTRONIC COMMUNICATION (12/21/01) (09/19/08) (08/01/11) (05/23/12)

(A-D)

All use of the City's computer system shall comply with the City of Minneapolis Electronic Communications Policy.

Users are responsible for maintaining security of any computer to which they have logged on. When users leave the computer, they shall log off the system.

Domain passwords are selected by individual users and are not to be shared. Users should protect their password against unauthorized use. Passwords can be stolen, guessed or inadvertently made available, therefore BIS will prompt users when to change their password. Users are required to change their passwords every 30 days and will have to supply a new password in order to log on. (09/19/08)

21. Body Worn Video Steering Group: "The Body Worn Video Steering Group Guide to Implementing a Large Scale Body Worn Video Programme"

The Body Worn Video Steering Group guide to implementing a large scale Body Worn Video programme.

V1 (draft September 2013)



This document is intended to provide guidance and offer recommendations in regards to implementing a Body Worn Video (BWV) program in a large organisation.

The following document has been based on the experiences of the most successful Police BWV implementation programs in the UK. Whereas no two organisations are the same, the general principles and recommendations made in this document have been designed to be applicable in as many situations as possible.

Much of the content provided has been gathered from discussions with individuals who have been closely involved with successful programs and the BWVSG is grateful for the time and insight that these individuals have contributed.

The BWVSG thanks the following contributors:

Inspector Steve Goodier (Hyperion Lead) Hampshire Police

Detective Inspector Mark Parish (BWV Lead) Leicestershire Police

Chief Inspector Gavin McMillan (BWV Lead) Hampshire Police

PC Scott Walters (BWV SPOC) Sussex Police

Inspector Daniel Inglis (BWV lead) Greater Manchester Police

(* note: this document is provided in draft form. There are some sections which require completion and this will document will be updated from time to time. However the document should provide valuable assistance in its current form)

Contents

Getting your project started: Build internal support.....	3
Building the right team	4
Finding the right supplier/partner – equipment selection	7
Appendix 1: Choosing equipment.....	9
Evaluation of internal readiness	11
Training	14
Business case	14
Procurement	14
Communications	16
Operating Procedure.....	16
Appendix 2: Sample Operating Procedure.....	16
Introduction	16
Risk Assessments / Health and Safety Considerations	18
Booking Out Equipment.....	18
Recording Events.....	18
Image Capture.....	18
Selective Capture and Bookmarking.....	19
Use of BWV in Private Dwellings.....	19
Transfer of images to BWV Evidence Management Software.....	20
Deletion of Images	20
Return of Equipment.....	21
Responsibilities	21
Review of procedure.....	21
Usage Policy	22
Appendix 3: Sample Policy Document	22
About This Policy.....	22
General Principles	22
Declaration of Policy	23
Implications of this Document.....	23

Tracking and Appraisal.....	24
Other Related Organisation Documentation.....	24
Information Sources.....	24

Getting your project started: Build internal support

The key to the successful implementation of BWV lies in a combined effort. Inspector (Insp) Steve Goodier of Hampshire Police states “You won’t get large scale deployment without large scale enthusiasm”. In order to build this kind of support from every level in the organisation, it has to be made clear that BWV is strategically beneficial for the entire force, the perks of the technology do not end exclusively at an operational level. Chief Inspector (CI) Gavin McMillan of Hampshire Police agrees, saying it is essential that “the Project sits within the plans for the Force and as a priority to get other departments to deliver”.

Building support at a management level

The significant benefits that BWV delivers are now well understood and documented. A credible way of highlighting the benefits of BWV is to be familiar of the research that has been collected regarding its use and extracting relevant. These can be found at BWVSG.com in the Resources section.

<http://www.bwvsg.com/>

- Body Worn Video Projects in Paisley and Aberdeen
- A FIELD EXPERIMENT ON THE EFFECT OF BODY-WORN CAMERAS ON POLICE USE-OF-FORCE
- GUIDANCE FOR THE POLICE USE OF BODY-WORN VIDEO DEVICES

Insp Goodier recommends highlighting the benefits of BWV to the ACPO (Association of Chief Police Officers) lead, PCC (Police and Crime Commissioner) and senior management if they are not already aware, explaining exactly how the Force will benefit from implementing a program, leading on more specifically to how it will deliver their objectives. He continues “Not only will the Force be investing in cost savings, reduced crime, streamlining the justice process and encouraging the “victim first” mentality but also adhering to the *digital case file* initiative”. CI McMillan affirms the importance of high level support, saying “if possible have the ACPO lead and PCC buy in to the program at an early stage and it is important to argue the many benefits that BWV provides: it can be used in so many ways”.

The Criminal Justice System (CJS), led by the police, Crown Prosecution Service (CPS) and HM Courts & Tribunals Service (HMCTS), have introduced the “digital case file” initiative. ACPO is committed to this nation-wide push to update the operations of the UK Police Force to a “digital first” system,

which will save time and reduce costs whilst also making collaboration between the forces more efficient. Evidently, BWV sits very comfortably within this initiative.

Detective Inspector (DI) Mark Parish of Leicestershire Police agrees that ideally “you have some ACPO backing before you get started” because ultimately, the final decision to implement constabulary-wide BWV lies with highest authority within the Force.

The argument to the PCC and ACPO lead is most persuasive when pitched as a business case, a long term investment with the future of Policing in mind. Insp Goodier believes that “BWV is in line with *everything* the Police are trying to do now”.

CI McMillan also recommends exposing the ACPO lead to the front line officer’s opinions about the equipment. If, from an operational level, officers are responding positively and good examples can be highlighted, this will act as a persuasive argument to further investment. Furthermore, Insp Goodier recommends leading the PCC and ACPO lead to other Force’s experience, “put them in contact with a PCC from Hampshire Constabulary or Leicestershire Police. Hearing the positive viewpoints from a successful program has more clout coming from the high authority, which is why the London Mayor’s office has planned a visit this autumn to speak to the authorities in Hampshire.”

Building support at an operational level

DI Mark Parish agreed that Forces must “ensure they have the buy in from officers who are using the system” because, as PC Scott Walters explained, “the nature of the impact BWV has on policing and the benefits it offers means getting it right at an early stage by listening to what the users want and need will provide no end of success”.

As shown, building support at this level is important because the actual use of the technology is vastly down to the users of cameras and evidence management software so if there is a reluctance to use the equipment then the potential benefits are stunted. Inspector Daniel Inglis of Greater Manchester Police agreed that the “culture amongst officers” directly affects the overall use of the equipment, “officers who understand the benefits tend to use it far more”.

Building the right team

Following the first step, a team of supportive individuals from across the Force will need to adopt a role in converting the enthusiasm into a functioning program. PC Walters stressed “Above all, having passionate people involved will yield much better results for your force.” Insp Goodier added at this point that “every Police Force is going to be completely different”, however there are seven recommended positions that need to be filled”.

Business Owner

Firstly, there needs to be a business owner on board to initiate and take responsibility for the program. The ACC, DCC and ACPO lead are all people who could fill this role. When the business owner declares the program is happening, the responsibility cascades down into the remaining positions. CI McMillan stresses that “this person has to co-ordinate implementation by ensuring that it appears as a priority in every departments ‘change program’”. It is no use, for example, selecting and training with equipment that is not yet supported by the IT infrastructure.

Strategic Lead

The strategic lead is the head of the “strategic team”. This person maintains the long term vision of BWV and co-ordinates the various support leads in the team. Insp Goodier summarises the strategic lead as “someone who makes sure everything is happening”.

This person also needs to be middle management: Insp Goodier suggests a Chief Inspector level as minimum. The strategic lead is the middle ground of the operation, where they communicate with and influence people both above and below them in rank. Ideally, Insp Goodier recommends, “they are a good front line officer, it’s better to be uniform” because they understand the implications of the program from an operational level.

Operational Lead

The operational lead is the engine behind the physical use of the cameras and evidence management equipment. When Hampshire was implementing BWV, it was Insp Steven Goodier who was on the ground, sparking enthusiasm for the benefits of the technology and driving its use. The person in this role needs to have a holistic view of the entire operation. Insp Goodier explains “they need to understand it all, from the grass roots of how the camera functions, to the software, and all the way to the media preparation for criminal proceedings”.

“They ideally should be uniform” Insp Goodier continues, “someone who has the respect of the police men and women who are going to be using the cameras and back office software, it has to be operationally led”. This person will be in regular contact with the front line officers, keeping track of its use. As such, the operational lead is the ideal role to address complaints regarding BWV and perform any necessary training procedures for incorrect use.

PC Scott Walters is the operational lead for Sussex Police and states “This is an ongoing commitment and takes a good proportion of my time but is wholly worthwhile. BWV is such a fluid entity owing to progressions in technology and the current budgetary constraints on forces. It pays to keep well abreast of developments in the BWV arena.”

Project Manager

A project manager is the person who has the overall responsibility for the successful initiation, planning, design, execution, monitoring, controlling and closure of a project. Key among his or her duties is the recognition that risk directly impacts the likelihood of success and that this risk must be both formally and informally measured throughout the lifetime of the project.

This document will be updated with content from Patricia Rich (Staffordshire Police Project Manager) presentation to the BWVSG on Sept 10th

IT Lead

You cannot implement large scale BWV without senior IT on board. Ultimately, it is in their hands to finally implement BWV within the the current IT system. This is why, according to DI Mark Parish, it is essentially that you “involve the IT at an early stage”.

Mark Fogwill is the Hampshire Police IT lead for implementing BWV. Insp Goodier comments “the senior IT managers delegated the responsibility of co-ordinating the implementation to Mark because he was acquainted with the operational side of the Force’s IT, and was aware of the implications it would have on that level.” Insp Goodier therefore recommends finding an IT member with similar standing, having roots in both the operational and management levels.

CI McMillan recommends working closely with IT at each stage. Maintaining communication and problem solving before, during and, in particular, after the implementation stages.

IT and camera equipment is discussed in the section: Evaluation of Internal Readiness

Procurement Lead

Procurement can be a lengthy and complicate process so it is highly desirable that an experienced procurement expert is brought in at an early stage and fully on-board with the project. Procurement is discussed in detail later in this document.

Training Lead

Training an organisation how to use BWV will require someone to oversee its co-ordination and, eventually, to evaluate and manage the correct procedures. The principles and implications of training is covered later in this document

Performance Analysis Lead

When BWV has been implemented it is necessary for somebody to keep track of the impact it is having. It is necessary to ask the questions “is BWV being used to its full potential? Is it helping?”

Insp Goodier stresses that “these questions are asked not to check if BWV works, because it does, they are to see how the use of BWV can be improved, to find out where the areas are where the benefits can be maximised.”

Insp Daniel Inglis conducted the evaluation of Greater Manchester Police’s program because he was the business change manager and project lead. It is recommended that the project lead conduct the evaluation as they will then do so with the original vision in mind and an understanding of the journey the Force has been on to reach this point.

Finding the right supplier/partner – equipment selection

The Police use of BWV is an established industry with a growing number of suppliers to choose from. This section has been designed to help you navigate your way through the right questions in order to choose the supplier that will most benefit your program. It is also helpful at this point to think of the supplier as a “partner”, since using BWV requires an ongoing relationship with the company of choice.

PC Walters warns that “Implementing a solution because it's the cheapest option or because it's all that is available at that time will, in my experience lead to a failed or dysfunctional project.” It is highly recommended to invest time discerning which supplier will best meet the operational requirements of the program. PC Walters also advised “careful consideration needs to be given to back office management software”, the cameras are only half the solution.

You therefore need to be aware of the choices available. Insp Goodier; “whoever has been given the responsibility of deciding which supplier to go with needs to be willing to travel in order to find out what is out there”. The recommended way of discovering the suppliers available is to visit other Forces and see what they are using. Large scale BWV programs have been adopted by a number of Police Forces in the UK, which makes this an increasingly more productive exercise.

Listening to the testimonies of people in different departments of the Force will also provide a holistic view of their experience with that supplier. The frontline users are not the only people who are working with BWV, the IT department will have an important testimony to add.

It is essential that the person visiting other Police Forces has at least a basic understanding of these technical aspects to BWV. It will then be possible to identify which of the suppliers have the correct specification of equipment you are looking for.

Insp Goodier recommends considering the following:

Supplier’s capability

“The supplier has to be capable of providing hardware, software and support that meets the operational requirements of your program.” According to Goodier, any supplier that cannot meet these basic requirements should be discounted from consideration.

Hardware

- Does the supplier provide quality cameras that are fit for purpose?
- Can the supplier provide the number of cameras you are looking for?

Software

- Does the supplier provide an integrated software package to process the recorded evidence from the cameras?
- Is the software
 - Able to provide the necessary capability to ensure videos are treated in an evidentially sound way?
 - Scalable: can it grow with the needs of the programme?
 - Easy to use and manage?
 - Able to be deployed on your IT infrastructure?

Support

- Does the supplier offer quality support?
- Does the supplier provide quality training?
- Can the supplier provide updates and fix bugs with both the hardware and software?

Supplier’s experience

- Does the supplier have an extensive history in the field of BWV?
- Has the supplier been successful in the past?

Other considerations

- Does the supplier have the future in mind? Updating already existing equipment is easier than implementing completely new equipment from a different company.
- Does the supplier understand your business plan? Can they reasonably match the horizon you have in mind?
- Do you already have an existing relationship with a supplier?
- How flexible is the supplier?

When a short list of potential suppliers has been drawn up, the next step is to trial the suitable partner’s cameras. PC Walters states “test the equipment thoroughly (often to destruction!)”. Both Insp Goodier and CI McMillan suggested giving the specific point of contacts (SPOCs) sufficient time to evaluate with the different cameras, testing them by giving them to front line officers to use on shifts. This is the best way to test the operational aptitude of the cameras and evidence management software whilst also building enthusiasm for the equipment. If the officers feel as if

they have had an involvement in the selection of the equipment, they will be more likely to use the equipment.

Insp Goodier suggests trialling a handful of solutions in an “assessment phase”, intending to get the whole of the police team on side with the program. Insp Goodier added “The cameras are difficult to imagine, people want to see the cameras and use them”. Trialling different cameras and software is the best way to educate the Force about BWV and to create enthusiasm for the program. Insp Daniel Inglis agrees to make sure the officers “understand where and how BWV can be used to maximise the benefits”.

BWV needs to be looked at as a total solution, rather than just the camera hardware. Therefore it is vital to understand that the back office software is equally important when it comes to the testing phase, which will require the same amount of input from the officers who will be using it.

Appendix 1: Choosing equipment

(Extracted from “Guidance for the non-Police use of overt body worn video devices” by Reveal Media available at <http://www.bwvsg.com/wpcontent/uploads/2013/07/Non-Police-BWV-Guidance.pdf>)

Simplicity is key.

Often working alone, users will have many things running through busy minds. The equipment should be unobtrusive (but clearly visible to the subject), easy to wear, durable and above all, easy to use.

Image quality verses storage requirements.

As has been said above we all want the best images possible. In fact the courts require ‘best evidence’ but a degree of pragmatism is always required. File size and storage must always be considered in the early stages. HD images require more storage space and longer uploading times but may give clearer quality pictures. Consider that most events captured by BWV are at close quarters so ultra-high resolution recordings are typically unnecessary.

Battery life.

As with any portable equipment, the device will only work if the batteries are charged. They are as essential as any other part of the device. Most people have felt the frustration of a mobile phone that is not charged. On average it has been found that BWV is used in short bursts, seldom requiring lengthy recordings but you should assess how much recording your users are likely to make before they can return the recorder for recharging or battery replacement.

Wearability/ergonomics/ease of use.

One thing is for sure you will not please all of the people all of the time and much is personal preference. Here are some things to consider when acquiring BWV devices.

Head worn.

- Will record the point of view of the wearer.
- All head movements are captured which can be disorientating for the later viewer.
 - The apparatus to use the camera 'head mounted' can be uncomfortable to wear for users.
 - Wires will pass from the camera to the recorder along the neck line, a potential hazard.
 - If wearing when driving can be in peripheral view causing distraction.

Chest (body) worn.

- All in one device.
- Can be placed in different areas on body.
- User has to be aware to point camera at event not just look.
- No wires.
- Easily seen by the subject.
- Becomes 'just another piece of equipment' for the wearer.
- Allows user to scan event without creating disorientating footage.

Who should get it.

If you are reading this you probably have a good idea of where and who you want to use BWV in your organisation. With a few legal and intimate exceptions BWV can be used anywhere in the public domain and therefore is open for use by many staff.

Consider do you want BWV equipment to be

Personal issue

- Personal responsibility for equipment.
- Familiarity with the equipment.
- Ease of identification of user.
- Potentially a shorter business process.
- No returning to base required.

Pool issue

- Less equipment required (potentially).
- Resource available to many.
- Spare available in case of malfunction.

As with any new equipment willing staff will give you the greatest success but you should not overlook the use of BWV to improve standards of poor performing staff.

Equipment storage.

Take time to consider where the equipment will be stored especially if a pool of equipment is preferred. A log of issue return and repair is recommended. The site will need to be close to the center of activity ensuring ease of access but sufficiently discreet to ensure footage is not viewed inappropriately.

Managing the material

Obtaining the video is usually the easy part: the real challenge lies in the management of the material.

Having secured footage it is essential this is uploaded stored and managed in a safe, secure, easy to access site. This is best described as back office.

It is essential that a sound business process is created to manage the footage as it is virtually useless without one. Responsibility for BWV, back office function and the business process must be assumed by an individual with appropriate skills within the organisation.

If your organization is widely dispersed you will require a network enabled solution

The siting of the back office again will require careful consideration as with the BWV equipment the site will need to be close to the center of activity ensuring ease of access but sufficiently discreet to ensure footage is not viewed inappropriately.

“The solution will ideally be computer (PC) based and should allow the user to:

- *download video from the body-worn camera;*
- *review video on the system;*
- *create master and working copies of evidential material on WORM media; and*
- *store non-evidential material for 31 days before deletion.”*

<http://www.revealmedia.com/LinkClick.aspx?fileticket=dH4lOGWh9Zl%3d&tabid=156> (HO BWV Guide)

Evaluation of internal readiness

BWV requires competent back office facilities, in regards to both the IT infrastructure and the physical site.

PC Walters said “ensure your infrastructure can handle the data. In the early stages of our project our back office facility was not prioritised and it lead to failures in the system and fundamentally a huge loss of confidence in BWV and the ethos behind it.” Evaluating the IT infrastructure that is currently in place is therefore an essential pre-requirement to implementing BWV.

Insp Gooder also believes that the physical space necessary at each station for BWV is significant enough to need to perform a site survey to evaluate and plan an area to host the equipment.

IT infrastructure

Ideally the IT infrastructure needs to be as up to date as possible to handle the amount of digital data the cameras create. Both the management and storage of the data are essential to the effective use of BWV. It is highly recommended that the IT lead begins talking with the IT department as early as possible to see what is available and what is possible.

Evidence Management

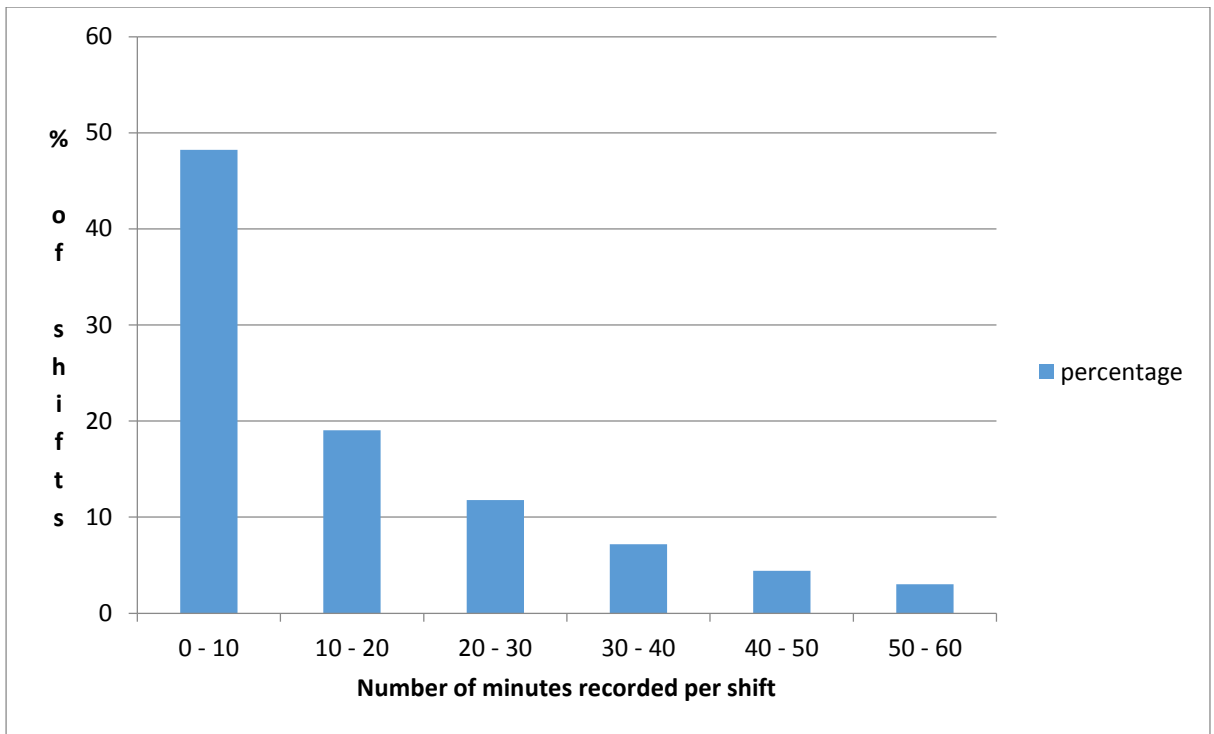
Robust evidence management is an essential component of any BWV programme. The success of a programme will depend largely on the procedure and equipment selected for evidence management. The policy around this aspect will need to be thoroughly considered and documented (see Appendix 1: Sample Operating Procedure in this document).

Storage

The amount of available storage needs to be considered. There are many factors that influence the amount of storage required.

- Bitrate of the recordings (how big are file sizes per minute/hour of recording by your particular camera)
- How many minutes/hours each camera will record each shift
- How many shifts per day the camera will be used
- Policy around usage – under what circumstances recordings are made
- What percentage of recordings are evidential and need to be kept
- What time period non-evidential recordings be kept for

Given the many variables it is hard to make a theoretical calculation. Perhaps the simplest method is to consider what established BWV programs generate. Data extracted from a large scale Police BWV programme shows the average number of minutes of recordings per shift is less than 20.



This document will be appended with more data in relation to the likely storage requirements as information becomes available from other large scale deployments.

Site Survey

Insp Goodier recommends that the buildings estates management team work closely with the project lead and IT to decide what action needs to be taken on site. The solution required will depend entirely on what the envisioned program is, however the basic need for storing BWV is a data point, in which are charging pods and computer stations.

Data Points

A data point is a specific area in the police station that is used for the storage and management of BWV. This area will include charging pods/ docking stations and a computer to upload and manage the video files.

The amount of cameras will dictate the amount of data points needed, however it is recommended that a specific area is set aside exclusively for BWV. Within this area there will need to be space allocated for camera charging pods, which will require an electrical power source. The Cameras may also require a space allocated for secure storage.

Computers will be the second basic requirement of the data point. The computers will manage and store the video evidence. Physical space and electrical power will be required to house the computers.

Training

Training is an essential part of implementation. There are huge business risks for the misuse of the equipment, potentially jeopardising the entire operation. Training also boosts confidence in the usage of the equipment, Insp Goodier says “the officers might be afraid to use the cameras if they are not sure when it is an appropriate time to use them”. To avoid undermining the abilities of the cameras, officers need to have full confidence in the kind of situations it is acceptable to be using them.

Insp Goodier said that “the most ideal method is front line training, where you make contact with every officer to demonstrate the equipment and brief them on the legal implications.” However, Cl McMillan agrees that this is “labour intensive” and thus the most expensive method. The most cost effective way of training the officers without compromising quality, suggests Insp Goodier, is a combination of E-learning and operational, hands on learning.

The essentials of the legislative details and the theory behind BWV can be learnt via E-learning resources which are available at [\(please contact Jack Ashton at Reveal Media Ltd who will put you in touch with constabularies who have created packages\)](#) If the Police Force requires specific training, then the learning and development team will have to be informed from an early stage so that the resources are ready for deployment.

In regards to operational training, Insp Goodier suggests investing in enhanced training from the supplier for the SPOC in each Police force sector. The SPOCs then cascade the training down to the front line officers and take responsibility for the correct use of the cameras. Insp Goodier explains “Giving the SPOC time to use with the equipment beforehand will generate enthusiasm for BWV, which will make the training more effective. It will also be considered as the “testing phase” to deal with any minor operational issues before the program becomes full scale”.

Insp Goodier has found in his experience that re-assessment and re-training will be required at regular intervals, “in order to keep up with any legislative changes and to make sure the BWV is being used correctly”. The SPOC, ideally, will be briefed with any new information and again cascade the training out to their respective areas.

Business case

[\(We are seeking a road-tested sample business case for this document. In the meantime please contact Jack Ashton at Reveal Media Ltd who will put you in touch with constabularies who have created successful business cases\)](#)

Procurement

Procurement can be a complicated process if it is not done properly.

CI McMillan recommends approaching the procurement department with the exact equipment in mind. Avoid approaching the department with little information as procurement will not have the operational understanding necessary to determine which cameras and evidence management software to buy. The process is streamlined when procurement simply have to purchase equipment rather than research the market and decide which supplier to go with.

The notes below are taken from the minutes of the inaugural BWVSG meeting

How to get through the procurement process with Martin Nel:

Martin Nel, Service Support & Vendor Manager within ICT of Hampshire and Thames Valley presented the different options for procurement. Martin was fortunate that he has an I.T background as well as procurement. Body worn video is often described as troublesome from an I.T department's point of view due to amounts of storage and bandwidth required as well as data integrity.

If your organisation's policy allows it, purchasing directly from the supplier should be the simplest solution but other formal procurement options include:

EU Procurement or similar compliant tender:

This option is unadvisable as realistic timeline to complete 9-12 months. If you do decide to take this route, don't describe the technical details of the product you desire, describe what you want the product to do. It was also pointed out that the tendering process can discriminate against worthy suppliers and lead to operationally poor equipment being procured.

Sprint II Framework Contract:

The Sprint II framework is a 'one stop shop national framework agreement'. The Home Office state that Police Forces must use it for all commodity ICT purchases. The Sprint 11 framework is managed by SCC. This is an advantageous method to procuring for various reasons including:

- Sprint II allows equipment to be purchased immediately
- No tender process
- No maximum value
- It maintains compliance with all local Standing Orders and EU Procurement Directives
- It provides a highly flexible contracting platform now and into the future
- There are low fixed margins

You will be required to pay a small margin to procure through SCC (1.9% for hardware). Payment cycles to suppliers can also be significantly extended when processed through SCC, so it isn't uncommon for suppliers to ask for a deposit or reduced payment terms. Both these factors are negligible compared to the cost and time of going to tender.

There are benefits to be gained by forces choosing a common set of suppliers.

Sprint II is a platform to make procurement easier and you can continue to engage directly with your supplier. The supplier will be offering support for your cameras and can offer advice on rolling out your projects.

Communications

The Strategic Lead needs to have made communications for BWV a priority so that a comprehensive marketing communications plan can be available for the launch. CI McMillan recommends having both an internal and external campaign.

Internal

CI McMillan states that the internal communications are to encourage the front line officers to use the equipment and to answer obvious questions that may arise. Branding materials for BWV can be downloaded for free at: www.bwvsg.com/resources/mediabranding-materials.

External

The external communications are for the public's awareness and understanding of the equipment. CI McMillan recommends using the local radio, papers and billboards as means to mark the launch of the program.

The communications are to clear up the obvious questions that surround BWV, regarding privacy and usage policies that may concern members of the public and other stake holders.

Operating Procedure

The appendix below is a sample operating procedure that you could use as the basis of a formal document for your organisation (extracted from "Guidance for the non-Police use of overt body worn video devices" by Reveal Media available at <http://www.bwvsg.com/wpcontent/uploads/2013/07/Non-Police-BWV-Guidance.pdf>)

Appendix 2: Sample Operating Procedure

Introduction

Body Worn Video (BWV) is an overt method by which staff can obtain and secure evidence at incidents. This document is intended to enable staff to comply with legislation and guidance to create evidence suitable for use ultimately in court proceedings if required. In addition to providing compelling supportive evidence for court it has been found that BWV can furnish other benefits such as;

- Raise standards of service.
- Reduce incident escalation.
- Augment opportunities for evidence capture.

- Reduce complaints.

BWV equipment provided for users should be compliant with the recommendations in the 'Technical specifications' section of the Guidance for the Police use of Body-Worn Video Devices published July 2007 by the Police and Crime Standards Directorate.

This document explains the process by which <Organisation Name> will utilise BWV devices. It will ensure a consistent and effective system is adopted throughout the organisation, benefiting both members of the public and staff.

BWV devices will be used by staff. It has the potential to significantly prevent, stop escalation, and record events involving conflict. In cases which involve legal redress it can improve the quality of evidence provided by members of the organisation. It will also raise standards of service providing a good reference for staff development.

BWV can be used across a wide range of operations and in all cases users and supervisors must use professional judgment with regard to the use of this equipment.

There are some examples of situations where the use of BWV is not appropriate; the following list is for guidance only and is not exhaustive.

- Legal privilege – users must be careful to respect legal privilege and must not record material that is, or is likely to be, subject to such protections.
- Private dwellings – users must consider the right to private and family life (Article 8 of the ECHR) and must not record beyond what is necessary for the requirements of the individual case.

Managers must ensure that the use of the cameras is widely advertised prior to the start of a programme of use ensuring 'fair processing' a requirement of the Data Protection Act 1998.

At an individual case level the use of BWV must be made clear by staff making a verbal announcement to those persons who may be recorded. In some cases it will not be practical to make such an announcement, on these occasions this announcement must be made as soon as practicable. Staff may also wear a sign/symbol in order to ensure fair processing is achieved in compliance with the Data Protection Act.

BWV cameras might be small, but they are not to be worn or used in a hidden or covert manner ensuring maximum impact on prevention and escalation of an incident.

The decision to record or not to record any incident remains with the user. The user must be mindful that failing to record an incident may require explanation. Therefore, if the user is present at an encounter where BWV can be used the user should record the incident.

Recording should be incident-specific: users should not indiscriminately record entire duties and only use recording to capture video and audio at incidents that would normally require reporting, whether or not these are ultimately required for use in evidence.

Risk Assessments / Health and Safety Considerations

Each incident should be subjected to a dynamic risk assessment on its own merits. When using BWV the decision to record or not record forms part of this risk assessment. The assessment should include consideration of the health and safety, human rights and welfare of all those involved.

Booking Out Equipment

All cameras should be stored in a secure area, in a suitable location along with any batteries and media cards. A supervisor will be responsible for maintaining the security of the cameras and the allocation to staff who have been instructed in its use. They should ensure that a suitable issue and returns log is available in order to show continuity if required.

When issued with the equipment the user should ensure that it is working correctly. This process should include the following basic checks:

- Unit is correctly assembled;
- Recording picture is the right way up;
- Sound recording level is appropriate to use;
- Date and time stamp is accurate.

Only specifically instructed personnel should be permitted to use BWV devices. On completion of instruction they will be locally authorised to use the equipment. Local trainers will carry out this instruction package. A record of instruction will be maintained at local level and added to the skills list of the individual.

Recording Events

Recordings should only be made in situations where the BWV wearer decides to take some form of action, or make an intervention e.g. violence prevention. All recordings have the potential to be used in evidence even if it appears at the time that this is unlikely.

It is important to record as much of an incident as possible. Recording should begin at the earliest opportunity at the start of an event.

Image Capture

At the start of any recording, the user should, where possible, make a verbal announcement to indicate why the recording has been activated. If possible, this should include:

- the date, time and location;
- the nature of the incident;
- confirmation to those present that the incident is now being recorded using both video and audio recording;

If the recording has started prior to arrival at the scene of an incident, the user should, as soon as possible announce to those present that recording is taking place and that actions and sounds are being recorded. Users should use straightforward speech that can be easily understood by those present, such as "I am video recording

you”, “I am video recording this incident” or “everything you say and do is being recorded on video”.

Users should attempt to minimise intrusion of privacy on those persons who are present but not involved in the incident, by keeping the camera focused on the incident and not bystanders.

Unless circumstances dictate otherwise, recording must continue uninterrupted from the start of recording until the conclusion of the incident. It is advisable that the member of staff continues to record for a short period after any incident to clearly demonstrate to any subsequent viewer that the incident has concluded and that the user has resumed other activities.

Prior to concluding recording, the user should make a verbal announcement to indicate the reason for ending the recording. This should state:

- the date, time and location; and
- the reason for concluding recording.

Selective Capture and Bookmarking

Selective capture is the user making a choice of when to record and when not to record. The nature of some incidents may make it necessary for the user to consider the justification for continuing to record throughout an entire incident. In cases where the user does interrupt or cease recording, they should record the decision including the grounds for making such a decision.

In recording an incident, it is likely that BWV users will encounter different people, as well as recording the visual evidence at the incident itself. Selective capture is a means by which users may separate encounters with each person in order to allow for easier retrieval at a later time. It is recognised that bookmarking (temporarily stopping and restarting recording) is not always practicable due to the nature of incidents; therefore it should only be attempted if the situation is calm and the operator is easily able to undertake this action.

Prior to any temporary suspension for the purpose of bookmarking, the user should make a verbal announcement clearly stating the reason for suspending recording. Following the pause at the start of recording the user should also announce that they have recommenced recording.

The bookmarking process will be demonstrated on the final whole recording of the incident by a missing section of a few seconds.

Use of BWV in Private Dwellings

If a BWV user is in a private dwelling, provided this is an incident that would normally be the subject of a written record, the user should record the incident using BWV in the same way in which any other incident is recorded.

It is particularly relevant when in a private dwelling that the user should, where practicable, make a general verbal announcement that recording is taking place. Recording should only be used when it is relevant to the incident, and users should

be mindful of the rights of individuals to respect for a private and family life under Article 8 of the European Convention on Human Rights.

In some circumstances staff may find that one party may object to the recording taking place. In such circumstances staff should consider the need to continue recording with care. Factors to consider in this decision making process are;

- the requirement to secure best evidence of any events that have occurred, whether this is in writing or on video, and that the video evidence will be more accurate and of a higher quality and therefore in the interests of all parties.
- that continuing to record would safeguard both parties, with a true and accurate recording of events, any significant statement made by either party and of the scene.

These factors should be explained to any person objecting to the recording of any incident.

It is recommended that staff continue to record where incidents are occurring. However, if it becomes clear that the incident is not a matter suitable for recording the user must make a verbal announcement that the recording is being stopped prior to stopping the recording.

Transfer of images to BWV Evidence Management Software

Before completion of duty the BWV user will transfer all data from the camera or removable media card to the BWV Evidence Management software system for storage and retention.

All recordings will be transferred to the organisation's chosen BWV Evidence Management Software only. Any transfer to unauthorised storage facilities may result in legal or disciplinary proceedings.

Any recordings that require retention for evidence in court proceedings will be evidence and as such should be recorded as evidence through the BWV Evidence Management software. This footage will be retained in accordance with the organisations requirements and in line with current legislation. Non evidential footage will be erased after 31 days in accordance with legislation.

Deletion of Images

There are no circumstances in which the unauthorised deletion by the user or other person of any images that have already been recorded can be justified, and any such action may result in legal or disciplinary proceedings.

All non-evidential data will be retained on BWV Evidence Management software for 31 days and then deleted through the system.

Once transfer of the images has been completed all footage stored on a recording device or similar media will be deleted through the correct use of BWV Evidence Management software.

Return of Equipment

When the BWV equipment is no longer required it will be returned to the appropriate storage facility. The user will ensure that all equipment is in working order and suitable for re issue. Any damage or malfunctions must be reported to the supervisor responsible for the equipment. Care should be taken to ensure that the device and any batteries are placed on charge for the next user.

Responsibilities

User

The User of the BWV will have received basic instruction in the use and legislation surrounding BWV prior to any use.

It is the responsibility of the BWV user to ensure that:

- Equipment is checked prior to deployment to ensure it is working correctly.
- That the batteries are charged prior to use (consider taking spare batteries) and immediately recharged on return.
- That the time and date settings are accurate.
- That camera lenses are clean and the picture quality is suitable.
- The camera lens is aimed and focused appropriately to capture evidence.
- Compliance with legislation and guidance.
- View only footage they have a bona-fide reason for viewing.

Administrator

Administrators will be responsible for ensuring the BWV Evidence Management software is maintained and being used correctly.

They will dip sample entries within the system to ensure standards are maintained. Findings will be reported to line management.

They will also ensure that all documents associated with BWV use, such as booking in/out, viewing of footage, deletion and production of evidence conforms to this procedure and the policy document.

Ensuring viewing of footage is appropriate and controlled in line with guidance and legislation.

Responsible for fault reporting and seeing it is actioned at the earliest opportunity ensuring the equipment is available for use at all times.

Managers

Identified managers are responsible for the implementation of this document within their own area of business. They will ensure the use of BWV is ethical and correct in all areas of business.

Review of procedure

This document will be reviewed annually, commencing one year from the date of publication unless a change in procedure is identified earlier. The review will take account of changes in legislation and working practices, as well as the outcome of

consultation with relevant internal departments and external agencies and any evaluation. This review will be carried out by <Organisation Name>.

Usage Policy

The appendix below is a sample policy that you could use as the basis of a formal document for your organisation (extracted from “Guidance for the non-Police use of overt body worn video devices” by Reveal Media available at <http://www.bwvsg.com/wp-content/uploads/2013/07/Non-Police-BWV-Guidance.pdf>)

Appendix 3: Sample Policy Document

About This Policy

This document explains how <Organisation Name> will approach and use Body Worn Video (BWV) technology and is primarily aimed at all staff.

The intention is for BWV to;

- Raise standards of service.
- Reduce incident escalation.
- Augment opportunities for evidence capture.
- Reduce complaints.

These are for illustration purposes and individual organisations may wish to replace or add their own.

Staff should comply with Policy when dealing with members of the public and when gathering evidence/information, ensuring the quality and integrity of that evidence/information. This document and associated procedure/SOPs must be followed at any incident where BWV is / has been used.

Organisations should have a Body-Worn Video evidence management system. This system should ensure compliance of all relevant legislation and provide a full audit trail maintaining evidential continuity.

General Principles

The decision to use BWV as a tactic must be justifiable and proportionate to the issue at hand.

<Organisation Name> is committed to the following and the use of BWV should be considered in any inter-action with members of the public.

If BWV is the preferred tactic then careful consideration must be given to the use of a comprehensive (local) marketing strategy to comply with ‘fair processing’ within the Data Protection Act 1998.

Declaration of Policy

Describe the current situation within your organisation re BWV. This document and associated procedure/SOP will standardise the use of BWV and the evidential product produced.

<Organisation Name> is committed to maximising its effectiveness in tackling (include objective for use of BWV). To this end it will explore the use of BWV to positively effect these areas.

<Organisation Name> will develop procedure/SOPs that clearly demonstrate how to use BWV, to improve the quality of the service this organisation delivers.

Staff are required to use the equipment in line with this document, with procedure/SOP, and local organisation strategies. They should receive full instruction in its use and the relevant legislation.

All staff will use equipment in line with organisation risk assessments.

Insert comment (if required) on professional standards approach to BWV e.g. will not routinely search the back office system for misdemeanours or unlawful acts committed by users, but if a complaint is received interrogation of the system is an appropriate line of enquiry.

Implications of this Document

This document focuses <Organisation Name> on using the right tactics for each identified problem. As such it gives direction to local managers in the strategic use of BWV.

BWV will have ongoing financial implications. After initial start up costs, these costs could include;

- Time of selected administrators to manage the system and instruction of staff.
- Time of staff undergoing instruction in the effective use of BWV.
- Time of business operational leads to effectively manage the use of BWV, and support and encourage the initiative.
- Signage to comply with 'fair processing' within the DPA.
- Ongoing costs to maintain and service both the BWV equipment and back office system and replace when necessary.

All staff identified suitable to use BWV equipment must have full instruction from an identified administrator or lead before using BWV.

Corporate guidance will be given wherever possible to reduce the necessity for local procedures to be overly complex.

Corporate risk assessments will be produced to give guidance on the use of BWV and associated equipment. These must be used in conjunction with other generic risk assessments. All staff will use equipment in line with published risk assessments.

<Organisation Name> will monitor the use of BWV to ensure the equipment is an appropriate tactic and that the use is in line with policy and procedure.

Tracking and Appraisal

This document is to be reviewed in the light of legal and procedural changes to ensure that the use of BWV is appropriate and adds value to <Organisation Name> objectives.

A full evaluation should take place within a reasonable period of time (e.g. 6 months) after initial set up to ascertain the value of BWV use to <Organisation Name> and the customers it serves.

Other Related Organisation Documentation

Related Policies

Information Sources

Guidance for the Police use of Body-Worn Video Devices

Data Protection Act 1998

European Convention on Human Rights

ICO - CCTV Code of Practice

SIA – CCTV Licensing and Use of BWV

HOSDB – Storage, Replay and Disposal of Digital Evidence Images

HOSDB – Digital Imaging Procedure

22. International Association of Chiefs of Police: "Body-Worn Camera Model Policy "



Model Policy

<i>Effective Date</i> April 2014		<i>Number</i>	
<i>Subject</i> Body-Worn Cameras			
<i>Reference</i>		<i>Special Instructions</i>	
<i>Distribution</i>		<i>Reevaluation Date</i>	<i>No. Pages</i> 3

I. PURPOSE

This policy is intended to provide officers with instructions on when and how to use body-worn cameras (BWCs) so that officers may reliably record their contacts with the public in accordance with the law.¹

II. POLICY

It is the policy of this department that officers shall activate the BWC when such use is appropriate to the proper performance of his or her official duties, where the recordings are consistent with this policy and law. This policy does not govern the use of surreptitious recording devices used in undercover operations.

III. PROCEDURES

A. Administration

This agency has adopted the use of the BWC to accomplish several objectives. The primary objectives are as follows:

1. BWCs allow for accurate documentation of police-public contacts, arrests, and critical incidents. They also serve to enhance the accuracy of officer reports and testimony in court.
2. Audio and video recordings also enhance this agency's ability to review probable cause for arrest, officer and suspect interaction, and evidence for investigative and prosecutorial purposes and to provide additional information for officer evaluation and training.

3. The BWC may also be useful in documenting crime and accident scenes or other events that include the confiscation and documentation of evidence or contraband.

B. When and How to Use the BWC

1. Officers shall activate the BWC to record all contacts with citizens in the performance of official duties.
2. Whenever possible, officers should inform individuals that they are being recorded. In locations where individuals have a reasonable expectation of privacy, such as a residence, they may decline to be recorded unless the recording is being made in pursuant to an arrest or search of the residence or the individuals. The BWC shall remain activated until the event is completed in order to ensure the integrity of the recording unless the contact moves into an area restricted by this policy (see items D.1-4).
3. If an officer fails to activate the BWC, fails to record the entire contact, or interrupts the recording, the officer shall document why a recording was not made, was interrupted, or was terminated.
4. Civilians shall not be allowed to review the recordings at the scene.

C. Procedures for BWC Use

1. BWC equipment is issued primarily to uniformed personnel as authorized by this agency. Officers who are assigned BWC equipment must use the equipment unless otherwise authorized by supervisory personnel.

¹ Some states have eavesdropping statutes that require two-party consent prior to audio recording. Consult your legal advisor for state and local laws that affect your agency

2. Police personnel shall use only BWCs issued by this department. The BWC equipment and all data, images, video, and metadata captured, recorded, or otherwise produced by the equipment is the sole property of the agency.
 3. Police personnel who are assigned BWCs must complete an agency approved and/or provided training program to ensure proper use and operations. Additional training may be required at periodic intervals to ensure the continued effective use and operation of the equipment, proper calibration and performance, and to incorporate changes, updates, or other revisions in policy and equipment.
 4. BWC equipment is the responsibility of individual officers and will be used with reasonable care to ensure proper functioning. Equipment malfunctions shall be brought to the attention of the officer's supervisor as soon as possible so that a replacement unit may be procured.
 5. Officers shall inspect and test the BWC prior to each shift in order to verify proper functioning and shall notify their supervisor of any problems.
 6. Officers shall not edit, alter, erase, duplicate, copy, share, or otherwise distribute in any manner BWC recordings without prior written authorization and approval of the chief executive officer (CEO) or his or her designee.
 7. Officers are encouraged to inform their supervisor of any recordings that may be of value for training purposes.
 8. If an officer is suspected of wrongdoing or involved in an officer-involved shooting or other serious use of force, the department reserves the right to limit or restrict an officer from viewing the video file.
 9. Requests for deletion of portions of the recordings (e.g., in the event of a personal recording) must be submitted in writing and approved by the chief executive officer or his or her designee in accordance with state record retention laws. All requests and final decisions shall be kept on file.
 10. Officers shall note in incident, arrest, and related reports when recordings were made during the incident in question. However, BWC recordings are not a replacement for written reports.
- D. Restrictions on Using the BWC
- BWCs shall be used only in conjunction with official law enforcement duties. The BWC shall not generally be used to record:
1. Communications with other police personnel without the permission of the chief executive officer (CEO);
 2. Encounters with undercover officers or confidential informants;
 3. When on break or otherwise engaged in personal activities; or
 4. In any location where individuals have a reasonable expectation of privacy, such as a restroom or locker room.
- E. Storage
1. All files² shall be securely downloaded periodically and no later than the end of each shift. Each file shall contain information related to the date, BWC identifier, and assigned officer.
 2. All images and sounds recorded by the BWC are the exclusive property of this department. Accessing, copying, or releasing files for non-law enforcement purposes is strictly prohibited.
 3. All access to BWC data (images, sounds, and metadata) must be specifically authorized by the CEO or his or her designee, and all access is to be audited to ensure that only authorized users are accessing the data for legitimate and authorized purposes.
 4. Files should be securely stored in accordance with state records retention laws and no longer than useful for purposes of training or for use in an investigation or prosecution. In capital punishment prosecutions, recordings shall be kept until the offender is no longer under control of a criminal justice agency.
- F. Supervisory Responsibilities
1. Supervisory personnel shall ensure that officers equipped with BWC devices utilize them in accordance with policy and procedures defined herein.
 2. At least on a monthly basis, supervisors will randomly review BWC recordings to ensure that the equipment is operating properly and that officers are using the devices appropriately and in accordance with policy and to identify any areas in which additional training or guidance is required.

² For the purpose of this document, the term "file" refers to all sounds, images, and associated metadata.

Every effort has been made by the IACP National Law Enforcement Policy Center staff and advisory board to ensure that this document incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no “model” policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities among other factors.

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Continued



IACP NATIONAL LAW ENFORCEMENT POLICY CENTER

Body-Worn Cameras

Concepts and Issues Paper

April 2014

I. INTRODUCTION

A. Purpose of the Document

This paper was designed to accompany the *Model Policy on Body-Worn Cameras* established by the IACP National Law Enforcement Policy Center. This paper provides essential background material and supporting documentation to provide greater understanding of the developmental philosophy and implementation requirements for the model policy. This material will be of value to law enforcement executives in their efforts to tailor the model to the requirements and circumstances of their community and their law enforcement agency.

B. Background

Video recorders and digital cameras have been useful tools in the law enforcement profession for some years. Advances in technology have improved camera equipment and enhanced the development of the body-worn camera (BWC). While many police agencies have taken advantage of these advancements even more have overlooked or are unaware of their usefulness, or have chosen not to deploy them.

The concept of recording police-citizen encounters for law enforcement use first developed with the implementation of in-car cameras. Initially, these devices were installed to document interactions with individuals suspected of driving under the influence, with the recordings providing supporting evidence needed for conviction.¹ Over time, agencies discovered that

in-car cameras had numerous additional benefits, such as “increased officer safety; documentation of traffic violations, citizen behavior, and other events; reduced court time and prosecutor burden; video evidence for use in internal investigations; reduced frivolous lawsuits; and increased likelihood of successful prosecution.”² All of these advantages also apply to the BWC, as will be discussed further in this document.

C. Uses for Body-Worn Cameras

Many police officers now use BWCs to document interactions with victims, witnesses, and others during police-citizen encounters, at crime and incident scenes, and during traffic stops. In many instances police agencies have found the BWC useful for officers in the favorable resolution of both administrative and criminal complaints and as a defense resource in cases of civil liability. Officers using these recorders have a clearly documented, firsthand, completely objective account of what was said during an incident in question. The utilization of BWC video and audio recordings at trial can provide the court with the actual statements of officers, suspects, and others that might not otherwise be admissible in court based upon hearsay concerns, or might not get sufficient consideration if there are conflicting memories of the statements. In addition, recordings made at crime and incident scenes are a tangible benefit of BWCs and can provide investigators, prosecutors, and juries with far more detailed, accurate, and compelling evidence.

The use of BWCs gives officers, their agencies, administrators, and employing jurisdictions an additional means of defending themselves in civil litigation. This is extremely useful in resolving citizen complaints and

² Ibid., pg. 11.

¹ *The Impact of Video Evidence on Modern Policing*, IACP pg. 5, http://www.cops.usdoj.gov/Publications/video_evidence.pdf (accessed February 12, 2014).

potential civil actions. During many police-citizen contacts there are no objective witnesses to corroborate either allegations of misfeasance or explanations of the interaction and so many jurisdictions are more willing to resolve these matters by paying minor damages rather than spend time and money in litigation. However, an officer utilizing a BWC typically has all the comments and actions of both parties on record and thus has a built-in “impartial witness” on his or her person—a factor that has often resulted in civil suits before they would otherwise have been formally lodged. In one study of in-car camera recordings, “in cases where video evidence was available, the officer was exonerated 93% of the time; in 5% of the cases the complaint was sustained.”³ In addition, the same study showed that in a large number of instances, the individual decided against filing a complaint once he or she was notified that there was a video recording of the incident.⁴

The BWC has also proven to be effective in helping police agencies evaluate police officer performance in a more complete and fair manner. Supervisory personnel are able to review officer conduct and performance on a random or systematic basis by reviewing BWC recordings. This allows the supervisor to ensure that the BWC is being used in accordance with department policy and to identify any areas in which additional officer training, guidance, or discipline may be required.

Introduction and subsequent broad acceptance of in-car mobile video recording equipment has played a significant role in proving the effectiveness and utility of recording equipment in law enforcement. However, vehicle-mounted video recorders are limited in their field of vision and are not of assistance to officers on foot patrol or who are engaged in investigations or interactions beyond transmission range of their vehicles. The BWC is a convenient and relatively inexpensive means of more fully documenting contacts and interactions with citizens, suspects, and others in a wide variety of situations. It gives them a reliable and compact tool to systematically and automatically record their field observations and encounters.

However, in most cases BWCs should not be viewed as a low-cost alternative to in-car video recorders, but rather a complementary technology. In-car camera systems can provide important information that is currently unavailable with BWCs. For instance, most in-car camera systems can be linked to vehicle systems and record vehicle location, speed, application of brakes; indicate activation of lights and siren; and capture other data that could be vitally important if an accident or other unanticipated event should occur. For example, recording of an officer’s activity from

the patrol car often includes accidents that occur during a traffic stop that would not necessarily be seen by the BWC while the officer interacts with the motorist. Most in-car systems also provide the option of installing a secondary camera to record any activity in the back seat of the patrol car.

Police officers are aware that contact with citizens during routine traffic stops or in other types of police-public interactions can result in confrontational situations. It has been the experience of many officers who have been in potentially hostile or confrontational situations and who are equipped with audio or video recording devices that inform the subject that he or she is being recorded by one or both of these means often serves to de-escalate or defuse the situation. The subject realizes in these situations that his or her statements cannot be denied or refuted later because there is a recording documenting every aspect of the encounter. The same concept can be applied to officer behavior. In a one-year study conducted by the Rialto, California, Police Department, citizen complaints of officer misconduct fell by 87.5 percent for officers using BWCs, while uses of force by such officers fell by 59 percent.⁵

Finally, the availability of video and audio recordings as evidence is critically important and can be the key to successful prosecution. For example, there is often nothing more compelling to a judge or jury than actually seeing the actions and hearing the words uttered by a suspect, including statements of hostility and anger.

Throughout the United States, courts are backlogged with cases waiting to be heard and officers who are spending time in court that could be used more productively in enforcement activities. The availability of audio and/or video recorded evidence increases the ability of prosecutors to obtain guilty verdicts more easily and quickly at trial or to more effectively plea-bargain cases, avoiding lengthy trial proceedings. In jurisdictions that employ audio and visual evidence, officers normally submit their recordings along with a written report, which is later reviewed by the prosecuting attorney. When the accused and his or her attorney are confronted with this evidence, guilty pleas are more often obtained without the need for a trial or the pressure to accept a plea to lesser charges. This substantially reduces the amount of time an officer must spend in court and utilizes prosecutorial and judicial resources more efficiently.

³ Ibid., pg. 15.

⁴ Ibid.,

⁵ As cited in Mesa Arizona Police, *End of Program Evaluation and Recommendations: On-Officer Body Camera System*, Axon Flex Program Evaluation and Recommendations, December 2, 2013, pg. 2.

II. ADMINISTRATIVE RESTRICTIONS ON BODY-WORN CAMERA RECORDINGS

The usefulness of BWCs has been clearly demonstrated; however, their utility is realized only when they are recording. Agency policy should require that officers activate their BWC whenever they make contact with a citizen in the course of conducting official police business. Once activated, the entire conversation should be recorded without interruption. If such interruption occurs, the officer should be required to document the reason for the interruption in a report. If an officer feels it is necessary to stop recording (e.g., while speaking to another officer, or a confidential informant) within constraints of policy, he or she may also be permitted to verbally indicate his or her intent to stop the recording before stopping the device, and upon reactivation, state that he or she has restarted the recording. This will help avoid accusations of editing the recording after the fact.

Some agencies issue BWCs to select officers rather than to all patrol officers. This approach can be used as part of an effort to more closely monitor individual officers who are suspected of having difficulty in certain areas of operation. Or it may simply be that a department cannot afford to provide cameras for all personnel. However, issuing cameras for the sole purpose of monitoring specific employees can have several negative consequences. For example, officers who know they are under close scrutiny may tend to modify their behavior only while the BWC is deployed. Selective use of BWCs can also be stigmatizing, since the officer's colleagues may interpret that he or she is being singled out as a potential problem. This can have negative short- and long-term consequences for the subject officer in dealing effectively and professionally thereafter with fellow officers. Such selective use can also be a considerable impediment to creating "buy in" from employees regarding the use and utility of video recorders. If officers regard these devices primarily as monitors for identifying problem behavior, they will be less likely to use them for the purpose they are intended. Therefore, it is strongly recommended that agencies using BWCs for patrol personnel should provide them to all such officers for use in accordance with agency policy.

In spite of their utility, the BWCs can be used for improper purposes that are counter to or inconsistent with the law enforcement mission, or in ways that are contrary to federal, state, or local law. For example, BWCs are not meant to serve personal uses whether on or off duty unless permission is granted by the department. This is a simple matter of concern over private use of governmental equipment in most cases, but it can also involve concerns over the potential of mixing personal recordings with those involving official police business. In the latter

circumstances, the evidentiary integrity of recordings could be called into question, as could issues surrounding the chain of custody of evidence contained on devices that may have been involved in personal use. Personal use of BWC equipment and comingling of recordings raise concerns about inappropriate viewing, sharing, and release of videos and associated issues of invasion of privacy and other similar types of liability.

In general, BWCs should be used for investigative purposes or field use only and should not be activated in administrative settings. Another potential for improper use that should be prohibited by the police department is surreptitious recording of communications with or between any other officers without the explicit permission of the agency chief executive or his or her designee. The purposeful activation of BWCs during personal conversations involving counseling, guidance sessions, or personnel evaluations should be prohibited unless all parties present agree to be recorded. It is important to note the dysfunction and disharmony created by surreptitious recordings in a police work environment. A cloud of suspicion and distrust exists where officers and their supervisors believe that they cannot enter into candid personal discussions without the risk of their statements being recorded and used inappropriately or harmfully against them or others. The result can undermine both the willingness of supervisors and administrators to provide candid guidance about officer performance, and the willingness of employees to provide open, truthful information.

Similarly, officers' conversations on the radio and among each other at a scene will frequently occur. Officers should inform other officers or emergency responders arriving on a scene when their recorder is active to help avoid recording inappropriate or immaterial statements. In addition, the BWC should not be activated when the officer is on break or otherwise engaged in personal activities or when the officer is in a location where there is a reasonable expectation of privacy, such as a restroom or locker room. For safety and confidentiality reasons, encounters with undercover officers or confidential informants should not be recorded.

The policy should clearly state that BWC activation is limited to situations involving official police activities authorized by law or court order, including consensual citizen encounters and investigation of law violations. Failure to follow this policy could subject an officer to disciplinary action up to and including dismissal.

A. Legal Restrictions on Recordings

As noted in the foregoing section, the availability and use of BWCs can create the basis for legal challenges lodged by suspects or other persons. This policy applies only to the use of BWCs attached to an officer's person, and any use of the camera in a surreptitious manner by removing it and using it to monitor a situation remotely should be strictly controlled. Such surreptitious recording has constitutional implications and may be governed by state and federal wiretap laws not applicable to or addressed by this policy. It is important for officers who are equipped with BWCs to have an understanding of the restrictions on surreptitious recording of persons and to make sure their use of the BWCs is consistent with the restrictions.

This policy is intended to cover use of BWCs in situations where a person has either a reduced or no expectation of privacy and that occurs in a place where the officer is legally entitled to be present. Whether there is a reasonable expectation of privacy in a given situation is determined using a traditional Fourth Amendment analysis involving whether the person in question exhibited "an actual or subjective expectation of privacy" in the communication and whether that expectation is "one that society is prepared to recognize as reasonable." The landmark U.S. Supreme Court decision in *Katz v. United States*⁶ that outlined these principles also made it clear that a reasonable expectation of privacy is not determined so much by the place in which the individual is located (e.g., a telephone booth, business office, or taxicab) but by what a person "seeks to preserve as private even in an area accessible to the public." The decision emphasized that the Fourth Amendment protects people, not places.

When an individual is in custody, whether in a patrol car, interrogation room, or lockup, for example, there is generally no reasonable expectation of privacy, unless the suspect is speaking in confidence with an attorney, clergyman or other individual with privilege of communication. Recording may be done in these settings unless officers have given the individual a sign or indication that the location is private, that their conversation is not being recorded, and/or if the individual is speaking with someone with privilege. Individuals who are in these settings, but who are not in custody may refuse to be recorded.

