



**Office of Inspector General  
County of Los Angeles**

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**Body-Worn Cameras:  
Policy Recommendations and Review of  
LASD's Pilot Program**

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# Office of Inspector General County of Los Angeles

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## Body-Worn Cameras: Policy Recommendations and Review of LASD's Pilot Program

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## EXECUTIVE SUMMARY

Portable video recording technology has radically altered urban law enforcement in recent years. Unfortunately, cash-strapped police agencies have been slow to incorporate this technology fully and now face community pressure to do so rapidly. In the face of strong public concern over police use of force, the time has come to overcome technological, political, and budgetary hurdles and incorporate fixed video, car mounted video and body-worn cameras into all urban police departments. The use of these tools will enhance accountability, public confidence in police officers and public understanding of policing. This report provides information regarding the Los Angeles County Sheriff's Department's pilot program to test and evaluate body-worn camera systems and makes recommendations for the Department as it implements them. Regardless of policy decisions, video evidence is shaping law enforcement and police agencies must use it to full advantage to help provide the quality policing that the public deserves.

In September 2014, the Los Angeles County Sheriff's Department (hereinafter, LASD or the Department) initiated a volunteer pilot program to test body-worn camera systems (BWCS or body-camera) under patrol conditions at four stations across Los Angeles County. A body-worn camera is a small device that records video and sound. The camera is mounted on the officer's uniform and records deputy interactions with the public and can gather video evidence at crime scenes. The chief goals of the LASD's pilot program were "to accurately address allegations of misconduct and increase the public's trust."<sup>1</sup> In addition, the LASD hoped that video and audio recordings would "prove beneficial in criminal proceedings, administrative investigations, service complaints and civil liability claims."<sup>2</sup>

The Department's pilot program ran from September 2014 through April 2015, tested four brands and five models of body-worn camera systems and deployed 96 cameras. In order to provide guidance for the volunteer deputies regarding when to employ the body cameras and on which subjects or events, the Department

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<sup>1</sup> "Body Worn Camera System Test & Evaluation Project Implementation Plan," *Los Angeles Sheriff's Department*, August 27, 2014, 2.

<sup>2</sup> *Ibid.*

developed a set of guidelines covering camera activation and deactivation, expectations of privacy, operating procedures, when Department members are allowed to view recordings and retention of footage. Over the course of the program's eight-month run, the Department obtained detailed feedback from the participants, through both electronic questionnaires and focus groups that were held at each of the four stations and attended by OIG representatives.

In addition to monitoring the pilot program, the OIG reviewed body-camera policies and reports from other jurisdictions as well as policy recommendations on the subject by nationally recognized law enforcement research organizations and leading advocacy organizations. The OIG then assimilated this information with trends that emerged from the LASD pilot program participants' feedback.

The Inspector General makes the following recommendations:

**1. When Should Officers Activate Their Cameras?** There is an inherent tension between the potential of cameras to invade privacy and their benefits which include resolving civilian complaints, identifying and correcting officer conduct, and reducing use of force incidents. The Inspector General recommends that the Department adopt a policy which requires the recording of certain specified events such as traffic stops, domestic violence responses, and "any other law enforcement action." The LASD should also further clarify the definition of the term "law enforcement action."

**2. In Which Locations Should Recording Using a BWCS Be Prohibited or Restricted?** The Inspector General recommends that the LASD adopt as policy the LASD's pilot program protocol, which does not require consent from citizens in traditionally private locations when an officer is entering for a legitimate or necessary law enforcement purpose.

**3. Under What Circumstances Should Officers Record Witnesses and Victims?** The LASD has advised officers generally to avoid recording "controlled and formal" interviews with witnesses or victims, "unless it is apparent the victim [or witness] may recant their story at a later time or there is a need to protect the

interest of the Department.” While the OIG acknowledges the privacy concerns that underlie the recommendations to obtain consent from crime victims, such a policy could undermine a deputy’s preservation of perishable evidence that is relevant to an investigation and potential prosecution. Law enforcement best practices increasingly call for, and juries expect, the recording of interviews where practical. The Inspector General recommends that the LASD require deputies to record all statements of witnesses and victims unless doing so would compromise the deputies’ ability to perform their law enforcement duties.

**4. Should Confidential Informants Be Recorded?** The pilot program protocol advised deputies not to record confidential informants. The Inspector General recommends that the LASD policy allow deputies the discretion to record informants if they deem it necessary.

**5. When Should Officers Stop Recording and What Action Should Be Taken If They Deactivate Prematurely or Fail to Record?** This decision is not necessarily as easy as it seems since law enforcement situations are dynamic and even when an event appears to have concluded it may reignite rapidly. Conversely, there are some good reasons to stop recording an event, such as when it is not safe to make a recording or before interviewing a confidential informant. The Inspector General recommends that the LASD further define the requirement that deputies should record “until completion of the detention” and adopt a policy requiring deputies to articulate their reasoning in writing or on camera if they fail to record an activity required by policy to be recorded. In most cases this may be as simple as a brief statement before the video is turned off. This is consistent with standard law enforcement practice in concluding or pausing recorded interviews.

**6. Should Civilians Who Are Being Recorded by a BWCS Be Given Verbal Notification by the Deputy?** Research suggests that awareness that an encounter is being recorded contributes to a reduction in civilian complaints and officer uses of force. Deputies in the pilot program also noticed that citizen behavior often improved when they gave notice of video recording. There may, however, be instances when providing notice would be unnecessary, unsafe, or impossible. If

body-worn cameras are fully implemented, the public will eventually come to expect them and notification will often be irrelevant. In the meantime, the Inspector General recommends that deputies be encouraged to notify civilians that encounters are being recorded by a BWCS when appropriate.

**7. When Should Officers Be Allowed to Review Video Following a Use of**

**Force Incident?** When the LASD developed its BWCS test and evaluation program it relied on a recently-implemented Department policy which restricted the viewing of a recording that may have captured a use of force incident. In 2013, the LASD installed almost 2,000 fixed CCTV cameras in its downtown Los Angeles jail facilities. The proposed policy was the subject of vigorous discussion within the Department. The result was a policy which requires personnel who are involved in uses of force to write their reports before seeing video footage. Once a supervisor reviews the report and video recordings and determines that there is no apparent evidence of misconduct, the involved deputy may review the video to refresh his or her memory, if necessary, and then either add any corrective language to his or her report or affirm that the original written statements were accurate. The Inspector General recommends that the current LASD policy as it applies to other recorded video footage such as that from surveillance cameras in jail should also apply to BWCS recordings. Making this procedure the universal approach whenever there is video evidence generated by a Department camera in a use of force case will also render the BWCS policy consistent with the Department's standard investigative procedure when interviewing civilian witnesses.

**8. Under What Circumstances, If Any, Should BWCS Video Be Released to**

**the Public?** Because of the broad variation of state public records laws, model policies provide little guidance about public disclosure of BWCS footage. In fact, none of the other law enforcement agencies whose policies were reviewed by the OIG has yet drafted such a policy. The LASD should issue clear guidelines on video disclosure and adhere to them so that subjects and deputies will be forewarned and the public and the media may have greater confidence that the Department is not making arbitrary or self-serving decisions.



It seems inevitable that body-worn cameras will become an accepted and integral part of day-to-day law enforcement activities. The OIG recognizes that there are many factors to consider in implementing a body-worn camera program. The Department should adopt a policy that provides the public with a demonstrable increase in accountability and transparency. We commend the Department's intent to create a Policy Committee to guide the eventual implementation of the body-worn camera system and look forward to monitoring and reporting upon the program's progress. The Inspector General strongly encourages the Department to work with the Chief Executive Officer to present a plan to the Board for funding not only the equipment needed to implement body-worn cameras, but the staff and infrastructure necessary to properly use the video that is captured, including responding to public and private requests for access.

In this report, after an Introduction in Section I, we provide detail and background in Section II on where various stake-holders stand on the issues. For easy reference to the spectrum of opinions and options, we also provide tables throughout the text. To assist with visualizing the camera systems, we provide photographs of the equipment in Appendix A. Section III of the report provides a full description of the pilot program's design, progress and effectiveness. Section III also focuses on deputy responses to wearing the new technology in a real world test. Deputy experience and feedback has considerably informed our observations and conclusions about body-worn camera systems and BWCS implementation policies and should continue to be a significant part of the Department's approach to policy-making.

## **I. Introduction**

The LASD launched the body camera pilot project “to evaluate the feasibility of utilizing BWCS for use by LASD patrol personnel.” The LASD’s design of a pilot project to explore practical application of available body-worn camera systems (BWCS) to law enforcement provided the Department with the opportunity to do two important things: (1) to test the technology in order to identify the specific technical components of the BWCS that were likely to work best for Department personnel and (2) to test run the draft BWCS project implementation guidelines to identify benefits, challenges and potential revisions that would provide a foundation for drafting Department policy.

We recognize that the choice of hardware and software has great practical significance for the Sheriff’s Department; however, this report focuses instead on what policies the Department may implement to provide guidance to deputies who use the body-worn cameras. We reviewed the relevant literature in this area including actual policies recently implemented by other law enforcement agencies, draft policies, and model policies and recommendations developed by knowledgeable bodies in the law enforcement field. Whenever possible, we compare the Department’s practices with the practices employed or recommended by what we believe is a good cross-section of national thinking in this area. These comparisons are included in table form preceding the Inspector General’s recommendations regarding the more difficult or controversial areas of BWCS policy.

## **II. Inspector General Recommendations**

OIG research found a vigorous nationwide dialogue about how, when and why body cameras should be used and how such video footage should be viewed, retained and shared with the public. This focus is appropriate and recognizes that, despite the sometimes daunting number of options related to technical issues, the most significant questions are ones of policy. When should a deputy with a body-mounted camera activate it or decline to activate it? Should officers or deputies first

seek the public's permission to record? When is it appropriate to record interviews of victims or witnesses? When should a police or sheriff's department disclose body camera footage to the public or the media? Should a deputy involved in a use of force incident be allowed to see a video recording before writing his or her initial statement? The Sheriff's Department developed a set of guidelines at the outset of its preparations for the pilot project which anticipated many of the important issues.<sup>3</sup> Since the Department has indicated that it will create a policy committee and review all guidelines before widespread implementation of BWCS, we concluded that it is important to examine the most controversial or complex aspects of any future formal body camera policy.

## **A. Activation and Deactivation of Cameras**

Of primary interest in any BWCS policy is determining who will be recorded, when they will be recorded and where they can be recorded. In addition to its review of the LASD pilot program protocols, the OIG surveyed the BWCS policies (some of which are still in draft form) for five additional law enforcement agencies: the Los Angeles Police Department, SEPTA Transit Police Department (in Philadelphia), the Seattle Police Department, the Delaware County Sheriff's Office (in Ohio) and the Denver Police Department. Some policies set forth their requirements in significant detail, whereas others were brief and general.

The OIG also surveyed key literature, recommendations and model policies in order to capture the thinking of other stakeholders in this evolving area. The primary sources referenced in this section are the American Civil Liberty Union's (ACLU) "Model Act for Regulating the use of Wearable Body Cameras by Law Enforcement"; the Police Executive Research Forum's (PERF) "Implementing a Body-Worn Camera

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<sup>3</sup> The Sheriff's Department recognized the need to provide guidelines for the volunteers in its pilot program about when to employ the body cameras and on what subjects or events. It developed guidelines after soliciting input from the Office of Independent Review and the District Attorney's Office. A key element of the guidelines, which was aimed at increasing accountability and transparency, expressly prohibited an officer from modifying, altering or deleting video or audio once it is recorded by the body-worn camera without the express permission of the Division Chief. An important predecessor to the pilot project guidelines was the policy developed a few years earlier governing use of fixed camera video evidence in the jails which is discussed further in Section II of this report.

Program” report; the January 2015 letter drafted by the Leadership Conference on Civil and Human Rights (The Leadership Conference) to the President's Task Force on 21st Century Policing; the Model Policy of the International Association of Chiefs of Police (IACP); Baltimore Mayor Rawlings-Blake’s Working Group “Draft Recommendations” (Baltimore Working Group); and the Denver Office of the Independent Monitor.

