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# **Criminal Justice Subcommittee**

**Tuesday, January 20, 2015  
4:00 PM - 6:00 PM  
Sumner Hall (404 HOB)**

**ACTION PACKET**

# COMMITTEE MEETING REPORT

## Criminal Justice Subcommittee

1/20/2015 4:00:00PM

**Location:** Sumner Hall (404 HOB)

### Summary:

#### Criminal Justice Subcommittee

*Tuesday January 20, 2015 04:00 pm*

HB 4005 Favorable

Yeas: 8

Nays: 4

Committee meeting was reported out: Wednesday, January 21, 2015 11:36:50AM

# COMMITTEE MEETING REPORT

## Criminal Justice Subcommittee

1/20/2015 4:00:00PM

**Location:** Sumner Hall (404 HOB)

**Attendance:**

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
Carlos Trujillo (Chair)	X		
Dennis Baxley	X		
Randolph Bracy	X		
Jay Fant	X		
Gayle Harrell	X		
Dave Kerner	X		
Chris Latvala	X		
Ray Pilon	X		
Scott Plakon	X		
Sharon Pritchett	X		
Ross Spano	X		
Charles Van Zant			X
Clovis Watson, Jr.	X		
<b>Totals:</b>	<b>12</b>	<b>0</b>	<b>1</b>

Committee meeting was reported out: Wednesday, January 21, 2015 11:36:50AM

# COMMITTEE MEETING REPORT

## Criminal Justice Subcommittee

1/20/2015 4:00:00PM

**Location:** Sumner Hall (404 HOB)

**HB 4005 : Licenses to Carry Concealed Weapons or Firearms**

Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Dennis Baxley	X				
Randolph Bracy		X			
Jay Fant	X				
Gayle Harrell	X				
Dave Kerner		X			
Chris Latvala	X				
Ray Pilon	X				
Scott Plakon	X				
Sharon Pritchett		X			
Ross Spano	X				
Charles Van Zant			X		
Clovis Watson, Jr.		X			
Carlos Trujillo (Chair)	X				
<b>Total Yeas: 8</b>		<b>Total Nays: 4</b>			

### Appearances:

HB 4005

Romero, Adrian (General Public) - Waive In Opposition  
FSU Student Government Association  
18850 SW 4th Street  
Pembroke Pines Florida 33029  
Phone: 786-202-1097

HB 4005

Culbreath, Erek - Proponent  
Students for Concealed Carry at FSU  
2001 Bellevue Way  
Tallahassee Florida 32304  
Phone: 941-224-4744

HB 4005

Cavallaro, Stefano (State Employee) - Waive In Opposition  
Florida Student Association  
626 W St Augustine Street  
Tallahassee Florida  
Phone: 941-726-2756

HB 4005

Robinson, Susan - Opponent  
4656 Inisheer Drive  
Tallahassee Florida 32309  
Phone: 850-893-9302

Committee meeting was reported out: Wednesday, January 21, 2015 11:36:50AM

# COMMITTEE MEETING REPORT

## Criminal Justice Subcommittee

1/20/2015 4:00:00PM

**Location:** Sumner Hall (404 HOB)

**HB 4005 : Licenses to Carry Concealed Weapons or Firearms (continued)**

**Appearances: (continued)**

HB 4005

McBride, Akacia - Waive In Opposition

Tallahassee Fl

Phone: 850-509-3875

HB 4005

Franklin, Aaliyah - Waive In Opposition

Tallahassee Florida

Phone: 561-543-6178

HB 4005

Andrade, Melanie - Opponent

2218 E Magnolia Circle

Tallahassee Florida 32301

Phone: 850-443-2165

HB 4005

Quiroz, John - Opponent

14511 Prism Circle

Tampa Florida 33613

Phone: 407-962-7616

HB 4005

Hargrove, Brant - Proponent

16039 Sunray Road

Tallahassee Fl 32309

Phone: 850-894-2291

HB 4005

Elpern, Jacob - Opponent

College Democrats at FSU

222 N Ocala Road

Tallahassee Fl 32304

Phone: 561-537-1310

HB 4005

Kornegay, Ryan - Waive In Opposition

PO Box 613

Greenville Florida 32331

Phone: 850-242-9164

HB 4005

Sanfilippo, Marjorie - Opponent

Eckerd College

Eckerd College 4200

St. Petersburg Florida 33711

Phone: 727-864-7562

Committee meeting was reported out: Wednesday, January 21, 2015 11:36:50AM

# COMMITTEE MEETING REPORT

## Criminal Justice Subcommittee

1/20/2015 4:00:00PM

**Location:** Sumner Hall (404 HOB)

**HB 4005 : Licenses to Carry Concealed Weapons or Firearms (continued)**

**Appearances: (continued)**

HB 4005

Downey, Stephen - Opponent  
132 Ferndale Drive  
Tallahassee Florida 32301  
Phone: 615-972-0306

HB 4005

Ogletree, Marshall (Lobbyist) - Opponent  
United Faculty of Florida  
306 East Park Avenue  
Tallahassee Florida 32301  
Phone: 850-224-8220

HB 4005

Rubinas, Wayne - Opponent  
607 East Sixth Ave  
Tallahassee Florida 32303  
Phone: 850-443-5747

