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SLC REGIONAL RESOURCE

BODY-WORN CAMERAS: LAWS AND POLICIES IN THE SOUTH

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Introduction

In recent years, several high-profile, law enforcement officer-involved shootings have thrust body-worn cameras (BWCs)*, or the lack thereof, into the spotlight.† Proponents of BWCs maintain that they increase law enforcement transparency and improve relations between law enforcement and citizens. In contrast, BWC opponents argue that the cameras give an incomplete picture of incidents and add another cost to operating budgets which, in many law enforcement agencies (LEAs),‡ already are stretched thin.

While much coverage has focused on BWCs as a method to promote law enforcement accountability, increasing numbers of LEAs see them as a tool to resolve disagreements between officers and citizens, gather evidence and train law enforcement personnel.

Due to the recent emergence of BWCs and their rapidly developing technology, LEAs and governments still are

* *Body-worn camera* (BWC) is the term for an electronic device that attaches to a law enforcement officer’s clothing or body to record digital video and audio from the officer’s point of view.

† Information in this *SLC Regional Resource* is current as of January 1, 2017.

‡ *Law enforcement agencies* (LEAs) include city police departments, county sheriff’s offices, state police agencies and federal law enforcement agencies and bureaus.

developing policies and statutes to regulate their use. This *SLC Regional Resource* examines the history of and predecessors to BWCs; policy issues associated with them, including considerations for implementation such as data storage, staffing and privacy; and existing laws and policies that regulate their use in the 15 SLC member states.

About BWCs

Body-worn cameras are manufactured by various companies and differ in price from \$120 to nearly \$2,000 per unit.¹ The video and audio recordings generated by BWCs may be used by LEAs to demonstrate transparency to the communities they serve, provide officer training, document statements and other evidence, and deter illegal or inappropriate behaviors by law enforcement officers and members of the public.^{2,3} Law enforcement officers and industry experts use the terms body-worn camera, body camera and body-worn video synonymously.

Newer BWCs weigh less than one pound, resemble a small cellular phone and are commonly attached to an officer’s uniform, glasses, hat or helmet.

Most BWCs record only when activated. The circumstances requiring an officer to record and the length of time that recordings are stored vary among LEAs. Different models provide optional features such as live streaming for

supervisors and dispatch and varying fields of view, internal storage, and download options (wired or wireless).

Predecessors to BWCs

The first intersection of mobile video and law enforcement occurred in the 1960s, when the Connecticut State Police installed a large video camera into a patrol car to test its effectiveness. The camera was placed on a tripod that took up the passenger side of the front seat with the recording equipment taking up the entire rear seat. The cost and size of the equipment made it impractical for widespread use.⁴

The next development occurred in the 1980s with the invention of the VHS camera*. These cameras were used to document evidence at a crime scene and mounted to the dashboard or window visor of a law enforcement vehicle to record interactions with the public, traffic stops, field sobriety tests and high-speed chases.⁵ Some in-car cameras recorded audio from a microphone that an officer wore to capture dialogue between officers and the public.

Mothers Against Drunk Driving (MADD) and automobile insurance companies were early supporters of in-car cameras[†] and raised money for their use to highlight the dangers of drunk driving. Recordings of field sobriety tests helped to drastically increase the conviction rate of drunk drivers.⁶

In 2000, the U.S. Department of Justice, Office of Community Oriented Policing Services (COPS) established the In-Car Camera Initiative Program to provide grant funding for LEAs to purchase in-car cameras in order to promote officer safety and address allegations of racial bias in policing. During its four-year existence, the program awarded 91 grants totaling more than \$21 million to 50 state agencies for the purchase of more than 5,000 cameras. A 2000 National Institute of Justice study found that 3,400 state police and highway patrol vehicles (11 percent of the national total) had in-car cameras. By

* *Video Home System (VHS) cameras* record to a cassette tape, do not require film development and are smaller and less expensive than film cameras.

[†] Also known as dashboard cameras, dash cameras or dash-mounted cameras.

“In recent years, we’ve faced serious budget cuts and have had to reduce staffing levels. It can be hard to justify spending money on [body-worn] cameras when officers are fighting for their jobs.”

~ Chief of Police Roberto Villaseñor of the Tucson Police Department, Arizona⁷

2003, the final year of the program, 17,500 of state patrol vehicles (72 percent of the national total) were equipped with the cameras.⁸

In 2005, the International Association of Chiefs of Police (IACP)—a nonprofit organization designed to improve police services and foster cooperation among police administrators throughout the world—collaborated with COPS to conduct a study on the use and effectiveness of in-car cameras. The authors of the study discovered many benefits associated with the use of in-car cameras, including improved:

- » Officer safety;
- » Agency accountability;
- » Incident review;
- » Training materials provided by the recordings;
- » Community and media relationships;
- » Case resolution; and
- » Homeland security.⁹

The study’s authors also developed a model policy for the use of in-car cameras. Recommendations included:

- » Training for officers who will use in-car cameras;
- » Inspection of in-car cameras by the assigned officer at the beginning of each shift;
- » Recording of all traffic stops, priority responses, vehicle pursuits, prisoner transport, crimes in progress, and any situation that the officer deems appropriate to record;
- » Verification by officers that audio and video are being recorded;
- » Prohibiting the erasing or tampering of cameras or recordings;
- » Deletion of recordings only in accordance with local and state records retention schedules[‡] or pursuant to a court order;

[‡] A records retention schedule is a document specifying how long a document or file must legally be stored before deletion.

- » Submission of recordings of serious crimes to the mobile video recorder technician or property custodian by the recording officer;
- » Classification of recordings as evidentiary or non-evidentiary by the recording office;
- » Classification of all recordings as the property of the department/agency;
- » Periodic review of the chain of custody log by supervisors to verify that media is returned in a timely manner; and
- » Periodic review of recorded media by supervisors to assess officer performance, verification of properly functioning equipment and identification of recordings that may be appropriate for training.¹⁰

There are some costs and concerns associated with the use of in-car cameras, including:

- » Camera cost, which can vary between \$1,000 and \$10,000 for newer digital cameras;¹¹
- » Stationary vantage point limited to what can be seen through the windshield of a vehicle;
- » Low quality recordings generated by less expensive units;
- » Limited audio range of microphones; and
- » Cost and space needed to store recordings, whether digital video, which requires a digital data server, or analog video, which requires physical space to store VHS cassettes or DVDs.^{12,13}

While the stationary vantage point of in-car cameras can be seen as a limitation, it also means that in-car cameras do not encounter some of the privacy concerns associated with the use of BWCs, such as the legality of recording in a private location.