In a residence, there is a heightened degree and expectation of privacy. Officers should normally inform the resident that he or she is being recorded. If the resident wishes not to be recorded, this request should be documented by recording the request before the device

is turned off. However, if an officer may enter a dwelling without the consent of the resident, such as when serving a warrant, or when the officer is there based on an exception to the warrant requirement, recordings should be made of the incident until its conclusion. As a general rule, if the officer must legally ask permission to enter a premises, he or she should also ask if the resident will allow recording.

Notwithstanding any legal limitations, as a courtesy and so as not to create the impression of trickery or subterfuge, some police agencies require their officers to inform all persons who are being recorded by BWCs. This includes all motor vehicle stops and related citizen contacts where official police functions are being pursued.

Recording arrests and the events leading up to an arrest is an excellent means of documenting the circumstances establishing probable cause for arrest. In circumstances where *Miranda* rights are appropriate, use of BWCs is a good way to demonstrate the clear and accurate reading of *Miranda* rights to the suspect—and an invocation or waiver of those rights by the suspect. If the suspect invokes his or her rights to silence and representation by an attorney, recording is still permissible. Officers should take great care not to direct questions to the suspect regarding involvement in any crime. However, any spontaneous statements made by the suspect to officers would likely be admissible as evidence so long as the statements or comments were not elicited by officer questioning.

Finally, there may be times when officers should be given a degree of discretion to discontinue recording in sensitive situations as long as they record the reason for deactivating the recording. For instance, when talking to a sexual assault victim, or on the scene of a particularly violent crime or accident scene. This is especially true if the recording may be subject to Freedom of Information Act requests. Under such circumstances, recordings could be posted on media sites that could cause unnecessary distress for families and relatives. Whenever reasonably possible, officers should also avoid recording children who are not involved in an incident as well as innocent bystanders.

B. Procedures for Using Body-Worn Cameras

BWC equipment is intended primarily for the use of uniformed officers although plainclothes officers may be issued such equipment. Officers who are assigned such equipment should be required to use it in accordance with agency policy unless otherwise directed or authorized by supervisory personnel.

Personnel who are authorized to use BWCs should use only equipment provided by the department. The chances of loss, destruction, or recording over materials belonging to official police investigations may be greater when these devices are used for both official and personal business.

⁶ A touchstone case in this matter is that of *Katz v. United States*, 389 U.S. 347 (1967).

BWC equipment should be the responsibility of individual officers assigned such equipment and should be used with reasonable care to ensure proper functioning. Equipment malfunctions should be brought to the attention of the officer's supervisor as soon as possible so that a replacement unit may be obtained. Officers should test this equipment prior to each shift in order to verify that it is functioning properly and should notify their supervisor if any problems are detected.

Officers should never erase or in any manner alter recordings. The agency must maintain strict managerial control over all devices and recorded content so that it can ensure the integrity of recordings made by officers. Failure of officers to assist in this effort or the agency to take managerial control over recordings can risk the credibility of the program and threaten its continuation as a source of credible information and evidence.

Where officers have recorded unusual and/or operational situations or incidents that may have potential value in training, they should inform their supervisor so that the recordings can be identified and evaluated. Unusual or even routine events recorded on tape can be used in basic academy and in-service training to reinforce appropriate behavior and procedures, to demonstrate inappropriate practices and procedures, to enhance interpersonal skills and officer safety habits, and to augment the instructional routines of field training officers and supervisory personnel.

Officers should also note in their incident, arrest, or related reports when recordings were made during the events in question. However, BWC recordings should not serve as a replacement for written reports.

C. Recording Control and Management

Reference has been made previously to the need for control and management of BWC recordings to ensure the integrity of the recordings, secure the chain of custody where information of evidentiary value is obtained, and use recordings to their fullest advantage for training and other purposes. In order to accomplish these ends, officers and their supervisors should adhere to a number of procedural controls and requirements.

At the end of each shift, all files from the BWC should be securely downloaded. In order for a recording to be admissible in court, the officer must be able to authenticate the recording as a true and accurate depiction of the events in question. In an effort to prevent the recording from becoming evidence, the defense may question the chain of custody. Therefore, departments may wish to utilize secure downloading software or programs, or have an individual

other than the officer be responsible for downloading the data in an effort to minimize any chain-of-custody issues.⁷

Each file should contain identifying information, such as the date, time, BWC device used, and assigned officer. These recordings should be stored in a secure manner and are the exclusive property of the department. Accessing, copying, or releasing files for non-criminal justice purposes should be strictly prohibited.

Many states have laws specifying how long evidence and other records must be maintained. Recordings should be maintained in a secure manner for the period of time required by state law or as otherwise designated by the law enforcement agency. Retention schedules for recordings should take into consideration the possibility of a civilian complaint against an officer sometime after the encounter. Recordings in these situations can prove invaluable in resolution of the complaint. However, storage costs can become prohibitive, so agencies must balance the need for retaining unspecified recordings with the desire to have this information available.

According to the Model Policy, supervisory officers should ensure that officers equipped with BWCs use them in accordance with agency policy and procedures. One means of accomplishing this end is for first-line supervisors to review recordings of officers on their shift. This can be done on a random selection basis or on a systematic basis and should be performed routinely at least monthly. Recordings submitted by specific officers may need to be reviewed more often or more closely should there be indications that the officer's performance is substandard, if there have been internal or external complaints lodged against the officer, or if there is reason to believe that the officer may need additional guidance or training in certain operational areas.

Officers assigned a BWC should have access, and be encouraged to review their own recordings in order to assess their performance and potentially correct unsafe or questionable behaviors. The question of whether an officer should be allowed to review recordings before writing a report, especially following an officer-involved shooting or accident, is a matter that should be examined closely by administrators.

Inevitably, recordings will occur in circumstances where recording is not appropriate. By way of examples, an officer may forget to stop a recording when entering a victim's residence after being asked not to record inside, or may accidentally activate it in the locker room. In these situations, the officer should be afforded an opportunity to request that these portions of the recording be erased.

⁷ For additional discussion of the use of videotape evidence, please see Jonathan Hak, "Forensic Video Analysis and the Law" appendix v in *The Impact of Video Evidence on Modern Policing*.

Requests for deletions should be made in writing and must be submitted to the chief executive officer or his or her designee for approval. All requests should be maintained for historical reference.

Every effort has been made by the IACP National Law Enforcement Policy Center staff and advisory board to ensure that this document incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no “model” policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities among other factors.

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IACP National Law Enforcement Policy Center Staff: Philip Lynn, Manager; Sara Dziejma, Project Specialist; and Vincent Talucci, Executive Director, International Association of Chiefs of Police.

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23. Color of Change: "Minneapolis Body Camera Letter"

Chair Andrea Brown
Vice Chair Jennifer Singleton
Commissioner Andrew Buss
Police Conduct Oversight Commission
350 S. 5th St - Room 239 - Minneapolis, MN 55415

July 24, 2015

Dear Commissioners,

Police brutality and racially discriminatory policing are an unyielding plague on Black communities throughout Minneapolis and the United States. As of July 20th this year, 132 Black Americans have been shot to death by police, and an untold number of Freddie Gray's and Sandra Bland's have been killed while in police custody. Police and criminal justice reform are truly matters of life and death for Black communities.

In a country where Black people are stereotyped as "violent" and police enforce the boundaries of a deeply divided and racist society -- where Black women are 3 to 4 times more likely to be targeted by law enforcement and incarcerated than white women -- we need new tools and policies to deliver police accountability, justice, and community oversight. Body cameras have the potential to play a small role in curbing police abuses against Black communities.

We're are glad that Minneapolis is taking steps towards ensuring that police officers are equipped with body cameras and that you have allowed the public to weigh in on the process of continuing to roll out cameras. With the proper community focused policies in place, police-worn body cameras can help bring greater justice and police accountability to Minneapolis' communities.

The policies that Minneapolis develops on police-worn body cameras must balance the tension between their potential to further increase over-policing of the Black communities of Minneapolis with their ability to promote police accountability. Black people in Minneapolis are already 8.7 as likely as white residents to be arrested for low-level crimes. The wrong body camera policies could exacerbate this problem.

We think this tension can be balanced with a framework of strong policies that ensure body cameras are used to protect our communities and maintain public confidence in the integrity of police-worn body cameras. Without these policies, their accountability benefits would not exceed their risks of exacerbating the already significant problems of the police and criminal justice systems of Minneapolis.

To build public confidence and ensure that Minneapolis' police-worn body camera policy is truly developed to reduce police brutality and hold police accountable, all aspects of the policy development process must continue with the input of the Minneapolis community and civil rights advocates. Once developed, body camera policies must always be publicly available online, and any policy changes must be made in consultation with the community and civil rights advocates. Anything less than this will undermine the Black community's ability to trust this tool as means of police accountability. Our lived experiences have proven time and again that the police cannot police themselves. Putting the development

of these policies into the hands of the officers who marginalize, brutalize, and kill us is to entirely dismiss body cameras as a potential tool for police accountability.

As a potential tool for police accountability and oversight it is vital that this technology not become a backdoor for further systematic surveillance and tracking of the public, nor be used to surreptitiously gather intelligence information based on First Amendment protected speech, associations, or religion. **To ensure these cameras are used for accountability and oversight, Minneapolis must commit to narrow and well-defined purposes for which these cameras and their footage may be used.**

Since these cameras will record incredible amounts of data about the citizens of Minneapolis, the Minneapolis Police Department needs to be subject to strong rules around how they are used. The use of recordings should be allowed only in internal and external investigations of misconduct, and where the police have reasonable suspicion that a recording contains evidence of a crime. Otherwise, there is no reason that stored footage should even be reviewed by a human being before its retention period ends and it is permanently deleted. Nor should such footage be subject to face recognition searches or other biometric analytics. If Minneapolis were to allow for facial recognition and biometric analysis, the MPD would effectively have a systematic surveillance method for tracking its most highly policed communities - Black communities.

With cameras placed under officer control, it is imperative that these policies put in place tightly effective means of limiting officers' ability to choose which encounters to record. **Minneapolis' policies should require that an officer activate his or her camera when responding to a call for service or at the initiation of any other law enforcement or investigative encounter between a police officer and a member of the public. This includes stops, frisks, searches, arrests, consensual interviews and searches, enforcement actions of all kinds.** This should cover any encounter that becomes in any way hostile or confrontational.

Not only must it be clear when officers are required to use their cameras, it is critical that clear policies be set with clearly defined disciplinary protocols for policy violations. In too many places (Albuquerque, Denver, and other cities) officer compliance with body camera recording and video-handling rules has been terrible. Researchers report that compliance rates with body camera policies throughout the country are as low as 30%. If there are not strict consequences for failure to comply with Minneapolis' body camera policy, Black communities will never trust that these tools bring any police accountability.

When a Minneapolis police officer assigned to wear a body camera fails to record or otherwise interferes with camera video, three responses should result:

1. Direct disciplinary action against the individual officer.
2. The adoption of rebuttable evidentiary presumptions in favor of criminal defendants who claim exculpatory evidence was not captured or was destroyed.
3. The adoption of rebuttable evidentiary presumptions on behalf of civil plaintiffs suing the government, police department and/or officers for damages based on police misconduct. The presumptions should be rebuttable by other, contrary evidence or by proof of exigent circumstances that made compliance impossible.

Evidentiary presumptions against a defendant-officer in a criminal proceeding should not be sought, as they are insufficient for meeting the burden of proof in a criminal case and might lead to false convictions. Too often, innocent Black women and men have been denied justice when the only narrative present is the “official police report.” These provisions keep the burden of proof on the MPD, rather than making the defendant prove their innocence.

Strict operational policies on retention and access to body camera data is essential to the Black community’s confidence in the ability of body cameras to serve as an accountability tool and to minimize invasive surveillance. Retention systems should ensure that segments of video and audio cannot be destroyed or manipulated by officers. **An officer or department that has engaged in abuse or other wrongdoing have strong incentives to destroy evidence of that wrongdoing, so body camera retention systems must be designed to prevent any tampering with such video.** In addition, all access to video records should be automatically recorded with immutable audit logs.

As a tool of public accountability, any Minneapolis body camera policy must address public access to footage. At a minimum: (1) **footage that captures police use of force should be made available to the public and press upon request**, and (2) **upon request, footage should be made available to any filmed subject seeking to file a complaint, to criminal defendants, and to the next-of-kin of anyone whose death is related to the events captured on video.** Police-worn body cameras are meant to be a tool to hold the Minneapolis Police Department accountable to the public. Body cameras are no good to the community if the public cannot access the footage needed for accountability and oversight.

Minneapolis’ body camera policies should be wholly designed to protect the public from police brutality and racial discrimination. **To maximize the ability of these cameras as tools of public accountability, the independent evidentiary value of officer reports must be preserved by prohibiting officers from viewing body camera footage before filing their reports.** If an officer views footage before filing the report, the officer could conform the report to what the video appears to show, rather than what the officer thought they saw. Without this crucial policy officers would be to alter the “official police account” to fit their own narrative. This commitment is necessary to ensure that these technologies are used to protect our communities and don’t further racially discriminatory policing or allow officers to literally get away with murder.

Beyond the fundamentally necessary policies described above, body cameras should generally be limited to uniformed police officers and marked vehicles. Exceptions should be made for non-uniformed officers involved in SWAT raids or in other planned enforcement actions or uses of force. Officers should be required, wherever practicable, to notify people that they are being recorded (similar to existing law for dashcams in some states such as Washington). One possibility departments might consider is for officers to wear an easily visible pin or sticker saying "lapel camera in operation" or words to that effect. Cameras might also have blinking red lights when they record, as is standard on most other cameras.

Minneapolis’ Black community has long been the victim of systemic police brutality and racially discriminatory policing as evidence by Officer Rod Webber’s harassment and illegal detention of 17-year old Hamza Jeylani. With Minneapolis’ Black population making up 19% of the city’s population but accounting for 69% of all low-level arrests, it’s clear that discriminatory events like this are commonplace.

The Black community must be given the power and oversight necessary to enforce a higher standard of policing. Effective, responsible body camera policy is a crucial means by which Minneapolis’ Black community can seize the truth, accountability, and justice we deserve from

law enforcement. If the Minneapolis Police Department is allowed to fully implement police-worn body cameras without the safeguards and policies described in this document, the Minneapolis Black community will be deprived of a potentially vital tool in the fight for police and criminal justice reform.

Sincerely,

Brandi Collins
Media Justice Director
Color of Change

24. Deputy Chief Glampe Presentation: "MPD Body Camera Update Report"

File Number: 15-00846

MPD Body Camera Update Report

- a. Receiving and filing update report on body camera program.
- b. Reporting back on City Council action of June 5, 2015, which directed the Office of Grants and Special Projects, in collaboration with the Minneapolis Police Department, to develop a list of any and all grant opportunities related to the purchase, maintenance, and ongoing use of body-worn cameras. In addition, staff shall consult with peer jurisdictions implementing body-worn cameras to identify and leverage all potential funding opportunities which may be available to the City of Minneapolis, with report back to PSCR&EM Committee by July 29, 2015.

Originating Department: Police

Supporting Documents:

- [MPD Body Cameras RPT](#)

Legislative History:

July 15, 2015: [PSCREM Agenda](#)

July 15, 2015: [PSCREM Committee Report](#)

Submit written comments about this item to: councilcomment@minneapolismn.gov.

Last updated Aug 3, 2015

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25. Labor Relations Information System: "Model Body-Camera Policy"

Body-Worn Cameras

Policy

I. BACKGROUND, SCOPE AND PURPOSE

A. Body-worn cameras are an effective law enforcement tool that can reduce violent confrontations and complaints against officers. Body-worn cameras provide additional documentation of police-public encounters and may be an important tool for collecting evidence and maintaining public trust.

B. This policy is intended to provide officers with instructions on when and how to use body-worn cameras.

C. The Department has adopted the use of body-worn cameras to accomplish several objectives, including:

1. Body-worn cameras allow for accurate documentation of police-public contacts, arrests, and critical incidents. They also serve to enhance the accuracy of officer reports and testimony.
2. Audio and video recordings enhance the Department's ability to review probable cause for arrest, officer and suspect interaction, and evidence for investigative and prosecutorial purposes and to provide additional information for officer evaluation and training.
3. Body-worn cameras may also be useful in documenting crime and accident scenes or other events that include the confiscation and documentation of evidence or contraband.

D. The Department recognizes that video images cannot always show the full story nor do video images capture an entire scene. The use of body-worn cameras does not reduce the requirement to provide thorough written documentation of an incident. Persons reviewing recordings must also be cautious before conclusions are reached about what the recordings show.

II. OVERVIEW

A. The body-worn cameras should be utilized to (1) collect evidence that can be used in the prosecution of criminal offenses, (2) record contacts with the public in order to secure unbiased evidence in connection with investigations, (3) allow for supervisory review to ensure that department policies and procedures are followed, and (4) capture footage that would be helpful for training.

III. DEFINITIONS

A. Body-worn cameras are camera systems designed to be worn by police officers to capture digital multimedia evidence.

B. Digital Multimedia Evidence or DME consists of all digital recordings, to include but not limited to audio, video, photographs, and their associated metadata. Metadata includes any digital identifiers that are captured as part of the actual recording, such as date/time, GPS coordinates, labeling, etc.

IV. LEGAL ISSUES

A. Body-worn camera equipment and all data, images, video and metadata captured, recorded, or otherwise produced by the equipment is the property of the Department. The personal use of all information recording by body-worn cameras shall only be pursuant to the prior written approval of the chief.

B. Use of body-worn cameras for any purpose other than in accordance with this policy is prohibited.

C. All data, images, video and metadata captured by body-worn cameras are subject to state statutes and City policies regarding retention of records.

V. PROCEDURES

A. Prior to using a body-worn camera, officers shall receive Department-approved training on its proper operation and care and the Department's policy with respect to the use of the body-worn camera. Additional training shall be provided at periodic intervals to ensure the continued effective use of the equipment, proper calibration and performance, and to incorporate changes, updates, or other revisions in policies or equipment.

B. Body-worn cameras and equipment should be used with reasonable care to ensure proper functioning. Equipment malfunctions shall be brought to the attention of the officer's supervisor as soon as possible so that a replacement unit may be assigned. Officers shall inspect and test body-worn cameras prior to each shift to verify proper functioning, and shall notify their supervisor of any problems.

C. In the event that a body-worn camera is lost, upon discovery the officer shall immediately notify his/her supervisor.

D. Officers shall wear body-worn cameras above the midline of their torso and in position designed to produce an effective recording.

E. Officers shall not use personally-owned body-worn cameras while on duty.

F. Officers assigned a body-worn camera may use the camera at approved off-duty employment, but only in connection with their Department duties. If used for this purpose, the officer shall download all DME during their next regularly assigned on-duty shift.

VI. OPERATION OF BODY-WORN CAMERAS

A. Except as otherwise provided in this policy, officers shall activate body-worn cameras to record all contacts with citizens in the performance of official duties.

B. Unless the interaction with a citizen is in an undercover assignment, wherever possible officers should inform individuals that they are being recorded. Officers have no obligation to stop recording in response to a citizen's request if the recording is pursuant to an investigation, arrest, lawful search, or the circumstances clearly dictate that continued recording is necessary. However, officers should but may evaluate the situation and when appropriate, honor the citizen's request. The request to turn the camera off should be recorded, as well as the officer's response.

C. Deactivation of the body-worn camera shall occur when:

1. The event has concluded;
2. Victim and/or witness contact has concluded;
3. All persons stopped have been released;
4. Once an arrestee has been placed into a vehicle to be transported to a detention facility. However, the officer transporting the arrestee to the detention facility shall keep the officer's body-worn camera activated until custody of the individual is transferred to the detention facility.

D. If an officer fails to activate a body-worn camera, or fails to record the entire contact, the officer shall document the reasons for doing so.

E. Non-Department personnel shall not be allowed to review the recordings unless pursuant to written consent of the chief.

F. Officers shall not be required to activate body-worn cameras when engaged in conversations with individuals with whom the officer is in a privileged relationship (e.g., spouse, attorney, police peer counselor, labor representative, minister, etc.).

G. Officers shall not edit, alter, erase, duplicate, copy, share, or otherwise distribute in any manner body-worn camera images and information without the prior written approval of the chief or the chief's designee.

H. Officers shall be allowed to review the recordings from their officer-worn body cameras at any time. To help ensure accuracy and consistency, officers are encouraged to review recording prior to preparing reports. If the officer is giving a formal statement about the use of force or if the officer is the subject of a disciplinary investigation, the officer shall (1) have the option of reviewing the recordings in the presence of the officer's attorney or labor representative; and (2) have the right to review recordings from other body-worn cameras capturing the officer's image or voice during the underlying incident.

I. Body-worn cameras shall not be used to record:

1. Communications with other police personnel.
2. Encounters with undercover officers or informants.
3. When an officer is on break or is otherwise engaged in personal activities.
4. In any location where individuals have a reasonable expectation of privacy, such as a restroom, locker room, or break room.
5. When an officer would be recording a patient during a medical or psychological evaluation by a clinician or similar professional, or during treatment. When recording in hospitals or other medical facilities, officers shall be careful to avoid recording persons other than the suspect.
6. Communications made in a psychiatric facility, unless responding to a call involving a suspect who is thought to be present in the facility.

VII. HANDLING OF DIGITAL MULTIMEDIA EVIDENCE

A. All files from body-worn cameras shall be securely downloaded no later than the end of the officer's shift. Each file shall contain information related to the date, body-worn camera identifier, and assigned officer.

B. All files from body-worn cameras shall be securely stored in accordance with state records retention laws and for no longer than useful for purposes of training, or for use in an investigation or prosecution (including appeals), or for use in resolving a claim, pending litigation, or disciplinary investigation. In capital punishment prosecutions, files shall be kept until the alleged offender is no longer under control of a criminal justice agency.

C. It is not the intent of the Department to review DME for the purpose of general performance review, for routine preparation of performance reports or evaluation, or to discover policy violations. Supervisors and internal affairs personnel may access DME for administrative investigations. Other than periodic supervisory reviews to ensure that equipment is functioning properly, the scope of the review of DME should be limited to the specific complaint against the officer. Inadvertent discovery of other allegations during this review shall require the supervisor to articulate the purpose of expanding the scope.

D. Requests for deletion of portions of a recording from a body-worn camera (e.g., in the event of a privileged or personal recording) must be submitted in writing to the chief in accordance with state records retention laws.

E. Recordings from body-worn cameras may be shown for training purposes upon completion of a criminal case. All such use shall be pursuant to the written authority of the chief. Officers shall be provided with at least thirty days' notice if recordings intended for use for training purposes were either made by them or captured their image or voice.

VIII. RETENTION AND DESTRUCTION OF DIGITAL MULTIMEDIA EVIDENCE

A. The retention and destruction of DME shall be pursuant to state public records retention laws.

B. All stored DME is subject to release in accordance with the state public records retention laws. Officers shall be provided with at least one week's notice of any public requests made to review DME from their body-worn cameras.

26. Colorado Public Radio: "How Police Body Cams Help A Civil Rights Attorney's Cases"

COLORADO MATTERS

How Police Body Cams Help A Civil Rights Attorney's Cases



BY MICHAEL DE YOANNA
JUL 13, 2015

LISTEN [Audio: Siddhartha Rathod Speaks With Ryan Warner](#)



An officer was fired and later pleaded guilty to attempted assault after his body camera recorded a confrontation with arrestee Kent Lasnik, pictured bleeding as he is pushed into a restraining chair.

(Screen capture of Federal Heights police body camera video)

Last December, after he'd been arrested in Federal Heights north of Denver, Kent Lasnik was getting shoved
Appendix P. 553

around and pushed into a cell when he cursed and threw his arm at an officer. That's when he was punched repeatedly, pinned down, and finally, while bleeding, put in a restraining chair.

"I'm sorry!" Lasnik pleaded. "I won't do nothing else."

Then an officer squeezed Lasnik's temples while he was still strapped to the chair.

We know about Lasnik's treatment because the incident was captured by police body cameras. And it led to the firing of Federal Heights police Officer Mark Magness. He's since pleaded guilty to attempted assault on Lasnik.

More CPR News reporting on police body cameras:

- [Body Cams Can Catch Abuse Or Clear Officers' Names](#)
- [How The Technology Changed Police Work In Two Cities](#)
- [The Facts And Background On Colorado's Body Cameras](#)

Siddhartha H. Rathod, a civil rights attorney with the Rathod and Mohamedbhai law firm in Denver, represents Lasnik and said that case shows how body cameras are transforming police work.

Take the example of the 30-day suspension of Denver police Officer Choice Johnson, who wore a body camera as part of a pilot program, Rathod said. Johnson did not have his body camera on during an altercation at The 1up, a lower downtown Denver bar where he was working as an off-duty guard in his police uniform.

The incident was caught on a HALO street camera. It showed Johnson shove a bar patron to the ground. And on March 23, a police disciplinary action statement said Johnson violated department regulations banning the use of inappropriate force.

"Officer Johnson has not taken responsibility for his actions and the level of force he used was grossly disproportionate to the circumstances he faced," the statement said.

Johnson is appealing the suspension in Denver's civil service process.

Denver police expect to have 800 body cameras in use before the end of the year, but off-duty officers will not be required to wear them during their guard work where they are paid by banks, bars and other such places, said Denver police spokesman Sonny Jackson.

"Well, initially it will be cost prohibitive," Jackson said. "We won't be able to afford to get these cameras for the officers that are working off duty. So, the plan is to get [them to] officers working on duty and then, as we get the program going, and we get additional funding, we'll consider putting them on officers who are working off duty."

That approach worries Rathod, who spoke with Colorado Matters host Ryan. Click on the audio link above to hear the full conversation, or read edited highlights, below.

Why Rathod thinks officers should wear body cams during off-duty work:

"Unfortunately, a lot of the assaults committed by officers happen in these off-duty capacity type scenarios where they are working as, in essence, bouncers for bars, but they're wearing their full uniform, they're armed, and they have the authority to arrest someone."

How Lasnik found out the incident was on body cam:

"He found out, through the criminal process, as this officer -- officer Magness -- was being charged. We were part of the group that spoke to him and showed him the video of what happened to him and it was really emotional for him... to see that level of force being used against him."

How body camera audio is a game changer:

"Every single one of these cases that's caught on video -- surveillance video -- the officer is defended in the same way: Despite the fact that the video shows the officer brutalizing someone, they say, 'Well, you can't hear what was being said. You can't see what I was seeing.' But now with body cameras, you can see what the officer was seeing and you can hear exactly what the officer was saying."

Police Body Cameras

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27.7 News: "Denver Police Department Body Cameras Were off for Many Uses of Force during Test Run, Report States"

Denver Police Department body cameras were off for many uses of force during test run, report states

DPD says OIM used incorrect data in analysis

BY: Jennifer Kovalski (mailto:jennifer.kovalski@kmgh.com), Sandra Barry (mailto:sandra.barry@kmgh.com), Alan Gathright (mailto:alan.gathright@kmgh.com), Phil Tenser (mailto:philip.tenser@kmgh.com), Jaclyn Allen (mailto:jaclyn@thedenverchannel.com)

POSTED: 3:48 PM, Mar 10, 2015

UPDATED: 10:43 PM, Mar 10, 2015

TAG: denver police department (/topic/denver+police+department) | pilot program (/topic/pilot+program) | use of force (/topic/use+of+force) | office of the independent monitor (/topic/office+of+the+independent+monitor) | police body cameras (/topic/police+body+cameras)

DENVER - Denver Police officers participating in a pilot program for body-worn cameras were required to start recording whenever they were responding to situations involving weapons or violence -- however a recent city report finds that the cameras were activated in less than half of the appropriate situations.

In an examination of 80 use of force incidents involving the Denver Police Department's District 6 officer, the Denver Independent Monitor's annual report says body cameras should have been activated for 45 of the situations. However, the Independent Monitor states that "full, useable footage was available for just 21 uses of force, or 47% of the total."

For five incidents, the status of the recordings is unknown. In others, police said the situation progressed too quickly for them to safely activate their cameras. Technical errors, like empty batteries and downloading glitches, were blamed for other unrecorded incidents.

Another 35 reported incidents were not recorded because the officers or supervisors were working off-duty assignments and were instructed not to use the cameras at all. The Office of the Independent Monitor recommends changing that policy before the body cameras are deployed to other districts and specialized units.

Via Twitter, Denver Police replied (<http://twitter.com/denverpolice>) and argued that certain incidents included in the report did not occur during their pilot program in District 6. According to their numbers, 46 of 53 use of force incidents did have body camera video.

In a news conference Tuesday, Commander Magen Dodge said that the report was outside the scope and time frame of the pilot program, and that they are awaiting their own research before judging their pilot program.

Dodge said from 53 use of force incidents, there were four complaints of inappropriate use of force.

"Three of those four had body worn camera footage, and the complaints were declined because of the evidence contained on the body worn camera footage," said Dodge. "One of those was an officer who should have had the camera on and received disciplinary action because of that."

But the Independent Monitor stood behind his report, saying in a statement that it identified "significant gaps" in the pilot program, "including that sergeants and officers working off-duty were not assigned cameras, preventing uses of force involving those officers from being recorded. I understand that the DPD has indicated that 46 use of force incidents during the pilot "had body cam video." Yet, if the supervisor investigating a use of force noted that the camera was not on during the use of force (as opposed to being turned on after), we did not count that as a recorded use of force."

Other recommendations from the OIM for the body-camera program included:

- Revising policies to keep the cameras on until the actual conclusion of the situation
- Requiring supervisors to provide more thorough documentation to explain why cameras were not used
- Provide notice of the possible penalties for failing to adhere to body-camera policy
- Developing policies on video retention and recording in private areas
- Solicit community and officer input on the program

The OIM report did find instances where available body camera footage exonerated officers from allegations of misconduct and also instances where it demonstrated that misconduct did occur.

--Complaints of police using excessive force jumped 64 percent in 2014--

Another chapter of the report analyzes the complaints against the Police Department during 2014.

During that year, the OIM writes, overall community complaints against officers increased about 3 percent. Complaints involving an inappropriate use of force increased by 64 percent.

"One possible factor," the report states, "is that the national and local attention on police use of force following the shooting of Michael Brown in Ferguson, Missouri on August 9, 2014 led to increased vigilance by the public in reporting police uses of force that were perceived to be inappropriate."

Demographic data contained in the report indicates that 38 percent of complaints against the police department comes from black citizens. The next largest group of reports, 26 percent, did not have demographic data. Twenty-two percent of the complaints were filed by white citizens and Hispanics accounted for 12 percent.

Given the national atmosphere surrounding the intersecting issues of race and police use of force, the OIM recommends stronger prohibitions against racial profiling. The report also suggests that the Police Department adjusts its policies to adhere to federal guidelines released by President Barack Obama's administration.

"Current DPD policy does not fully adhere to these federal guidelines, as it prohibits racial profiling only if it is the sole basis upon which police are making enforcement decisions. DPD's policy also does not prohibit profiling based on gender identity. The DPD is currently reviewing its policy, and the OIM recommends that the DPD follow the federal government's lead by incorporating more stringent prohibitions against profiling."

--Troubled Sheriff Department improving international investigations--

The Denver Sheriff Department, where the city paid out multimillion-dollar settlements in lawsuits over deputies using excesses force against jail inmates last year, "took an important step towards improving the efficiency and quality of IAB (Internal Affairs Bureau) investigations in 2014," the monitor's report says.

In a first, the Internal Affairs Bureau hired a number of civilian employees to join its investigative team and the monitor sees "improvements in the investigative performance" of internal affairs.

The report found:

- There was a 45 percent increase in the total number of complaints recorded against sheriff's deputies in 2014, from 292 in 2013 to 424 in 2014.
- The most common complaints reported against deputies last year were related to improper procedure (45%), improper conduct (16%) and excessive force (16 percent).
- Eight deputies were fired in 2014, with an additional four deputies resigning or retiring while an investigation or discipline was pending against them.
- In 2014, issues with the quality and completeness of the Sheriff Department's internal affairs data presented several challenges to the independent monitor's reporting and monitoring processes. "We observed significant inconsistencies in complaint, allegation and complainant data. We are working with DSD IAB to address these concerns in 2015."

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28. City of Minneapolis Internal audit Department: "Police Body Camera Consultation Memorandum"



Will Tetsell, City Auditor
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July 23, 2015

Mayor Betsy Hodges, City Council Members and Police Chief Janeé Harteau,

Attached is the City of Minneapolis Internal Audit Department's memorandum of the Police Body Camera Program Consultation. The objective of this consultation, which was requested by the Minneapolis Police Department (MPD), was to collaborate with MPD to identify and understand the considerations involved in the undertaking of a Police Body Camera Program so as to proactively address considerations prior to implementation and execution. The scope of this consultation included program governance and administration, the two brands of body cameras tested in the MPD pilot, and the public data request process for body camera video. A consultation is an advisory service that is agreed upon with the customer and is intended to improve risk management, governance and controls without the auditor assuming management responsibility. As this is a consultation, we typically do not formally follow up on the recommendations included in the report; nevertheless, we will make ourselves available to assist the Police Department as they address the recommendations within the report and other items that may arise.

It is clear that the Pilot Program that evaluated the two brands of body cameras and related applications and storage solutions was well planned and executed, and that configuration and implementation considerations were carefully evaluated. We did not note any material recommendations within the operation of the MPD Pilot Program itself.

The consultation found that many aspects involved in implementing a police body camera program were considered and either fully- or partially-addressed in the pilot phase. Internal Audit discovered additional considerations that should be addressed to help the City more effectively manage the implementation and execution of the Police Body Camera Program.

During this consultation, Internal Audit was concurrently conducting an audit of the City's Data Governance and Records Information processes, which align and overlap with the Police Body Camera Program. In conducting that work, some items for consideration that relate to the goals and objectives of the Police Body Camera Program came up that we would like to bring to your attention, as well as the attention of decision-makers and stakeholders.

In staying aligned with some of the objectives of the body camera program; enhancing transparency and accountability, the City should evaluate the teams and processes in place to support the redaction, review and distribution of the body camera video footage. Although the front end of the body camera program (capturing,

annotating and storing video data) has been well vetted and tested, we noted that the public disclosure processes are highly manual and require various levels of review, which could impact how efficiently and effectively the Police Records Information Unit is able to keep up with demand while maintaining strong privacy controls. An evaluation of the Police Records Information Unit process should be conducted to validate the ability of the process to adequately manage public video requests, to redact video for private or confidential information, and to timely provide internal and external users a convenient means of viewing the requested video. Since forecasting demand for body camera video is difficult, an extensible process should be established to accommodate various levels of demand.

Sincerely,

A handwritten signature in black ink that reads "Will Tetsell". The signature is written in a cursive, slightly slanted style.

Will Tetsell, City Auditor



Internal Audit Department

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Audit Team on the Engagement:

Tim Homstad, Manager, Backbone Consultants
Matt Lagieski, Internal Audit Associate
Will Tetsell, Director Internal Audit

Date: June 16, 2015

To: Mayor Betsy Hodges, City Council Members and Police Chief Janeé Harteau

Re: Police Body Camera Consultation Memorandum

Background

Police departments across the nation have implemented body cameras to help improve police transparency and accountability. In addition, the camera footage could protect officers by providing evidence of false and unsubstantiated claims by the public. The Minneapolis Police Department (MPD) is evaluating the implementation of police body cameras into their police force.

A pilot program that evaluated two products, Taser and VIEVU, began on November 7, 2014. The program was led by the City's MPD Business Technology Unit. The Taser solution tested was a cloud-based offering hosted on Amazon's AWS cloud service. The VIEVU solution tested was a locally-stored offering followed by the Taser test. The test included three Minneapolis precincts representing different racial and socioeconomic demographics. Each precinct included 12 volunteer officers conducting tests in the field. Evaluation of the two products was concentrated on product review and policy validation. Product review included functional operation of the cameras and infrastructure needed for collecting, transferring, storing and releasing data. Policy evaluation was comprised of two components. First, the functionality and compliance of the policy and its related standard operating procedures provided to the officers for operation of cameras in the field, as well as administrative documentation associated with data collection. The second component was associated with redacting, releasing and distributing data.

Procedures included within the police body camera process included:

- Program governance
- Capturing and transferring video
- Categorizing video
- Annotating video
- Transferring video
- Storing video
- Redacting video
- Releasing video

Scope

Internal Audit conducted an evaluation of the processes and technology used in the implementation and management of the Police Body Camera Pilot Program. This evaluation also included program governance, capturing and transferring video, categorizing, annotating and retaining video, and releasing video appropriately. This document will outline the considerations identified based on the MPD Body Camera Program, and recommendations of controls.

Out of Scope

Internal Audit was not involved in vendor selection, requirements gathering, service level agreements, budgets, or selection of cloud versus local storage solutions for the products evaluated during the pilot program. Operational procedures related to police body camera usage, technical testing of security, including but not limited to, vulnerability and penetration testing of the devices, applications or docking stations were not tested during the consultation.

Approach

The assessment approach consisted of independently assessing operational and technical controls, policies and procedures for governance, security and administration, and specific controls for both Taser and VIEVU products, the two vendors selected for evaluation in the pilot program. Information was collected through interviews, observations, and examination of documentation with MPD Business Technology Unit, collaboration with the City Attorney's Office, Police Crime Lab, Information Technology, other City of Minneapolis departments, and industry best practices.

Detailed Summary

Overview of the Taser products

Taser was the first product tested by the City of Minneapolis. The Taser cameras came in two varieties, a chest worn device called the Axon Body, and a smaller camera capable of being worn on the shoulder or sunglasses called the Axon Flex. Both devices offered the same security and controls, and used the same software.

Functionality of both devices was very similar. Recording was started by the officers double tapping a button on the device. This device was constantly recording and retained the previous 30 seconds of footage once an officer double taps the activation button. Upon completion of the officers' shifts, they docked the device in the Taser docking station that would both upload the videos and charge the devices.

Devices would be assigned to each officer and they were required to use only their device. Taser's software solution leveraged software as a service, utilizing Amazon.com's AWS cloud infrastructure and Taser's Evidence.com software. Since Taser's solution was a cloud-hosted platform, all captured videos must be uploaded via the internet.

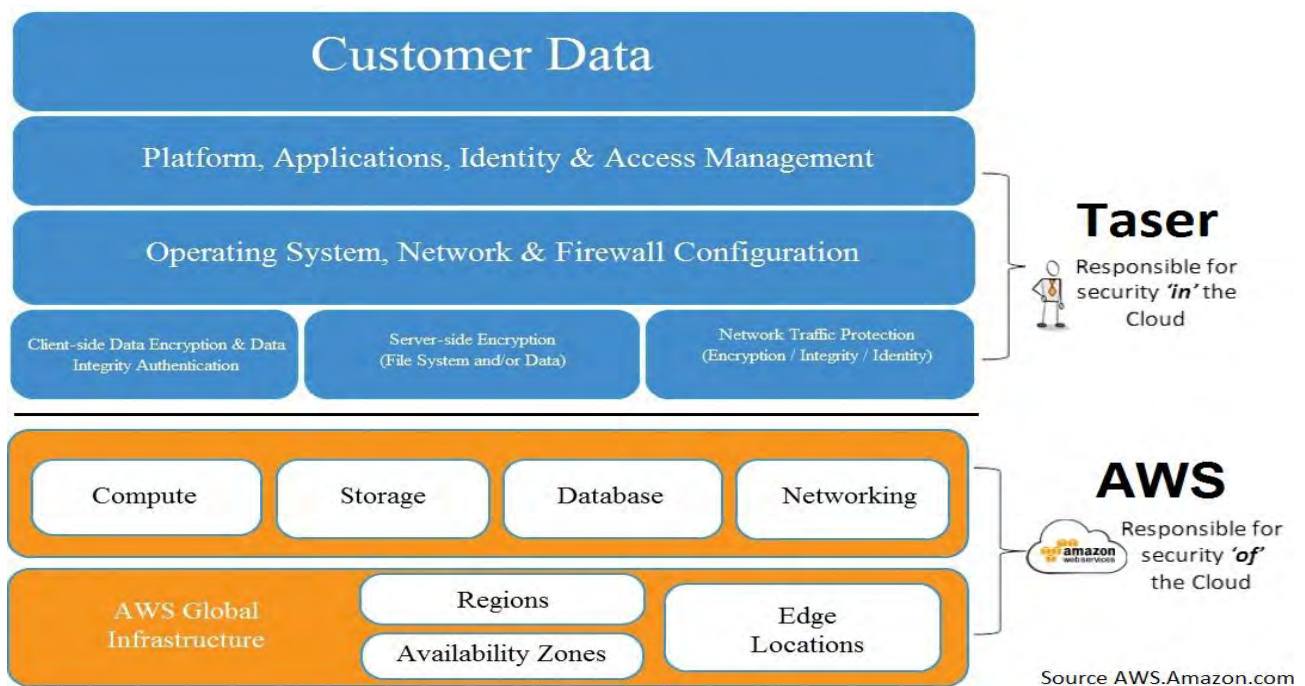
Ernst & Young, a public accounting firm, validated infrastructure controls, security and availability principles for Amazon's AWS platform through a SOC2 report. No review was done on Privacy and Confidentiality principles. Internal Audit was unable to validate the effectiveness of the control environment in place for Evidence.com, as a public report on their control environment was not available at the time of the review. Without the ability to validate the controls in place in the cloud solution, it is unknown how logging at the operating system or virtual machine level is captured, who has access to bypass application controls, or if chain of custody controls could be compromised.

The software used to interact with footage was web based. Users login to Evidence.com to access and manage recorded video. Evidence.com required local administration of the configuration and user provisioning, and granted external parties the ability to view footage. Since the application was hosted externally, users did not need an application (client) installed on their computer to access footage. This could be useful for court litigations and public requests, as a link to a specific video could be used to provide access to view the video, it could however, allow circumvention of redaction and review controls if this functionality is not controlled.

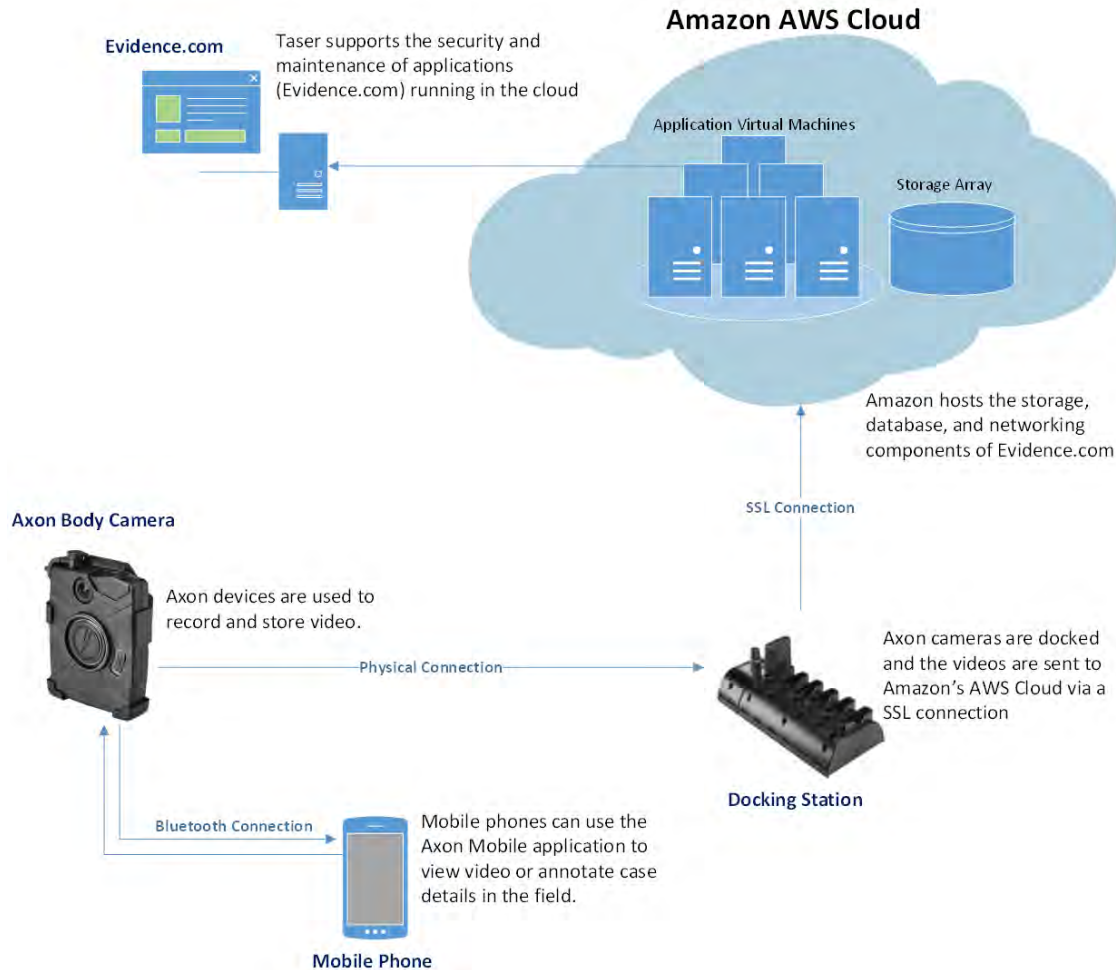
Once videos had been uploaded to Evidence.com, officers were expected to edit the text fields to add details (e.g., case number, category type, etc.) on the video. Completing the test fields in Evidence.com ties footage of incidents to specific case numbers for tracking purposes, and proper classification will trigger record retention durations based on the type of incident that was recorded. Taser cameras also offered Bluetooth connectivity to iOS and Android devices, which allowed officers to annotate videos in the field.

Responsibilities within Amazon’s cloud

This graphic illustrates the responsibilities of each third-party in Taser’s Cloud Storage solution.



Flow of information for Taser cloud solution



Overview of the VIEVU product

The second body camera tested by the City of Minneapolis was a chest mounted camera from VIEVU. This camera was activated by sliding a cover down to expose the camera lens. This device would start recording once the lens has been exposed; it does not capture previous footage like the Taser solution. At the end of the shift, officers must plug the cameras into laptops via a USB cable to upload the footage and charge the device.

VIEVU offered two software hosting and application options at the time of the pilot program. The first was a local hosted solution where local infrastructure was used to store video files and a client application is used to view footage. The local offering required dedicated storage, redundancy and backup solutions to be in place and managed by the City's IT staff. The second solution was cloud-based storage through an application that leverages Microsoft's Azure cloud network. Local storage was the only option tested during the VIEVU pilot program. The MPD opted to use the local storage offering as it was more popular and metrics would be easier to compare to other agencies.

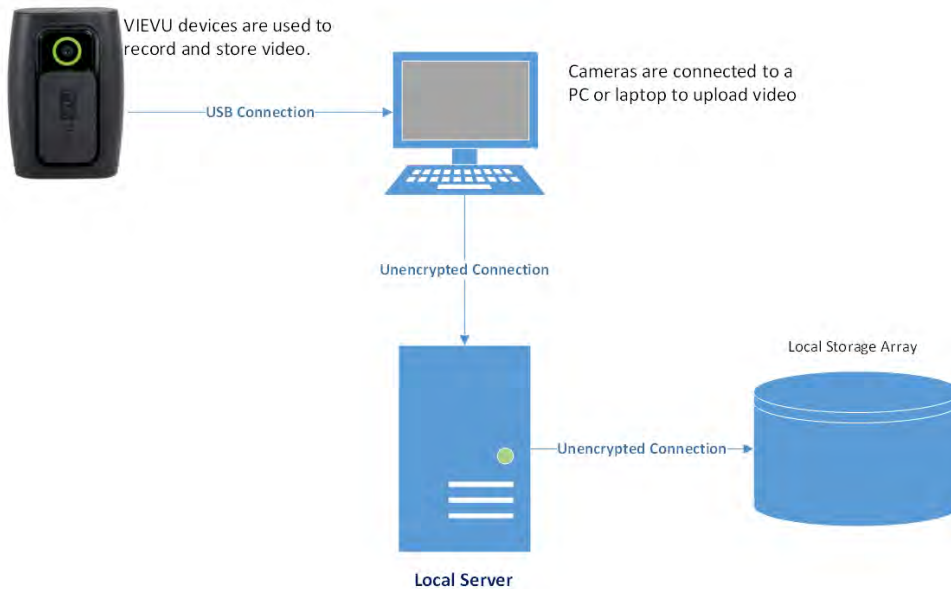
VIEVU software was a client that must be installed on all devices that were expected to view or manage video files. Once installed, users were required to login to the application to get access. Since a client was required to be installed for the local storage solution, sharing videos via the internet is not a possibility in the current iteration of the software.

VIEVU did not offer video redaction capabilities with the Veripatrol software package used in the pilot program. All VIEVU footage requiring redaction would need to be exported and edited in a third-party application by a qualified video technician.

Officers were expected to annotate all videos captured at the end of their shift. At the time of the review, there was not a mobile device option to annotate in the field. There was the possibility that annotation could be completed on the patrol car's laptop, but this functionality was not tested during the pilot program.

VIEVU Local Storage Solution

VieVu Body Camera



Governance and Operations

The pilot programs were managed by the MPD Business Technology Unit, a team comprised of several Police Officers at the City of Minneapolis. At the time of the consultation, a standard operating procedure was available to define expectations for how the cameras were to be used during the pilot programs. While this document did provide a good foundation for the body camera program, lessons learned from the pilot program should be applied to create a formal body camera policy document. This document should define usage, tools used, key contacts and responsibilities for the program. Additional documents should be created to support operating procedures and training. MPD is in the process of further developing these procedures based on learnings from the pilot program.

Since police body camera programs were still developing, it is expected that there will be several changes to legal requirements and how these programs are operated. At the time of the pilot program, several items were being discussed in state legislation that were not likely to receive final decisions until 2016 or later. The Police Records Information Unit along with the MPD should revisit current policies and procedures on a frequent basis as this program evolves and operational efficiencies are noted or legislation changes impact the program. This will be essential to ensure that the program is running optimally by learning best practices as body camera programs mature.

Governance and Operations Recommendations:

- Create and approve a formal policy and procedure prior to the launch of the full body camera program.
- Review policies, best practices and lessons learned on a frequent basis. Any relevant applicable changes should be made as the Body Camera Program matures.

Security Administration

Local security administration was performed by officers within the MPD Business Technology Unit. These officers will be responsible for provisioning users, system configuration and general maintenance on the system. No formal security administration policy or procedure documents were available at the time of the review. A detailed security administration policy should include expectations, roles and responsibilities, processes to provision users, processes to remove access for terminated users and password requirements, amongst others.

Two important controls should be considered if the Taser solution is selected. White-listing IP addresses for administrative functions would require that any administrative tasks originate from within the City of Minneapolis network. System administrators will have full access within the application, including the ability to delete files. Limiting their access to known IP ranges would prevent any unauthorized users from logging in if administrator credentials were compromised.

The second control is to consider implementing two-factor authentication for security administration. Two-factor authentication requires two items before you can log into the system, something you know (password), and something you have (key card, security token). This improves security as it is difficult to compromise both items.

Security Administration Recommendations:

- Create a formal security administration policy that should include but not be limited to the following key components: User Account Administration - Creating Accounts / Changing Account Access / Disabling or Deleting Accounts.
- Implement white-listing IP addresses for security administration.
- Implement two-factor authentication for security administration.
- Create a process to manage terminated users that will identify when users switch roles or leave the department, and when access should be removed immediately.
- Strong password policies should be enforced on all end users and administrators: eight or more characters, combination of letters, numbers, and/or special characters, and cycled every 90 days.
- Conduct periodic user access review to validate all users have appropriate access.
- Hold role owners responsible for approving all users assigned to their respective roles.

User Role Security

Taser and VIEVU products allowed security administrators to grant specific permissions to end users based on what access is appropriate. The two products differed in the implementation of these features. VIEVU allowed specific abilities (read, delete, copy, etc.) to be granted to each user individually. VIEVU did not offer role based security, which makes administering end users more labor intensive. If a policy change required modification of end user access rights, each user would need to be modified individually. This could be time consuming for system administrators.

Taser offered role based security. With this security model, a number of security roles were created (officers, Police Crime Lab, court, etc.) and users were assigned a role. If role changes were required, modification of the permissions associated with that role will automatically impact all end users assigned that role. Role-based security is more manageable than user-based security. Additionally, Taser offered the ability to assign officers into groups, where a supervisor can have access to view the camera footage of their direct reports.

At the time of the review, security rights for both products limited officers to only view videos that they created. A best practice that should be implemented is to separate any administrative functions from users operating body cameras. If an officer operates a body camera and also has system administrator duties, that officer should have two system accounts, one for system administrative functions and one for police body camera work.

User Role Recommendations:

- Prevent security administration roles from creating and uploading video files.
- Align user roles or permissions to job functions, which should be defined in the security administration policy.

Device Security

Taser encrypted both data in transit (SSL RSA 2048-bit key, 256- or 128-bit ciphers) as well as data at rest on the servers (256-bit Advanced Encryption Standard). These were industry best practices and sufficient to protect the data being transferred.

Only the local storage solution was evaluated for the VIEVU product. At the time of the review, VIEVU Veripatrol was not encrypting data at rest or data in transit. VIEVU does digitally sign the videos to validate that they are not modified. While this is a good process, digital signatures are not a substitution for data encryption.

Device Security Recommendations:

- Consider solutions to encrypt data at rest and in transit if VIEVU is selected as a vendor.

Networking

The internal network at the City of Minneapolis is a critical component for the body camera program as all body camera footage would be transferred via this network, to the data center and then to the internet if cloud storage is utilized (Taser). It is essential to have sufficient network capacity and throughput to allow all camera footage to be uploaded to the network/cloud, without impacting daily operations at the City.

Estimated data consumption based on Duluth's monthly average is 150 MB per officer per day. Based on this amount, the City could be uploading 75 GB per day (150 MB x 500 cameras). This data will not be a consistent load throughout the day, but will primarily impact the network at three separate intervals throughout the day, aligning with the end of officers' shifts.

All precincts and offices for the City of Minneapolis share the same network, with a speed of 180 mbps. It is important for the City to monitor the network utilization to ensure that daily operations are not impacted by the volume of traffic for these videos as the program expands. The onsite network team should be included in the launch of the full program and will need to closely monitor network health during the first few weeks and assess if the network is performing sufficiently. Two potential remediation efforts for impacted network performance would be implementing quality of service (QOS) prioritization, or increasing the network bandwidth.

Additionally, the pilot program was configured to operate on its own virtual local area network (VLAN). This is a good practice and should be replicated with the expanded program, as it will isolate the body camera network traffic from the general City of Minneapolis network traffic.

Networking Recommendations:

- Implement proactive network monitoring prior to full body camera deployment to ensure the network will be capable of supporting traffic requirements without impacting daily operations at the City.
- VLANs should be implemented to segment the body camera network traffic from the general network traffic at the City.
- Consider implementing QOS to prioritize network traffic.

Public Data Requests

Public data requests are likely going to be the most challenging component of the body camera program. At the time of the review, Minnesota legislation had not formally enacted many of the nebulous expectations related to public data requests. Fulfilling requests is likely to be time consuming and require additional resources. Current law requires all public requests to be fulfilled as soon as departments are able. Current redaction tools are very time consuming, require crime lab technicians to view the footage multiple times, and must go through a review process within the City Attorney's Office and Police Department.

This process is likely the single most public facing component of the program. It is important that the policies, processes and procedures to redact, prioritize and review footage are well documented and available to the public. Due to the manual effort involved to redact footage, it is likely that the City will incur additional labor expenses for employees dedicated to fulfilling these requests. It will be important for the MPD to identify any tools that may be released that could reduce the time or effort to redact video. Additionally, there was one resource in the City Attorney's Office who was responsible for reviewing redacted footage, who had additional responsibilities beyond reviewing redacted footage. If the current process in which footage must be reviewed and approved by legal before being distributed remains, this review process could be a bottleneck for the public data request process.

Public Data Request Recommendations:

- Document and make available internally and to the public a formal public data request process and policy.
- Create a formal monitoring process to track the volume of public data requests, dependencies and bottlenecks in the process.

Video Redactions

Body camera footage released to the public may need to be redacted to preserve the anonymity of citizens or to prevent disclosure of private information. Redacting video was a time consuming and labor intensive process. This process was initiated with a data request, which could be either internal (e.g., case evidence) or external (e.g., public data request). The request was sent to the Police Records Department for prioritization, which takes into account the nature of the request. The process to redact video differs between the two product choices. Redacted video can then be shared by a direct link to the video file.

Taser had built-in redaction capabilities that help streamline the process. Bulk videos could be batch blurred in their entirety and at multiple levels of opacity, or a technician could blur or black out specific areas within the video file. Any edits made to videos did not impact the original file.

VIEVU did not have redaction capabilities within the Veripatrol software. Video files must be exported and edited within a third party tool by the Police Crime Lab Division. After redaction, the video files must be copied for distribution.

Once redaction has occurred, the City Attorney's Office, as well as the Police Department must review the footage in its entirety to verify the redacted videos are appropriate for public distribution.

Recommendations:

- Create formal standard operating procedure and training documentation to detail the procedures, tools and expectations related to video redaction.

Data Usage

The large amount of data consumed by the video files coupled with the estimated 500 plus officers that will record videos on a regular basis could equate to a large volume of data required to support this process. Data storage costs are likely going to be one of the largest financial burdens of this program. Using estimates based on the Duluth Police Department data consumption, each officer will consume 150 MB/day, extrapolating this figure to about 75 GB/day.

These estimates could vary depending on final policies or legislation that is passed. Additionally, the current cameras tested were configured to record at standard definition, if future devices or legislation require high-definition footage; data consumption could potentially multiply several times over. Processes to monitor data consumption and trending should be created.

With Taser, storage was directly tied to different pricing tiers, ranging from set amounts with overage fees to unlimited plans. The VIEVU program piloted used local storage, total costs associated with storage, retrieval, redundancy and backups need to be considered. Additionally, with VIEVU, local IT and Management would be responsible for performance and the control environment.

Data Usage Recommendations:

- Develop a process to regularly monitor storage utilization to ensure storage capacity or pricing tiers are optimally managed and to anticipate necessary changes.

Categorizing and Data Retention

Within both applications, users could assign each video an applicable category (e.g., citation, arrest, use of force, etc.) that will determine the length of time the video will be retained for. Categories should be clearly understood and consistently applied when uploading video. It was noted during the pilot program that up to 17% of videos were not categorized. Proper classification of videos is essential for applying the correct record

retention schedule. Educating officers on the importance of completing this field, configuring the applications to require this field or implementing a review process are potential controls that could reduce risk in data categorization and retention.