HB 4005

Anderson, Cheryl - Waive In Opposition  
1842 Paine Ave  
Jacksonville Fl 32211  
Phone: 904-382-3559

HB 4005

Lupiani, Brian - Opponent  
607 McDaniel Street  
Tallahassee Fl 32303  
Phone: 850-273-1028

HB 4005

Kleck, Gary (State Employee) - Proponent  
Professor  
314B Eppes Hall, FSU, 112 S. Copland Street  
Tallahassee Florida 32312  
Phone: 850-894-1628

HB 4005

Friday, Eric (Lobbyist) - Proponent  
Florida Carry  
541 East Monroe Street  
Jacksonville Fl 32202  
Phone: 904-553-2264

Committee meeting was reported out: Wednesday, January 21, 2015 11:36:50AM

# **COMMITTEE MEETING REPORT**

## **Criminal Justice Subcommittee**

**1/20/2015 4:00:00PM**

**Location:** Sumner Hall (404 HOB)

### **Workshop**

**Body cameras for law enforcement officers**

**Committee meeting was reported out: Wednesday, January 21, 2015 11:36:50AM**

# COMMITTEE MEETING REPORT

## Criminal Justice Subcommittee

1/20/2015 4:00:00PM

**Location:** Sumner Hall (404 HOB)

### **Presentation/Workshop/Other Business Appearances:**

Puckett, Matthew (Lobbyist) - Information Only  
Florida Police Benevolent Association, Inc  
300 E Brevard St  
Tallahassee FL 32301  
Phone: (850)222-3329

Body Camera Workshop  
Thorne, Philip - Information Only  
The Florida Police Chiefs Association  
Police Chief  
3529 East Third Street  
Springfield FL  
Phone: 850-872-7545

Body Camera Workshop  
Shoar, David - Information Only  
Florida Sheriffs Association  
Sheriff of St. Johns County  
2617 Mahan Drive  
Tallahassee FL 32308  
Phone: 850-877-2165

Body Camera Workshop  
Hess, Glenn (State Employee) - Information Only  
FPAA  
State Attorney  
421 Magnolia Avenue  
Panama City FL 32408  
Phone: 850-832-5566

Body Camera Workshop  
Henning, Lisa (Lobbyist) - Information Only  
Fraternal Order of Police  
Legislative Director  
242 Office Plaza  
Tallahassee FL 32301  
Phone: 850-766-8808

Body Camera Workshop  
Vaughn, Stephen - Information Only  
Florida PBA  
Sr. VP Big Bend PBA  
300 East Brevard Street  
Tallahassee FL 32301  
Phone: 850-445-0220

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# Fraternal Order Of Police Use Of Body Camera Technology

Meeting

House Committee On Criminal Justice

# Force Science Institute

## 10 limitations of body cams

- A body camera doesn't follow your eyes or see as the officers see.
- Some important cues can't be recorded.
- Camera speed differs from the speed of life.
- A camera may see better than the officers in low light.
- The officers body may block the view.
- A camera only records in 2-D.
- The absence of sophisticated time-stamping may prove critical.
- One camera may not be enough.
- A camera encourages second guessing.
- A camera can never replace a thorough investigation.

# A camera doesn't follow your eyes or see as they see.

- A body camera photographs a broad scene but it can't document where within that scene you are looking at any given instant.
- If you glance away from where the camera is concentrating, you may not see action within the camera frame that appears to be occurring 'right before your eyes.

The camera can't acknowledge physiological and psychological phenomena that you may experience under high stress. As a survival mechanism, your brain may suppress some incoming visual images that seem unimportant in a life-threatening situation so you can completely focus very narrowly on the threat. You won't be aware of what your brain is screening out.

Your brain may also play visual tricks on you that the camera can't match. If a suspect is driving a vehicle toward you, for example, it will seem to be closer, larger, and faster than it really is because of a phenomenon called 'looming.' Camera footage may not convey the same sense of threat that you experienced.

“In short, there can be a huge disconnect between your field of view and your visual perception and the camera’s. Later, someone reviewing what’s caught on camera and judging your actions could have a profoundly different sense of what happened than you had at the time it was occurring.”

# Some important danger cues can't be recorded.

- “Tactile cues that are often important to officers in deciding to use force are difficult for cameras to capture,” Lewinski says. “Resistive tension is a prime example.
- “You can usually tell when you touch a suspect whether he or she is going to resist. You may quickly apply force as a preemptive measure, but on camera it may look like you made an unprovoked attack, because the sensory cue you felt doesn't record visually.”
- And, of course, the camera can't record the history and experience you bring to an
- encounter. “Suspect behavior that may appear innocuous on film to a naïve civilian can convey the risk of mortal danger to you as a streetwise officer,” Lewinski says. “For instance, an assaultive subject who brings his hands up may look to a civilian like he's surrendering, but to you, based on past experience, that can be a very intimidating and combative movement, signaling his preparation for a fighting attack. The camera just captures the action, not your interpretation.”

