

Recommendations and Best Practices for Body-Worn Camera Implementation: Use and Policy Implications for Law Enforcement Agencies and Suggested Guidelines for a Successful Program to Promote Community Transparency

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Recommendations and Best Practices for Body-Worn Camera Implementation

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**Abstract**

Recommendations and Best Practices for Body-Worn Camera Implementation: Use and Policy Implications for Law Enforcement Agencies and Suggested Guidelines for a Successful Program to Promote Community Transparency

James M. Beller

Under the Supervision of Dr. Cheryl Banachowski-Fuller

**Statement of the Problem**

Law enforcement agencies are under intense public scrutiny due to several recent high-profile use of force incidents and the public has called for increased transparency of law enforcement actions. In some of those incidents, which led to civil unrest, the actions of officers were only captured on cell phone recordings or surveillance video when officers were not equipped with BWCs (Graveley, 2021). BWCs should be standard issue to law enforcement officers but according to Hyland (2018), just 47% of all law enforcement agencies in the United States possess the technology. The purpose of this research is to evaluate the efficacy of body-worn cameras (BWCs) as a law enforcement tool, to include best practices for law enforcement agencies when implementing a BWC program. Considerations include the specific BWC used, training, department policy, subject privacy, and release of recordings. Through proper training and a detailed department policy, the implementation of BWCs will lead to greater transparency that the public has called for.

Law enforcement agency policy dictates when officers are required to record citizen interactions. When policy dictates use, officers are more likely to utilize their BWCs to conform to department policy. According to Hyland (2018), of agencies that implemented BWCs, 86% had a formal policy controlling their operation. Young and Ready (2016), conducted a study that

## Recommendations and Best Practices for Body-Worn Camera Implementation

determined that activation of BWCs by officers was more prevalent when department policy dictated their use during citizen interactions. When law enforcement officers make an arrest, they are expected to perform their duties with the least amount of force necessary to make an arrest. In a study conducted by Ariel, Farrar, and Sutherland (2015), the authors determined that there was a reduction in the use of force by officers equipped with BWCs. In the same study, citizens were less likely to make citizen complaints when officers were equipped with BWCs.

### **Methods of Approach**

The study will utilize a combination of readily available secondary sources to include scholarly articles, government websites, and government publications. The sources will be reviewed to determine best practices for implementing a BWC program. Sources will also be used to identify the benefit BWCs have for communities in reduced civil litigation. Additional information that will be utilized for this paper will come from non-peer-reviewed articles regarding BWCs, including news sources found in the UW- Platteville library.

### **Findings and Recommendations**

This research provides the best practices for agencies when implementing a BWC program. The research extended beyond best practices and identified the benefits to agencies that add BWC technology, both in a transparency aspect and an accountability aspect. The research detailed the need to implement a policy that dictates officer discretion for activation, deactivation, in addition to data storage, privacy rights, and release of records under public records law. Finally, the paper detailed employee accountability regarding department policy and the need to maintain standards which further reinforces the transparency expected from a BWC program.

**TABLE OF CONTENTS**

APPROVAL PAGE \_\_\_\_\_ 1

TITLE PAGE \_\_\_\_\_ 2

ACKNOWLEDGEMENTS \_\_\_\_\_ 3

ABSTRACT \_\_\_\_\_ 4

TABLE OF CONTENTS \_\_\_\_\_ 6

I. INTRODUCTION \_\_\_\_\_ 8

    A. Statement of the Problem \_\_\_\_\_ 8

        i. The performance of law enforcement in the United States has been the focus of society and communities are calling for greater transparency. The request for transparency in law enforcement performance can be accomplished with the implementation of body-worn cameras (BWCs).

    B. Purpose of the Study \_\_\_\_\_ 9

        i. The successful implementation of BWCs is multifaceted and agencies must consider the impact that the devices will bring to the communities they serve. The purpose of this study is to offer agencies clear implementation considerations to follow when developing and implementing a BWC program. The brand of BWC to acquire, the deployment of the devices, data retention, public records requests for digital recordings, and citizen and officer privacy are all factors to consider.

    C. Significance of the Study \_\_\_\_\_ 9

        i. Some law enforcement agencies have been reluctant to implement BWCs and this study will detail the benefits of the recording devices. The study will identify best practices when developing a program and detail potential issues that might arise during implementation.

    D. Methods of Approach \_\_\_\_\_ 9

        i. A review of readily available empirical articles and research studies will be utilized to describe best practices in implementing a BWC program.

    E. Contribution to the Field \_\_\_\_\_ 10

        i. This research identified the best practices for agencies when implementing a BWC program. The research extended beyond best practices and identified the benefits to agencies that add BWC technology, both in a transparency aspect and a liability aspect.