One potential improvement to the existing categories used during the pilot was to create a category specific to ongoing litigation or court cases. It is a mandate that evidence be retained until the legal process is resolved. If videos were categorized with the standard labels and the retention period lapsed, it could appear to the legal process as disposing of evidence prematurely.

Record retention requirements were following a set schedule of one year, seven years, and in perpetuity, depending on the content captured in the video; non-event police event, police evidence, and significant/critical incidents, respectively. These durations may change in the future as the legislation formulates, but at the time of the pilot program, all video is set to follow this schedule.

Categorizing and Data Retention Recommendations:

- Implement a process or control to verify that all videos are classified and aligned to appropriate record retention schedules per legislation.
- Consider adding additional categories to flag and prevent videos involved with litigations from being disposed of prematurely and create a process to update the category for videos subject to litigation.

Chain of Custody and System Logging

Both solutions had detailed logging capabilities that capture creation, deletion, modification and viewing of footage. This logging was detailed enough to support chain of custody. It should be noted that VIEVU did not offer any redaction capabilities within the application available at the time of the pilot program. If redaction was required on footage captured on the VIEVU device, the footage must be exported and edited in a third-party application. The logs from VIEVU, in addition to the manual logs completed by the crime lab, will be needed to create adequate chain of custody evidence. Taser had built-in video redaction tools that are logged; no external manual logs were needed in addition to the system logs that are created to satisfy any chain of custody requirements.

Alerting was another feature of the Taser solution that was leveraged during the product evaluation. Alerts would be sent to system administrators for various triggers (e.g., account creations, file deletions, password resets, etc.) While this was a good practice and it is encouraged, it will be important to monitor and manage this process as the program scales up. It is important for system administrators to receive a manageable amount of alerts. If the scope of alerting is too broad, significant alerting events may be missed due to the large volume received.

Chain of Custody and System Logging Recommendations:

- Implement a process to ensure that alerts sent to system administrators are relevant and the process is manageable.

Other Recommendations for the roll-out of the Minneapolis Police Body Camera Program:

- Include a right to audit clause within the contract with the selected vendor to allow for further analysis of internal controls within the vendor's organization.
- Obtain Taser internal controls and Evidence.com third-party audit assessment, when available.

- Completion of policy and procedure documentation and creations of an extensible process to manage intake, video redaction, public data requests, and system and user administration.
- If mobile devices will be used in conjunction with body cameras, the considerations of using of personal mobile devices should be understood and evaluated.

Acknowledgements

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29. Government Technology: "Body Cameras in Schools Spark Privacy, Policy Discussions"

Body Cameras in Schools Spark Privacy, Policy Discussions

BY: [Tanya Roscorla](#) | July 22, 2015

While police body cameras have made headlines lately, at least one school district is drafting policies for administrator body cameras.

Leaders at Burlington Community School District in Iowa want each principal and assistant principal equipped with body cameras so they can record what happens in student disciplinary situations. For example, video caught on a surveillance camera last school year showed that a middle school principal did not kick a student, though he was accused of doing so.

"We hope to have a tool in place that will allow us to accurately address any issues or concerns that arise in our district," said Jeremy Tabor, director of human resources at the district. "And it's really a tool to ensure that our students, staff and visitors are being treated properly."

The Privacy Tightrope

Like with any new technology, school districts must figure out how to protect students' privacy while also keeping them safe. Over the last number of years, both federal and state legislatures have [taken up bills](#) that deal with student data privacy.

Privacy advocates and parents have been particularly concerned about [who has access](#) to student data, how long it's kept and whether it's secure. On top of that, they want to make sure the data in students' records is accurate and that third parties will not take advantage of it. Whether the data comes from biometric identification technology, online learning platforms or body cameras, the handling of that potentially sensitive information is important.

"This is really indicative of the larger policy discussion going on about student data, privacy in general and balancing the benefits of privacy, which we all value, versus the monitoring, the data that you get from this new technology," said Sonja Trainor, director of the National School Board Association Council of School Attorneys.

And lawmakers come down on both sides of these issues. For example, [Texas passed a law](#) in June that would require school districts to install video cameras in special education classrooms if parents request it. On the other hand, Congress is considering [a privacy bill](#) that would prohibit schools from receiving federal funding if they recorded video in classrooms without meeting certain conditions, including a public hearing beforehand and unanimous written consent from parents and teachers.

For school districts that are considering body cameras for administrators, it's important to be aware of laws at the state and federal level that may apply, exceptions to those laws, and the privacy rights of students and parents. The Family Educational Rights and Privacy Act governs student records, but isn't clear on whether videos are student records, and the law has many exceptions, Trainor said.

School districts including Burlington have had video cameras in hallways, outside buildings and on school buses for years. What's different about the body cameras is that they can capture audio and video in one-on-one interactions. And that's a big difference, because surveillance cameras wouldn't pick up the same footage as the body cameras in a conversation between a student and a principal.

Possible Policies

Since the idea was brought up in a June board meeting, district leaders in Burlington have been considering what policies would govern the use of these devices. Some of the things they've talked about include limiting the use of the cameras to student disciplinary situations and giving people the option to say "no" to being recorded.

If a recorded conversation starts to turn away from disciplinary issues to other personal matters, the district is considering giving principals the discretion to turn off the camera and write down the reason they did so. The principal would be responsible for uploading the video, and if needed, would be able to rewatch the video and take notes that would go into the student record. The video itself would not go into the record.

District leaders are also thinking about who looks at the videos and how to make sure that any student

records generated by watching those videos is accurate. Potential ideas include having a second set of eyes review videos when they're used to form a part of a student's written record.

Aside from the technology department, only people approved by the director of human resources or the superintendent would be able to see the videos. Those people would need to have an educational reason for seeing the video, and the district would document who had access to it, how long they had access and what the purpose was.

Other policy considerations revolve around what happens to the video after it's taken. District administrators are thinking about storing videos for seven days, though it could be extended to 10 to 14 days. The idea is to make sure the video is kept long enough for someone to come forward with a complaint, but not to keep them indefinitely, Tabor said. Because officials don't want to place too heavy a burden on the technology department, they would give the IT staff members up to 30 days to actually delete the videos.

At the end of the day, the school district can't predict every possible situation that comes up. But specific guidelines developed over the summer and fall terms will help principals know what's expected when they start wearing the cameras in the spring.

"We don't want to rush this," Tabor said. "We want to make sure we're taking the proper amount of time to vet this and make sure we have a good, effective policy in place."

This article was printed from: <http://www.govtech.com/education/Body-Cameras-in-Schools-Spark-Privacy-Policy-Discussions.html>

30. Jay Stanley: "Body-Worn Camera Programs— Privacy Perspective"

Transcript: Body-Worn Camera Programs— Privacy Perspective

Jay Stanley, Senior Policy Analyst, American Civil Liberties Union (ACLU): The ACLU's position on body-worn cameras is that we support the technology, provided that they are deployed with a good policy framework that, number one, ensures that they'll continue to be effective as an oversight tool, and number two, puts in place some basic privacy protections. You know, we think it's important that there be good privacy protections in how body-worn cameras are deployed. An officer who is entering somebody's house shouldn't be able to turn the camera on in that house without permission unless it's a S.W.A.T. raid or there's a warrant. But any kind of consensual entry into a house, officers should have the discretion to turn the cameras off if they're interviewing a crime victim or children, or they're getting tips about crime from a—*from a citizen who might not want to be on camera.* But anytime an officer is involved in a call for service, or a law enforcement action, or any encounter that gets in any way hostile, that camera should be on as a matter of policy, and officers who don't adhere to that policy should be punished. It needs to be enforced. Otherwise, what we have is a tool that allows the police to use it as they want, but will not increase community trust by allowing the public to see what might be difficult encounters. There may be complaints against the police officer, and if the police officer hasn't turned his or her video on, then the public is going to be left guessing about what happened. If this technology is going to be accepted by the community, it needs to serve not just the needs of law enforcement, but it also needs to serve as an oversight tool to help increase community trust over police officers.

One of the controversial questions now is when should body-worn camera video footage be made available to the public, and that's a tricky question that balances the needs of oversight versus privacy. And we're seeing policies right now all over the map. Some places, like Minnesota and Washington State, have very broad public records request laws that basically declare any footage captured by any police body-worn camera is a public record that can be obtained through an open records request. Other police departments and cities are saying, no, none of the footage will be made available to the public. And neither of those, in our view, strikes the right balance. If none of the footage is available to the public, then there will be great suspicion in cases where there's, like, a controversial use of force and the police department refuses to release the video. On the other hand, if all the video is made public, that will invade a lot of people's privacy. So what we've called for is a scheme in which most of the video is not released to the public, but if there's a use of force incident, or a felony arrest, or a complaint against a police officer, that video would be flagged and would be treated differently and would be, presumptively, releasable to the public, with redactions to protect privacy, if possible.

One of the big controversies that we have been dealing with is whether, in a critical incident like a shooting, police officers should be able to review his or her body camera before writing up an initial report. We believe strongly that officers should not be able to do that. No investigator would allow any witness to view video before making their initial statement about a crime. Police officers shouldn't have that right either if there is to be community trust. It might allow an officer who is tempted to lie to tailor his or her story to match what's on the video. But even that, even the best-intentioned officer will inevitably, studies show, have his or her memory changed by watching the video. There may be things that the officer remembers that weren't caught by the video. There may be things on the video that the officer didn't see. And, you know, video is not an objective record of what took place; when it starts, when it stops, camera angle, lighting—those kinds of things can affect how a video portrays a situation. And the officer's own memory is not objective either, but it's a different record of what took place.

The biggest advice that I would give to a police department that's considering adopting body-worn cameras is, number one, don't just slap them on your officers; take the time to develop good, well-thought-out policies. And there are a lot of good models to be found out there. And number two, enforce those policies. We've seen too many departments that have put cameras on their officers with—sometimes with policies in place, but haven't enforced those policies. And so we've seen incidents where officers have not turned on their cameras when they should have, and there's been no consequences for those officers. And that has led to a real decline in trust in those police departments. So those are the

main things. And then I guess the last thing I would say is pay attention to the technology. It's important that the video be secured, be handled well, stored properly, subject to good destruction schedules, and so forth.

From the ACLU's perspective, the biggest issue around body-worn cameras, looking into the future, is whether they will be used right to increase public trust in police officers and balance all the different needs. We at the ACLU, and civil libertarians, and privacy advocates are often unsure how this technology is going to roll out over time and what kind of effects it's going to have. We don't want to see it used as a mass surveillance tool with face recognition used to watch everybody all the time and collect masses of data. We do think that it can be a valuable tool in increasing public trust over police officers, and preserve privacy, and meet some of the needs of law enforcement, and we can balance those things if we put in place good, carefully thought-out policies. There's no reason that we can't reach all those goals.

31. International Association of Chiefs of Police: "Body-Worn Cameras Concepts and Issues Paper"



IACP NATIONAL LAW ENFORCEMENT POLICY CENTER

Body-Worn Cameras

Concepts and Issues Paper

April 2014

I. INTRODUCTION

A. Purpose of the Document

This paper was designed to accompany the *Model Policy on Body-Worn Cameras* established by the IACP National Law Enforcement Policy Center. This paper provides essential background material and supporting documentation to provide greater understanding of the developmental philosophy and implementation requirements for the model policy. This material will be of value to law enforcement executives in their efforts to tailor the model to the requirements and circumstances of their community and their law enforcement agency.

B. Background

Video recorders and digital cameras have been useful tools in the law enforcement profession for some years. Advances in technology have improved camera equipment and enhanced the development of the body-worn camera (BWC). While many police agencies have taken advantage of these advancements even more have overlooked or are unaware of their usefulness, or have chosen not to deploy them.

The concept of recording police-citizen encounters for law enforcement use first developed with the implementation of in-car cameras. Initially, these devices were installed to document interactions with individuals suspected of driving under the influence, with the recordings providing supporting evidence needed for conviction.¹ Over time, agencies discovered that

in-car cameras had numerous additional benefits, such as “increased officer safety; documentation of traffic violations, citizen behavior, and other events; reduced court time and prosecutor burden; video evidence for use in internal investigations; reduced frivolous lawsuits; and increased likelihood of successful prosecution.”² All of these advantages also apply to the BWC, as will be discussed further in this document.

C. Uses for Body-Worn Cameras

Many police officers now use BWCs to document interactions with victims, witnesses, and others during police-citizen encounters, at crime and incident scenes, and during traffic stops. In many instances police agencies have found the BWC useful for officers in the favorable resolution of both administrative and criminal complaints and as a defense resource in cases of civil liability. Officers using these recorders have a clearly documented, firsthand, completely objective account of what was said during an incident in question. The utilization of BWC video and audio recordings at trial can provide the court with the actual statements of officers, suspects, and others that might not otherwise be admissible in court based upon hearsay concerns, or might not get sufficient consideration if there are conflicting memories of the statements. In addition, recordings made at crime and incident scenes are a tangible benefit of BWCs and can provide investigators, prosecutors, and juries with far more detailed, accurate, and compelling evidence.

The use of BWCs gives officers, their agencies, administrators, and employing jurisdictions an additional means of defending themselves in civil litigation. This is extremely useful in resolving citizen complaints and

² Ibid., pg. 11.

¹ *The Impact of Video Evidence on Modern Policing*, IACP pg. 5, http://www.cops.usdoj.gov/Publications/video_evidence.pdf (accessed February 12, 2014).

potential civil actions. During many police-citizen contacts there are no objective witnesses to corroborate either allegations of misfeasance or explanations of the interaction and so many jurisdictions are more willing to resolve these matters by paying minor damages rather than spend time and money in litigation. However, an officer utilizing a BWC typically has all the comments and actions of both parties on record and thus has a built-in “impartial witness” on his or her person—a factor that has often resulted in civil suits before they would otherwise have been formally lodged. In one study of in-car camera recordings, “in cases where video evidence was available, the officer was exonerated 93% of the time; in 5% of the cases the complaint was sustained.”³ In addition, the same study showed that in a large number of instances, the individual decided against filing a complaint once he or she was notified that there was a video recording of the incident.⁴

The BWC has also proven to be effective in helping police agencies evaluate police officer performance in a more complete and fair manner. Supervisory personnel are able to review officer conduct and performance on a random or systematic basis by reviewing BWC recordings. This allows the supervisor to ensure that the BWC is being used in accordance with department policy and to identify any areas in which additional officer training, guidance, or discipline may be required.

Introduction and subsequent broad acceptance of in-car mobile video recording equipment has played a significant role in proving the effectiveness and utility of recording equipment in law enforcement. However, vehicle-mounted video recorders are limited in their field of vision and are not of assistance to officers on foot patrol or who are engaged in investigations or interactions beyond transmission range of their vehicles. The BWC is a convenient and relatively inexpensive means of more fully documenting contacts and interactions with citizens, suspects, and others in a wide variety of situations. It gives them a reliable and compact tool to systematically and automatically record their field observations and encounters.

However, in most cases BWCs should not be viewed as a low-cost alternative to in-car video recorders, but rather a complementary technology. In-car camera systems can provide important information that is currently unavailable with BWCs. For instance, most in-car camera systems can be linked to vehicle systems and record vehicle location, speed, application of brakes; indicate activation of lights and siren; and capture other data that could be vitally important if an accident or other unanticipated event should occur. For example, recording of an officer’s activity from

the patrol car often includes accidents that occur during a traffic stop that would not necessarily be seen by the BWC while the officer interacts with the motorist. Most in-car systems also provide the option of installing a secondary camera to record any activity in the back seat of the patrol car.

Police officers are aware that contact with citizens during routine traffic stops or in other types of police-public interactions can result in confrontational situations. It has been the experience of many officers who have been in potentially hostile or confrontational situations and who are equipped with audio or video recording devices that inform the subject that he or she is being recorded by one or both of these means often serves to de-escalate or defuse the situation. The subject realizes in these situations that his or her statements cannot be denied or refuted later because there is a recording documenting every aspect of the encounter. The same concept can be applied to officer behavior. In a one-year study conducted by the Rialto, California, Police Department, citizen complaints of officer misconduct fell by 87.5 percent for officers using BWCs, while uses of force by such officers fell by 59 percent.⁵

Finally, the availability of video and audio recordings as evidence is critically important and can be the key to successful prosecution. For example, there is often nothing more compelling to a judge or jury than actually seeing the actions and hearing the words uttered by a suspect, including statements of hostility and anger.

Throughout the United States, courts are backlogged with cases waiting to be heard and officers who are spending time in court that could be used more productively in enforcement activities. The availability of audio and/or video recorded evidence increases the ability of prosecutors to obtain guilty verdicts more easily and quickly at trial or to more effectively plea-bargain cases, avoiding lengthy trial proceedings. In jurisdictions that employ audio and visual evidence, officers normally submit their recordings along with a written report, which is later reviewed by the prosecuting attorney. When the accused and his or her attorney are confronted with this evidence, guilty pleas are more often obtained without the need for a trial or the pressure to accept a plea to lesser charges. This substantially reduces the amount of time an officer must spend in court and utilizes prosecutorial and judicial resources more efficiently.

³ Ibid., pg. 15.

⁴ Ibid.,

⁵ As cited in Mesa Arizona Police, *End of Program Evaluation and Recommendations: On-Officer Body Camera System*, Axon Flex Program Evaluation and Recommendations, December 2, 2013, pg. 2.

II. ADMINISTRATIVE RESTRICTIONS ON BODY-WORN CAMERA RECORDINGS

The usefulness of BWCs has been clearly demonstrated; however, their utility is realized only when they are recording. Agency policy should require that officers activate their BWC whenever they make contact with a citizen in the course of conducting official police business. Once activated, the entire conversation should be recorded without interruption. If such interruption occurs, the officer should be required to document the reason for the interruption in a report. If an officer feels it is necessary to stop recording (e.g., while speaking to another officer, or a confidential informant) within constraints of policy, he or she may also be permitted to verbally indicate his or her intent to stop the recording before stopping the device, and upon reactivation, state that he or she has restarted the recording. This will help avoid accusations of editing the recording after the fact.

Some agencies issue BWCs to select officers rather than to all patrol officers. This approach can be used as part of an effort to more closely monitor individual officers who are suspected of having difficulty in certain areas of operation. Or it may simply be that a department cannot afford to provide cameras for all personnel. However, issuing cameras for the sole purpose of monitoring specific employees can have several negative consequences. For example, officers who know they are under close scrutiny may tend to modify their behavior only while the BWC is deployed. Selective use of BWCs can also be stigmatizing, since the officer's colleagues may interpret that he or she is being singled out as a potential problem. This can have negative short- and long-term consequences for the subject officer in dealing effectively and professionally thereafter with fellow officers. Such selective use can also be a considerable impediment to creating "buy in" from employees regarding the use and utility of video recorders. If officers regard these devices primarily as monitors for identifying problem behavior, they will be less likely to use them for the purpose they are intended. Therefore, it is strongly recommended that agencies using BWCs for patrol personnel should provide them to all such officers for use in accordance with agency policy.

In spite of their utility, the BWCs can be used for improper purposes that are counter to or inconsistent with the law enforcement mission, or in ways that are contrary to federal, state, or local law. For example, BWCs are not meant to serve personal uses whether on or off duty unless permission is granted by the department. This is a simple matter of concern over private use of governmental equipment in most cases, but it can also involve concerns over the potential of mixing personal recordings with those involving official police business. In the latter

circumstances, the evidentiary integrity of recordings could be called into question, as could issues surrounding the chain of custody of evidence contained on devices that may have been involved in personal use. Personal use of BWC equipment and comingling of recordings raise concerns about inappropriate viewing, sharing, and release of videos and associated issues of invasion of privacy and other similar types of liability.

In general, BWCs should be used for investigative purposes or field use only and should not be activated in administrative settings. Another potential for improper use that should be prohibited by the police department is surreptitious recording of communications with or between any other officers without the explicit permission of the agency chief executive or his or her designee. The purposeful activation of BWCs during personal conversations involving counseling, guidance sessions, or personnel evaluations should be prohibited unless all parties present agree to be recorded. It is important to note the dysfunction and disharmony created by surreptitious recordings in a police work environment. A cloud of suspicion and distrust exists where officers and their supervisors believe that they cannot enter into candid personal discussions without the risk of their statements being recorded and used inappropriately or harmfully against them or others. The result can undermine both the willingness of supervisors and administrators to provide candid guidance about officer performance, and the willingness of employees to provide open, truthful information.

Similarly, officers' conversations on the radio and among each other at a scene will frequently occur. Officers should inform other officers or emergency responders arriving on a scene when their recorder is active to help avoid recording inappropriate or immaterial statements. In addition, the BWC should not be activated when the officer is on break or otherwise engaged in personal activities or when the officer is in a location where there is a reasonable expectation of privacy, such as a restroom or locker room. For safety and confidentiality reasons, encounters with undercover officers or confidential informants should not be recorded.

The policy should clearly state that BWC activation is limited to situations involving official police activities authorized by law or court order, including consensual citizen encounters and investigation of law violations. Failure to follow this policy could subject an officer to disciplinary action up to and including dismissal.

A. Legal Restrictions on Recordings

As noted in the foregoing section, the availability and use of BWCs can create the basis for legal challenges lodged by suspects or other persons. This policy applies only to the use of BWCs attached to an officer's person, and any use of the camera in a surreptitious manner by removing it and using it to monitor a situation remotely should be strictly controlled. Such surreptitious recording has constitutional implications and may be governed by state and federal wiretap laws not applicable to or addressed by this policy. It is important for officers who are equipped with BWCs to have an understanding of the restrictions on surreptitious recording of persons and to make sure their use of the BWCs is consistent with the restrictions.

This policy is intended to cover use of BWCs in situations where a person has either a reduced or no expectation of privacy and that occurs in a place where the officer is legally entitled to be present. Whether there is a reasonable expectation of privacy in a given situation is determined using a traditional Fourth Amendment analysis involving whether the person in question exhibited "an actual or subjective expectation of privacy" in the communication and whether that expectation is "one that society is prepared to recognize as reasonable." The landmark U.S. Supreme Court decision in *Katz v. United States*⁶ that outlined these principles also made it clear that a reasonable expectation of privacy is not determined so much by the place in which the individual is located (e.g., a telephone booth, business office, or taxicab) but by what a person "seeks to preserve as private even in an area accessible to the public." The decision emphasized that the Fourth Amendment protects people, not places.

When an individual is in custody, whether in a patrol car, interrogation room, or lockup, for example, there is generally no reasonable expectation of privacy, unless the suspect is speaking in confidence with an attorney, clergyman or other individual with privilege of communication. Recording may be done in these settings unless officers have given the individual a sign or indication that the location is private, that their conversation is not being recorded, and/or if the individual is speaking with someone with privilege. Individuals who are in these settings, but who are not in custody may refuse to be recorded.

In a residence, there is a heightened degree and expectation of privacy. Officers should normally inform the resident that he or she is being recorded. If the resident wishes not to be recorded, this request should be documented by recording the request before the device

is turned off. However, if an officer may enter a dwelling without the consent of the resident, such as when serving a warrant, or when the officer is there based on an exception to the warrant requirement, recordings should be made of the incident until its conclusion. As a general rule, if the officer must legally ask permission to enter a premises, he or she should also ask if the resident will allow recording.

Notwithstanding any legal limitations, as a courtesy and so as not to create the impression of trickery or subterfuge, some police agencies require their officers to inform all persons who are being recorded by BWCs. This includes all motor vehicle stops and related citizen contacts where official police functions are being pursued.

Recording arrests and the events leading up to an arrest is an excellent means of documenting the circumstances establishing probable cause for arrest. In circumstances where *Miranda* rights are appropriate, use of BWCs is a good way to demonstrate the clear and accurate reading of *Miranda* rights to the suspect—and an invocation or waiver of those rights by the suspect. If the suspect invokes his or her rights to silence and representation by an attorney, recording is still permissible. Officers should take great care not to direct questions to the suspect regarding involvement in any crime. However, any spontaneous statements made by the suspect to officers would likely be admissible as evidence so long as the statements or comments were not elicited by officer questioning.

Finally, there may be times when officers should be given a degree of discretion to discontinue recording in sensitive situations as long as they record the reason for deactivating the recording. For instance, when talking to a sexual assault victim, or on the scene of a particularly violent crime or accident scene. This is especially true if the recording may be subject to Freedom of Information Act requests. Under such circumstances, recordings could be posted on media sites that could cause unnecessary distress for families and relatives. Whenever reasonably possible, officers should also avoid recording children who are not involved in an incident as well as innocent bystanders.

B. Procedures for Using Body-Worn Cameras

BWC equipment is intended primarily for the use of uniformed officers although plainclothes officers may be issued such equipment. Officers who are assigned such equipment should be required to use it in accordance with agency policy unless otherwise directed or authorized by supervisory personnel.

Personnel who are authorized to use BWCs should use only equipment provided by the department. The chances of loss, destruction, or recording over materials belonging to official police investigations may be greater when these devices are used for both official and personal business.

⁶ A touchstone case in this matter is that of *Katz v. United States*, 389 U.S. 347 (1967).

BWC equipment should be the responsibility of individual officers assigned such equipment and should be used with reasonable care to ensure proper functioning. Equipment malfunctions should be brought to the attention of the officer's supervisor as soon as possible so that a replacement unit may be obtained. Officers should test this equipment prior to each shift in order to verify that it is functioning properly and should notify their supervisor if any problems are detected.

Officers should never erase or in any manner alter recordings. The agency must maintain strict managerial control over all devices and recorded content so that it can ensure the integrity of recordings made by officers. Failure of officers to assist in this effort or the agency to take managerial control over recordings can risk the credibility of the program and threaten its continuation as a source of credible information and evidence.

Where officers have recorded unusual and/or operational situations or incidents that may have potential value in training, they should inform their supervisor so that the recordings can be identified and evaluated. Unusual or even routine events recorded on tape can be used in basic academy and in-service training to reinforce appropriate behavior and procedures, to demonstrate inappropriate practices and procedures, to enhance interpersonal skills and officer safety habits, and to augment the instructional routines of field training officers and supervisory personnel.

Officers should also note in their incident, arrest, or related reports when recordings were made during the events in question. However, BWC recordings should not serve as a replacement for written reports.

C. Recording Control and Management

Reference has been made previously to the need for control and management of BWC recordings to ensure the integrity of the recordings, secure the chain of custody where information of evidentiary value is obtained, and use recordings to their fullest advantage for training and other purposes. In order to accomplish these ends, officers and their supervisors should adhere to a number of procedural controls and requirements.

At the end of each shift, all files from the BWC should be securely downloaded. In order for a recording to be admissible in court, the officer must be able to authenticate the recording as a true and accurate depiction of the events in question. In an effort to prevent the recording from becoming evidence, the defense may question the chain of custody. Therefore, departments may wish to utilize secure downloading software or programs, or have an individual

other than the officer be responsible for downloading the data in an effort to minimize any chain-of-custody issues.⁷

Each file should contain identifying information, such as the date, time, BWC device used, and assigned officer. These recordings should be stored in a secure manner and are the exclusive property of the department. Accessing, copying, or releasing files for non-criminal justice purposes should be strictly prohibited.

Many states have laws specifying how long evidence and other records must be maintained. Recordings should be maintained in a secure manner for the period of time required by state law or as otherwise designated by the law enforcement agency. Retention schedules for recordings should take into consideration the possibility of a civilian complaint against an officer sometime after the encounter. Recordings in these situations can prove invaluable in resolution of the complaint. However, storage costs can become prohibitive, so agencies must balance the need for retaining unspecified recordings with the desire to have this information available.

According to the Model Policy, supervisory officers should ensure that officers equipped with BWCs use them in accordance with agency policy and procedures. One means of accomplishing this end is for first-line supervisors to review recordings of officers on their shift. This can be done on a random selection basis or on a systematic basis and should be performed routinely at least monthly. Recordings submitted by specific officers may need to be reviewed more often or more closely should there be indications that the officer's performance is substandard, if there have been internal or external complaints lodged against the officer, or if there is reason to believe that the officer may need additional guidance or training in certain operational areas.

Officers assigned a BWC should have access, and be encouraged to review their own recordings in order to assess their performance and potentially correct unsafe or questionable behaviors. The question of whether an officer should be allowed to review recordings before writing a report, especially following an officer-involved shooting or accident, is a matter that should be examined closely by administrators.

Inevitably, recordings will occur in circumstances where recording is not appropriate. By way of examples, an officer may forget to stop a recording when entering a victim's residence after being asked not to record inside, or may accidentally activate it in the locker room. In these situations, the officer should be afforded an opportunity to request that these portions of the recording be erased.

⁷ For additional discussion of the use of videotape evidence, please see Jonathan Hak, "Forensic Video Analysis and the Law" appendix v in *The Impact of Video Evidence on Modern Policing*.

Requests for deletions should be made in writing and must be submitted to the chief executive officer or his or her designee for approval. All requests should be maintained for historical reference.

Every effort has been made by the IACP National Law Enforcement Policy Center staff and advisory board to ensure that this document incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no “model” policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities among other factors.

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32. Ariel, Barak et al.: "The Effect of Police Body-Worn Cameras on Use of Force and Citizens' Complaints Against the Police: A Randomized Controlled Trial"

The Effect of Police Body-Worn Cameras on Use of Force and Citizens' Complaints Against the Police: A Randomized Controlled Trial

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Abstract

Objective Police use-of-force continues to be a major source of international concern, inviting interest from academics and practitioners alike. Whether justified or unnecessary/excessive, the exercise of power by the police can potentially tarnish their relationship with the community. Police misconduct can translate into complaints against the police, which carry large economic and social costs. The question we try to answer is: do body-worn-cameras reduce the prevalence of use-of-force and/or citizens' complaints against the police?

Methods We empirically tested the use of body-worn-cameras by measuring the effect of videotaping police–public encounters on incidents of police use-of-force and

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complaints, in randomized-controlled settings. Over 12 months, we randomly-assigned officers to “experimental-shifts” during which they were equipped with body-worn HD cameras that recorded all contacts with the public and to “control-shifts” without the cameras ($n = 988$). We nominally defined use-of-force, both unnecessary/excessive and reasonable, as a non-desirable response in police–public encounters. We estimate the causal effect of the use of body-worn-videos on the two outcome variables using both between-group differences using a Poisson regression model as well as before-after estimates using interrupted time-series analyses.

Results We found that the likelihood of force being used in control conditions were roughly twice those in experimental conditions. Similarly, a pre/post analysis of use-of-force and complaints data also support this result: the number of complaints filed against officers dropped from 0.7 complaints per 1,000 contacts to 0.07 per 1,000 contacts. We discuss the findings in terms of theory, research methods, policy and future avenues of research on body-worn-videos.

Keywords Technology · Deterrence theory · Use-of-force · Police · Randomized controlled field trial · Body-worn-cameras

Introduction

In recent years the use of police body-worn-cameras by police has received extensive media attention. These devices are commonly believed to achieve several aims, including: reducing police use-of-force and complaints against officers, enhancing police legitimacy and transparency, increasing prosecution rates and improving evidence capture by the police. The publicity has been so great that many go on to assume that cameras can fundamentally change ‘flawed’ police practices. This was epitomized in a 2013 Manhattan Federal District Court ruling that ordered officers in a precinct of New York Police Department with the highest volume of stop-and-frisk to wear body-worn-cameras in order to prevent racial profiling. In a similar vein across the Atlantic, the College of Policing in England and Wales identified body-worn-cameras as *the* mechanism through which “dented public confidence” could be restored (BBC, 10/24/2013).

Despite great promises, there is no research evidence on the benefits of body-worn-cameras. Other than anecdotal data captured in non-controlled conditions, without comparison groups and without systematic gathering of evidence, no causal estimates of the outcomes of these devices exist. In this paper we report on the first randomized controlled trial using body-worn-cameras, which tested the effect of body-worn-cameras in Rialto across 12 months. The study focused specifically on use-of-force and citizens’ complaints, which were hypothesized to be affected by officers wearing cameras, given the possible deterrent effect of the devices on noncompliant behavior.

The paper begins with a review of the literature on police use-of-force and citizens’ complaints against the police. These aspects of police behavior and police performance represent two burning issues in American policing. Mistrust and a lack of confidence may already characterize some communities’ perception of their local police force. The use of unnecessary or excessive force by the police serves to further damage this relationship. Similarly, complaints filed against police officers are central to policing, not only because scholars consider them a proxy of police–public relations and police misconduct, but also

because of their organizational importance given the tremendous costs associated with these cases, particularly in an era of austerity where many agencies are on the verge of bankruptcy (New York Times, 12/28/2013).

We then move on to describe the theoretical grounds for the hypothesized effect of cameras. A rich body of evidence on perceived social-surveillance—self-awareness and socially-desirable-responding—proposes that people adhere to social norms and change their conduct *because* of the cognizance that someone else is watching. Elaborate research across several categories of human behavior has shown that when certainty of apprehension for wrongdoing is “high”, socially and morally unacceptable acts are less likely to occur. Both force and complaints are assumed to be undesirable “negative” events—though admittedly both can be necessary consequences of volatile police–public encounters—which should be kept to minimum. The devices are thus hypothesized to decrease the tension in encounters and consequently reduce these outcomes.

The methodology used to evaluate the body-worn-cameras is described next. We conducted a randomized controlled trial, where nearly 1,000 officer shifts were randomized over a 12-month period to treatment and control conditions. During “treatment shifts” officers were required to wear and use body-worn-cameras when interacting with members of the public, while during “control shifts” officers were instructed not to carry or use the devices in any way. We observed the number of complaints, incidents of use-of-force, and the number of contacts between police officers and the public, in the years and months preceding the trial (in order to establish a baseline) and during the 12 months of the experiment. We used three statistical methods to analyze the outcomes: first, a Poisson regression model to estimate the causal effect of the cameras between the treatment and control conditions. Second, we also conducted an effect size analysis, in order to measure the magnitude of the difference between the groups in terms of the rate of incidents per 1,000 contacts between the police and the members of the public. Third, we employed interrupted time-series analysis to assess the city-wide impact of the trial, before and after the implementation of body-worn-cameras. Finally, we discuss the findings in terms of theory, police policy and research methods. We pay particular attention to the possible causal mechanism behind the effect of the cameras on the use-of-force and citizen complaints, and our concerns with violations of the stable unit treatment value assumption when using the shift as the unit of analysis. Future avenues of research in this area are also suggested.

Literature Review

Police Use-of-Force

Police use-of-force has received considerable attention in various disciplines. This scholastic interest reflects significant investment by practitioners and decision-makers in better understanding the ways in which law enforcement institutions exercise their power, and how such powers can be managed. In democratic civilizations, the police are expected by the public to use force when the situation justifies the use of “reasonable” power “necessary” to achieve “legitimate purposes” (Alpert and Smith 1994; Bitner 1970). In fact, a defining characteristic of the policing profession is that it requires potentially using “reasonable” and “necessary” force, including deadly force, in a variety of chaotic situations that may be both (un)desired and (un)expected by members of the public. (On the

conditional support for police use-of-force by race, gender and religion, see Halim and Stiles 2001).

Historically as well as contemporarily, police scholars have argued that there is a “social contract” between the police and the citizens they “protect and serve”, an idea dating back to Hobbes (1651), Locke (1689), Rousseau (1762), and more recently Pettit (1997) and Shapiro (2003). Collectively, this line of theorization purports that the police are responsible for safeguarding and protecting the general social order, which includes protecting the safety of the citizens and other police officers. In exchange for granting police officers the right, power, and responsibility to use force, citizens expect police to only exercise force when it is necessary and to only use the amount of force that is “reasonable”, “proportional” and “necessary” for that situation. The police are, therefore, entrusted with the legal and moral responsibility to maintain societal order and these imperatives are implemented through their legitimized use-of-force. So important is “that responsibility, that police use-of-force is believed to involve the execution of perhaps the essential function of the state and...because it affects the public’s attitudes and behaviors toward the police and government more generally” (Friedrich 1980: 82).

Research in the area of use-of-force by the police has emphasized two distinct situations viewed as undesirable: the “use of excessive force” by the police (which is when an officer uses more force than is necessary/justifiable/reasonable in a situation where *some* force was justifiable) and/or the “unnecessary use-of-force” (which is when force is used by an officer but *no* force was necessary/justifiable/reasonable in the context). These two types of situation are argued to damage the relationship of the police with the community that they are expected “to protect and serve” (Reiss 1968; Skolnick and Fyfe 1993; Worden 1996). When the police undermine these expectations and violate their contract with the citizenry over the use-of-force, police–public tensions rise (King and Waddington 2004; Weitzer 2000, 2002). When these violations amount to outright “police violence”, the core foundation of police legitimacy is undermined (Westley 1970).

Explaining Police Use-of-Force

In the present study we focus on three strands of research that purport to explain police use-of-force: situational, psychological and organizational. In terms of situational factors, one leading theory is based on the notion that police behavior is influenced by the social dynamics of police–citizen encounters. Black’s (1976) sociology of law, for instance, suggests that the “quantity of law” is associated with the attributes of the parties. Sherman (1980) developed this point further, by laying out the situational factors that form essential cues officers use to make an assessment about how an incident should be handled. Most empirical research that followed suggested that the suspect’s actions and resistance during a police–public encounter precipitate the force reaction of police officers (Alpert and Dunham 1997; Alpert et al. 2004; Crawford and Burns 2002; Terrill 2001). This is what some observers have termed the “demeanor hypothesis” (see review by Engel et al. 2000). Using self-report data, Garner et al. (2002) have shown that the link between characteristics of the police–public encounter and police use-of-force is significantly dependent on resisting arrest (see also Croft and Austin 1987).

Demeanor is just one aspect of the situational dynamics that elicit police use-of-force. Was the encounter part and parcel of routine police work? Was this a high-crime area or a known and dangerous offender with whom the police interacted? Was the officer alone and therefore more easily threatened? These and countless other situational factors and interactions-between-factors may ultimately lead to use-of-force (see Terrill and Mastrofski

2002; Wikström et al. 2012), but we should resist simply listing situational ‘risk factors’ for use-of-force as this does not aid explanation.

Psychological theories of use-of-force suggest that police officers with certain psychological traits are more likely to use excessive use-of-force or use force more broadly. For instance, the ability to “endure” some stressful situations was found to be associated with personality types, while some police officers tend to accept some forms of disrespect but not others (Engel et al. 2000). More broadly, Fabricatore et al. (1978) have shown that certain personality factors, as measured by the Sixteen Personality Factor (16PF) Questionnaire, revealed that “aggressive” and “tough-minded” characteristics were consistent predictors of use-of-force. Burke and Mikkelsen (2005) as well as Phillips and Sobol (2011) subsequently found that cynical officers held more favorable attitudes towards the use-of-force, while officers reporting higher levels of professional efficacy held more favorable attitudes towards the use of social skills to solve problems. We read this body of instructive literature as suggesting that some psychological variables are important in any study of police use-of-force.

Finally, police subculture in relation to use-of-force seems to play a role in accepting or allowing for “more force” to be applied in certain circumstances. Researchers who study police organizations have been claiming for years that use-of-force is a function of police officers’ attitudinal commitment to certain institutional or organizational cultures around their roles in society and, more broadly, their view of power (Terrill et al. 2003; Lester 1996). Certain institutional and subcultural codes make police agencies particularly resistant to cultural changes; indeed, as Skolnick (2008: 37) observed, the “unrecorded code [of silence] has been noted as a feature of policing across continents, wherever commissions of inquiry have investigated police corruption”. Feelings of loyalty sustain this code of silence and make it particularly difficult to investigate purported unnecessary, or excessive, use-of-force. Similarly, Baker (Baker 1985: 210–213) has shown that there is a hierarchy of wrongfulness for police misconduct, which sits well with how officers view excessive or unnecessary use-of-force: “dead wrong; wrong, but not bad; wrong but everybody does it”. So in order to understand police use-of-force, it seems clear that one must include officers’ individual predisposition to use force, the situational dynamics of police work and the broader context within which officers’ operate.

Measuring Use-of-Force

How much force is ‘too much’? One possible way to assess levels of police force was introduced in the “*use-of-force continuum*” (see review in Garner et al. 1995), and is utilized by many police agencies worldwide as a standardized tool for measuring responses to varied types of situations.¹ The continuum has several steps of “proportional dosage”, all the way up to lethal response and down to aggressive verbal response. Any response that is proportional based on this tool (including no physical force at all), can potentially be deemed as ‘necessary’ or ‘excessive’. However, there is room for interpretation. In fact, some would consider the mere presence of a police officer and the concomitant physical representation of authority as “some” force.

The inherent subjectivity of the use-of-force continuum signifies just how complex and inflammatory force can be: Just what exactly does a police officer have to do before they are deemed to have “used force”? How much of a grab or a hold, or even a “come-along

¹ Notably, many agencies are moving away from a use of force continuum, making the force determination even more ambiguous.

hold,” is needed before it becomes “use-of-force”? Even more difficult to define is at what point the use-of-force is either “unnecessary” or “excessive” (see Atherley and Hickman 2014; Alpert and Smith 1994). Adams (1996: 53) cites a famous disagreement between a team of field researchers led by Reiss (1968) and a panel of experts from the President’s Commission on Law Enforcement and Administration of Justice (1976), which aptly describes the measurement problem. The two teams could not agree on what constitutes “improper use-of-force” or “excessive or unnecessary use-of-force”, even though they were both scrutinizing the same incidents. Though dated, the problem they encountered still persists today. These perceptual differences are important not least because they indicate the illusiveness of defining (excessive) use-of-force, but they also tend to suggest just how real the measurement problem is: error has cut through both academic and professional arenas for more than five decades. In many ways this is because rules and laws relating to police use-of-force are simply “too vague to be regarded as a comprehensive set of operational guidelines” (Fyfe 1988: 180; see also Henderson and Wilson 2008).

Yet at the same time, there seems to be widespread agreement that both the rate and frequency of use-of-force are low (Alpert and Dunham 2004; Croft 1985). Croft and Austin (1987), Friedrich (1980), and Fyfe (1988), for example, have shown that the rate of use-of-force is about 5–10 % of police contacts with suspects.² Bayley and Garofalo (1989) have shown that it is when transferring arrestees that the majority of use-of-force incidents occur, but such activities represent a small proportion of police work. Similarly, Reiss (1968) has found that the likelihood of an excessive use-of-force incident is far greater when the police come into contact with suspects, however the police are dramatically more likely to contact non-criminal-suspects in their daily routines—suggesting that the rate of use-of-force is very low as well. Garner et al. (1996) have also found that even in cases of arrest the police used ‘some’ physical force in only one of every five incidents. According to their data, no force, or only low levels of force, was used in most cases.

When officers do use force they are nearly always required to file an official report of such incidents, but work by Adams (1996: 62) suggests that use-of-force occurs “twice as often” as suggested by official reports, particularly when the incident is one of “low-level force” that does not amount to anything the police officer feels he or she needs to ‘account’ for. Some ethnographic work in this area (e.g., Hunt 1985; Rojek et al. 2012) suggests that what is construed as a “reportable incident of force” and how much force is appropriate is often predicated by a police department’s organizational culture (as noted above). For example, placing one’s hand on another’s shoulder in an authoritative way or using aggressive language may be considered use-of-force in some instances and for some individuals, whereas for others they may not. Measuring “injury” or “assault” is also likely to be challenged in terms of definitional threshold, as it is open to interpretation when there are no clear signs of physical contact.

Whichever definition one would use for police use-of-force, the fact remains that *any* level of force can have detrimental effects on police–public relations. It may take just one or a handful of cases to damage the legitimacy of the police. The challenge is heightened if the three parties to the encounter—the officer, the suspect and the public—hold opposing views about the necessity, reasonableness and “amount” of force that the police apply. It is particularly the case when most police–public encounters, though they often occur in

² For a more systematic account of rates and prevalence, see Adams (1996:85–91), see also Hickman et al. (2009) who estimate, based on three dozen recent publications, that police use or threaten to use force in 1.7 % of all contacts and in 20.0 % of all arrests; but cf. Garner et al (2002) who found that prevalence can increase to more than 58 % of police–public encounters.

public (i.e. outside), are often away from the public eye. Therefore, any comprehensive and effective approach to reducing use-of-force must simultaneously address as many antecedents of police use-of-force as possible, including the suspect's demeanor, the officer's characteristics, and elements of police organizational culture that allow for such incidents to take place. Completely eradicating *illegitimate* use-of-force is unlikely as *some* force will always be required against *some* offenders in *some* circumstances. Likewise, any approach should still allow for legitimate use-of-force to be used in cases when it is required to protect the public, but for all other circumstances, a reductionist approach should aim to dramatically 'cool down' encounters.

Citizens Complaints Against the Police

One way to measure police (mis)conduct and how the public view police actions is through the analysis of complaints lodged against police officers—even though the rate of complaints is usually very low, compared to the number of interactions between the police and members of the public. Box and Russell (1975: 315) claim that while “complaints are a very minor aspect of the administration of justice, they nonetheless concern a very fundamental democratic right to have redress against ‘deviants’ in the police force”. These complaints refer to allegations made by citizens regarding the conduct of officers, in both voluntary (e.g., requests for assistance) and involuntary contacts (e.g., traffic violations). Subsequently, complaint procedures were designed by most police agencies to investigate these complaints of officer misconduct and punish guilty officers—although Walker (1997) suggests that punishment is often not the goal of most complainants. Still, the number of complaints can be used as a measure for how people the police encounter evaluate their performance, with a lower rate of complaints being a marker of greater public satisfaction, although there can still be the case of fear or cynicism about future reporting to the police.

Researchers have also used complaint databases to assess various types of legitimacy and justice-related outcomes. Braga (2008), for example, analyzed police complaint data in Boston as a proxy of community complaints against the police.³ Likewise, Greene (1999) showed that complaints can be used to measure the extent to which focused aggressive police enforcement strategies can result in police misconduct. Subsequently, as shown in Braga's (2008) review, grievances allow researchers to assess just how police legitimacy is influenced by whether community members perceive police–public encounters that they were treated fairly, with respect and dignity by police officers (Tyler 2001). Whether complaints are in fact justified and can be substantiated has always been a matter of contention. It is not uncommon for some offenders—especially experienced ones—to complain as a form of retaliation against the police (see Waters and Brown 2000; Prenzler et al. 2010). Yet it is difficult to defend the argument that *most* grievances are ‘bogus’ or erroneous. Furthermore, complaints are a source of public dissatisfaction: literature on the “complainants’ experience” suggests that a substantial proportion of complainants remain dissatisfied with key aspects of the complaints process (Waters and Brown 2000; Brown 1998; Maguire and Corbett 1991). The implications for police legitimacy are substantial, which makes reducing the rate of complaints a major goal of a police complaints and discipline system (Liederbach et al. 2008).

³ Though not without reservations about the utilization of complaint data as a single outcome measure, as complaints produce low substantiation rates—frequently 10 % or less (Liederbach et al. 2008).

Cameras as a Deterrence Stimulus to Manage Police Use-of-Force

Several lines of research across many disciplines suggest that most species alter their behavior once aware they are being observed (Chartrand and Bargh 1999; Dziewieczynski et al. 2006; Jones and Nisbett 1971). A rich body of evidence on perceived social-surveillance—self-awareness (Wicklund 1975) and socially-desirable-responding (Paulhus 1988)—proposes that people adhere to social norms and change their conduct *because* of that cognizance that someone else is watching (Munger and Shelby 1989). It seems that knowing with sufficient certainty that our behavior is being observed (or judged) affects various social cognitive processes: We experience public self-awareness (Gervais and Norenzayan 2012; Duval and Wicklund 1972), become more prone to socially-acceptable behavior (Sproull et al. 1996) and feel a heightened need to comply with rules (Milinski et al. 2002; Wedekind and Braithwaite 2002; Barclay 2004).

Getting caught breaking rules is often registered as behavior that can potentially lead to negative consequences such as sanctions, an outcome most individuals wish to avoid (Klepper and Nagin 2006; Nagin 2013). Whilst strict rationality in all decision-making is a rather strong assumption (Kahneman 2011), experimental evidence demonstrates that individuals work to avoid negative outcomes, and show that individuals react compliantly to even small cues indicating that somebody may be watching: Priming cues signaling how we ought to behave can range from reputational concerns (Bateson et al. 2006; Burnham and Johnson 2005; Haley and Fessler 2005; Fehr and Schneider 2010) and feelings of shame, to fear of punishment for noncompliance (Boyd et al. 2010). Paradigmatically, these cues are more broadly explored under deterrence theory.

The theoretical roots of deterrence theory are found in eighteenth century enlightenment philosophy (Beccaria 1995). An extensive body of recent rigorous research across several categories of human behavior has since shown that when certainty of apprehension for wrongdoing is “high” and when the severity of sanction is substantial, socially and morally-unacceptable acts are dramatically less likely to occur (Von Hirsch et al. 1999; Nagin 2013). Particularly around crime and disorder, when consequences of apprehension are perceived as harsh (imprisonment, fines, etc.), people simply do not want to get caught.

Theoretically, cameras are likely to deter people from noncompliance with rules of conduct. Tilley (1993: 3–5) rightly pointed out that the camera may “fire a number of mechanisms”, but that one prominent preventative mechanism of a cameras is that it “reduces... [noncompliance] by deterring potential offenders who will not wish to risk apprehension and conviction by the evidence captured on videotape or observed by an operator on a screen on which their behavior is shown” (see also Wikström et al. 2012 on the conditional relevance of controls). Much like sentient observers, mirrors, or even pictures of eyes, cameras not only make us continuously conscious of the fact that we are being watched, but also drive us to compliance. If we become aware that a video-camera is recording our actions, we may also become more conscious that unacceptable behaviors will be captured on film, and that detection is perceived as certain. “Getting-away” with rule breaking is thus far less conceivable if one is being-videotaped. Cameras can therefore be viewed as “credible threats” (Jervis et al. 1989: 3) within the wider context of deterrence messages, which in both self-awareness studies and deterrence studies has largely been missing.

This conceptual appeal of the impact of cameras on human behavior and the possible ramifications of their use on social-control-policies, have led to two primary lines of rigorous research on their effect. These studies collectively seek to understand how cameras can potentially deter rule-breaking behaviors, but each has focused on a different

subtype of recording devices: CCTVs and speed-cameras. Both types are meant to trigger the perceptual mechanism of self-awareness. First, CCTV (passive) cameras are placed in public-spaces in order to increase the perceived likelihood of being apprehended by offenders. The available meta-analysis of the evidence from 44 studies on the use of public-area CCTV has shown that the mechanism “works” in principle, insofar as cameras caused a modest (16 %) decrease in crime in experimental areas compared with control areas. However, this overall result was largely driven by the effectiveness of CCTV schemes in car parks, which caused a 51 % decrease in crime (Welsh and Farrington 2009) and not in more serious or violence crimes as these tend not to be deliberative. Second, speed cameras were found to reduce the incidence of speeding, road traffic crashes, injuries and deaths. A meta-analysis of 35 rigorous studies has found that, compared with controls, the relative reduction in the proportion of vehicles speeding was up to 65 % and up to 44 % for fatal and serious injury crashes (Wilson et al. 2010). However, how *body-worn-cameras* may be used to affect behavior and—specifically—that of police officers, is as yet unknown.

Hypotheses

As the literature review suggests, the most ubiquitous type of camera—mobile cameras—have been virtually ignored. What is their effect on self-awareness? Could they promote socially desirable behavior? Can they be used as a social-control mechanism? Although theoretically compelling, research on the link between self-awareness and socially desirable behavior in the context of cameras and police use-of-force is virtually non-existent. The only parallels we can draw are research on how highly-publicized and videotaped police encounters are perceived by the public and the effect that videotaped negative encounters have on police reforms. Such studies indicate that videotaped arrests, for instance, have a negative impact on citizens’ perceptions of force used by police during such arrest situations (Jefferis et al. 1997). Similarly, the Rodney King incident has led to significant reforms in the Los Angeles Police Department (Levenson 1993).

Notwithstanding the lack of direct research, we hypothesize that portable cameras would go beyond the limited impact that CCTV has had on expressive acts of public violence. We believe that the reason CCTV cameras were found to be weak modifiers of offenders’ behavior is because the level of certainty of being apprehended necessary for the self-awareness mechanism to trigger, leading to socially-desirable behavior, is not high enough in CCTV. If cameras are expected to influence behavior and to serve as cues that social norms or legal rules must be followed, then the cue “dosage” of awareness must be high. Mobile cameras, and specifically body-worn-cameras, are likely to have this effect. They are directly observable by the parties to an encounter whilst conveying a straight-forward, pragmatic message (“*you are being watched, videotaped and expected to follow the rules*”), and they can almost guarantee apprehension for socially undesirable behavior, if that behavior is recorded.

Perhaps equally important is that mobile cameras can work on both sides of the police–public interaction—the police officer and the suspect. Put differently, because the camera is actually worn by one of the actors in the exchange, it acts as a neutral third eye, impacting both players’ psyches. Cameras are thus likely to have a “self-awareness effect” that would both deter the police officer from reacting with excessive or unnecessary force, and cool down the “aggressive demeanor” of the suspect (or deter the police from interpreting demeanor in this way). In part, this is due to the “announcement effects” of

surveillance (see Surette 2005). Signage advertising the presence of camera surveillance is a factor that constrains behavior, which is pertinent in CCTV, gunshot detection technologies and the red light traffic camera literature (see Ratcliffe 2007). Assuming such situations are conducted deliberately (thoughtfully) at least some of the time, neither the police officer nor the suspect want to get caught engaging in a socially undesirable behavior that may have costly consequences.⁴ Because the encounter is captured on tape, it makes both parties more accountable, which is likely to reduce the likelihood of unwarranted levels of force—including “use of excessive force”, “unnecessary use-of-force”, and certainly “abusive use-of-force”—indeed, arguably, *any* kind of force.

Therefore, cameras sit well (though not without some reservations, explored later on) with all three major approaches to explaining use-of-force. First, cameras confront situational dynamics that precipitate suspects’ “negative actions” that could potentially lead to “force reaction” by police officers. Cameras also “force” the officer to endure stressful situations and arguably accept some forms of disrespect that without the cameras he or she would normally not. Lastly, even police subcultures of acceptable but illegitimate force responses are likely to be affected by the cameras, because misconduct cannot go undetected. In essence an external set of behavioral norms is being applied and enforced. Police–public encounters become more transparent and the curtain of silence that protects misconduct can more easily be unveiled, which makes misconduct less likely.

In summary, deterrence theory *presupposes* that effective deterrence requires self-consciousness of being observed. When the perceived probability-of-apprehension is high, unacceptable behavior is less likely to occur. But the actualization of this awareness has rarely been investigated (*cf.* Nagin 2013). Across various disciplines, research has yet to unravel the threshold of cognitive attentiveness under which socially-*undesirable* behavior will not take place. Body-worn-cameras offer a neat solution to this problem because the certainty of apprehension for such behavior is apparent when the cameras are on. It follows that we can directly measure deterrence when the certainty-of-getting-caught for non-compliance is greatly intensified, if not guaranteed. Cameras can sensitize individuals to being watched and can therefore elicit desirable behavior. Thus, cameras are hypothesized to reduce the number of incidents of use-of-force, as well as the number of citizens’ complaints lodged against officers.

Methods

Research Settings

We tested the effect of body-worn-cameras on incidents of use-of-force and citizens’ complaints against the police in a randomized-controlled field-trial in Rialto, California. Rialto Police is a mid-sized department that has jurisdiction over 28.5 square-miles and services a population of 100,000 residents. The department employs 115 sworn police officers and 42 non-sworn personnel who deal with approximately 3,000 property and 500 violent crimes per year. In 2009–2011, the department dealt with six to seven homicides per year, which is nearly 50 % higher than the US national rate per 100,000.

⁴ It is worth noting recent research that suggests that both internal and external controls are conditionally relevant and depend, in part, on the extent to which individuals deliberate (see Wikström et al. 2012).

The entire population of Rialto Police Department frontline officers participated in the experiment ($n = 54$), though we consider the shift to be the unit-of-analysis (see below). Frontline officers work 7 days per week, in six shifts of 12 h per-day, or a total 2,038 officer shift-hours per week. Each shift consists of approximately ten armed officers who patrol the streets of Rialto and interact with offenders, victims, witnesses and members of the public. When officers were assigned to treatment conditions (see below), they were instructed to “wear” HD cameras, which would then record all of these interactions, both visually and aurally, throughout the entire shift.

“Police Shift” as the Unit of Analysis

The unit of analysis we have utilized in this study is the officer’s shift. Our choice poses a great deal of reservation on a number of fronts, which deserve scrutiny. However, given the rule of *maximin*, our unit of interest poses the best possible option, given the circumstances.

Ideally, we would have randomly allocated half the officers to treatment (wearing the cameras) and half to control (not wearing the cameras). This approach would have made individual officers the unit of analysis. However, assigning individuals proved impossible for several practical as well as methodological reasons. First, Rialto officers patrol in revolving teams and whilst patrols are routinely ‘solo’, patrols also occur in pairs or teams. This means that throughout the lifecycle of the study we would have introduced uncontrollable noise that we believed we would not have been able to account for when analyzing the results. A related problem is that while the “combinations of officers” constantly changes, some officers have shifts they prefer to work. Some opt for late shifts while others prefer to work night shifts. We could have potentially randomly allocated individual officers within two statistical blocks of shift type, but there was no theory behind this procedure that would have made the blocking efficient (see Ariel and Farrington 2014). Moreover, these shift patterns change over the course of a year—particularly when new recruits join the force and more experienced officers are assigned to mentor them.

Methodologically, planning a treatment group of 27 experimental and 27 control officers would have resulted in an underpowered study. Statistical power was defined by Cohen (1988) as the probability of detecting an effect where one exists. Only if we were to estimate that the anticipated effect of cameras is large, around 0.8 in Cohen’s terms (Cohen 1988), with an alpha of .05 and power at 80 %, would $n = 54$ suffice. Therefore, we were reluctant to “design a study doomed to failure” (Clarke and Weisburd 1994: 179), solely due to an insufficient sample size.