Since their introduction, in-car cameras have evolved to record high-definition digital video with some systems allowing supervisors to view live footage to assess officer performance and determine if an officer needs back-up, an improvement from the VHS cameras of the 1980s.¹⁴ Some newer digital in-car cameras offer features such as a “pre-record” function, which saves the previous two to four minutes of video when an officer activates a vehicle’s siren or blue light, or attaching GPS data to the video file, which can add evidence that may be useful at trial.¹⁵

In 2016, the Lincoln Parish Sheriff's Office, Louisiana, used 44 digital high-definition in-car cameras in 22 of their law enforcement vehicles.¹⁶ The office uses a 46-terabyte* server to store the recorded data, according to *StateTech*, a state government technology magazine. Some of the video files are too large to save to a DVD for prosecutors, requiring the office to save the files onto a flash drive, a more expensive option.¹⁷

Several manufacturers of BWCs are marketing their devices not as a replacement of in-car cameras, but as an additional tool for agencies. At least one BWC manufacturer works with in-car camera manufacturers to ensure that the body-worn cameras will work with existing in-car camera software. A few agencies have reported that in-car cameras and BWCs complement each other, giving a more complete picture of an incident. However, this option may be cost prohibitive for many LEAs.¹⁸

The Origins of BWCs

The first widespread use of BWCs was in Britain in 2007. A pilot program was conducted in Plymouth, England, in which 50 video cameras were mounted on headbands worn by officers and linked to a hard drive. Due to the weight of the cameras, officers who participated in the program reported nausea and other side effects after prolonged use.¹⁹ Later that year, the British government purchased more than 2,000 newer, lightweight cameras for the nation’s 42 police departments that did not cause adverse side effects.²⁰ Since this program, BWC technology has advanced greatly to reduce their size to that of a smartphone, making them small enough to clip onto an officer’s uniform, sunglasses or body.

Law enforcement agencies in the United States first began using BWCs in the late 2000s. The Chesapeake Police Department, Virginia, is considered the first agency in the United States to use BWCs. In 2008, the department purchased 90 BWCs at a total cost of \$58,500 using grant funding from the U.S. Department of Justice’s Bureau of Justice Assistance. Cameras were selected

* One terabyte is equal to 1,024 gigabytes. Approximately 1,500 CD-ROMs or 200 DVDs would be required to store one terabyte of data. One gigabyte is equal to 1,024 megabytes. One gigabyte of data would be required to store seven minutes of HD-TV video. Source: <http://www.makeuseof.com/tag/memory-sizes-gigabytes-terabytes-petabytes/>.

for their ability to record evidence and improve officer training and safety.²¹ The Chesapeake Police Department has become a leader in the field of BWCs, with agencies across the nation seeking the department's advice to develop and implement their own BWC programs.²²

The Rialto Police Department, California, often is credited as the first LEA in the nation to systematically study the use of BWCs. In 2012, the department conducted an experiment deploying cameras to half of its 54 uniformed patrol officers to gauge their effectiveness. In the first year of use, the department experienced an 88 percent decrease in the number of complaints against officers and a 60 percent decrease in officer use-of-force incidents. Of note, the decrease also included officers who did not wear BWCs;²³ the design of the experiment, which included informing all of the participating officers that they would be observed, may have been a contributing factor to the overall decrease.

Similarly, Arizona State University conducted a study in 2012 with the Mesa Police Department. In the one-year pilot program, 50 officers wore BWCs, while 50 officers were assigned to a control group who did not use them. Researchers found that officers with BWCs received 40 percent fewer overall complaints and 75 percent fewer use-of-force complaints during the pilot program than they did during the previous year.²⁴

Studies focusing on other LEAs have had differing outcomes, with some agencies experiencing results comparable to Rialto and Mesa, some departments experiencing only temporary decreases in use-of-force incidents and complaints, and other departments experiencing no changes while using BWCs. A 2016 study by the University of Cambridge and RAND Europe, a nonpartisan research organization, that examined eight LEAs in the United States and Britain, found that officers who wore BWCs were 15 percent more likely to report being assaulted than officers who did not wear them. The study's authors offered a potential explanation for the increase: officers who wear BWCs are more likely to report being assaulted, as the cameras provide evidence of the assault. The study also found no relationship between the use of BWCs and use-of-force incidents.²⁵

"I think body cameras are here to stay. I don't think there's any turning back now. [...] The public demands it and there [are] great uses for it. The negative is that it's just so costly."

~ Lieutenant Laura Marquadt of the Duluth Police Department, Minnesota²⁶

Some observers assert that the use of BWCs represents a historic change which will permanently alter the policing profession: "I cannot think of any [other] single invention in the history of policing that dramatically changed the way that officers behave, the way that suspects behave and the way they interact with each other," Dr. Barak Ariel of the Institute of Criminology, University of Cambridge, said regarding BWCs in 2016.²⁷

Expansion of BWCs in the United States

Calls for the widespread use of BWCs in the United States increased after the 2014 fatal shooting of Michael Brown by Officer Darren Wilson of the Ferguson Police Department, Missouri. Eyewitnesses to the shooting gave multiple and varying descriptions of the incident that ran counter to the report filed by Officer Wilson, who was not wearing a BWC at the time of the shooting.²⁸ After months of heated coverage and growing public interest, a grand jury made a decision not to indict the officer, leading to weeks of riots and unrest in Ferguson and greater media coverage from national and international news organizations. After his death, Mr. Brown's family used the increased media attention to call for every police officer in the nation to wear a BWC.²⁹ This incident was one of numerous high-profile officer-involved shootings in recent years that led to increased public support for the use of BWCs.

A 2016 survey conducted by Rasmussen Reports, a nonpartisan polling organization headquartered in New Jersey, found that 70 percent of respondents believed law enforcement officers should be required to wear BWCs while on duty,³⁰ compared to 52 percent in 2013.³¹ Similarly, a 2015 survey conducted by *The Economist* and YouGov, an internet-based market research firm, found that 88 percent of respondents supported a proposal for law enforcement personnel to wear BWCs.³²

Some experts predict that BWCs soon will become universal. “Within the next five years or so, body-worn cameras will be as ubiquitous in the world of policing as handcuffs, the police radio, [and] the gun,” Mr. Jim Bueermann, president of the Police Foundation in Washington, D.C., and a former chief of police of the Redlands Police Department, California, told *The Washington Post* in 2014.³³

In 2014, the federal government announced that the U.S. Department of Justice would be offering up to \$75 million in grant funding over the course of three years through the Body-Worn Camera Policy and Implementation Program to help state, local and tribal LEAs purchase BWCs for their officers and deputies. The program’s goal is to help agencies across the nation purchase 50,000 BWCs.³⁴ To qualify for grant funding, agencies must have a BWC use and implementation policy and devote a 1:1 match of the grant funds.³⁵

2015 U.S. Department of Justice BWC Policy and Implementation Program Grant Funding		
State	Locality	Federal Grant
Alabama	City of Andalusia	\$87,224
Florida	Apopka Police Department	\$43,000
	City of Orlando	\$497,480
	City of Pensacola	\$64,500
	Miami-Dade County	\$1,000,000
Georgia	Newton County Sheriff’s Office	\$89,199
	St. Mary’s Police Department	\$69,000
	Wilkinson County	\$9,523
Louisiana	New Orleans Police Department	\$237,000
North Carolina	City of Fayetteville	\$530,000
Oklahoma	City of Tulsa	\$599,200
South Carolina	City of Charleston	\$25,264
	City of Greenville	\$93,750
	City of Spartanburg	\$184,500
Texas	City of Corpus Christi	\$125,000
	City of New Braunfels	\$31,745
	Laredo Independent School District	\$46,499
	Webb County	\$18,959
Virginia	City of Fairfax	\$28,878
	City of Lynchburg	\$205,486
	City of Waynesboro	\$36,445
	Dinwiddie County	\$16,200
	Newport News Sheriff’s Office	\$209,944
West Virginia	City of Ranson	\$45,000
Total		\$4,293,796

Source: “Body-Worn Camera Program Fact Sheet.” Bureau of Justice Assistance. <https://www.bja.gov/bwc/pdfs/bwcpip-award-fact-sheet.pdf> (accessed November 10, 2016).