Literature Review \_\_\_\_\_ 11

    F. History of Law Enforcement Video Recording Devices \_\_\_\_\_ 11

    G. Body-Worn Camera Definition and Purpose \_\_\_\_\_ 12

        i. Prevalence of Body-Worn Cameras \_\_\_\_\_ 15

        ii. State Laws Regarding Body-Worn Cameras \_\_\_\_\_ 16

        iii. Federal Mandates and Laws Regarding Body-Worn Cameras \_\_\_\_\_ 17

## Recommendations and Best Practices for Body-Worn Camera Implementation

H.	Benefits of the Body-Worn Camera	18
i.	Law Enforcement Use of Force	18
ii.	Officer Perceptions of Body-Worn Cameras	21
iii.	Investigative Benefits of Body-Worn Cameras	23
iv.	Community Transparency	24
I.	Disadvantages of the Body-Worn Camera	25
i.	Various Costs of Implementing a Body-Worn Camera Program	25
ii.	Officer Privacy Concerns of Body-Worn Cameras	27
iii.	Citizen Privacy Concerns of Body-Worn Cameras	28
J.	Public Records Requests of Body-Worn Camera Recordings	30
II.	Theoretical Framework	33
A.	Routine Activities Theory	33
B.	Deterrence Theory	35
III.	Case Studies of Notable Incidents	37
A.	Ferguson, Missouri	38
B.	Minneapolis, Minnesota	40
C.	Kenosha, Wisconsin	42
IV.	Recommendations for Implementing a Body-Worn Camera Program	44
A.	Community Support and Transparency	45
B.	Agency and Local Government Support	46
C.	Selection of the Body-Worn Camera	47
D.	Policy and Procedure	48
E.	Records Retention and Release of Recordings	49
V.	Conclusion	50
VI.	Reference List	52

## **Section I: Introduction**

### **Recommendations and Best Practices for Body-Worn Camera Implementation: Use and Policy Implications for Law Enforcement Agencies and Suggested Guidelines for a Successful Program to Promote Community Transparency**

#### **Statement of the Problem**

Law enforcement agencies are under intense public scrutiny due to several recent high-profile use of force incidents and the public has called for increased transparency of law enforcement action. In some of those incidents, which led to civil unrest, the actions of officers were only captured on cell phone recordings or surveillance video when officers were not equipped with BWCs (Graveley, 2021). BWCs should be standard issue to law enforcement officers but according to Hyland (2018), just 47% of all law enforcement agencies in the United States possess the technology. A properly deployed BWC captures the events as they occur from the vantage point of the officer. The recordings can later be reviewed to provide the transparency demanded by the public.

Law enforcement agency policy dictates when officers are required to record citizen interactions. When policy dictates use, officers are more likely to utilize their BWCs to conform to department policy. According to Hyland (2018), of agencies that implemented BWCs, 86% had a formal policy controlling their operation. Young and Ready (2016), conducted a study that determined that activation of BWCs by officers was more prevalent when department policy dictated their use during citizen interactions. When law enforcement officers make an arrest, they are expected to perform their duties with the least amount of force necessary to make an arrest. In a study conducted by Ariel, Farrar, and Sutherland (2015), the authors determined that there

## Recommendations and Best Practices for Body-Worn Camera Implementation

was a reduction in the use of force by officers equipped with BWCs. In the same study, citizens were less likely to make citizen complaints when officers were equipped with BWCs.

### **Purpose of the Study**

The purpose of this research is to evaluate the efficacy of body-worn cameras (BWCs) as a law enforcement tool, to include best practices for law enforcement agencies when implementing a BWC program. Considerations include the specific BWC used, training, department policy, subject privacy, and release of recordings. Through proper training and a detailed department policy, the implementation of BWCs will lead to greater transparency that the public has requested.

### **Significance of the Study**

Law enforcement agencies have been reluctant to implement BWCs and this study will detail the benefits of the recording devices. Roughly half of all law enforcement agencies in the United States operate without BWCs (Hyland, 2018). In 2015, the President's Taskforce on 21<sup>st</sup> Century Policing recommended as part of the Six Pillars, the implementation of BWCs to increase transparency between law enforcement and the community (President's Task Force on 21st Policing, 2015). The study will identify best practices when developing a BWC program and detail potential issues that might arise during implementation.

### **Methods of Approach**

The study will utilize a combination of readily available secondary sources to include scholarly articles, government websites, and government publications. The sources will be reviewed to determine best practices for implementing a BWC program. Sources will also be

## Recommendations and Best Practices for Body-Worn Camera Implementation

used to identify the benefit BWCs have for communities in reduced civil litigation. Additional information that will be utilized for this paper will come from non-peer-reviewed articles regarding BWCs, including news sources found in the UW- Platteville library.

