

BODY WORN CAMERAS

SUMMARY

The Nevada County Civil Grand Jury researched the expanding topic of audiovisual technology and inquired into the efforts of local law enforcement agencies to provide more transparency and public safety by recording their field activities using Body Worn Cameras.

There exist extensive studies and compelling results throughout California and the nation that provide convincing evidence of improved officer-to-citizen interaction and safety, less confrontation, reduced citizen complaints, and improved community relations through the use of Body Worn Cameras.

A leading expert in law enforcement, the Director of Police Practices of the American Civil Liberties Union, Peter Bibring, summarized his assessment that: “... with cameras on the scene to record the action, people behave better.”

The Nevada County Civil Grand Jury also researched causes of this phenomenon and affirmed the fallacy of eye witness testimony. Research shows that “our eyes deceive us” at a surprising rate. Differences in description of the occurrences, differing eye witness testimony, appearance of “cell phone video” that only recorded a portion of the incident, and the effects of chaos and crowd reaction have caused instantaneous breakdown of order and major threats to officers and citizens alike. The resulting turmoil has led to continuing confrontation between citizen and officer after the incident, causing significant community unrest and, in some instances, riot conditions, property damage, injury and even death. Nevada County is not immune to this turmoil.

The Nevada County Civil Grand Jury believes there is an effective way to improve our chances against such violence happening here.

Presently, within Nevada County, two law enforcement agencies, the Truckee and Nevada City police departments, have, at least partially, deployed Body Worn Cameras on their officers. The Nevada County Civil Grand Jury interviewed officers and agency management to assess what is known and what is yet to be determined about Body Worn Cameras.

In both cases, a strong sense of success elsewhere was evident in their research of the subject. The Truckee Police Department has shown the citizen complaint process was reduced significantly due to almost immediate resolutions of the complaints. A high ranking official of the Truckee Police Department stated: “The assertion of the ACLU is correct as far as I’m concerned. People, citizens and officers alike, do in fact behave

better. We have had fewer complaints and those we've received have been resolved almost immediately, instead of dragging on in an endless argument of 'he said-she said'." When asked if it put money back into the town treasury, he answered: "Not directly, but it did put a badge back on the street that would have been otherwise wrapped up in the complaint resolution process."

The Nevada County Civil Grand Jury believes the information on this subject is sufficient to proceed. The advantages of Body Worn Cameras outweigh the concerns and even the associated costs. The Nevada County Civil Grand Jury calls upon the Nevada County Board of Supervisors, the City/Town Councils of Grass Valley, Nevada City and Truckee, and the police and sheriff departments of Nevada County to actively promote full deployment of Body Worn Cameras.

GLOSSARY

ACLU – American Civil Liberties Union
BPD – Birmingham (Alabama) Police Department
BWC – Body Worn Camera
COPS – Office of Community Oriented Policing Services
GVPD – Grass Valley Police Department
IACP – International Association of Police Chiefs
Jury – Nevada County Civil Grand Jury
LAPD – Los Angeles Police Department
NCPD – Nevada City Police Department
NCSO – Nevada County Sheriff's Office
NIJ – National Institute of Justice
POV – Point-of-View
TPD – Truckee Police Department

BACKGROUND

In the 1980s, Mothers Against Drunk Drivers (MADD) brought a heightened awareness to the problem of drinking and driving. Because of their lobbying efforts, prosecutors put greater emphasis on obtaining convictions. Police began using cameras to document field sobriety tests and these recordings were found to be highly effective in supporting convictions. MADD initiated the purchase of in-car camera systems for law enforcement agencies to be used in apprehending drivers impaired by alcohol and drugs.

In March 1991, a bystander videotaped Rodney King being beaten by Los Angeles Police Department (LAPD) officers. The videotape incited public anger about police brutality and was used as evidence in the trial.

By 1999, allegations of racial profiling and brutality were being lodged against law enforcement agencies across the United States. At the same time, assaults on officers were on the increase. In response to these concerns, legislative bodies across the country began enacting laws that required law enforcement agencies to document details of traffic stops with the use of in-car cameras. While dashboard cameras are useful for capturing interactions during traffic stops, they have limited use due to their fixed focus.

Point-of-view cameras (POVs) have been available since the 1920s, providing an objective camera angle through the eyes of an unseen observer. They are widely used in airplanes, spacecraft, laparoscopic surgery, and extreme sports. Recently, a new class of miniature POV cameras that can be mounted on a law enforcement officer's uniform, hat, collar, or eyeglasses appeared on the market. These cameras, referred to as Body Worn Cameras (BWCs), allow officers to record outside of their cars. Any call that might involve entering a citizen's home or on remote areas of their property can be captured on video: domestic disputes, serving search warrants, parole checks, and street encounters with potential suspects. These cameras are now in wide use across the United States. Los Angeles is now issuing them to every officer on its force; San Francisco is soon to follow suit. Oakland has used this technology since 2010 and now has well over 600 cameras in operation.