Instead, the unit of interest in this experiment is the patrol shift. Using the shift sits well with police routine operations because tasking, deployment and resourcing revolve around the shift. Shifts are also easy to administer in an experimental context because there are a set number of shifts in any given week, and the number of patrolling officers within every shift is stable and predictable. In most circumstances, the shift entails a new “set” of encounters that are normally unrelated to other encounters in other shifts, so we assumed that each shift is independent of all other shifts. Of course, this assumption is plausible only in terms of the “interactees”, that is the members of the public that the police come in contact with, not in terms of the police officers,⁵ who may ‘carry the effect’ into the control

⁵ Similarly, officers regularly encounter ‘the usual suspects’ on patrol, meaning that there is some dependence between shifts in terms of “interactees”. Other research (e.g. Wikström et al. 2012) would suggest that even with variations in ‘actors’, there may be stable environmental cues that are conducive to specific actions, but the use of force by police still depends on the interaction between individuals and their settings (the situation).

shifts as well. We return to these issues in the discussion, though we believe that the shifts add an element of randomness to the encounters as well. For example, if officers had been randomly allocated into pairs and then the pairs randomly allocated into experimental and control conditions, one might have asked whether or not there was something in the pair dynamic that might have influenced the outcome. With the switching pairs into shifts—as police officers often do—this dynamic between pairs is randomized as well, thus somewhat mitigating the potential spillover effect.

Procedure, Random Allocation and Statistical Power

Starting on February 13th 2012 and running for 12 months, the experiment consisted of randomly assigning all police shifts to either experimental or control conditions. “Experimental-shifts” consisted of shifts in which officers were assigned to wear high definition (HD) audio-visual recording apparatus (see below). “Control-shifts” consisted of shifts in which officers were instructed not to wear the HD cameras. Integrity of assignment was measured by both measuring the number of “footage-hours” against the assigned shifts as well as dip-sampling dates of footage and monitoring that the officers wore the cameras as assigned.

The experimental procedure is illustrated in Table 1 below. As shown, there are 19 shifts during any given week and the 54 frontline-officers patrol in six teams: Two teams work day shifts, three shifts work nights, and two shifts are cover shifts. Shifts were randomly allocated to treatment and control conditions, using the Cambridge Randomizer (Ariel et al. 2012), on a weekly basis.⁶ In total, we assigned 988 shifts over 12 months into 489 treatment and 499 control conditions. Using *G*Power* (Faul et al. 2007), we estimated a priori that this sample size, with alpha at .05 and power at .80, would enable detection of a standardized-mean-difference of 0.2 (Cohen 1988).

One concern with experimental assignment is equivalence of treatment and control units. We were not able present an assessment of *baseline* balance, prior to random assignment, as the units of analysis—the shifts—were randomly assigned on a weekly basis over a course of 12 months. Still, in Table 2 we assessed the extent of balance between the number of shifts allocated and days of the week post-randomization, which were both statistically non-significant.

Apparatus

We collaborated with *Taser Inc.*© to provide all frontline officers with their HD body-worn-cameras. These body-mounted cameras captured video evidence from the officer’s perspective. Weighing 108 g and small enough to place on the officer’s shirt pocket, the camera systems were affixed to the collar and could always be seen by people who came into contact with the police—although in order to make sure people were aware of cameras, officers informed ‘interactees’ with that they were being videotaped. The units were water resistant, videoed in color, with a battery lasting for at least 12 h, making the apparatus ideal for the shift patterns of Rialto Police. The officers were instructed to have the cameras on during every encounter with members of the public, with the exception of incidents involving sexual assaults of minors and dealing with police informants. All data

⁶ We acknowledge that prior knowledge of shift assignment might give rise to expectation effects—so that we would not know whether changes in behavior arise directly because of the presence of a camera, or anticipation of wearing a camera.

Table 1 Example of Rialto Police Department patrol patterns random assignments

	Mon	Tue	Wed	Thu	Fri	Sat	Sun
Day shift	Exp't	Exp't	Control	Exp't	Exp't	Control	Exp't
Night shift	Exp't	Control	Control	Exp't	Control	Exp't	Exp't
Cover shift		Exp't	Control	Control	Control	Control	

Table 2 Trial measures by treatment allocation

Day of week	Treatment	Control	Total	Shifts	Treatment	Control	Total
Sunday	63	72	135	Day	189	177	366
Monday	78	64	142	Night	169	197	366
Tuesday	58	81	139	Cover	141	125	256
Wednesday	75	75	150				
Thursday	72	60	132				
Friday	72	76	148				
Saturday	71	71	142				
Total	489	499	988		489	499	98
	$\chi^2(6) = 6.8845;$ $p = .332$				$\chi^2(2) = 2.5752;$ $p = .276$		

from the cameras were collated using a web-based computerized video management system developed by *evidence.com*©. The software tracked and inventoried all *Taser Inc.*© video cameras evidence. The system automatically uploaded the officers’ videos at the end of their shifts and the research team was granted full access to these rich data.

Measures

Use-of-Force

Rialto Police Department used a system called *Blue Team* to track “recorded” use-of-force incidents. This standardized tracking system enabled us to count how many reported incidents had occurred during the experimental period in both experimental and control shifts, and to verify the details of the incidents, such as time, date, location, and whether the officer or the suspect initiated the incident. Rialto Police Department records instances of use-of-force, which encompasses physical force that is greater than basic control or “compliance holds”—including the use of (a) OC spray, (b) baton (c) Taser, (d) canine bite or (e) firearm”. These are the *types* of force responses that we considered as eligible use-of-force incidents. We operationalized the “use-of-force” dependent variable as whether or not force was used in a given shift.

We acknowledge that police software cannot “measure” the use-of-force, and that it is nearly always up to the individual officer to account for those incidents where force was used. Given the subjectivity of this variable and the measurement problems we reviewed

above, we therefore relied on these official written reports, but not without hesitation.⁷ Specifically in our study, our dependent variable only indicates whether or not force was used, but it does not say “how much” force was used. The “amount” of force used is also up to the officer to write down, as he or she recollects it. For instance, if three police officers use force on one suspect in one event, it would be registered as “one use-of-force.” Because the prevalence data are binary, even if there were one officer but two persons that the one officer used force on, it would still be counted as “one use-of-force” incident. Likewise, the variable does not say for how long the person was stunned with a Taser gun, or how many shots were fired against an aggressive suspect, or how many times he or she was beaten with a baton before lying down on the ground and being handcuffed.

Another limitation is that we did not know from the data which party instigated the use-of-force, which seems to be an important aspect of use-of-force (Engel et al. 2000). For this information, we relied on what the officers had written down (again, in *Blue Team*), but this is not necessarily an objective measure. We were also able to capture information on this question from the videotaped footage, but of course this only covers the experimental arm, not the control shifts. An alternative would have been to systematically observe *all* police–public encounters with research assistants (“ride-a-longs”), but this option went well beyond our research budget.

Citizen Complaints

In some ways, complaints compliment data on use-of-force (Pate et al. 1993). It is common practice for virtually all police agencies to have clear guidelines for citizens to file complaints against officers, though the rates of complaints vary dramatically between different forces. Nevertheless, analysis of departmental and citizens’ complaints against police officers was shown to provide somewhat reliable estimates of use-of-force (McCluskey and Terrill 2005: 513). If this is the case, then we ought to use citizens’ complaints as a proxy for incidents of use-of-force—though they can also be used as a measure of police behavior more generally. True, citizens can be very poor judges of what constitutes “force” and particularly so when it comes to excessive force, but these complaints do provide a glimpse into what the public perceives as “force”.

Rialto Police Department tracked complaints against officers with software called *IA-Pro*. Formally, the system records citizens’ complaints where the reporting party has filed a grievance for alleged misconduct or what they perceive as poor performance. We used the data captured on this system to count the number of complaints (of any kind) filed against Rialto police officers.

Contacts with the Public

We measured the total number of contacts between the police and the public in each arm. Any non-casual interaction with the public was recorded on the Department’s computer-aided dispatch system (CAD). These included attending calls-for-service, formal advices given to individuals, collecting evidence and statements during any type of investigation

⁷ As noted by Adams (1996:65), “although there are many attractive reasons for using official records in research on [use of] force, the strategy is not without limitations...some concerns are based on practical issues of how the data are collected...the quality of data (e.g., accuracy, dependability, and coverage)...can influence counts dramatically...more significant problem is that of missing data or information that should be available in record-keeping systems but is not.”

and the like. With this variable we were able to compute the rate of incidents per 1,000 police–public contacts.

Baseline Data

Table 3 below lists the outcome variables at baseline, up to 3 years prior to the experiment. As shown, use-of-force is a relatively rare event, with approximately 65 incidents per year, or 1.46 incidents for every 1,000 police–public contacts. Similarly, complaints lodged by citizens against police-officers are very infrequent, with 24 grievances filed against officers in the year prior to the experiment (about 0.7 for every 1,000 contacts). Police–public contacts data show that, on average, police officers interacted with members of the public about 3,600 times-per-month, or approximately 42 recorded contacts per shift.

Statistical Procedure

We employed three analytical approaches to analyze the outcomes. First, we used a Poisson model to assess differences between experimental and control groups. Group assignment (“experimental shifts” [0]/“control shifts” [1]) was set as an explanatory variable, and the dependent variable was whether or not use-of-force occurred.⁸ Second, for each outcome variable, we assessed the standardized mean difference for the rates of use-of-force incidents per shift. Third, we observed the number of use-of-force incidents and citizens’ complaints that were recorded prior to the experiment and compared them to the figures during the year of the experiment, in order to enrich the analysis. This quasi-experimental approach was used in order to indicate how the *entire* police organization responded to wearing the cameras; assessing the city-wide impact of the trial by comparing the data before and after the implementation of body-worn-cameras.

Results

Use-of-Force

During the experimental period a total of 25 incidents of police use-of-force were recorded by Rialto Police Department, of which 17 occurred during control shifts and 8 during experimental shifts. These represent a mean rate of 0.78 and 0.33 incidents per 1,000 police–public contacts, respectively. Results from the Poisson model suggest a treatment effect on use-of-force {IRR = 2.08; [95 % CI .91–4.78]}⁹ meaning that the incident rate in the control condition is roughly twice that of the control condition (Table 4). Similarly, when we measure the magnitude of the difference in terms of rates per 1,000 encounters (dividing the number of incidents by the total number of contacts in each arm of the experiment), the effect size was statistically significant {SMD = 0.140; [95 % CI .015–.265]}.

⁸ Poisson is appropriate here because each event has a small probability in each shift, and there are many shifts.

⁹ Note that we have reverse coded the treatment conditions so that 1 = control and 0 = treatment, meaning that ratios reflect the incident rate of the outcome occurring for the control condition versus the incident rate of the outcome occurring in the treatment condition.

Table 3 Use-of-force, citizens complaints and police–public raw figures—baseline and experimental raw data

	2009–2010	2010–2011	2011–2012	2012–2013 ^a
Use-of-force	70	65	67	25 ^b
Complaints	36	51	24	3 ^c
Police–public contacts	– ^d	– ^d	45,104	43,289

^a Experimental period

^b 8 during experimental shifts, 17 during control shifts (n = 499)

^c 2 during experimental shifts, 1 during control shifts (n = 489)

^d Data automatically collected starting in 2011

Table 4 Generalized linear model with Poisson distribution and log link for use-of-force (n = 988)

	Parameter estimates			
	IRR	Robust SE	95 % CI	
			Lower	Upper
Phase	2.082 [†]	.883	0.907	2.082
(Intercept)	0.016	.006	0.008	0.016

[†] $p \leq .10$; * $p \leq .05$; ** $p \leq .01$; *** $p \leq .001$

We have also detected large before-after reductions in prevalence of incidents of use-of-force force (see Table 3; Fig. 1): 64.3 % reduction from 2009, 61.5 % from 2010, and 58.3 % from 2011, with a significant before-after effect based on the interrupted time series model (Table 5) (the ARIMA model parameter for the phase of intervention is -3.50 (SE = 0.689); $p \leq .001$).

Citizens' Complaints

In terms of complaints against officers, the between-groups treatment effect was not statistically significant,¹⁰ largely because of the overall low occurrence in *both* treatment and control conditions. We observed only three complaints in total—one complaint lodged for an incident that occurred during control conditions and two for incidents that occurred during treatment conditions (all three occurred in August and September). We did, however, observe a significant, overall reduction of citizens' complaints, from 24 complaints filed in the 12 months before the trial to three during the trial period. The raw year-to-year reductions (Fig. 2) suggest 92 % fewer cases compared to 2009, 94 % compared to 2010, and 88 % compared to 2011—or 0.7 complaints per 1,000 contacts to 0.07 per 1,000 contacts. These reductions are mirrored by the interrupted time series model (Table 6), which resulted in a significant estimated parameter for the experimental phase of $(-1.750$; SE = .665; $p < 0.01$).

¹⁰ Results not shown in tabular form, but given here: {B = -0.713 ; [95 % CI -3.112 to 1.685]; $p .560$ }.

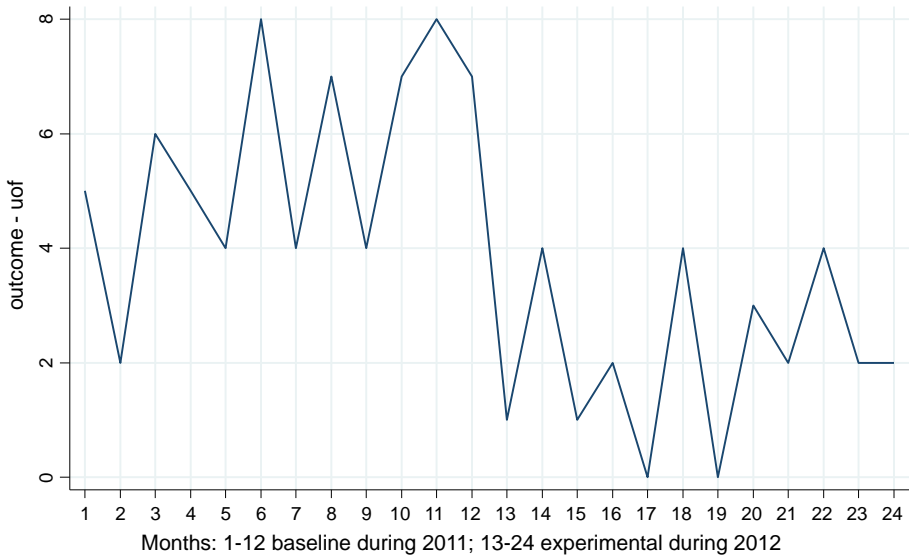


Fig. 1 Time series *line plot* for number of use-of-force incidents over 24 months (12 months pre-intervention; 12 months during intervention)

Table 5 Time series ARIMA model for use-of-force before/during experimental period ($t = 24$)

	Parameter estimates			
	<i>B</i>	OPG SE	95 % CI	
			Lower	Upper
Phase	−3.5***	.689	−4.850	−2.150
(Intercept)	5.583	.427	4.747	6.420

* $p \leq .05$; ** $p \leq .01$; *** $p \leq .001$

Discussion

In this experiment we tested, for the first time, the effect of mobile cameras on police use-of-force and citizens’ complaints. The outcomes suggest a reduction in the total number of incidents of use-of-force in experimental conditions compared to control conditions. We have also observed nearly ten times more citizens’ complaints in the 12-months prior to the experiment, compared to any of the 3 years prior to the experiment. In practical terms, the study provides law enforcement agencies with a methodology that may substantially reduce force responses, as well as reducing the incidence of complaints. This behavioral modification may be of real practical significance to the police, especially given the cost-to-benefit ratios (which we will present below). We therefore envisage that body-worn-cameras may noticeably affect police–public encounters. We acknowledge that this may pose ethical concerns, which we discuss below, but we believe that, on average, the benefits of using body-worn-cameras may outweigh the costs. (Issues that warrant further attention are whether using cameras reduces the likelihood of victims actually reporting crimes, and broader questions about victims’ rights and procedural practice.)

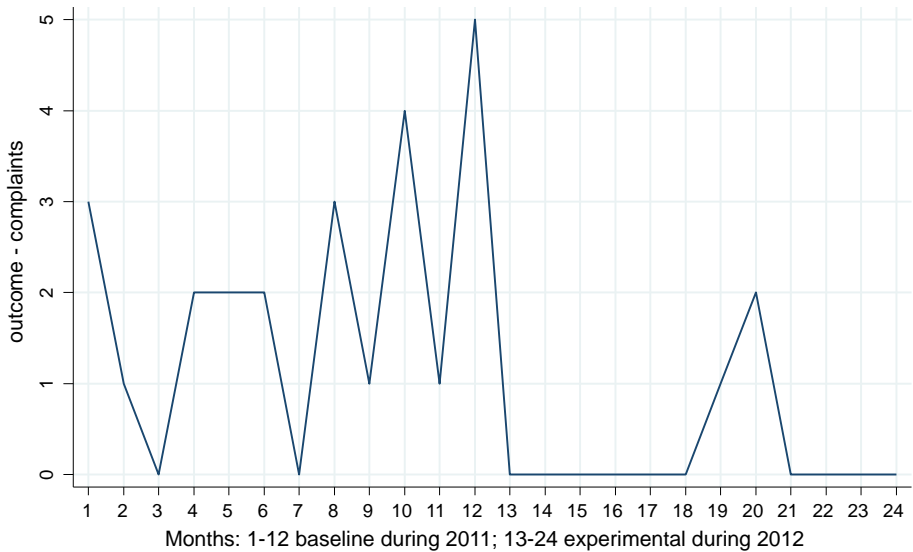


Fig. 2 Time series *line plot* for number of complaints over 24 months (12 months pre-intervention; 12 months during intervention)

Table 6 Time series ARIMA Model for complaints before/during experimental period ($t = 24$)

	Parameter estimates			
	<i>B</i>	OPG SE	95 % CI	
			Lower	Upper
Phase	-1.75**	.665	-3.053	-.447
(Intercept)	2	.265	1.481	2.519

* $p \leq .05$; ** $p \leq .01$; *** $p \leq .001$

The findings have implications, more broadly, for deterrence theory. Generally speaking, the proposition that videotaped police–public interactions “experience” fewer incidents of use-of-force seems to be supported by the evidence. We interpret this to reflect a fundamental tendency of humans to exhibit more desirable behaviors when they know they are under surveillance and subject to rules, but we acknowledge that even this will vary depending on the situation (see Wikström et al. 2012).

Our study, as far as we can tell, is the first to use the shift as the unit of experimental analysis. Using police shifts has its disadvantages, but on the other hand the benefits should not be overlooked. There are clearly more shifts than police officers, which increases the statistical power of any test. Here, instead of 54 officers split into treatment and control conditions, we have had 988 shifts, which we estimated using power analyses to be sufficient in order to detect even relatively small effects (Cohen 1988; Faul et al. 2007). To be sure, many studies in criminology are believed to be underpowered, thus potentially concluding that treatments do not work when in fact they do work (Weisburd et al. 2001; Ariel 2009). Therefore, using shifts allows researchers to increase power without prolonging the study period or increasing the number of cases.

What deserves consideration, however, is the potential spillover effect that cameras have had on officers' behavior during *control shifts*. The reduction in use-of-force, coupled with a reduction in citizens' complaints, was registered across both study arms, which suggests that the effect of being observed during experimental shifts diffused to control shifts. These findings present conceptual as well as methodological challenges: How should the spillover be handled, and what is the right way to interpret these patterns? Answering these questions may also provide a better understanding of what future research avenues in this area might look like.

Just Another Hawthorne Effect?

Somewhat crudely, we could argue that it is difficult to attribute the reduction in both use-of-force and complaints to anything *but* the effect of the cameras. We would argue that cameras have modified the perception of individuals about what socially acceptable behavior *should* be in police–public interactions and, in turn, they have changed their responses even when officers did not wear the cameras. Critically, however, we must accept the possibility that the effect may have followed from either Hawthorne/John Henry (Saretsky 1972) effects or reporting artifacts. At least for reporting bias, it seems that we do not have a way to address this problem under the current research settings. One method would be to contact *every* individual that has interacted with the police during the study period, and survey his or her views on the encounter. But this approach only minimally addresses the (non-) reporting bias, as we have no objective way to ascertain that the recorded police–public encounters represent the entire population of encounters.

In terms of the Hawthorne and John Henry effects, we acknowledge that interference risks potentially characterize our study. As laid out by Sampson (2010: 492), Rubin (1990: 282), Cox (1958) Holland (1986) and others, the “stable-unit-treatment-value assumption” (SUTVA) may be a real threat to experiments and specifically for the reach of our conclusions. SUTVA refers to situations where dependency exists between the units in an experiment. In other words, units (and their outcomes) are not independent of one another. Violations of SUTVA create difficulties in making causal claims about the relationship between the manipulation and the dependent variable. If ignored, SUTVA violations have the possibility of adding bias to estimated treatment effects, and the bias can go in either a positive or negative direction (Alvarez and Sinclair 2009: 3). Here, the same participants, all of whom were participating in the same program, experienced both treatment and control conditions. This means that we cannot rule out interference and there may be a spillover of treatment effect to control and within treatment units. In fact, a large body of knowledge in criminology is clearly suggestive of social processes that could explain the reduction in use-of-force beyond the manipulation—peer pressure, social desirability, deterrence, leadership, perceptions of danger and crowd influence are only some of the micro-social elements that could lead officers to control or not control themselves.

On the one hand, treatment contamination such as in the case of SUTVA ‘simply’ makes it more difficult to detect a significant effect. If control cases are also treated (or, vice versa, when treatment cases are not treated), then in practice the crossover merely would require the treatment to exert a stronger effect in order to be observed, above and beyond the noise created by the violation. Therefore, if a significant outcome is detected even with SUTVA violations, then essentially it can be argued that the treatment is nevertheless still effective. The trouble is that there is currently no statistical fix for SUTVA violations (Berk 2005: 7; Sampson 2010) and we cannot “solve” the SUTVA problem with statistical modeling (Berk 2005). However, we can try to specify how it actually occurs and supplement the main analyses with additional observations that can, to some extent, address

the SUTVA violations in the context of the cameras treatment effect. Let us first go back to our research question: what is the effect of cameras on use-of-force? Does being observed (with a camera) elicit socially acceptable responses? Now let us return to the Hawthorne bias: changing participants' behavior because they are being observed, despite any treatment effect (work environment, etc.). When considered this way, it looks like the hypothesis and the observer bias are very similar. If the causal mechanism behind the body-worn-cameras *is* the observer effect, then more than anything else, we manipulated a "Hawthorne treatment" under controlled settings, thus concurring with previous research on the effect of focused attention on outcomes. Similarly, the John Henry effect may actually be construed as a positive outcome under these settings, as well. "Members" of the control group were fully cognizant of their status as members and were able to compare their performance with that of the treatment group, and it seems that they attempted to overcome the "disadvantage" of being in the control group by "behaving" themselves while *not* on film. Therefore, if our interpretation is reasonable, the study provides direct evidence on how repeated and systematic exposure to a stimulus that elicits deterrence can change behavior, even when the stimulus has vanished. Put differently, this is learning: it seems that people learn, by their exposure to observation, of what normative or appropriate reactions are, *even when they are not under surveillance anymore*. That both John Henry and Hawthorne effects may be in play simultaneously and we still find differences suggests that the effect of body-worn cameras may be much stronger under 'cleaner' randomisation designs.

Still, SUTVA is not just about observer's bias and there may be other mechanisms in place that cause interference, some of which we have listed above. Because the unit of analysis was the shift, we can think of a number of officer-based variables, for example, that might explain the change in behavior. Some officers have "thick skins" and would not respond with "too much force" to a resisting suspect. Others are more sensitive and would subdue such a suspect with "more force". The "amount of response" to such demeanor seems largely dependent on the cognitive and emotional capacities, as well as the training and experience of the officer (see Paoline and Terrill 2011). Therefore, if the same officer is in the habit of responding with a particular "response dosage" to certain police–public interactions, then it is likely that he or she would spill-over such reaction between the study units—that is, from one encounter to the next.¹¹ We invite future research to look more closely into this possibility.

Estimating the Costs and Benefits of Body-Worn-Cameras

Combining costs data from the experiment with figures from Finn (2001), the Minneapolis Civilian Review Authority (1997), Walker et al. (2002) and Metropolitan Police court settlements (BBC, 11th May 2012) we have crudely estimated the dollar benefit-cost ratio to be approximately 4:1 (details available as a supplement to this article).¹² That said, there are wider social and ethical costs to using these cameras. If body-worn-cameras become

¹¹ As Aristotle observed: "*We are what we repeatedly do*".

¹² One benefit which we have overlooked but should be closely observed in the future is the "training potential" of body-worn-videos. Rialto officers downloaded their own footage in order to view their interactions on a routine basis. Much like surgery, football or acting, the footage recorded by police body-worn-videos can be used to "coach" police officers, about how they conduct themselves. We envisage future police training to incorporate one-on-one sessions in which junior officers train with their own footage, about police conduct and potentially improve their demeanor when dealing with suspects, victims and witnesses. The benefits associated with such an impactful evidence-based approach to training through digital coaching, for procedural justice, distributive justice and police conduct more generally, should be an area of future investigations.

common practice, it means more electronic surveillance, more digitized tagging of individuals, and more challenges to privacy rights. This was certainly the argument against CCTV, as there are clear ethical considerations to having a data storage policy that routinely collects data on citizens in the public domain (Brey 2004; Spinello and Tavani 2004; Duff and Marshall 2000). CCTV surveillance captures the routine behavior of citizens whose consent is not obtained prior to their being observed and is now so much a fabric of life as to be ‘banal’ (Goold et al. 2013). Whilst the moral argument against CCTV is not of the same scope and magnitude when it comes to police body-worn-cameras, it is an open question as to whether police–public encounters should be routinely filmed and what threats to rights this practice might represent.¹³ Victims and witnesses might expect that their communication with officers of the law is well-documented (beyond contemporaneous note-taking by police). Either way, one area that body-worn-cameras might be a tool to potentially improve the quality of interaction is when police encounter members of minority groups, particularly if officers are more mindful of the need procedural fairness and to be respectful (Tyler 2001). If the “legitimacy benefits” associated with wearing cameras—economically, socially, and culturally—exceed the “costs” of the cameras, we sense that body-worn-videos will become increasingly popular amongst officers.

On the other hand, future research should be mindful of at least two “prices” that are presently unclear. First, what are the direct and indirect costs of storing, sharing and managing digital evidence? The velocity and volume of data accumulating in police departments—even if only a fraction of the number of recorded events turn into “downloadable” recordings for evidentiary purposes—will exponentially grow over time. User licenses, storage space, “security costs”, maintenance and system upgrades can potentially translate into billions of dollars worldwide (see Grossman 2009; Nambiar et al. 2014).

Second, the cost of *not* having video footage may have direct implications on decisions to prosecute or criminal proceedings more generally. Historically, evidence given by police officers in court against defendants—particularly testimonies of response officers—carried tremendous weight. The officer was able to characterize the suspect’s demeanor, explain what was in the scene of crime and provide overall crucial details pertaining to the case. To a large degree, the assumption of credibility is generally made by the courts, unless challenged by the defendant. Yet it is very likely that defense attorneys, judges, the jury and the public as a whole would steadfastly assign more weight to digital evidence, arguably even more than officers’ testimonies. This may be viewed as a “good” thing, yet it has indirect but important costs on policing: would district attorneys in domestic violence cases be reluctant to prosecute when there is no evidence from body-worn-videos to corroborate the testimony of the officer (or even the victim)? Would cases be dismissed if arrests or stop-and-frisk were conducted without a body-worn-video, given the possible violation of human rights (i.e., a similar approach as the Miranda warning)? Will officers’ credibility in court be assumed to be violated *ex ante* when police–public encounters are not recorded? These are substantial effects that future research should be mindful to explore, that can potentially offset the benefits of body-worn-videos.

Research Limitations

Thus far we have ignored how cameras affected the citizens the police came into contact with, meaning that our analyses do not directly address the demeanor hypothesis. However,

¹³ If we assume that all members of public encountered by the police are ‘criminals’ then it might well be justifiable, but this is obviously untrue.

we have found that, at least as officially recorded by the police (bearing in mind caveats associated with this data source), it is nearly always the case that officers *responded* with force and did not initiate the force response. We have also found that alcohol is a factor in more than half of all cases of use-of-force, which merits further attention in future research (see supplementary material). More broadly, we do not know on which party in an encounter the cameras have had an effect on, or how the two effects—on officers and on suspects—interact. This means that the estimated causal effect on officers' use-of-force conflates these mechanisms: Do cameras affect the conduct of suspects, which then moderates the need of officers to react with force to such behavior? Or do cameras affect the conduct of officers, who might have otherwise acted with unnecessary or excessive force *regardless* of the suspects' demeanor? Does it have a double effect?

Nevertheless, while it is difficult to isolate the mechanism in play, we can at least suggest that cameras have affected the overall result of police–citizen encounters. Whether police use-of-force—justified or unwarranted, excessive or proportional, reasonable or unreasonable—is a function of suspects' demeanor, or whether it is caused by unprofessional or inexperienced officers, the *circumstances* in which use-of-force occurred have changed, and resulted in what can be interpreted as a socially desirable response: force-free police–public encounters. “Human beings are norm users,” MacCormick (2007: 20) reminds us, “whose interactions with each other depend on mutually recognizable patterns that can be articulated in terms of right versus wrong conduct, or of what one ought to do in certain settings.” Simply put, the cameras communicated the deterrence message, through self-awareness of being observed, that the acceptable behavioral response in a given situation was not one of force. In short, whether they affected officers, citizens, or both, body-worn-cameras resulted in less force.

On the other hand, our unique research settings cannot be overlooked. Rialto, after all, is a small force with a dedicated Chief who has directly managed the experiment. This model may work well in a relatively limited force and when the “pracademic” (practitioner-academic) involved in the study is the director/chief of police, but the effect of body-worn videos may not work in the same way when the pracademic is less influential in the organization. More research is therefore needed to replicate our design in larger forces and different organizational frameworks, when a middle-level manager is directly involved in the daily affairs of the experiment (see Strang 2012)—which is a more likely context in larger police departments involved in randomized controlled trials or field research more broadly.

Finally, there is something to be said about treatment fidelity. For the purposes of this experiment *every* crime type and virtually all encounters between the police and the public were assigned to recording as well as to a verbal notification by officers that the encounter is videotaped. Yet we do not know how well the requirements were implemented, and it is difficult to estimate the fidelity of the intervention. There are three areas however that future research should focus on in order to assess the implementation of treatments with finer integrity: first, by measuring the number of video uploads/downloads during *control* condition, researchers would be able to ascertain whether violations of control conditions were made, and in which cases. As far as we can tell, contemporary back-office digital storage systems (cloud-based or stand-alone) can enumerate all recorded events by time-stamps, and so violations of control conditions can be accurately and systematically measured—hopefully *during* the experimental period in order to confront these violations and deal with them as they occur, not *ex post facto* in the analysis stage. However, estimating the violations of treatment assignment—that is, when cameras are assigned but are *not used*—is trickier and proxies should be used instead. Ride-a-longs, surprise visits and dip sample interviews with victims or suspects, asking them whether they recall the

officers wearing body-worn-videos or not, are equally useful, but they would provide estimates rather than a comprehensive approach to tracking random assignment fidelity (see Sherman 2013). Nevertheless, measuring the implementation is undoubtedly crucial in order to understand the effect of wearing body-cameras—especially in studies that would provide officers the power of discretion about when to use the devices.¹⁴

Conclusion

Regardless of the reason for the contact—initiated by the member of the public, or involuntary and initiated by the police—when members of the public sense they have had a “bad experience” during the encounter, they are nearly 15 times more likely to evaluate the police negatively—and this negative attitude translates into complaints (Skogan 2006; see also Rosenbaum et al. 2005; Hinds 2009). Similarly, the use-of-force by police, particularly if excessive, has a lasting effect on public perceptions of police and police-community relations. Finding ways to ameliorate these two negative outcomes was the driver for the present study. We have reported results from the first trial in the world to assess the effects of police body-worn-cameras on use-of-force and complaints against the police. To handle the small number of officers in Rialto Police, we took the innovative approach of randomizing police shifts to treatment and control conditions. Based on evidence collected in this randomized controlled field trial, our findings suggest that police body-worn-cameras reduce the prevalence of use-of-force by the police as well as the incidence of citizens’ complaints against the police. However, this is but one experiment and before this policy is considered more widely, police forces, governments and researchers should invest further time and effort in replicating these findings.

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¹⁴ We argue that experiments that allow treatment-providers full discretion about when to give or not to deliver the treatment(s)—and with what dosage levels—are generally poor designs. If the study results in non-significant outcomes, then it would be very difficult to interpret the findings—are they due to fidelity failure or that the treatment ‘actually’ do not work in the hypothesized direction? Moreover, even if the study results in significant results, the magnitude of the treatment compared to control conditions would be either inflated or deflated and therefore misleading, depending on how the treatment-providers decided to contaminate the treatment delivery. These scenarios may have adverse impacts for any attempt of conducting reliable cost-benefit analyses, or at the very least force researchers to dabble in conversions, transformations and statistical corrections which may or may not work—but anyway take away from the ‘cleanliness’ of controlled experimental design. We are cognizant that in real-life, non-experimental settings police officers may end up owning the power of discretion when to use or not use body-worn-videos, yet at this stage of our knowledge on the potential effect of these novel devices, experimentalists should encourage the use of strict protocols with as little discretionary powers as possible, before making policy recommendations.

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33. Minn. Stat. § 626A.02

626A.02 INTERCEPTION AND DISCLOSURE OF WIRE, ELECTRONIC, OR ORAL COMMUNICATIONS PROHIBITED.

Subdivision 1. **Offenses.** Except as otherwise specifically provided in this chapter any person who:

(1) intentionally intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept, any wire, electronic, or oral communication;

(2) intentionally uses, endeavors to use, or procures any other person to use or endeavor to use any electronic, mechanical, or other device to intercept any oral communication when:

(i) such device is affixed to, or otherwise transmits a signal through, a wire, cable, or other like connection used in wire communication; or

(ii) such device transmits communications by radio, or interferes with the transmission of such communication;

(3) intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, electronic, or oral communication, knowing or having reason to know that the information was obtained through the interception of a wire, electronic, or oral communication in violation of this subdivision; or

(4) intentionally uses, or endeavors to use, the contents of any wire, electronic, or oral communication, knowing or having reason to know that the information was obtained through the interception of a wire, electronic, or oral communication in violation of this subdivision; shall be punished as provided in subdivision 4, or shall be subject to suit as provided in subdivision 5.

Subd. 2. **Exemptions.** (a) It is not unlawful under this chapter for an operator of a switchboard, or an officer, employee, or agent of a provider of wire or electronic communication service, whose facilities are used in the transmission of a wire communication, to intercept, disclose, or use that communication in the normal course of employment while engaged in any activity which is a necessary incident to the rendition of service or to the protection of the rights or property of the provider of that service, except that a provider of wire communication service to the public shall not utilize service observing or random monitoring except for mechanical or service quality control checks.

(b) It is not unlawful under this chapter for an officer, employee, or agent of the Federal Communications Commission, in the normal course of employment and in discharge of the monitoring responsibilities exercised by the commission in the enforcement of chapter 5 of title 47 of the United States Code, to intercept a wire or electronic communication, or oral communication transmitted by radio, or to disclose or use the information thereby obtained.

(c) It is not unlawful under this chapter for a person acting under color of law to intercept a wire, electronic, or oral communication, where such person is a party to the communication or one of the parties to the communication has given prior consent to such interception.

(d) It is not unlawful under this chapter for a person not acting under color of law to intercept a wire, electronic, or oral communication where such person is a party to the communication or where one of the parties to the communication has given prior consent to such interception unless such communication is intercepted for the purpose of committing any criminal or tortious act in violation of the constitution or laws of the United States or of any state.

(e) It is not a violation of this chapter for a person:

(1) to intercept or access an electronic communication made through an electronic communication system that is configured so that the electronic communication is readily accessible to the general public;

(2) to intercept any radio communication that is transmitted:

(i) by a station for the use of the general public, or that relates to ships, aircraft, vehicles, or persons in distress;

(ii) by a governmental, law enforcement, civil defense, private land mobile, or public safety communications system, including police and fire, readily accessible to the general public;

(iii) by a station operating on an authorized frequency within the bands allocated to the amateur, citizens band, or general mobile radio services; or

(iv) by a marine or aeronautical communications system;

(3) to engage in any conduct which:

(i) is prohibited by section 553 of title 47 of the United States Code; or

(ii) is excepted from the application of section 605(a) of title 47 of the United States Code by section 605(b) of that title;

(4) to intercept a wire or electronic communication the transmission of which is causing harmful interference to any lawfully operating station or consumer electronic equipment, to the extent necessary to identify the source of such interference; or

(5) for other users of the same frequency to intercept any radio communication made through a system that utilizes frequencies monitored by individuals engaged in the provision or the use of such system, if the communication is not scrambled or encrypted.

(f) It is not unlawful under this chapter:

(1) to use a pen register or a trap and trace device as those terms are defined by section 626A.39; or

(2) for a provider of electronic communication service to record the fact that a wire or electronic communication was initiated or completed in order to protect the provider, another provider furnishing service toward the completion of the wire or electronic communication, or a user of that service, from fraudulent, unlawful, or abusive use of the service.

(g) It is not unlawful under this chapter for a person not acting under color of law to intercept the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit if the initial interception of the communication was obtained inadvertently.

Subd. 3. **Disclosing communications.** (a) Except as provided in paragraph (b), a person or entity providing an electronic communications service to the public must not intentionally divulge the contents of any communication other than one to the person or entity, or an agent of the person or entity, while in transmission on that service to a person or entity other than an addressee or intended recipient of the communication or an agent of the addressee or intended recipient.

(b) A person or entity providing electronic communication service to the public may divulge the contents of a communication:

- (1) as otherwise authorized in subdivision 2, paragraph (a), and section 626A.09;
- (2) with the lawful consent of the originator or any addressee or intended recipient of the communication;
- (3) to a person employed or authorized, or whose facilities are used, to forward the communication to its destination; or
- (4) that were inadvertently obtained by the service provider in the normal course of business if there is reason to believe that the communication pertains to the commission of a crime, if divulgence is made to a law enforcement agency.

Subd. 4. **Penalties.** (a) Except as provided in paragraph (b) or in subdivision 5, whoever violates subdivision 1 shall be fined not more than \$20,000 or imprisoned not more than five years, or both.

(b) If the offense is a first offense under paragraph (a) and is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain, and the wire or electronic communication with respect to which the offense under paragraph (a) is a radio communication that is not scrambled or encrypted, then:

(1) if the communication is not the radio portion of a cellular telephone communication, a public land mobile radio service communication, a cordless telephone communication transmitted between the cordless telephone handset and the base unit, or a paging service communication, and the conduct is not that described in subdivision 5, the offender shall be fined not more than \$3,000 or imprisoned not more than one year, or both; and

(2) if the communication is the radio portion of a cellular telephone communication, a public land mobile radio service communication, a cordless telephone communication transmitted between the cordless telephone handset and the base unit, or a paging service communication, the offender shall be fined not more than \$500.

(c) Conduct otherwise an offense under this subdivision that consists of or relates to the interception of a satellite transmission that is not encrypted or scrambled and that is transmitted:

(1) to a broadcasting station for purposes of retransmission to the general public; or

(2) as an audio subcarrier intended for redistribution to facilities open to the public, but not including data transmissions or telephone calls,

is not an offense under this subdivision unless the conduct is for the purposes of direct or indirect commercial advantage or private financial gain.

Subd. 5. **Civil action.** (a)(1) If the communication is:

(i) a private satellite video communication that is not scrambled or encrypted and the conduct in violation of this chapter is the private viewing of that communication and is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain; or

(ii) a radio communication that is transmitted on frequencies allocated under subpart D of part 74 of title 47 of the Code of Federal Regulations and that is not scrambled or encrypted and the conduct in violation of this chapter is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage

or private commercial gain, then the person who engages in such conduct is subject to suit by the county or city attorney in whose jurisdiction the violation occurs.

(2) In an action under this subdivision:

(i) if the violation of this chapter is a first offense for the person under subdivision 4, paragraph (a), and the person has not been found liable in a civil action under section 626A.13, the city or county attorney is entitled to seek appropriate injunctive relief; and

(ii) if the violation of this chapter is a second or subsequent offense under subdivision 4, paragraph (a), or the person has been found liable in a prior civil action under section 626A.13, the person is subject to a mandatory \$500 civil fine.

(b) The court may use any means within its authority to enforce an injunction issued under paragraph (a), clause (2)(i), and shall impose a civil fine of not less than \$500 for each violation of such an injunction.

History: 1969 c 953 s 2; 1984 c 628 art 3 s 11; 1986 c 444; 1988 c 577 s 14-18,62; 1989 c 336 art 1 s 1; art 2 s 8; 1990 c 455 s 3,4; 1991 c 199 art 2 s 1

34. NPR: Can Cop-Worn Cameras Restore Faith in New Orleans Police?

policy

Can Cop-Worn Cameras Restore Faith In New Orleans Police?

MAY 22, 2014 5:38 PM ET



MARTIN KASTE

Listen to the Story

All Things Considered

6:34

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Transcript



Lt. Travis St. Pierre, of the New Orleans Police Department, shows off a body-worn camera during a press conference in January.

Brett Duke/The Times-Picayune/Landov

Body-worn video cameras are quickly becoming standard-issue for American police, especially at departments in the process of reform. And in New Orleans, the troubled police department is now requiring almost all officers to wear the cameras.



KATRINA & BEYOND
What Happened On New Orleans' Danziger Bridge?

The city's police department has a dark history of corruption, racism and brutality. The low point may have been the Danziger Bridge episode, after

Hurricane Katrina, when police shot unarmed people, then covered up the crime.

These days, the department is trying to rebuild the public's trust — which is where the body cameras come in.

Officer Johnny Brumfeld, responding to a call in the French Quarter, has one of the cameras mounted on his chest. He's supposed to record almost all interactions with the public: "Whenever there's a call for service, right before I engage in contact with the party that calls or any self-initiated contact," he says.

An 'Unvarnished' Record Of Events

The department brass want the public to notice the cameras.

"It's just a win-win," says Ronal Serpas, New Orleans' superintendent of police. He's trying to convince a federal court that the police department has changed — that it's reformed enough to get out from under a federal consent decree. The cameras are one way of demonstrating the department's spirit of transparency.

“
It'll give supervisors an opportunity to say something along the lines of, 'You know, Mrs. Smith, our officers did not treat your son poorly, and we actually have evidence to that now.' Or, 'You're right, we did not do a good job.'

Ronal Serpas, New Orleans' superintendent of police

"The body-worn camera can help us have that unvarnished re-creation of what happened," Serpas says. "It'll give supervisors an opportunity to say something along the lines of, you know, 'Mrs. Smith, our officers did not treat your son poorly, and we actually have evidence to that now.' Or, 'You're right, we did not do a good job.' "

But what happens if an officer stops recording — say, right before Mrs. Smith's son gets roughed up? The chief says that kind of "selective recording" won't be tolerated.

"Clearly, if an officer was to interrupt that by their choice and they didn't do it any other day that week, they haven't done it any other day that month, it's gonna raise a lot of suspicion," Serpas says.

The department's body camera rules do not spell out the penalty for failing to record, though Serpas says a cop can be fired for being untruthful.

Who Gets To Watch?

In the long run, the bigger problem may be a question of access: Once the videos are made, who gets to see them?

More On Cops And Cameras



DIGITAL LIFE
As More Police Wear Cameras,
Policy Questions Arise

That's what Ursula Price is about to find out. She works for the Independent Police Monitor, the office that investigates potential cases of police misconduct. The first time Price



LAW
New Police Scanner Raises
'Facial Profiling' Concerns



LAW
This Is The Police: Put Down
Your Camera

called the department to ask for a body camera video, she had high hopes. She was looking for footage of an arrest in which the suspect was bitten repeatedly by a police dog.

When she asked for camera footage, an officer quickly told her that there wasn't any — and when she asked why,

he said he didn't know.

Later, he told Price that there is video, after all. But it took 2 1/2 weeks for her to see it — and only after she told the department about inquiries from NPR. The department counters by saying it offered Price the video within three working days. But she says the whole system for finding out what videos the police have is clunky, and in the dog-bite incident, she still hasn't found out how many cameras were rolling.

"I'm waiting to get confirmation that that one video is the only video available," Price says. "Because there were — there should be, if I understand the policy ... — more videos available. So I'm waiting to hear back about that."

The department tells NPR at least two of the officers present were detectives, who don't wear cameras.

Susan Hutson, who runs the Independent Police Monitor's office, hopes the police will get better at disclosing what videos they have — not just to her, but to the general public. "There have been some problem dealing with NOPD and getting access to things that are public records," says Hutson, "and people having to sue, and judgments against the department, and fines and fees and such for not following the public records rules. So that hopefully will get better going forward."

Serpas, the police superintendent, says he'll add whatever staff is needed to handle public requests for the videos.

"There's no question that managing the public access to this information is something we've all thought through," he says. "But at the end of the day, you have a public records law in your state, whatever your state is ... and inside of those public records laws, there are exceptions to releasing information, and there are directions about which information to release."

On Both Sides Of The Camera, Possible Changes In Behavior

More From This Series

The Police Officer's New Tools



ALL TECH CONSIDERED
Your Smartphone Is A Crucial
Police Tool, If They Can Crack
It

ALL TECH CONSIDERED
In 'Domain Awareness,'
Detractors See Another NSA

These tensions might be coming soon to a police department near you. Sam Walker, emeritus professor of criminal justice at the University of Nebraska, Omaha, is an expert on police accountability; he talks to chiefs all the time. "I've really been struck by the extent to which people just assume this is the coming thing," he says. "Just, you



ALL TECH CONSIDERED
As Police Monitor Social Media,
Legal Lines Become Blurred

know, deal with it."

Cameras are especially appealing to troubled police departments that are under federal scrutiny. Oakland and Los Angeles have tried the cameras; Seattle is planning to. Video lets a department signal its devotion to transparency — but for that to mean

something, it can't look as if the videos are just for the benefit of the police. For instance, New Orleans has decided to let officers watch their own videos before writing reports; Walker says that's not a good idea.

"One of the problems we've had historically is officers give accounts of incidents that are not factually correct, and they're often covering up their actions," he says. "I think the officers should do their reports, and then the recordings should be available to supervisors."

If an officer is planning to lie, video is a good guide to what kind of lie he can get away with. And that could feed into a public perception that access to the videos is a police privilege.

But so far in New Orleans, most people haven't even noticed the cameras. Lt. Travis St. Pierre is walking down Royal Street, demonstrating the new technology to random citizens. He introduces himself to one pedestrian, who immediately asks, "What's wrong?"

You can't blame the guy for being a little freaked out. St. Pierre's camera fits over his ear, and the effect is sort of Robocop-y. St. Pierre trains other cops on the cameras, and they've told him that the body cameras are changing behavior — on the part of the public.

"They always have this one individual that they would go on calls and service for that likes to be disruptive, curse at the police, fight with the police, and when they got out and turned the camera on and informed her she was being recorded, she immediately said, 'Ah. OK,' and was not a problem at all. We're seeing a lot of that kind of stuff," St. Pierre says.

It'll be interesting to see who ends up changing their behavior more in New Orleans — the police, or the people their cameras are pointing at.

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35. Force Science Institute: “10 Limitations on Body Cameras”

10 limitations of body cams you need to know for your protection

A special report from the *Force Science Institute*

The idea is building that once every cop is equipped with a body camera, the controversy will be taken out of police shootings and other uses of force because “what really happened” will be captured on video for all to see.

Well, to borrow the title from an old Gershwin tune, “It Ain’t Necessarily So.”

There’s no doubt that body cameras—like dash cams, cell phone cams, and surveillance cams—can provide a unique perspective on police encounters and, in most cases, are likely to help officers. But like those other devices, a camera mounted on your uniform or on your head has limitations that need to be understood and considered when evaluating the images they record.

“Rushing to condemn an officer for inappropriate behavior based solely on body-camera evidence can be a dicey proposition,” cautions Dr. Bill Lewinski, executive director of the *Force Science Institute*. “Certainly, a camera can provide *more* information about what happened on the street. But it can’t necessarily provide *all* the information needed to make a fair and impartial final judgment. There still may be influential human factors involved, apart from what the camera sees.”

In a recent conversation with *Force Science News*, Lewinski enumerated 10 limitations that are important to keep in mind regarding body-camera evidence (and, for the most part, recordings from other cameras as well) if you are an investigator, a police attorney, a force reviewer, or an involved officer. This information may also be helpful in efforts to educate your community.

(Some of these points are elaborated on in greater depth during the *Force Science Certification Course*. Visit www.forcescience.org for information on the course. An earlier report on body cam limitations appeared in *Force Science News* #145, sent 3/12/10. You will find online it at: www.forcescience.org/fsnews/145.html)

1. A camera doesn’t follow your eyes or see as they see.

At the current level of development, a body camera is not an eye-tracker like *FSI* has used in some of its studies of officer attention. That complex apparatus can follow the movement of your eyes and superimpose on video small red circles that mark precisely where you are looking from one microsecond to the next.

“A body camera photographs a broad scene but it can’t document where within that scene you are looking at any given instant,” Lewinski says. “If you glance away from where the

camera is concentrating, you may not see action within the camera frame that appears to be occurring ‘right before your eyes.’

“Likewise, the camera can’t acknowledge physiological and psychological phenomena that you may experience under high stress. As a survival mechanism, your brain may suppress some incoming visual images that seem unimportant in a life-threatening situation so you can completely focus very narrowly on the threat. You won’t be aware of what your brain is screening out.

“Your brain may also play visual tricks on you that the camera can’t match. If a suspect is driving a vehicle toward you, for example, it will seem to be closer, larger, and faster than it really is because of a phenomenon called ‘looming.’ Camera footage may not convey the same sense of threat that you experienced.

“In short, there can be a huge disconnect between your field of view and your visual perception and the camera’s. Later, someone reviewing what’s caught on camera and judging your actions could have a profoundly different sense of what happened than you had at the time it was occurring.”

2. Some important danger cues can’t be recorded.

“Tactile cues that are often important to officers in deciding to use force are difficult for cameras to capture,” Lewinski says. “Resistive tension is a prime example.

“You can usually tell when you touch a suspect whether he or she is going to resist. You may quickly apply force as a preemptive measure, but on camera it may look like you made an unprovoked attack, because the sensory cue you felt doesn’t record visually.”

And, of course, the camera can’t record the history and experience you bring to an encounter. “Suspect behavior that may appear innocuous on film to a naïve civilian can convey the risk of mortal danger to you as a streetwise officer,” Lewinski says. “For instance, an assaultive subject who brings his hands up may look to a civilian like he’s surrendering, but to you, based on past experience, that can be a very intimidating and combative movement, signaling his preparation for a fighting attack. The camera just captures the action, not your interpretation.”

3. Camera speed differs from the speed of life.

Because body cameras record at much higher speeds than typical convenience store or correctional facility security cameras, it’s less likely that important details will be lost in the millisecond gaps between frames, as sometimes happens with those cruder devices.

“But it’s still theoretically possible that something as brief as a muzzle flash or the glint of a knife blade that may become a factor in a use-of-force case could still fail to be recorded,” Lewinski says.

Of greater consequence, he believes, is the body camera’s depiction of action and reaction times.

“Because of the reactionary curve, an officer can be half a second or more behind the action as it unfolds on the screen,” Lewinski explains. “Whether he’s shooting or

stopping shooting, his recognition, decision-making, and physical activation all take time—but obviously can't be shown on camera.

“People who don't understand this reactionary process won't factor it in when viewing the footage. They'll think the officer is keeping pace with the speed of the action as the camera records it. So without knowledgeable input, they aren't likely to understand how an officer can unintentionally end up placing rounds in a suspect's back or firing additional shots after a threat has ended.”

4. A camera may see better than you do in low light.

“The high-tech imaging of body cameras allows them to record with clarity in many low-light settings,” Lewinski says. “When footage is screened later, it may actually be possible to see elements of the scene in sharper detail than you could at the time the camera was activated.

“If you are receiving less visual information than the camera is recording under time-pressured circumstances, you are going to be more dependent on context and movement in assessing and reacting to potential threats. In dim light, a suspect's posturing will likely mean more to you immediately than some object he's holding. When footage is reviewed later, it may be evident that the object in his hand was a cell phone, say, rather than a gun. If you're expected to have seen that as clearly as the camera did, your reaction might seem highly inappropriate.”

On the other hand, he notes, cameras do not always deal well with lighting transitions. “Going suddenly from bright to dim light or vice versa, a camera may briefly blank out images altogether,” he says.

5. Your body may block the view.

“How much of a scene a camera captures is highly dependent on where it's positioned and where the action takes place,” Lewinski notes. “Depending on location and angle, a picture may be blocked by your own body parts, from your nose to your hands.

“If you're firing a gun or a Taser, for example, a camera on your chest may not record much more than your extended arms and hands. Or just blading your stance may obscure the camera's view. Critical moments within a scenario that you can see may be missed entirely by your body cam because of these dynamics, ultimately masking what a reviewer may need to see to make a fair judgment.”

6. A camera only records in 2-D.

Because cameras don't record depth of field—the third dimension that's perceived by the human eye—accurately judging distances on their footage can be difficult.

“Depending on the lens involved, cameras may compress distances between objects or make them appear closer than they really are,” Lewinski says. “Without a proper sense of distance, a reviewer may misinterpret the level of threat an officer was facing.”

In the *Force Science Certification Course*, he critiques several camera images in which distance distortion became problematic. In one, an officer's use of force seemed inappropriate because the suspect appears to be too far away to pose an immediate threat.

In another, an officer appears to strike a suspect's head with a flashlight when, in fact, the blow was directed at a hand and never touched the head.

"There are technical means for determining distances on 2-D recordings," Lewinski says, "but these are not commonly known or accessed by most investigators."

7. The absence of sophisticated time-stamping may prove critical.

The time-stamping that is automatically imposed on camera footage is a gross number, generally measuring the action minute by minute. "In some high-profile, controversial shooting cases that is not sophisticated enough," Lewinski says. "To fully analyze and explain an officer's perceptions, reaction time, judgment, and decision-making it may be critical to break the action down to units of one-hundredths of a second or even less.

"There are post-production computer programs that can electronically encode footage to those specifications, and the *Force Science Institute* strongly recommends that these be employed. When reviewers see precisely how quickly suspects can move and how fast the various elements of a use-of-force event unfold, it can radically change their perception of what happened and the pressure involved officers were under to act."

8. One camera may not be enough.

"The more cameras there are recording a force event, the more opportunities there are likely to be to clarify uncertainties," Lewinski says. "The angle, the ambient lighting, and other elements will almost certainly vary from one officer's perspective to another's, and syncing the footage up will provide broader information for understanding the dynamics of what happened. What looks like an egregious action from one angle may seem perfectly justified from another.

"Think of the analysis of plays in a football game. In resolving close calls, referees want to view the action from as many cameras as possible to fully understand what they're seeing. Ideally, officers deserve the same consideration. The problem is that many times there is only one camera involved, compared to a dozen that may be consulted in a sporting event, and in that case the limitations must be kept even firmer in mind.

9. A camera encourages second-guessing.

"According to the U. S. Supreme Court in *Graham v. Connor*, an officer's decisions in tense, uncertain, and rapidly evolving situations are not to be judged with the '20/20 vision of hindsight,' " Lewinski notes. "But in the real-world aftermath of a shooting, camera footage provides an almost irresistible temptation for reviewers to play the coulda-shoulda game.

"Under calm and comfortable conditions, they can infinitely replay the action, scrutinize it for hard-to-see detail, slow it down, freeze it. The officer had to assess what he was experiencing while it was happening and under the stress of his life potentially being on the line. That disparity can lead to far different conclusions.

"As part of the incident investigation, we recommend that an officer be permitted to see what his body camera and other cameras recorded. He should be cautioned, however, to regard the footage only as informational. He should not allow it to supplant his first-hand

memory of the incident. Justification for a shooting or other use of force will come from what an officer reasonably perceived, not necessarily from what a camera saw.”

[For more details about *FSI*'s position on whether officers should be allowed to view video of their incidents, see *Force Science News* #114 (1/17/09). You will find online it at: www.forcescience.org/fsnews/114.html]

10. A camera can never replace a thorough investigation.

When officers oppose wearing cameras, civilians sometimes assume they fear “transparency.” But more often, Lewinski believes, they are concerned that camera recordings will be given undue, if not exclusive, weight in judging their actions.

“A camera’s recording should never be regarded solely as *the* Truth about a controversial incident,” Lewinski declares. “It needs to be weighed and tested against witness testimony, forensics, the involved officer’s statement, and other elements of a fair, thorough, and impartial investigation that takes human factors into consideration.

“This is in no way intended to belittle the merits of body cameras. Early testing has shown that they tend to reduce the frequency of force encounters as well as complaints against officers.

“But a well-known police defense attorney is not far wrong when he calls cameras ‘the best evidence and the worst evidence.’ The limitations of body cams and others need to be fully understood and evaluated to maximize their effectiveness and to assure that they are not regarded as infallible ‘magic bullets’ by people who do not fully grasp the realities of force dynamics.”

Our thanks to Parris Ward, director and litigation graphics consultant with Biodynamics Engineering, Inc., for his help in facilitating this report.

For more information on the work of the Force Science Institute, visit www.forcescience.org. To reach the Force Science News editorial staff please e-mail: editor@forcescience.org.

36. The Leadership Conference on Civil and Human Rights: “Civil Rights, Privacy, and Media Rights Groups Release Principles for Law Enforcement Body Worn Cameras”

Civil Rights Principles on Body Worn Cameras

May 2015

Mobile cameras operated by law enforcement may play a valuable role in the present and future of policing. Whether they're worn by an officer or mounted on police equipment, cameras could help provide transparency into law enforcement practices, by providing first-hand evidence of public interactions.

But police-operated cameras are no substitute for broader reforms of policing practices. In fact, cameras could be used to intensify disproportionate surveillance and enforcement in heavily policed communities of color. Without carefully crafted policy safeguards in place, there is a real risk that these new devices could become instruments of injustice, rather than tools for accountability.

To help ensure that police-operated cameras are used to enhance civil rights, departments must:

1. **Develop camera policies in public** with the input of civil rights advocates and the local community. Current policies must always be publicly available, and any policy changes must also be made in consultation with the community.
2. **Commit to a set of narrow and well-defined purposes** for which cameras and their footage may be used. In particular, facial recognition and other biometric technologies must be carefully limited: if they are used together with body cameras, officers will have far greater visibility into heavily policed communities—where cameras will be abundant—than into other communities where cameras will be rare. Such technologies could amplify existing disparities in law enforcement practices across communities.
3. **Specify clear operational policies for recording, retention, and access**, and enforce strict disciplinary protocols for policy violations. While some types of law enforcement interactions (e.g., when attending to victims of domestic violence) may happen off-camera, the vast majority of interactions with the public—including all that involve the use of force—should be captured on video. Departments must also adopt systems to monitor and audit access to recorded footage, and secure footage against unauthorized access and tampering.
4. **Make footage available to promote accountability** with appropriate privacy safeguards in place. At a minimum: (1) footage that captures police use of force should be made available to the public and press upon request, and (2) upon request, footage should be made available in a timely manner to any filmed subject seeking to file a complaint, to criminal defendants, and to the next-of-kin of anyone whose death is related to the events captured on video. Departments must consider individual privacy concerns before making footage available to broad audiences.
5. **Preserve the independent evidentiary value of officer** reports by prohibiting officers from viewing footage before filing their reports. Footage of an event presents a partial—and sometimes misleading—perspective of how events unfolded. Pre-report viewing could cause an officer to conform the report to what the video appears to show, rather than what the officer actually saw.