The first grant funds were awarded in 2015. To date, the program has administered more than \$41 million in grant funding to 106 municipalities, counties and agencies for the purchase of 38,120 BWCs.³⁶ Tables 1 and 2 list the 2015 and 2016 grant funding awarded to LEAs in SLC member states.

Prevalence of BWCs in the United States

Despite the calls for the increased use of BWCs, accurately determining the number of LEAs using these devices in the United States is difficult. A 2014 study conducted by the Police Executive Research Forum (PERF), a nonprofit police research and policy organization based in Washington, D.C., found that 25 percent of the 254 LEAs surveyed indicated that their agency used BWCs.³⁷ In a 2015 survey of LEAs conducted by the Major Cities Chiefs Association (MCCA) and the Major County Sheriffs’ Association (MCSA), 18 percent of the survey’s 70 respondents reported having fully operational BWC programs.³⁸ Additionally, two of the largest BWC manufacturers, Taser and VieVu, reported in *Computer World* in 2015 that they have sold devices to 41 percent of U.S. police departments.³⁹

Differing estimates of usage may result from how this data was collected. Survey results depend upon how representative the sample is and the survey’s response rate. For the PERF survey, 500 LEAs were contacted with 254 agencies responding. For the MCCA/MCSA survey, of the 143 LEAs contacted, 70 responses

Table 2 2016 U.S. Department of Justice BWC Policy and Implementation Program grant funding		
State	Locality	Federal Grant
Alabama	City of Birmingham	\$300,000
	City of Dothan	\$202,500
	City of Florence	\$69,916
	University of North Alabama	\$5,707
Arkansas	Arkansas Tech University	\$17,656
	City of Fayetteville	\$186,496
	University of Arkansas at Fort Smith	\$12,000
Florida	Broward County	\$999,564
	City of Fort Lauderdale	\$600,000
	City of Miami	\$960,000
	City of Riviera Beach	\$130,885
	City of Sunrise	\$250,000
	Orange County	\$225,000
	Santa Fe College	\$28,490
Georgia	City of Savannah	\$94,532
	City of Woodstock	\$60,000
	Fulton County	\$108,375
Kentucky	City of Fort Thomas	\$5,893
	City of Scottsville	\$15,559
Mississippi	Pearl River Community College	\$13,471

Table 2 2016 U.S. Department of Justice BWC Policy and Implementation Program grant funding (continued)		
State	Locality	Federal Grant
Missouri	City of Hazelwood	\$56,321
North Carolina	City of Greensboro	\$300,000
	City of Raleigh	\$600,000
Oklahoma	City of Oklahoma City	\$270,000
	Rogers County	\$46,075
South Carolina	Berkeley County	\$150,000
	City of Aiken	\$47,125
	City of Rock Hill	\$89,339
	Hampton County	\$66,000
	State Law Enforcement Division	\$450,605
Tennessee	City of Chattanooga	\$299,992
	City of Morristown	\$42,500
Texas	City of Austin	\$750,000
	City of Houston	\$358,886
	United Independent School District	\$47,061
Virginia	Bedford County	\$10,335
	City of Roanoke	\$90,000
	City of Winchester	\$104,828
	Nottoway County	\$7,340
Total		\$8,072,451

Source: "Body-Worn Camera Program." Bureau of Justice Assistance. <https://www.bja.gov/bwc/pdfs/BWCPIP-Factsheet-2016-Update-Final.pdf> (accessed November 10, 2016).

were received. The wide range of usage estimates, from 18 percent to 41 percent, suggests that further research is needed to determine the actual prevalence of BWCs in the United States.

Anecdotal reports have emerged across the nation of officers and deputies purchasing BWCs with their own funding, in places such as Fayette County, West Virginia; Sedalia, Missouri; and Austin, Texas.⁴⁰ According to *The Daily Beast*, 25 of the 1,800 officers at the Austin Police

Department, Texas, purchased their own BWCs in 2015. The department has established a policy that if video from personal cameras captures pertinent evidence, officers must create a DVD of the video.⁴¹ In 2016, the department established a policy for the use of BWCs and currently is soliciting bids from BWC vendors. The policy stipulated that once the department issues BWCs to all officers, the use of personal cameras no longer will be permitted and all BWC-generated recordings must be retained by the department for a minimum of 90 days.⁴²

The authors of the 2014 PERF study recommend that LEAs prohibit the use of privately owned BWCs by officers. The authors note that “because the agency would not own the recorded data, there would be little or no protection against the officer tampering with the videos or releasing them to the public or online. In addition, chain-of-custody issues likely would prevent the video evidence from being admitted in court.”⁴³

Considerations for Implementation

In addition to the initial cost of BWCs, other factors such as data storage, staffing and ensuring the privacy of those recorded are critical considerations when deciding to implement a BWC program. Additional factors to consider are the best methods of crafting legislation and policies that meet the needs of LEAs and citizens, balancing privacy concerns with governmental transparency and open records. In states with statewide BWC legislation, there is more uniformity among LEAs regarding the use of the devices and data storage. In states with no statewide BWC legislation, agencies have greater discretion to create policies that reflect local needs.

Body-Worn Camera Features

The cost of BWCs, which varies appreciably in price from \$120 to nearly \$2,000 per unit—depending upon the manufacturer—often determines the level of technological sophistication of the unit and can be a deciding factor in the criteria established by the LEAs in the selection of a model.

The quality of recordings can become a critical factor should a case evolve. Clarity and resolution of recordings are a function of the number of pixels that the device can record. Video recorded at a resolution of 640 pixels by 480 pixels will generate 550 megabytes to 1.1 gigabytes of data per hour of footage. While video recorded at 1920 pixels by 1080 pixels will generate 3.65 to 7.66 gigabytes of data per hour of footage.⁴⁴ Higher resolution cameras will provide a clearer picture, but will cost more than lower resolution cameras for the initial purchase and data storage.