Recently, a high ranking official of the LAPD said he was eager for his department to embrace this technology. He believes in a few more years body cameras will be standard issue for all public safety employees. Everyone "... police officers, firefighters, paramedics ... every public safety employee, will have them. I think it improves behavior on both sides of the camera, which is our goal."¹

An incident caught on camera has an obvious benefit. The Director of Police Practices for the American Civil Liberties Union (ACLU), Peter Bibring, recently summarized his assessment that "... with cameras on the scene to record the action, people behave better."²

APPROACH

In addition to existing literature reviewed on the Internet, the 2015-2016 Nevada County Civil Grand Jury (Jury) interviewed various personnel from law enforcement agencies in Nevada County. A survey form was also sent to agencies.

DISCUSSION

On the first anniversary of the shooting and death of Michael Brown by Officer Darren Wilson of the Ferguson, Missouri Police Department, the August 9, 2015 headline of *The New York Times* read: "What Happened in Ferguson?" The story went on to tell of

multiple eye witnesses to the shooting who hardly agreed on any aspect of the event. Stories from eye witnesses ranged from the extreme – they cited heroic action by the officer – to a remorseless and brutal cold-blooded killing. The turmoil created by that event reverberated across the entire country, proving once again the flaws of eye witness testimony.

In a 2010 report from *Scientific American*, titled “Why Science Tells Us Not to Rely on Eyewitness Accounts”³, the Innocence Project researchers reported “... in the past 15 years, 73 percent of the 239 convictions overturned through DNA testing were based on eyewitness testimony.”

At the onset of a study of BWCs at the Rialto (California) Police Department, it was suggested that requiring officers to wear BWCs might have a “chilling effect” on the officers, meaning they would become less proactive and, as a result, less effective in dealing with crime. A high ranking official of the Rialto Police addressed this issue stating: “The thinking was that some officers wearing cameras might try to hide and not really do their job. We found the opposite. We actually had 3,000 more officer-citizen contacts during the year of the experiment.” Additionally, the official added “... in 2013, the number of formal complaints against officers had plunged 88% and officer ‘use of force’ incidents dropped by 59%.”⁴ It is possible that this finding may be explained in part by changes in citizen behavior. Specifically, citizens may have altered their behavior during their encounters with officers who were wearing cameras, such as being more respectful and compliant, which led to fewer incidents in which officers needed to use force. Additionally, some have speculated that the officers wearing BWCs behave better because their actions are now subject to comprehensive review. Rialto city officials plan to expand its camera program.

The deployment of BWCs at the LAPD has continued in spite of the reality that the benefits of the use of video recording cameras are still empirically uncertain. However, anecdotal findings do support the thesis.¹ Additionally, evidence from the BWC evaluation at the Phoenix (Arizona) Police Department “... suggests the technology appears to have a ‘civilizing effect’ on citizens once they realize the camera is recording their behavior.”⁵ While these data are still inconclusive, they do point to significant reductions in complaints toward the entire force and 65% fewer complaints regarding officer BWC users compared to non-BWC users.

Deployment of BWCs is not without significant cost. The cameras are only a small portion of the overall cost of a BWC system. Every officer must have access to at least one working camera. There must be backup cameras available to replace broken units or while a unit is recharging or otherwise offline. The biggest cost in a BWC system is for storage of the video recordings.

Birmingham, Alabama is one of the growing numbers of police departments to deploy BWCs. The Birmingham Police Department (BPD) purchased 319 BWCs from Taser International (Taser), costing about \$180,000, or \$564 per camera. BPD’s contract with Taser also included a hardware replacement warranty, cloud storage, and a file

management service to deal with the content the cameras produce. Total cost of the five-year contract will be \$889,000.⁶

Alabama law allows a citizen to file suit against the police as much as two years after an incident. As a result, the BPD must store a video for a minimum of two-and-a-half years in case it is needed for evidence in a trial. The initial contract included 5 terabytes (TB) of cloud storage. In the first two months, however, BPD had already used 1.5TB of its available storage. It is expected to exceed the 5TB limit by February 2016, only six months into the contract.⁶

An official of the BPD Technology Division, has said “In spite of the costs, if it stops one or two lawsuits, it’s paid for itself.”