# Camera speed differs from the speed of life.

- “Because of the reactionary curve, an officer can be half a second or more behind the action as it unfolds on the screen,” Lewinski explains. “Whether he’s shooting or stopping shooting, his recognition, decision-making, and physical activation all take time—but obviously can’t be shown on camera.
- “People who don’t understand this reactionary process won’t factor it in when viewing the footage. They’ll think the officer is keeping pace with the speed of the action as the camera records it. So without knowledgeable input, they aren’t likely to understand how an officer can unintentionally end up placing rounds in a suspect’s back or firing additional shots after a threat has ended.”

# A camera may see better than you do in low light.

- “The high-tech imaging of body cameras allows them to record with clarity in many lowlight settings,” Lewinski says. “When footage is screened later, it may actually be possible to see elements of the scene in sharper detail than you could at the time the camera was activated.
- “If you are receiving less visual information than the camera is recording under time pressured circumstances, you are going to be more dependent on context and movement in assessing and reacting to potential threats. In dim light, a suspect’s posturing will likely mean more to you immediately than some object he’s holding. When footage is reviewed later, it may be evident that the object in his hand was a cell phone, say, rather than a gun. If you’re expected to have seen that as clearly as the camera did, your reaction might seem highly inappropriate.”
- On the other hand, he notes, cameras do not always deal well with lighting transitions. “Going suddenly from bright to dim light or vice versa, a camera may briefly blank out images altogether,” he says.



# Your body may block the view.

- “How much of a scene a camera captures is highly dependent on where it’s positioned and where the action takes place,” Lewinski notes. “Depending on location and angle, a picture may be blocked by your own body parts, from your nose to your hands.
- “If you’re firing a gun or a Taser, for example, a camera on your chest may not record much more than your extended arms and hands. Or just blading your stance may obscure the camera’s view. Critical moments within a scenario that you can see may be missed entirely by your body cam because of these dynamics, ultimately masking what a reviewer may need to see to make a fair judgment.”

# A camera only records in 2-D

- Because cameras don't record depth of field—the third dimension that's perceived by the human eye—accurately judging distances on their footage can be difficult.
- “Depending on the lens involved, cameras may compress distances between objects or make them appear closer than they really are,” Lewinski says. “Without a proper sense of distance, a reviewer may misinterpret the level of threat an officer was facing.”
- In the *Force Science Certification Course*, he critiques several camera images in which distance distortion became problematic. In one, an officer's use of force seemed inappropriate because the suspect appears to be too far away to pose an immediate threat.
- In another, an officer appears to strike a suspect's head with a flashlight when, in fact, the blow was directed at a hand and never touched the head.
- “There are technical means for determining distances on 2-D recordings,” Lewinski says, “but these are not commonly known or accessed by most investigators.”

# The absence of sophisticated time stamping may prove critical.

- The time-stamping that is automatically imposed on camera footage is a gross number, generally measuring the action minute by minute. “In some high-profile, controversial shooting cases that is not sophisticated enough,” Lewinski says. “To fully analyze and explain an officer’s perceptions, reaction time, judgment, and decision-making it may be critical to break the action down to units of one-hundredths of a second or even less.
- “There are post-production computer programs that can electronically encode footage to those specifications, and the *Force Science Institute* strongly recommends that these be employed. When reviewers see precisely how quickly suspects can move and how fast the various elements of a use-of-force event unfold, it can radically change their perception of what happened and the pressure involved officers were under to act.”

# One camera may not be enough.

- “The more cameras there are recording a force event, the more opportunities there are likely to be to clarify uncertainties,” Lewinski says. “The angle, the ambient lighting, and other elements will almost certainly vary from one officer’s perspective to another’s, and syncing the footage up will provide broader information for understanding the dynamics of what happened. What looks like an egregious action from one angle may seem perfectly justified from another.
- “Think of the analysis of plays in a football game. In resolving close calls, referees want to view the action from as many cameras as possible to fully understand what they’re seeing. Ideally, officers deserve the same consideration. The problem is that many times there is only one camera involved, compared to a dozen that may be consulted in a sporting event, and in that case the limitations must be kept even firmer in mind.

# A camera encourages second guessing.

- “According to the U. S. Supreme Court in *Graham v. Connor*, an officer’s decisions in tense, uncertain, and rapidly evolving situations are not to be judged with the ‘20/20 vision of hindsight,’ ” Lewinski notes. “But in the real-world aftermath of a shooting, camera footage provides an almost irresistible temptation for reviewers to play the coulda-shoulda game.
- “Under calm and comfortable conditions, they can infinitely replay the action, scrutinize it for hard-to-see detail, slow it down, freeze it. The officer had to assess what he was experiencing while it was happening and under the stress of his life potentially being on the line. That disparity can lead to far different conclusions.
- “As part of the incident investigation, we recommend that an officer be permitted to see what his body camera and other cameras recorded. He should be cautioned, however, to regard the footage only as informational. He should not allow it to supplant his first-hand memory of the incident. Justification for a shooting or other use of force will come from what an officer reasonably perceived, not necessarily from what a camera saw.”
- [For more details about *FSI*’s position on whether officers should be allowed to view video of their incidents, see *Force Science News* #114 (1/17/09). You will find online it at: [www.forcescience.org/fsnews/114.html](http://www.forcescience.org/fsnews/114.html)]