Signed by:

American Civil Liberties Union
Asian Americans Advancing Justice | AAJC
Asian Americans Advancing Justice | Asian Law Caucus
Asian Americans Advancing Justice | Los Angeles
Asian Americans Advancing Justice | Chicago
Center for Democracy and Technology
Center for Media Justice
ColorOfChange.org
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Demos
Electronic Frontier Foundation
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Hip Hop Caucus
The Lawyers' Committee for Civil Rights Under Law
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Martinez Street Women's Center
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Media Alliance
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New America's Open Technology Institute
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Southwest Workers' Union
Urbana-Champaign Independent Media Center
Voices for Racial Justice
Working Narratives
Alvaro Bedoya, Executive Director, Center on Privacy and Technology at Georgetown Law*
* Affiliation for Identification Purposes Only

37. Kentucky League of Cities: “Policy Body Worn Video Recording (BWV)”



Policy # Body Worn Video Recording (BWV)	Related Policies:
<i>This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by this department for non-judicial administrative action in accordance with the laws governing employee discipline.</i>	
Applicable Kentucky Statutes:	
KACP Standard:	
CALEA Standard:	
Date Implemented:	Review Date:

- I. **Purpose:** The purpose of this policy is to direct officers and supervisors in the proper use and maintenance of **Body Worn Video Recorders (BWV)** as well as directing how video will be utilized as a quality control mechanism and evidence.
- II. **Policy:** The policy of this Department/Office is to provide officers with body worn video recording devices in an effort to collect evidence to be used in the prosecution of those who violate the law, for officer evaluation and training, and to provide accurate documentation of law enforcement and citizen interaction. The use of a BWV system provides persuasive documentary evidence and helps defend against civil litigation and allegations of officer misconduct. Officers assigned the use of these devices shall adhere to the operational objectives and protocols outlined herein so as to maximize the effectiveness and utility of the BWV and the integrity of evidence and related video documentation.
- III. **Procedure:** It is the intent of this policy that all officers who will be using BWV equipment shall be trained on the manner in which the BWV shall be tested, maintained, used and how the recorded events will be properly documented and maintained as evidence in future judicial proceedings.
 - A. It shall be the responsibility of each individual officer to test the BWV equipment at the beginning of each tour of duty. Officers equipped with the BWV will ensure that the batteries are charged prior to the beginning of their shift or special event.

In the event that the equipment is found to be functioning improperly, the officer shall report the problem immediately to their immediate supervisor so that the information can be documented, and arrangements made for repair.

IV. Uniformed Officers assigned Body Worn Video cameras will wear them at all times while on duty in any type of uniform. BWV will be worn according to manufacturer's specifications and/or recommendations. Officers will make every reasonable effort to ensure that the BWV recording equipment is capturing events by positioning and adjusting the BWV to record the event. Officers are authorized to utilize body worn video recorders during law enforcement events when the officer is a party to the conversation.

A. It is the policy of this agency to record with audio and video the following incidents:

- a. All calls for service in which citizen contact is made
- b. All traffic stops
- c. All citizen transports (excluding ride-alongs)
- d. All investigatory stops
- e. All foot pursuits

Examples of these incidents include, but are not limited to:

- i. Arrest of any person
- ii. Searches of any kind
- iii. Seizure of any evidence
- iv. Request for consent to search
- v. Miranda warnings and response from in custody suspects
- vi. Statements made by citizens and suspects
- vii. K-9 searches of vehicles
- viii. Issuances of Written Violations
- ix. Arriving at law enforcement events and/or citizen contacts initiated by other officers
- x. Other incidents the officer reasonably believes should be recorded for law enforcement purposes

B. The recording shall continue until the law enforcement event or citizen contact is completed and the the citizen involved departs or until the officer, who is recording the event through a BWV discontinues his or her participation in the law enforcement event or citizen contact by leaving the scene. In the event an officer deems it necessary to stop recording, he or she will make a verbal statement of their intent to stop the recording and his reason.

C. When a BWV recording is being entered into the property and evidence storage and management area of the agency it should be done according to existing agency policy governing the retention of evidence.

D. If an officer assigned BWV equipment participates in a law enforcement event or citizen contact and becomes aware that the event was not recorded using the BWV equipment, the officer shall notify their supervisor that the stop was not recorded and

should notify them as to the reasons. The notification to the supervisor shall be in writing and shall be forwarded through the chain of command.

V. Issues Related to Privacy:

- A.** The BWV should not be activated when the officer is on break or otherwise engaged in personal activities or when the officer is in a location where there is a reasonable expectation of privacy, such as a restroom or locker room.
- B.** For safety and confidentiality reasons, encounters with undercover officers or confidential informants should not be recorded.
- C.** Undercover contacts or plainclothes contacts are exempt from this policy where utilizing a camera may create a dangerous situation or otherwise diminish the investigative success of the operation.
- D.** BWV activation is limited to situations involving official police activities authorized by law or court order, including consensual citizen encounters and investigation of law violations.
- E.** The purposeful-intentional activation of BWVs during personal conversations between officers and between officers and supervisors involving counseling, guidance sessions, or personnel evaluations is prohibited by this policy unless all parties present agree to be recorded.

VI. Supervisory Responsibility TAPES or other storage media

- A.** The original digital files from body worn video recorders will be downloaded and stored on a designated storage location to prevent destruction. Officers will make every reasonable attempt to download video and audio files before the end of each shift.
- B.** Non-evidentiary video and audio recordings will be maintained on the designated storage location according to KRS and/or the applicable records retention schedule after their creation.
- C.** This media will be subject to the same restrictions and chain of evidence safeguards as detailed in the agency evidence control procedures.
- D.** Media will be released to another criminal justice agency for trial or other reasons by having a duplicate copy made. All recording media, recorded images and audio recordings are the property of this agency. Dissemination outside the agency, other than for court proceedings, is strictly prohibited without specific authorization of the agency head or designee.
- E.** To prevent damage to, or alteration of, the original recorded media, it shall not be copied, viewed or otherwise inserted into any device not approved by the office BWV technician or forensic media staff.
- F.** Unauthorized and/or malicious destruction, editing, or deletion of video and audio files is prohibited.
- G.** All digital video and audio files are subject to open records request as allowed by Kentucky law. Recordings that are the subject of a denied open records request must

be maintained until the dispute between the agency and the person or entity requesting the recordings is resolved.

- H. Digital media from the BWV shall be stored on a secured server with access limited to supervisory personnel designated by the Chief/Sheriff.
- I. At least once every 60 day period, supervisors should review a taped event of each officer. The supervisor will document this review under the officer's name.
- J. Supervisors should use these reviews as a quality control measure. Following such a review, the supervisor will hold a meeting with the officer and provide the officer with either positive reinforcement or constructive criticism with respect to the activity reviewed. Constructive criticism may relate to officer safety issues, demeanor, policy issues or legal issues related to the stop as well as any other supervisory observation relative to performance.
- K. In cases of infractions, the agency head or his/her designee shall determine proper disciplinary or corrective action.

VII. Use of BWV Recordings as Evidence in Criminal/Motor Vehicle Prosecutions

- A. When an officer makes a recording of any action covered by this policy and a citation is issued or an arrest is made, the officer shall note on the uniform citation that a video has been made.
- B. Where there is any indication that the BWV may contain "*Brady*" material, that recording must be saved and turned over to the prosecutor assigned to the case in accordance with the "Duty to Disclose" policy of this department.
- C. Civilians shall not be allowed to review recordings except as: approved by the Sheriff/Chief of Police or their designee; through the process of evidentiary discovery; and/or by proper public records request.

38. Minn. Stat. § 13.82

13.82 COMPREHENSIVE LAW ENFORCEMENT DATA.

Subdivision 1. **Application.** This section shall apply to agencies which carry on a law enforcement function, including but not limited to municipal police departments, county sheriff departments, fire departments, the Bureau of Criminal Apprehension, the Minnesota State Patrol, the Board of Peace Officer Standards and Training, the Department of Commerce, and county human service agency client and provider fraud investigation, prevention, and control units operated or supervised by the Department of Human Services.

Subd. 2. **Arrest data.** The following data created or collected by law enforcement agencies which document any actions taken by them to cite, arrest, incarcerate or otherwise substantially deprive an adult individual of liberty shall be public at all times in the originating agency:

- (a) time, date and place of the action;
- (b) any resistance encountered by the agency;
- (c) any pursuit engaged in by the agency;
- (d) whether any weapons were used by the agency or other individual;
- (e) the charge, arrest or search warrants, or other legal basis for the action;
- (f) the identities of the agencies, units within the agencies and individual persons taking the action;
- (g) whether and where the individual is being held in custody or is being incarcerated by the agency;
- (h) the date, time and legal basis for any transfer of custody and the identity of the agency or person who received custody;
- (i) the date, time and legal basis for any release from custody or incarceration;
- (j) the name, age, sex and last known address of an adult person or the age and sex of any juvenile person cited, arrested, incarcerated or otherwise substantially deprived of liberty;
- (k) whether the agency employed wiretaps or other eavesdropping techniques, unless the release of this specific data would jeopardize an ongoing investigation;
- (l) the manner in which the agencies received the information that led to the arrest and the names of individuals who supplied the information unless the identities of those individuals qualify for protection under subdivision 17; and
- (m) response or incident report number.

Subd. 3. **Request for service data.** The following data created or collected by law enforcement agencies which document requests by the public for law enforcement services shall be public government data:

- (a) the nature of the request or the activity complained of;
- (b) the name and address of the individual making the request unless the identity of the individual qualifies for protection under subdivision 17;

- (c) the time and date of the request or complaint; and
- (d) the response initiated and the response or incident report number.

Subd. 4. **Audio recording of 911 call.** The audio recording of a call placed to a 911 system for the purpose of requesting service from a law enforcement, fire, or medical agency is private data on individuals with respect to the individual making the call, except that a written transcript of the audio recording is public, unless it reveals the identity of an individual otherwise protected under subdivision 17. A transcript shall be prepared upon request. The person requesting the transcript shall pay the actual cost of transcribing the call, in addition to any other applicable costs provided under section 13.03, subdivision 3. The audio recording may be disseminated to law enforcement agencies for investigative purposes. The audio recording may be used for public safety and emergency medical services training purposes.

Subd. 5. **Domestic abuse data.** The written police report required by section 629.341, subdivision 4, of an alleged incident described in section 629.341, subdivision 1, and arrest data, request for service data, and response or incident data described in subdivision 2, 3, or 6 that arise out of this type of incident or out of an alleged violation of an order for protection must be released upon request at no cost to the victim of domestic abuse, the victim's attorney, or an organization designated by the Office of Justice Programs in the Department of Public Safety as providing services to victims of domestic abuse. The executive director or the commissioner of the appropriate state agency shall develop written criteria for this designation.

Subd. 6. **Response or incident data.** The following data created or collected by law enforcement agencies which document the agency's response to a request for service including, but not limited to, responses to traffic accidents, or which describe actions taken by the agency on its own initiative shall be public government data:

- (a) date, time and place of the action;
- (b) agencies, units of agencies and individual agency personnel participating in the action unless the identities of agency personnel qualify for protection under subdivision 17;
- (c) any resistance encountered by the agency;
- (d) any pursuit engaged in by the agency;
- (e) whether any weapons were used by the agency or other individuals;
- (f) a brief factual reconstruction of events associated with the action;
- (g) names and addresses of witnesses to the agency action or the incident unless the identity of any witness qualifies for protection under subdivision 17;
- (h) names and addresses of any victims or casualties unless the identities of those individuals qualify for protection under subdivision 17;
- (i) the name and location of the health care facility to which victims or casualties were taken;
- (j) response or incident report number;
- (k) dates of birth of the parties involved in a traffic accident;
- (l) whether the parties involved were wearing seat belts; and

(m) the alcohol concentration of each driver.

Subd. 7. **Criminal investigative data.** Except for the data defined in subdivisions 2, 3, and 6, investigative data collected or created by a law enforcement agency in order to prepare a case against a person, whether known or unknown, for the commission of a crime or other offense for which the agency has primary investigative responsibility are confidential or protected nonpublic while the investigation is active. Inactive investigative data are public unless the release of the data would jeopardize another ongoing investigation or would reveal the identity of individuals protected under subdivision 17. Photographs which are part of inactive investigative files and which are clearly offensive to common sensibilities are classified as private or nonpublic data, provided that the existence of the photographs shall be disclosed to any person requesting access to the inactive investigative file. An investigation becomes inactive upon the occurrence of any of the following events:

(a) a decision by the agency or appropriate prosecutorial authority not to pursue the case;

(b) expiration of the time to bring a charge or file a complaint under the applicable statute of limitations, or 30 years after the commission of the offense, whichever comes earliest; or

(c) exhaustion of or expiration of all rights of appeal by a person convicted on the basis of the investigative data.

Any investigative data presented as evidence in court shall be public. Data determined to be inactive under clause (a) may become active if the agency or appropriate prosecutorial authority decides to renew the investigation.

During the time when an investigation is active, any person may bring an action in the district court located in the county where the data are being maintained to authorize disclosure of investigative data. The court may order that all or part of the data relating to a particular investigation be released to the public or to the person bringing the action. In making the determination as to whether investigative data shall be disclosed, the court shall consider whether the benefit to the person bringing the action or to the public outweighs any harm to the public, to the agency or to any person identified in the data. The data in dispute shall be examined by the court in camera.

Subd. 8. **Child abuse identity data.** Active or inactive investigative data that identify a victim of child abuse or neglect reported under section 626.556 are private data on individuals. Active or inactive investigative data that identify a reporter of child abuse or neglect under section 626.556 are confidential data on individuals, unless the subject of the report compels disclosure under section 626.556, subdivision 11.

Subd. 9. **Inactive child abuse data.** Investigative data that become inactive under subdivision 7, clause (a) or (b), and that relate to the alleged abuse or neglect of a child by a person responsible for the child's care, as defined in section 626.556, subdivision 2, are private data.

Subd. 10. **Vulnerable adult identity data.** Active or inactive investigative data that identify a victim of vulnerable adult maltreatment under section 626.557 are private data on individuals. Active or inactive investigative data that identify a reporter of vulnerable adult maltreatment under section 626.557 are private data on individuals.

Subd. 11. **Inactive vulnerable adult maltreatment data.** Investigative data that becomes inactive under subdivision 7, paragraph (a) or (b), and that relate to the alleged maltreatment of a vulnerable adult by a caregiver or facility are private data on individuals.

Subd. 12. **Name change data.** Data on court records relating to name changes under section 259.10, subdivision 2, which is held by a law enforcement agency is confidential data on an individual while an investigation is active and is private data on an individual when the investigation becomes inactive.

Subd. 13. **Access to data for crime victims.** On receipt of a written request, the prosecuting authority shall release investigative data collected by a law enforcement agency to the victim of a criminal act or alleged criminal act or to the victim's legal representative unless the release to the individual subject of the data would be prohibited under section 13.821 or the prosecuting authority reasonably believes:

- (a) that the release of that data will interfere with the investigation; or
- (b) that the request is prompted by a desire on the part of the requester to engage in unlawful activities.

Subd. 14. **Withholding public data.** A law enforcement agency may temporarily withhold response or incident data from public access if the agency reasonably believes that public access would be likely to endanger the physical safety of an individual or cause a perpetrator to flee, evade detection or destroy evidence. In such instances, the agency shall, upon the request of any person, provide a statement which explains the necessity for its action. Any person may apply to a district court for an order requiring the agency to release the data being withheld. If the court determines that the agency's action is not reasonable, it shall order the release of the data and may award costs and attorney's fees to the person who sought the order. The data in dispute shall be examined by the court in camera.

Subd. 15. **Public benefit data.** Any law enforcement agency may make any data classified as confidential or protected nonpublic pursuant to subdivision 7 accessible to any person, agency, or the public if the agency determines that the access will aid the law enforcement process, promote public safety, or dispel widespread rumor or unrest.

Subd. 16. **Public access.** When data is classified as public under this section, a law enforcement agency shall not be required to make the actual physical data available to the public if it is not administratively feasible to segregate the public data from the not public. However, the agency must make the information described as public data available to the public in a reasonable manner. When investigative data becomes inactive, as described in subdivision 7, the actual physical data associated with that investigation, including the public data, shall be available for public access.

Subd. 17. **Protection of identities.** A law enforcement agency or a law enforcement dispatching agency working under direction of a law enforcement agency shall withhold public access to data on individuals to protect the identity of individuals in the following circumstances:

- (a) when access to the data would reveal the identity of an undercover law enforcement officer, as provided in section 13.43, subdivision 5;
- (b) when access to the data would reveal the identity of a victim or alleged victim of criminal sexual conduct or of a violation of section 617.246, subdivision 2;
- (c) when access to the data would reveal the identity of a paid or unpaid informant being used by the agency if the agency reasonably determines that revealing the identity of the informant would threaten the personal safety of the informant;
- (d) when access to the data would reveal the identity of a victim of or witness to a crime if the victim or witness specifically requests not to be identified publicly, unless the agency reasonably determines that

revealing the identity of the victim or witness would not threaten the personal safety or property of the individual;

(e) when access to the data would reveal the identity of a deceased person whose body was unlawfully removed from a cemetery in which it was interred;

(f) when access to the data would reveal the identity of a person who placed a call to a 911 system or the identity or telephone number of a service subscriber whose phone is used to place a call to the 911 system and: (1) the agency determines that revealing the identity may threaten the personal safety or property of any person; or (2) the object of the call is to receive help in a mental health emergency. For the purposes of this paragraph, a voice recording of a call placed to the 911 system is deemed to reveal the identity of the caller;

(g) when access to the data would reveal the identity of a juvenile witness and the agency reasonably determines that the subject matter of the investigation justifies protecting the identity of the witness; or

(h) when access to the data would reveal the identity of a mandated reporter under section 609.456, 626.556, or 626.557.

Data concerning individuals whose identities are protected by this subdivision are private data about those individuals. Law enforcement agencies shall establish procedures to acquire the data and make the decisions necessary to protect the identity of individuals described in clauses (c), (d), (f), and (g).

Subd. 18. **Data retention.** Nothing in this section shall require law enforcement agencies to create, collect or maintain data which is not required to be created, collected or maintained by any other applicable rule or statute.

Subd. 19. **Data in arrest warrant indices.** Data in arrest warrant indices are classified as confidential data until the defendant has been taken into custody, served with a warrant, or appears before the court, except when the law enforcement agency determines that the public purpose is served by making the information public.

Subd. 20. **Property data.** Data that uniquely describe stolen, lost, confiscated, or recovered property are classified as either private data on individuals or nonpublic data depending on the content of the not public data.

Subd. 21. **Reward program data.** To the extent that the release of program data would reveal the identity of an informant or adversely affect the integrity of the fund, financial records of a program that pays rewards to informants are protected nonpublic data in the case of data not on individuals or confidential data in the case of data on individuals.

Subd. 22. **Data on registered criminal offenders.** Data described in section 243.166 shall be classified as described in that section.

Subd. 23. **Data in missing children bulletins.** Data described in section 299C.54 shall be classified as described in that section.

Subd. 24. **Exchanges of information.** Nothing in this chapter prohibits the exchange of information by law enforcement agencies provided the exchanged information is pertinent and necessary to the requesting agency in initiating, furthering, or completing an investigation, except not public personnel data and data governed by section 13.045.

Subd. 25. **Deliberative processes.** Data that reflect deliberative processes or investigative techniques of law enforcement agencies are confidential data on individuals or protected nonpublic data; provided that information, reports, or memoranda that have been adopted as the final opinion or justification for a decision of a law enforcement agency are public data.

Subd. 26. **Booking photographs.** (a) For purposes of this subdivision, "booking photograph" means a photograph or electronically produced image taken by law enforcement for identification purposes in connection with the arrest of a person.

(b) Except as otherwise provided in this subdivision, a booking photograph is public data. A law enforcement agency may temporarily withhold access to a booking photograph if the agency determines that access will adversely affect an active investigation.

Subd. 27. **Pawnshop and scrap metal dealer data.** Data that would reveal the identity of persons who are customers of a licensed pawnbroker, secondhand goods dealer, or a scrap metal dealer are private data on individuals. Data describing the property in a regulated transaction with a licensed pawnbroker, secondhand goods dealer, or a scrap metal dealer are public.

Subd. 28. **Disclosure of predatory offender registrant status.** Law enforcement agency disclosure to health facilities of the registrant status of a registered predatory offender is governed by section 244.052.

Subd. 29. **Juvenile offender photographs.** Notwithstanding section 260B.171, chapter 609A, or other law to the contrary, photographs or electronically produced images of children adjudicated delinquent under chapter 260B shall not be expunged from law enforcement records or databases.

Subd. 30. **Inactive financial transaction investigative data.** Investigative data that become inactive under subdivision 7 that are a person's financial account number or transaction numbers are private or nonpublic data.

History: 1979 c 328 s 21; 1981 c 311 s 36,39; 1982 c 545 s 24; 1982 c 558 s 1; 1984 c 552 s 2; 1985 c 298 s 30-36; 1986 c 444; 1988 c 625 s 1; 1989 c 177 s 1; 1989 c 351 s 12,13; 1990 c 402 s 1; 1991 c 285 s 1,2; 1991 c 319 s 9,10; 1993 c 351 s 16-18; 1994 c 618 art 1 s 14,15; 1994 c 636 art 4 s 3; 1995 c 229 art 3 s 1-3; 1995 c 231 art 2 s 2; 1995 c 259 art 1 s 19-23; art 4 s 3; 1996 c 440 art 1 s 16,17; 1997 c 85 art 5 s 1; 1998 c 371 s 4; 1999 c 227 s 22; 2000 c 445 art 2 s 1; 2002 c 352 s 7; 2004 c 269 art 1 s 1; 2004 c 290 s 16; 2005 c 136 art 3 s 1; 2005 c 163 s 49,50; 2006 c 260 art 3 s 2; 2007 c 54 art 7 s 1; 2012 c 216 art 15 s 4; 2012 c 290 s 54-58; 2013 c 76 s 7; 2013 c 125 art 1 s 2; 2014 c 212 art 1 s 1

39.SC Code of Law 23-1-240

South Carolina General Assembly
121st Session, 2015-2016

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A71, R100, S47

STATUS INFORMATION

General Bill

Sponsors: Senators Malloy, Kimpson, Johnson, Pinckney, Thurmond, Setzler, Grooms, Lourie, McElveen, Allen, Shealy, Coleman, Campsen, Scott and Nicholson

Document Path: I:\s-jud\billsmalloy\jud0019.jjg.docx

Companion/Similar bill(s): 3992

Introduced in the Senate on January 13, 2015

Introduced in the House on April 30, 2015

Last Amended on June 4, 2015

Passed by the General Assembly on June 4, 2015

Governor's Action: June 10, 2015, Signed

Summary: Body-worn cameras worn by law enforcement

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
12/3/2014	Senate	Prefiled
12/3/2014	Senate	Referred to Committee on Judiciary
1/13/2015	Senate	Introduced and read first time (Senate Journal-page 56)
1/13/2015	Senate	Referred to Committee on Judiciary (Senate Journal-page 56)
2/9/2015	Senate	Referred to Subcommittee: Hutto (ch), Corbin, Hembree, Young, Kimpson
4/22/2015	Senate	Committee report: Favorable with amendment Judiciary (Senate Journal-page 7)
4/28/2015	Senate	Read second time (Senate Journal-page 31)
4/29/2015	Senate	Committee Amendment Amended and Adopted (Senate Journal-page 31)
4/29/2015	Senate	Amended (Senate Journal-page 31)
4/29/2015	Senate	Read third time and sent to House (Senate Journal-page 31)
4/29/2015	Senate	Roll call Ayes-41 Nays-3 (Senate Journal-page 31)
4/30/2015	House	Introduced, read first time, placed on calendar without reference (House Journal-page 31)
5/6/2015	House	Requests for debate-Rep(s). Norrell, Quinn, Collins, Kirby, Gagnon, Thayer, Ott, Nanney, Gilliard, Daning, Norman, Hixon, Taylor, Corley, Wells, Pope, Kennedy, Felder, VS Moss, Southard, Toole, Tallon, Bannister, GR Smith, Hoisey, Clyburn, Forrester (House Journal-page 14)
5/7/2015	House	Debate adjourned until Tues., 5-19-15 (House Journal-page 58)
5/12/2015	House	Reconsidered (House Journal-page 52)
5/12/2015	House	Debate adjourned until Wed., 5-13-15 (House Journal-page 53)

COUNCIL FOR REVIEW, APPROVAL, OR DISAPPROVAL; TO ESTABLISH A "BODY-WORN CAMERAS FUND"; AND TO PROVIDE THAT DATA RECORDED BY A BODY-WORN CAMERA IS NOT SUBJECT TO DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT.

Be it enacted by the General Assembly of the State of South Carolina:

Body-worn cameras, definition, guidelines and policies and procedures, fund, data release

SECTION 1. Chapter 1, Title 23 of the 1976 Code is amended by adding:

"Section [23-1-240](#). (A) For purposes of this section, 'body-worn camera' means an electronic device worn on a person's body that records both audio and video data.

(B) State and local law enforcement agencies, under the direction of the Law Enforcement Training Council, shall implement the use of body-worn cameras pursuant to guidelines established by the Law Enforcement Training Council.

(C) Within one hundred eighty days after the effective date of this section, the Law Enforcement Training Council shall conduct a thorough study of the use, implementation procedures, costs, and other related aspects associated with body-worn cameras in jurisdictions with body-worn cameras currently in use or which begin their use during this period. The Law Enforcement Training Council shall develop guidelines for the use of body-worn cameras by state and local law enforcement agencies within one hundred eighty days of the effective date of this act. The guidelines must include, but are not limited to, specifying which law enforcement officers must wear body-worn cameras, when body-worn cameras must be worn and activated, restrictions on the use of body-worn cameras, the process to obtain consent of victims and witnesses before using body-worn cameras during an interview, the retention and release of data recorded by body-worn cameras, and access to the data recorded by body-worn cameras pursuant to subsection (G). The Law Enforcement Training Council shall provide the guidelines to state and local law enforcement agencies. The General Assembly may terminate all or part of the guidelines by resolution.

(D) State and local law enforcement agencies shall develop policies and procedures for the use of body-worn cameras pursuant to the guidelines established by the Law Enforcement Training Council. The agencies shall submit the policies and procedures to the Law Enforcement Training Council within two hundred seventy days of the effective date of this act. The Law Enforcement Training Council shall review and approve or disapprove of the policies and procedures. If the Law Enforcement Training Council disapproves of the policies and procedures, the law enforcement agency shall modify and resubmit the policies and procedures. The Law Enforcement Training Council, by three hundred sixty days from the effective date of this section, shall submit a report to the General Assembly which must include recommendations for statutory provisions necessary to ensure the provisions of this section are appropriately and efficiently managed and carried out and the fiscal impact associated with the use of body-worn cameras as required by this section, updated continuously as necessary.

(E)(1) A 'Body-Worn Cameras Fund' is established within the Department of Public Safety for the purpose of assisting state and local law enforcement agencies, the Attorney General's office, solicitors' offices, and public defenders' offices in implementing the provisions of this section, including, but not limited to, the initial purchase, maintenance, and replacement of body-worn cameras and ongoing costs related to the maintenance and storage of data recorded by body-worn cameras. The Public Safety Coordinating Council shall oversee the fund, and shall, within one hundred eighty days of the effective date of this act, establish a process for the application for and disbursement of monies to state and local

law enforcement agencies, the Attorney General's office, solicitors' offices, and public defenders' offices. The Public Safety Coordinating Council shall disburse the funds in a fair and equitable manner, taking into consideration priorities in funding.

(2) Upon approval of a state or local law enforcement agency's policies and procedures by the Law Enforcement Training Council, the agency may apply to the Public Safety Coordinating Council for funding to implement the agency's use of body-worn cameras pursuant to this section, including, but not limited to, the initial purchase, maintenance, and replacement of body-worn cameras and ongoing costs related to the maintenance and storage of data recorded by body-worn cameras. A state or local law enforcement agency is not required to implement the use of body-worn cameras pursuant to this section until the agency has received full funding.

(F) Nothing in this section prohibits a state or local law enforcement agency's use of body-worn cameras pursuant to the agency's existing policies and procedures and funding while the agency is awaiting receipt of the Law Enforcement Training Council's guidelines, approval of the agency's policies and procedures by the Law Enforcement Training Council, and funding from the Public Safety Coordinating Council. Such an agency is eligible to apply to the Public Safety Coordinating Council for reimbursement, including, but not limited to, the initial purchase, maintenance, and replacement of body-worn cameras and ongoing costs related to maintenance and storage of data recorded by body-worn cameras.

(G)(1) Data recorded by a body-worn camera is not a public record subject to disclosure under the Freedom of Information Act.

(2) The State Law Enforcement Division, the Attorney General, and a circuit solicitor may request and must receive data recorded by a body-worn camera for any legitimate criminal justice purpose.

(3) A law enforcement agency, the State Law Enforcement Division, the Attorney General, or a circuit solicitor may release data recorded by a body-worn camera in its discretion.

(4) A law enforcement agency may request and must receive data recorded by a body-worn camera if the recording is relevant to an internal investigation regarding misconduct or disciplinary action of a law enforcement officer.

(5) In addition to the persons who may request and must receive data recorded by a body-worn camera provided in item (2), the following are also entitled to request and receive such data pursuant to the South Carolina Rules of Criminal Procedure, the South Carolina Rules of Civil Procedure, or a court order:

- (a) a person who is the subject of the recording;
- (b) a criminal defendant if the recording is relevant to a pending criminal action;
- (c) a civil litigant if the recording is relevant to a pending civil action;
- (d) a person whose property has been seized or damaged in relation to, or is otherwise involved with, a crime to which the recording is related;
- (e) a parent or legal guardian of a minor or incapacitated person described in subitem (a) or (b); and
- (f) an attorney for a person described in subitems (a) through (e)."

Time effective

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 4th day of June, 2015.

Approved the 10th day of June, 2015.

This web page was last updated on August 12, 2015 at 11:04 AM

40. Laws of Florida Ch. 2015-41, 119.071

CHAPTER 2015-41

Committee Substitute for Committee Substitute for Committee Substitute for Senate Bill No. 248

An act relating to public records; amending s. 119.071, F.S.; defining the terms “body camera,” “law enforcement officer,” and “personal representative”; providing that a body camera recording is confidential and exempt from public records requirements under certain circumstances; providing exceptions; requiring a law enforcement agency to retain body camera recordings for at least a specified period; providing for retroactive application; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (1) is added to subsection (2) of section 119.071, Florida Statutes, to read:

119.071 General exemptions from inspection or copying of public records.

(2) AGENCY INVESTIGATIONS.—

(1)1. As used in this paragraph, the term:

a. “Body camera” means a portable electronic recording device that is worn on a law enforcement officer’s body and that records audio and video data in the course of the officer performing his or her official duties and responsibilities.

b. “Law enforcement officer” has the same meaning as provided in s. 943.10.

c. “Personal representative” means a parent, a court-appointed guardian, an attorney, or an agent of, or a person holding a power of attorney for, a person recorded by a body camera. If a person depicted in the recording is deceased, the term also means the personal representative of the estate of the deceased person; the deceased person’s surviving spouse, parent, or adult child; the deceased person’s attorney or agent; or the parent or guardian of a surviving minor child of the deceased. An agent must possess written authorization of the recorded person to act on his or her behalf.

2. A body camera recording, or a portion thereof, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution if the recording:

a. Is taken within the interior of a private residence;

b. Is taken within the interior of a facility that offers health care, mental health care, or social services; or

c. Is taken in a place that a reasonable person would expect to be private.

3. Notwithstanding subparagraph 2., a body camera recording may be disclosed by a law enforcement agency:

a. In furtherance of its official duties and responsibilities; or

b. To another governmental agency in the furtherance of its official duties and responsibilities.

4. A body camera recording, or a portion thereof, shall be disclosed by a law enforcement agency:

a. To a person recorded by a body camera; however, a law enforcement agency may disclose only those portions that are relevant to the person's presence in the recording;

b. To the personal representative of a person recorded by a body camera; however, a law enforcement agency may disclose only those portions that are relevant to the represented person's presence in the recording;

c. To a person not depicted in a body camera recording if the recording depicts a place in which the person lawfully resided, dwelled, or lodged at the time of the recording; however, a law enforcement agency may disclose only those portions that record the interior of such a place.

d. Pursuant to a court order.

(I) In addition to any other grounds the court may consider in determining whether to order that a body camera recording be disclosed, the court shall consider whether:

(A) Disclosure is necessary to advance a compelling interest;

(B) The recording contains information that is otherwise exempt or confidential and exempt under the law;

(C) The person requesting disclosure is seeking to obtain evidence to determine legal issues in a case in which the person is a party;

(D) Disclosure would reveal information regarding a person that is of a highly sensitive personal nature;

(E) Disclosure may harm the reputation or jeopardize the safety of a person depicted in the recording;

(F) Confidentiality is necessary to prevent a serious and imminent threat to the fair, impartial, and orderly administration of justice;

(G) The recording could be redacted to protect privacy interests; and

(H) There is good cause to disclose all or portions of a recording.

(II) In any proceeding regarding the disclosure of a body camera recording, the law enforcement agency that made the recording shall be given reasonable notice of hearings and shall be given an opportunity to participate.

5. A law enforcement agency must retain a body camera recording for at least 90 days.

6. The exemption provided in subparagraph 2. applies retroactively.

7. This exemption does not supersede any other public records exemption that existed before or is created after the effective date of this exemption. Those portions of a recording which are protected from disclosure by another public records exemption shall continue to be exempt or confidential and exempt.

8. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2020, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. (1) The Legislature finds that it is a public necessity that the following types of body camera recordings are made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution: recordings taken within the interior of a private residence; recordings taken within the interior of a facility that offers health care, mental health care, or social services; and recordings taken in a place that a reasonable person would expect to be private.

(2) The Legislature recognizes the increased prevalence of body cameras being used by law enforcement officers. Body cameras preserve information that has the potential to assist both law enforcement officers' and the public's ability to review the circumstances surrounding an event in which law enforcement intervention occurs.

(3) However, the Legislature also finds that, in certain instances, audio and video recorded by body cameras is significantly more likely to capture highly sensitive personal information than other types of law enforcement recordings or documents. The Legislature finds that public disclosure of these recordings could have an undesirable chilling effect. People who know they are being recorded by a body camera may be unwilling to cooperate fully with law enforcement officers if they know that a body camera recording can be made publicly available to anyone else. People may also be less likely to call a law enforcement agency for services if their sensitive personal information or the circumstances that necessitate a law enforcement agency's involvement are subject to public dissemination as a body camera recording. The Legislature also finds that body camera recordings could be

used for criminal purposes if they were available upon request. This exemption from public records requirements allows law enforcement officers to more effectively and efficiently administer their duties, which would otherwise be significantly impaired. The Legislature finds that these concerns regarding the impact of the public records requirements for body camera recordings not only necessitate the exemption of the recordings from public records requirements, but also outweigh any public benefit that may be derived from their disclosure.

Section 3. This act shall take effect July 1, 2015.

Approved by the Governor May 21, 2015.

Filed in Office Secretary of State May 21, 2015.

41. Minneapolis City Ordinance §§ 172.30, 172.40

172.30. - Complaint filing, preliminary review and investigation.

- (a) Complaint filing. Any person who has personal knowledge of alleged misconduct on the part of a Minneapolis police officer may file a complaint with the office of police conduct review by submitting said complaint by means of any readily available method approved by the office. The office shall endeavor to facilitate the complaint filing process by providing multiple and accessible avenues for the filing of complaints. Absent extenuating circumstances deemed sufficient to warrant untimely filing, no person may file a complaint if more than two hundred seventy (270) days have elapsed since the alleged misconduct.
- (b) Complaint review. All complaints shall be jointly and collaboratively assessed and preliminarily reviewed by supervisory staff of the office from both the civilian unit and the internal affairs unit. A complaint may be declined with no further action required pursuant to the authority and discretion of the office if, on its face, it fails to allege a violation within the purview and jurisdiction of the office. A complaint may also be referred to another more appropriate governmental agency or, in the case of allegations which rise only to a potential "A" level infraction under the police department's adopted discipline matrix, may be referred to a program of mandatory mediation instituted by the office of police conduct review or directly to the officer's supervisor for coaching. Such complaints may also, pursuant to the authority and discretion of the office, be referred for formal investigation pursuant to subsection (c).
- (c) Complaint investigation. All other qualifying complaints shall be formally investigated by the office through assignment to an investigator or investigators from the civilian unit and/or the internal affairs unit. The office shall endeavor to complete any reviews and investigations as promptly and efficiently as possible, given the staffing and workload of the office. Any complaint alleging criminal misconduct by an officer shall be investigated by the internal affairs unit. Complaints not alleging criminal misconduct may be assigned to the civilian unit at the formal request of a complainant. The investigative report shall be in a format designated by the office and all final reports shall be reviewed and approved by supervisory staff of the office from both the civilian unit and the internal affairs unit. The investigative report shall not include any recommendation or conclusion regarding the merits of the complaint.
- (d) Procedural discretion and decision making. Any procedural issue related to the duties and authority of the office for which supervisory staff from the civilian unit and the internal affairs unit is unable to reach agreement upon shall be referred to the director of civil rights and the chief of police, who shall jointly determine the matter. In the event the director and the chief are unable to resolve the issue, a designee of the mayor may mediate, and if necessary resolve, the issue.
- (e) Mediation. Upon the joint direction of supervisory staff of the office of police conduct review from both the civilian unit and the internal affairs unit, a complaint may be referred to mandatory mediation upon preliminary review of the complaint or at any other time in the course of investigation when deemed to be appropriate. The mediation shall proceed according to procedures adopted and instituted by the office of police conduct review. Mediators shall be neutral trained mediators unaffiliated with the office of police conduct review, the police conduct oversight commission, the civil rights department or any other department of the City of Minneapolis.
- (f) Firewall. Information from investigations shall be shared only with staff assigned to the office of police conduct review and police conduct oversight commission, unless otherwise specifically authorized by law. (90-Or-043, § 1, 1-26-90; 2003-Or-028, § 3, 3-21-03; 2003-Or-112, § 1, 9-12-03; 2004-Or-068, § 1, 6-18-04; 2009-Or-029, § 1, 3-27-09; 2010-Or-022, § 1, 4-16-10; 2012-Or-061, § 4, 9-21-12)

172.40. - Review panel procedure.

All final and approved investigative reports shall be forwarded to a review panel for the purpose of making recommendations regarding the merits of the complaint to the chief of police.

- (1) Each review panel shall be comprised of four (4) panelists. Two (2) of the panelists shall be sworn officers of the police department holding the rank of lieutenant or higher assigned by the chief of police or the chief's designee and two (2) panelists shall be civilians assigned by the director of civil rights or the director's designee.
- (2) The panels shall be scheduled on an as-needed or regular basis by the office of police conduct review. Each panel shall appoint a chair, although the office of police conduct review shall designate whether the chair of each panel shall be a civilian or officer member on a rotating and equal basis.
- (3) The panel shall review and discuss the investigative report but shall take no testimony or argument from witnesses or parties unless a request from the panel is specifically approved by the office of police conduct review.
- (4) The panel shall issue its recommendation within three (3) business days of the panel review, which shall be returned to the office of police conduct review and promptly forwarded to the chief of police. The recommendation shall be in a format approved by the office of police conduct review, shall be signed by all panelists, and shall include a recommendation as to whether each allegation is supported or not supported along with reference to the investigative evidence which supports the recommendation. Alternatively, the panel may return the investigative report with a request for additional information, which shall be identified with particularity.
- (5) The recommendation shall include the votes of each panelist, and in the event the panel is evenly divided on any recommendation, such division shall be noted.
- (6) The standard of proof necessary to recommend that an allegation be sustained is preponderance of the evidence. Preponderance of the evidence means that the greater weight of the evidence supports the decision.
- (7) The office of police conduct review shall provide written notice to the officer of the review panel's recommendation. The office shall provide written notice to the complainant of any allegation not sustained in the review panel's recommendation. (90-Or-043, § 1, 1-26-90; 2003-Or-028, § 5, 3-21-03; 2012-Or-061, § 5, 9-21-12)

42. Minn. Stat. § 628.26

628.26 LIMITATIONS.

(a) Indictments or complaints for any crime resulting in the death of the victim may be found or made at any time after the death of the person killed.

(b) Indictments or complaints for a violation of section 609.25 may be found or made at any time after the commission of the offense.

(c) Indictments or complaints for violation of section 609.282 may be found or made at any time after the commission of the offense if the victim was under the age of 18 at the time of the offense.

(d) Indictments or complaints for violation of section 609.282 where the victim was 18 years of age or older at the time of the offense, or 609.42, subdivision 1, clause (1) or (2), shall be found or made and filed in the proper court within six years after the commission of the offense.

(e) Indictments or complaints for violation of sections 609.342 to 609.345 if the victim was under the age of 18 years at the time the offense was committed, shall be found or made and filed in the proper court within the later of nine years after the commission of the offense or three years after the offense was reported to law enforcement authorities.

(f) Notwithstanding the limitations in paragraph (e), indictments or complaints for violation of sections 609.342 to 609.344 may be found or made and filed in the proper court at any time after commission of the offense, if physical evidence is collected and preserved that is capable of being tested for its DNA characteristics. If this evidence is not collected and preserved and the victim was 18 years old or older at the time of the offense, the prosecution must be commenced within nine years after the commission of the offense.

(g) Indictments or complaints for violation of sections 609.466 and 609.52, subdivision 2, clause (3), item (iii), shall be found or made and filed in the proper court within six years after the commission of the offense.

(h) Indictments or complaints for violation of section 609.2335, 609.52, subdivision 2, clause (3), items (i) and (ii), (4), (15), or (16), 609.631, or 609.821, where the value of the property or services stolen is more than \$35,000, shall be found or made and filed in the proper court within five years after the commission of the offense.

(i) Except for violations relating to false material statements, representations or omissions, indictments or complaints for violations of section 609.671 shall be found or made and filed in the proper court within five years after the commission of the offense.

(j) Indictments or complaints for violation of sections 609.561 to 609.563, shall be found or made and filed in the proper court within five years after the commission of the offense.

(k) In all other cases, indictments or complaints shall be found or made and filed in the proper court within three years after the commission of the offense.

(l) The limitations periods contained in this section shall exclude any period of time during which the defendant was not an inhabitant of or usually resident within this state.

(m) The limitations periods contained in this section for an offense shall not include any period during which the alleged offender participated under a written agreement in a pretrial diversion program relating to that offense.

(n) The limitations periods contained in this section shall not include any period of time during which physical evidence relating to the offense was undergoing DNA analysis, as defined in section 299C.155, unless the defendant demonstrates that the prosecuting or law enforcement agency purposefully delayed the DNA analysis process in order to gain an unfair advantage.

History: (10655) *RL s 5313; 1976 c 184 s 1; 1982 c 432 s 1; 1984 c 419 s 2; 1984 c 496 s 1; 1986 c 351 s 21; 1Sp1986 c 3 art 1 s 78; 1987 c 254 s 12; 1987 c 267 s 4; 1988 c 712 s 20; 1989 c 290 art 4 s 17; 1991 c 232 s 3; 1993 c 326 art 4 s 36; art 5 s 12; 1994 c 636 art 2 s 64; 1995 c 226 art 2 s 35; 2000 c 311 art 4 s 9; 2001 c 7 s 89; 2005 c 136 art 17 s 52; 2009 c 59 art 5 s 20; 2009 c 119 s 18*

43. U.S Department of Justice, Civil Rights Division: "Albuquerque Police Department"



April 10, 2014

The Honorable Richard J. Berry
Mayor
City of Albuquerque
One Civic Plaza NW, 11th Floor
Albuquerque, NM 87102

Re: Albuquerque Police Department

Dear Mayor Berry:

We write to report the findings of the Department of Justice's civil investigation of the Albuquerque Police Department ("APD" or "the department"). Our investigation focused on allegations of use of excessive force by APD officers under the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141 ("Section 14141"). Section 14141 makes it unlawful for government entities, such as the City of Albuquerque and APD, to engage in a pattern or practice of conduct by law enforcement officers that deprives individuals of rights, privileges, or immunities secured by the Constitution or laws of the United States. The investigation was conducted jointly by the Civil Rights Division and the United States Attorney's Office for the District of New Mexico. This letter is separate from, and does not address, any federal criminal investigation that may be conducted by the Department of Justice.

Based on our investigation, we have reasonable cause to believe that APD engages in a pattern or practice of use of excessive force, including deadly force, in violation of the Fourth Amendment and Section 14141. Our investigation included a comprehensive review of APD's operations and the City's oversight systems. We have determined that structural and systemic deficiencies—including insufficient oversight, inadequate training, and ineffective policies—contribute to the use of unreasonable force. At the conclusion of this letter, we outline the remedial measures that we believe are necessary to ensure that force is used in accordance with the Constitution. In some instances, these recommendations build on measures and initiatives that are already underway within the department.

We recognize the challenges faced by officers in Albuquerque and in communities across the nation every day. Policing can be dangerous; at times, officers must use force, including deadly force, to protect themselves and others in the course of their work. The use of force by police is guided by the need to protect public safety and the duty to protect individuals from unreasonable searches and seizures under the Fourth Amendment. While most force used by APD officers is within these strictures, a significant amount falls short of these requirements. Although APD has taken steps to allay the public's concerns about the department's use of force,

these initiatives have been insufficient to ensure consistent accountability. They also have not addressed longstanding deficiencies that have allowed a culture of indifference to constitutional policing and insularity to develop within the department.

We are aware that the release of our findings occurs at a time of transition for the department's leadership and amid continued tension around recent officer-involved shootings. In particular, fatal confrontations with individuals experiencing mental health crises continue to cause significant public concern over the department's ability and willingness to consider the safety and well-being of the individuals in distress. Throughout our investigation, APD leadership has been receptive to our preliminary feedback and technical assistance. However, as outlined in this letter, more work is necessary to ensure that officers have the proper tools, guidance, training, and supervision to carry out their law enforcement responsibilities safely and in accordance with individuals' federal constitutional rights. We appreciate your expressed willingness to embrace many of the changes we have highlighted in our conversations with APD. We will continue to work collaboratively with you, the department's leadership, and other stakeholders to develop sustainable reforms that will resolve our findings. However, if we cannot reach an appropriate resolution, Section 14141 authorizes the Department of Justice to file a civil lawsuit to "eliminate the pattern or practice" of police misconduct. 42 U.S.C. § 14141.

We thank you, APD, and other city officials for your cooperation and professionalism during our investigation. We received invaluable assistance from the department's leadership, counsel, and rank-and-file officers. We also thank community members for bringing relevant information to our attention and for sharing their experiences with us. We are encouraged by the many individuals who took an active interest in our investigation and who offered thoughtful recommendations. We appreciate those individuals who came forward to provide information about specific encounters with APD, even when recounting such events was painful. We know that many residents care deeply about preventing the types of incidents described in this letter and have a genuine interest in supporting the many men and women of APD who uphold their oaths and keep Albuquerque safe. Based on this extensive cooperation and participation, we stand ready, and are encouraged that we will be able, to work together with the City, APD, and other stakeholders to address our findings methodically and expeditiously. By promoting constitutional policing, we will make APD more effective and will help restore the community's trust in the department.

I. SUMMARY OF FINDINGS

While officers may be required to use force during the course of their duties, they must do so respecting constitutional guarantees against unreasonable searches and seizures. For too long, Albuquerque officers have faced little scrutiny from their superiors in carrying out this fundamental responsibility. Despite the efforts of many committed individuals, external oversight is broken and has allowed the department to remain unaccountable to the communities it serves. Based on our investigation, we find that the department engages in a pattern or practice of using excessive force during the course of arrests and other detentions in violation of the Fourth Amendment and Section 14141. We find this pattern or practice in the following areas:

- (1) Albuquerque police officers too often use deadly force in an unconstitutional manner in their use of firearms. To illustrate, of the 20 officer-involved shootings resulting in fatalities from 2009 to 2012, we concluded that a majority of these shootings were

unconstitutional. Albuquerque police officers often use deadly force in circumstances where there is no imminent threat of death or serious bodily harm to officers or others. Instead, officers used deadly force against people who posed a minimal threat, including individuals who posed a threat only to themselves or who were unarmed. Officers also used deadly force in situations where the conduct of the officers heightened the danger and contributed to the need to use force.

- (2) Albuquerque police officers also often use less lethal force¹ in an unconstitutional manner. We reviewed a random sample of the department's use of force reports completed by officers and supervisors between 2009 and early 2013. Our sample consisted of over 200 force reports. We find that officers frequently misused electronic control weapons (commonly referred to by the brand name "Tasers"),² resorting to use of the weapon on people who are passively resisting, observably non-threatening but unable to comply with orders due to their mental state, or posed only a minimal threat to the officers. Officers also often used Tasers in dangerous situations. For example, officers fired Tasers numerous times at a man who had poured gasoline on himself. The Taser discharges set the man on fire, requiring another officer to extinguish the flames. This endangered all present. Additionally, Albuquerque police officers often use unreasonable physical force without regard for the subject's safety or the level of threat encountered. Officers frequently use takedown procedures in ways that unnecessarily increase the harm to the person. Finally, officers escalate situations in which force could have been avoided had they instead used de-escalation measures.
- (3) A significant amount of the force we reviewed was used against persons with mental illness and in crisis. APD's policies, training, and supervision are insufficient to ensure that officers encountering people with mental illness or in distress do so in a manner that respects their rights and is safe for all involved.
- (4) The use of excessive force by APD officers is not isolated or sporadic. The pattern or practice of excessive force stems from systemic deficiencies in oversight, training, and policy. Chief among these deficiencies is the department's failure to implement an objective and rigorous internal accountability system. Force incidents are not properly investigated, documented, or addressed with corrective measures.

¹ For purposes of this letter, "less lethal force" means a force application not intended or expected to cause death or serious injury and which is commonly understood to have less potential for causing death or serious injury than conventional, more lethal police tactics. Nonetheless, use of less lethal force can result in death or serious injury.

² The Department uses the Taser brand electronic control weapons. Throughout this report, we will refer to these weapons as Tasers.

We found only a few instances in the incidents we reviewed where supervisors scrutinized officers' use of force and sought additional investigation. In nearly all cases, supervisors endorsed officers' version of events, even when officers' accounts were incomplete, were inconsistent with other evidence, or were based on canned or repetitive language. The department has also failed to implement its force policies consistently, including requirements that officers properly document their use of force, whether by lapel cameras, audio tapes, or in reports. The department does not use other internal review systems, such as internal affairs and the early intervention system, effectively. These internal accountability and policy failures combine with the department's inadequate training to contribute to uses of excessive force. Additionally, serious limitations in the City's external oversight processes have allowed many of these deficiencies to continue unabated.

As a result of the department's inadequate accountability systems, the department often endorses questionable and sometimes unlawful conduct by officers. The prior criminal history and background of individuals who are the subject of police force also typically receive greater scrutiny than the actions of officers. These practices breed resentment in the community and promote an institutional disregard for constitutional policing. For example, in a 2011 civil trial involving the shooting death of Andrew Lopez in which a state court found that an officer used unreasonable force, the City's expert, a training officer, testified that the officer's actions were "exemplary and that he (the expert) would use this incident to train officers on the proper use of deadly force."³ The court concluded that the deadly force training provided to APD officers "is designed to result in the unreasonable use of deadly force."⁴ We found other examples of similar praise or approval by police supervisors in force investigations we reviewed.

We recognize that the department started to institute some preliminary reforms to address our concerns before the conclusion of our investigation. However, the recent remarks by the police chief in response to the James Boyd shooting on March 16, 2014, demonstrate that more work is needed to change the culture of APD.⁵ It is imperative that the department continue to build on these reforms and improve its training, recruitment, and internal review mechanisms. The failure to take meaningful remedial action places residents at risk of excessive force and promotes a culture of unjustifiable aggression that further alienates the department from the communities it serves. Making constitutional policing a core agency value and building systems of accountability to carry out that value will support the many APD officers who strive to and do uphold their oaths. This, in turn, will engender greater trust and confidence in APD from the community.

³ Findings of Fact and Conclusions of Law, *Higgins v. City of Albuquerque*, No. CV-2009-0915 (N.M. 2d Judicial Dist. filed on Aug. 19, 2009), ¶67.

⁴ *Id.* at ¶66.

⁵ On March 21, 2014, APD Chief Gorden Eden told reporters at a news conference that the force used against James Boyd was justified after officers responded to reports that an individual was camping illegally in the Sandia foothills. The Boyd shooting is under criminal investigation and is not addressed in this letter. Dan McKay, *Camper Turning from Officers When Shot*, Albuquerque Journal, Mar. 22, 2014, available at <http://www.abqjournal.com/372844/news/video-camper-turning-away.html>.

II. BACKGROUND

A well-functioning police department has the trust of the residents it protects, functions as a part of the community rather than insulated from it, and cultivates legitimacy when the public views it as engaging with them fairly and respecting the rule of law.⁶ We started this investigation in November 2012 amid serious public concerns about APD's ability and willingness to fulfill these precepts.

In particular, the department faced community apprehension about its respect for constitutional guarantees against unreasonable force and its ability to protect the safety of all residents. These concerns stemmed from a number of high-profile incidents suggesting unreasonable conduct by some officers, including: (1) a high rate of shootings,⁷ including more than 25 shootings in the two-year period before our investigation started; (2) high profile uses of less lethal force, including Taser deployments and physical force captured on video; (3) a large number of judgments and settlements⁸ against the City signifying that many uses of force were unjustified; and (4) concerns raised by local leaders and advocates culminating in a City Council measure seeking an outside investigation by DOJ.⁹

In September 2010, the Police Executive Research Forum ("PERF") started a nine-month study of the department's use-of-force policies and training, as well as the department's

⁶ See generally Tom Tyler & Jeffrey Fagan, *Legitimacy and Cooperation: Why Do People Help the Police Fight Crime in their Communities?*, 6 Ohio St. J. Crim. L. 231 (2008) (finding that cooperation with the police increases when the public views the police as respecting procedural justice and therefore as legitimate authorities); Tom Tyler, *WHY PEOPLE OBEY THE LAW* 138 (2006) (finding, in a study of over 1,500 Chicago residents, that "[i]nferences about efforts to be fair were the most important criterion of procedural fairness; concerns about politeness and rights (jointly labeled ethicality) were the second-most important"); Jason Sunshine & Tom Tyler, *The Role of Procedural Justice and Legitimacy in Shaping Public Support for Policing*, 37 Law & Soc'y Rev. 513, 519-21 (2003) (study concluding that police treatment of the public and adherence to procedural fairness, such as accurately applying the law, has a stronger effect on police legitimacy than effectiveness in addressing crime).

⁷ Dan Frosch, *Justice Dept. to Investigate the Police in Albuquerque*, N.Y. Times, Nov. 27, 2012, available at http://www.nytimes.com/2012/11/28/us/justice-dept-to-investigate-the-police-in-albuquerque.html?_r=0; Michael Haederle, *In Albuquerque, An Uproar Over Shootings by Police*, Los Angeles Times, Apr. 14, 2012, available at <http://articles.latimes.com/2012/apr/14/nation/la-na-albuquerque-police-20120415>.

⁸ Jeff Proctor, *Ellis Case Would Boost APD Payouts*, Albuquerque Journal, Apr. 7, 2013, available at <http://www.abqjournal.com/186038/news/ellis-case-would-boost-apd-payouts.html>; Jeff Proctor, *Police Misconduct Costly*, Albuquerque Journal, Feb. 6, 2012, available at <http://www.abqjournal.com/85625/news/police-misconduct-costly.html>.

⁹ Council Bill No. R-11-247 (August 2011) (requesting a DOJ investigation into "whether there have been incidents or patterns of civil rights violations by the Albuquerque Police Department"). You vetoed the measure, citing the City's request for a review of the department by the Police Executive Research Forum. Mayor Berry's Veto Message on R-11-247 (Aug. 18, 2011), available at <http://www.cabq.gov/mayor/news/read-mayor-berrys-veto-message-on-r-11-247/>.

management systems. PERF did not evaluate whether officers used force appropriately.¹⁰ Indeed, the report noted that “[r]einvestigating officer-involved shooting cases was outside the scope of this study as specified by the city.”¹¹ Instead, PERF focused on “common factors” in the shootings and trends and patterns in the uses of less lethal force, such as frequency of weapons use, officer and subject demographics, and the types of force used.¹² The PERF report noted that shootings increased, even though “both violent crime and assaults on officers have been on a downward trend.”¹³ The PERF report found that multiple officers were present at 81% of the shooting incidents they reviewed.¹⁴ Given the level of misconduct we uncovered, the presence of multiple officers is significant because officers have a duty to intervene to prevent other officers from using excessive force. *Vondrak v. City of Las Cruces*, 535 F.3d 1198, 1210 (10th Cir. 2008), *cert. denied*, 555 U.S. 1137 (2009) (internal citations omitted). The report also noted that in only a small percentage of shooting incidents (11%) did the officer employ less-lethal options before resorting to deadly weapons.¹⁵ The PERF report also noted the significant use of Tasers and pointed out serious limitations in APD’s ability to track accurate force data.¹⁶ Our investigation, which included incidents occurring after PERF’s review, revealed similar problems.

The Albuquerque Police Department is the largest law enforcement agency in New Mexico, with approximately 1,000 sworn officers and over 600 civilian employees.¹⁷ We recognize that it is a modern policing agency that has made efforts to implement innovative programs, such as the Crisis Intervention Team (“CIT”) and the Crisis Outreach and Support Team (“COAST”), which work to diffuse potentially harmful situations and assist people in crisis by providing them with access to mental health care. The department has also partnered with other agencies to maintain the Family Advocacy Center, a safe space that focuses on the needs of victims of domestic violence, sexual abuse, and other trauma. The department has received national accreditation by law enforcement executive associations¹⁸ and has invested in technologies, such as lapel cameras, to address community concerns about officer accountability.