Continuous or intermittent recording, coupled with recording speed, often are features for consideration, with experts recommending a frame rate of at least 25 frames per second to minimize motion blur.⁴⁵

The level and type of encryption capability is important to minimize or prevent any chance of data tampering. Experts recommend cameras that use the Advanced Encryption Standard, an encryption standard used by the federal government to protect classified information,⁴⁶ to keep data secure.⁴⁷

A variety of other options, such as wireless data transmission to an internal video storage server or external website,^{*} wireless record function activation by staff at central dispatch, and integration with the in-car vehicle system[†] are additional considerations in the selection process.⁴⁸

In 2015, the Centerville Police Department, Georgia, was one of two law enforcement agencies in the nation that participated in a pilot program with CopTrax, a law enforcement technology provider, to test the effectiveness of smart glasses[‡] as BWCs. The department purchased 12 pairs of the smart eyeglasses, enough for the entire force, at the cost of \$750 per pair, approximately half of CopTrax’s standard price of \$1,500 per pair. Smart glasses record a more accurate recreation of the officer’s perspective, as the glasses move in unison with an officer’s head, compared with traditional BWCs, which often are attached to a stationary piece of an officer’s uniform. The glasses also can be activated by voice command, touch or automatically by activation of a law enforcement vehicle’s light bar; and have a battery life of 45 minutes, extendable up to 24 hours with an external battery pack.^{49,50}

At a retail cost of \$1,500 per unit, purchasing these smart glasses instead of traditional BWCs may prove more affordable for departments similar in size to the Centerville Police Department, than for larger departments, such as the Houston Police Department, Texas, with 5,318 officers or the Memphis Police Department, Tennessee, with 2,416 officers.⁵¹

* A number of newer BWCs wirelessly transmit data to a video storage server or website, while others must be placed in a docking station to transmit data.

† Integration with the in-car vehicle system triggers the record function when a law enforcement vehicle’s blue light bar is engaged, a car door is opened or a firearm is removed from its rack.

‡ *Smart glasses* are eyeglasses with computer functionality and the ability to record video, as the lenses of the glasses function as cameras.

Data Storage

According to some estimates, storage of BWC-generated data may be the single largest expense in implementing a BWC program. Data storage costs depend upon how many videos are recorded, how long recordings are retained, how the videos are stored (on in-house servers or online) and the level of encryption used to keep the data secure, all of which vary from agency to agency.⁵²

For the Birmingham Police Department, Alabama, the initial cost of purchasing 300 BWCs was \$180,000. The department also underwrote a five-year, \$889,000 service contract with Taser International for a hardware replacement warranty, 5 terabytes of cloud data storage and file management services. According to *Computer World*, the department used 1.5 terabytes of their 5-terabyte allotment in the first two months of the program.⁵³

In 2013, the New Orleans Police Department, Louisiana, was the first in the nation to employ special video technology to help law enforcement officers and prosecutors search more quickly through BWC-generated video.⁵⁴ The system, Storage Metadata Automated Redaction Review Technology (SMARRT), uses special algorithms to categorize data and interpret its contents, making video and audio searchable. The SMARRT system can select faces, audio and text, and add time stamps to information to create a searchable database.⁵⁵

Given the cost of data storage, several police departments abandoned their BWC programs when some state legislatures passed new laws requiring longer records retention schedules for BWC-generated data. Indiana's House Bill 1019, enacted in 2016, required LEAs to store all BWC-generated videos for 190 days, but did not require agencies to use BWCs.⁵⁶ Because of this, the Clarksville Police Department, Indiana, abandoned their BWC program in 2016. Prior to passage of the law, the department stored videos for 30 days, costing between \$5,000 and \$10,000 annually. Under the new law, it was estimated that costs would soar to between \$50,000 and \$100,000 annually, making the costs prohibitive for the department.⁵⁷

In the aforementioned Major Cities Chiefs Association and Major County Sheriffs' Association survey, 70 percent of respondents indicated that their agency's current infrastructure was inadequate to address the requirements of a BWC program. In addition, nearly 43 percent responded that they did not know the average daily quantity of data generated by each officer. The authors of the report note that, "In today's environment, [LEAs] are moving forward with implementing [BWC] programs in advance of having all the technical and policy information in place." Consequently, the report's authors recommended the development of a detailed plan, specifying the policies and procedures governing the use of BWCs and the costs of cameras and data storage, before implementation of a BWC program.⁵⁸

The Police Executive Research Forum's 2014 report offers recommendations regarding data storage policies for BWCs, including:

- » Consulting with prosecutors and legal advisors to ensure that storage policies are compliant with all relevant record retention laws;
- » Prohibiting personnel from tampering with, editing or copying data (except for redacting video as required by law);
- » Providing safeguards against altering the data prior to downloading;
- » Creating an auditing system to record who accesses BWC-generated data and when;
- » Stating who will be approved to access data and for what purpose;
- » Ensuring that there is a reliable back-up system for redundancy;
- » Specifying when videos will be downloaded from the camera to the storage system and who will download them; and
- » Considering third-party vendors cautiously.⁵⁹

Maintaining a BWC Program

The costs associated with a BWC program go well beyond the initial cost of the equipment. Maintaining any BWC program requires increasingly greater resources. Many agencies hire at least one full-time officer to administer its BWC program. In some agencies,

officers are requested to label their own videos as evidentiary or non-evidentiary, which increases the amount of administrative work.* Evidentiary videos are categorized based on the type of incident recorded in the video.⁶⁰ In states that allow the release of BWC-generated videos to the public, one or more dedicated officers must be employed to respond to public records requests and redact sensitive footage, such as nudity, children's faces and private information. Some states have addressed this issue by allowing BWC-generated videos to be released only by court order, which minimizes time spent redacting videos.

The number of requests that a department receives varies depending on state and local public information laws. Most local and state laws allow LEAs to decline a public records request if the video is part of a current investigation.⁶¹ Several police departments have reported members of the public requesting copies of all BWC-generated videos.⁶² Some agencies now require those requests to include the names of individuals featured in a recording in their public records request.

Some manufacturers of BWCs also have developed new technologies that automatically blur faces and easily recognizable body marks to protect the privacy and identity of persons wishing to remain anonymous, such as victims, innocent bystanders, minors and undercover law enforcement personnel. These upgrades have the potential to minimize staff time spent on video redaction, but carry an extra cost.⁶³

Law enforcement personnel who use BWCs must be trained in their use, including appropriate times for recording their work, daily use, maintenance and downloading of data from the camera to a storage server, adding to the cost of implementing a BWC program.⁶⁴

Working Under a BWC Program

For LEAs represented by a union, some union officials have argued that the use of BWCs creates a change in working conditions that must be renegotiated during contract deliberations. Potentially, this development

*This may vary depending on the agency's software system and state and local laws.

could create tensions between police unions and public officials. Some experts have recommended including law enforcement personnel during the creation of a BWC policy to address their concerns and incorporate their feedback into the policy.⁶⁵

Some law enforcement officers have expressed concerns that BWCs will compromise their ability to serve the public, as officers must know which incidents require them to activate their devices. To address these concerns, many LEAs require officers who interact with the public to wear a BWC whenever on duty.