# A camera can never replace a thorough investigation.

- When officers oppose wearing cameras, civilians sometimes assume they fear “transparency.” But more often, Lewinski believes, they are concerned that camera recordings will be given undue, if not exclusive, weight in judging their actions.
- “A camera’s recording should never be regarded solely as *the* Truth about a controversial incident,” Lewinski declares. “It needs to be weighed and tested against witness testimony, forensics, the involved officer’s statement, and other elements of a fair, thorough, and impartial investigation that takes human factors into consideration.
- “This is in no way intended to belittle the merits of body cameras. Early testing has shown that they tend to reduce the frequency of force encounters as well as complaints against officers.
- “But a well-known police defense attorney is not far wrong when he calls cameras ‘the best evidence and the worst evidence.’ The limitations of body cams and others need to be fully understood and evaluated to maximize their effectiveness and to assure that they are not regarded as infallible ‘magic bullets’ by people who do not fully grasp the realities of force dynamics.”
- *Our thanks to Parris Ward, director and litigation graphics consultant with Biodynamics Engineering, Inc., for his help in facilitating this report.*

# Police Executive Research Forum (PERF)

- Currently PERF is conducting a study and survey on the evolving use of body worn cameras.
- Survey Pool of 500 agencies
- 50% of those surveyed responded (254 agencies responded)
- 75% of the responding agencies do not use body worn cameras
- Of the 254 agencies only 63 currently use BWCs.
- Nearly 1/3 of the agencies that use body worn cameras do not possess written policies.

# Perceived benefits of BWCs

- Provides accurate documentation of encounters.
- Exonerates officers who are targets of citizen complaints and reduces lawsuits against agency
- Serves as a teaching tool to train officers on proper strategies and techniques
- Captures valuable evidence for investigations and trials.



# Office of Justice Programs

## U.S. Department of Justice

- Concerns for citizens' privacy
- Critics of body-worn cameras have cited numerous concerns over citizen privacy. First, the National Institute of Justice (NIJ) guide (ManTech 2012, 7) notes that "federal law blocks the warrantless capturing of photo or video images of people where they have an expectation of privacy, and most states have similar laws."
- Moreover, a number of states require two-party consent before lawful recording of private conversations. The NIJ guide (ManTech 2012, 7) states that "When using [body-worn cameras], considerations on whether or not audio recording is allowed during video recording will require specific research prior to purchases or even piloting devices" (see also Draisin 2011). For example, in September 2011, the Seattle Police Department determined that use of body-worn cameras would violate Washington state law:
- State law bars audio recording of private conversations without the consent of all directly involved. Unauthorized recording exposes police to potential civil suits. State law does allow an exception for dashboard-mounted cameras in police cars but not body cameras on police officers.... The city law department has informed the police department that "it would be unwise to implement a body camera program without first obtaining a legislative exception to the Washington Privacy Act." (Rosenberg 2011)

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

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

Body-worn cameras capture in real time the potentially traumatic experiences of citizens who are victims of a crime, those who are involved in medical emergencies and accidents, or those who are being detained or arrested.

As such, citizens' emotional trauma could be exacerbated when they realize that the experience has been caught on video. Moreover, the potential for body-worn cameras to be coupled with other technologies, such as facial recognition software, may present additional concerns for citizen privacy. These concerns highlight the importance of developing detailed policies governing when the body worn cameras should be turned on and off. For example, the model policy template developed by the Body Worn Video Steering Group provides specific guidance on how to minimize the "collateral intrusion" of the technology, specifically with regard to private dwellings, religious sensitivities, intimate searches, vulnerable witnesses and victims,<sup>16</sup> and communications governed by legal privilege (see Appendix B).

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

### Substantial financial, resource, and logistical commitment

The resource and logistical issues surrounding adoption of body-worn camera technology are considerable and, in many cases, difficult to anticipate. There are direct costs associated with the technology, most notably the costs of each camera (from \$800 to \$1,000 for the TASER AXON and VIEVU models). There may also be replacement costs for hardware such as batteries and cameras. One of the most important logistical issues involves how the agency will manage the vast amounts of video data that are generated. The NIJ guide states:

This leads to one of the more important items for an agency to consider before purchasing [body-worn camera] units: data storage, management and retention. Not only must the data be protected and backed up regularly, but it must be accessible to all parties involved. Some data needs to be retained forever; other data can be deleted quickly. Crime recordings must be managed by law and through policies. Even video of standard officer interaction may be retained for a default period of time to cover potential performance complaints. Policies should control the period of time this data is maintained. As recordings become more or less important to [the] agency, adjustments need to be made. The length of storage time can cost numerous man-hours in addition to the actual cost of the storage device. (ManTech 2012, 9)

The major manufacturers of body-worn cameras offer cloud-based data storage solutions at an annual subscription cost, though a department can also choose to manage the video internally.

The Phoenix Police Department has chosen to maintain the video internally while both Rialto and Mesa have employed Evidence.com, which eliminates the need for on-site storage space by storing the files off-site and allowing agencies to share the files via secure access to the server. Prosecutors can simply log into a remote portal and get the videos they need for their cases. Additionally, the system tracks every activity associated with every file and stores it in an audit log. (Clark 2013)

Regardless of the approach taken, the cost of data storage and management can be significant.