While these measures are noteworthy, the public’s confidence in the department remains shaken over concerns that the department is unable to control its officers’ use of excessive force. The use of technology and other initiatives have had limited impact in increasing accountability or promoting safer encounters with individuals suffering from mental illness. For instance,

¹⁰ PERF, *Review of Use of Force in the Albuquerque Police Department*, 41, 48 (June 23, 2011), available at <http://alibi.com/media/docs/Police%20Executive%20Research%20Forum's%20review%20of%20APD%20shootings.pdf>.

¹¹ *Id.* at 10.

¹² *Id.*

¹³ *Id.* at 2.

¹⁴ *Id.* at 14.

¹⁵ *Id.*

¹⁶ *Id.* at 48.

¹⁷ The Albuquerque Police Department’s Strategic Plan Fiscal Year 2013 through Fiscal Year 2017, available at <http://www.cabq.gov/police/internal-reports>.

¹⁸ For example, the department is accredited by the Commission on Accreditation for Law Enforcement Agencies, Inc., which is the credentialing authority through organizations such as the International Association of Chiefs of Police and the National Sheriff’s Association, among others. We do not endorse such accreditation. We simply note that such accreditation exists.

although the department is among a few of its size to mandate the use of lapel video cameras, the implementation has been highly inconsistent. The availability of trained CIT officers has not kept up with the needs in the community, and de-escalation techniques employed by these officers are too easily dismissed by heavily-armed tactical units in situations where individuals under police scrutiny are not posing an immediate threat of harm. The mental health professionals and staff on COAST teams operate in a larger mental health system with limited resources and options. It is critical that the City and the department take additional measures to identify, address, and prevent excessive force to protect the public and rebuild the community's trust. Recent shootings have heightened and confirmed the need for further reform.

III. METHODOLOGY AND LEGAL STANDARDS

We conducted our evaluation of the department's use of force in three major phases: fact-gathering, incident analysis based on applicable legal standards, and a comprehensive review of policies and practices to identify significant factors that cause or contribute to misconduct. Our review was informed by many sources, including: (1) individuals participating in community town hall meetings and separate witness interviews; (2) agency stakeholders, such as the department's officers, supervisors, and command staff; (3) other stakeholders in the City, including the officers' union representatives, police oversight commissioners and investigative staff, City officials, and community group leaders; (4) department documents, including use-of-force and shooting files; and (5) information and insights provided by our expert police consultants.

During the first phase of our investigation, we sought relevant information on the department's use of force and worked to gain a comprehensive understanding of the department, including its leadership, systems of accountability, operations, and community engagement. We conducted onsite tours in Albuquerque in December 2012, February and March 2013, and January 2014. Collectively during these tours, we met with command staff and officers of various ranks; representatives from the officers' union; leadership and officers within the internal affairs department; the police academy; and each area command, among others. We spoke to current and former officers in Albuquerque by video conference and telephonically. We also met with stakeholders outside of the department, including the Independent Review Officer, members of the Police Oversight Commission, and community group leaders.¹⁹

In this fact-gathering phase, we also sought to learn more from those who had direct interactions with the department. We held four community town hall meetings in different regions of the City and conducted initial and follow-up interviews of hundreds of people. We also interviewed dozens of people through additional community outreach efforts. We verified these accounts by reviewing available documentary, photographic, and video support, as well as department records.

In the second phase of our investigation, we carefully analyzed the information we obtained and applied the relevant legal standards to determine whether the department's use of force was justified under federal law. We reviewed an extensive volume of documents provided to us by the department, including a random sample of more than 200 force reports from 2009

¹⁹ See a more in depth description of the Police Oversight Commission and the Independent Review Officer at B. 7 *infra*.

through early 2013.²⁰ We also reviewed the files of officer-involved shootings between 2009 and 2012 that resulted in fatalities. Our review of individual use-of-force complaints and reports informed our investigation into whether a pattern or practice of excessive force exists.

A pattern or practice may be found where incidents of violations are repeated and not isolated instances. *Int'l Bd. of Teamsters v. United States*, 431 U.S. 324, 336 n.16 (1977) (noting that the phrase “pattern or practice” “was not intended as a term of art,” but should be interpreted according to its usual meaning “consistent with the understanding of the identical words” used in other federal civil rights statutes). Courts interpreting the terms in similar statutes have established that statistical evidence is not required. *Catlett v. Mo. Highway & Transp. Comm’n*, 828 F.2d 1260, 1265 (8th Cir. 1987) (interpreting “pattern or practice” in the Title VII context). A court does not need a specific number of incidents to find a pattern or practice, and it does not need to find a set number of incidents or acts. *See United States v. W. Peachtree Tenth Corp.*, 437 F.2d 221, 227 (5th Cir. 1971) (“The number of [violations] . . . is not determinative. . . . In any event, no mathematical formula is workable, nor was any intended. Each case must turn on its own facts.”).

We assessed officers’ conduct under the Fourth Amendment’s “right of people to be secure in their persons . . . against unreasonable searches and seizures.” U.S. CONST. amend. IV. Courts apply the Fourth Amendment objective reasonableness standard to all claims of excessive force, including deadly force. *Graham v. Connor*, 490 U.S. 386 (1989); *Tennessee v. Garner*, 471 U.S. 1 (1985). Under this standard, “the nature and quality of the intrusion on the individual’s Fourth Amendment interests” is balanced against the “countervailing government interests at stake.” *Graham*, 471 U.S. at 396 (internal quotation marks and citations omitted). Ultimately, in evaluating whether there are violations of the Fourth Amendment, the courts are tasked with determining whether the “officers’ actions are objectively reasonable in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation.” *Id.* at 397 (internal quotation marks and citations omitted); *see also Casey v. City of Federal Heights*, 509 F.3d 1278, 1281 (10th Cir. 2007).

Guiding this balancing of interests are several non-exclusive factors: if a crime was suspected, the severity of that offense; whether the person posed an immediate threat to the safety of the officer or others; and whether the person was actively resisting arrest or attempting to evade arrest. *Graham*, 490 U.S. at 396; *Garner*, 471 U.S. at 8-9. The Tenth Circuit has also considered other factors, including: whether the officer’s own conduct contributed to the need to use force; whether the officer issued a warning and the person had the opportunity to comply; whether the person was mentally ill; and whether, during the course of the interaction, new facts developed requiring a change in the amount of force required. *Fancher v. Barrientos*, 723 F.3d 1191, 1201 (10th Cir. 2013) (holding that repeated shooting at person is unreasonable where no threat remained); *Cavanaugh v. Woods Cross City*, 625 F.3d 661, 666 (10th Cir. 2010) (“It is not objectively reasonable to ignore specific facts as they develop (which contradict the need for this amount of force [Taser]), in favor of prior general information.”); *Fogarty v. Gallegos*, 523 F.3d 1147, 1159-60 (10th Cir. 2008) (considering whether officers’ conduct contributed to the need to

²⁰ We reviewed incidents reported by APD as uses of force. APD policy requires that officers report “police actions” that result in death, great bodily harm, or injury. “Police action” is defined as “any offensive or non passive defensive action by an officer, or some intentional action under his/her immediate control.” APD Use of Force Policy, 02-52.

use tear gas); *Casey*, 509 F.3d at 1285 (considering whether a person was provided an opportunity to comply before an officer used a Taser); *Allen v. Muskogee, Okla.*, 119 F.3d 837, 840 (10th Cir. 1997) (in shooting, considering person’s suicidal state and officer’s conduct prior to the person’s threat of force); *Cardall v. Thompson*, 845 F. Supp. 2d 1182, 1192 (D. Utah 2012) (noting that person’s “mental health also weighed against the use of a [T]aser”). Courts weigh these considerations to determine the reasonableness of the officer’s conduct in light of the totality of the circumstances.

In essence, the courts evaluate the full context surrounding the force action. While refraining from engaging in a 20/20 hindsight judgment of the force used, courts review the situation and threat faced by the officer. This also includes the type of force used by the officer—whether that force was physical, the use of weapons such as a Taser or chemical agents, or the use of a firearm. More severe forms of force require more justification. *Cordova v. Aragon*, 569 F.3d 1183, 1190 (10th Cir. 2009) (reasoning that the “general dangers posed” by a reckless driver fleeing the police “does not justify a shooting that is nearly certain to cause the suspect’s death”); *Cavanaugh*, 625 F.3d at 665 (holding that an officer’s use of the “quiet severe” intrusion of a [T]aser against an unarmed misdemeanor who posed no threat was unreasonable); *Casey*, 509 F.3d at 1286 (“[I]t is excessive to use a Taser to control a target without having any reason to believe that a lesser amount of force—or a verbal command—could not exact compliance.”). Courts recognize that while some force may be required to apprehend a person, such force must be limited to what is “reasonably necessary to effect a lawful seizure.” *Fisher v. City of Las Cruces*, 584 F.3d 888, 895 (10th Cir. 2009) (holding that a rough handcuffing of a person was unreasonable where no threat remained). We applied these legal standards in our review of APD’s force incidents.

In the final phase of our review, we sought to evaluate the causes of, and the factors contributing to, the use of unreasonable force. We reviewed internal and external APD documents addressing a variety of operational issues, including policies and procedures, recruitment, training, internal accountability measures, assessment reports, task force evaluations, and investigations. We were aided in this determination by our expert police consultants who have significant experience in providing constitutional policing services, including reducing improper uses of force, ensuring officer safety and accountability, and promoting respectful police interactions with the community. These consultants joined us during our onsite tours of the department, participated in our town hall meetings, conducted in-person and telephonic interviews with civilians and officers, reviewed APD policies and procedures, and reviewed force and shooting reports. The experience and knowledge of these nationally-recognized law enforcement experts helped to inform our findings. In sum, we relied on a variety of sources to reach the conclusions reported here.

IV. FINDINGS

We have reasonable cause to believe that officers of the Albuquerque Police Department engage in a pattern or practice of use of excessive force, including unreasonable deadly force, in violation of the Fourth Amendment and Section 14141. A significant amount of the force we reviewed was used against persons with mental illness and in crisis. APD’s policies, training, and supervision are insufficient to ensure that officers encountering people with mental illness or in distress do so in a manner that is safe and respects their rights. The use of excessive force by APD officers is not isolated or sporadic. The pattern or practice of excessive force stems from

systemic deficiencies in oversight, training, and policy. Chief among these deficiencies is the department's failure to implement an objective and rigorous internal accountability system. Force incidents are not properly investigated, documented, or addressed with corrective measures. Other deficiencies relate to the department's inadequate tactical deployments and incoherent implementation of community policing principles.

A. APD Engages in a Pattern or Practice of Unconstitutional Use of Deadly Force.

We find that the Albuquerque Police Department engages in a pattern or practice of unreasonable use of deadly force in officers' use of firearms. We reviewed all fatal shootings by officers between 2009 and 2012²¹ and found that officers were not justified under federal law in using deadly force in the majority of those incidents. This level of unjustified, deadly force by the police poses unacceptable risks to the Albuquerque community.

As noted above, the Fourth Amendment permits police officers to use deadly force under certain circumstances, and the courts have identified specific factors they consider in determining the reasonableness of a use of force based on the totality of the circumstances. Those factors guided our analysis of each fatal police shooting in the 2009 to 2012 time frame. For each officer-involved shooting, we reviewed all police reports from the incident; interviews with witnesses and the officers involved; memoranda from the internal affairs division; reports by the Independent Review Officer and the Police Oversight Commission; reports from the District Attorney's Office; lapel camera footage and audio tape, if they were available; in some cases, accounts that witnesses and family members of those killed gave directly to us; and other relevant information.

Below is a discussion of the most prevalent factors that lead us to find police shootings to be unjustified under federal law, with examples drawn from some of those incidents. We have identified other force incidents that further illustrate the pattern or practice of use of excessive force.

1. Albuquerque police officers shot and killed civilians who did not pose an imminent threat of serious bodily harm or death to the officers or others.

Like other uses of force, the reasonableness of deadly force is evaluated through an objective standard: whether a reasonable officer in the same circumstances—facing the same tensions and uncertainties, and forced to make split-second decisions—would have used deadly force. *See Graham*, 490 U.S. at 396-97. Police officers are permitted to use deadly force to prevent escape when they have “probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others.” *Garner*, 471 U.S. at 3; *Weigel v. Broad*, 544 F.3d 1143, 1151-52 (10th Cir. 2008). The Tenth Circuit has cautioned that this statement must not be read too broadly: “It does not mean that any risk of physical harm to others, no matter how slight, would justify any application of force, no matter how certain to cause death.” *Cordova*, 569 F.3d at 1190 (discussing *Scott v. Harris*, 550 U.S. 372 (2007)). In *Cordova*, the Tenth Circuit determined that the general risks created by a motorist's fleeing from

²¹ Because we wanted to examine both the reasonableness of uses of force and the department's responses to them, we focused on cases closed by APD.

the police are, without more, insufficient to justify a shooting that is nearly certain to cause the suspect's death.

We identified several cases in which officers shot and killed civilians who did not pose an immediate threat of death or serious bodily injury to officers or others. For instance, in February 2009, an officer used unreasonable force when he shot and killed Andrew Lopez after officers attempted to pull Lopez over for driving with dim headlights and no tail lights. According to officers, they suspected the vehicle had been involved in a prior incident in which a gun was reported. However, the vehicle Lopez was driving did not match the make, color or type of vehicle that was reported earlier. After leading the officers on a low-speed vehicle chase for more than ten minutes, Lopez stopped the vehicle, exited, and ran toward a driveway of a residence where a truck was parked. One officer gave chase on foot, followed by approximately four other officers. The primary officer stated that he believed Lopez was armed with the biggest handgun he had ever seen and ordered him to drop it. When Lopez reached a fence and began to turn, the officer shot at Lopez three times. One of the shots struck Lopez, causing a non-lethal bullet wound. Lopez fell to the ground and lay motionless on his back. The officer walked around the truck and fired a fourth shot into Lopez's chest, piercing his lung and heart and causing his death. Lopez was unarmed. The officer fired the fourth and final shot when Lopez was not pointing anything at officers and while he lay on his back already wounded.

In a bench trial in state court, a judge found that the officers' testimony about the threat they perceived from Lopez was not credible. The judge concluded that the shooting was unreasonable. The judge further found that the training provided to APD officers on use of deadly force "is not reasonable and is designed to result in the unreasonable use of deadly force."²² The judge found the City principally responsible for Lopez's death and awarded his estate approximately \$4.25 million.

In another incident, in October 2009, an officer shot and killed Dominic Smith, who was unarmed and fleeing the scene of a robbery on foot. Smith did not pose a threat of death or serious bodily injury to officers or others. Smith used a threatening note to rob a pharmacy for drugs before fleeing on foot. No one at the pharmacy saw Smith with any kind of a weapon and he did not commit acts of violence during the alleged robbery. An officer apprehended Smith just minutes later across the street from the pharmacy and stated that Smith appeared heavily intoxicated. The officer stated that he saw no weapons. The officer, with his gun drawn, ordered Smith to stop, but Smith continued walking away from the officer. The officer returned to his car, retrieved an assault rifle, and again confronted Smith, who continued to disregard the officer's orders. With Smith just a few feet away, the officer claimed that Smith motioned near his waist, which the officer believed to indicate that Smith was reaching for a gun. The officer shot and killed Smith. Smith did not have a gun. A reasonable officer confronting Smith as he fled from the pharmacy thus would not have believed that Smith posed an immediate threat of death or serious bodily harm. As the Supreme Court stated in *Garner*, "A police officer may not seize an unarmed, nondangerous suspect by shooting him dead." *Id.* at 11.

In another use of deadly force, in May 2011, an officer shot and killed Alan Gomez, who would not allow his brother and his girlfriend to leave their house. Gomez was unarmed and did

²² Findings of Fact and Conclusions of Law, *Higgins v. City of Albuquerque*, No. CV-2009-0915 (N.M. 2d Judicial Dist. filed on Aug. 19, 2009), ¶66.

not pose an immediate risk of death or serious bodily harm to the individuals in the house or officers when he was shot. The incident began in the middle of the night when the girlfriend called APD because Gomez was refusing to let her and her boyfriend leave their house. Officers arrived and surrounded the house. As officers attempted to negotiate with Gomez, police dispatchers spoke on the telephone to the girlfriend who originally called the police. She initially told a dispatcher that Gomez was in possession of a gun. Before the shooting, she told the dispatcher that Gomez no longer had a gun. Officers observed Gomez as he walked in and out of the front door several times without incident. APD officers had not observed Gomez exhibiting any threatening behavior toward the police or the individuals in the house. After officers had been present for nearly an hour, Gomez again came out of the front door briefly and began to turn to go back inside. As he did so, an officer shot Gomez once and killed him. When officers approached Gomez to render aid, they saw that he was not holding a gun and no other object was found anywhere near him

When the officer shot Gomez, the circumstances would not have suggested to a reasonable officer that there was an immediate threat. The officers had not confirmed that Gomez was armed. With the exception of the shooting officer, who gave inconsistent statements, officers did not observe Gomez hold, raise, or aim a gun. No one's life was in immediate danger and an APD negotiator was on his way to the scene. There were insufficient facts to lead officers to believe that Gomez "pose[d] a significant risk of death or serious physical injury to the officer or others." *Garner*, 471 U.S. at 3. Even if officers were concerned that Gomez might have been going back to harm the individuals inside the house, that risk of future harm was not enough to justify the near certainty of Gomez's death from the firearm discharge. *See Cordova*, 569 F.3d at 1190. Gomez's family sued APD and in December 2013, the parties reached an out-of-court settlement in the amount of \$900,000. This was the shooting officer's third shooting in the line of duty. He shot and killed a man in 2004 while serving with the New Mexico State Police and wounded another man in 2010. None of the three shooting subjects was armed. The officer joined APD in 2007 as a lateral hire.

2. Albuquerque police officers used deadly force on individuals in crisis who posed no threat to anyone but themselves.

Just as officers are not reasonable in using deadly force when a person poses little or no threat to officers or others, officers are also unreasonable in using deadly force on individuals in crisis who pose a threat only to themselves. *Walker v. City of Orem*, 451 F.3d 1139, 1160 (10th Cir. 2006) (concluding that there were sufficient facts to support a Fourth Amendment violation where the officer acted precipitously in shooting the subject who posed a danger only to himself when he held a box cutter to his wrists); *see Sevier v. City of Lawrence, Kan.*, 60 F.3d 695, 699-701 (10th Cir. 1995) ("The reasonableness of [officers'] actions depends both on whether the officers were in danger at the precise moment that they used force and on whether [officers'] own reckless or deliberate conduct during the seizure unreasonably created the need to use such force.") Although reasonable officers need not await the "glint of steel" before taking self-protective action, courts have looked at several factors to assess the threat to officers when an individual is armed and threatening harm to himself. *Estate of Larsen v. Murr*, 511 F.3d 1255, 1260-61 (10th Cir. 2008) (internal citations omitted). These non-exclusive factors include: (1) whether the officers ordered the suspect to drop his weapon, and the suspect's compliance with police commands; (2) whether any hostile motions were made with the weapon towards the

officers; (3) the distance separating the officers and the suspect; and (4) the manifest intentions of the suspect. *Id.* at 1260.

In January 2010, an officer shot and killed Kenneth Ellis, III, a 25-year-old veteran who was suffering from post-traumatic stress disorder. Officers suspected Ellis of vehicle theft and pulled him over in a parking lot. Ellis exited the vehicle holding a gun pointed to his head. Ellis continued to hold the gun to his head as he made several phone calls and the officers attempted to negotiate with him. After several minutes, an officer shot Ellis one time in the neck and killed him.

While it is true that Ellis was holding a gun and thus presented a clear threat of harm, there was never any indication from Ellis' words or actions that he intended to use the gun on anyone but himself. During his encounter with police, he held the gun to his own head and did not point at police or threaten them with harm. It was thus unreasonable for the officer to have used deadly force on Ellis. In addition, when officers are dealing with suicidal subjects, their failure to try to de-escalate the situation is a relevant factor in evaluating the reasonableness of any force they might use. *Allen*, 119 F.3d at 841-44. In February 2013, a judge in a state civil suit granted summary judgment in favor of the plaintiffs, finding that the shooting violated the Fourth Amendment.²³ A jury later returned a verdict finding the City and the officer who shot him liable for Ellis' death and awarding more than \$10 million in damages.

3. Albuquerque police officers' own recklessness sometimes led to their use of deadly force.

In evaluating the totality of the circumstances surrounding an officer's use of deadly force, courts have considered "whether the officers' own reckless or deliberate conduct during the seizure unreasonably created the need to use such force." *Medina v. Cram*, 252 F.3d 1124, 1132 (10th Cir. 2001) (citations and internal quotation marks omitted). We reviewed several incidents that provide reasonable cause to believe that the officers were reckless and that their recklessness contributed significantly to their decision to use deadly force.

For example, in March 2012, an officer shot Daniel Tillison after approaching him without waiting for backup. The officer was responding to an anonymous call about an individual selling stereo equipment in a parking lot. When the officer arrived, Tillison was sitting in his car, which the officer believed might be stolen (he had received conflicting information prior to making contact with Tillison). The officer approached the driver's side of the car with his gun drawn. This is an important fact. If the officer believed Tillison posed such a threat to the officer or public safety that it was necessary to draw his weapon, it is not at all clear why the officer did not take cover and wait for other officers to assist him. There was no exigency that required the officer to act immediately; it was the officer who decided when to approach Tillison. The officer spoke to Tillison, recounting that Tillison was evasive and appeared to be reaching for something in the car. Tillison tried to get out of the car, but the officer pushed the door closed. Tillison then backed into the officer's vehicle and an adjacent truck. The officer shot at one of the vehicle's tires. As Tillison attempted to drive forward, the officer stated that he saw something that resembled a gun in Tillison's hand and that Tillison

²³ Order on Motion for Summary Judgment, *Wharton v. City of Albuquerque*, No. CV-2010-06590 (N.M. 2d Judicial Dist. filed on May 28, 2010).

gave him a “warrior stare.” The officer then shot directly at Tillison, killing him. The item in Tillison’s hand was a cell phone; police found no guns in the car. Based on our review of the facts, Tillison did not pose an immediate threat of death or serious bodily harm and the shooting could have been avoided if the officer had waited for other officers to assist him. The officer was not in control of the situation because he approached Tillison alone and resorted to deadly force.

This incident bears striking similarities to the situation encountered by police in *Zia Trust v. Montoya*, 597 F.3d 1150, 1153 (10th Cir. 2010). In *Zia Trust*, an officer rushed up to a van that he believed was being driven by a domestic violence suspect. The officer had drawn his weapon and approached the van alone. *Id.* The suspect tried to drive his van at the officer, but it was stuck on a pile of rocks and could only move about a foot. *Id.* The officer shot the driver of the van, and he later died. *Id.* The Tenth Circuit found that the officer’s recklessness in how he approached the driver could support a finding that the officer’s use of deadly force was unreasonable. *Id.* at 1154-55.

In March 2010, a plainclothes detective shot and killed Mickey Owings after Owings’ car was boxed in by an unmarked APD vehicle in a commercial parking lot. The encounter began because officers had received information that a stolen car was located in the parking lot. Several officers positioned unmarked cars in the parking lot around the suspected stolen car. Owings then drove a different car into the parking lot and parked directly next to the stolen car. A passenger got out of Owings’ car and started to get in the stolen car, and officers drove one unmarked car directly behind Owings while the plainclothes detective approached Owings’ car on foot. Owings backed his car into the unmarked police car and another civilian’s car, and as he did so, the detective drew his gun, pointed it at Owings, and ran closer to Owings’ car. Owings then drove straight forward into two parked cars. As he did so, the detective shot Owings. Owings continued driving forward and actually pushed the two empty, parked cars in front of him out of the way. Owings then drove out of the parking lot but soon seems to have lost consciousness on a nearby road. His car slowed to a stop, and when officers got to him, he had died. Owings was not armed.

The department’s use of force policy permits officers to fire at the driver of a moving vehicle only when the car itself poses a threat of death or serious physical injury to the officer or others. (As noted below, the better policy, followed by many departments, is to prohibit officers from firing their weapons at cars altogether.) The use of force policy limits the circumstances in which officers may shoot at drivers because of the substantial risks that are involved: the officer may miss and hit an innocent civilian or fellow officer, or the driver may become incapacitated, leaving the moving car completely out of control. Owings did not pose a threat of death or serious physical injury to the officer or anyone else; he was driving straight into unoccupied, parked cars when he was shot. This damage to property, as serious as it was, did not justify taking Owings’ life. The detective who shot Owings could very easily have missed and hit one of the innocent civilians walking through the parking lot; moreover, after Owings was shot, the probability that he would injure someone with his car increased dramatically. *Brosseau v. Haugen*, 543 U.S. 194, 199-201 (2004) (collecting federal appellate cases on police shootings at moving cars and acknowledging that such shootings can be unreasonable); *Vaughan v. Cox*, 343 F.3d 1323, 1333 (11th Cir. 2003) (“[A] reasonable officer would have known that firing into the cabin of a pickup truck, traveling at approximately 80 miles per hour on Interstate 85 in the morning, would transform the risk of an accident on the highway into a virtual certainty.”). *But*

see Scott, 550 U.S. at 382-84 (2007) (noting that a car can itself be a deadly weapon that can justify the use of deadly force).

Other instances of officer recklessness that led to unreasonable uses of deadly force involved officers from the department's SWAT unit who acted without proper discipline or control. SWAT stands for Special Weapons and Tactics, and officers assigned to SWAT units are generally among the most highly trained in a police department. Officers in the SWAT unit are entrusted with complex weaponry and are called upon to handle the most dangerous situations that police encounter. SWAT units typically operate under strict protocols and carry out operations in a highly planned and organized fashion.

In force incidents we reviewed, we found instances in which the SWAT unit did not operate with the discipline and control that would be expected of them, and this lack of discipline contributed to unreasonable uses of deadly force. The officer who shot and killed Alan Gomez, for example, was assigned to the SWAT unit. When he arrived on the scene, the officer took a position near the house where Gomez was keeping his brother and his girlfriend from leaving without consulting the commanding officer and without following any kind of a plan for handling the crisis. He also did not seek or obtain the approval of the commanding officer before using deadly force. He acted on his own authority from the moment he arrived on the scene until he fired his weapon. The recklessness of his behavior at the scene supports our finding that his use of deadly force was unreasonable. *Zia Trust*, 597 F.3d at 1154-55.

The officer who shot and killed Kenneth Ellis was not a member of the SWAT unit, but commanding officers within and over SWAT were present when Ellis was shot. The department's reports on the shooting make it clear that the SWAT commanding officers failed to exert control over the scene, such as by making a plan for handling the crisis, determining where officers should be positioned, or deciding what roles each officer would fulfill, though our consultants would have expected them to take on these roles and establish control and lines of authority. The lack of scene control contributed to a chaotic environment and allowed the shooting officer to act on his own accord when he shot and killed Ellis. *See Allen*, 119 F.3d at 841-44 (noting that the failure to follow protocols can be a ground for liability for the use of deadly force).

B. APD Engages in a Pattern or Practice of Unconstitutional Use of Less Lethal Force.

We find that the department engages in a pattern or practice of unreasonable use of less lethal force. There is a pattern of APD officers using force that is unnecessary and unreasonable against individuals who pose little, if any, threat, or who offer minimal resistance. Officers too precipitously resort to the use of Tasers, prone restraints (referred to as "face-down stabilization techniques" by APD), leg sweeps, front kicks, face-down arm-bar takedowns, and strikes to legs and thighs. We reviewed incidents where officers applied force against individuals who were unable to understand or yield to commands but posed a minimal threat to the officers. Many subjects of excessive force had indications of mental illness, physical disabilities, intoxication, and other incapacity. In most instances, these individuals were engaging in lawful activities or committing minor infractions.

We formed our conclusions about APD's practices based on a review of APD's own documentation. This information enabled us to review the identical documents that APD

supervisors and internal affairs investigators used in making force determinations. This information also allowed us to assess the reasonableness of each incident and the supervisory or investigatory process that followed. In particular, we reviewed 200 incidents through a sampling of use of force reports and internal affairs investigations for a period spanning January 2009 through April 2013. Of the force incidents that we reviewed, APD identified less than 1% of these reports as unreasonable uses of force. In contrast, we concluded that approximately a third of the same incidents involved officer conduct that was unreasonable. The disparity between our conclusions is striking and strongly suggests a pervasive and deliberate leniency in supervisory oversight and accountability.

Although we found unreasonable uses of physical force, such as punches and kicks, the overwhelming majority of our use of force reviews involved inappropriate deployment of Tasers.²⁴ Residents have complained, and we were able to confirm, that APD officers used Tasers in a manner that was disproportionate to the threat encountered and in situations where lesser force options were more appropriate. Officers engaged in a pattern of using Tasers unreasonably, including in situations that placed individuals at risk of death or serious bodily harm; against individuals experiencing mental health crises, or who, due to inebriation or inability, could not comply; against subjects requiring medical treatment; against unarmed subjects; and against individuals in a punitive manner. We also identified instances where officers fired Tasers numerous times, even when multiple officers were present to help resolve the situation without the need for continued uses of force. The over-reliance on Tasers in situations where more effective and less extreme options, including verbal de-escalation techniques, were far more appropriate, contributes to the pattern or practice of excessive force. *Walter v. Gomez*, No. 12-1496, 2014 U.S. App. LEXIS 4493, at *48 (10th Cir. Mar. 11, 2014) (“Under prevailing Tenth Circuit authority, ‘it is excessive to use a Taser to control a target without having any reason to believe that a lesser amount of force—or a verbal command—could not exact compliance.’”) (quoting *Casey*, 509 F.3d at 1286).

A Taser is “a weapon that sends up to 50,000 volts of electricity through a person’s body, causing temporary paralysis and excruciating pain.” *Cavanaugh*, 625 F.3d at 664. Any use of Tasers constitutes a severe intrusion of the interests protected under the Fourth Amendment. *Id.* at 665. The total amount of electricity and severity of the pain inflicted by a Taser depends on the type of application and how frequently electricity is fired into a subject. *See Casey*, 509 F.3d at 1285. Although a Taser may not constitute deadly force, its use unquestionably “seizes” a subject in an abrupt and violent manner. *Cavanaugh*, 625 F.3d, at 664. Inappropriate use of these weapons can result in death.²⁵ A Taser therefore should be considered, at a minimum, an intermediate level of force.

²⁴ APD’s policies requiring officers to report uses of force with injury and an emphasis on weapons in its data collection process may account for the lower number of reports involving uses of physical force, such as punches, kicks, and takedowns. *See infra* Section IV.C.3. These deficiencies also suggest strongly that APD officers may be underreporting their use of force. PERF also identified missing data and other problems with APD’s force tracking process, including incomplete data on the use of weapons. PERF Report, *supra* note 11, at 46-49.

²⁵ National Institute of Justice, *NIJ Special Report: Study of Deaths Following Electro Muscular Disruption*, (May 2011), available at <https://www.ncjrs.gov/pdffiles1/nij/233432.pdf>.

Most deaths and adverse reactions typically occur with multiple or prolonged deployments of Tasers. Law enforcement research organizations have cautioned that continuous Taser activations of greater than 15 seconds, or three activation cycles, may increase the risk of death or serious injury.²⁶ In cases we reviewed, officers used more than three cycles in encounters with individuals, without heightened scrutiny from supervisors. Taser deployments can also potentially produce other secondary or indirect effects that may result in death (e.g., using a Taser against a person on a steep slope or tall structure, resulting in a significant fall; deploying a Taser near flammable materials such as gasoline, explosives, volatile inhalants, or flammable propellants used in pepper spray; and using a Taser on a person who is in water). *Id.* at 6. Effective Taser training and oversight are essential to ensure that officers and supervisors understand the circumstances when Taser use is appropriate and when it needlessly exposes an individual to grievous harm.

1. Albuquerque police officers used force against individuals who were passively resisting and posed a minimal threat.

Albuquerque police officers used force that was disproportionate to the threat or resistance posed by civilians. Even where some force is justified, the particular level of force used may still be excessive if it is disproportionate to the resistance or threat encountered. *Casey*, 509 F.3d at 1282 (holding that where a person is suspected of committing a minor misdemeanor, this fact reduces the level of force that was reasonable for an officer to use); *Walker*, 451 F.3d at 1159-60 (no immediate threat where suspect had a knife if he “had not affirmatively led anyone to believe that he had a firearm and had not made any violent threats toward the officers or others”); *Diaz v. Salazar*, 924 F. Supp. 1088, 1094-95 (D.N.M. 1996) (a suspect’s refusal to drop his knife is insufficient to establish an immediate threat where suspect does not lunge at the officers or otherwise threaten them).

Albuquerque police used unreasonable force when they deployed a barrage of less lethal weapons at “Albert,”²⁷ a 60-year-old man who was intoxicated and began arguing with his friend in March 2009.²⁸ The friend called police twice, the second time reporting that Albert had threatened him with a knife and a pellet gun. Forty-seven officers responded to the scene, including snipers and officers from specialized tactical units. After some delay, Albert complied with officers’ orders to drop a knife that he was holding while standing at the doorway and walked outside unarmed. After additional delay, he stopped and began to turn. At that point, an officer was ordered to “bag him.” An officer fired five successive rounds of beanbags at Albert with a shotgun. Another officer deployed a flash-bang grenade. Another officer shot him with a canister of four wooden batons, two of which penetrated his skin. Another officer deployed a police canine that bit Albert in the arm, tearing his flesh as the canine tried to pull him down.

²⁶ *Id.* at 27; PERF, *2011 Electronic Control Weapon Guidelines*, 18, 20-21 (March 2011)

²⁷ We use pseudonyms for individuals who were the subject of force in non-fatal encounters with APD officers to protect against disclosing personally-identifying information.

²⁸ The tactics used by APD against Albert in 2009 resemble the response by officers in the March 16, 2014, shooting death of James Boyd. Video released to the public of the Boyd incident shows officers using a flash-bang grenade, a Taser rifle, a police canine, multiple beanbag rounds, and firearms. As noted above, the Boyd shooting is currently under investigation and is not addressed in this letter.

Albert grabbed onto a nearby fence. Two officers fired Tasers at Albert; one of them fired six five-second cycles of electricity into him. Albert finally collapsed, and officers carried him away unconscious, leaving behind a trail of blood and urine. In an April 2012 order entering judgment as a matter of law in Albert's favor, District Judge Bruce Black found that "no reasonable person could believe that an inhibited, slow-moving, 60-year-old individual, who made no physical or verbal threats, and wielded no weapons, could constitute a threat to the safety of any of the forty-seven armed and shielded police officers who stood over twenty feet away."²⁹

Our investigation uncovered other incidents in which APD officers used force disproportionate to the threat or resistance encountered. An officer's Taser use on "Ben," a 75-year old man who used a cane to walk, illustrates this problem. The incident happened in September 2012 after officers responded to a bus station because Ben refused to leave. When officers arrived, they offered to take Ben to a homeless shelter and also called a Crisis Intervention Team officer to assist. Ben sat on a bench and told officers that he was not going to leave peacefully and that he was angry with the bus company for refusing to let him board. After officers tried to convince him to leave for about an hour, Ben threatened bus company employees and reached for his cane. Officers ordered him to put his cane down, but he refused. As Ben was trying to stand up using his cane (presumably for support), the CIT-trained officer shot Ben in the abdomen with his Taser. He did so even though the threat from Ben was minimal: Ben had trouble walking on his own, a sergeant and three officers were standing around him, and there were no indications that bystanders were near Ben. The sergeant on the scene found the Taser use reasonable, as did other supervisors. One supervisor praised the officers' conduct as "exceptional." A higher-level commander called for an investigation of the incident, however there is no indication that one was completed.

An incident in which three officers and a sergeant used force against "Charles" – two using physical force and two officers firing Tasers multiple times – also illustrates this problem. In June 2011, Charles, who was 22 years old and weighed approximately 165 pounds, was riding his bicycle and failed to stop at several stop signs. Officers decided to pursue Charles for the misdemeanor violation. An officer activated his emergency lights and ordered Charles to stop, but Charles continued riding away. Charles then turned into a parking lot and told the officer, "I am just riding my bike." According to officers' reports, one officer got out of his patrol car and again ordered Charles to stop. Another officer then grabbed Charles. As Charles pulled away, Charles and the officer fell to the ground, where Charles continued to move his arms to avoid being handcuffed. The sergeant then fired his Taser at Charles and discharged three cycles. Another officer also fired his Taser. He reported that he discharged three or four Taser cycles. A fourth officer arrived and grabbed Charles's arm and assisted in handcuffing him. A witness stated that Charles was argumentative and trying to get away from the officers and that one of the officers knocked him down off of his bicycle. No charges were ever filed against Charles, and none of the officers, including the sergeant, activated their belt or lapel recorders.

In April 2010, two officers went to an apartment complex after receiving a report about a domestic violence complaint. The officers questioned the property manager and learned that an unauthorized occupant, "David," was inside one of the apartments. The property manager then asked the officers to remove David from the apartment. The officers entered the apartment and

²⁹ Am. Mem. Opinion in Support of Judgment as a Matter of Law, *Nelson v. City of Albuquerque*, No. 10-0553 (D.N.M. filed on June 8, 2010), at 7.

found David hiding in the kitchen. As the officers went in the kitchen, they observed David sitting on the floor behind the kitchen cabinets. One officer told David to put his hands where they could see them as the other drew his weapon and grabbed David's arm because he reportedly failed to comply with commands. While one officer was holding David's arm, the other drew his Taser and yelled at David three times before firing his Taser into David's chest and abdomen. David immediately fell against the oven door, causing it to shatter. David cut his face and head on the oven door and lay in a pool of blood before the paramedics arrived. David was taken to the hospital and was later booked for misdemeanor charges. David was unarmed and posed only a minimal threat to officers, who had drawn their weapons because David reportedly failed to comply with commands.

In other incidents, officers increased the risk of death or serious injury by deploying Tasers in dangerous situations that outweighed the threat posed by the subject. *Asten v. Boulder*, 652 F. Supp. 2d 1188, 1203-04 (D. Colo. 2009) (observing that an officer's use of a Taser near broken glass became less reasonable because it would increase the risk of injury to an unresisting, non-threatening subject).

For example, officers used Tasers multiple times on "Edward" even though he had doused gasoline on himself and his home. In December 2009, officers responded to a domestic violence call. Once the officers arrived on the scene, they heard a man and a woman screaming inside an apartment. The officers kicked down the door and immediately smelled a strong odor of gasoline. Sheets, carpet, and even Edward, were saturated in gasoline. One officer reported that he was struck in the face with an object that was later identified as a lighter that came from Edward's direction. The officers tried to speak to Edward, but he refused to follow their commands. An officer fired his Taser at Edward, striking him in the chest. Edward fell to the ground, where he struggled to avoid being handcuffed. Several officers then used their Tasers multiple times in "drive-stun mode"—meaning that they applied the Taser directly to his body instead of firing prongs from across the room—as other officers tried to handcuff Edward. After the officers finally handcuffed him, they tried to remove him from the apartment. As they were doing so, Edward began banging his head against the wall and attempted to kick at the officers. At this point, an officer used his Taser again in drive-stun mode and ignited Edward's shirt in flames. The fire had to be extinguished by another officer. The officer set Edward on fire with his Taser despite clear indications that the apartment and Edward himself were saturated with gasoline. Even if officers believed Edward posed a significant threat before he was handcuffed, once restrained, officers had other options available, such as leg restraints to prevent him from kicking. Instead, officers exposed him and others to the extreme danger of catching fire from the Taser's electrical discharge.

In another example, officers fired Tasers at "Frank," causing him to fall on broken glass; he was shocked with Tasers repeatedly until one officer's Taser ran out of power. In August 2009, two officers responded to a call after someone called 911 and hung-up. Arriving at the address from which the call was made, officers learned that 16-year-old Frank was in the bathroom and had shattered the glass shower door and cut himself. Frank was bleeding and standing on the glass in the bathroom when the officers approached him. Officers commanded him to lay face down on the floor, but he refused. He pounded on the walls with closed fists. An officer reported that Frank "lunged" at the officers. The officer then shot his Taser at Frank, and the Taser's prongs hooked into Frank's chest. Frank fell to the ground, and the officer repeatedly fired his Taser at Frank until the battery died. The officer did not report how many times he fired

his Taser, reporting only that Frank “continued to fight.” While Frank was lying on broken glass, another officer shocked Frank with his Taser in drive-stun mode while his partner kned Frank in the back several times. There were at least four officers on the scene. Finally the officers handcuffed and arrested Frank. It turns out that Frank had taken drugs and was experiencing the side effects of the narcotics. The officer who initially deployed his Taser did not use the weapon’s auditing function to determine the number of five-second cycles he deployed and the supervisor’s report was also missing the information. One of the officers reported that the officer who responded initially fired his Taser five times. Both of these incidents show officers’ unreasonable use of their Tasers by exposing subjects to a risk of serious injury that far outweighed the danger posed by the subjects themselves.

2. Albuquerque police officers used excessive force against individuals with mental illness, against individuals with impaired faculties, and against individuals who require medical treatment.

Officers also used excessive force against individuals who suffered from mental illness or who were unable to comply with officers’ commands for reasons beyond their control. The Tenth Circuit has recognized that a “detainee’s mental health must be taken into account when considering the officers’ use of force . . . under *Graham*.” *Cardall*, 845 F. Supp. 2d at 1190-91 (quoting *Giannetti v. City of Stillwater*, 216 Fed. Appx. 756, 764 (10th Cir. 2007) (unpublished)); *see also Estate of Mathis v. Kingston*, No. 07-2237, 2009 U.S. Dist. LEXIS 32040, at *13-14 (D. Colo. Apr. 16, 2009) (observing that when a subject’s diminished capacity is immediately apparent there may be occasions when failure to follow commands may not constitute a refusal to comply). We reviewed many incidents in which we concluded that officers failed to consider an individual’s physical, mental, or emotional state in making force determinations. Consequently, we found instances where individuals did not pose an immediate threat to the safety of the officer or the public, and officers deployed a level of force that was unreasonable under the circumstances.

In one example, officers fired Tasers, kicked, and beat “Greg,” a 25-year-old man with a developmental disability who could not talk and was unable to follow officers’ commands. In this March 2012 incident, two officers responded to a gas station after receiving information that Greg was taking off his clothes and opening packages of food in the gas station. The officers also knew that Greg had injuries to his face, and he was bleeding from his hands. When the officers arrived, they found Greg lying on the floor of the store, shoveling chips into his mouth. The officers ordered Greg to stand up and place his hands behind his back. Greg stood up, but he refused to put his hands behind his back. One of the officers gave Greg a front kick to the chest—an action the officer described as a “distraction technique”—that sent Greg to the ground. Greg rolled on the ground and moaned. The officer then fired his Taser in drive-stun mode into Greg’s upper torso and neck. Greg struggled to his feet when a sergeant arrived and fired his Taser at Greg, causing him to fall back on the ground. Greg got up and walked away as an officer fired his Taser two more times at Greg’s back. Greg continued moaning but moved outside. The officer then gave Greg another front kick in the upper torso, sending him once again to the ground. Greg stood up and continued walking in the parking lot. A fourth officer arrived on the scene and swept Greg’s legs with a kick. The officers then attempted to forcibly hold Greg down to handcuff him as Greg made incoherent noises and bit. It was evident from Greg’s bizarre behavior that he had a diminished capacity, yet officers needlessly fired Tasers,

kicked, and beat him. The officers later learned that Greg had wandered away from a group home and had the mental capacity of a five-year old. He was not charged with any crime.

In another example, an officer fired his Taser at “Harry,” who could not follow the officer’s commands because he was suffering from a severe drug reaction. The incident occurred in November 2011 when an officer responded to a complaint that Harry was threatening suicide and had reportedly overdosed on drugs. As the officer was interviewing Harry’s mother, Harry climbed out of a window and tried to leave the house. The officer then ordered Harry to get on the ground, but he refused and replied, “I haven’t done anything.” The officer again ordered Harry to get on the ground. Harry reportedly took a step toward the officer, and the officer fired his Taser into Harry’s stomach, which caused Harry to fall. While on the ground, Harry attempted to remove the probes as the officer continued to fire electricity into Harry’s body.

An officer’s decision to use his Taser on “Ivan” when he was obviously inebriated and prone on a couch is another example of this problem. In April 2010, officers responded to a disturbing-the-peace call. Officers arrived on the scene of a party and decided to break it up. One of the officers approached Ivan, who was lying on a couch, apparently passed out. The officer tried several times to awaken Ivan, including using a “sternum rub,” which is a strike to the chest that causes a person to awaken and reflexively jerk their limbs. Ivan woke up, struck the officer on the leg, and lay back down. The officer then attempted to handcuff Ivan, despite the fact that Ivan was clearly intoxicated and unable to respond to the officer’s commands. As Ivan pulled away from the officer while still prone on the couch, the officer fired his Taser at Ivan and then used it in drive-stun mode three times before he finally arrested the man.

The officers’ use of Tasers and other force in these incidents was not reasonable. None of the subjects posed a significant threat to the officers’ safety or that of anyone else. *Graham*, 490 U.S. at 396. Any offense they may have committed was minor. Most importantly, the mental state of the individuals indicated an inability to comply with officers’ commands, which did not justify using multiple Taser discharges or severe physical force, like kicking or beating. *Cardall*, 845 F. Supp. 2d at 1192 (observing that courts have stressed that an officer should hesitate to deploy a Taser when the subject is incoherent and he does not appear to understand the officers’ commands) (internal citations omitted).

Officers further used force, including Tasers, against individuals in medical crisis or who were otherwise physically vulnerable. In the incidents we reviewed, officers used Tasers, physical blows, and other physical force when individuals with diminished capacity failed to comply with their commands. It is important to note here that when officers use force after they have been called merely to check on a vulnerable person’s welfare and not to investigate a crime, the reason for the call is a relevant consideration in determining whether the force used was reasonable. *Mathis*, 2009 U.S. Dist. LEXIS 32040, at *12-14. We found that officers used unreasonable force against individuals in medical crisis in a number of cases.

In one such example, officers fired Tasers, grabbed, and choked “Jeremy” after they were called to his house to check on his welfare in September 2012. When the officers arrived, Jeremy was locked in the bathroom. His mother told the officers that her son was unarmed and suffered from schizophrenia. The officers asked Jeremy to open the bathroom door, but he refused. The officers then kicked down the door, grabbed Jeremy, and tried to forcefully take

him out of the bathroom. Jeremy pulled away from the officers and tried to run into another room. One of the officers tripped him, and Jeremy fell to the floor. Jeremy then jumped back up to his feet and tried to run back into the bathroom. One of the officers shot her Taser at Jeremy, but missed. The officers then returned to the bathroom and grabbed Jeremy by the head and kned him several times in the leg. One of the officers then began choking Jeremy until he stopped struggling, and he was arrested. Again, Jeremy had committed no crimes when officers arrived. They were called to check on the welfare of a man with mental illness and instead they used severe physical force against him.

In another example, officers beat and fired Tasers at “Ken” who was suffering from a bad drug reaction and posed no threat to the officers. In May 2010, officers responded to a disturbance call. Ken reportedly was having an adverse reaction to his medications and drugs. Once the officers entered his home, Ken was unarmed and naked. He also seemed disoriented, and he said, “Bang bang!” to the officers as they approached him. Ken then picked up a mop and said, “Boom boom!” as he approached the officers. As Ken was turning away from the officers, one of them fired a Taser at Ken’s back. Ken fell to the ground, and officers beat him in an effort to restrain him. Another officer fired his Taser into Ken’s body in drive-stun mode, and Ken was then restrained and taken to the hospital.

Neither Jeremy nor Ken posed a significant threat to the officers. Moreover, officers were called to assist the men, who were in obvious distress. The unreasonableness of the force is exacerbated by the officers’ neglect of Jeremy’s and Ken’s conditions, as well as the fact that no crime was involved. *Graham*, 490 U.S. at 396; *Sevier*, 60 F.3d at 701 (observing that officers may precipitate the use of deadly force through their own reckless conduct by confronting a disturbed or suicidal subject with weapons drawn and without gathering more information).

An incident in which an officer fired a Taser at “Larry” repeatedly after he had a car accident, was convulsing in the car, and was non-compliant, provides another example of officers using disproportionate force. In June 2010, officers responded to the scene where Larry had crashed his car. Larry was convulsing inside the car when the officers approached. An officer commanded Larry to open his door, and Larry indicated he would not get out of the car. Larry was in the vehicle with his young child, and, fearing for the child’s safety, the officers decided to shatter the passenger-side window of the vehicle to get the child out of the car. Once they opened the car door, officers again commanded Larry to get out. After he refused, an officer fired his Taser into Larry’s back and buttocks. The officer cycled his Taser one time, and then Larry attempted to crawl out of the vehicle. Larry then turned around and got back in the vehicle, and the officer fired his Taser again. Once Larry was finally out of the vehicle, the officer fired his Taser yet again before placing Larry on the ground. Larry drifted in and out of consciousness before an ambulance was able to get to the scene.

The incidents discussed in this letter are not exhaustive. They illustrate the types of encounters that have resulted in a use of force that was not objectively reasonable. We recognize that most encounters with police are resolved without the need to use force and that many APD officers carry out their duties in accordance with the Constitution. However, in a significant number of force cases, force used by APD officers was excessive and placed the community at risk of future harm.

C. Systemic Deficiencies Cause or Contribute to the Use of Excessive Force.

A number of systemic deficiencies contribute to the department's pattern or practice of use of excessive force. The most prevalent deficiency is the department's endorsement of problematic police behavior by failing to conduct thorough and objective reviews of officers' use of force. Despite the use of technology and efforts to implement innovative intervention programs, problematic behavior continues to be viewed as reasonable, even exemplary, by supervisors. These deficiencies demonstrate a failure to embrace policing fundamentals, namely, recognizing and enabling officers' duty to protect both the public's safety and civil rights.

Officers have an obligation to value the life and safety of the individuals they encounter as part of their core mission. As written, APD's policy on use of force is consistent with this principle: "It is the policy of this Department that officers shall use only that force which is reasonably necessary to protect the sanctity of human life, preserve and protect individual liberties, and to effect lawful objectives." APD Procedural Order 2-52. Police leaders must instill these values through accountability measures, training, policy, and the culture they inspire or tolerate.

However, based on our review, APD has failed to abide by these fundamental policing values. We find this failure evident in the following systemic deficiencies: (1) a broken system of internal accountability; (2) inadequate training on use of force, community policing, and constitutional policing; (3) policy deficiencies; (4) an aggressive culture that undervalues civilian safety and discounts the importance of crisis intervention; and (5) insufficient leadership on tactical operations, community policing, and the importance of accountability to external oversight.

The contributing factors we discuss below evidence a breakdown in leadership that is responsible for ensuring that the agency functions in accordance with its mission and core values. The department has invested significant resources to obtain thoughtful recommendations from independent reviews and has participated in discussions on policing issues of national importance over the years, yet it has failed to take basic steps to clarify policies, set expectations through consistent discipline, or ensure the effectiveness and integrity of its training programs. Over the years, the department has reacted hastily in crafting certain measures, such as lapel cameras, which were deployed without making sufficient efforts to ensure the support of the rank-and-file, were not implemented with the necessary supervision and oversight to ensure proper implementation, and appeared directed only at placating public criticism. As a result, there has been an inconsistent approach to reform, and critical systems intended to ensure constitutional policing remain deficient.

1. The Department's Inadequate Internal Accountability Measures Contribute to the Pattern or Practice of Excessive Force.

We identified several deficiencies in APD's internal accountability mechanisms that contribute to the use of excessive force: ineffective supervisory reviews, inadequate documentation of force, inadequate force investigations, and incomplete implementation of APD's internal review mechanisms, including internal affairs, the early intervention process, and the critical incident review process. We did not assess hiring practices; however, we did receive information that causes us concern with regard to those practices. We look forward to working

with the City to strengthen background checks and suitability assessments of new and lateral hires.

a. Supervisory reviews do not address excessive uses of force.

We found numerous instances where improper force was used, but the problems were neither identified nor addressed by the chain of command. In nearly all of the incidents that we found problematic, we did not observe *any* findings by *any* supervisor—from the sergeant, who is a patrol officer’s immediate supervisor, up through the entire chain of command—that the officer’s use of force required corrective action. Data produced by APD corroborates our finding. APD reported 1,863 uses of force from 2010 to 2013. Of these, supervisors found that only 14 uses of force, or less than one per cent, did not comply with agency policy. Supervisors requested a further investigation of 39 uses of force, or two per cent. The overwhelming majority of uses of force during this four-year period were endorsed by supervisors as reasonable. Significantly, in 2010 and 2011, prior to the opening of our investigation, APD supervisors found only two uses of force that failed to comply with policy. As set forth below, however, our investigation revealed numerous instances of policy violations.

APD policy does not require that supervisors conduct a thorough, rigorous and objective review of officers’ use of force, including ensuring that officers provide a complete and accurate account of the facts surrounding their use of force. Instead, supervisors are required to review and sign a two-page form (titled “Use of Force Report Form”) that is designed to capture descriptive data about an incident rather than providing for a qualitative review of an officer’s use of force. The Use of Force Report Form provides a space for a supervisor to fill in, without more, whether the force was “reasonable” or whether “investigation [is] required.” The policy does not provide any guidance on the circumstances that would warrant further investigation; nor does it require that supervisors identify potential policy violations, corrective action, or other training or policy concerns. A separate “Evaluation Form” requires more narrative information and is completed by the commander and the deputy chief after a review of the initial report. However, a commander’s responsibility for reviewing force is limited in APD policy to a generalized statement – without additional guidance -- requiring that the commander ensure that subordinates conform to the use of force policy.³⁰ See APD Procedural Order 2-52-6(D)-(E).

Not surprisingly, the force reports that we reviewed—and we reviewed hundreds of them—were almost entirely devoid of any analysis of whether force was reasonable. Supervisors marked as “reasonable” almost every use of force report form we saw. Some reports were unmarked altogether. Additionally, we saw few instances where the Evaluation Form was completed or even included, suggesting that these incidents were not subject to review up the chain of command. The PERF report noted similar problems based on PERF’s review of use of

³⁰ As background, the force reports APD produced include the Use of Force Report Form, a Use of Force Evaluation Form (“Evaluation Form”), Incident/Offense Reports, Supplemental Incident Reports, witness statements, and supplemental memoranda. The Evaluation Form requires more narrative information and is completed by the commander and the deputy chief after a review of the initial report.

force data and reports from 2007 through the first quarter of 2011. For example, PERF found that the officer provided no reason for the force incident in 42% of the incidents reviewed.³¹

These superficial reviews evince the chain of command's disregard for detecting individual and aggregate patterns of unreasonable force by subordinates. They also demonstrate the department's failure to identify and address officers who need correction and inadequate responses to serious policy infractions. Indeed, we reviewed a number of instances that *required* corrective action under the department's policies, but none was taken. For example, in the shooting involving Alan Gomez, the officer shot Gomez without verification of a threat and after receiving information that Gomez could not have been a threat because he was no longer armed. This clearly violated the department's policy, which permits deadly force only where there is an "immediate threat of death or serious physical injury,"³² but this policy violation was not addressed in the shooting review. Similarly, in the force involving "Edward," it was evident that the officer's decision to fire his Taser at Edward violated the department's policy, which prohibits officers from using the weapon in "any environment where an officer knows that potentially flammable, volatile, or explosive material is present (including . . . gasoline . . .)."³³ Edward was also handcuffed at the time he was shocked with the Taser. The department's policy prohibits use of the Taser "on a handcuffed prisoner unless they continue to use physical force or violence against the officer, another person or themselves which cannot be controlled by other means."³⁴ Despite evidence of both policy violations, the supervisor marked this incident as "reasonable" and conducted no additional investigation.

We identified other policy violations that went uninvestigated and uncorrected. For instance, the policy allowing officers to use deadly force to disable a vehicle's tires was violated when officers shot directly at, and killed, Daniel Tillison and Mickey Owings.³⁵ Other policy infractions that went uncorrected included the policy that fleeing should not be the sole justification for firing a Taser at an individual, the requirement that reports should be completed by all officers witnessing the use of force, and the prohibition of using a Taser against an individual who is passively resisting.³⁶ We found improper and uncorrected uses of force in violation of all of these policies. Supervisors failed to address these policy violations, either by taking corrective action or referring the incident for further investigation by Internal Affairs, allowing improper conduct to continue unchecked.

b. Force incidents are not properly documented.

Deficient documentation by officers using force and inadequate review of this deficiency up the chain of command contributes to the pattern or practice of excessive force. This documentation deficiency includes failing to document incidents with recording devices, such as lapel cameras and belt tapes,³⁷ as well as failing to complete use of force reports, failing to

³¹ PERF Report, *supra* note 11, at 52.

³² Use of Force Policy, 2-52-3(B)(1).

³³ Use of Force Policy, 2-52-8(G)(3)(a)(5).

³⁴ Use of Force Policy, 2-52-8(G)(3)(a)(2).

³⁵ Use of Force Policy, 2-52-3(B)(3).

³⁶ Use of Force Policy, 2-52-8(G)(3)(a)(4); 2-52-6(B); and 2-52-8(G)(3)(b), respectively.

³⁷ Before using lapel cameras in 2012, APD officers used belt tapes to capture audio of incidents.

accurately describe the force used in incident reports, and failing to report the use of force altogether. The department's internal review mechanisms failed to correct these deficiencies.

For example, the department's use of force policy provides, "Upon firing the [Taser], the officer shall energize the subject the least number of times and no longer than necessary to accomplish the legitimate operational objective."³⁸ However, officers routinely failed to specify the number of five-second cycles they deployed at an individual, despite the significant risk of serious harm posed by prolonged or repeated Taser deployment. Professional law enforcement and research organizations have warned against continuous deployment of Tasers for more than three cycles, or 15 seconds, and the need for specific justification and investigation in such circumstances.³⁹

We also reviewed numerous reports where officers and supervisors on the scene failed to turn on their lapel cameras or belt tapes. Officers failed to record some incidents even when it was the officers themselves who initiated the contact, making their failure to switch on their cameras or recorders before beginning the encounter especially troubling. For example, in an incident where officers fired Tasers at "Mike" after stopping him for speeding, none of the officers present recorded the incident. Many of the reports include repetitive or standardized explanations for failing to record, such as "the immediacy of the situation" and "rapid and unexpected event." These descriptions were provided where it was clear that the officer had a clear opportunity to record the event. We found very few examples of officers being reprimanded for failing to record force incidents. The fact that few officers were reprimanded for this failure suggests that supervisors have also failed to insist on this form of accountability. The reports reflect some of the justifications we heard onsite for not recording force incidents. We were informed, during our onsite visits and after, that some officers found the equipment cumbersome and difficult to operate. However, we observed a number of officers successfully using the lapel cameras during our onsite tours. In the time since our onsite tours, the department has procured new lapel cameras that are reportedly easier to operate. We have not assessed officers' use of that new equipment. However, the department's failure to record incidents consistently indicates that officers have not embraced these accountability mechanisms.