Privacy Issues

Protecting the privacy of individuals recorded in BWC-generated videos is critical. Law enforcement personnel are public employees and many in the public may assert that they have a right to view BWC-generated videos. However, releasing videos may compromise ongoing investigations and reveal the identity of confidential witnesses and informants. To balance these competing interests, some agencies only will release videos that have been redacted to protect private information, such as license plates, credit card numbers, identities of confidential witnesses and informants, and domestic violence victims.⁶⁶

Some experts have noted that BWCs often record individuals who recently have experienced or currently are experiencing medical emergencies or traumatic events, and that recording such events may exacerbate the situation.⁶⁷ Others have noted that victims of domestic violence may be less inclined to call the police if they believe that they will be recorded by a BWC.⁶⁸ Policies that stipulate when and where BWC recordings are permitted, and if individuals may ask an officer to cease recording, may help to alleviate these concerns.

"To protect privacy, you have to go through every video and make sure that you're not disclosing something that you shouldn't. It takes a lot of time, and personnel, to review and redact every [video]."

~ Captain James Jones of the Houston Police Department, Texas⁶⁹

BWC Laws in SLC Member States

Due to the recent emergence of BWCs, states and agencies still are developing laws and guidelines regarding their use. Some states have created model policies, which are not legally binding and serve as a suggested template for LEAs. This section reviews statewide funding, laws and policies in the SLC member states, including those for data retention, public release of videos and any limitations on recording. When a statewide law or policy does not exist, municipal laws and policies are provided. Table 3 summarizes statewide BWC legislation and policies in 13 SLC member states. To date, Tennessee and West Virginia have not developed statewide BWC laws or policies.

Alabama

The Legislature has not yet codified statutes for the use of BWCs. However, numerous LEAs have an active BWC

program, including the Montgomery Police Department, Birmingham Police Department, Argo Police Department and the Alabama Law Enforcement Agency, which includes the Alabama State Police and Marine Police.⁷⁰

The State Records Commission, which oversees the collection of state government records,⁷¹ and the Local Government Records Commission, which issues retention schedules and other regulations for local government records,⁷² have established guidelines for the retention of recordings generated by BWCs, dashboard cameras, security cameras and microphones. Per the commissions' guidelines, recorded information that is not relevant to a case is retained for six months; recorded information that is relevant to a case is retained until the final disposition of the case.⁷³

The Argo Police Department's BWC policy, featured on the Bureau of Justice Assistance's website, provides

Table 3		SLC member states with statewide body-worn camera legislation and policies		
State	Data retention schedules	Video release guidelines	Statewide BWC funding	Require agencies to develop BWC policies
Alabama	Local Law Enforcement Agencies: Functional Analysis & Records Disposition Authority			
Arkansas	§ 13-4-403			
Florida	SB 248 (2015)	SB 248 (2015), SB 7022 (2016)	HB 5003 (2016)	HB 93 (2016)
Georgia	HB 976 (2016)	SB 94 (2015)		
Kentucky	Local Agency Records Retention Schedule		KRS 16-220 (2016)	
Louisiana		SB 398 (2016)		
Mississippi	Records Retention Schedule			
Missouri	Local Records Retention Schedule	HB 1936 (2015)		
North Carolina	Municipal Records Retention Schedule	HB 972 (2015)	HB 97 (2015)	
Oklahoma		HB 1037 (2015)		
South Carolina	§17-28-320	SB 47 (2015)	HB 3701 (2015), HB 5001 (2016)	SB 47 (2015)
Texas	SB 158 (2015)	SB 158 (2015)	SB 158 (2015)	SB 158 (2015)
Virginia	Records Retention and Disposition Schedule	Model Policy on Body Worn Cameras	Body-Worn Cameras for Law Enforcement Agencies Grant	

Sources: SLC state codes, statutes and records retention schedules.

an example of a policy in use in Alabama. Under the policy, officers must inspect their BWC at the beginning of every shift to ensure that the device is properly functioning, and make every effort to activate their BWC during traffic stops and when the officer deems appropriate. However, BWCs may not be activated in places where a reasonable expectation of privacy exists. The department's BWCs operate in a continuous recording mode: the last 30 seconds of video—without audio—always is recorded while in use, regardless of whether the record button has been pressed, and audio is recorded once the record button has been pressed.⁷⁴ This feature allows the camera to capture the beginning of an incident, which sometimes is excluded with other types of BWCs, as officers may not have the time or ability to activate their camera's record function in dangerous situations.

Arkansas

The General Assembly has not yet passed legislation regarding the use of BWCs. However, the 2015 Code of Arkansas, § 13-4-403 established criteria for the retention of audio/visual media by county sheriff's offices associated with a criminal investigation: if the media is associated with a Class Y or Class A felony, it is retained indefinitely; if associated with any other class of felony, the media is retained for 10 years; if associated with a misdemeanor, it must be retained for five years; and if associated with a civil matter or any other non-criminal matter, it must be retained for three years.⁷⁵

Florida

The Legislature has passed three laws in the last two years governing the use of BWCs, Senate Bill 248 (2015), Senate Bill 7022 (2016) and House Bill 93 (2016), and appropriated funds for the purchase of BWCs.

Senate Bill 248 (2015) created standards for the use of BWCs. Under the law, all LEAs in the state must retain BWC-generated videos for a minimum of 90 days. The law stipulated that videos recorded in private locations are confidential and exempt from public records requests, and BWC-generated videos may only be released to a person featured in the video, their representative or a resident of the location recorded. The law also required a court order for release of the video to other parties.⁷⁶

In 2016, the Legislature passed Senate Bill 7022, which exempted photographs and audio or video recordings that show the killing of a law enforcement officer from the state's public records law. Relatives of the deceased officer are permitted to view the material.⁷⁷

In its 2016-17 budget bill, House Bill 5003 (2016), the Legislature appropriated \$250,000 in funding for county sheriff's offices to purchase BWCs and \$145,413 in funding for Sumter Correctional Institution to implement a BWC pilot program. Sheriffs' offices must make an equivalent in-kind or cash match to qualify for state funds.⁷⁸

House Bill 93 (2016) required all LEAs that use BWCs to establish policies addressing the use of BWCs and storage of BWC-generated data. These policies must include general guidelines for the proper use of BWCs; any restrictions regarding who is permitted to wear BWCs; any restrictions concerning when and where BWCs may be utilized; and general guidelines about the storage, retention and release of audio and/or video recorded by BWCs.⁷⁹

Georgia

The General Assembly has passed two laws concerning the use of BWCs, House Bill 976 (2016) and Senate Bill 94 (2015). House Bill 976 (2016) created parameters for the retention of law enforcement video recordings, including body-worn and in-car cameras. The law required videos to be retained for a minimum of 180 days from the date of recording. If the recording is part of a criminal investigation, contains footage of a car accident, shows an arrest, or shows a law enforcement officer using force, the video must be retained for 30 months from the date of recording. If the recording contains evidence pertinent to litigation, the recording must be retained until the final adjudication of the litigation.⁸⁰

Senate Bill 94 (2015) contained several guidelines pertaining to BWCs. Per the law, BWC-generated recordings made in a private location are exempted from public records requests. Recordings may be released to a representative of a decedent's estate, parent or legal guardian of a minor featured in a recording, an accused in a criminal case, a party to a civil action or an attorney.