Recent discussions with the Truckee (California) Police Department (TPD) revealed that they have instituted a strict classification coding system which identifies the severity of each incident/engagement and codes the resultant video data with that severity code. An incident/engagement categorized as “Code #1” would indicate the lowest severity, whereas “Code #10” would indicate higher severity. This has allowed the TPD to use the categories to determine the length of data storage required. Rather than storing the data from each incident for the same duration, they now use a duration scale from zero to 2 ½ years and properly store the data accordingly. Eliminating or lessening data storage duration in this way has the potential of significantly reducing the resultant costs of data storage.

An assessment of the use of BWCs within Nevada County by the Jury shows that two agencies, the Nevada City and Truckee police departments, have deployed BWCs, at least partially. The Jury was informed that the Grass Valley Police Department plans to deploy the use of BWCs, and has secured funding for this purpose. In an interview with Nevada County Sheriff’s Office (NCSO) management, it was disclosed that they were satisfied with their use of the fixed focus, in-car cameras at this time. The NCSO foresees a time when BWCs will be required by the Legislature for use by all law enforcement activities, but are not intending to pursue them at this time. They have identified a “working group” within the Sheriff’s Office that is discussing the matter. One of the Nevada County law enforcement officers interviewed by the Jury pointed out that their body cameras are manually turned on and off by the officer. An officer may forget or be unable to activate the camera at critical times. Although equipment can occasionally malfunction and batteries lose their charge, clear departmental policies mandating when and how these devices are to be used must be established. An unfortunate or unplanned incident at an inopportune time can cause negative setbacks, frustrate law enforcement efforts, and erode public confidence. Explicit policy guidance and specific procedural direction is essential. Officers should be trained to understand the use and utility of the body cameras they wear, and they must be called to account if they fail to follow departmental policy.

In September 2013, the US Department of Justice Office of Community Oriented Policing Services, in conjunction with the Police Executive Research Forum, hosted a

conference in which more than 200 police chiefs, sheriffs, scholars, and federal criminal justice officials shared their experiences and perspectives with BWCs. The conference issued a paper entitled *Implementing a Body-Worn Camera Program*⁷ summarizing the results. The paper included recommended policies reflecting the promising practices and lessons that emerged from the conference. The Appendix of that paper listed 33 policy recommendations discussed in more detail in the paper. Some of them are listed below:

- General recommendations –
 - Policies should clearly state which personnel are assigned or permitted to wear BWCs and under which circumstances.
 - Policies should stipulate specific conditions under which an officer might be required to wear a BWC.
 - 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.
- Recording protocols –
 - Officers should be required to activate their BWCs when responding to all calls for service and during all law-enforcement-related encounters that occur while an officer is on duty.
 - Policies and training materials should clearly define the definition of “law-enforcement-related encounters.”
 - Officers should be required to inform subjects when they are being recorded unless doing so would be unsafe, impractical, or impossible.
 - Once activated, the BWC should remain in recording mode until the conclusion of an incident/encounter, the officer has left the scene, or a supervisor has authorized (on camera) that a recording may cease.
 - Officers should have the discretion to keep their cameras turned off during conversations with crime witnesses and members of the community who wish to report or discuss criminal activity in their neighborhood.
 - Policies should provide clear guidance regarding the circumstances under which officers will be allowed to exercise said discretion.
 - Policies should clearly state types of recordings that are prohibited, such as
 - conversations with other agency personnel during routine, non-law-enforcement-related activities,
 - conversations with confidential informants and undercover officers,
 - places where a reasonable expectation of privacy exists (restrooms or locker rooms), or
 - strip searches.

- Download and storage policies –
 - Policies should designate the officer as the person responsible for downloading recorded data from his or her BWC.
 - In certain clearly identified circumstances (officer-involved shootings, in-custody deaths, other incidents that result in bodily harm or death), the officer’s supervisor should immediately take physical custody of the BWC and should be responsible for downloading the data.
 - Videos should be properly cataloged at the time they are downloaded.
 - Policies should include specific measures to prevent data tampering, deleting, and copying.
 - Policies should specifically state the length of time recorded data must be retained and where videos are to be stored.
- Recorded data access and review –
 - Officers should be permitted to review video of an incident in which they were involved prior to making a statement about the incident.
 - Policies should clearly describe the circumstances in which supervisors will be authorized to review a video.
 - The agency’s internal affairs unit, rather than the officer’s direct chain of command, should periodically conduct a random review of videos to monitor compliance.
 - Policies should explicitly forbid agency personnel from accessing video for personal use and include specific measures for preventing unauthorized access or release of recorded data.
- Training policies –
 - BWC training should be required for all agency personnel who may use or otherwise be involved with BWCs.
 - Training should take place before they are equipped with BWCs.
 - Agencies should require refresher training at least once per year.
 - A BWC manual should be created.
- Policy and program evaluation –
 - Agencies should conduct periodic reviews of their BWC policies and protocols.