We also reviewed numerous reports that did not provide sufficient information to justify the force used, did not explain fully what type of force was used, and did not accurately describe the level of threat, if any, posed by those against whom force was used.⁴⁰ Many of the reports included canned language, such as "aggressive posture" and "aggressive manner," but the overall

³⁸ Use of Force Policy, 2-52-8(G)(6)(b).

³⁹ NIJ Special Report, *supra* note 23, at 4 ("A preliminary review of deaths following [Taser] exposure found that many are associated with continuous or repeated shocks. There may be circumstances in which repeated or continuous exposure is required, but law enforcement officers should be aware that the associated risks are unknown. Therefore, caution is urged in using multiple activations."); PERF Guidelines, *supra* note 24, at 19, 21-22; International Association of Chiefs of Police ("IACP") Model Policy, Electronic Control Weapons, April 2010, and IACP National Law Enforcement Policy Center, Electronic Control Weapons, Concepts and Issues Paper, April 2010.

⁴⁰ This issue was also noted by PERF. PERF Report, *supra* note 11, at 48 ("[L]imitations to the data make it impossible to distinguish between events where a weapon was not needed and events where a weapon was used but the weapon use was not reported.").

description of the incident did not support such characterizations. For example, obviously disoriented subjects were described as approaching officers in an aggressive manner. In many instances where multiple officers witnessed an incident, officers did not complete supplemental reports as required by APD policy.⁴¹ Other common documentation deficiencies included:

- Failing to take a statement from the person who was subjected to force;
- Failing to provide photographic documentation of the injuries sustained; and
- Failing to investigate discrepancies in the report.

Despite these deficiencies, supervisors noted no problems with the reports, marking questionable force incidents as reasonable. The reports also reveal that officers often failed to canvass for witnesses to the use of force, which led to reports that were usually one-sided.

Finally, the verified information we received from community witnesses indicates that officers underreport force incidents. We note first that the policy effective during our review period required officers to complete reports only where the officer's actions resulted in an injury.⁴² This standard is too narrow and allows officers not to report force, even significant force, if they do not believe an individual was injured. For example, we reviewed video of officers putting one man in a chokehold, but there was no force report completed regarding this encounter despite the risk of serious harm. *See Walton v. Gomez*, No. 12-1496, 2014 U.S. App. LEXIS 4493, at *49 (10th Cir. Mar. 14, 2014) (noting that police training materials recommend against applying chokeholds for longer than one minute because brain damage or death could occur and observing that courts from various jurisdictions have held chokeholds on a non-resisting subject to be excessive). In situations where officers do not use weapons, supervisors are only expected to review force from "hand-to-hand action resulting in injury,"⁴³ which excludes other significant physical force, such as kicks, leg sweeps, prone restraints, and other forceful takedowns. Not surprisingly, we heard from credible witnesses who suffered injuries as a result of their encounters with officers, yet no force reports were completed. The failure to provide clear policy guidance on reportable and reviewable force results in underreporting of force and contributes to the use of unreasonable force.

c. Shooting investigations are inadequate.

Officer-involved shooting investigations are conducted by the department's homicide detectives with the aid of a multijurisdictional team.⁴⁴ While these investigations are more thorough than reviews of less lethal force incidents, we noticed several deficiencies in the investigations. First, as a matter of policy, the department does not subject incidents where officers shoot to disable a vehicle to the same scrutiny as shootings of persons, despite the significant risks of death or serious injury to the occupants of the disabled vehicle or to

⁴¹ Use of Force Policy, 2-52-6(B).

⁴² Use of Force Policy, 2-52-6(A), (B).

⁴³ Use of Force Policy, 2-52-6(D)(2).

⁴⁴ The team includes homicide detectives, an internal affairs investigator, and representatives from the Sheriff's Office, the Independent Review Office, the District Attorney's Office, and the State Police. A homicide detective leads the team.

bystanders.⁴⁵ Although shooting at a vehicle's tires, as permitted by APD policy, may not pose the same certainty of death or serious injury as shooting at the driver himself, the risk is at least equal to, if not greater than, ramming a moving vehicle to disable it. *See Scott*, 550 U.S. at 384 (observing that the term "deadly force" encompasses a range of applications of force, some more certain to cause death than others and noting that ramming a vehicle poses a "high likelihood" of death or serious injury to the driver); *see also Cordova*, 569 F.3d at 1188-89 (distinguishing the ramming technique in *Harris* to the near certainty of death or serious injury resulting from shooting a driver in the back of the head). Given the significant risks involved when officers discharge their firearms at moving vehicles, APD should respond to such incidents with the same level of resources and heightened scrutiny as other firearm discharges.⁴⁶

We also observed deficiencies in how detectives approached shooting incidents that were questionable, i.e., not clearly justified. Based on our review, detectives approached these incidents with less scrutiny than required, such as by failing to canvass for witnesses, to test the officer's account, and to address contradictions. For example, in the shooting of Dominic Smith, the review team failed to reconcile inconsistencies in the physical evidence when compared with the officer's statement. The officer claimed that Smith came towards him and reached in his waistband. However, the physical evidence indicated that Smith had a defensive wound and was shot through the forearm. This discrepancy was not addressed in the shooting review. In the shooting review of Daniel Tillison, detectives failed to canvass the area for witnesses even though the shooting occurred in a parking lot within sight of a number of residences. In addition, in some reviews, the shooting officer's interview was attended by other officers who were involved in the incident. This practice encourages collusion and discourages candor. Finally, the reviews seemed biased in favor of clearing the officer as opposed to gaining a full understanding of the incident. These deficiencies contribute to the pattern or practice of unnecessary uses of deadly force.

d. Internal review mechanisms are not implemented.

We observed additional deficiencies in the department's internal review mechanisms, including internal affairs reviews, the early intervention system, and the critical incident review board. First, under the department's use of force policy, the internal affairs unit is responsible for reviewing all reported uses of force to determine whether: (a) departmental policies, rules or procedures were violated; (b) the relevant policy was clearly understandable and effective to cover the situation; and (c) department training was adequate.⁴⁷ However, we found no evidence that the internal affairs unit consistently carried out this critical task. Nor does the internal affairs policy specify how the unit should conduct these substantive force reviews. The internal affairs policy states explicitly that the unit is responsible for conducting administrative investigations of cases where an individual is killed or seriously injured, or an officer discharges his firearm.⁴⁸ However, it is silent on how other uses of force should be reviewed. The policy

⁴⁵ Investigation of Shootings and the Use of Deadly Force Involving Department Personnel, 2-31.

⁴⁶ Of course, it would be preferable to prohibit officers from shooting at moving vehicles altogether, as recommended by PERF and consistent with the practice of many other police departments.

⁴⁷ Use of Force Policy, 2-52-7(B)(1).

⁴⁸ Internal Affairs Policy, 3-41-3(A)(6), (7).

also fails to list force reviews or investigations as part of the internal affairs unit’s major purposes.

Thus, in many cases, we found that the internal affairs unit did not make recommendations to the chain of command where officers clearly violated policy, despite its responsibility to “identify personnel guilty of misconduct so that proper corrective action may be taken.”⁴⁹ We also found that the internal affairs unit relies too heavily on interviews conducted in the initial shooting review. We reviewed a number of files where internal affairs failed to re-interview civilian witnesses. The unit is thus deficient in carrying out one of its most basic duties.

Second, the department’s implementation of the early intervention system is ineffective. An early intervention system should be non-punitive, proactive, and geared toward identifying officers who may require re-training and counseling. These officers may have had a number of force incidents, community complaints, policy violations, or other issues that indicate that they may need some level of supervisory intervention to prevent them from engaging in future improper conduct. Administrative Order 03-49 outlines APD’s early intervention system. However, based on our interviews, the purpose of the early intervention process appears to be a mystery to line officers. During our onsite meetings, many officers expressed concern that the process was used to punish them instead of correcting or disrupting potentially problematic conduct. Their understanding of the system is disconnected from the policy itself and what we heard from commanders. This lack of clarity suggests a lack of buy-in by officers to the process. Part of the confusion may be due to the initial policy statement, which states that the early intervention system is an essential part of the department’s overall discipline system, rather than a management tool that is non-disciplinary.⁵⁰ To be fully effective, early intervention must be accepted by officers, supervisory personnel, and the community as an important alternative and complement to the agency’s discipline system.

Also, we are concerned with the early intervention policy’s high threshold for reassigning officers who have been required to attend multiple early intervention meetings in a 12-month period. The threshold of five meetings—which means the officer engaged in more than 15 uses of force, or a combination of 25 other triggering events, including firearm discharges and missing court—is too high. The seven data elements or performance indicators captured by APD’s early intervention system may also be too limited for APD’s size and risk management needs. APD should consider adding elements related to vehicle pursuits, incidents involving resisting arrest, injuries, sick days and other absences.

The department is also not using the early intervention process in the way it was intended, which is to disrupt patterns of problematic behavior. We reviewed a sampling of the early intervention files and found lacking documentation, superficial reviews, and a failure of the supervisors to discuss underlying incidents with officers. For example, reports with officers flagged because of multiple force incidents did not include the underlying force reports, and many made no mention of supervisors having discussed the incidents with the officer. Many of the reports were so cursory that it was difficult to discern what was discussed with the officer in the meeting. We question the effectiveness of such meetings.

⁴⁹ Internal Affairs Policy, 3-41-2(A)(2).

⁵⁰ Early Intervention System Policy, 3-49.

Finally, the department's critical incident review board is ineffectively implemented. As with the early intervention system, the critical incident review board is a necessary and good idea. The board was established to identify deficiencies or required changes in policies and training through a review of serious incidents. The board consists of a diverse group, including commanders, a training representative, and a patrol supervisor. Despite the laudable purpose of the board, we are concerned with its effectiveness. Specifically, there is no communication to others within the agency about its findings, no documentation of the board's meetings, and no corrective actions stemming from the board's meetings. In sum, the process appears to be superficial. Such anemic internal review mechanisms contribute to the pattern or practice of unreasonable force.

2. The Department's Training Deficiencies Contribute to the Pattern or Practice of Unreasonable Use of Force.

In our review of the department's training programs, it was clear that the department has recently taken a number of steps to improve the training it provides to officers, most prominently by hiring a new training director. As we expressed to then-Chief Schultz during our meetings with him, we believe that the director is taking the training program in the right direction, and we commend the department for all of the support it has shown for the new director's efforts. Nonetheless, we found numerous deficiencies in the department's training program that have contributed to the pattern of unreasonable uses of force. While many of these deficiencies seem to be under review by the director, we will address them here because doing so provides a more complete picture of the department's approach to the use of force. Our observations about the training programs are based on on-site reviews of training materials and interviews with training staff; reviews of training curricula, lesson plans, and classroom materials; and consultation with our police practices consultants.

The most significant deficiency we observed in the department's training programs—both at the academy, where new recruits are trained, and in the ongoing training that officers receive regularly—is the over-emphasis on using force, especially weapons, to resolve stressful encounters, and insufficient emphasis on de-escalation techniques. Much of the training leads officers to believe that violent outcomes are normal and desirable. Even scenario-based trainings, where officers role-play in simulated interactions with civilians, tended to escalate to the use of force, even though scenario-based training can be very effectively used to teach officers how to diffuse tensions and end stressful civilian encounters peacefully. As in many police departments, Albuquerque officers are trained on a computer-assisted Firearms Training Simulator, and we note particularly that this simulator could be used more effectively to teach verbal de-escalation strategies.

Also concerning is that it is impossible to ensure that the training that officers receive accurately reflects the department's policies, the state of the law, and best practices in policing. Most of the individuals who deliver lectures during police academy sessions do not provide the department with lesson plans or classroom materials, which prevents the department from validating those materials to ensure that they are consistent with the department's policies and values. It is also impossible to tell whether the content of the training is the same from one academy session to the next, and thus whether officers come into the field with the same base of knowledge.

We understand that much of the department's training program is mandated by New Mexico's Peace Officer Standards and Training Program, and the department does not have complete flexibility in determining what training officers receive. However, the department can and does supplement the training required by the state, and has the ability to tailor the training program to its needs. We also know that APD's training director shares all of these concerns, and we commend the steps he is taking to remedy the problems, such as by hiring a curriculum writer who can create training programs that are fully documented and validated by the department. The department should also require any individuals who train its officers to provide their complete lesson plans, classroom materials, and any other information the department may require to ensure that the training provided meets the department's standards.

As mentioned above, the department offers training to new recruits at its police academy and to officers already working in the department through regular in-service, or annual training updates called "maintenance of effort," training. It appeared to us that the maintenance-of-effort training was largely a lost opportunity. Officers we spoke to perceived it as a waste of their time, and much of it seemed to focus on the use of weaponry. We believe that the maintenance-of-effort trainings are another area where the department also can focus on subjects that are not included in the training required by the state and can take a more active role in designing its own original curriculum.

We found a number of areas in which training seemed to be entirely lacking or at least dangerously deficient. It appeared that officers are not given refresher trainings on critical policies, such as the use-of-force policy, when those policies have been implicated in major incidents. Similarly, major incidents themselves do not give rise to new training scenarios, though many officers expressed a desire to see the department as a whole learn from such incidents.

In addition, when new or different policies are put into effect, or when officers are provided with new equipment, the department fails to provide new training to prepare officers for the changes, which predictably leads to policy violations and the misuse of equipment. For example, when the department issued lapel cameras and then added a new policy that required officers to record civilian encounters, our understanding is that officers were not provided sufficient training on the lapel camera policy or on how to use the lapel cameras, especially in situations in which the use of force is likely. As noted elsewhere in this letter, officers have consistently failed to follow the department's lapel camera policy and have failed to record critical encounters. The lack of training on the lapel cameras is partially to blame.

We also found that the department should provide substantially more training on constitutional law. It appears that officers receive only a few hours of training on constitutional standards at the police academy, and very little (if any) time is put into these topics during maintenance-of-effort trainings. We also note with concern that the legal training materials provided to officers contain a number of cartoons that are likely intended to break up the monotony of the material, but that nevertheless are unprofessional and, in some cases, offensive. These cartoons send the wrong message to officers about the importance of civilians' legal rights.

Officers should also receive more training on community policing—which is widely embraced by the field as effective at building community trust in police departments and in

ensuring public safety. As noted below, officers at all levels of the chain of command seemed to have a poor understanding of what community policing is or how it can improve their encounters with civilians and better protect the public. Any efforts the department takes to adopt a true community policing model should include robust training on what community policing is and how it should impact officers' work.

Because so much of the department's training program is not documented, it was difficult for us—as it is for the department itself—to fully evaluate most of the training that officers receive. From our review of other aspects of the department, however, it is apparent that training is deficient in several other areas. The department clearly has not provided sufficient training on the use of Tasers, including when their deployment may pose substantial risks to the safety of officers and the individuals on whom they are being used. We also believe that the way officers have communicated with (or failed to communicate with) individuals in mental health crisis show a clear lack of appropriate training on mental illness. In addition, the department should fully re-assess the training it provides to officers on how to write police reports, as well as its training for supervisors on how to review the police reports filed by their subordinates. Several of the first- and second-line supervisors we spoke to (those at the ranks of sergeant and lieutenant) also expressed an interest in seeing the department offer training specifically for new supervisors.

3. The Department's Deficient Policies Contribute to the Pattern or Practice of Unreasonable Use of Force.

The department's use-of-force policies and procedures fail to provide its officers with the operational guidance they need to ensure constitutional policing. These policy deficiencies begin with the failure to clearly define "force" in terms that allow officers to distinguish between reportable uses of force and non-reportable uses of force. The department's definition of "force" should be articulated clearly to allow for consistent, practical applications. In addition, the current definition of "police action" is too vague. For instance, it is unclear if the definition includes escorting an individual, pointing a firearm, or placing an individual in a prone restraint. The absence of clear guidance on what force officers are required to report leaves significant gaps. These gaps affect the quantity and quality of force reports that should be generated after force is used in incidents that do not result in fatalities.

APD's use of force policy is also too restrictive in requiring officers to report only force that results in injury. The policy states that "in all instances where police actions are used which result in an injury, officers shall document the injury or alleged injury in the report of the incident." The term "injury" is not sufficiently defined in the policy. Not surprisingly, we found that officers have varied interpretations of the policy, and many seemed uncertain when a use of force should be reported. We interviewed one sergeant who told us that no report was required where an officer used pepper spray. He also stated that even officers' use of physical force did not require documentation where there was no obvious injury. The varying interpretations of the current policy further limit the quantity of reports generated after incidents. The broadly drafted and unclear policy is ineffective, encourages abuse, and allows officers to conceal uses of force that should ordinarily be reported and reviewed.

The department's policy regarding shooting at moving vehicles is outdated and inconsistent with best police practices. As noted above, shooting at vehicles is generally a poor

tactical choice and exacerbates the chances of vehicles becoming more dangerous instruments. The department's policy does not prohibit firing at moving vehicles. It specifically permits officers to fire at tires in certain situations. Under policy 2-52-3(B), officers are permitted to disable the tires of a moving vehicle by shotgun or rifle in circumstances where the officers are protecting themselves or others from what is reasonably believed to be an immediate threat of death or serious physical injury or preventing the escape of one reasonably believed to have committed a felony. This policy is inconsistent with modern and acceptable police practices; moreover, we found little evidence that officers have been following this policy.

Indeed, our review of incident reports revealed a practice of officers firing and injuring subjects in the cabin of their vehicle. In the fatal shooting of Mickey Owings, an officer shot him through the passenger window as he attempted to leave a busy department store parking lot. Owings' vehicle eventually slowed down as he lost consciousness and then died. The officer's action clearly violated the department's policy and placed citizens in the parking lot area in danger. Although the department concluded that the officer's conduct was justified, it appears that the only immediate threat that Owings posed was property damage, and the officer could have employed other tactics to avoid having to use deadly force under these circumstances. Furthermore, it appears that the officer did not try to place himself in a tactically advantageous position, but instead reacted in a manner that was inconsistent with the department's own policies.

The department has been aware of the problems with this policy and the risks associated with allowing officers to fire at vehicles since at least June 2011, when PERF recommended that the department prohibit officers from firing from or at moving vehicles under all circumstances.⁵¹ Despite PERF's guidance, APD has not revised its policy to address the likely dangers associated with allowing its officers to fire at moving vehicles. This delay in implementing needed reform signals that APD does not acknowledge the dangers associated with firing at moving vehicles. The department's failure to update its policy to conform to modern police practices places its officers and citizens at a higher risk of harm.

The use of force policy also includes terms that imply the justified use of force. For example, officers are required to describe the force they use in an "offense" report, which suggests that the subject of force was committing or suspected of committing a crime.⁵² Based on our review, some individuals are the subject of force during welfare checks or when they are not engaged in criminal activity. Subjects of force are also referred to as "combatants" in APD policy.⁵³

As discussed earlier, the use of force policy is wholly inadequate in requiring thorough and objective supervisory reviews of force. The policy does not describe the collection and preservation of evidence regarding an officer's use of force, canvassing the scene for witnesses, obtaining information from subjects of force, reviewing photographs and other demonstrative evidence, or referring a use of force for administrative or criminal investigation. The policy also does not prohibit having those supervisors who used, authorized, or directed force subsequently review the reasonableness of the force. We reviewed incidents in which supervisors who were

⁵¹ PERF Report, *supra* note 11, at 22-23.

⁵² Use of Force Policy, 2-52-6(B)(1).

⁵³ Use of Force Policy, 2-52-6(B)(1)(d).

on the scene and participated in the use of force also determined that the force they used or authorized was reasonable and did not warrant further investigation. Other policy deficiencies include permitting canines to be deployed for crowd control, which is inconsistent with contemporary policing practices.

Underreporting appears to be correlated with poor interpretations of the force policy and officers' resistance to reporting incidents. Underreporting inhibits the department from learning from use-of-force incidents. It also limits the quantity of incidents that supervisors could review, and it leads to officers not being held accountable for their actions. The high number of force incidents involving Tasers in our review sample suggests either that Tasers are used with considerable frequency or, more likely, that other forms of force are being underreported. APD's policy of requiring use of force reports when there is an injury allows officers to avoid reporting incidents where there is no visible or apparent injury. We also obtained recordings of force provided by individuals without corresponding APD reports. It appears that the department has failed to account for the full range of force that its officers use against its citizens. This failure has contributed to the pattern or practice of excessive force.

4. Under-Use of the Crisis Intervention Team Contributes to the Pattern or Practice of Unconstitutional Force.

As noted above, the Crisis Intervention Team ("the Team") is a specialized unit in APD that is trained and equipped to create safer encounters with individuals who are in mental health crisis and may harm themselves or others. After interviewing and observing the Team and some of the patrol officers they have trained and certified, we are encouraged by the innovations and passions that many on the Team have brought to the department. In many ways, the Team provides a template for the department as it considers how to remedy its pattern of unreasonable uses of force. Members of the Team demonstrate an understanding of the illnesses that individuals suffer, they are informed about the challenges those individuals face, and they approach encounters with an eye toward preserving the health and safety of everyone involved.

Given the Team's skills, the department could gain substantially—and could greatly impact its overemphasis on the use of force—by involving the Team in far more of its encounters than it currently does and by permitting the Team greater latitude in the course of an encounter to broker a peaceful outcome. Reaching this goal may require adding personnel to the Team and training and certification of additional patrol officers across the city. Our understanding is that currently, if officers encounter someone in mental health crisis, they can call for a Team member or a specially trained patrol officer assigned to their part of the city, but there is no guarantee that either will be available. We recommend that the department conduct a staffing study to determine how many officers would need to be added to the Team, as well as how many patrol officers would need to be trained and certified, to ensure that someone with the appropriate skills is always available in all parts of the city when an encounter with someone in mental health crisis occurs.

The department could also make a significant impact on officers' tendency to use force during stressful encounters by providing officers more training on the use of de-escalation techniques. The Team currently provides this kind of training to new recruits at the police academy, but our observations of, and interviews with, officers indicate that the Team's training has so far failed to make an impact on the overall culture of the department and the general

approach of most officers. We also found it troubling that many officers did not seem conversant with the Team’s function or its relevance to their encounters with those in mental health crisis. A clear example of this lack of familiarity was evident in the use-of-force reports that we reviewed. In far too many of those reports, officers encountered a person who was clearly in mental health crisis, but they made no attempt to contact the Team or patrol officers in their area who had been trained and certified by the Team. Partially as a result of the officers’ failure to use the resources available to them, far too many of these encounters had a violent outcome.

One area where we believe the department can immediately begin leveraging the skills and training of the Team is in what officers call “welfare checks”—where someone has called 911 to ask officers to check on a person who may be at risk of harming himself or who seems to be in crisis. In the use-of-force reports we reviewed, far too many encounters that began as welfare checks ended in violence, and far too often the officers’ use of force was unreasonable. The inclusion of the Team or patrol officers trained and certified by the Team on welfare checks could make a substantial impact on the department’s use of force and could lead to better overall outcomes for residents in mental health crisis.

5. The Department’s Ineffective Use of Its Tactical Deployments Contributes to the Use of Excessive Force.

Through our review of use-of-force reports, officer-involved shooting investigations, and interviews with citizens, we conclude that the department inadequately conducts tactical deployments. Tactical deployments are a significant component of a police department’s strategic response to high-intensity incidents. These incidents include encounters with suicidal subjects, barricaded subjects, hostage situations, and high-risk traffic stops.

In our review of the Department’s SWAT, we found deficiencies in the leadership of this specialized unit. At the time of our review, the SWAT commander had not received adequate training and appeared to lack the experience to direct a disciplined and effective SWAT unit. It is critical that supervisors be taught the skills necessary to oversee a specialized unit. Beyond the commander’s lack of SWAT experience, we note that the unit does not have clear command structure or deployment guidance. As a consequence, we found that SWAT members do not have sufficient understanding of incident deployment, scene control, or proper reporting protocols. We further noted a near absence of organizational accountability. Officers are simply afforded too much autonomy, which has contributed to even greater insularity from the department’s accountability systems, ineffective deployments and tragic shootings that could have been avoided.

SWAT’s deficient on-scene supervisory oversight contributes to the pattern of unreasonable use of force. Based on our review, SWAT officers failed to conduct any pre-deployment planning and rarely coordinated with patrol officers once they arrived on the scene of incidents. We further found that SWAT officers were unable to provide operational or strategic guidance once they arrived on scene. In many instances, despite being tactical experts, SWAT command failed to provide any meaningful assistance during dangerous situations.

In the fatal shooting of Alan Gomez, 26 officers responded to a possible hostage situation. Even though SWAT responded to the scene, it appeared that SWAT command failed to establish scene control. A SWAT officer acted independently in setting up on the scene, and it

appears that little, if any, coordination was conducted to ensure that patrol officers could effectively address the situation. The SWAT officer also failed to participate in negotiations, even though the discussions with Gomez lasted nearly one hour. While the patrol officers were negotiating with Gomez, the SWAT officer unilaterally took a shooting position near the house. As the officers continued to negotiate with Gomez, the SWAT team member shot Gomez before he received approval from a supervisor.

Similarly, we reviewed another incident where several patrol officers responded to a home after learning that “Steve” had been involved in multiple armed robberies and was staying at the home. As the patrol officers arrived on the scene, Steve left the home and was followed by multiple patrol officers. Steve reportedly had suicidal thoughts and was carrying a firearm in a duffle bag. The patrol officers were able to negotiate with Steve in an open field and to convince him to get on his knees, although he maintained control of the duffle bag. As the patrol officers continued to negotiate with Steve for over one hour, a SWAT officer arrived on the scene. The SWAT officer failed to coordinate with the patrol officers, and SWAT command seemed to play no role in handling the situation. The SWAT officer instead positioned himself in a tactical shooting position. The SWAT officer also failed to communicate with his supervisor, even though the supervisor was on his way to the scene. This lack of communication is a pervasive practice that has contributed to tactical shortcomings at APD. As the patrol officers were awaiting a SWAT supervisor, the SWAT officer shot Steve multiple times. Several officers reported that they were surprised that the SWAT officer shot Steve. This is another example of how a SWAT command failure and deployment failure led to a fatal shooting.

In addition to its lacking deployment oversight, we also identified a troubling trend where SWAT officers failed to document and videotape deployments. This stands in stark contrast to the canine unit, which is actually a component of the SWAT unit and which more consistently documents and evaluates deployments. SWAT has the ability to document and record deployments just as thoroughly as the canine unit, but it has not done so. Supervisors—and again, the same supervisors who oversee SWAT also oversee the canine unit—have therefore been unable to determine whether SWAT’s actions were reasonable, appropriate, and complied with the department’s standards. They also could not assess the tactical effectiveness of deployments. This deficient control and understanding of SWAT officers’ conduct contributes to the pattern of unreasonable use of force.

6. The Department’s Aggressive Organizational Culture Contributes to Excessive Force Incidents.

The department’s lack of internal oversight has allowed a culture of aggression to develop. This culture is manifested in the routine nature of excessive force and lack of corrective actions taken by the leadership to address force incidents. This culture is evident in the department’s training, permissive policy on weapons, under-utilization of its crisis intervention team, overuse of SWAT, and the harsh approaches to ordinary encounters with residents. The failure of the department’s leadership to address unnecessary uses of force reinforces the aggressive culture.

A lack of accountability in the use of excessive force promotes an acceptance of disproportionate and aggressive behavior towards residents. We reviewed numerous incidents demonstrating this approach. For example, in the incident involving “Charles,” where he was

stopped by officers for failing to stop at a sign while riding his bicycle, the officers escalated the situation and shocked him with Tasers multiple times. According to the incident report, the officer essentially fired his Taser at Charles for failing to completely submit and obey commands. The initial officer called for backup when Charles failed to stop his bicycle immediately upon the officer's command; ultimately three officers approached him. Their use of force against a perplexed cyclist is just one of many episodes in which officers expressed hostility toward people not engaged in the commission of any crimes. An officer's decision to use his Taser on Ivan is another example. Ivan was unconscious on a couch during a party. When he was roused by the officer and obviously confused, he started to struggle while still prone on the couch. The officer escalated the situation instead of altering his approach given Ivan's condition. Both of these incidents were approved by supervisors in subsequent reports that found the force reasonable.

As mentioned above, APD's training is focused so heavily on weaponry and force scenarios that officers do not get essential tools to engage in effective de-escalation methods. The training is an element of the culture of aggression. Once officers complete their training, they are allowed to carry non-standard issued weapons that are approved by the range master.⁵⁴ We were informed that many officers purchase expensive, high-powered guns as soon as they are allowed, using their own money. Officers see the guns as status symbols. APD personnel we interviewed indicated that this fondness for powerful weaponry illustrates the aggressive culture.

This aggressive culture is also evident in many of the force reports that we reviewed, in incidents recounted to us by community witnesses, and in widely available videos of officers using force against non-combative individuals. We interviewed numerous people who relayed accounts of harsh treatment by officers. The incident involving "Nick" illustrates this point. He provided video footage showing an officer choking him after he stepped out of his car during a stop for driving while intoxicated. In another incident, an officer grabbed, yelled at, and attempted to handcuff "Omar" when he was helping an accident victim and did not get out of the officers' way quickly enough for the officer. Omar tried to explain that he was compressing the victim's wound and using his training as an emergency medical technician, but the officer seemed concerned only with his immediate compliance. Additionally, we have reviewed reports and publicly available videos of officers slamming a man's head against a tree planter on a sidewalk, using a Taser on an obviously subdued man, and punching a man who had done nothing to the officer or anyone else. Few supervisors tried to address these problems. When supervisors did attempt to correct these officers, many complained about the dearth of support from department leadership when they attempted to address problematic conduct. These incidents and the failure to require corrective action demonstrate a culture that emphasizes force and complete submission over safety. The department's leadership does not address these issues and, as such, sends a message that such conduct is acceptable. This culture contributes to the use of excessive force.

7. The Department's Limited External Oversight Contributes to the Pattern or Practice of Unconstitutional Uses of Force.

Independent, external oversight of a police agency—oversight that is exercised by individuals or institutions that are not part of or beholden to the agency or its leadership—helps

⁵⁴ Firearms and Ammunition Authorization Policy 2-22.

strengthen community trust. Independent oversight can identify deficiencies in a police agency's own internal reviews, provide a transparent process for resolving complaints against an agency, and build confidence in an agency by bringing the public into the process of assessing and improving it.

Albuquerque has adopted an external oversight structure that has two primary components: the Police Oversight Commission ("the Commission") and the Independent Review Officer ("the Review Officer"). Briefly, the Review Officer is appointed by the Mayor and paid by the City to investigate all officer-involved shootings and all complaints filed against the Department by civilians. The Review Officer is assisted by a staff of paid investigators, and she reports her findings at public meetings of the Police Oversight Commission. The Commission is made up of volunteer Commissioners from across the city appointed by the Mayor. The Commission holds regular public meetings to consider the reports of the Review Officer and make recommendations to the Chief of Police on whether officers have violated the Department's policies. The Chief retains complete discretion over whether policy violations in fact occurred and whether officers should be disciplined.

To assess the effectiveness of Albuquerque's external oversight structure, we interviewed the current Review Officer and members of the Commission. We also reviewed the reports of the Review Officer and recommendations of the Commission for all fatal police shootings between 2009 and 2012 for which such reviews have occurred. In addition, we analyzed the city ordinance that established and governs the Commission and the Review Officer, as well as other information we received.

Albuquerque's external oversight structure could do much more to address unreasonable uses of deadly force, and it is apparent from our review of documents and interviews that the failure to do so in the past has contributed to the pattern of unreasonable force that we have found. Members of the Albuquerque community have expressed concern that the Commission does not provide meaningful oversight of the department and that the Commission and the Review Officer have not weighed the evidence from their investigations appropriately.

We note that the Commission's work is limited in some ways by the collective bargaining agreement reached between the City and the officers' union, the Albuquerque Police Officers Association. That agreement limits the amount of information that the Commission can consider in reviewing specific cases, such as the identity of the officer whose alleged conduct is at issue and the officer's disciplinary history. Knowing an officer's identity and disciplinary history could provide important context for individual allegations of misconduct and help the Commission assess whether there is a pattern of problematic behavior.

Albuquerque's independent oversight structure could also do far more to involve the community and to provide opportunities to be heard to those making allegations of misconduct. Community members have limited opportunities to speak during the Commission's public meetings. Those who have filed complaints against officers are not provided any opportunities to be heard at any of the Commission's meetings before a decision is made on their cases except in the very limited public comment period, and so they cannot meaningfully contribute to the Commission's decision-making process.

Along those same lines, citizen complaints are subject to strict limitations that keep the Commission from being able to address potentially serious allegations of misconduct. The

ordinance that created the Police Oversight Commission requires complaints to be filed within 90 days of the incident or they will not be considered. In addition, by an agreement between the City of Albuquerque and the Albuquerque Police Officers Association, complaints must be personally signed by the complainant for the department to consider them “official” complaints that will be taken through the full review process. We believe these limitations unnecessarily restrict the work of the Commission and the ability of the public to bring police misconduct to light.

The ordinance that created the Commission and the position of the Review Officer directs the Review Officer to “play an active public role in the community.” The current Review Officer has engaged in some public outreach, and we understand that her office would reach out to the public more frequently if it were able to hire a full-time staff member dedicated to community outreach. We believe this is an important function of the Review Officer, and we urge the City to support her in these efforts.

Nonetheless, from our review it appears that the Review Officer is more closely aligned with the department than with the community that the Review Officer serves. The Review Officer has failed to find violations of department policy in cases where it is more likely than not that violations clearly occurred, and, in at least one case, she has interpreted the department’s policies in ways that are contrary to the policies themselves but favorable to officers. This occurred in the case of Mickey Owings, which was discussed above and involved an officer who shot Owings while he was fleeing in a car. The Review Officer interpreted the department’s policy on firing at moving vehicles to apply only when an officer fires at the vehicle itself and not at the driver of a vehicle. The point of the policy, however, is not to protect cars from being damaged by gunshots; it is to keep officers from firing their weapons where doing so poses substantial risks to public safety. When an officer fires his gun at the driver of a moving vehicle, he is both firing at the vehicle and creating risks to public safety, issues that the Review Officer should have recognized.

The current Review Officer and her predecessor found very few violations of the department’s policy on the use of deadly force in officer-involved shootings, which is at odds with the evidence as detailed in this letter. If we had reached different conclusions in just a handful of cases, it might have been attributable to a difference of opinion on the very fact-intensive questions that arise when analyzing officers’ use of force. But we have reached different conclusions on far more than a handful of cases. Nor can the different conclusions we reached be attributed to any difference in the underlying materials that we reviewed; the current Review Officer and her predecessor had at least as much access to reports, witnesses, and other pertinent information on force encounters as we did. We are left with the conclusion that the current Review Officer and her predecessor have simply been too forgiving of the department’s use of deadly force. They thus deprived the department of critical opportunities to correct its course, which contributed to the overwhelming pattern of unconstitutional use of deadly force that we find.

8. Inadequate Community Policing Contributes to the Department’s Pattern or Practice of Unconstitutional Force.

Community policing is an effective strategy that enables law enforcement agencies and individuals and organizations they serve to develop solutions to problems and increase trust in

police. The department's leadership does not prioritize community policing, has not communicated its importance throughout the agency, and tolerates a culture that is hostile to community partnerships. These deficiencies have led to a mutual distrust between officers and the residents they encounter. It has contributed to the pattern or practice of excessive force.

Despite references to community policing in its policies and officer evaluations, the department does not consistently support the concepts of community policing. Community policing, also known as "smart policing," involves building partnerships between law enforcement and the people and organizations within its jurisdiction, engaging in problem-solving through proactive measures, and managing the police agency to support community partnerships and community problem-solving.⁵⁵ The focus on developing partnerships with the community is to engender trust and encourage the public to participate in identifying and addressing public safety concerns.⁵⁶ During our onsite tours, we observed that there was no consistent understanding of the department's community policing program within the ranks. Even commanders had inconsistent understandings of the agency's program. Moreover, commanders have no systems in place to analyze citizen contacts with officers outside of incident reports. They do not consistently review complaints to measure how officers are engaging the community.

The lack of organizational support for community policing was evident in the numerous, credible complaints we reviewed regarding the aggressive behavior of officers. Residents told us of encounters where officers were disrespectful and aggressive in their approach. For example, "Steven" contacted APD after accidentally shooting his wife in the hip. When officers arrived, they approached Steven in his front yard and immediately placed him in handcuffs. Officers knocked on the front door and pointed their weapons at Steven's sister-in-law as soon as she opened the door. The officers then entered the home and pointed their weapons at Steven's son, even though he was rendering aid to his mother. In another example, an officer threw "Rita's" documents on the street after a traffic stop when she challenged the basis of the stop. The citation was subsequently dismissed. The "Omar" incident where the officer grabbed and yelled at a man providing medical aid to an accident victim also shows a disregard for the community. These are but a few of the instances where residents expressed concerns about their negative interactions with officers.

A disconnect exists between officers and residents about the perception of overly aggressive conduct by officers. We observed that many officers were dismissive of community concerns. For instance, many officers complained that the media generated the complaints about

⁵⁵ U.S. Department of Justice, *Community Oriented Policing Services (COPS), COMMUNITY POLICING DEFINED* (Undated) at 1; Drew Diamond and Deirdre Meid Weiss, *ADVANCING COMMUNITY POLICING THROUGH COMMUNITY GOVERNANCE: A FRAMEWORK DOCUMENT* (2009) at 4.

⁵⁶ *COMMUNITY POLICING DEFINED* at 3; *see also* Tyler and Fagan, *Legitimacy and Cooperation*, 6 Ohio St. J. Crim. L. 231, 267 (cooperation with the police increases when the public views the police as fair and legitimate); Tyler, *WHY PEOPLE OBEY THE LAW* at 163 (study verified that people believed procedures to be fair and authorities legitimate when they were provided opportunities to participate in the decision-making process).

their perceived aggressiveness in citizen encounters. Some officers also complained that the citizens were the ones who were aggressive towards them. This perception persists even though the data suggests otherwise.⁵⁷ These concerns suggest an unwillingness to embrace community policing. This rejection of one of the basic elements of community policing contributes to the department's pattern or practice of unjustified force.

V. REMEDIAL MEASURES

APD should implement the following remedial measures to address the deficiencies discussed in this letter:

A. Use of Force Policies

1. Revise the use of force policy to require that officers report any use of force, including the active pointing of firearms, above un-resisted handcuffing, and, even in cases of un-resisted handcuffing, when the subject complains of injury or excessive force.
2. Revise the use of force policy to clearly define "force" and specify the types of physical force that must also be reported, such as chokeholds, prone restraints, kicks, takedowns, leg sweeps.
3. Revise the use of force policy to prohibit shooting at vehicles.
4. Revise the use of force policy to place more emphasis on de-escalation techniques and require officers to consider less-intrusive alternatives before employing force.
5. Revise the use of force policy to prohibit the use of canines for crowd control.
6. Revise the use of force policy to prohibit supervisors and officers who were involved in, ordered, or authorized a use of force from assessing the reasonableness of the force.
7. In addition to a comprehensive use of force policy that incorporates all force options, including deadly and less lethal force, develop specific policies for each of the following areas: (a) deadly force; (b) firearms; (c) canines; (d) less lethal munitions; (e) Tasers; (f) chemical agents; (g) batons and impact weapons; (h) other force technology or weapon authorized by the department.
8. Require that a failure to report a use of force or prisoner injury by an officer shall subject the officer, including supervisors and commanders, to disciplinary action.
9. Ensure that officers request medical services immediately when an individual is injured or complains of injury following a use of force.

⁵⁷ PERF Report, *supra* note 11, at 39-40 (noting that while assaults against police officers rose between 2006 and 2007, they declined between 2007 and 2008 and overall during 2005 to 2008). The FBI Law Enforcement Officers Killed and Assaulted reports from 2009 to 2011 show a steady rate of assaults on officers in the region; there was a slight increase in 2012. See FBI Law Enforcement Officers Killed and Assaulted *available at* <http://www.fbi.gov>.

10. Establish policies regarding force reviews and investigations. Require that force reviews and investigations determine whether the officer's conduct was justified and within agency policy.

11. Develop a reliable and accurate tracking system for all officers' use of force, all force reviews conducted by supervisors, all force investigations conducted by the internal affairs unit, and all command-level reviews.

12. Ensure that uses of force are promptly referred to the appropriate investigative unit or agency whenever a supervisor or reviewing officer finds evidence indicating apparent misconduct or criminal conduct by an officer.

B. Interacting with Individuals with Mental Illness and other Disabilities

1. Develop policies and implement procedures to improve the response to individuals in behavioral or mental health crisis, and to minimize the use of unnecessary force against such individuals.

2. Develop and implement protocols with the Crisis Intervention Team on how to handle interactions with individuals with known or suspected mental health issues, including those observably undergoing a mental health crisis, individuals with developmental disabilities, and individuals who appear to be intoxicated or impaired.

3. Require all officers to participate in crisis intervention training.

4. Expand the number of officers trained on how to handle interactions with individuals with mental health issues and individuals who appear to be intoxicated.

5. Review current policies and protocols concerning interactions with individuals with mental illness, developmental disabilities or other impairments to ensure they are consistent with applicable legal standards and generally accepted policing practice.

C. Tactical Units

1. Revise policies and procedures governing response to, and investigation of, high-risk incidents including specific guidance covering: encountering suicidal subjects, barricaded subjects, hostage situations, and high-risk traffic stops.

2. Require training for all tactical team members and supervisors in topics including: pre-deployment guidance and planning; incident deployment; scene control; and post-deployment reporting.

3. Establish eligibility criteria for all staff and supervisors assigned to tactical units and conduct regular (at least annual) reviews of tactical team members to ensure that they meet delineated criteria.

4. Provide tailored annual training to all staff and supervisors assigned to tactical units, including training on effective deployment, scene control, and post-deployment reporting.

D. Training

1. Implement scenario-based training and role playing to ensure officers understand de-escalation techniques and when force is justified. This should also include training on changes to policy, new equipment, and tactical methods.
2. Train officers to use appropriate hands-on techniques following the first application of less-lethal force, when feasible, to complete an arrest, and to use as few cycles of Taser as possible.
3. Train officers to avoid using more intrusive forms of force on individuals who do not pose a threat to the safety of the officers and others.
4. Train officers to give verbal warnings, where feasible, before using force.

E. Internal Investigations and Civilian Complaints

1. Revise the civilian complaint policy to eliminate the 90-day reporting period, allow for the investigation of anonymous and third-party complaints, and eliminate the requirement that complainants sign the complaint.
2. Revise all forms and instructions on the civilian complaint process that can be construed as discouraging civilians from submitting complaints, including warnings regarding potential criminal prosecution for false or untrue complaints.
3. Develop investigative standards and protocols for force investigations conducted by the internal affairs unit.
4. Require that all officers and employees report misconduct, including apparent, alleged, or perceived misconduct, by another officer or employee to a supervisor or directly to the internal affairs unit for review and investigation.
5. Ensure that investigations of officer misconduct are thorough and that findings are consistent with the facts.

F. Management and Supervision

1. Require that supervisors perform the following actions in response to any use-of-force incident: (a) ensure that a medical unit report to the scene of every use of force resulting in injury, actual or complained; (b) conduct a thorough analysis of the incident based on all obtainable physical evidence, adequately descriptive use-of-force reports, witness statements, and independent investigation; (c) resolve any discrepancies in use-of-force reports or witness accounts and explain all injuries; (d) ensure that the recording policy was followed; and (e) complete a summary analysis regarding the reasonableness, proportionality, and legality of the force. If the supervisor cannot resolve any factual discrepancies, determine the source of any injury, or determine the lawfulness of a use of force, the supervisor should refer the matter immediately and directly to his or her supervisor and to internal affairs. Every level of supervision should be held accountable for the quality of the first-line supervisor's force investigation.

2. Require a critical firearm discharge review process led by a command-level review team to evaluate all investigations involving critical firearm discharges. The team should be chaired by the commanding officer. The process should include specific determinations regarding whether the force used was consistent with the department's policy and training, whether lesser force alternatives were available, what non-disciplinary corrective actions should be taken, and what policy or training amendments should be effectuated. An annual review of patterns in critical incidents should be completed and reported to the Chief.
3. Require supervisors to review and take appropriate disciplinary or non-disciplinary corrective action, where warranted, in situations where he or she becomes aware of potential misconduct or criminal behavior by an officer.
4. Expand the Early Intervention System to track supervisor and area command activity. Require supervisors to conduct timely reviews that identify patterns in officer behavior and specific training deficiencies.
5. Change the Early Intervention System thresholds by: (a) adjusting thresholds based on comparison data that takes officer assignment into account; (b) creating single-event thresholds for events so critical that they require immediate department intervention; (c) implementing rolling thresholds, so that an officer who has received an intervention for use of force should not, for example, be permitted to engage in four additional uses of force before again triggering a review; (d) expand the elements or performance indicators tracked by the system; and (e) evaluate whether thresholds are in line with national standards.
6. Monitor uses of force to ensure consistency with the policies, and enforce the policies when force is used inappropriately.
7. Ensure that an adequate number of qualified first-line supervisors are deployed in the field to allow supervisors to provide close and effective supervision to each officer under the supervisor's direct command, provide officers with the direction and guidance necessary to improve and develop as officers, and to identify, correct, and prevent misconduct.

G. Recruitment and Selection

1. Ensure that the department's officer hiring and selection processes meet minimum standards for recruiting and an objective process for selection that employs reliable and valid selection devices that comport with generally accepted policing practices and federal anti-discrimination laws.
2. Require that all candidates for sworn personnel positions, including new recruits and lateral hires, undergo a valid psychological, medical, and polygraph examination to assess their fitness for employment.

3. Ensure that thorough, objective, and timely background investigations of candidates for sworn personnel positions are conducted in accordance with generally-accepted policing practice and federal anti-discrimination laws.
4. Develop objective selection criteria to ensure promotions are based on knowledge, skills, and abilities that are required to perform supervisory and management duties successfully in core substantive areas. Provide clear guidance on promotional criteria, and prioritize effective, ethical, and community-oriented policing as criteria for promotion. These criteria should account for experience, civil rights and discipline record.
5. Establish procedures that govern the removal of officers from consideration from promotion for disciplinary action related to serious misconduct.

H. Community Policing and Oversight

1. Develop a comprehensive program of community outreach that emphasizes the department's role as part of the Albuquerque community and in partnership with and service to all residents of the City.
2. Provide necessary information and sufficient resources to civilian oversight entities, so that they can meaningfully evaluate citizen complaints against officers and engage the community.
3. Create robust community relationships and engage constructively with the community to ensure collaborative problem-solving and consistent feedback from diverse sectors of the community.
4. Revise the civilian oversight process to ensure that an effective system of review and approval is implemented that includes review of serious uses of force and officer-involved shootings. The oversight process should also have the resources and support necessary to assess and make recommendations regarding the department's operations and performance that need improvement.

* * * *

We share your sense of urgency in ensuring that the City of Albuquerque has an effective, accountable police department that controls crime, ensures respect for the Constitution, and earns the trust of the public it is charged with protecting. Recent events have galvanized many in the Albuquerque community to join the public discourse over the future of the Albuquerque Police Department and its relationship with the community. We look forward to working with you, the department, and the community to address our findings and forge a path forward to restore public trust and promote constitutional policing in Albuquerque. Those affected by our findings and the men and women of APD who serve the City honorably deserve no less. Please note that this letter is a public document and will be posted on the Civil Rights Division's website.

We hope to hear from you soon to begin discussions of the necessary reforms.

Sincerely,

/s/

Jocelyn Samuels
Acting Assistant Attorney General
Civil Rights Division

/s/

Damon P. Martinez
Acting U.S. Attorney
District of New Mexico

cc: Gorden E. Eden, Jr.
Police Chief
Albuquerque Police Department

David Tourek, Esq.
City Attorney
City of Albuquerque

44. Mosler, Damon: "Body-Worn Camera Programs— Prosecution Perspective"

Transcript: Body-Worn Camera Programs— Prosecution Perspective

Damon Mosler, San Diego County District Attorney's Office: With the advent of body-worn camera evidence, prosecution agencies are going to be dealing with a different form of evidence than they've had to deal with before. We decided to implement a policy in our office to establish what types of videos we are going to receive, when we're going to provide discovery of those videos, and what, if anything, needs to be redacted from those videos prior to turning those over to the defense bar. One of the biggest challenges we had was to tell our prosecutors what needed to be redacted for them to be able to view the videos and then make those decisions, and do so in a uniform approach.

The unanticipated aspects of the policy are that it's evolving. There are things about the cameras and the evidence that we have yet to discover, but we are working on that and evaluating it constantly. At the onset of receiving body camera evidence, our agency engaged in instruction of the deputy district attorneys and staff on how to access, view, and redact the various videos, and to provide them in a timely fashion for discovery. Thereafter, we engaged our city attorney partner in developing common policies in terms of receipt of the videos from our law enforcement partners. Afterwards, we met with representatives of the public defender's office and the private defense bar to explain to them what the videos were and to demystify how they would be getting them and how they could be used. In addition—in addition, we invited them to engage us in dialogue about how to improve the access to these videos. Finally, we consulted with our local courts to explain to them what was coming their way by way of evidence in court, and to talk to them about possible methods to prevent public disclosure of the videos prior to trials.

Most prosecution agencies are going to be having law enforcement partners—multiple law enforcement partners that submit body-worn evidence. As a result of that, you're going to be encountering agencies that have different vendors, so that you can't dictate which vendors they use. I recommend that people talk to their agencies to make sure that the agency understands how to get the videos to the prosecution agency in a timely fashion. Once the prosecution agency receives the video evidence, there are challenges when you have different vendors of the proper software to redact the videos, and that is something that we are in the process of working on with our law enforcement partners to find the best mechanism to do so.

Before any law enforcement agency starts to deploy their body-worn cameras, they need to consult with their prosecution agencies, whether it be a city attorney or district attorney's office, to talk with them about how the videos are going to be brought to the—to the prosecution agency, whether it be by way of a cloud delivery service or discs. In addition—in addition, they need to talk with their agencies, the law enforcement partners, with how they are going to store the videos and who's going to be responsible for the cost of storing the videos on open cases. Finally, they need to consult with the prosecution agencies with respect to the transcription costs and responsibilities for cases that go to trial.

The other thing I would advise law enforcement agencies is that as you develop your policies, you need to reevaluate them periodically as you deploy the cameras, because things will change for you as you deploy them. You will see things that you did not understand before. The law enforcement partners and the prosecution side will offer suggestions as to how to adjust your policies. And I would urge law enforcement agencies to post the policies in a public setting so the public has a chance to view and understand what the policies are.

Most important advice I can give to a law enforcement agency considering implementing a body-worn camera program is to consult with both their civil attorneys and the prosecution partners in order to establish a policy that makes sense for the agency and the actual receipt of evidence in court.

45. American Bar Association: "ABA Task Force on Law Enforcement Body Camera to Establish Best Practices, Address Individual Liberties"

ABA Task Force on Law Enforcement Body Camera to establish best practices, address individual liberties

As claims of police misconduct make headlines nationwide, the American Bar Association [Criminal Justice Section](#) announced Friday at the ABA Annual Meeting the formation of a Task Force on Law Enforcement Body Camera, which will analyze the use of body cameras by law enforcement professionals.

"Growing tensions between police and the public has resulted in a crisis of confidence in the actions of law enforcement officers and has raised the question of how to restore public appreciation for the difficult work of those who keep us safe and to ensure accountability for the actions of those entrusted with that solemn responsibility," said Section Co-chair James Felman.

The task force will undertake a comprehensive legal study, to identify best policies and practices for the deployment and use of law enforcement body cameras and assess their impact on the criminal justice system as well as individual liberties.

"Equipping law enforcement officers with body worn cameras will allow greater appreciation and respect for appropriate law enforcement actions and afford greater accountability where actions have not been appropriate," said Section Co-chair Cynthia Orr. "But, technology has its limits. Body worn cameras are not a cure-all solution, and there are significant questions about the best practices for their use."

The task force will address First Amendment rights issues and equipment manipulation concerns, as well as protective orders disputes. The group's report will suggest procedures for data retention and destruction; considerations to determine who should wear body cameras; and make broad recommendations on continuous versus rules-based monitoring.

"We have assembled an extraordinary group to study and discuss the issues. We will be led by the combined talents of law enforcement leaders from Texas and Florida, and our reporter is Professor Steven Saltzburg of George Washington University School of Law, a veteran of our section who has devoted his career to the thoughtful and balanced consideration of new and cutting edge issues in the criminal law," said Orr.

The task force is comprised of members drawn from ABA entities, law enforcement, government, state prosecutors' offices, public and private criminal practice, academia, civil liberties groups and other legal arenas. Susan Pamerleau, sheriff of Bexar County in Texas, and Anthony Holloway, chief of police for the city of St. Petersburg, Fla., will serve as co-chairpersons of the task force.

"The diversity and expertise of our task force will allow us to continue the work of other organizations on this critical topic, and hopefully arrive at a consensus on the best practices for the use of this important technology," said Felman.

Other entities leading the task force are the [Section of Individual Rights and Responsibilities](#), [Section of Litigation](#) and [Section of Science and Technology Law](#).

"As the unified voice of criminal justice, the Criminal Justice Section of the ABA is the natural forum for a complete airing of these important and timely issues," said Felman.

The task force aims to present a preliminary set of findings and recommendations to the ABA House of Delegates — the association's policymaking body — in August at the 2016 ABA Annual Meeting in San Francisco.

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46. Pezdek, Kathy: "Should Cops Get to Review the Video Before They Report?"

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Should Cops Get to Review the Video Before They Report?

Sorry, Mr. Bratton. Science says no.

By Kathy Pezdek

The scenario is all too familiar. A police officer with a dash-cam or body camera stops an individual, the situation escalates, the individual is apprehended, a charge is made and the individual is arrested. The question is whether prior to being questioned or even prior to writing a report, should the officer be permitted to view the recorded footage?

Philip Eure, the Department of Investigation's Inspector General for the NYPD, recently recommended that police officers be prevented from viewing recorded footage before giving a statement to investigators. Quick to respond, New York's City Police Commissioner, Bill Bratton called this "one of the recommendations of the I.G. that we strongly, strongly disagree with and will not support under any circumstance." His concern was enhancing the integrity of police officers; "I am not intending to use the cameras to play a game of gotcha with the cops."

This is a complex issue, but one for which cognitive science research provides a clear answer. If the purpose of any investigation is to get the most complete, accurate information possible, then it could be argued that the officer should view the footage, probably multiple times, prior to being questioned and prior to testifying. Human memory is notoriously flawed,

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but we can consider recorded footage to be “ground truth.” So according to this argument, bolstering the officer’s account by having him view the recorded footage effectively serves to enhance the accuracy of the officer’s report. And it does.

The problem is that in so doing, two independent lines of evidence – the officer’s eyewitness memory and the recorded footage – are no longer two independent lines of evidence. That is, the eyewitness memory of the officer has been tainted by viewing the recorded footage. If in the prosecution of the case the officer is to serve as an eyewitness, and his memory is to be preserved untainted, then it is critical that the officer not view the footage.

Imagine another situation. Assume that a fingerprint expert is told that a suspect’s DNA was found at the crime scene. The expert is then asked if the fingerprint left at the crime scene matches that person’s fingerprint. Although this too is common practice, good sense would tell most people that this procedure is biased because the fingerprint evidence has been tainted by knowledge of the DNA evidence.

Here’s a way to test the utility of having an officer view recorded footage prior to testifying. Try this: (1) let an officer view the recorded footage for an arrest that he recorded, (2) randomly select a civilian who was not present at the incident and have him view the same recorded footage, (3) now interview both individuals about the incident and compare the accuracy and detail of the two accounts. How well does the information reported by each match the information in the recording? There is no reason to think that the officer’s account would be superior to the civilian’s. The real forensic value the officer brings to the case is his independent, unchecked experience of the event.

If the purpose of any investigation is to get the most complete and accurate information possible, and if the recorded footage is “ground truth,” then the testimony of the officer is not needed at all. He did his job by recording the event. The recording is the only evidence that is needed. Because of natural flaws in the memory process, the officer’s account of what transpired will almost always be less accurate than the recorded footage.

But often the officer’s perception of what occurred is as or more important than what actually occurred. Cognitive science research has amply demonstrated that perceptions and memories are not literal representations of reality, and our behavior is affected by our perceptions of reality not necessarily reality itself.

If — in light of an officer’s vantage point, his heightened level of stress, multiple distracting events, etc., — he perceives an individual to be more threatening than he actually is, his subsequent description of an incident may not match the events in the recorded footage. This does not necessarily undermine the integrity of the officer’s account. (In fact, if the officer’s account matched the video footage too well, this should raise questions about the source of his “memory.”) His account reflects his perception of the event, and it is this perception that is likely to have governed his behavior. It is thus important to preserve the officer’s perception of the event and not taint his memory by letting him view the recorded footage.

It may be argued that no prosecutor is going to put on a police witness without showing him the video first – to eliminate discrepancies between the officer’s testimony and the video, and avoid the “game of gotcha” that is Bill Bratton’s concern. But for an experienced defense attorney, the *absence of* discrepancies — testimony that seems suspiciously pat — is an opening for a devastating cross-examination. At every step in the process, the credibility of the officer’s account will only be enhanced if he has not viewed the video footage. (And, by the way, if the officer is entitled to review the footage, why not the suspect, for whom the consequences of the “game of gotcha” are even more dire? Would the police permit a suspect to refresh his memory by viewing the video before being interrogated?)

We know from cognitive science research that memory is vulnerable to the suggestive influence of what is called “post-event information.” An officer’s memory of what happened will be suggestively influenced by viewing video footage. And, it is important to know that such distortions in memory are both permanent, and they occur without conscious awareness.

This same logic applies to lay witnesses being permitted to view video footage prior to giving a statement, making an identification, or testifying. Frequently witnesses are shown a surveillance video from the crime scene and are subsequently questioned about the incident or presented with a lineup. Once any witness views video footage, his memory will be biased by the video, a salient source of “post-event information.” And if a case goes to trial, jurors are more likely to be swayed hearing what they consider to be two corroborating lines of evidence, when in fact they are hearing the video footage twice — once on screen and once through the eyes of the witness who watched it.