The law also allowed BWC-generated video to be considered by a judge when issuing a search warrant.⁸¹

Kentucky

Kentucky has not yet codified guidelines regarding the use of BWCs, but the state has created a retention schedule for BWC-generated data and provided funding to LEAs seeking to purchase BWCs.

The State Archives and Records Commission, which reviews and approves records retention schedules by state and local public agencies, publishes the Local Agency Records Retention Schedule which includes the schedule for retention of BWC-generated videos. According to the schedule, local LEAs must retain non-evidentiary recordings for 30 days; evidentiary recordings must be retained until all investigative or legal activity is completed.⁸²

As a method of generating funds for providing grants to LEAs, the Department of Kentucky State Police sells at auction confiscated and abandoned weapons under the Law Enforcement Protection Program (LEPP), created by Kentucky Revised Statutes 16-220 (2016). In July 2016, the LEPP grant fund was revised to add BWCs to the list of approved technology items. Law enforcement agencies applying for grant funding to purchase BWCs must create a policy for their use and include the policy in the grant application.⁸³ Currently, no agencies have been approved for grant funding to purchase BWCs.⁸⁴

Louisiana

Louisiana has passed one law regarding the use of BWCs, Senate Bill 398 (2016), and expects to have statewide recommendations in early 2017. The legislation required a court order for the release of BWC-generated videos that are deemed to violate an individual's privacy. The law also stipulated that all requests for copies of BWC-generated videos must include reasonable specificity regarding the date, time, location or persons involved in each request.⁸⁵

The Louisiana Law Enforcement Body Camera Implementation Task Force, created by the House of Representatives' Continuing Resolution 59 (2016), is expected to make

recommendations regarding potential laws and policies in early 2017. Guidelines for the proper use and storage of BWCs; any potential limitations regarding the situations in which law enforcement officers can wear BWCs; instructions for the proper storage, retention and release of BWC-generated videos; directives concerning the training necessary for the deployment of BWCs; and any legislation deemed necessary to authorize the use of BWCs in the state are likely to be part of the task force's recommendations.⁸⁶

Mississippi

To date, the Legislature has not codified guidelines for the use of BWCs, although a schedule for the retention of BWC-generated videos has been created. A bill to create procedures for the use of BWCs, Senate Bill 2490 (2016),⁸⁷ and a separate bill that would have required all law enforcement personnel on patrol to wear BWCs, House Bill 1399 (2016),⁸⁸ were considered during the 2016 legislative session, but did not pass.

Published by the Department of Archives and History, Local Government Records Office, an agency that oversees statewide programs for records managements, the state's Records Retention Schedule dictates that non-evidentiary BWC-generated videos must be retained for 30 days, and evidentiary recordings must be retained for one year after the final disposition of the case and the completion of any sentence.^{89,90}

The Columbus Police Department's BWC policy, featured on the Bureau of Justice Assistance's website, offers an illustration of a policy in use in Mississippi. The policy dictates that BWCs must be worn whenever an officer is, or may become, involved in an enforcement situation; specifies when and where officers are permitted to record with their BWCs; and establishes practices for the online storage of BWC-generated video. The policy also stipulates that only the BWC system administrator, shift supervisors, division commanders, assistant chiefs and the chief of police are permitted to copy a data file. Finally, the policy specifies that officers must place their BWC in record mode as soon as possible during an enforcement situation.⁹¹

Missouri

Missouri has set retention schedules for BWC-generated videos and passed one law regarding the use of BWCs, House Bill 1936 (2015). The Local Records Board, chaired by the secretary of state who also appoints the members of the board,^{*} sets record retention schedules for municipal agencies and departments.⁹² The guidelines for local LEAs require all BWC-generated videos to be retained for a minimum of 30 days. If the recording is evidentiary, it must be retained until all administrative or judicial proceedings are complete.⁹³

House Bill 1936 (2015) made access to BWC-generated videos closed to the public, with exceptions for persons depicted in the recording, their legal guardian or parent, their attorney and immediate family members of decedents depicted in the recording. All other persons wishing to obtain a copy of the recording must petition the corresponding circuit court for its release. If the court permits the release of a BWC-generated video, the requestor must receive the consent of all persons featured in the video, excluding law enforcement personnel, before sharing the video.⁹⁴

North Carolina

North Carolina has created a schedule for the retention of BWC-generated videos, passed legislation regarding the release of BWC-generated videos and offered up to \$5 million in grant funding to local and county LEAs seeking to purchase BWCs.

The Department of Natural and Cultural Resources, Division of Archives and Records, sets retention standards for municipal departments and agencies through the Municipal Records Retention Schedule. Per the schedule, non-evidentiary BWC-generated videos must be retained for a minimum of 30 days.⁹⁵ Law enforcement agencies must retain audio and video recordings relevant to felony cases for 20 years and recordings relevant to misdemeanors for three years.^{96,97}

Under House Bill 972 (2015), BWC-generated videos are not public records and disclosure of recordings is at the discretion of the head law enforcement officer of an

^{*}Members include local government officials, education officials and a representative of historical society organizations.

agency. Recordings may be released to a person depicted in the recording or a representative of that person, while release to other persons requires a court order. The law also required any local LEA that uses BWCs to provide a copy of the software used to operate the cameras to the State Bureau of Investigation and the State Crime Laboratory, if the agency uses the State Crime Laboratory's services.⁹⁸

In 2015, the General Assembly passed House Bill 97, which appropriated \$5 million over the course of two years to provide grant funding to local and county LEAs to purchase BWCs.⁹⁹ The funds are administered by the Governor's Crime Commission—comprised of elected officials, appointed officials and members of the public—which serves as the chief advisory body to the governor and the secretary of the Department of Public Safety on crime and justice issues.¹⁰⁰ The largest possible grant is \$100,000 and recipient agencies must match the grant at the rate of \$2 of local funds for every \$1 of state grant funds. To be eligible for the funds, agencies must create policies regarding the use of BWCs and storage of BWC-generated data.¹⁰¹ To date, the Governor's Crime Commission has appropriated more than \$300,000 of state funds and more than \$150,000 in federal funds for the purchase of BWCs, with several grants still pending approval for fiscal year 2017.¹⁰²

Oklahoma

Oklahoma has passed one law regarding the release of BWC-generated videos, House Bill 1037 (2015). The legislation amended the state's Open Records Act to include recordings captured by in-car cameras and BWCs. Law enforcement agencies are permitted to redact or obscure portions of the recording that depict death, severe violence, nudity, sensitive personal information or include information that would compromise an ongoing criminal investigation or prosecution.¹⁰³

The Oklahoma City Police Department's BWC policy, featured on the Bureau of Justice Assistance's website, provides an example of a policy in use in Oklahoma. The policy sets the criteria for when and where BWC recording is permitted, when officers may review videos, and protocols for redacting portions of a recording. The policy enumerates the responsibilities of officers, supervisors, investigators and BWC administrators and

dictates the retention schedule for all recordings, classified by level of crime or suspected crime. According to this policy, the Oklahoma City Police Department will provide copies of BWC-generated videos in compliance with state law.¹⁰⁴