It is critical for agencies to engage the community, policymakers, courts, oversight boards, unions, frontline officers, and other stakeholders in the planning of the BWC program. Open communication prior to and after BWC deployment can strengthen the legitimacy of the program, demonstrate agency transparency, and educate stakeholders about the realities of using BWCs.⁷

In *Program Evaluation and Recommendations – On-Officer Body Camera Systems*⁵ of the Mesa (Arizona) Police Department study of the deployment of 50 Body Worn Cameras (October 2012 through October 2013), several unseen costs were explored.

When Public Records Act requests for video copies of BWC files were received, they usually required the Mesa Police Department to redact information that should not be released, such as personal biological information, juvenile faces, undercover officers, informants, nudity, and other sensitive information as determined by the Staff Attorney. The time to review each video, including the redacting process, was approximately 10 hours. In a large police force with continuing and multiple Public Record Act requests, this could constitute a considerable expense.

An information sheet provided by the National Institute of Justice,⁸ documents that the use of BWCs can be a cost effective method of increasing officer safety and evidence collection while improving agency and officer integrity, but only if all aspects of implementation are considered. Typically, agencies need guidance and information to help them assess their needs, make cost-effective decisions, navigate the acquisition process, and manage video evidence.

Fortunately, such help does exist: the National Institute of Justice (NIJ), the International Association of Chiefs of Police (IACP), and the Office of Community Oriented Policing Services (COPS) have conducted national studies, amassed data from focus groups, interviews and surveys, and continue to gather information to implement and assess the value of BWCs to law enforcement agencies. This information is used to set nationally recognized procedures, standards, and specifications for such equipment. These organizations also provide funding through grants to law enforcement agencies all over the country.

Aggregate studies thus far show that BWCs provide substantial value to law enforcement agencies and involved citizens alike, such as:

- enhanced officer safety,
- de-escalation of situations that risk becoming confrontational,
- improved accountability and professionalism,
- reduction of time and legal expense in investigating complaints against officers,
- video identification of suspects,
- evidence for trial, and
- improved community and media perception.

These studies also include the following concerns regarding BWCs from officer and civilian alike:

- the system only records what is in view or within earshot;
- privacy and civil rights issues;
- equipment can malfunction or not be available at all times;
- some equipment can be manually disabled by the officer, creating suspicion as to the intention of the officer;
- maintenance and update costs;
- procurement and operating expenses; and
- officer concerns about being monitored.

Responsible deployment of BWCs must take these and other issues into consideration and develop comprehensive policies and procedures. NIJ, IACP, COPS and other organizations have developed generic procedures that adequately address most concerns.

FINDINGS

- F1.** Body Worn Cameras have been shown to improve officer-to-citizen interaction and safety.
- F2.** Body Worn Cameras have been shown to reduce citizen complaints.
- F3.** Body Worn Cameras provide more clarification of contested incidents between officer and civilian.
- F4.** Body Worn Cameras appear to provide some measure of crowd control and mitigation.
- F5.** Body Worn Cameras reduce time and legal expense in investigating complaints against officers.
- F6.** In Nevada County, the Truckee and Nevada City police departments are presently using Body Worn Cameras.
- F7.** The Jury was informed that the Grass Valley Police Department plans to deploy the use of BWCs and has secured funding for this purpose.
- F8.** The Nevada County Sheriff's Office has expressed a desire not to deploy Body Worn Cameras at this time.
- F9.** Interagency communication concerning Body Worn Camera deployment, techniques, policies, and operating procedures has been shown to improve overall results.

RECOMMENDATIONS

- R1.** The Nevada County Sheriff's Office should deploy and use Body Worn Cameras.
- R2.** The Nevada County Sheriff's Office should request funds from the Board of Supervisors for Body Worn Cameras and pursue other funds, grants and the like.
- R3.** Nevada County law enforcement should include the community, policymakers, courts, oversight boards, unions, frontline officers, and other stakeholders in the evolution of their Body Worn Camera programs.

REQUEST FOR RESPONSES

Pursuant to Penal Code Section 933.05, the Nevada County Civil Grand Jury requests responses from the following:

- The Nevada County Sheriff's Office as to Findings F1-F5, Findings F8-F9, and Recommendation R1-R3.
- The Nevada County Board of Supervisors as to Recommendations R2-R3.

All responses are due by July 25, 2016.

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