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

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

# Collected Concern Data

- PERF has already pointed out the states with broad public disclosure laws and two party consent laws need to very careful in understanding the impacts of BWCs.
- Florida is a 2 party consent state.
- Florida has very broad public records law.
- Florida is not a one size fits all state, and local governments and agencies will have budget and manpower impacts.(unfunded mandates law)
- Who has access to footage?
- Is there a clearly stated purpose/use for the data?
- Death of a law enforcement officer/ Death of citizen
- Understanding the limitation of camera footage (what it doesn't give you)
- Arm chair quarterbacks
- Dampening effect of leo interaction with citizens



## **GRAND LODGE FRATERNAL ORDER OF POLICE®**

NATIONAL HEADQUARTERS, 701 MARRIOTT DR, NASHVILLE, TENNESSEE 37214  
1-800-451-2711, 615-399-0900, FAX 615-399-0400

**CHUCK CANTERBURY**  
PRESIDENT  
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MYRTLE BEACH, SC 29588  
843-283-4888  
Email:  
Fopchuck@outlook.com

**PAT YOES**  
SECRETARY

11/21/14

Dear Members:

The reality of body-worn cameras (“BWCs”) is upon us. It seems there are as many different policies as there are agencies that use BWCs. While there is no perfect policy and no “one-size-fits-all” solution, there are common issues and concerns that should be addressed in carefully considered policies.

The attached document attempts to address as many of the concerns as possible regarding the use of BWCs. Included among these are: privacy of officers as well as citizens; disciplinary audits of recordings; when and where to activate/deactivate the BWC; storage of and access to recordings by officers; use of recordings in investigations; and, various other administrative issues.

The attached document is not intended to be a preferred model policy as much as it is intended to raise awareness of the various issues associated with the use of BWCs and to provide suggested language to address those issues. Anytime an agency introduces new equipment that has the potential to impact working conditions or discipline, those in bargaining units with collective bargaining should immediately demand bargaining over the implementation, use, and impact of the equipment. Those in non-collective bargaining workplaces should still engage agency management in a discussion of these issues and attempt to obtain intelligent and reasonable policy.

It is our hope that the attached document will be viewed as intended and that it will be of assistance in both scenarios. While we do not expect that the attached document would be adopted in its entirety, and there may be provisions in it that you would not use at all, we do expect that it will make you think about the various issues caused by BWC use and lead to good faith discussions of those issues. It is anticipated that making policy makers and officers alike aware of the significant issues created by BWCs, we can facilitate informed discussion leading to better policies.

As always, we at the National Fraternal Order of Police are ready, willing, and able to provide assistance in furtherance of our mission to improve the lives and working conditions of law enforcement officers everywhere. Please do not hesitate to contact us for to discuss any concerns or questions regarding BWCs or any other issues with which you need assistance.

Fraternally,

Chuck Canterbury

This Policy is intended to outline the objectives and intent of the use of **Body-Worn Cameras ("BWC")** in conjunction with the BWC Procedure that follows. Procedures are enumerated with a prefix of "PR."

Advances in technology have enhanced the Department's investigative and evidence gathering capabilities as well as officer safety and security. These same advances increase concerns of encroachment on the right to privacy of both citizens and employees. The objective of this policy is to increase the efficiency and integrity of the Department's law enforcement mission, increase officer safety, and safeguard the rights of the citizens and employees in the use of such technology. The Department shall at all times employ and enforce this policy consistent with the co-equal, non-competing interests of providing the best possible law enforcement services to the community and the best possible working environment for Department employees.

Selected uniformed field assignments may be equipped with BWCs. Use of this technology provides for video and audio documentation of a police officer's citizen contacts and enforcement and investigative activities from the perspective of the officer's person. It is anticipated that the use of this equipment will promote officer safety, result in greater transparency, more effective prosecution, and improve the investigation of citizen complaints and protect against false allegations of officer misconduct. This policy is intended to achieve an appropriate balance between the benefits of BWC devices and civilians' and officers' reasonable expectations of privacy.

The BWC device is used to record certain activities and create a visual and audio record to supplement an officer's report. Video and audio recordings of enforcement or investigative actions are evidence and public record, and, therefore, subject to rules of evidence and laws of disclosure. It is in the best interest of justice that the Department regulate and control all forms of evidence collection and storage in accordance with the laws and rules of evidence as well as the retention and dissemination of public records and information.

## **000.2 PURPOSE AND SCOPE**

Certain uniformed law enforcement assignments within the Department may be equipped with a BWC. This system will be used to document events and capture data to be preserved in a Web-based digital storage facility") Once captured, these recordings cannot be altered in any way and are protected with multiple layers of encryption. The Department has adopted the use of BWC technology to accomplish the following objectives:

- (a) To promote officer safety.
- (b) To document statements and events during the course of an incident.
- (c) To enhance the law enforcement operator's ability to document and review statements and actions for both internal reporting requirements and for courtroom preparation/presentation. Officers shall have access to view and utilize the recordings from their BWC for training purposes and to further investigate their cases.
- (d) To preserve visual and audio information for use in current and future investigations.
- (e) To provide an impartial measurement for self-critique and field evaluation during officer training.