South Carolina

The General Assembly passed one law regarding the use of BWCs, Senate Bill 47 (2015), which made South Carolina the first state in the nation to require every law enforcement officer to use BWCs when their use is fully funded. Despite this requirement, the law is mute on provisions regarding agencies that do not use BWCs once funding has been obtained. The law created multiple directives for the state's Law Enforcement Training Council to prepare for the statewide use of BWCs, including: conducting a study regarding the costs and procedures associated with the use of BWCs; developing statewide guidelines concerning the use of BWCs; and overseeing the development of policies and procedures by state and local law enforcement agencies in accordance with the guidelines.¹⁰⁵

Statewide guidelines, released by the council in late 2015, called for all uniformed officers whose primary function is to interact with the public to wear BWCs; specified which incidents require the use of BWCs; required the retention of all non-evidentiary recordings for a minimum of 14 days; and required that evidentiary recordings be retained in compliance with the state's Preservation of Evidence Act, §17-28-320.^{106,*}

To assist agencies in acquiring BWCs, the legislation created a Body-Worn Cameras Fund, administered by the state's Public Safety Coordinating Council,¹⁰⁷ which coordinates activities between LEAs in the state, such as the Department of Public Safety, South Carolina Law Enforcement Division, and municipal and county agencies.¹⁰⁸ State funding may be used toward expenses including, but not limited to, the initial purchase, maintenance and replacement of BWCs and ongoing

* Under the Preservation of Evidence Act, if a person is convicted, physical evidence must be retained for seven years from the sentencing date, or until the person is released from incarceration, dies while incarcerated or is executed, whichever occurs first.

costs related to the maintenance and storage of BWC-generated data. Agencies are not required to wait for funding to implement a BWC program and may apply for reimbursement of the expenses.

Senate Bill 47 also stipulated that BWC-generated videos are not public records subject to disclosure under the Freedom of Information Act and permitted persons featured in the recording and persons whose property had been seized or damaged during a recorded event and attorney to view recordings.¹⁰⁹

In the 2015 budget bill (House Bill 3701), the General Assembly appropriated \$2.4 million to the state Department of Public Safety and \$1 million to the Public Safety Coordinating Council for the Body-Worn Cameras Fund in fiscal year 2016.^{110,111} In the 2016 budget bill (House Bill 5001), the General Assembly steered an additional \$2.4 toward implementation of BWCs in its Appropriations Act for fiscal year 2017.¹¹²

In December 2015, the Public Safety Coordinating Council sent notice to more than 300 eligible state LEAs regarding the available funding for BWC implementation.¹¹³ In June 2016, the council voted to approve \$5.8 million in funding,[†] for both new purchases and reimbursements for BWC-related expenses dating back to July 2012. All of the 168 agency applications were approved, though prioritization was given to the smallest funding requests, providing full funding for 31 agencies.^{114,115}

A survey report released in 2015 by the Department of Criminology and Criminal Justice, University of South Carolina, *Body-Worn Cameras in South Carolina: Law Enforcement Executives' Views Concerning Use, Policies, and Outcomes*, found an average cost of approximately \$63,000 for a state LEA to purchase BWC equipment and \$21,000 annually for data storage, although a wide variation in costs was noted. The report also estimated that full implementation of BWCs in the 79 responding agencies would cost approximately \$5.0 million, with data storage costing \$1.4 million annually.¹¹⁶

† \$13.8 million was requested by 168 agencies.

Tennessee

Although the General Assembly has not codified guidelines for the use of BWCs, numerous LEAs in Tennessee use BWCs, including the Memphis, Knoxville and Chattanooga police departments. Several bills to create procedures for the use of BWCs were considered in recent legislative sessions, but did not pass, such as House Bill 712 (2015), which would have required all law enforcement officers to wear BWCs while on duty.¹¹⁷

Among these police departments, the Memphis Police Department, in 2015, developed an extensive policy regarding the use of BWCs, which established the following guidelines:

- » BWCs may not be used to record a formal statement from a victim or witness;
- » Officers must verify that the camera is properly functioning at the beginning of each shift;
- » Officers must ensure that the BWC is activated throughout all relevant events;
- » Officers must document the reason for any interruption in a recording;
- » All recordings are the property of the Memphis Police Department; and
- » Recordings may not be duplicated or authorized without the authorization of the director of police services.¹¹⁸

Texas

Senate Bill 158 (2015) is the only BWC law passed by the Legislature to date. The law stipulated that all agencies using BWCs must adopt a policy that specifies when cameras should be turned on and off; how video and audio recordings are backed up and secured; and if and how the public may access the recording. The law established that an officer may access any recording which involves said officer before making a statement about an incident; created procedures for internal review of videos; and detailed the handling and documenting of equipment malfunctions. The law created a minimum 90-day retention period for BWC-generated videos and specified that agencies may not require an officer to keep a BWC activated for their entire shift.¹¹⁹

Additionally, the law specified that any LEA which uses BWCs must provide training to officers who use the cameras and personnel who access BWC-generated data. The Texas Commission on Law Enforcement, which regulates all LEAs in the state, was required to develop a curriculum for a BWC training program.¹²⁰ This curriculum was released October 2015.¹²¹

Furthermore, BWC-generated videos that show the use of deadly force by a law enforcement officer, or are related to an investigation of an officer, may not be deleted, destroyed or released to the public until all criminal matters have been finally adjudicated and all related investigations have been completed. Members of the public who request a copy of a BWC-generated video must provide the date and approximate time of the recording, location of the recording and the name of one or more individuals featured in the recording.

Under the law, the state attorney general must recommend a suggested fee for LEAs to charge for the creation and release of BWC-generated videos to the public; agencies may provide copies of videos at a reduced charge if the agency believes that the lower cost is in the public interest.¹²² The suggested fee was set at \$10 per recording in November 2016.¹²³

Senate Bill 158 also established a BWC grant program, administered by the Office of the Governor, to help municipal and county agencies purchase BWCs. Law enforcement agencies are required to match 25 percent of the grant money and are permitted to enter inter-agency and interlocal contracts.¹²⁴ In January 2016, the Criminal Justice Division awarded approximately \$10 million to 267 LEAs in the state for the purchase of 9,593 BWCs.^{125,126}

Virginia

The General Assembly has not codified rules regarding the use of BWCs as of this writing, but the commonwealth has developed a records retention schedule, suggested guidelines for the use of BWCs and offered grant funding to LEAs that wish to purchase BWCs.

The Library of Virginia's Records Retention and Disposition Schedule stipulates that audio and video recordings not used as evidence must be retained for 30 days after the event. Audio and video recordings used as evidence are retained for five years or more depending on the severity of the crime.¹²⁷

In October 2015, the Department of Criminal Justice Services released its *Model Policy on Body Worn Cameras*, developed with input from the International Association of Chiefs of Police and multiple state LEAs. The model policy is meant to be a template for state agencies, but is not legally binding.

The policy recommended that officers who use BWCs:

- » Be trained in their use and operation;
- » Ensure that their camera is capturing evidentiary footage;
- » Download video files and charge the camera at the end of each shift;
- » Inform citizens that they are being recorded;
- » Explain interrupted recordings; and
- » Report any operational issues with the BWCs to their supervisor.