Although there are abundant issues to consider relative to the activation and deactivation of body-worn cameras, the OIG focused on five specific questions: (1) when to activate the cameras; (2) where recording should be restricted or prohibited; (3) under what circumstances officers should record witnesses and victims; (4) whether confidential informants should be recorded; (5) when during or after an encounter the cameras should be deactivated and what follow up action should be required of officers who do not comply with the activation/deactivation policy.

### ***1. When Should Deputies Activate Their Cameras?***

A body-worn camera system is only as good as the recordings that are captured by it. Thus, a key question is, when should the cameras should be turned on? There is an inherent tension between the potential of cameras to invade privacy and their benefits which include accountability for officers, early resolution of complaints and the potential to reduce uses of force and citizen complaints. The primary debate appears to be whether or not officers should have any true discretion over what they record.

The ACLU’s initial recommendation was to record every interaction with the public, which ensured that “police cannot ‘edit on the fly’ — i.e., choose which encounters to record with limitless discretion.”<sup>4</sup> The rationale for this position was that “[i]f 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

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<sup>4</sup> Jay Stanley, “Police Body-Mounted Cameras: With Right Policies in Place, a Win for All,” *American Civil Liberties Union*, October 2013, 2, [https://www.aclu.org/files/assets/police\\_body-mounted\\_cameras.pdf](https://www.aclu.org/files/assets/police_body-mounted_cameras.pdf).

longer become a net benefit.”<sup>5</sup> Subsequently, the ACLU has refined its position amid recognition that there are a number of other competing interests and acknowledgement that there are interactions with the public where officer discretion is important, including casual interactions with the public and interviews with reluctant witnesses and victims.<sup>6</sup> Thus, the ACLU updated its model policy and now recommends 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,” except when it would be dangerous to do so, in which case the officer shall activate the camera at the first reasonable opportunity to do so.<sup>7</sup>

Similarly, all five current law enforcement agency policies reviewed by the OIG require officers to record activity that is consistent with a legitimate law enforcement purpose and none requires officers to record every citizen contact. In contrast, The Leadership Conference, IACP and the Baltimore Working Group recommended that officers record all interactions with the public.

Requiring officers to record all citizen contacts is an appealingly simple rule, but can lead to potential invasions of the privacy of both citizens and officers. This rule can also create massive amounts of additional data that will have to be stored, reviewed, labeled and potentially released pursuant to public records act requests at a high cost to law enforcement departments. Thus, the decision to record is properly influenced by decisions regarding public disclosure of video and the cost of complying with legal and practical mandates.

The PERF Report also notes that some officer discretion is necessary to uphold morale, explaining that “the policy can help to secure officer support for a body-worn camera program because it demonstrates to officers that they are trusted to

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<sup>5</sup> Ibid.

<sup>6</sup> Jay Stanley, “Police Officer Discretion in the Use of Body Worn Cameras,” *American Civil Liberties Union*, Feb. 12, 2015.

<sup>7</sup> Jay Stanley, “Police Body-Mounted Cameras: With Right Policies in Place, a Win for All, Version 2.0,” *American Civil Liberties Union*, March 2015, <https://www.aclu.org/police-body-mounted-cameras-right-policies-place-win-all>. See also, “A Model Act for Regulating the Use of Wearable Body Cameras by Law Enforcement,” *American Civil Liberties Union*, May 21, 2015, Sec. 1(b), <https://www.aclu.org/model-act-regulating-use-wearable-body-cameras-law-enforcement>.

understand when cameras should and should not be activated.”<sup>8</sup> Moreover, requiring officers to record every contact could “inhibit the informal relationships that are critical to community policing efforts.”<sup>9</sup> The OIG believes that a policy that requires deputies to activate their BWCS for all law enforcement actions and that clearly and appropriately defines what is included in the phrase “law enforcement actions,” as recommended in the PERF Report, strikes the best balance between ensuring that deputies are held accountable and providing them with protection from false complaints, while also affording privacy protections to citizens and deputies and providing the flexibility to engage in effective community policing. At the very least, all traffic and pedestrian stops as well as consensual encounters initiated by a deputy should be defined as law enforcement actions.

<b>Table 1 POLICY ON ACTIVATION</b>	
<b>Source</b>	<b>Model Policies and Recommendations</b>
<b>ACLU Model Act</b>	“When 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 when an immediate threat to the officer's life or safety makes activating the camera impossible or dangerous.”
<b>Police Executive Research Forum</b>	Activate when responding to all calls for service and during all law enforcement-related encounters and activities and any encounter that becomes adversarial after the initial contact. Exceptions include situations in which activation would be unsafe, impossible, or impractical.
<b>Leadership Conference On Civil And Human Rights</b>	“Officers should be required to record all interactions with members of the public (i.e. anyone other than police personnel) while on duty, unless a specific and well defined exception applies. An officer on foot patrol, for example, would generally be recording throughout the patrol.”
<b>International Association of Chiefs of Police</b>	“Officers shall activate the BWC to record all contacts with citizens in the performance of official duties.”

<sup>8</sup> Lindsay Miller, Jessica Tolliver, and Police Executive Research Forum (PERF), “Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned,” *Office of Community Oriented Policing Services*, 2014, 40.

<sup>9</sup> *Ibid.*

<b>Denver Office of the Independent Monitor</b>	The Denver Police Department should “provide additional training on the importance of activating BWCs prior to initiating citizen contacts, rather than after-the-fact, when situations may escalate or deteriorate too quickly to permit BWC activation.”
<b>Baltimore Working Group</b>	“Uniformed police officers should have cameras recording during every interaction with the public and during every exercise of police powers, except in a consensual interaction where the citizen asks that the camera be turned off.”
<b>Source</b>	<b>Law Enforcement Agency Policies</b>
<b>Los Angeles County Sheriff’s Department (Testing &amp; Evaluation Guidelines)</b>	Activate for law enforcement purposes such as pursuits, detentions, domestic violence calls, mental illness-related calls, or for “any other law enforcement action” allowing officer discretion. Exceptions for certain witnesses, victims & locations.
<b>Los Angeles Police Department</b>	Activate prior to initiating any investigative or enforcement activity, including searches, arrests, pursuits, calls for service, pedestrian stops, etc. Discretion to record any other activities that would assist in fulfilling duties. Exceptions for certain victims, witnesses, locations.
<b>SEPTA Transit Police Department</b>	Must activate for any legitimate law enforcement purpose, such as when assigned to a radio call, all citizen contacts, observing criminal behavior, observing another unit engaged in a contact, suspect and witness statements, Miranda warnings.
<b>Seattle Police Department</b>	Officers will record response to 911 calls, pedestrian stops, traffic pursuits and stops, observed criminal activity, arrests, searches, transports, questioning suspects or witnesses.
<b>Delaware County (Ohio) Sheriff’s Office Delaware County (Ohio) Sheriff’s Office</b>	Should use “sound judgment in when and how the [BWCS] will be used.” Officers shall record pedestrian and vehicle stops, response to resistance, high risk situations, searches, arrests, serious accidents, and “any other legitimate law enforcement activities.”
<b>Denver Police Department</b>	Required activation for traffic and pedestrian stops, foot or vehicle pursuits, searches, Miranda rights, calls for service that may involve fleeing vehicles, violence, weapons, suicidal persons, the need for a crisis intervention team, etc. Discretion to record “any situation that the officer believes use of the BWC would be appropriate or would provide valuable documentation.”

**INSPECTOR GENERAL RECOMMENDATION:** Adopt the LASD pilot program policy's current directive to record specified law enforcement activities in addition to other actions that the deputy deems appropriate. Further clarify the meaning of "law enforcement actions."

## ***2. Where Should Recording be Restricted?***

A fundamental challenge to law enforcement agencies is balancing the mandate to protect public safety with the need to ensure that citizens' privacy is not unduly invaded. Instrumental in this balancing process is the determination of whether or not officers should be required to ask for consent to record upon entry into locations with heightened expectations of privacy and, if no consent is required, under what conditions officers should be allowed to record. The policies and literature surveyed by the OIG differ widely.

The Baltimore Working Group outlines the most permissive policy, recommending that if "the officer has legal justification to be in a [private residence], the officer has justification to film." In contrast, the Leadership Conference articulates the most restrictive policy, stating that individuals should have the option to decline to be recorded in locations where they have a reasonable expectation of privacy, unless "the recording is being made pursuant to an arrest or search of the residence or the individuals." A policy that only allows officers to film the arrest of an individual and requires permission to record any of the events leading up to the arrest itself, would make it impossible to provide an accurate recording of many events and would undermine the goal of ensuring transparency and accountability. Although the LASD protocol generally prohibits recording in "locations of privacy" it does not require consent from a citizen when the officer has entered for law enforcement purposes. The OIG believes that this strikes the appropriate balance between the protection of citizen privacy and the "need for transparency of police operations, accurate documentation of events, and evidence collection."<sup>10</sup>

A policy that seeks to maintain the privacy/transparency balance mentioned above must also provide clear instructions to officers regarding which locations are off

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<sup>10</sup> Miller, Tolliver and PERF, "Implementing a Body-Worn Camera Program," 11.



limits from recording and the circumstances under which that prohibition is waived. The policy articulated by the Denver Police Department limits recording in certain private places “such as locker rooms or restrooms” yet allows recording “for the purpose of official law enforcement activity such as a call for service.” However, the Denver Office of Independent Monitor critiqued this provision as potentially confusing since it does “not provide clear guidance to officers” regarding the definition of an “official law enforcement activity.” The monitor recommended that “the DPD provide clear and specific guidance on when recording in private places such as homes, restrooms, locker rooms, houses of worship, certain businesses, and patient care areas is authorized, and when it is unauthorized.”<sup>11</sup>

In contrast to the Denver provision, the LASD does not define when officers are allowed to record in a private location by relying on a catch-all for “law enforcement activity.” Instead, the LASD’s pilot project guidelines provide a specific and comprehensive list of the circumstances under which deputies can record in a “location of privacy,” such as, when “they are entering in response to an emergency, crime in progress, call for service, a suspect inside a location, exigent circumstances . . . .” To provide even more clarity to deputies, the Department could further define the meaning of “location of privacy” and give additional examples of such locations.

<b>Table 2 LOCATIONS WHERE RECORDING IS RESTRICTED</b>	
<b>Source</b>	<b>Model Policies and Recommendations</b>
<b>ACLU Model Act</b>	Residence: Shall ask permission unless exigent or warrant.  School: Shall not activate except when responding to an imminent threat to life or health.  Other locations where a reasonable expectation of privacy exists (not specified).
<b>Police Executive Research Forum</b>	Places where a reasonable expectation of privacy exists (e.g., bathrooms or locker rooms) and strip searches. No recommendation made regarding when to record in a private home.

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<sup>11</sup> “2014 Annual Report,” *Denver Office of the Independent Monitor*, 31.

<b>Leadership Conference On Civil And Human Rights</b>	In "locations where individuals have a reasonable expectation of privacy, such as a residence, they [should have the option to] decline to be recorded unless the recording is being made pursuant to an arrest or search of the residence or the individuals."
<b>International Association Of Chiefs Of Police</b>	In locations where individuals have a reasonable expectation of privacy, such as a residence, they may decline to be recorded. However, if an officer may enter a dwelling without the consent of the resident, recordings should be made of the incident until its conclusion.
<b>Denver Office of the Independent Monitor</b>	OIM recommends that the DPD provide clear and specific guidance on when recording in private places such as homes, restrooms, locker rooms, houses of worship, certain businesses, and patient care areas is authorized, and when it is unauthorized. Consider documenting strip searches, using audio-only devices.
<b>Baltimore Working Group</b>	Private residences should not be treated any differently from other property for purposes of recording, if the officer has legal justification to be there.  Officers will respond to hospitals with cameras on, but Hospital Administrators should be consulted further regarding police policy to protect patient and staff privacy.
<b>Source</b>	<b>Law Enforcement Agency Policies</b>
<b>Los Angeles County Sheriff's Department</b>	Department personnel should not record in locations of privacy including homes, locker rooms, hospitals unless entering for law enforcement purpose.
<b>Los Angeles Police Department</b>	In a residence, "shall record any enforcement or investigative activity" when lawfully present. Not required to activate BWC when doing so would interfere with investigation. Not required to record in health care facilities unless law enforcement action.
<b>SEPTA Transit Police Department</b>	Required by law to deactivate in a private residence. Must obtain permission from those present to record. Should not record in places that possess a higher expectation of privacy such as dressing rooms or restrooms unless police contact is occurring inside those locations.