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

**Body-Worn Camera (“BWC”)** – Equipment worn by a Department member that captures audio/video and audio signals and includes at a minimum a camera, microphone, and recorder

**Controller Switch** – Master on/off power

**System Administrator (“SA”)** – Supervisor responsible for inventory, control, and operational maintenance of the BWC system equipment

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

**Web-Based Storage Facility** – A virtual warehouse that stores digitally encrypted data in a highly secure environment accessible to personnel based on assigned levels of security clearance (i.e., an online Web-based digital media storage facility)

**Evidence Transfer Manager (“ETM”)** – A router with built-in docking stations physically installed at Department work site. The ETM simultaneously recharges the device while uploading all digitally encrypted data to the Web Based Storage Facility.

**Master System Administrator (“MSA”)** – Supervisor(s) authorized by the Department and assigned to the Information Support Section with full access to user rights; assigns and tracks master inventory of equipment; controls passwords and end-user security access rights; is responsible for quality checks of video, audio, and sound quality; coordinates with SAs; and serves as liaison to the BWC manufacturer’s representatives on operational and equipment-related matters.

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

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

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

### **000.3 REQUIRED ACTIVATION OF THE BWC**

Although this policy identifies those situations in which activation of the BWC is required, an officer has discretion to manually activate the system any time the officer believes it would be appropriate or valuable to document an incident. The BWC shall only be activated for legitimate law enforcement purposes.

Activation of the BWC is required in the following situations:

- b) Emergency responses
- c) Vehicle pursuits
- d) Suspicious vehicles
- e) Arrests and transports
- f) Vehicle searches
- g) Consent to Search
- h) Physical or verbal confrontations or use of force
- i) Pedestrian checks/Terry Stops
- j) DWI investigations including field sobriety tests
- k) Domestic violence calls
- l) Statements made by individuals in the course of an investigation or complaint
- m) Advisements of Miranda rights
- n) Seizure of evidence
- o) Swat Rolls
- p) High Risk Warrants
- q) On all calls for service

2) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.

3) Any other legitimate law enforcement contact where the officer believes that a recording of an incident would be appropriate. In exercising this discretion, officers should be aware of and sensitive to civilians' reasonable privacy expectations.

4) The BWC may not be used for the purpose of intimidating an individual or to discourage an individual from observing police activity, making appropriate inquiries of an officer, or making a complaint.

5) Officers may happen upon a situation requiring immediate action to prevent injury, destruction of evidence, or escape. In these situations, officers should activate the recorder if doing so does not place them or others in danger. Otherwise they shall activate the camera at the first available opportunity when the immediate threat has been addressed. The officer will document the reasons for the delayed activation in a supplement or after action report.

#### **000.4 OFFICER RESPONSIBILITIES**

At the start of each shift, uniformed officers shall properly equip themselves with a BWC to record video and audio in the field. Shift supervisors shall ensure that each officer has adequate recording media for the entire duty assignment. Officers assigned a BWC shall test the equipment prior to use according to manufacturer guidelines and testing procedures. Officers shall immediately report insufficient recording media or malfunctioning BWC systems to an immediate supervisor.

##### **000.4.1 SUPERVISOR RESPONSIBILITIES**

Supervisors shall issue and inspect BWC equipment to assigned personnel to ensure sufficient recording media and proper operability per testing protocols provided under training.

#### **000.4.2 MASTER SYSTEM ADMINISTRATOR (MSA)**

The MSA is a supervisor authorized by the Department with full access to use rights.

The MSA is responsible for:

- a) Assigning and tracking inventory of equipment;
- b) Password control;
- c) End-user security access rights;
- d) Quality checks of video and audio as well as sound quality;
- e) Coordinating with the System Administrators; and
- f) Serving as liaison to manufacturer's representatives on operational equipment related matters.

#### **000.5 CESSATION OF RECORDING**

Once the BWC system is activated it shall remain on and shall not be turned off until an investigative or enforcement contact or incident has concluded. For purposes of this section, conclusion of an incident has occurred when an officer has terminated contact with an individual, cleared the scene of a reported incident, or has completed transport of a civilian or an arrestee. Refer to PR000.4 (b) for exceptions to this requirement. In any instance in which cessation of the recording prior to the conclusion of the incident may be permitted, the officer should seek and obtain supervisory approval prior to deactivating the BWC, whenever possible. If supervisory approval cannot be reasonably obtained, officers must document on the BWC the reason for termination of the recording prior to deactivation of the BWC by noting the date, time, and the reason for the deactivation on the recording and in subsequent written reports as applicable.

#### **000.6 PROHIBITED AUDIO/VIDEO RECORDINGS BY EMPLOYEES IN THE WORK PLACE**

The BWC **shall not** be used to record non-work-related personal activity. The BWC shall not be activated in places where an employee has a reasonable expectation of privacy, such as locker rooms, dressing rooms, or restrooms. If a criminal offense has occurred in these locations, the BWC may be activated and every precaution shall be taken to respect the dignity of the victim by avoiding recording video and audio of persons who are nude or when sensitive areas are exposed. The BWC **shall not** be intentionally activated to record conversations of fellow employees during routine, non-enforcement-related activities without their knowledge or during rest or break periods, or in designated break areas unless an active pre-existing investigation is underway and authorized by law.