### **Contribution to the Field**

This research intends to provide the best practices for agencies when implementing a BWC program. The research will extend beyond best practices and identify the benefits to agencies that add BWC technology, both in a transparency aspect and a liability aspect. The research will detail the need to implement a policy that dictates officer discretion for activation, deactivation, in addition to data storage, privacy rights, and release of records under public records law. Finally, the paper will detail employee accountability regarding department policy and the need to maintain standards which further reinforces the transparency expected from a BWC program.

## **Section II – Literature Review**

This literature review is divided into five sections, beginning with a history of video recording devices utilized by law enforcement, and progressing to a definition of BWCs and their purpose. The third section discusses the advantages of a BWC program, such as complaints about use of force, citizen complaints, officer perceptions, investigative benefits, and increased transparency between law enforcement and the community it serves. The fourth section discusses the drawbacks of BWCs, such as the program's cost, citizen perceptions, investigative difficulty, officer privacy, and citizen privacy. The fifth section discusses BWC recordings and their privacy in relation to public records requests, as well as the redaction of recordings that are released to the public.

### **History of Law Enforcement Video Recording Devices**

The public has been interested in how police enforce the law and conduct business for as long as modern policing has existed. The primary motivation for recording police interactions was to enforce the law, with transparency coming in second. The Connecticut State Police attempted the first video recording capabilities in a police vehicle in the late 1960s. The system included a video camera mounted on a tripod in the front passenger seat of a police cruiser, as well as recording equipment in the back seat. The system was too large, limiting the vehicle's use for policing (International Association of Chiefs of Police, 2001). For nearly two decades, there was little advancement in technology for squad car cameras. Mothers Against Drunk Driving (MADD) raised awareness in the 1980s by funding recording equipment for law enforcement to use when enforcing drunk driving laws. MADD's main goal was to reduce the number of drunk drivers on the road by strictly enforcing the law (IACP, 2001). Transparency became a focal

point during America's war on drugs initiative in the 1990s, and the popularity of in-car squad cameras grew significantly as a result of public distrust of law enforcement activities. Those who were skeptical of law enforcement found it difficult to believe that officers were following the law and were able to obtain the consent to search the vehicles of drug traffickers transporting large amounts of drugs and money. Additionally, allegations of racial profiling by law enforcement increased the demand for recording devices in police vehicles in the late 1990s (IACP, 2001).

As recorded interactions between law enforcement and the public became more common, society recognized their value in terms of transparency. Prosecutors learned that obtaining convictions in criminal prosecutions was easier when video evidence was presented to juries during the trial. Although video cameras in squad cars were identified as a benefit to law enforcement, according to a National Institute of Justice study conducted in 2000 (IACP, 2001), only 11% of state and highway patrol vehicles were equipped with video cameras. Concerns of Police Survivors established a grant program in 2000 in response to the low number of vehicles equipped with recording systems. The grant program increased the number of police vehicles equipped with cameras by 72 percent at the end of the three-year program (IACP, 2001).

### **Body-Worn Camera Definition and Purpose**

As technology continued to advance and recording devices became compact enough for personal wear, law enforcement agencies began to implement body-worn cameras (BWCs). BWCs are electronic devices that are relatively small which capture video and audio recordings within the devices. Law enforcement agencies utilize BWCs to capture interactions between officers and members of the public. The recordings are stored within the camera and are later

## Recommendations and Best Practices for Body-Worn Camera Implementation

entered into either a server database or cloud system through an uploading process. The recordings can be viewed on the individual BWC through a playback mode or on a computer once the recordings are uploaded to the server or cloud system.

BWC recordings serve several purposes, including community transparency, investigation, evidence collection, and deterring and documenting inappropriate behavior by the subjects of the recordings (Bureau of Justice Assistance, 2015). Police chiefs recognize that improved police-community relations are at the heart of community policing. Departments that are engaged with the community and participate in community events have a higher level of trust in the community. The increased community trust strengthens police legitimacy and frequently may lead to crime reduction (President's Task Force on 21st Policing, 2015).

There are approximately twenty-one different manufacturers of BWCs including AXON (TASER International), Motorola Solutions (WatchGuard), and BodyWorn by Utility, Inc. (Lexipol, Police1 (2021). There are similar features across all BWCs and as technology has steadily increased, proprietary differences between each of the manufacturers have evolved. The BWC is worn on the officer and can be in several positions on their body, including head mount and chest mount options. Placement of the BWC is dependent on the camera model selected, the officer's assignment, and should be consistent with the officer's field of vision and perception (Miller, Toliver, and Police Executive Research Forum, 2014).