<b>Seattle Police Department</b>	Residences: must ask for and record permission unless lawfully present without a warrant. Shall not intentionally record places where a heightened expectation of privacy exists, such as restrooms, jails, or hospitals, unless for a direct law enforcement purpose.
<b>Delaware County (Ohio) Sheriff's Office</b>	Residences not mentioned. Officers shall not capture Private body parts, Officer's locker or dressing rooms, or other locations where there is a reasonable expectation of privacy.
<b>Denver Police Department</b>	Residences not mentioned. Will not be activated where a reasonable expectation of privacy exists, such as locker rooms and restrooms, unless the activation is for the purpose of official law enforcement activity. During strip search camera pointed away.

**INSPECTOR GENERAL RECOMMENDATION:** The OIG believes that the current guideline's admonition to avoid recording in "locations of privacy," but allowing a deputy to record encounters with a civilian without consent when the deputy has entered for a specific law enforcement purpose, strikes the appropriate balance between the protection of citizen privacy and the "need for transparency of police operations, accurate documentation of events, and evidence collection."<sup>12</sup> In addition, the LASD pilot project protocol provides clear guidance when an officer can record in a location with a heightened expectation of privacy but should further define the meaning of a "location of privacy" by providing additional examples of such locations. The Inspector General's recommendation of this approach assumes that the public will not automatically be able to obtain such video without consideration of the privacy concerns of the persons recorded. If this were not the case, the policy would need to be revisited.

### ***3. Under What Circumstances Should Officers Record Witnesses And Victims?***

The sample of policies reviewed by the OIG reveals a split between policies that have been implemented by law enforcement agencies and model policies regarding when officers should obtain consent from victims before recording them. The

<sup>12</sup> Miller, Tolliver and PERF, "Implementing a Body-Worn Camera Program," 11.

majority of the treatises and model policies reviewed by the OIG recommend that officers should obtain consent prior to recording interviews with crime victims. Three of the reports also suggested that officers be given the discretion to turn off their cameras during conversations with witnesses who wish to report or discuss criminal activity.

In contrast, of the five additional Law Enforcement Agency policies reviewed by the OIG, none required the consent of victims before recording. Three require officers to film suspects, victims or witnesses, although the Denver Police Department allows officers the discretion not to record victims “when circumstances warrant.” Of the remaining two policies, SEPTA’s did not mention any restrictions on recording witnesses or victims and LAPD’s policy allowed officers the discretion not to record a witness or victim if he or she refused to provide a statement on camera and the encounter is non-confrontational.

Although the LASD’s provisional guidelines also do not require the consent of victims or witnesses to record, it advises officers generally to avoid recording “controlled and formal” interviews with witnesses or victims, “unless it is apparent the victim [or witness] may recant their story at a later time or there is a need to protect the interest of the Department.” No other policy we encountered articulated this rationale.

<b>Table 3 RECORDING WITNESSES AND VICTIMS</b>	
<b>Source</b>	<b>Model Policies and Recommendations</b>
<b>ACLU Model Act</b>	Crime victim: Shall ask if officer should discontinue recording.  Anonymous reporters: Officer shall ask if person wants officer to cease recording.
<b>Police Executive Research Forum</b>	Officers should obtain consent prior to recording interviews with crime victims. Should have discretion to keep cameras turned off during conversations with witnesses who wish to report or discuss criminal activity in their neighborhood. Policies should provide clear guidance regarding officer discretion.

<b>Leadership Conference On Civil And Human Rights Letter</b>	Officers should obtain consent prior to recording interviews with crime victims. When “crime witnesses and members of the community [] wish to report or discuss criminal activity in their neighborhood . . . policies should create reasonable opportunities for officers and subjects to jointly agree not to record.”
<b>International Association Of Chiefs Of Police</b>	Officers should have discretion to discontinue recording for instance, when talking to a sexual assault victim, or on the scene of a violent crime or accident.
<b>Denver Office Of The Independent Monitor</b>	Not discussed.
<b>Baltimore Working Group</b>	Witnesses, victims of crime and citizens who are not subject to the officer’s authority should be notified that the camera is recording and provided with the option to have the camera turned off. Whether there should be a separate policy for filming of sexual assault victims will require additional study and consultation with experts.
<b>Source</b>	<b>Law Enforcement Agency Policies</b>
<b>Los Angeles Sheriff’s Department</b>	Record interviews with all potential suspects. Interviews with witnesses and victims will not be recorded unless it appears the witness may recant at a later time or there is another Department interest.
<b>Los Angeles Police Department</b>	Recording is not required when a witness or victim refuses to provide a statement but refusal should be recorded.
<b>SEPTA Transit Police Department</b>	Not discussed.
<b>Seattle Police Department</b>	Officers will record when questioning suspects or witnesses. Victim recordings will be “flagged.”
<b>Delaware County (Ohio) Sheriff’s Office</b>	Officers “shall record [s]tatements made by suspects, victims, or witnesses.”
<b>Denver Police Department</b>	“Consideration may be given to a victim who requests not to be recorded or when circumstances warrant.”

While the OIG acknowledges the privacy concerns that underlie the recommendations to obtain consent from crime victims, such a policy could preclude the collection of perishable evidence that is highly relevant to an investigation and potential prosecution. California law specifically permits police

officers to record without consent or knowledge.<sup>13</sup> In the case of body-worn cameras, the public interest in monitoring and recording police interaction with civilians should take precedence over the preference for consent. Many of the deputies who participated in the LASD focus groups said that the body-worn camera was especially helpful in capturing the raw emotion and chaos of a domestic violence incident that is often lost in translation when the case is later presented in court. This sentiment was echoed in the PERF report which noted that “[s]ome 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. . . . ‘The footage [captured by officers who respond to a domestic violence call] shows first-hand the victim’s injuries, demeanor, and immediate reactions . . . .’”<sup>14</sup>

The OIG believes that, consistent with the other law enforcement agency policies surveyed (and in contrast with LASD’s draft policy), there should be a presumption that officers should record victim or witness statements. In addition, the policy should empower officers with the discretion not to record such individuals when to do so would compromise their investigations. In most cases the benefit to the justice system of an error-free record of witness statements weighs heavily in favor of such recordings.

**INSPECTOR GENERAL RECOMMENDATION:** LASD policy should recommend that deputies record all statements of witnesses and victims unless doing so would compromise the deputy’s ability to perform his or her law enforcement duties. The policy should also clearly define the circumstances under which a deputy can exercise discretion and the Department’s expectations for documenting that decision.<sup>15</sup>

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<sup>13</sup> California Penal Code section 633 exempts law enforcement officers from wiretapping statutes. See Chapter 1.5 – Invasion of Privacy, Title 15 - Miscellaneous Crimes, Part 1 – Of Crimes and punishments.

<sup>14</sup> Miller, Tolliver and PERF, “Implementing a Body-Worn Camera Program,” 9. *Quoting* Daytona Beach (Florida) Chief of Police Mike Chitwood.

<sup>15</sup> *Ibid*, 41.

#### **4. *Should Confidential Informants Be Recorded?***

Whether or not law enforcement agencies should record confidential informants appears to be fairly uncontroversial. Where this issue was addressed in the literature and policies surveyed by the OIG, the general consensus was that confidential informants should not be recorded, which is consistent with the LASD policy. The distinction tended to be whether the recording was left to officer discretion or whether there was a general prohibition. Only the Seattle Police Department mandated recording confidential informants consistent with their activation policy, but required those videos to be “flagged.”

The OIG believes that a complete prohibition against recording confidential informants may undermine an officer’s ability to pursue an investigation in the event that there is a compelling reason to record an informant’s statement. However, the Seattle Police Department’s policy of recording all statements but “flagging” videos may create additional problems such as the possibility that an officer will forget to flag a video or that the video will be inadvertently released, thus compromising an investigation and endangering the informant. It is preferable to allow deputies the discretion to record confidential informants only when absolutely necessary.

**INSPECTOR GENERAL RECOMMENDATION:** Modify the current provisional policy, which advises that confidential informants should not be recorded, to allow officers the discretion to do so if they deem it necessary.

#### **5. *When should officers stop recording and what action should be taken if they deactivate prematurely or fail to record?***

The decision about when to stop recording is not necessarily as easy as it seems since law enforcement situations are dynamic and even when an event appears to have concluded, it may reignite rapidly. Of the literature and policies reviewed by the OIG regarding when to stop a recording, the Seattle Police Department policy is the most comprehensive as it clearly defines when an event has “concluded.” Under this policy, three criteria must be met before an officer may stop recording: “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.” The policy further defines when a transport has concluded and also requires that an officer who stops recording during an event “must document the reason(s) for doing so . . . .”

There may be legitimate reasons why an officer will wish to stop a recording in the middle of an event. Moreover, there are times when an officer may not activate the camera at all, such as when it is not safe to make a recording or he is interviewing a confidential informant. The PERF Report recommends that officers 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.”<sup>16</sup> PERF reasons that this policy “holds officers accountable and helps supervisors investigate any recording irregularities that may occur.”<sup>17</sup>

Although the LASD protocol addresses recording an event “until completion of the detention” and explains that “the recording should not be prematurely terminated,” many deputies who participated in the focus groups were confused about the policy’s requirements. Deputies said that they would turn off the camera when they believed that, “either the encounter wasn’t what they had been told initially . . . or that there was nothing more to do.” Other deputies would shut the camera off during long incidents when they were just standing around to preserve the battery life and because they believed that there was nothing relevant to film. The current draft policy is indeed vague and open to multiple interpretations. Also, the LASD draft policy does not require deputies to articulate a rationale for why they either did not record an incident or stopped a recording prematurely. Adopting the PERF recommendation requiring a deputy to articulate why he or she prematurely stopped recording would enhance accountability and protect deputies from unjust allegations of misconduct. While PERF recommends such an explanation be in writing, it may be more practical for deputies to memorialize the reason verbally on the video.

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<sup>16</sup> Miller, Tolliver and PERF, “Implementing a Body-Worn Camera Program,” 49.

<sup>17</sup> Ibid.



<b>Table 4 DEACTIVATING BODY-WORN CAMERAS</b>	
<b>Source</b>	<b>Model Policies and Recommendations</b>
<b>ACLU Model Act</b>	"The body camera shall not be deactivated until the encounter has fully concluded and the law enforcement officer leaves the scene."
<b>Police Executive Research Forum</b>	"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."
<b>Leadership Conference On Civil And Human Rights Letter</b>	Not discussed.
<b>Model Policy Of The International Association Of Chiefs Of Police</b>	"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."
<b>Denver Office Of The Independent Monitor</b>	"The OIM recommends that the DPD consider revising its policy to require officers to keep their BWCs activated until the actual conclusion of citizen encounters that must be recorded, regardless of whether or not officers perceive the situation to have 'stabilized.'"
<b>Baltimore Working Group</b>	"Once activated, the 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."
<b>Source</b>	<b>Law Enforcement Agency Policies</b>
<b>Los Angeles County Sheriff's Department</b>	"A continuous recording of an event should take place until completion of the detention." "The recording should not be prematurely terminated." Officers should weigh factors, including "the good of the Department" when deciding to stop recording at an individual's request.
<b>Los Angeles Police Department</b>	Shall record until the activity involving a member of the public has ended.
<b>SEPTA Transit Police Department</b>	Shall continue until the subject or officer has "disengaged."
<b>Seattle Police Department</b>	Will record the entire event until it is "concluded." Policy defines "concluded."

<b>Delaware County (Ohio) Sheriff’s Office</b>	Once the camera is activated it “shall remain on until the incident has reached a conclusion.”
<b>Denver Police Department</b>	Once the initial incident has stabilized or concluded. “Stabilized” defined in training manual.