#### **000.7 TRAINING**

All members who are authorized to use BWC equipment must complete mandatory training provided by the Department to familiarize themselves with the recording system and Departmental procedures prior to its use.

The remaining procedures govern the operation of Body Worn Camera (BWC) devices issued by the Department. Uniformed Department members assigned these devices are only authorized to record investigative and/or enforcement activities using departmentally-assigned equipment following the practices prescribed within this procedure.

## **PR000.2 GENERAL PROCEDURES**

(a) Department members who have completed authorized training sanctioned by the Department shall be the only personnel authorized to use a BWC in an operational setting.

(b) Video and audio recording devices shall not be used in Department locker rooms, restrooms or any other place where there would be a reasonable expectation of officer's privacy, including, without limitation, break rooms, rest areas, or off-duty gatherings. If a criminal offense has occurred in these locations, the BWC may be activated and every precaution shall be taken to respect the dignity of the victim by avoiding recording video and audio of persons who are nude or when sensitive areas are exposed. Recordings of Department personnel shall not be made unless an authorized pre-existing investigation is being conducted. Only the Chief/Sheriff or the Chief's/Sheriff's designee may authorize such recordings, and such authorization must be in writing before the recording is made. If such authorization is not given, the recording shall be destroyed and shall not be used for disciplinary purposes.

(c) Department members shall not intentionally record confidential informants or undercover officers unless the recording is conducted specifically for the purpose of documenting a sting, drug purchase/sale, or other undercover operation in furtherance of a criminal investigation.

(d) BWCs, when worn by Patrol Officers, shall be worn in a manner consistent with the manufacturer's recommendations. Mounting options for SWAT or other specialty units shall provide for a frontal view in accordance with uniform specifications (e.g., helmets or other protective gear).

(e) BWCs shall not be used for the purpose of conducting Departmental administrative investigations, including undercover/plainclothes operations, without the prior written authorization of the Chief/Sheriff or the Chief's/Sheriff's designee. However, this requirement shall not restrict internal investigators' access to or review of BWC recordings when investigating complaints of misconduct.

(f) If an officer believes that a recorded event may lead to a citizen complaint, he/she shall bring the recording to the attention of his/her immediate supervisor as soon as possible. The supervisor should review the recording and conduct any further investigation that the supervisor deems appropriate. The Department shall not solicit citizen complaints. If an officer self-reports minor violations of policy (i.e., any violation of policy that would by policy or practice result in a suspension of 30 hours or lesser discipline) and no citizen complaint is received, the Department shall not take disciplinary action against the officer. Officer shall be granted such amnesty once per each 180 days. If a citizen complaint is received, the officer's self-reporting shall mitigate the discipline to a verbal counseling. Failure to self-report shall not be a basis for additional discipline.

(g) Department members shall not make covert recordings of conversations with other Department employees, except as provided by policy.

(h) The assigned MSA shall coordinate access requests to the recorded events for officers and investigators for legitimate law enforcement purposes or as directed by the Chief/Sheriff. Officers shall have unlimited

record media from the Web Based Storage Facility.

(j) When handling calls for service or incidents involving the treatment of individuals at a medical facility, Department members may be required to restrict use of a BWC in accordance with facility privacy protocols according to state law. Where facility protocols or state law do not allow for the recording of an event for which recording would otherwise be required, an officer must notify his or her supervisor as soon as reasonably practical, and shall document the reasons for the failure to activate the BWC in the incident report.

(k) In any instance in which cessation of the recording prior to the conclusion of an incident may be permitted, the officer must seek and obtain supervisory approval prior to deactivating the BWC. If supervisory approval cannot be reasonably obtained, the officer must document on the BWC the reason for termination of the recording prior to deactivation of the BWC and document the date, time, and reason for the deactivation on the recording and in subsequent written reports as applicable.

(l) Whenever an officer is subject to internal administrative investigation, discipline, or questioning during an internal administrative investigation, the officer and his or her representative or legal counsel shall be given an opportunity to review all relevant recordings prior to being questioned.

### **PR000.3 BODY-WORN CAMERA MODES OF OPERATION**

(a) **Pre-Event Buffering Mode:** Device feature where the camera continuously records and holds the most recent 30 seconds of video and audio prior to record activation. With this feature, the initial event that causes the officer to activate recording is likely to be captured automatically, thereby increasing the capability of recording the entire activity.

(b) **Record Mode:** In this mode, the BWC device saves the buffered video and audio and continues recording video and audio for up to eight hours or the life of the battery. BWC devices should be equipped to provide a manner to save the buffered video along with actions recorded after activation of the record mode.

(c) Officers shall be permitted to disable or cover the blinking LED for operational safety considerations so as to limit the officers' exposure or visibility. This may done at the beginning of each shift as long as the officer is able to verify at the beginning of the shift that the modes are operating in accordance with the manufacturer's specifications.

### **PR000.4 OPERATIONAL PROTOCOLS**

(a) The BWC shall be worn at all times while on duty when assigned this device.