If it is important to know *exactly what happened*, then viewing the video footage will always be more accurate than the account of an officer, in which case the officer does not need to see the footage. If it is important to know *an officer’s perception of an event*, then it is important to preserve his memory untainted by viewing the video footage. In neither case is viewing the video footage recommended. Philip Eure seems to have understood the delicate nature of human memory, and his recommendations are well founded.

Kathy Pezdek chairs the Cognitive Science Program at Claremont Graduate University.

[See more posts from Nicole Turso](#)

47. Communities United Against Police Brutality Materials Submitted at Listening Sessions

Police-Community Relations, Body Cams and the Co-optation of the Community Agenda

By Michelle Gross, President, Communities United Against Police Brutality

These are interesting times.

For nearly 25 years, I've been trying to get people to pay attention to and act on the very serious issue of police brutality, 14 of those years as part of Communities United Against Police Brutality. Mostly it's been an uphill battle. White folks largely have responded with disbelief and the idea that the victims "must have done something to deserve it." People of color have been much more aware of the issue but often resigned to the idea that little could be done to effectively take it on.

Now, thanks to the widespread use of video cameras and the courageous people of Ferguson, MO and elsewhere, the reality of police brutality is finally coming home in ways that are undeniable to anyone with a TV set. As cities explode in widespread unrest, public officials on all levels are forced to at least act as if they are interested in addressing the issue.

Now, along comes Obama. His solution? Forming a task force and placing at its head former DC police chief Charles Ramsey, a man who has cost taxpayers millions in excessive force lawsuits and who is [well known for a history of crack downs on protestors and massive civil rights violations](#). He is one of the nation's mouthpieces for militarization of police. This task force is on an aggressive time line—they are expected to provide recommendations within 90 days.

Despite widespread criticism of attacks on protesters by police officers who look more like soldiers using a wide variety of military armaments, Ramsey and Obama immediately declared that "demilitarization of police is off the table." Instead, their plans include increasing police department budgets for even more military equipment and doling out \$75 million for body cameras.

Body Cams are Not the Solution

After release of a much vaunted [study out of Rialto, CA](#) about the efficacy of body cameras in decreasing police officer use of force, talk of implementing them across the country has been all the rage. However, while the methodology of the Rialto study appears to be solid, it was co-authored by the Rialto police chief as part of his master's thesis. The size and length of the study and local conditions unique to the city in which it was conducted make it questionable whether the results can be generalized to larger communities.

One problem with body cams is what they capture and what they don't. These cameras sit on the chest or shoulder or are mounted on glasses worn by the officer and point to the community member. They don't actually capture the officer's actions, only the

community member's responses to those actions. Hearing the interaction may be beneficial or it may not. Due to their location and angle, chest and shoulder-mounted models may also give the appearance that the community member is larger and more menacing to the officer.

More important than the cameras themselves are the policies put into place around the use of these devices. If police officers are allowed to turn them on and off at will, if the video is not preserved in ways that prevent its destruction or alteration or if the footage is not available through public data requests, then these devices are useless as a tool for police accountability. Bear in mind that one of the two officers who killed James Boyd, a mentally ill homeless man sleeping in the hills near Albuquerque, NM, turned off his body cam right before shooting Boyd, yet was never disciplined. Without good policies and serious consequences for violating them, Obama's proposal is little more than an early holiday gift for TASER International and the rest of the corporations peddling these body cams as the miracle cure for police brutality.

Finally, as St. Louis University law professor Justin Hansford [aptly points out](#), even with video evidence such as in the Eric Garner case, the laws are heavily stacked against ever holding police accountable.

Police-Community Relations vs. Police Accountability

All of these reform efforts center on improving what politicians like to call “police-community relations.” In fact, Obama stated that he formed his task force to “tackle simmering distrust” between law enforcement and the community. While this sounds good on the surface, it is faulty framing. This framing proposes that if police and the community could just get along better, the problem would be solved. It also places half the responsibility for the problem on the community, when we have little control over police descending on our streets in tanks and armored vehicles, wearing riot gear and carrying high-powered weapons, or violating people's rights—and bodies—with impunity.

As activists addressing a thorny problem of state power, we need to be clear. The issue is police abuse of authority, the oppression that underpins it, and the lack of accountability that encourages it. No amount of “dialogue” or other relationship-building measures will improve this because “relations” aren't the underlying cause of the problem except, perhaps, relationships with people in power who benefit from the current police state.

What is Needed NOW

It has become clear very quickly that [Obama put together his task force with a particular outcome in mind](#). The task force has no members who are known activists on police accountability and, given the rapid time line and proposals under consideration, is a PR move to pacify the public while limiting the parameters of the debate and only allowing consideration of [“solutions” that pose no threat to the police state](#).

The sudden upsurge in interest in the issue of police accountability brings many new voices to the movement but the solutions that matter most to the community are at risk of getting lost unless we can quickly come together as a movement and coalesce around a community agenda. This agenda doesn't have to be long or detailed. Pushing for four or five solid proposals would give the movement an opportunity to get out ahead of Task Force efforts to narrow solutions to only what they propose. Now is the time for the main national coalitions on police accountability (October 22 Coalition and National Copwatch Coalition) as well as groups such as the National Lawyers Guild, ACLU and others with history in this movement to work together to provide an infrastructure for new and veteran activists to craft and advance this community agenda.

Now is the time to seize the moment. Let's not squander this opportunity to bring forth concrete, effective solutions to address the issue of police abuse.

Response of the OPCR to Civilian Complaints of Police Misconduct

The statistics below give a look at the performance of the Minneapolis Office of Police Conduct Review (OPCR) in its handling of civilian allegations of police misconduct. The purpose of the OPCR is to investigate complaints and determine which have merit. Their recommendations go to the Police Chief, who has full authority to determine the level of discipline, if any. The OPCR cannot provide any benefit to the complainant other than the hoped-for closure and validation, and the expectation that discipline will deter future abuse such as that which they have experienced.

Is this working? Is it effective? The answer, based on the statistics below, is clearly NO!

The OPCR was formed in September 2012, and replaced the former CRA (Civilian Police Review Authority). The CRA had been weak, largely due to underfunding and lack of authority over discipline. The OPCR is much worse, by design. The OPCR is jointly supervised by the Civil Rights Department and the Police Department itself, greatly weakening civilian control. There are two civilian investigators and seven police investigators. The panels which review the facts determined by the investigators consist of two civilians and two high-ranking police officers, with the Police Chief essentially acting as tie-breaker.

The figures below are derived from the official reports of the OPCR for their first 2-1/2 years (30 months) of operation, from October 2012 through March 2015:

Total complaints submitted: **962**

Number of allegations contained in those complaints: 919

Number of excessive force allegations: 162

Number of cases closed during the 30 months: 826

Disposition of cases:

- Dismissed: 392
- Submitted to precinct supervisors for coaching: 216 (coaching is not considered a form of discipline)
 - Number of cases actually resulting in coaching: 83
 - Number of those cases where the supervisor determined that there was a violation of policy: 20
- Submitted for mediation: 33 (no statistics on outcomes, or whether officers even cooperated)
- Submitted to investigators for at least a preliminary investigation: 202
 - Number of cases receiving a full investigation leading to the convening of a panel: 53
 - Number of allegations in those 53 cases: 163
 - Number of allegations found to have merit: 36 (number of cases, and number of officers involved is not reported)
 - Number of allegations of excessive force found to have merit: 4
 - Number of allegations found not to have merit: 127

Discipline actually received as a result of community complaints:

ONE officer: 2 weeks unpaid suspension and written reprimand

One other officer received a 3 week unpaid suspension stemming from a complaint filed by a Wisconsin police officer.

Other discipline decisions issued by the Police Chief: (These decisions are either in the grievance process or have been overturned by the grievance process. 4 grievances are pending as of March 31, 2015.)

3 officers: 10 hours of unpaid suspension each

3 officers: letter of reprimand in their file

So what have we achieved through 30 months of full-time work by two department heads, nine investigators, and several support staff, as well as volunteer civilian panelists, not to mention the time, efforts and hopes of 962 complainants? **Essentially nothing!** Two weeks off without pay for one officer, possibly some minor discipline for a few other officers, but only if those cases survive the grievance process. One major purpose of discipline is to deter future misconduct. This is a joke; in fact, officers will often laugh at those who threaten to file a complaint!

The OPCR must be scrapped!

The statistics on the other side were tallied from five reports published by the OPCR, all available at:
<http://www.ci.minneapolis.mn.us/civilrights/policeview/archive/index.htm>

First year report, October 1, 2012 through July 31, 2013

3rd Quarter report, July 1, 2013 through Sept 30, 2013 ← note 1 month overlap with previous report

4th Quarter report, 2013

Annual report, 2014

1st Quarter report, 2015

Some figures may not be exact, due to the difficulty of sorting out which were duplicated during the July 2013 overlap between the 2 reports. Also, a few numbers had to be interpolated from graphs. Some figures may not add up properly; ask the OPCR why.

Update: CUAPB recently received some data on complaints filed with the OPCR during its first 2-1/2 years. We received only minimal data, that which is considered public under the MN Data Practices Act. The information on the other side regarding actual discipline carried out is from this data. The OPCR does not include this information in its reports, despite repeated requests. You can guess why. We will soon be receiving additional data for the 2nd quarter of 2015, as well as the complete files on the two cases that actually received discipline. Watch for more updates and analysis!

These represent our best efforts to report accurately on the performance of the OPCR; we are open to comments and corrections.

None of the above is intended to comment one way or the other about the activities of the Police Conduct Oversight Commission (PCOC), an independent volunteer board which meets publicly and researches policy, audits cases, and conducts outreach. However, continuing failure by the PCOC to analyze and report on these statistics will damage their credibility. It is past time for them to publicly criticize and call attention to the failure of the supposed "civilian" oversight of police in Minneapolis.

Updated June 14, 2015

Previous release: May 12, 2015

This information compiled by Communities United Against Police Brutality. Join us! We meet at 1:30 every Saturday at 4200 Cedar Avenue South in Minneapolis. For more information or for help with a police brutality incident, call our 24-hour hotline: **612-874-STOP** or website: **www.CUAPB.org**.

PHONY SOLUTIONS AND REAL ACCOUNTABILITY: Gadgets vs. Accountability Systems



After release of a much vaunted study out of Rialto, CA¹ about the efficacy of body cameras in decreasing police officer use of force, talk of implementing them across the country has been all the rage. However, the study was co-authored by the Rialto police chief as part of his master's thesis. The size and length of the study and local conditions unique to the city in which it was conducted make it questionable whether the results can be generalized to larger communities such as Minneapolis.

One problem with body cams is **what they capture and what they don't**. These cameras sit on the chest or shoulder or are mounted on glasses worn by the officer and are pointed at the community member. They don't actually capture the officer's actions, only the community member's responses to those actions. Hearing the interaction may be beneficial or it may not. Due to their location and angle, chest and shoulder-mounted models may also

give the appearance that the community member is larger and more menacing to the officer.

More important than the cameras themselves are the policies put into place around the use of these devices. If police officers are allowed to **turn them on and off** at will, if the **video is not preserved** in ways that prevent its destruction or alteration or if the **footage is not available** through public data requests, then these devices are **useless as a tool for police accountability**. Bear in mind that one of the two officers who killed James Boyd, a mentally ill homeless man sleeping in the hills near Albuquerque, NM, turned off his body cam right before shooting Boyd, yet was never disciplined. Without good policies and serious consequences for violating them, the city's proposal is little more than a financial boon for TASER International and the rest of the corporations peddling these body cams as the miracle cure for police brutality.

Finally, as St. Louis University law professor Justin Hansford aptly points out², even with video evidence such as in the Eric Garner case, the laws are heavily stacked against ever holding police accountable.

Gadgets vs. Accountability

The problem is clear—police abuse of authority, the oppression that underpins it, and the lack of accountability that encourages it. The solution is equally clear—and it is not buying more expensive gadgets that will do nothing to reign in bad policing. Here are solutions that will actually work:

- Requiring police officers to carry their own professional liability insurance so that they have financial consequences for engaging in misconduct (and a financial incentive not to).
- Restoring a true civilian review authority with subpoena power and power to enforce discipline.
- Community oversight of police policies, with the community setting standards of acceptable conduct.
- Independent investigation (by an independent panel, not another police department) and prosecution of police officers who engage in serious incidents such as theft, sexual assault, brutality or who kill members of the community.
- Termination of police officers when lawsuits for brutality are successful. No cop that costs taxpayers huge amounts of money should be working for us.
- Demilitarization of police—removing tanks, grenade launchers, and other military weapons from our local police forces.

There are many other proposals worth considering—and they will do far more to solve the problem than wasting money on gadgets the cops control.

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¹ Self-Awareness To Being Watched And Socially-Desirable Behavior: A Field Experiment On The Effect Of Body-Worn Cameras On Police Use-Of-Force. (<http://www.policefoundation.org/sites/g/files/g798246/f/201303/The%20Effect%20of%20Body-Worn%20Cameras%20on%20Police%20Use-of-Force.pdf>)

² Body cameras won't stop police brutality. Eric Garner is only one of several reasons why. Justin Hansford. December 4, 2014. Washington Post.

COMMUNITY LISTENING SESSION ON POLICE COMPLAINTS

A study of complaints submitted to the Minneapolis Office of Police Conduct Review over its 2½ year history shows that the city rarely takes any action on these complaints. Of 942 complaints received, **only one complaint** by a community member was upheld and disciplined.

Even though the city doesn't take action on complaints, we don't have to go along with "business as usual." Come together with others to share your story and talk about effective ways to take on police brutality and misconduct. There are things we can do to fight back!

Communities United Against Police Brutality is sponsoring a community listening session where the community can gather in a safe and respectful place to talk about their experiences. We encourage those affected by police brutality to speak and explore solutions to the long standing problem of police brutality.

Saturday, July 18, 2016

4:00 pm

4200 Cedar Avenue

Minneapolis

Light refreshments will be served

It is clear that the city will not act to address this problem. Please join us to empower our community to fight back against the crime of police brutality.

Information provided by **COMMUNITIES UNITED AGAINST POLICE BRUTALITY**. Join us! We meet every Saturday at 1:30 at 4200 Cedar Avenue South in Minneapolis. For more information or for help with a police brutality incident, call our 24-hour hotline: 612-874-STOP or see our website www.CUAPB.org.

48. Daigle Law Group Webinar: Body Worn Cameras and Technology

Diagle Law Group Webinar Summary: Body Cameras and Technology

Diagle Law Group, in partnership with Power DMS, offered an in-depth Webinar on Body Cameras and Technology on July 2, 2015. Topics covered included benefits and challenges to body camera use, buy-in from officers, training, retention, officer viewing of footage, and policy creation.



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Body Worn Cameras and Technology

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Appendix P. 758

DLG
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Police Videos

Future of Police Transparency



Intro

- This is not a new issue to Police
- Multiple Departments Wearing cameras
- Estimated 80% of all cops will be wired for video in the next 3 years.
- Information being discussed every day across the Country.
- Why do I like the use of cameras?
- [DOJ/ PERF Report](#) – September 12, 2014
- IACP Model Policy/ Concept Paper – 9/14

Survey

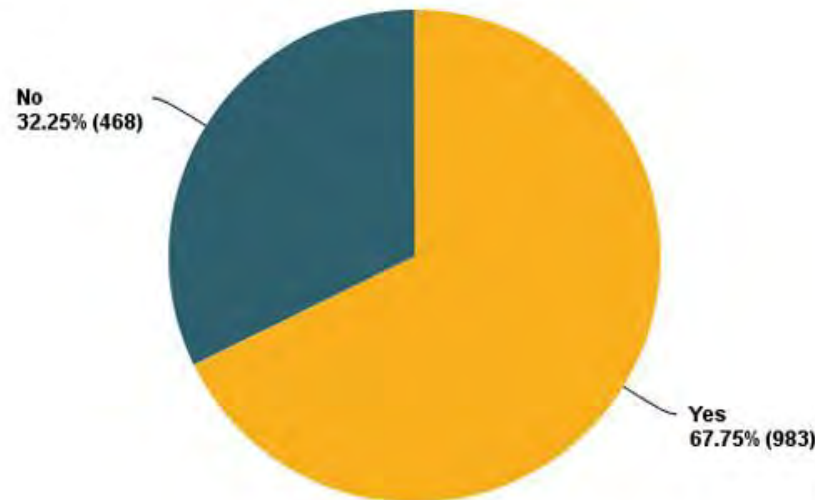
- 11/12/14 – Polled nearly 1,500 PoliceOne Facebook fans to find out what thoughts and concerns our law enforcement community has today about body cameras.
- Only 21.9 percent of those surveyed neither have body cameras nor have any plans of getting them in the future, meaning almost 80 percent of law enforcement officials polled either have body-worn cameras, are testing them currently or are looking into them.

Survey

- When asked what the biggest concern is for officers regarding body cameras, 33.7 percent of those polled answered “A lack of privacy for the officers wearing them,” making it the most popular response.
- Another 28.7 percent believed body cameras pose a physical liability – making storage and maintenance costs the smallest concerns of officers.

Survey

- 67.7 (983) percent of those polled said despite some of the drawbacks, they would equip their department with body cameras if the decision was up to them.



Appendix P. 763

Areas of Concern

- Starting with strict policy in place
- Law enforcement limiting its own actions
- Benefits v. Burdens
 - Use, storage, benefits, discipline
- Maintaining proper perspective
 - Not a “solve all problems” solution
- Awareness of Limitations
 - Force Science Article #265
 - Point of view recording

Outline for Policy




- History and areas of concern
- Implementation
 - Goals, Benefits and Burdens
 - Benefits of Pilot Program
 - Storage Capacity and Costs
- Policy Development
- Legal and Privacy Issues
 - First and Fourth Amendment Implications

Benefits v. Challenges




BENEFITS

Body-worn cameras are useful for documenting evidence; officer training; preventing and resolving complaints brought by members of the public; and strengthening police transparency, performance, and accountability.

Rialto PD Study

-  88% decline in the number of complaints filed against officers
-  Officers with cameras used force 60% less often
-  Reduction in lawsuits and related costs

Mesa PD Study

-  Citizens' complaints declined by 50%
-  75% fewer use of force complaints for officers with cameras during pilot program
-  Wrote about 20% more tickets



CHALLENGES

It is important to maintain the proper perspective. Cameras are not the silver bullet. They will not solve all of your citizen complaint or use of force problems. There are challenges that need to be outlined and discussed. Here are just a few.

-  Catch officers doing things wrong
-  Cost (estimated \$900 per camera)
-  Storage/capacity (data storage and software costs)
-  Union challenges
-  Leadership (need top down support)
-  Point of view recording (2D recording, dim light conditions)
-  1st & 4th amendment privacy rights

Benefits

- Real-time evidence gathering
- Efficiency of prosecution in criminal cases and internal affairs cases
- Civil defense of officers and agencies
- Increased professionalism – officers act better with the camera on
- Impartial eye-witness
- Public Trust

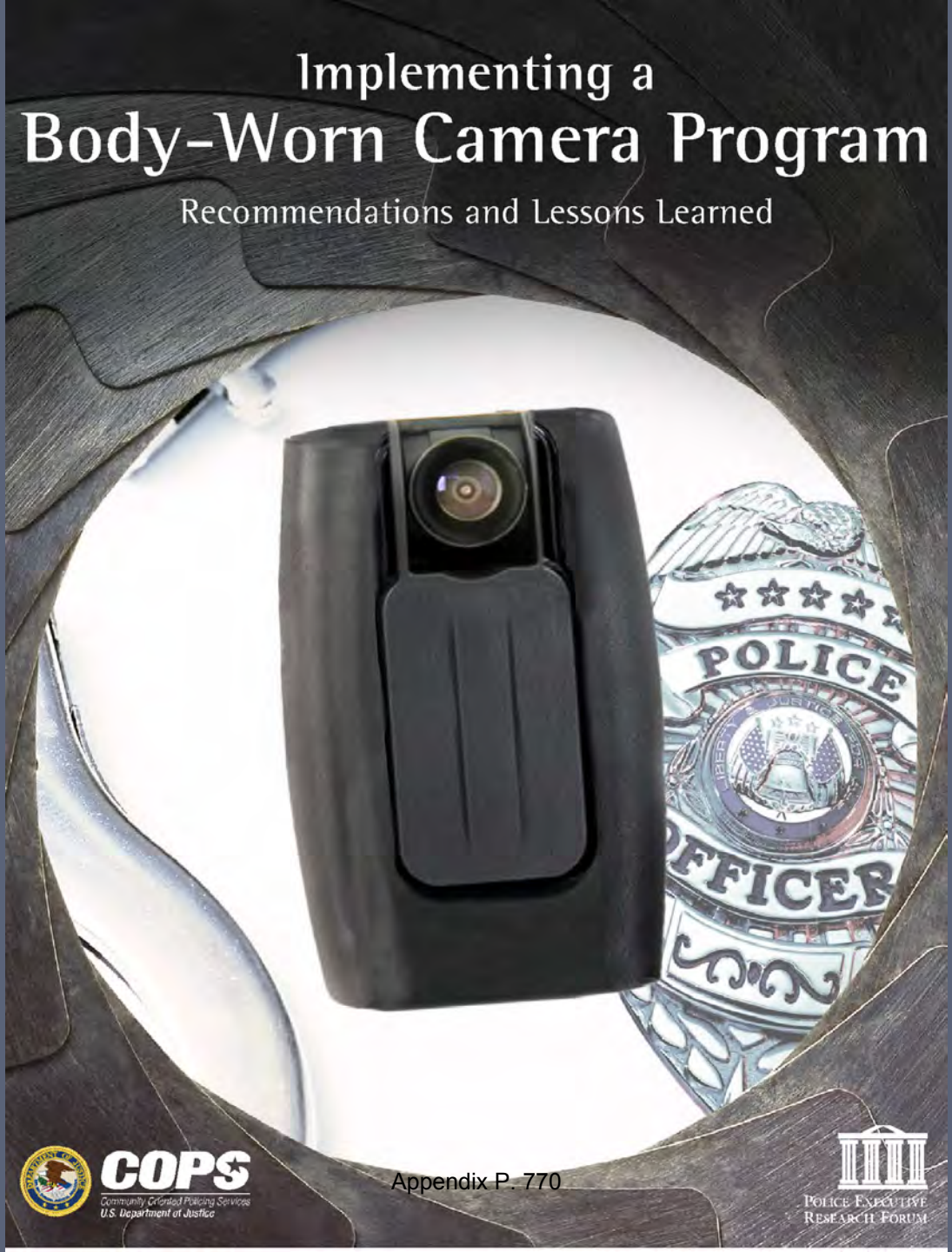
Concerns

- Public privacy issues – particularly when officers enter a home or when interacting with victims and bystanders
- Officer privacy issues – which includes the issue of when recorders may be turned off and on.
- The possibility of the equipment affecting the health and safety of the officer
- The cost associated with the program – including purchase of equipment, policy development, and training – as well as storage costs.

Acceptance Cycle

Implementing a Body-Worn Camera Program

Recommendations and Lessons Learned



Benefits are Clear

- Body cameras can help to de-escalate encounters between officers and members of the public, because most people tend to behave better if they know they are being recorded.
- So police chiefs who have deployed cameras tell us that confrontational incidents and complaints against officers decline.
- Cameras sometimes uncover problems with officers' training that can be remedied. Cameras can provide officers with protection against false complaints, or they can provide important evidence if an officer's actions are improper.
- Cameras can give the community a sense that their police are accountable for their actions.

Implementation

- When presenting officers with any new technology, program, or strategy, the best approach includes efforts by agency leaders to engage officers on the topic, explain the goals and benefits of the initiative, and address any concerns officers may have.
- PERF's recommendations call for a careful, thoughtful approach to body cameras, in which the community, your officers, and other stakeholders are consulted.
- Departments should consider piloting the program and evaluating the results before implementing it department-wide.

ACLU

- The American Civil Liberties Union said last year that the cameras have the "potential to be a win-win, helping protect the public against police misconduct, and at the same time helping protect police against false accusations of abuse."

ACLU

- “Policies and technology must be designed to ensure that police cannot edit on the fly (i.e., choose which encounters to record with limitless discretion). If police are free to turn the cameras on and off as they please, the cameras' role in providing a check and balance against police power will shrink and they will no longer become a net benefit.” [A Report on Body Worn Cameras, Eugene P. Ramirez]

PERF/COPS Recommendation

- Officers should be required to activate their body-worn cameras when responding to all calls for service and during all law enforcement-related encounters and activities that occur while the officer is on duty. In order to protect relationships between the police and the community, officers have discretion whether to record informal, non-law enforcement-related interactions with the public.

PERF/COPS Recommendation

- Officers should be required to inform subjects when they are being recorded unless doing so would be unsafe, impractical, or impossible.
- Many police executives have found that officers can avoid adversarial situations if they inform people that they are being recorded.

PERF/COPS Recommendation

- Officers should be required to obtain consent prior to recording interviews with crime victims. Requiring officers to obtain consent prior to recording interviews with victims is the best way to balance privacy concerns with the need to accurately document events.

PERF/COPS Recommendation

- Officers should have the discretion to keep their cameras turned off during conversations with crime witnesses and members of the community who wish to report or discuss criminal activity in their neighborhood. If an officer turns the camera off prior to obtaining information, the officer should document on camera the reason for doing so.

PERF/COPS Recommendation

- Policies should provide clear guidance regarding the circumstances under which officers will be allowed to exercise discretion to record.
- Policies should include specific measures to prevent data tampering, deleting, and copying. Agencies should make retention times public by posting them on their websites.

PERF/COPS Recommendation

- Written policies should clearly describe the circumstances in which supervisors will be authorized to review an officer's body-worn camera footage.
- Agencies should have clear and consistent protocols for releasing recorded data externally to the public and the news media. Each agency's policy must be in compliance with the state's public disclosure laws. Policies should state who is allowed to authorize the release of videos.

PERF/COPS Recommendation

- Body-worn camera training should be required for all agency personnel who may use or otherwise be involved with body-worn cameras. Before agency personnel are equipped with body-worn cameras, they must receive all mandated training.
- Agencies should require refresher courses on body-worn camera usage and protocols at least once per year.

Start with the Policy....



Appendix P. 782

POLICIES AND TRAINING GENERALLY

- Policies and procedures shall reflect and express the Department's core values and priorities, and provide clear direction to ensure that officers lawfully, effectively, and ethically carry out their law enforcement responsibilities.

Purpose

- The purpose of this policy is to establish guidelines and limitations for the use and management of body worn audio/video camera systems.
- Important and valuable tool for law enforcement
- The use of on-officer video is expected to result in greater transparency, more effective prosecution, and improved protection against false allegations of excessive use of force, misconduct or racial profiling.

Accomplish the following objectives

- To enhance officer safety.
- To accurately document statements and events during the course of an incident.
- To enhance the officer's ability to document and review statements and actions for both internal reporting requirements and for courtroom preparation/testimony.
- To preserve visual and audio information for use in current and future investigations.
- To provide an impartial measurement for self-critique and field evaluation during officer training or coaching and mentoring sessions.
- To enhance the public trust by preserving factual representations of officer-citizen interactions in the form of video and audio recordings.

Once captured, these recordings cannot be altered in any way, and are protected with multiple layers of encryption.

Administration

- Inspection to ensure charged and operational.
- Report problems obligation
- Not make repairs by officers
- Intentional disable or damage, fails to activate or deactivate leads to discipline.
- Lost, stolen or damaged equipment must be reported to supervisor.

Use

- All Officers shall activate the camera as soon as practical once it has been determined in the officer's use of sound judgment that an incident is to be recorded in accordance with this order.
- This includes, but not limited to the following:
 - Any consensual encounter;
 - Any dispatched call where there is citizen contact;
 - Encounter initiated by a private person (flag down);
 - Any investigative encounter to confirm or dispel a suspicion that the person may be involved criminal activity. This includes detentions, vehicle stops, walking stops and consensual encounters (contacts);
 - Service of a search or arrest warrant; and
 - As deemed necessary.

Use

- Officers who don't activate their camera in situations where they were required to may be subject to discipline.
- If a citizen complaint is made and the officer did not activate his camera as required that will be a factor examined when determining final resolution of the investigation.

Operational Prohibitions

- Shall not modify, tamper, dismantle, or attempt to make repairs to the body-worn cameras
- Intentionally disables or damages/ or who fails to activate or deactivate the system subject to discipline
- Not use body-worn cameras to make surreptitious recordings of other department members
- **SHALL NOT** make copies of any recording for their personal use
- Use on any type of social media is prohibited.

Supervisory Responsibilities

- Hold officers accountable
- Review and audit
 - Set standards
 - Time tables
 - Prevent fishing expedition
 - Ensure consistency
 - Develop review accountability

Retention of Videos

- State Retention Laws
- Recommend Statute of Limitation
- A recent ACLU report recommended that data retention be limited to the length of time necessary to conduct investigations, suggesting that the time be “weeks not years.”
- We recommend that videos associated with allegations of misconduct, policy violations, criminal arrests, use of force incidents and detention, arrest and Training opportunities.

ACLU - National: [Police Body-Mounted Cameras: With Right Policies in Place, a Win for All](#), by Jay Stanley, American Civil Liberties Union Senior Policy Analyst (Oct. 2013)

Issues Being Addressed

- Public Records Requests
- Redacting Videos – When and How
- Exemptions to disclosure
 - <http://www.rcfp.org/open-government-guide>
- New State Legislation

Training Bulleting 265

- A camera doesn't follow your eyes or see as they see.
- Some important danger cues can't be recorded.
- Camera speed differs from the speed of life.
- A camera may see better than you do in low light.
- Your body may block the view.
- A camera only records in 2-D.
- The absence of sophisticated time stamping may prove critical.
- One camera may not be enough.
- A camera encourages second-guessing.
- A camera can never replace a thorough investigation.

Watch the Videos



[CLICK HERE TO
WATCH THE VIDEO](#)

Video Review

- The question of the day is do you allow Officers to review a video before being Interviewed of providing a force report
- Two strong positions on the subject:
 - Yes- not allowing officers to review videos is a “Gottcha moment”
 - No- recollection of officer as to facts and circumstances
- Concern if video shows different- for who?

Video—To View or Not To View

- Not enough “science” to definitively answer what viewing may do to memory.
- Circumstances may dictate an approach (evidence of misconduct) making a “one-size-fits-all” answer untenable.
- Defense of an officer is based upon application of *Graham* and a matching story is not necessary (and perhaps not desirable).
- Community standards and unions may necessarily inform a Chief’s approach.
- Factors such as camera angles/viewpoint are relevant and should be considered.
- Community expectations.
- Training to understand the psychological and physiological effects on officers and the limitations of video (i.e. neither is probably complete or definitive and may sometimes reflect differing but valid information. Never employ a “Gotcha” strategy!

Worthy Mention—*Graham v. Connor*

- A law enforcement officer's actions when using force are analyzed under a standard of whether it was “objectively reasonable, in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation.”
- The Court cautions against applying 20-20 hindsight to the analysis of whether a use of force was reasonable from the officer's perspective.

OFFICER PERCEPTION AT THE TIME THE FORCE WAS USED IS THE KEY ISSUE IN WHETHER THE FORCE WAS REASONABLE.

View Video

- “Officers should not view video of an incident prior to being interviewed. Allowing officers to view video prior to an interview allows them to either subconsciously fill in the blanks where there are no memories of the incident or preplan for alibis for substandard conduct. Either way, allowing officers to view video of the event prior to the interview erodes the public’s faith in the process and unnecessarily impacts the investigation.”
- *Review of BART PD Policies, Practices and Procedures re: New Year’s Day 2009*, page 5.
- Report posted at http://www.bart.gov/docs/Meyers_Nave_Public_Report.pdf

Watch the Video

- In incidents involving an officers use of force (defined in Use of Force Order) from resisted handcuffing to Officer Involved shootings officers shall not review their video of the incident until such time as the officer has completed his force investigation report.
- Once the officer has completed his use of force report he/she may view the video with the Supervisor conducting the force investigation.
- Any discrepancies or additional information determined by the review of the video will be documented and explained by the Supervisor in his evaluation of force report.

Privacy Issues

- Many organizations are conflicted-
- For the ACLU, the challenge of on-officer cameras is the tension between their potential to invade privacy and their strong benefit in promoting police accountability.
 - Notice to Citizens
 - Recording in the Home – 4th Amendment
 - Retention
 - Public Disclosure



Glik v Cunniffe

- 1st Circuit's ruling (665 F.3d 78 (2011))
- But its persuasive reasoning has been cited by courts and lawyers nationwide
- Charges (All Dismissed)
 - 1. Unlawful audio recording in violation of MA wiretap law
 - 2. Disturbing the peace
 - 3. Aiding in the escape of a prisoner
- In May 2012, the City of Boston settled the case with Glik for an amount of \$170,000

Glik

- “The First Amendment goes beyond protection of the press and the self-expression of individuals to prohibit government from limiting the stock of information from which members of the public may draw.”
- “It is . . . well established that the Constitution protects the right to receive information and ideas.”
- “There is an undoubted right to gather news ‘from any source by means within the law.’”

Glik v Cunniffe

- Gathering information about government officials in a form that can readily be disseminated to others serves a cardinal First Amendment interest in protecting and promoting "the free discussion of governmental affairs."
- Public's right of access to information is **coextensive** with that of the press.
 - Almost everyone has a cellphone
 - Almost every cellphone has a camera
 - Just as we treat every weapon as being loaded
 - Treat every camera as if it were recording

Glik v Cunniffe

- “In our society, police officers are expected to endure significant burdens caused by citizens’ exercise of their First Amendment rights”
- “The First Amendment protects a significant amount of verbal criticism and challenge directed at police officers.”
- “the same restraint demanded of law enforcement officers in the face of ‘provocative and challenging’ speech must be expected when they are merely the subject of videotaping that memorializes, without impairing, their work in public spaces.”

Glik v Cunniffe

- “Such peaceful recording of an arrest in a public space that does not interfere with the police officers’ performance of their duties is not reasonably subject to limitation.”
- Court also recognized:
 - “the fundamental and virtually self-evident nature of the 1st Amendment’s protections” of the “right to film government officials or matters of public interest in public space.”

Final Thoughts

- Providing adequate policies, training and supervision regarding constitutional policing
- Provide Officers First Amendment Training
- Don't go beyond the Law
- Always consider the reason for the requirements? Chief, Union, Prosecutor, ACLU, etc.

The End....



www.DaigleLawGroup.com

WEARING A BADGE AND A CAMERA



Wearing a badge: To protect and serve is both an honor and a burden. 1 out of 30 officers are sued annually. 1/3 of these lawsuits result in an award for the plaintiff.

And a camera: Police now operate in a world in which anyone with a cell phone camera can record video footage of a police encounter. Body-worn cameras help police departments ensure events are also captured from an officer's perspective.

TIMELINE



BENEFITS

Body-worn cameras are useful for documenting evidence; officer training; preventing and resolving complaints brought by members of the public; and strengthening police transparency, performance, and accountability.

Rialto PD Study

- 88% decline in the number of complaints filed against officers.
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CHALLENGES

It is important to maintain the proper perspective. Cameras are not a silver bullet. They will not solve all of your citizen complaint or use of force problems. There are challenges that need to be outlined and discussed. Here are just a few.

- Catch officers doing things wrong.
- Cost (estimated \$500 per camera).
- Storage/capacity (data storage and software costs).
- Union challenges.
- Leadership (need top down support).
- Point of view recording (2D recording; dim light situations).
- 1st & 4th amendment privacy rights.

ACCEPTANCE CYCLE OF CAMERAS



It is vital that any deployment of these cameras be accompanied by good privacy policies so the benefits of the technology are not outweighed by invasions of privacy.

KEY POLICY CONCERNS

- Limiting applications of discretion to turn off.
- Recording should be limited to uniformed officers and marked vehicles.
- Officers should be required, whenever practical, to notify people that they are being recorded (especially upon entering a private residence).
- Retention: Data should be retained no longer than necessary for the purpose for which it was collected.
- Limiting access: Not allowing officers to review recording prior to filing report; immediate audit of all recorded data; public access to any reporting should be allowed with the exception of the relevant on video.

"Discretion is the enemy of consistency."

Attorney Eric Dagle, Dagle Law Group

"If police are free to turn the cameras on and off as they please, the cameras' role in providing a check and balance against police power will shrink and they will no longer become a net benefit."

Jay Stanley, American Civil Liberties Union

Resources:

- http://www.aclu.org/2014/05/14/ACLU_v_Dagle.pdf
- <http://www.nonconsent.org/Review285.html>
- <http://www.civilrights.org/2015/03/22/10-ways-to-ensure-a-claim-for-police-cameras.html>
- <http://www.aclu.org/news/2015/03/22>
- <http://www.palmer.gov/wordpress/wp-content/uploads/2015/04/13/131715248888.pdf>
- http://www.palmer.gov/assets/Body-Free_Online_Documental
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49. Minneapolis Police Department Code of Conduct

Minneapolismn.gov

5-100 Code of Conduct

5-101 CODE OF CONDUCT DEFINED

The code of conduct of the Minneapolis Police Department is promulgated by the Chief of Police by authority of the City Charter, Chapter 6, Section 1, as amended. This code is established to promote efficiency, discipline, and good public relations in setting forth policy governing the conduct of all Department employees.

The conduct of police officers is governed by the MPD Policy and Procedure Manual and applicable State and Federal law. All employees of the Minneapolis Police Department are required to maintain a working knowledge of and to obey the code of conduct, civil service rules, Departmental rules, policies, procedures and orders, ordinances of the City of Minneapolis, the laws of the State of Minnesota and the United States. The failure of an MPD employee to comply with the standards of conduct set forth in the Manual and in law will subject the employee to discipline and/or legal action. All disciplinary actions taken will be in accordance with Civil Service rules and provisions. (10/20/88) (12/01/08)

5-101.01 TRUTHFULNESS (01/26/05) (11/15/13)

The integrity of police service is based on truthfulness. Officers shall not willfully or knowingly make an untruthful statement, verbally or written, or knowingly omit pertinent information pertaining to his/her official duty as a Minneapolis Police Officer.

MPD employees shall not willfully or knowingly make an untruthful statement or knowingly omit pertinent information in the presence of any supervisor, intended for the information of any supervisor, or before any court or hearing. Officers shall not make any false statements to justify a criminal or traffic charge or seek to unlawfully influence the outcome of any investigation. (12/14/07)

These requirements apply to any report, whether verbal or written, concerning official MPD business including, but not limited to, written reports, transmissions to MECC and officers via radio, telephone, pager, e-mail or MDC.

MPD employees are obligated under this policy to respond fully and truthfully to questions about any action taken that relates to the employee's employment or position regardless of whether such information is requested during a formal investigation or during the daily course of business. (12/14/07)

5-101.02 VIOLATIONS OF THE CODE OF CONDUCT (03/13/07) (11/15/13)

Any member of the Department who violates the code of conduct is subject to discipline. Discipline may range from a written reprimand to termination. Discipline shall be imposed following a sustained violation. Refer to Civil Service Rule 11.03 regarding discipline. (11/16/94) (03/08/95) (03/13/07) (11/15/13)

The Chief of Police may relieve a departmental employee with pay pending an investigation of an alleged violation of criminal law, or a violation of the code of conduct. Administrative leave is not discipline. (03/08/95) (03/13/07)

Probationary employees may be dismissed from service for failing to meet minimum performance standards or probationary training standards for violations of the code of conduct or for any other legal reason. There is no right of appeal for probationary employees unless the probationary employee is a veteran as provided by Civil Service Rules 11.06 and 11.07. (03/13/07)

Employees who no longer meet minimum job qualifications or who are no longer able to perform the essential functions of their job, for a period of 90 days or more due to a criminal conviction, court ordered restriction, driver's license restriction, POST license restriction or other adverse legal action due to criminal behavior are subject to termination from employment. (03/13/07)

5-102 CODE OF ETHICS (08/01/91)

(A-D)

All sworn and civilian members of the department shall conduct themselves in a professional and ethical manner at all times and not engage in any on or off-duty conduct that would tarnish or offend the ethical standards of the department. Employees shall abide by the City's Ethics in Government Policy, Chapter 15. (05/23/07)

5-102.01 MINNESOTA LAW ENFORCEMENT CODE OF ETHICS (08/01/91)

(A-D)

MINNESOTA LAW ENFORCEMENT CODE OF ETHICS:

"As a Minnesota Law Enforcement Officer, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all to liberty, equality and justice.

I will keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both by personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear of favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession...law enforcement."

5-103 USE OF DISCRETION

(A-D)

The police profession is one that requires officers to use considerable judgment and discretion in the performance of their daily duties. Officers have a large body of knowledge from Department policies and procedures, training, their own professional police experience and the experiences of their fellow officers to guide them in exercising proper judgment and discretion in situations not specifically addressed by Department rules and regulations. In addition, officers must always adhere to the following principles in the course of their employment with the Minneapolis Police Department:

- **POLICE ACTION - LEGALLY JUSTIFIED:** Officers must act within the limits of their authority as defined by law and judicial interpretation, thereby ensuring that the constitutional rights of individuals and the public are protected.
- **EQUALITY OF ENFORCEMENT:** Officers shall provide fair and impartial law enforcement to all citizens.
- **LOYALTY:** Officers shall be faithful to their oath of office, strive to uphold the principles of professional police service, and advance the mission of the Department.

5-104 IMPARTIAL POLICING (06/27/01)

(A-D)

The MPD is committed to unbiased policing and to reinforcing procedures that ensure that police service and law enforcement is provided in a fair and equitable manner to all.

1. All investigative detentions, pedestrian and vehicle stops, arrests, searches and seizures of property by officers will be based on a standard of reasonable suspicion or probable cause in accordance with the Fourth Amendment of the U.S. Constitution and statutory authority. Officers must be able to articulate specific facts, circumstances and conclusions that support reasonable suspicion or probable cause for a pedestrian or vehicle stop, investigative detention, arrest, non-consensual search or property seizure. (12/24/01)

Except as provided below, officers shall not consider race, ethnicity, national origin, gender, sexual orientation or religion in establishing either reasonable suspicion or probable cause:

Officers may take into account the reported race, ethnicity, gender or national origin of a specific suspect or suspects on credible, reliable, recent, locally-based information that links specific suspected unlawful or suspicious activity to a particular individual or group of individuals of a particular race, ethnicity, gender or nationality. This information may be used in the same way officers use specific information regarding age, height, weight, etc. about specific suspects. (12/24/01)

2. No person shall be singled out or treated differently as a consequence of his/her race, ethnicity, national origin, gender, sexual orientation or religion.

5-104.01 PROFESSIONAL POLICING (12/24/01) (12/01/08)

Officers shall use the following practices when contacting any citizen, regardless of the reason for the contact: (07/24/15)

- Be courteous, respectful, polite and professional.
- Introduce or identify themselves to the citizen and explain the reason for the contact as soon as practical, unless providing this information will compromise the safety of officers or other persons.
- Ensure that the length of any detention is no longer than necessary to take appropriate action for the known or suspected offense. (07/24/15)
- Attempt to answer any relevant questions that the citizen may have regarding the citizen/officer contact, including relevant referrals to other city or county agencies when appropriate.
- Provide name and badge number when requested, preferably in writing or on a business card.
- Explain and/or apologize if you determine that the reasonable suspicion was unfounded (e.g. after an investigatory stop).
- If asked, provide the procedures for filing a complaint about police services or conduct.

5-105 PROFESSIONAL CODE OF CONDUCT

(A-D)

1. All officers are required to take appropriate police action toward aiding a fellow officer exposed to danger or in a situation where danger may be impending.
2. On-duty officers shall, at all times, take appropriate action within their jurisdiction, to protect life and property, preserve the peace, prevent crime, detect and arrest violators of the law, and enforce all federal, state and local laws and ordinances. (02/28/93)
3. Officers shall use reasonable judgment in carrying out their duties and responsibilities. They need to weigh the consequences of their actions. (04/01/05) (05/03/05)
4. Employees shall not interfere with any criminal investigation being conducted by this department or any other law enforcement agency. Employees shall not knowingly communicate in any manner, either directly or indirectly, any information that may assist persons suspected or accused of criminal acts to escape arrest or punishment or which may enable them to dispose of evidence.

Employees shall not recommend a dismissal, reduction of charges, or other disposition of a pending criminal case which has been previously filed in any criminal court or before a grand jury except by written approval of their division commander. A copy of the approval will be kept in the case file.

Employees shall not interfere with the attendance of witnesses or their testimony through coercion, bribery or other means.

5. Employees shall not attempt to have any traffic citation reduced, voided, or stricken from the calendar for personal or monetary consideration. (See Dismissal of Traffic/Parking Charges and Citations)
6. Employees shall immediately report any violation of rules, regulations, or laws that come to their attention to the Internal Affairs Unit, regardless of the violator's assignment or rank within the Department.
7. Any employee charged, arrested, or cited for Driving Under the Influence (DUI) or a non-traffic violation, or notified they are being investigated for a criminal offense, shall immediately notify their chain of command and Internal Affairs or an on-duty supervisor, who will notify the Internal Affairs Unit. Notification shall consist of personal telephone communication (no voicemail messages) or written contact. Required information is the formal charge or allegation, date, time, and jurisdiction of alleged occurrence, and any special or relevant factors. (4/1/05)

Employees will also notify the Internal Affairs Unit of the disposition at the time the charge or case is disposed. (10/28/94) (03/12/99)

When an employee is notified that an Order for Protection (OFP), Restraining Order (RA), or a Harassment Order (HA) has been filed against him or her, the employee shall immediately notify Internal Affairs and provide a copy of the OFP, RA, or HA, and the date scheduled for hearing the allegations made in support of the request for the order. The information is required for department compliance with Federal Law 18 U.S.C. Sec. 922 (g)(8). (01/05/2000)

8. Sworn employees shall maintain a valid driver's license that is accepted by the State of Minnesota at all times as a condition of employment. Sworn employees shall immediately report loss or limitation of driving privileges to their supervisor and to the Internal Affairs Unit. (04/23/10)
9. Employees shall give their name and/or badge number to any person upon request.
10. Employees shall not use indecent, profane or unnecessarily harsh language in the performance of official duties or in the presence of the public.
11. Soliciting or accepting personal gifts: 05/23/07)
 - a. Employees shall not solicit or accept any gift from an interested person, lobbyist or principal who has a direct financial interest in a decision that that the employee is authorized to make.
 - b. Exceptions. The prohibitions in this section do not apply if the gift is:
 1. A campaign contribution as defined in Minnesota Statutes, Section 10A.01, subd 11;
 2. A service to assist an official in the performance of official duties, including, but not limited to providing advice, consultation, information and communication in connection with legislation, or services to constituents;
 3. A service of insignificant monetary value;
 4. A plaque or similar memento recognizing individual services in a field of specialty or to a charitable cause;
 5. A trinket or memento of insignificant value;
 6. Informational material of unexceptional value;
 7. Food or a beverage given at a reception, meal or meeting away from the recipient's place of work by an organization before who the recipient appears to make a speech or answer questions as part of the program;
 8. Given because of the recipient's membership in a group, and an equivalent gift is given to the other members of the group; or
 9. Given by an interested person, lobbyist, or principal who is a related person to the recipient, unless the gift is given on behalf of someone who is not a related person.
 - c. An employee who receives any gift prohibited by this section shall return, dispose of, or request that the city council accept the gift on behalf of the city.
12. Employees shall treat all fellow employees with respect. They shall be courteous and civil at all times with one another. When on duty in the presence of other employees or the public, officers should be referred to by rank.
13. Employees shall not publicly criticize or ridicule the Department, its policies or other employees as to the

performance of their duties in a manner which is defamatory, obscene, unlawful, or in any other manner which impairs the effective operation of the Department or in a manner which displays a reckless or knowing disregard for the truth. This regulation shall not be construed so as to impair the exercise of free speech by employees on matters of public concern.

14. Employees shall not use any derogatory language or actions which are intended to embarrass, humiliate, or shame a person, or do anything intended to incite another to violence.
15. Employees shall be decorous in their language and conduct. They shall refrain from actions or words that bring discredit to the Department. They shall also not use words or terms which hold any person, group or organization up to contempt. The use of such unacceptable terms is strictly forbidden. (04/01/93)

Employees shall not display material that may be considered discriminatory, derogatory, or biased in or on City property. Specifically, discriminatory, derogatory or biased materials regarding race, color, creed, religion, ancestry, national origin, sex, affectional preference, disability, age, marital status, public assistance, or familial housing are prohibited. Such materials include, but are not limited to, calendars, cartoons, and posters. (10/18/92)

16. Employees shall conduct themselves in the buildings and offices of the Department in a manner which would not discredit the Department.

Employees shall not bring to or keep any dangerous drug, narcotic, or alcohol beverage on departmental premises except for evidentiary purposes.

17. Any money other than that received from unclaimed properties paid or sent to any employee as a result of on-duty police action shall be promptly forwarded to MPD Finance. (03/21/97)

All property received as a result of on-duty police action shall be forwarded to the Property and Evidence Unit. The Property and Evidence Unit shall dispose of unclaimed property according to their policy and procedure manual. The property shall be disposed of by being sent to the City Store or to the Minneapolis Police Relief Association in accordance with state law. (03/21/97)

Employees shall not act as an intermediary in the payment of a reward for the return of stolen property without written authorization by the Chief of Police or his/her designee.

18. Employees shall avoid regular or continuous associations or dealings with persons whom they know, or should know, are under criminal investigation or indictment or who have a reputation in the community or Department for present involvement in criminal behavior, except as necessary in the performance of official duties, or when unavoidable because of family ties to the employee.
19. Employees shall not engage or participate in any form of illegal gambling at any time except in the performance of duty under specific orders of a superior officer.
20. Off-duty employees shall not carry any firearm or ammunition while using drugs or controlled substances, or while using or under the influence of alcohol. (05/05/89) (04/01/93)
21. Employees shall never be under the influence of alcohol while on duty. A reading of .02 blood/alcohol concentration is considered under the influence of alcohol. Employees shall not consume alcoholic beverages while on duty or in uniform unless it's necessary in the performance of a non-uniformed officer's undercover work. (3/12/99)

Employees shall not consume alcoholic beverages while off-duty to the extent that they are considered under the influence of alcohol when reporting for duty.

No employee shall be under the influence of any drug while on duty. When an employee is prescribed medication that may affect an employee mentally or physically, that employee will notify his/her supervisor and MPD Human Resources.

22. Uniformed officers shall render a military salute to the National Anthem, United States Flag or ceremonies at appropriate times. Officers in civilian dress shall render proper civilian honors to the United States Flag and National Anthem at appropriate times.

Uniformed officers at parades need salute only the massed national colors at the head of the parade. When the flag is six paces from the officer, the flag shall be faced and a hand salute rendered until the flag is six paces beyond the officer. Other United States Flags may be saluted if the officer's immediate attention to duty is not necessary.

23. Employees shall pay all debts when due and shall not undertake any financial obligations which they know or should know they will be unable to meet. An isolated instance of financial irresponsibility will not be grounds for discipline except in unusually severe cases. However, repeated instances of financial difficulty may be cause for disciplinary action. Filing for a voluntary bankruptcy petition shall not, by itself, be cause for discipline. Financial difficulties stemming from unforeseen medical expenses or personal disaster shall not be cause for discipline provided that a good faith effort to settle all accounts is being undertaken. (10/20/88)
24. Employees shall not purchase, or have purchased for them, any auto/property sold at a city auction. Employees are also prohibited from owning any such auto/property purchased at a city auction for one year after the date that the auto/property is sold at the city auction. (01/10/97)

5-105.01 PROFESSIONAL CODE OF CONDUCT – DEPARTMENT-SANCTIONED SOCIAL EVENTS (02/22/05)

(A-D)

In an effort to remain professional at all times, including department-sanctioned social events, the following guidelines shall be followed:

- Officers are not allowed to solicit door prizes while on-duty or in the name of the Minneapolis Police Department for an event.
- Attendance at off-duty events is optional.
- Awarding alcoholic beverages as door prizes is prohibited.
- Complimentary alcoholic beverages are prohibited.
- If the event is not held on police department property, advertising at a public establishment connecting the gathering to the MPD is prohibited.
- Officers drinking alcoholic beverages at any department-sanctioned event are prohibited from carrying any firearms.
- Supervisors, while in attendance at said events, are reminded that they are responsible for the actions of officers under their command at an event.
- Inappropriate behavior at an event should immediately be reported to a supervisor.

If security is needed for an event, arrangements should be made by the organizer.

5-106 ON-DUTY CODE OF CONDUCT

(A-D)

1. Officers shall respond without delay to calls for police service unless otherwise directed by proper authority. Emergency calls for service shall take precedence. However, all dispatched calls shall be answered as soon as possible consistent with departmental procedures. If officers need to temporarily go out-of-service on a detail or otherwise be unavailable for calls, they shall notify their immediate supervisor and request permission for such details. (03/25/08)
2. Officers shall provide emergency medical care when necessary. The care provided shall be consistent with their EMS training. The protocols found in the handbook "Effective First Response" provided by the Hennepin County Medical Center should be used as general guidelines for administering emergency medical care. (08/31/93)
3. Employees shall remain alert, observant, and occupied with police business during their tour of duty. When on duty, employees shall devote their entire attention to the business of the Department. It is a violation of this order for employees to conduct personal or private business while on duty or for officers to engage in policing for private interests while on duty.
4. Employees shall not make referrals to any attorney or other business from on-duty contacts.

5. On-duty officers shall be armed at all times in the City of Minneapolis except where prohibited. Weapons must conform to Department specifications.
6. All sworn personnel shall carry their badge, handcuffs, and identification card at all times while on duty or in uniform unless the nature of the assignment would dictate non-police identification.
7. Officers shall have prior approval of a supervisor before initiating undercover investigations while on duty.
8. Employees shall not allow anyone not employed by the Department to enter a police facility without permission of a supervisor.
9. Employees shall not permit any person to enter a police facility to sell goods, offer them for sale, or to canvas or solicit for any purpose without authorization from the facility's acting commander.
10. Officers working uniformed patrol or in a marked squad who wish to go out of service for a meal break shall request OTL status from the MECC dispatcher. The request must include the requested OTL location. The dispatcher may grant or deny OTL status based on call load and staffing levels. (9/7/05)

Employees shall not take excessive time for meals and officers working two-officer squads must take OTL at the same time. (9/7/05)

No more than three marked or unmarked squads may be OTL at the same public location unless officers are also participating in a community event. (9/7/05)

5-107 PROCEDURAL CODE OF CONDUCT

(A-D)

1. No officer shall arrest any person or search any premises except with a warrant or where such arrest or search is authorized without warrant under the laws of the United States.
2. No officer shall falsely arrest, or direct any malicious prosecution against any person.
3. No employee shall willfully mistreat or give inhumane treatment to any person held in custody.
4. Officers shall not render aid or assistance in civil cases except to prevent an immediate breach of the peace or to quell an existing disturbance. Officers may inform any citizen of the steps necessary to institute a civil suit or advise citizens on protecting their rights.
5. Employees shall not willfully misrepresent any matter, sign any false statement or report, or commit perjury before any court, grand jury or judicial hearing.
6. Employees shall not knowingly remove or destroy, or cause such action, to any report, document, or record without authorization.
7. Employees shall not give any lawyer, bondsman, agent of either, or any other person unauthorized or confidential information regarding prisoners in confinement, suspects in a case, property held, or records of the Department.
8. Employees shall not make known any information concerning the progress or future actions to be taken on an open investigation to any person not authorized to receive such information by the case investigator or the commanding officer of the investigating unit.

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50. Proposed Bill S.F. No. 498- Police Body Cameras, Minnesota Senate

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State of Minnesota**S.F. No. 498 - Police Body Cameras (First Engrossment)**

Author: Senator Ron Latz

Prepared By: Kathleen Pontius, Senate Counsel (651/296-4394)

Date: May 6, 2015

This bill classifies data collected by police body cameras (portable recording systems) and provides for the retention and destruction of the data. Requirements governing the use of these systems, audits of the data, and vendor practices and liability are also included.

Section 1 amends the provision authorizing law enforcement agencies to provide access to active investigative data under certain circumstances to include private or nonpublic portable recording system data.

Section 2, paragraph (a), defines the terms “portable recording system data,” “public place,” and “redact.”

Paragraph (b) provides that portable recording system data are private data on individuals or nonpublic data unless the recording occurred in a public place and involved the use of a dangerous weapon or physical coercion by a peace officer that causes at least substantial bodily harm.

Paragraph (c) provides that active criminal investigative data or public personnel data that document the basis for disciplinary action against an employee remain classified under the general law, except that portable recording system data that are part of an inactive investigation remain classified as provided in this subdivision (the general rule is that inactive investigative data are public).

Paragraph (d) establishes a procedure under which a person may bring an action in district

court to authorize the disclosure of portable recording system data that are private or nonpublic. This is based on current law that provides for disclosure of active investigative data.

Paragraph (e) requires a law enforcement agency that uses portable recording systems to maintain specified information regarding the use of those systems, which is public data.

Paragraph (f) contains the rules governing retention and destruction of data captured by a portable recording system that are not criminal investigative data. Unless the data are described in **paragraph (g)**, it must be maintained for at least 90 days and destroyed within one year.

Paragraph (g) contains a longer retention period for certain types of data. It would apply in cases where the incident involved the use of force by a peace officer or a formal complaint is made against a peace officer related to the incident. In these cases, the data must be maintained for at least one year and destroyed within three years.

Paragraph (h) allows the subject of the data to submit a written request that the recording be retained for additional 180-day periods for possible evidentiary or exculpatory use in a future proceeding relating to the circumstances under which the data were collected. In addition, a government entity may retain the recording for possible future use.

Paragraph (i) provides that an individual who is the subject of portable recording system data has access to the data, including data on other individuals who are subjects of the recording. However, if an individual requests a copy, data on other individuals who do not consent to its release must be redacted.

Paragraph (j) contains triennial audit requirements for data collected by a portable recording system.

Paragraph (k) prohibits a law enforcement agency from using a system unless it has adopted a policy governing its use and operation.

An immediate effective date is included for this section. Data collected before the effective date must be destroyed, if required by this section, no more than 90 days after it becomes effective.

Section 3 adds a new section dealing with portable recording system vendors. It makes it clear that a vendor would be subject to all of the requirements of chapter 13. In addition, in a civil action for a violation, the vendor would be liable for minimum damages of \$2,500 or actual damages, whichever is greater. In an action involving improper disclosure of data that are not public, minimum damages would be \$10,000.

Section 4 contains application provisions for **section 2, paragraph (k)**. The chief law enforcement officer must adopt a policy by January 15, 2016.

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Last review or update: 05/06/2015

Appendix P. 822

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