**INSPECTOR GENERAL RECOMMENDATION:** Adopt policy language similar to the PERF recommendation and revise the deactivation provision to require recording until the conclusion of an encounter, the deputy has left the scene, or a supervisor has authorized (on camera) that a recording may cease. Ensure that the phrase “conclusion of an encounter” is clearly defined. If a recording is terminated early or paused during a period of inactivity, or the deputy fails to record, the deputy must document, on camera or in writing, why the recording was terminated.

## **B. Verbal Notification to Recorded Persons**

An additional issue that should be considered when developing the policy for a body-worn camera system is whether or not citizens should be notified that they are being recorded.

The LASD’s pilot program guidelines state that “personnel are not obligated to inform members of the public that a recording has been initiated.”<sup>18</sup> In contrast, four of the five law enforcement agencies reviewed by the OIG either require or encourage officers to inform individuals that they are being recorded, so long as it is feasible and safe under the circumstances. Only the Denver Police Department did not have a notice policy. Moreover, all of the model policies and literature reviewed by the OIG strongly suggested that an agency’s policy require officers to inform subjects that they are being recorded. The consensus of literature, model policies and existing law enforcement policies appears to favor notifying subjects.

During the LASD focus groups, deputies consistently expressed that both citizens and subjects who were informed that they were being filmed generally “changed their behavior for the better.” Given the high likelihood of a positive change in

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<sup>18</sup> “Body Worn Camera System Test & Evaluation Project Implementation Plan,” *Los Angeles County Sheriff’s Department*, August 27, 2014, 10.

behavior of an individual who knows that he or she is being recorded, there is unlikely to be any benefit from withholding this information from the public. Instead, "as a courtesy and so as not to create the impression of trickery or subterfuge," many law enforcement agencies require their officers to inform all persons who are being recorded by BWCs.<sup>19</sup> There may be instances when providing notice would be unsafe, would undermine the deputy's ability to perform his or her duties or would be impossible such as during a rapidly evolving emergency incident.

Also, key desired outcomes from a body-worn camera program include reductions in the overall number of uses of force by officers and number of citizen complaints. The Rialto, California Police Department, which has a notification requirement, "experienced marked declines in both uses of force by officers and citizen complaints against officers. Notably, Rialto saw remarkable reductions in use of force department-wide, although only some officers were assigned to wear BWCs during the study period."<sup>20</sup> In contrast, during its pilot program, the Denver Police Department did not require officers to notify citizens that they were being recorded. Over the course of its study period the DPD did not experience declines in uses of force or citizen complaints. In fact, reported use of force incidents and citizen complaints increased in the pilot district. Although the analysis done by the Denver OIM does not prove that the failure to notify citizens that they were being recorded was the cause of the increased incidents of uses of force and citizen complaints in Denver, the OIM "believe[s] that [this] key policy difference between Rialto and

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<sup>19</sup> "Body-Worn Cameras: Concepts and Issues Paper," *IACP National Law Enforcement Policy Center*, April 2014, 4.

<sup>20</sup> "2014 Annual Report," *Denver Office of the Independent Monitor*, 28. See also Tony Farrar, "Self-Awareness to Being Watched and Socially-Desirable Behavior: A Field Experiment On The Effect Of Body-Worn Cameras on Police Use-Of-Force," *Police Foundation*, Mar. 2013, <http://www.policefoundation.org/sites/pftest1.drupalgardens.com/files/201303/The%20Effect%20of%20BodyWorn%20Cameras%20on%20Police%20Use-of-Force.pdf>. See also Harold Rankin, "End of Program Evaluation and Recommendations: On-Officer Body Camera System," *Mesa Police Department*, 2013 (finding that during a year-long pilot program there were 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; and nearly three times more complaints against officers without cameras, eight months after camera deployment).

Denver during their respective BWC pilot projects may be a factor in their different complaint and force trends.”<sup>21</sup>

In any case, the beneficial effects of notifying citizens that they are being recorded should provide deputies with incentives to notify, especially if the Sheriff’s Department includes the evidence of these benefits in its training. While a permissive policy seems adequate at this time, the Department may want to reconsider in the future if members of the public perceive unannounced filming as discourteous or a subterfuge. With time, public awareness of body-worn cameras may grow, reducing the concern over notification. It should also be noted that some of the model policies below are responsive to laws restricting surreptitious recording by police that are not present in California.

<b>Table 5 VERBAL NOTIFICATION TO RECORDED PERSONS</b>	
<b>Source</b>	<b>Model Policies and Recommendations</b>
<b>ACLU Model Act</b>	“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.”
<b>Police Executive Research Forum</b>	Officers should “be required to inform subjects when they are being recorded unless doing so would be unsafe, impractical, or impossible.”
<b>Leadership Conference On Civil And Human Rights</b>	“Officers must make clear to members of the public that they are being recorded . . . unless doing so would be unsafe, impractical, or impossible. . . . Camera systems must include a clear and automatic signal such as a well-labelled recording light to indicate that recording is underway.”
<b>International Association of Chiefs of Police</b>	“Whenever possible, officers should inform individuals that they are being recorded.”

<sup>21</sup> “2014 Annual Report,” *Denver Office of the Independent Monitor*, 28.

<b>Denver Office Of The Independent Monitor</b>	The Office of the Independent Monitor recommends that “the Denver Police Department revise its current policy to require officers to notify citizens that encounters are being recorded by BWCs when possible.”
<b>Baltimore Working Group</b>	“An officer with a body-worn camera shall notify video subjects that they are being recorded as close to the inception of the encounter as reasonably possible . . . and inform persons who are not subject to the officer’s lawful authority that they have a right to decline to be recorded.”
<b>Source</b>	<b>Law Enforcement Agency Policies</b>
<b>Los Angeles County Sheriff’s Department</b>	Personnel are not required to inform members of the public that a recording has been initiated.
<b>Los Angeles Police Department</b>	Officers are encouraged to inform individuals that they are being recorded when feasible.
<b>SEPTA Transit Police Department</b>	Officers shall inform, as soon as reasonably practicable, the individuals present that s/he is recording their conversation
<b>Seattle Police Department</b>	“Officers using BWV shall notify persons that they are being recorded as soon as practical and the notification must be on the recording.”
<b>Delaware County (Ohio) Sheriff’s Office</b>	“When feasible and safe under the circumstances to do so, officers shall verbally announce when [recording]. ‘Camera recording’ should suffice (the announcement shall be noted in incident reports).”
<b>Denver Police Department</b>	No discussion of verbal notification

**INSPECTOR GENERAL RECOMMENDATION:** That the Department adopts a policy that states it is preferable for deputies to notify citizens that encounters are being recorded by a body camera whenever it is safe and reasonable to do so.

### **C. Video Review Following a Use of Force Incident**

Nationwide, polices have disagreed on when an officer should review video of his actions following a use of force. The answer to this question depends in part on the

goals of a BWCS and in part upon balancing the competing interests of the people impacted by the policy. If the primary purpose of a BWCS is to aid in evidence collection for criminal proceedings, making the video available to a peace officer prior to the writing of a report is most likely to produce complete reports that are incorporate all available evidence. In the case of the LASD, the stated primary purpose of its BWCS, and its most compelling argument to justify the substantial funding needed for the project, is improving public confidence in police practices. In engaging this issue, it is important to distinguish between the great majority of BWCS video which would depict the full variety of police actions and the smaller subset of video depicting police uses of force. The potential policy variations below would apply only to video of police uses of force where the interest of the public and the police agency in an objective internal review process is paramount.

### ***1. LASD Policies***

When the LASD developed its BWCS test and evaluation program it relied on a past practice which generally did not preclude the viewing of video prior to report writing but restricted the practice with a recording that may have captured a use of force incident. In 2013, the LASD installed hundreds of fixed CCTV cameras in its downtown Los Angeles jail facilities. The proposed policy which formalized this past practice was the subject of a vigorous discussion within the Department. That discussion resulted in a policy that involved personnel should first write reports before seeing video footage in use of force cases. Then, once a supervisor review of the report and video recordings determined there was no apparent evidence of misconduct, the involved deputy could review the video to refresh his or her memory, if necessary, and then either add any corrective language to his or her report or affirm that the original written statements were accurate.<sup>22</sup>

The resulting policy is consistent with an even earlier policy regarding the showing of video recordings, no matter their source, for use during force, deputy involved shooting or administrative investigations. In July 2010, the then-Undersheriff issued a policy that “the investigator will inform the employee that there is video of the

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<sup>22</sup> This process was adopted in LASD Manual of Policies and Procedures 3-10/115.00, “Video Review and Admonishment.”

incident and that the video will be shown to the employee *after* the employee is interviewed by the investigator (emphasis in original).” The written policy contains the reasoning behind it:

The policy recognizes the importance of first obtaining a “pure” statement from an employee. At the same time, this policy recognizes the value in providing the employee an opportunity to view video evidence after being interviewed because the video might assist the employee in providing a fuller account of the incident.<sup>23</sup>

## **2. Model Policies and Literature Review**

The ACLU model act is the most stringent and would prevent a deputy or officer from seeing a video recording prior to completing “any required initial reports, statements and interviews” not only for uses of force but for any incident which leads to a complaint and even events leading up to a felony arrest. The model act does not provide a process for an officer to see footage after providing an initial statement.

At the other end of the spectrum, the PERF recommendations would always permit an officer to review footage prior to making a statement. The guidelines provide three rationales for an involved officer seeing footage first:

1. That it “will help officers remember the incident more clearly, which leads to more accurate documentation of events,”
2. “Real-time recording of the event is considered best evidence,” and
3. “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.”

In the appendix, further explanations are provided by the authors of the PERF/COPS report for permitting officers to see footage first. These include the claim that “eyewitness testimony has demonstrated that stressful situations with many distractions are difficult for even trained officers to recall correctly,” and that

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<sup>23</sup> Undersheriff Larry L. Waldie, *Department Policy Regarding the Showing of a Video to an Employee During a Force/Shooting Investigation or an Administrative Investigation*, July 20, 2010.

“officers will have to explain and account for their actions, regardless of what the video shows.”

It is an established convention of police investigation that civilian witnesses are not given the opportunity to view video evidence of an incident prior to making a statement. Because such incidents are often violent, fast moving and stressful, it is important to also acknowledge that “officers may honestly say they cannot recall some aspect of the incident or report information that conflicts with other evidence.”<sup>24</sup> However, allowing officers to first view footage so that the officer’s recollection can mirror what the video depicts does not make the officer’s memory more accurate, it merely makes it consistent with another perspective. A body camera will not provide the exact same angle as the deputy’s perspective and it will not focus on what the deputy is focusing on – say a suspect’s hands. A deputy may tend to shape his or her statement to now fit what he or she sees on the recording even though it may not be what the deputy saw at the time of the incident. This would be inconsistent with the direction given by the United States Supreme Court in its seminal opinion on police use of force that “the ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.”<sup>25</sup>

Two high profile police use of force incidents that led to fatalities highlight the potentially contaminating impact of video evidence if it is not used correctly. In the aftermath of the shooting of Oscar Grant in Oakland’s Fruitvale Station in 2009 by a Bay Area Rapid Transit (BART) police officer, BART commissioned a report on its police department’s policies and procedures. In examining the use of video evidence, the authors emphasized that “allowing involved 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.

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<sup>24</sup> National Institute of Justice, “Police Responses to Officer-Involved Shootings,” *NIJ Journal*, No. 253, January 2006.

<sup>25</sup> *Graham v. Connor*, 490 US 386, 396 (1989).



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."<sup>26</sup>

A similar tone was taken after the death of Kelly Thomas, a mentally ill homeless man in Fullerton. The Fullerton Police Department's acting chief acknowledged that allowing the involved officers to see the video of the incident was in error and that it "compromised, or at least damaged, the public's trust and confidence in the process."<sup>27</sup>

A recent article on the ACLU national website by Jay Stanley and Peter Bibring addressed the PERF report and the controversy over when officers should be permitted to view footage. In the article, they argued that the position that viewing video footage first allows a statement to be as accurate as possible "may sound appealing at first blush, but if you scratch below the surface, permitting officers to view video before they make their initial report of an incident hurts accountability and accuracy far more than it helps."<sup>28</sup> They conclude that it is a poor investigative practice that also enables an officer who is inclined to lie or shade the truth when he is allowed to see that the video undermines the justification he was planning for his conduct. As mentioned previously, the persuasiveness of this argument depends upon the goal of the investigation. In the majority of investigative contacts an officer acts as an objective fact-finder and viewing video may well enhance that process. In the smaller subset of incidents in which the primary goal is evaluating a use of force by an officer, failure to test the officer's objectivity can erode public confidence.