(b) The BWC shall be utilized by any Department member assigned this device during all investigative or enforcement contacts (see Policy 000.3 – Required Activation of the BWC). However, there may be limited circumstances where the respect for an individual's privacy or dignity outweighs the need to record an event (e.g., a victim traumatized following a violent assault). Where an officer believes such circumstances exist, or that use of a BWC would impede or limit the cooperation of a victim or witness during an investigative contact, an officer may deactivate the BWC after receiving authorization from a supervisor consistent with PR 000.2(k). Department members have discretion whether to activate a BWC during consensual contacts of a non-criminal nature.

event, or they have left the scene (this includes recording of statements).

(e) Additional arriving units to a scene shall place their BWC in the Record Mode as soon as practical (if so equipped), and continue to record until the completion of the event, or they have left the scene (this includes recording of statements).

(f) BWC equipment will be assigned with priority given to each of the primary patrol shifts in each patrol area and other uniform operations assigned under the division based on quantity of operational units in the Department's inventory.

(g) Inspection, general care, and maintenance of a BWC shall be the responsibility of the authorized Department member who has been issued this equipment. BWC equipment shall be operated in accordance with the manufacturer's recommended guidelines, Department training and associated Department policies/procedures.

(h) Prior to beginning each shift, the assigned Department member shall perform an inspection to ensure that the Body-Worn Camera is performing in accordance with the manufacturer's recommendations. If problems are encountered with any component of the system, the BWC equipment will not be used.

(i) Malfunctions, damage, loss or theft of BWC equipment shall be reported immediately by the assigned Department member to an immediate supervisor. The Department member's immediate supervisor shall be responsible for providing written notice to the SA documenting the suspected cause of equipment failure or corrective action initiated related to possible misuse. All lost or stolen BWCs shall be documented in an incident report. Officers shall not be disciplined or be responsible for damage to BWC equipment that occurs in the ordinary course of duty.

(j) Once the BWC is activated in the Record Mode for the purpose of documenting an investigative or enforcement contact, it should remain "on" until the incident has reached a conclusion or until the Department member leaves the scene.

(k) When the BWC is used in an investigative or law enforcement contact, this fact will be documented on any citation, summons, and/or report prepared.

(l) Whenever a Department member obtains a video and audio statement, the fact that the statement was recorded will be listed in the incident report. A video and audio statement is not a replacement for a written or tape-recorded statement.

(m) Department members shall not use electronic devices or other means in order to intentionally interfere with the capability of the BWC equipment.

(n) Department members assigned a BWC shall not erase, alter, reuse, modify, destroy, abuse, or tamper with BWC audio-video and audio recordings or the device.

(o) Department members are to select a system-defined category for each digital recording (e.g., field interview, case file, citation, traffic stop, traffic accident, miscellaneous, training, or other appropriate category listed for the event, provided, however, that miscellaneous shall be used only where the activity does not reasonably fall within another category). Specific instructions on system use are provided through training.

(q) When an incident arises that requires the immediate retrieval of a BWC digital recording (e.g., serious crime scenes, officer-involved shootings, and Department vehicle crashes) a supervisor from the involved member's chain of command or the assigned investigator shall respond to the scene to secure the device and maintain a chain of custody. Subject officers shall not be questioned about critical incidents before being given an opportunity review the recordings.

#### **PR000.5 CHARGING & UPLOADING PROCEDURE**

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

#### **PR000.6 AUTHORIZED USER ACCESS TO UPLOADED MEDIA OR DATA**

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

(a) A Department member who has been assigned a BWC device may review his or her own BWC recording to help ensure accuracy and consistency of accounts. This can be done by accessing the videos in a manner consistent with the storage and viewing procedures. The original recordings shall only be viewed by member(s) who are assigned a BWC device through means authorized by The Department.

(b) A Department member involved in any use of force incident or accident causing injuries will be permitted, but will not be required, to review their own BWC video and audio recordings prior to providing a recorded statement or completing reports. Witness Department members will be allowed to review BWC video and audio.

(c) The Chief/Sheriff may authorize an investigator to review specific incidents contained on BWC recordings if that investigator is participating in an official Department investigation of a personnel complaint, claims investigation, administrative inquiry, or criminal investigation.

(d) A supervisor may review specific BWC media or data for the purpose of training, performance review, critique, early intervention inquiries, civil claims, and administrative inquiry. Routine audits of recording devices shall be used for maintenance and training purposes only and not for discipline, absent additional corroborating evidence or civilian complaint.

(e) Field Training Officers may use media captured via a BWC device to provide immediate training to recruits and to assist with the completion of the Daily Observation Report (DOR).

## **PR000.7 DELETION OF UNINTENTIONAL RECORDINGS**

In the event of an unintentional activation of BWC equipment during non-enforcement or non-investigative activities (e.g., in the restroom, during a meal break, or in other areas where reasonable expectation of employee privacy exists), a Department member may request a recording deletion. An interoffice correspondence detailing the circumstances of the unintentional recording will be forwarded via the chain of command to the member's appropriate supervisor. If approved, the actual deletion requires two-party authorization. One of those parties will be the member's Commander; the other will be the MSA. Only the MSA shall facilitate the actual removal of any record approved for deletion. Records related to any request for the deletion of records shall be maintained by the MSA.