The policy also stipulated that:

- » Certain incidents require the use of a BWC;
- » All BWC-generated data is the exclusive property of the corresponding department or agency;
- » All access to BWC-generated data must be authorized by the chief of police, sheriff or their designee;
- » Supervisors must conduct random weekly reviews of recordings to evaluate officer performance and identify videos that may be used for training;
- » Video relevant to an ongoing law enforcement investigation or prosecution may not be released if it could compromise the investigation, prosecution or safety of an individual or cause a suspect to escape detection;
- » Back-up storage for video files must be maintained; and

- » All BWC-generated data must be saved in accordance with the records retention schedules issued by Virginia's archival agency, the Library of Virginia.¹²⁸

In June 2016, Governor Terry McAuliffe and Secretary of Public Safety and Homeland Security Brian Moran announced grant funding for LEAs interested in purchasing BWCs. The Virginia Department of Criminal Justice Services (DCJS) is offering each agency up to \$15,000 for the acquisition of cameras, with priority given to those currently without BWCs.¹²⁹ Funds for the grants are redistributed from federal grant money awarded to the commonwealth by the U.S. Department of Justice's Edward Byrne Memorial Justice Assistance Grant program.¹³⁰ Currently, DCJS has awarded 16 grants totaling approximately \$180,000 to localities across Virginia.¹³¹

West Virginia

To date, West Virginia has no statewide laws governing the use of BWCs. However, several LEAs in West Virginia use BWCs, including the Morgantown Police Department and Buckhannon Police Department.

In 2014, the Morgantown Police Department developed a policy for the use of BWCs, which established the following guidelines:

- » Cameras must be reviewed periodically to ensure proper operation;
- » Recorded video and audio must be treated as evidence and handled accordingly, with the shortest practical chain of custody;
- » Recorded files must be stored by the evidence custodian in a secure climate-controlled area and a record of all files must be retained;
- » Officers must document the reason for the interruption of any recording; and
- » Instances in which the record function must be activated, including traffic stops, pursuits and any emergency response.¹³²

Conclusion

If the forecasts of experts who predict the forthcoming ubiquity of body-worn cameras are correct, law enforcement agencies and governments can prepare by creating laws and policies that balance the needs of both the public and law enforcement. Originally seen by some as a way for the public to observe law enforcement activities, more state and local agencies are using BWCs to gather evidence, train officers and refute inaccurate claims.

There are many factors for law enforcement agencies to consider when implementing a BWC program, including the type of device best suited for a specific agency need, cost to purchase cameras, cost of storing BWC-generated data, length of retention of BWC-generated data, internal or external data storage, cost and time to train personnel on their use, and the privacy of all persons featured in BWC recordings. While some agencies may be deterred by the costs of purchasing cameras and storing BWC-generated data, verifiable evidence provided by the cameras may prevent or refute false allegations levied.

Though BWCs are a relatively new innovation, some best practices for their implementation are starting to emerge, including:

- » Gathering input from law enforcement personnel to assess their needs;
- » Developing BWC policies that provide as much guidance as possible to officers;
- » Specifying who is permitted to access BWC-generated videos once they are downloaded/transferred;
- » Periodically reviewing BWC-generated videos to ensure compliance with relevant laws and policies;
- » Requiring all personnel who use BWCs to receive training in their use and the transfer of their data; and
- » Creating data retention and public release policies that are in accordance with local and state laws.

Policymakers addressing the issue of BWCs will continue to face a host of issues surrounding the best and most practical way of balancing governmental transparency

and open records with the privacy needs of LEAs, their investigations and the public. A few SLC member states require a court order for the release of BWC-generated videos, which will help to assuage privacy concerns, but may bring criticism by some who assert that all videos should be easily available to the public. Other states consider BWC-generated videos to be public records, which helps to address transparency concerns, but may compromise legal investigations.

As evident from the research, there is little uniformity among SLC member states regarding policies and guidelines of BWC programs. Numerous questions remain pertaining to the long-term viability and sustainability of BWC programs, especially as it relates to escalating costs. This *SLC Regional Resource* demonstrates that just as there are myriad options in both the selection of body-worn cameras and attendant consideration, there are equally as many policy and legislative options. For policymakers, determining the approaches that work best for their state or community is the challenge ahead.

Further Resources

The following publications serve as further resources on best practices for BWC policies:

"Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned" by Lindsay Miller, Jessica Toliver and the Police Executive Research Forum, available at <https://www.justice.gov/iso/opa/resources/472014912134715246869.pdf> (as of March 1, 2017).

"Police Officer Body-Worn Cameras: Assessing the Evidence," by Michael D. White, Ph.D., available at https://www.bja.gov/bwc/pdfs/DiagnosticCenter_PoliceOfficerBody-WornCameras.pdf (as of March 1, 2017).

"Body-Worn Camera Toolkit," Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice, available at <https://www.bja.gov/bwc/> (as of March 1, 2017).

"BWC Final Guidelines," South Carolina Law Enforcement Training Council, available at <https://www.sccja.sc.gov/Other%20Files/BWC%20%20Final%20Guidelines.pdf> (as of March 1, 2017).

"Model Policy on Body Worn Cameras," Virginia Department of Criminal Justice Services, available at <https://pshs.virginia.gov/media/5032/bodyworncameramodelpolicy.pdf> (as of March 1, 2017).

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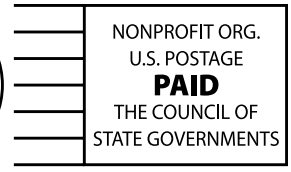
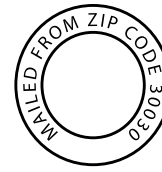
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SOUTHERN LEGISLATIVE CONFERENCE

Southern Office of The Council of State Governments

REGIONAL VIEW NATIONAL REACH

This report was prepared by **Nick Bowman**, research and publications associate for the **Southern Legislative Conference of The Council of State Governments**. This report reflects the body of policy research made available to appointed and elected officials by the Southern Office of The Council of State Governments (CSG).

Opened in 1959, the **Southern Office of CSG** fosters inter-governmental cooperation among its 15 member states, predominantly through the programs and services provided by its **Southern Legislative Conference**. Legislative leadership, members and staff utilize the SLC to identify and analyze government policy solutions for the most prevalent and unique issues facing Southern states. Meanwhile, SLC member outreach in state capitols and coordination of domestic and international delegations, leadership development and staff exchange programs, meetings, and fly-ins

support state policymakers and legislative staff in their work to build a stronger region.

Established in 1947, the SLC is a member-driven organization and the largest of four regional conferences of CSG, comprising the states of **Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia and West Virginia**. The Annual Meeting of the Southern Legislative Conference, convened as the focal point and apex of its activities, is the **premier public policy forum for Southern state legislators** and the largest regional gathering of legislative members and staff. The Annual Meeting and a broad array of similarly well-established and successful SLC programs—focusing on both existing and emerging state government challenges—provide policymakers diverse opportunities to ask questions of policy experts and share their knowledge with colleagues.