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<sup>26</sup> "Public Report: Review of BART PD Policies, Practices and Procedures: New Year's Day 2009," submitted to Bay Area Rapid Transit by Meyers, Nave Professional Law Corporation, at p. 5.

<sup>27</sup> Joshua Sudock, "Fullerton chief on Kelly Thomas case, public: 'We blew it'," *Orange County Register*, May 25, 2012, updated August 21, 2013, <http://www.ocregister.com/articles/hughes-355892-officers-thomas.html>.

<sup>28</sup> Jay Stanley, and Peter Bibring, "Should Officers Be Permitted to View Body Camera Footage Before Writing Their Reports?" *American Civil Liberties Union*, Free Future Blog, January 13, 2015, <https://www.aclu.org/blog/free-future/should-officers-be-permitted-view-body-camera-footage-writing-their-reports>.

<b>Table 6 VIDEO REVIEW AFTER A CRITICAL INCIDENT</b>	
<b>Source</b>	<b>Model Policies and Recommendations</b>
<b>ACLU Model Act</b>	Any footage of a use of force, events leading up to felony-level offense or an encounter for which a complaint has been registered shall be retained for a minimum of three years. No law enforcement officer shall review or receive an accounting of any footage that is subject to minimum three year retention period prior to completing any required initial reports, statements and interviews regarding the recorded event.
<b>Baltimore Working Group</b>	Allows review of footage for "routine matters," however, after "categorical uses of force, an officer should be required to make a statement concerning the incident without first reviewing his or her camera footage of the incident."
<b>International Association of Chiefs of Police Model Policy</b>	<p>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.</p> <p>Comments in issue paper: "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."</p>
<b>Leadership Conference on Civil and Human Rights</b>	Officers should not see police-operated camera footage before filing their reports, because such pre-report viewing effectively eliminates the officer's <i>independent</i> recollection of the event as a source of evidence.
<b>Police Executive Research Forum</b>	Officers should be permitted to review video footage of an incident in which they were involved, prior to making a statement about the incident.

### 3. Comparison to Other Agencies' Policies

A review of other department policies shows that current LASD provisional protocol leads most other departments in promoting trust and accountability. As the table below demonstrates, the range of actual policies is as broad as the model policies reviewed above:

<b>Table 7 VIDEO REVIEW FOLLOWING A CRITICAL INCIDENT</b>	
<b>Source</b>	<b>Law Enforcement Agency Policies</b>
<b>Los Angeles County Sheriff's Department</b>	When video believed to have captured a use of force. "Prepare all necessary written reports related to a force incident prior to reviewing a video recording of the incident." Can review recording to refresh memory once a supervisor has reviewed the first reports and video and concludes that there is no evidence of apparent misconduct. For a deputy-involved shooting, the investigator informs the deputy that there is video footage and that it will be shown to him or her <i>after</i> the employee is interviewed.
<b>Los Angeles Police Department</b>	Officers are " <b>required</b> to review BWV recordings on their assigned device or computer <i>prior</i> to documenting an incident . . . [or] use of force . . ." <sup>29</sup> For a categorical use of force, such as an officer-involved shooting, an officer shall not review the footage "until authorized by the assigned Force Investigation Division (FID) investigator. Once authorized, the officer <i>shall</i> review his or her BWV recording and any other relevant BWV footage as deemed necessary and appropriate by the assigned FID supervisor." The officer is permitted to review the footage with his employee representative <i>without</i> an FID investigator or supervisor present.
<b>Delaware County (Ohio) Sheriff's Office</b>	Policy is silent regarding a use of force report specifically. "For report writing purposes officers may review their own video recording. Officers shall not review another officer's video recording for report writing unless authorized by a supervisor."

<sup>29</sup> LAPD Chief of Police, Interdepartmental Correspondence, Body Worn Video Procedures, April 23, 2015.

<p><b>Denver Police Department</b></p>	<p>1. If the officer is involved in (or witness to) a use of force incident that per policy requires the response of an Internal Affairs Division investigator (see OMS 503.01), the officer <b>may be authorized</b> to view their BWC recording after the Internal Affairs Division investigator has been consulted. The viewing of any BWC recording will only be permitted after receiving authorization from the Internal Affairs Division investigator acting under the direction of the commander of the Internal Affairs Division.</p> <p>2. If the officer is involved in (or witness to) a critical incident such as a police shooting or an in-custody injury resulting in death, the officer may be authorized to view their BWC recording after the Major Crimes Division investigator and the commander of the Major Crimes Division have consulted. The viewing of any BWC recording will only be permitted after receiving authorization from the commander of the Major Crimes Division and/or his/her designee.</p>
<p><b>Las Vegas Metropolitan Police Department</b></p>	<p>Permits officers to view video before writing a report or before providing a statement in an internal investigation or after a critical incident. While involved officers may not view footage before force or internal affairs investigators have first seen it, officers "<b>shall be allowed to view</b> their own BWC recording prior to walkthrough and statement." On the other hand, is very clear that civilian victims or witness are <u>not</u> permitted to see footage before making "a first account statement."</p>
<p><b>Seattle Police Department</b></p>	<p>"Employees <b>may view</b> body-worn video for the following purposes: complaint... officer-involved collision... Force Review Board... Use of Force review or investigation..." <i>16.091-POL-2.</i></p>
<p><b>SEPTA Transit Police Department</b></p>	<p>"When a response to resistance occurs (R2R), the officer will prepare the R2R report <b>without reviewing the BWC video</b>. This is in compliance with our normal procedures that also exist for station and vehicle video." <i>620.3.3.</i></p>

While the LASD does not allow personnel to review footage prior to an interview, LAPD in many circumstances actually requires officers to see their footage first as well as the video from other officers' cameras. Similarly, the Las Vegas Metropolitan Police Department mandates that involved officers shall be permitted to view their

own recording but does not allow review of other officers' recordings. On the other hand, the SEPTA Transit Police in Philadelphia has a stringent standard similar to the LASD. While both Seattle and Denver police department policies state the involved officer may view recorded footage, the two departments have an important distinction. In Denver, the officer has to receive authorization to do so, while no such permission is required of the Seattle officer.

#### ***4. Analysis of Viewing Policies***

The confluence of advancing video technology and the national debate ignited by videotaped incidents like the BART police shooting and the death of Kelly Thomas in Fullerton have caused other stakeholders to voice deep misgivings over allowing officers to see footage before making a statement. In its January 2015 submission to the President's Task Force on 21st Century Policing, The Leadership Conference on Civil and Human Rights stated that officer viewing before writing a report compromises independent recollection because:

Footage of an event will always present a partial, not complete, perspective of how events unfolded, and can at times create a misleading impression; in such situations, pre-report viewing could create a counter-productive incentive for the officer to conform his or her report to what the video appears to show, rather than to what he or she actually remembers.

We have observed that the various positions on this important policy question tend to be polarized. We believe that the parties in stark opposition to one another may fail to recognize the necessity of balancing the competing values of accuracy, confidentiality, accountability and public confidence. The PERF position, for instance, focuses exclusively on the issue of "accuracy" while the ACLU places accountability above all other considerations. We believe it is possible to compromise and address each value in a pragmatic way.

The Inspector General recommends that the current LASD policy as it applies to other recorded video footage should also apply to BWCS recordings for the following reasons. As outlined above, deputies involved in force incidents would write reports or be interviewed, then view the video, and finally write a supplemental report or statement if the video stimulated any new recollections of

the incident. This procedure should be the universal approach whenever there is video evidence generated by a Department camera in a use of force case for the following reasons:

- The procedure is consistent with the Department's current policy concerning fixed camera video and the procedures adopted for its BWCS pilot project. These previously tested policies have proven to be workable in the field.
- The procedure is consistent with the Department's standard investigative procedure when interviewing civilian witnesses to a crime. (Following an incident, detectives would typically take statements from civilian witnesses before allowing them to view any surveillance or bystander video of the event.)
- The procedure preserves an involved deputy's immediate recollection of a violent incident while allowing for subsequent correction or supplement by the deputy.
- The procedure allows for clear and easy explanation to the public that there is no double standard regarding interviews of deputy witnesses.
- The procedure acknowledges that video evidence is not the only authoritative viewpoint but rather an additional viewpoint.
- The procedure acknowledges that deputies may not have perfect recollection. There may be inconsistencies between their memories and any video record and this does not necessarily indicate dishonesty or call for discipline or other corrective action.

In the focus groups OIG staff attended, although deputies indicated a strong preference to be able to review videos that captured a use of force prior to writing their reports, no deputies or line supervisors indicated that the provisional policy is a hindrance to the force investigation process. The policy in its current form allows a deputy to review video footage before preparing routine crime and other incident reports, but following a use of force, requires that a supervisor first examine the recording.

**INSPECTOR GENERAL RECOMMENDATION:** Adopt policy language consistent with the current BWCS pilot project protocol and with MPP Section 3/579.15 which would require deputies to complete initial reports or interviews concerning a use of force before viewing any video evidence of the incident. Allow the deputy to view use of force BWCS video after a supervisor has reviewed it and provide an immediate opportunity for the deputy to supplement his or her statement after viewing the video.

## **D. Release of Video to the Public**

The question of whether and under what circumstances BWCS footage should be released to the public evokes a number of conflicting interests. Some transparency advocates have argued that all video should be publically released immediately. While such a practice would certainly improve the ability of a democratic society to monitor its police, it would create other problems, including often unfairly invading the privacy of those who had been recorded, sometimes compromising the ability of the police to properly investigate crimes, creating a burden on tax payers to fund searching and producing the video upon request, and ultimately leading to a potential incentive for police *not* to record video in many cases where they otherwise would.

California statutes address some of the competing interests involved: the preference for disclosure in the California Public Records Act (Gov. Code, §§ 6250 et seq.) versus the protection of officer personnel records found in Penal Code section 832.7.<sup>30</sup> Sheriff's Department policy alone cannot resolve these conflicts. Courts will certainly be required to rule on many public disclosure issues and the whole process would go much more smoothly if the state legislature were to directly address the issue. Legislation currently pending before the state legislature would regulate the types of body camera footage that can be released to the public although it is not the subject of this report and the Inspector General takes no position as to its contents.

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<sup>30</sup> "Peace officer or custodial officer personnel records ... or information obtained from these records, are confidential and should not be disclosed in any criminal or civil proceeding except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code." California Penal Code section 832.7, subdivision (a).

## **1. LASD Policy**

The LASD pilot project guidelines are silent regarding the public disclosure of BWCS footage. To OIG's knowledge, the LASD has not released any footage from the BWCS pilot project to the public. Recently-enacted LAPD policies also do not address the issue of public release but LAPD Chief Charlie Beck, has stated that the LAPD would not release BWCS footage to the public, including officer-involved shootings.<sup>31</sup> The ACLU of Southern California has criticized the Chief's statement and argued that "the power we give to police officers to use force, even to take human life, is extraordinary – and the public deserves to understand how that power is used, not to be told 'just trust us,' whether the 'us' is the police department or its civilian oversight."<sup>32</sup> More recently, the ACLU disclosed a letter it sent to the United States Bureau of Justice Assistance asking the Department of Justice to deny the LAPD's request for funding support for purchasing body-worn cameras because of the failure to provide any form of public access to footage.<sup>33</sup>

Because the Sheriff's Department has no specific policy addressing the public release of BWCS video footage, we cannot compare its policy to those of other agencies. In fact none of the other law enforcement agencies we have looked at has yet drafted such a policy. This makes consideration of model policies and recommendations all the more relevant.

## **2. Model Policies and Literature Review**

Because of the broad variation of state public records laws, model policies have only provided general guidelines for disclosure of body-camera footage. The ACLU, however, has proposed specific circumstances where the subject depicted in the video has essential veto power over the disclosure of a recording.

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<sup>31</sup> Kate Mather, "Divided Police Commission Approves Rules for LAPD Body Cameras," *Los Angeles Times*, April 28, 2015, <http://www.latimes.com/local/lanow/la-me-ln-lapd-body-cameras-rules-20150427-story.html>.

<sup>32</sup> Hector Villagra, Executive Director, ACLU of Southern California, press release, April 24, 2015.

<sup>33</sup> Letter, Peter Bibring, ACLU of Southern California to Director Denis E. O'Donnell, Bureau of Justice Assistance, September 3, 2015.



<b>Table 8 DISCLOSURE OF BWCS VIDEO</b>	
<b>Source</b>	<b>Model Polices and Recommendations</b>
<b>ACLU Model Act</b>	<ul style="list-style-type: none"> <li>• Any subject depicted in video or a parent or legal guardian of a minor, who is a subject of video, or a deceased subject's next of kin, shall be permitted to review video so they can make a retention request.</li> <li>• Certain video footage will be exempt from public disclosure if: <ul style="list-style-type: none"> <li>○ It is not related to a use of force, felony arrest or a complaint.</li> <li>○ The complainant requests the video not be made public.</li> <li>○ The video is retained only because an officer who recorded the video or a supervisor asserts the content has evidentiary or exculpatory value.</li> <li>○ A member of the public has requested a 3-year retention but also requests that the video not be made public.</li> </ul> </li> </ul>
<b>Baltimore Working Group</b>	Concluded that BWCS video footage would constitute an investigatory record subject to special rules under the Maryland Public Information Act (PIA). "Custodians of such records need not disclose them, or may redact portions of them, when disclosure would be 'contrary to the public interest.'" Persons who interacted with an officer on camera or whose actions were recorded by a BWCS should have a presumptive right of access to the recording.
<b>International Association of Chiefs of Police</b>	Is silent regarding public disclosure policies.
<b>Police Executive Research Forum</b>	Recognizes that specific state laws will govern policy and that most disclosure laws contain an exception for ongoing investigations. Consideration must also be given to the privacy of crime victims and witnesses as well as whether footage falls within personnel records exception. "However, by policy and practice, law enforcement 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."

<p><b>Leadership Conference on Civil and Human Rights</b></p>	<p>Retention by a department should be limited with automatic deletion after a period of as long as “it might become relevant” to a timely complaint or as required by rules of evidence so as not to become a “tool of injustice.” On the other hand, “an appropriate redaction process for private information should be developed so that redacted footage can be made available for non-commercial public interest purposes ... subject to appropriate protections for witnesses and victims.”</p>
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In addition to the model policies outlined here, the pending state legislation, AB66, would prohibit the disclosure of body-camera footage if it depicts victims of rape, incest, domestic violence, or child abuse, any law enforcement informant, an undercover officer or when a peace officer is in a private residence in a nonemergency situation without a warrant.

**INSPECTOR GENERAL RECOMMENDATIONS:** The decision of whether to publically disclose video outside of legal and administrative proceedings is an important but difficult one. Unless a uniform state law is passed on the subject, each California policing agency will have to weigh the costs and benefits and be prepared to implement its decision. The best policy is one that will allow a BWCS to be affordable and practical. As a result, until Sacramento acts, there can be no “right” or “wrong” answer to this question. A poorly conceived or vague policy may create a high volume of public requests or litigation, thereby substantially increasing the cost of the program, but an overly restrictive policy will undermine the benefits of transparency.

A responsible and effective Sheriff’s Department policy on public disclosure of video should consider the following:

- The policy must comply with the California Public Records Act and yet apply the investigation exception in a reasonable and consistent manner. Records of

complaints to and investigations by a local law enforcement agency are exempt from disclosure.<sup>34</sup>

- The policy should comply with Penal Code section 832.7, prohibiting disclosure of peace officer personnel records. In addition, records for which disclosure is prohibited by state law are also exempted from disclosure by the Public Records Act, as is the case with records peace officer personnel records.<sup>35</sup> The Department should define what it considers to be a “personnel record” in order to provide foreseeable guidelines to deputies, media and the public.
- There may be circumstances under which it is beneficial for involved persons who have lodged a complaint to review video footage of the incident in question. This can often help resolve minor complaints. However, a practice of disclosure to involved persons must be exercised in an even-handed manner that is not driven by whether the video may appear to show the Sheriff’s Department in a flattering or unflattering light. The policy must also be mindful of the potential of inadvertently waiving Public Records Act protections as well as privacy concerns.
- The policy should consider if selected categories of events should have a presumption of disclosure, such as significant uses of force; certain felony arrests; enforcement actions at public demonstrations, and if so, when and how such disclosure should occur. For instance, it may be appropriate to release video of all deputy-involved shootings after a set period of time or after the District Attorney has concluded with the matter.
- The policy should consider when video footage should not be disclosed because of privacy or other legal or ethical concerns, such as legal restrictions regarding minors and sex crime victims, privacy rights in residences and under other circumstances, as well as concerns regarding the safety of crime victims and witnesses.
- The Office of Inspector General should have unrestricted access to all body-camera video footage to carry out its monitoring obligations.

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<sup>34</sup> California Government Code, section 6254, subdivision (f).

<sup>35</sup> California Government Code, section 6254, subdivision (k).

- Video footage should be retained in a manner that makes it available to any appropriate proceeding, including internal discipline, criminal (whether prosecution or defense), and civil (both to defend deputies against false charges and to permit plaintiffs to pursue true claims).

## III. The LASD Pilot Program

### A. History and Design

In the spring of 2014, the LASD initiated the research and analysis necessary to implement a pilot project that would test various brands of body-worn camera systems under real patrol conditions. The Department identified the problem this way:

Patrol personnel in LASD perform law enforcement duties in an environment that is increasingly complex and challenging. Their actions are publicly scrutinized daily, while attempting to answer to misperceptions, false allegations, and civil liability claims. Meanwhile, the public expects greater transparency from LASD and evidence to support law enforcement's word or testimony . . . In order to enhance documentation of law enforcement activities, more accurately address allegations of misconduct, and increase the public's trust, a Body-Worn Camera System (BWCS) may provide a practical solution.<sup>36</sup>

In September of 2014 the Department launched its pilot program to test four different body camera systems at four patrol stations around Los Angeles County:

*Carson Station:* **Digital-Ally**, a modular device in which the camera clips to the officer's chest while the battery and storage fits into the chest pocket of the uniform. Carson Station deployed 19 Digital-Ally cameras to 19 deputies.

*Century Station:* **Vievu**, a camera that mounted is on the chest, similar to the Taser Axon body. Eighteen devices were deployed to 18 deputies at Century Station.

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<sup>36</sup> Los Angeles County Sheriff's Department Body-Worn Camera System Test and Evaluation Project Implementation Plan, March 24, 2014.

*Lancaster Station:* Used Taser-brand cameras, including the **Taser Axon Flex**, a small camera that can be mounted on glasses, a baseball cap, a uniform collar or epaulet and the **Taser Axon Body**, a camera that is mounted on the officer's chest or at his/her belt. The LASD deployed eighteen of each type of camera to 36 deputy volunteer participants at Lancaster Station.

*Temple Station:* Used the **VidMic** camera system, a standard police radio style speaker microphone clipped to the upper chest with an embedded video camera and audio recorder. At the Temple Station, 19 deputies used 19 VidMic cameras.

Pictures of the system hardware are available in Appendix A of this Report.

Participation in the Pilot Program was voluntary. Department members who volunteered were asked to remain for the entire six month program and were not offered any incentive for their participation nor were they disciplined for failing to follow the draft protocol such as not recording an incident. Before the deployment of the body-cameras at each station, the deputies and sergeants were given a four-hour training about how to utilize the body-camera system and data interface at their station, a legal update on search and seizure law and an overview of the pilot project policy guidelines.

In light of the significant impact that body-worn cameras may have throughout the Department in future, the Office of Inspector General monitored this pilot program closely. Our observations of the program are based on conversations with the designers of the program, station supervisors and with the deputies who volunteered to wear a body-worn camera system. In addition, we went on ride-alongs at three of the four participating stations, reviewed feedback surveys and attended all of the focus groups during which participating deputies and sergeants discussed their experiences in the field with the technology and their opinions about the provisional policy.

The OIG's monitoring of the pilot program has provided a good opportunity to explore this technology which will influence how law enforcement relates to the community it serves. We have also been able to observe the LASD grapple with a

decision about new equipment that has complex legal, policy and practical considerations.

The Pilot Program ran from September 2014 through early April of 2015 at Lancaster, Century and Carson stations. The Program at Temple Station was terminated early in December of 2014 when it was discovered that the cameras interfered with radio traffic to the deputies' microphones.

## **B. Officer Feedback – Surveys and Focus Groups**

For the first few months of the program the officers provided feedback by filling out individual on-line surveys at the end of each week. Recognizing that more detailed and thoughtful feedback was likely to be elicited from an in-person interaction, the Department held focus groups at each station in February, March and April of 2015 to solicit the opinions of deputies and their sergeants regarding the technology and draft policies. The OIG reviewed and provided comments on the questions that were presented to the officers and attended each focus group. There were a number of trends that emerged from the focus groups, which included:

### **1. Technology**

*Equipment features:* Deputies preferred equipment that was durable and could withstand the physical requirements of patrol which include running to emergent situations and physical engagement with suspects. Deputies could not always easily determine whether the camera was turned on. One camera had the recording light mounted on the front. Battery length was a key component of the equipment and varied depending on how much was recorded during an individual shift. Deputies often work two consecutive 8-hour shifts and need their cameras to last for 16 hours. Battery life appeared to vary.

*Pre-Record Function:* Some BWC systems automatically record 30 seconds of video just prior to the moment that the camera is "switched on." Deputies generally agreed that the pre-record function was a positive feature since it would capture

more of a sudden or unanticipated event or if the deputy forgot or was late to turn on the camera.

*Camera Mounting Location:* The standard location for three of the four brands was on the chest; however Deputies expressed a number of challenges with this location. The chest-mounted camera often only captured the individual with whom a deputy was interacting from the neck down. In addition, when a deputy was holding his gun out, especially as trained with a two hand grip, the positioning of his hands blocked the lens, obscuring much of what the camera saw during the encounter. Because the chest-mounted camera can be next to the radio microphone, every time a deputy activated his microphone, his hand blocked the camera lens. One deputy expressed the concern that the public perception might be that they were intentionally blocking the camera. Deputies also said that the chest-mounted camera did not “see what the deputy saw” if the deputy turned his head to look at something that was not directly in front of him. Finally, for many deputies, the camera frequently got entangled with the seatbelt. Deputies who had the opportunity to test a camera that was mounted on the glasses, hat or epaulette, expressed consistently positive feedback since the equipment eliminated many of the concerns related to the chest-mounted camera, including the fact that the camera captured the deputies’ point-of-view, so long as it was mounted on the glasses or hat. <sup>37</sup>

*Functionality:* The ease of turning the equipment on and off depended on the brand of camera. Almost all deputies expressed the need to develop “muscle memory” that would enable them to automatically turn on the camera without having to distract themselves from a potentially dangerous situation.

*Tagging Videos:* One of the challenges with video recordings is the ability to find a relevant video after the fact without having to review every minute that was recorded on a certain day or time period. Since video recordings have no text

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<sup>37</sup> Halfway through the pilot project, Sheriff McDonnell changed the dress code; baseball caps which had been authorized for deputies in certain assignments were no longer allowed. One deputy suggested that, since mounting the camera on the bill of a cap was such an optimal location, management might consider issuing one standard cap that all deputies could use.

associated with them, the ability to “tag” videos electronically with key words, citation numbers or other descriptive text, will significantly assist the Department in its ability to organize and locate videos as needed. Ideally video tagging would be done in the field during a shift using equipment that was built into the body camera system, but deputies who tested equipment that had the option of tagging videos were concerned with the amount of time it would take over the course of the day to tag each video. To assist with this effort, deputies wanted to have as many pre-set tags as possible.

*Downloading Videos from Camera Equipment:* The overwhelming consensus from deputies was that requiring them to sit at a computer, plug in the camera and download videos at the end of their shift was time consuming and frustrating. For many deputies the process took 45 minutes to an hour which would require them to either come in from the field an hour early or get paid an hour of overtime. In addition, there were not enough station computers for each deputy. One BWCS company, however, offered a docking station, which allowed the deputies to insert their cameras into the docking port and leave immediately at the end of the shift.

## **2. Policy Feedback**

Deputy feedback about the pilot project policies was an important part of the focus group discussions. It generally appeared to be candid and consistent. Many deputies felt that the appropriate uses of the cameras were self-evident and they wanted more autonomy over activation and review of their video cameras.

*Activation and Deactivation of BWCS:* Deputies overall felt very strongly that they should be able to exercise discretion over when they turned the cameras on and off making statements such as “the Policy about turning on the camera should be whenever you need to” or “whenever it is reasonable,” such as traffic stops, Code 3 (emergencies), calls for service or other activities that tend to generate the most complaints or controversy. Deputies did not want to be disciplined if they inadvertently forgot to activate the device. The deputies typically deactivated the camera when they believed that there was nothing else worth filming. Overall



deputies believed that they were the best judges and predictors of when they should start and stop filming.

*Recording of Witnesses:* Deputies expressed hesitation in recording victims of crime such as rape victims and children. The concern was that the video could fall into the wrong hands and be released to the public. However, deputies generally believed that they should videotape certain categories of victims who were highly likely to recant or stop cooperating after the incident, such as domestic violence victims. Deputies believed that the body-worn camera was especially helpful in capturing the raw emotion and chaos of a domestic violence incident that is often lost in translation when the case is later presented in court.

*Effect on the Conduct of Witnesses:* Deputies believed that the camera equipment blended in with all of the other equipment that they carry on a regular basis and therefore very few individuals noticed that they were being filmed. Many deputies reported that "if the incident was going south" they would notify a suspect that he was being filmed, which often resulted in a change of behavior for the better. The OIG only heard of one instance when a suspect, who had been providing a potentially self-incriminating statement to the deputy, "decided to plead the fifth" and refused to continue speaking after noticing the camera. In addition, the camera did not affect the behavior of the extremely mentally ill or those who were under the influence. However, deputies believed that the camera was very useful to capture the behavior of these subjects and how it was related to their detention or arrest.

*Review of Videos in Use of Force Cases:* Deputies overwhelmingly felt that they should be able to review the video recordings of their uses of force before they wrote the report and seemed baffled that the policy should be otherwise. Since a use of force is such an adrenaline-filled encounter, the details of which are very difficult to remember afterwards, Deputies felt that reviewing the video would help them to write a more accurate report. Deputies also expressed the fear that they would be disciplined if their report did not reflect exactly what was captured on film.

*Use of Body Camera Video for Deputy Training:* Deputies appeared to be split over the idea of using their video for training purposes. Some deputies eagerly welcomed the idea, explaining that “I like being able to Monday morning quarterback and think about how I could improve my tactics the next time.” However, other deputies did not want to be embarrassed or critiqued in front of their peers.

### **3. Overall Feedback**

The four LASD stations chosen for the pilot program represent a wide range of local crime rates, enforcement problems and community demographics. It was all the more striking to us when we observed a clear consensus emerge among deputies from different stations using different equipment.

*Benefits of the BWCS:* All of the deputies who participated in the pilot program focus groups stated that having a body-worn camera system would be a huge asset. Most deputies believed that the primary benefit of the cameras would be to protect them from baseless civilian complaints. Many explained that “as a law enforcement officer, you know you’re being recorded everywhere you go;” having a body-worn camera would accurately document events from their perspective. A number of deputies had become accustomed to the camera and missed the equipment after the pilot program ended. One deputy explained that he initially worried that the equipment was a tool for the department to determine who was “doing something wrong,” but, during the course of the pilot program, he saw the benefits of the camera and changed his perspective. Many deputies also relied on the video to assist in writing their reports later, and believed that their reports were much more accurate as a result.

*Concerns Related to the BWCS:* Some deputies believed that the “old school guys” might not welcome the cameras because they generally resist change. Deputies also expressed concerns that vindictive supervisors might discipline them for using inappropriate language when they were engaging in locker room talk or when they were tactically using strong language to control a suspect.

### **C. Current Status of BWCS Program**

The Department recently established a dedicated "Body Camera Unit," which consists of three full-time personnel: a deputy, sergeant and lieutenant. The unit reports to the Commander of the Communication and Fleet Management Bureau and will handle all aspects of the BWC program going forward except for policy development. This includes guiding the Department through the procurement of BWCS for personnel; implementing the roll out of cameras and equipment throughout the Department; training personnel on the use of the equipment and data management and staffing a help desk for deputies who are experiencing technological problems. In order to elicit input and feedback regarding the content of the BWCS Policy itself, the Department plans to put together a Policy Committee that consists of internal Department members and will consult with internal and external subject matter experts and be monitored by the OIG.

## **IV. CONCLUSION**

Video recording is a critical component of modern urban policing. Video technology is now so advanced that it is present in almost every pocket, attached to the heads of skateboarders, and hovering above us as part of what we once called model aircraft. Failure to incorporate that technology is not just a missed opportunity, but a shortcoming that the public is increasingly unwilling to accept. Just as we have learned that every jail corridor needs a camera, we should also realize that every radio car should have a "dash cam" and every patrol officer should have a body-worn camera. We commend the Department's efforts in moving to implement this technology and its intent to create a Policy Committee to guide the eventual implementation of a body-worn camera system. Carefully drafted policies will improve the effectiveness of such a program and appropriate state legislation may help reduce its cost. However, regardless of the options chosen, the cost of equipment, storage of data, and work-hours in getting the data where it needs to go, will be substantial and ultimately the public and their elected representatives will need to decide if they wish to pay for it. This Office strongly recommends that they do, for the cost of not having the cameras is likely to be much higher.

## APPENDIX A

### BRANDS AND MODELS OF TESTED BODY-WORN CAMERAS

**TASER Axon Flex** (Lancaster station)



Source: TASER International, Inc.

**TASER Axon Body** (Lancaster station)



Source: TASER International, Inc.

**VIEVU LE3** (Century station)



Source: VIEVU, LLC

**VidMic** (Temple station)



Source: Safety Solutions

**Digital Ally (Carson station)**



Source: Digital Ally Inc.

## APPENDIX B

### TEXT OF LASD AND OTHER AGENCIES' POLICIES BY ISSUE

#### ACTIVATION AND DEACTIVATION OF THE BWCS

##### Los Angeles County Sheriff's Department

- Department personnel should initiate a recording prior to, or at the earliest opportunity, of any person who is detained in the course of their duties. Once a recording is initiated, a continuous recording of the event should take place until completion of the detention.
- Personnel equipped with a BWCS should initiate a recording of the following types of events: traffic stops; pedestrian stops; pursuits; calls for service involving violence, domestic violence; disputes; alcohol; drugs; mental illness; or any other law enforcement action the BWCS equipped deputy deems appropriate. The recording should not be prematurely terminated. If it is necessary to terminate a BWCS video recording during an event or detention, the BWCS equipped deputy should verbally note the reason for terminating the video prior to turning the BWCS off. For example, Department members discussing case strategies or planning tactical operations at a scene or during an investigation would serve as justifiable reasons to stop a recording.

Department members should document the use of a BWCS, and the existence of a video file in the narrative when authoring any report or memorandum.

Department personnel participating in planned search operations or tactical operations involving the Special Enforcement Bureau personnel should not activate the recording.

- Locations of Privacy:
  - Residences: Due to the intrusive nature of video recordings made while inside a citizens [sic] home, Department personnel should not initiate a recording when entering a residence unless they are entering in response to an emergency, crime in progress, a suspect inside a location, exigent circumstances, domestic violence disputes, or a residence associated with violence, drug use, gang activity or complaints against Department members, or anticipate encountering uncooperative persons or persons causing a disturbance.

- Medical Facilities: Department personnel should avoid initiating a recording in a medical facility where persons are receiving treatment unless they are responding to an emergency, crime in progress, exigent circumstances, call for service, performing a criminal investigation, or anticipate encountering uncooperative persons or persons causing a disturbance.
- Restrooms, Dressing Rooms, Locker Rooms: BWCS recordings should not be initiated inside restrooms, dressing rooms or locker rooms unless they are entering in response to an emergency, crime in progress, a suspect still inside the location, exigent circumstances, call for service or a domestic violence dispute.
- Interviews:
  - Suspect Interviews: BWCS recordings should be used for preliminary investigative interviews and formal interviews of persons when there is a reasonable belief the person has committed a crime.
  - Victim Interviews: Department members should generally avoid using a BWCS recording during a controlled and formal interview of a victim, unless it is apparent the victim may recant their story at a later time or there is a need to protect the interest of the Department.
  - Witness Interviews: Department members should generally avoid using a BWCS recording during a controlled and formal interview of a witness, unless it is apparent the witness may recant their story at a later time or there is a need to protect the interest of the Department.
  - Confidential/Anonymous Informants: Maintaining the trust of citizens to provide information to our Department is paramount. Department members should not record persons who confidentially provide information for law enforcement purposes.

### **Los Angeles Police Department**

III. WHEN ACTIVATION OF BODY WORN VIDEO EQUIPMENT IS REQUIRED. Officers shall activate their Body Worn Video (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 . . . .

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.

**SEPTA (Philadelphia): Transit Police Department**

620.3.2 Equipment Operation

- (a) Personnel equipped with a BWC must activate the record mode when: initiating (or earlier, if possible) the following events:
  - 1) assigned to a radio call
  - 2) notifying radio of response to a radio call assigned to another unit
  - 3) observing another unit engaged in a contact
  - 4) observing criminal, disorderly, suspicious or unsafe behavior
- (b) Personnel equipped with a BWC must activate the record mode as soon as possible for:
  - 1) any and all citizen contacts
  - 2) protection of crime or accident scenes
  - 3) transportation of prisoners or citizens
  - 4) searches of persons, vehicles, structures, etc.
  - 5) statements made by suspects, victims and witnesses
  - 6) Miranda warnings
  - 7) interrogations of suspects
  - 8) any legitimate law enforcement purpose
- (c) Once the record function of the BWC is activated, the officer will continue to record until either the subject being recorded or the officer has disengaged and communication between the two is no longer likely to occur.
- (d) Officers are required by law to deactivate the BWC recording function when entering a private residence. Officers shall request from those present permission to record inside private residences. The approval to do so must be recorded.
- (e) Recordings shall be made in close proximity to the individual's oral communication
- (f) *[Intentionally omitted]*
- (g) An individual cannot demand that the BWC recording function be deactivated.

620.3.3: Restrictions

- (a) Officers shall not make surreptitious recordings of conversations with any person (civilian or police officer) unless it is part of a criminal investigation AND prior approval has been obtained from the Chief of Police
- (b) *[Intentionally omitted]*
- (c) Recordings should not occur in places that possess a higher expectation of privacy such as dressing rooms or restrooms unless police contact is occurring inside those locations

## **Seattle Police Department**

### **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.

## **Delaware County (Ohio) Sheriff's Office [DRAFT POLICY]**

### **C. Use**

1&2 [Intentionally omitted]

3. The BWV shall be placed in Event Mode 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 policy.

4 [Intentionally omitted]

5. The Event Mode should generally be used during incidents which create reasonable suspicion in the mind of a reasonable deputy / corrections officer that a crime / rule violation has been committed, is being committed or will be committed in the near future.

6. Once the BWV Event Mode has been activated it shall remain on until the incident has reached a conclusion or the officer leaves the scene / cell / inmate housing area. The intention to stop recording shall be verbally announced by the officer prior to stopping any recording or noted within a written report.

### **D. Audio/Visual Recording**

1. In keeping with the Office's value of respecting the dignity of all persons, officers will use sound judgment in when and how the BWV will be used. Officers shall record the following types of incidents:

- a. Pedestrian and vehicular investigative detentions and stops;
- b. Observed unlawful conduct;
- c. Response to Resistance;
- d. High-risk situations;
- e. Advising an individual of Miranda rights;
- f. Statements made by suspects, victims, or witnesses;
- g. Motor vehicle searches;
- h. Area canvasses or K-9 Unit searches;
- i. Physical arrest of persons;
- j. Serious or fatal motor vehicle accidents;
- k. Property damage regarding motor vehicle accidents;
- l. Observed items of evidentiary value; and
- m. Any other legitimate law enforcement activities.

### **E. Prohibited Recordings**

The BWV shall not be used in Event Mode to capture:

1. Whenever possible, officers will avoid capturing video media or sensitive exposures of private body parts;
2. Events which occur in Office's locker or dressing rooms, restrooms or any other place where there would be a reasonable expectation of privacy;
3. To record conversations of fellow employees without their knowledge during routine, non-law enforcement related activities;
4. Non-work related personal activity shall not be recorded;
5. Individuals who are lawfully engaged in a protest or other First Amendment-protected right of speech or demonstration, unless there is at least reasonable suspicion of criminal activity, or to serve any other legitimate law enforcement purposes.

### **Denver Police Department**

(5) Required Activation of the BWC:

There are many situations where the activation of the BWC is appropriate and/or required and this policy is not intended to describe every possible circumstance. It is understood that not all situations will clearly start out as necessitating documentation by the BWC nor will all recorded events have a clear ending for when the BWC is no longer required. Officers are expected to follow departmental policy and procedure, utilizing ethical and legal discretion when activating and deactivating the BWC.

The Denver Police Department recognizes there are certain circumstances where officers in a proactive (non-dispatched) capacity may become involved in a situation requiring immediate action to prevent injury, make an arrest and/or prevent the destruction of evidence or escape. When these situations occur, officers should activate the BWC if doing so does not place them or others in danger. If the immediate activation of the BWC is not feasible due to an immediate risk to the safety of the officer or others, the officer will activate the BWC at the first available opportunity after the immediate threat has been addressed. Supervisors will closely review documentation of such incidents to ensure exigent circumstances did in fact exist.

- a. All officers will place the BWC into event mode prior to any officer initiated field contacts involving actual or potential violations of the law including:
  1. Traffic stops
  2. Pedestrian and/or vehicle contacts
- b. All officers will place the BWC into event mode when responding to the following calls for service and/or in the following situations:
  1. While en-route to any in-progress, just occurred and/or any other call for service where the fleeing suspect and/or vehicles may be captured leaving the crime scene

2. All calls requiring the presence of a Crisis Intervention Team (CIT) officer
  3. When responding to calls reportedly involving weapons or violence
  4. All calls involving suspected suicidal and/or suicidal individuals
  5. When engaging in a foot chase, provided the activation does not interfere with officer safety or the safety of others
  6. When emergency or pursuit emergency driving response is required (See OMS 112.08)
  7. While executing warrantless searches of individuals, vehicles, buildings and other places
    - A. The BWC will be utilized to record the request and consent when practical. This recording is intended to enhance a documented consent however, it is not intended to replace the use of any form used to gain and/or record the consent to search without a warrant.
  8. While advising an individual of their Miranda rights
    - A. The existence of a recorded advisement will be documented in the officer's statement.
  9. All arrests and/or citations, provided the activation does not interfere with officer safety or the safety of others
  10. While taking statements from subjects, victims and witnesses (See OMS 302.11)
    - A. Consideration may be given to a victim who requests not to be recorded or when circumstances warrant.
  11. If not already, the BWC will be activated to record any encounter that becomes adversarial or in any situation that the officer believes use of the BWC would be appropriate or would provide valuable documentation.
- c. Once placed in event mode, the BWC will remain on and not be turned off until the initial incident that caused the activation has stabilized or concluded; upon request of the victim; or as ordered by a supervisor. For the purposes of this section, an incident shall be considered stabilized when the initial police response or exchange of communication related to police enforcement activities has transitioned to a controlled and orderly investigation. Examples of stabilized incidents can be found in the BWC Training Manual.
1. Officers will document the reason that the BWC has been deactivated in the form of a recorded announcement on the BWC prior to deactivation. Examples of acceptable announcements can be found in the BWC Training Manual.
  2. If an officer is on a perimeter or assigned to a static post where he/she is not in contact with citizens or actively part of the investigation, then he/she may deactivate the BWC to conserve battery life. The BWC will be reactivated if either of those fails to apply.
  3. Once the situation has stabilized, if it is necessary to discuss issues or concerns with an officer, supervisor, doctor, nurse or paramedic in private, the BWC may be switched to buffering mode. This procedure will

be followed for all circumstances that warrant the BWC to be switched from event mode to buffering mode.

A. The intention to stop recording will be noted verbally on the recording prior to changing modes.

B. As soon as the private conversation is completed, the BWC will be returned to event mode so long as the situation still falls under the definition of required use. Officers are reminded that when the BWC is placed back to event mode, the prior 30 seconds of video (no audio) will be saved.

(6) Restricted Use of the BWC and/or stored media

- a. Under no circumstance, except those instances involving criminal investigations of department personnel, will a conversation between department employees be recorded without all parties to the conversation being aware of the fact that it is being recorded. Conversations that are not required to be captured as evidence in the furtherance of completing a police report and/or subsequent police investigation will not be recorded.
- b. The BWC will not be activated in places where a reasonable expectation of privacy exists, such as locker rooms or restrooms unless the activation is for the purpose of official law enforcement activity such as a call for service.
- c. The BWC will not be used to record confidential informants or undercover officers.
- d. Prior to conducting a strip search, the officer will record a 360-degree video of the location where the strip search will be conducted. During the actual strip search, the BWC will be utilized to only capture audio of the event by positioning the camera away from the individual to be searched. (See OMS 104.01 (8) for authorization).
- e. Officers will only use the BWC in patient care areas of a healthcare facility when the recording is for official purposes and caution should be used to record only the parties involved in the event being investigated.
- f. Officers are not authorized to playback BWC recorded media for citizen viewing.

## **VERBAL NOTIFICATION TO PERSONS BEING VIDEO RECORDED**

### **Los Angeles Sheriff's Department**

Informing Persons: Personnel are not obligated to inform members of the public that a recording has been initiated. If a member of the public requests not to be recorded, the Department member shall consider the necessity to record the event. Any decision to stop a recording upon request from a member of the public should be made after careful consideration of the video's potential evidentiary value, liability protection, and protection of the Department, as well as the requesting person's privacy and good of the Department.

**Los Angeles Police Department**

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.

**SEPTA (Philadelphia): Transit Police Department**

620.3.2: Equipment Operation

- (a) Officers shall inform, as soon as reasonably practicable, the individuals present that s/he is recording their conversation

**Seattle Police Department**

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.

**Delaware County (Ohio) Sheriff's Office**

**C. Use**

- 4. In public or private – While it is generally implied that words and/or actions performed in the presence of a police officer have no expectation of privacy, when feasible and safe under the circumstances to do so, officers shall verbally announce when in Event Mode. "Camera recording" should suffice (the announcement shall be noted in incident reports).



**Delaware County (Ohio) Sheriff's Office**

C.4: In public or private – While it is generally implied that words and/or actions performed in the presence of a police officer have no expectation of privacy, when feasible and safe under the circumstances to do so, officers shall verbally announce when in Event Mode. "Camera recording" should suffice (the announcement shall be noted in incident reports).

**Denver Police Department**

No discussion of verbal notification

**VIDEO REVIEW FOLLOWING A CRITICAL INCIDENT**

**Los Angeles County Sheriff's Department**

Pilot Program Policy: Department members shall adhere to MPP 3-10/115.00 VIDEO REVIEW AND ADMONISHMENT when any BWCS recording is believed to have captured a use of force. The involved supervisor shall restrict access to any recording once the video file has been downloaded.

MPP 3-10/115.00 VIDEO REVIEW AND ADMONISHMENT states, in part, that "Department members shall prepare all necessary written reports related to a force incident prior to reviewing a video recording of the incident. Upon completion of the written report, involved Department members shall be provided the opportunity to review the recorded incident for the purposes of refreshing their memory after the Field Sergeant or immediate supervisor has reviewed the first reports and any separate supplemental reports of the force incident, and concluded that there is no such evidence of apparent misconduct, or a failure to properly notify."

**Los Angeles Police Department**

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.

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.

### **SEPTA (Philadelphia): Transit Police Department**

When a response to resistance occurs (R2R), the officer will prepare the R2R report without reviewing the BWC video. This is in compliance with our normal procedures that also exist for station and vehicle video.

### **Seattle Police Department**

#### **16.091-POL-2 Reviewing Body-Worn Video**

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

#### **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

### **Delaware County (Ohio) Sheriff's Office**

For report writing purposes officers may review their own video recording. Officers shall not review another officer's video recording for report writing purposes unless authorized by a supervisor.

### **Denver Police Department**

4.(d). Officers are authorized to review their own BWC recording when preparing official written documentation of a specific event. Officers may only review recordings from their assigned BWC. The viewing will be utilized as a tool when completing written reports to ensure the accuracy and consistency of events. The following are exceptions to the above:

1. If the officer is involved in (or witness to) a use of force incident that per policy requires the response of an Internal Affairs Division investigator (see OMS 503.01), the officer may be authorized to view their BWC recording after the Internal Affairs Division investigator has been consulted. The viewing of any BWC recording will only be permitted after receiving authorization from the Internal Affairs Division investigator acting under the direction of the commander of the Internal Affairs Division.
2. If the officer is involved in (or witness to) a critical incident such as a police shooting or an in-custody injury resulting in death, the officer may be authorized to view their BWC recording after the Major Crimes Division investigator and the commander of the Major Crimes Division have consulted. The viewing of any BWC recording will only be permitted after receiving authorization from the commander of the Major Crimes Division and/or his/her designee.

### **Las Vegas Metropolitan Police Department**

SPECIAL CIRCUMSTANCE RECORDING

#### Victims and Witnesses

Officers will not permit victims or witnesses to review any BWC recording before making a first account statement.

### Officer-Involved Shootings

Following an officer-involved shooting, or other use of deadly force, involved personnel or any supervisor shall not view the BWC recording on any device or computer prior to FIT/CIRT/IAB viewing the footage.

- Involved officers shall be allowed to view their own BWC recording prior to a walkthrough and statement;
- Witness officers shall be allowed to view their own BWC recording prior to a walkthrough and statement.

# **SHERIFF'S RESPONSE**



# OFFICE OF THE SHERIFF

COUNTY OF LOS ANGELES

STATE OF CALIFORNIA  
**DEPARTMENT OF JUSTICE**

JIM McDONNELL, SHERIFF



September 21, 2015

Max G. Huntsman, Inspector General  
Office of the Inspector General  
312 South Hill Street, Third Floor  
Los Angeles, California 90013

Dear Mr. Huntsman:

I want to thank you for the comprehensive review and analysis set forth in your report entitled, "Body-Worn Cameras: Policy Recommendations and Review of LASD's Pilot Program." The analysis, review and research conducted by you and your staff resulted in thoughtful and comprehensive recommendations. We are committed to continuing to collaborate with your office, the District Attorney's Office, the ACLU, and others involved in developing body-worn camera systems and policies aimed at promoting best practices in regard to the implementing a body-worn camera system at LASD.

The recommendations set forth in your report are consistent with LASD's approach to the development of suitable policies related to the use of body-worn cameras. In developing these policies and protocols, the LASD must bear in mind that the cost of purchasing the body-worn cameras for our personnel is only a fraction of the cost associated with implementing a program. Additional costs and funding sources associated with implementing the use of body-worn cameras will need to be an integral part of the discussion and planning prior to adopting a policy requiring the use of body-worn cameras and as we build out policies associated with any Department-wide practices. These costs will include the cost of video storage and training, costs associated with public records requests, costs of hiring personnel to manage the program, and possible litigation costs.

I look forward to our continued dialogue to ensure the development of a comprehensive and balanced body-worn camera policy and to secure the necessary funding for the systems and personnel needed to launch a successful body-worn camera program at LASD.

If you have any questions, please contact my office at (213) 229-3000.

Sincerely,

JIM McDONNELL  
SHERIFF

211 WEST TEMPLE STREET, LOS ANGELES, CALIFORNIA 90012

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— Since 1850 —