The BWC is activated when the user pushes or swipes a button on the front of the device. Video and audio are then captured and recorded to the device. BWCs have a settable prerecord option that collects video up to three minutes before the activation. Video captured by the BWC which is related to an investigation is considered the evidence and therefore all manufacturers

## Recommendations and Best Practices for Body-Worn Camera Implementation

now have securities in place to keep the video from being altered or deleted (White, 2014).

Department policy often dictates when officers must activate their BWC including criminal investigations, traffic stops, or other interactions with the public. The policy should also provide direction to officers when not to activate their BWC, such as restroom breaks, inside of locker rooms, or during sensitive crimes investigations which involve interviewing victims of sexual assault.

BWC activation can be set to certain triggers such as squad car lights activating or squad doors opening. Recently, manufacturers have deployed a system that activates the BWC when a firearm is removed from the holster (Utility Associates Inc., 2020). The feature is not absolute as reported by Watson & Bazzle, (2021). On March 36, 2021, police in Virginia Beach, VA responded to an incident in the Oceanfront community where 11 people were shot. During the investigation, an officer utilized deadly force and shot and killed shooting suspect Donovan Lynch. The incident should have been captured on the officer's BWC but the department, after having purchased the technology, failed to implement it when incompatible holsters were later purchased by the department.

The ability to look back at BWC footage if an officer fails to activate the system is invaluable. Most systems have a look-back period that captures up to three minutes of footage without the benefit of the audio being captured. The captured video is invaluable but without the audio, there are only video and witness testimony to rely on. The lookback is only available if the officer triggers the device and if the device is never triggered, the incident is not captured. BWCs by Motorola under the name of WatchGuard have a continuous recording feature called Record After the Fact (RATF). The feature allows BWC program administrators to download videos stored in the background of the system. The recordings are overwritten after a set time,

but this feature allows the recovery of recordings if an officer fails to activate their BWC (Motorola Solutions Inc., 2021).

The BWCs' recordings of officer interactions serve several purposes (Bureau of Justice Assistance, 2015), including the documenting the officer and public interaction, the demeanor of those involved, and the ability to look back at the event for investigative purposes. If the recording is during a criminal investigation, it can be used for the prosecution of offenses. Recordings can also be reviewed to determine if evidence was discarded during a foot pursuit, or for identification purposes if the offender evades arrest. The department may use recordings for training purposes, and recordings are frequently made public to promote transparency (President's Task Force on 21st Policing, 2015).

### **Prevalence of Body-Worn Cameras**

BWCs were first empirically tested in the United Kingdom in 2005 by officers of the Plymouth Police Department. The initial testing by Plymouth Police led to the evaluation of BWCs by additional law enforcement agencies across Scotland (Laming, 2019). After law enforcement leaders in the United States noticed the benefits of BWCs being used in the UK, they began to consider BWC technology in 2010. Several police-involved deaths in the years leading up to 2014 prompted then-President Obama to establish the President's Task Force on 21st Century Policing. The task force's goal was to build trust between communities and police while also improving police accountability. The final report of the task force was released in 2015, and it recommended changes, including the use of BWCs as a law enforcement tool to promote transparency (President's Task Force on 21st Policing, 2015). Federal funding to implement a BWC program became available when former President Obama provided grants

## Recommendations and Best Practices for Body-Worn Camera Implementation

totaling over \$50 million to law enforcement agencies to implement the technology (Huff, Katz, & Webb, 2018).

After federal funding became available for BWC implementation in 2015, law enforcement agencies began to implement the technology. According to Hyland (2018), almost half (47%) of all law enforcement agencies in the United States were utilizing BWCs in 2016 which was up from 25% of all law enforcement agencies using BWCs in 2013 (Bureau of Justice Assistance, 2015). Local police departments comprised the highest percentages of full implementation of BWCs over sheriff departments and of the 15,328 agencies using BWCs, 60% of the local police had fully implemented the technology while only 49% of sheriff departments were at full implementation (Hyland, 2018).

A survey of all law enforcement agencies in Wisconsin was conducted for a report released by the Wisconsin Department of Justice in January of 2021 (Wisconsin Department of Justice, 2021). According to the report, the state BWC participation was equal to the US national average with 48 percent of responding agencies deploying BWCs. The report indicated that 88% percent of all responding agencies utilized one form or recording, either an in-car recording system or individual BWCs. A small percentage of respondents (14%) deploy only BWCs, and this is most likely due to vendors offering BWCs and in-car video as a package deal. The purchase of a Motorola Solutions Watchguard 4re in-car video recording system includes a V300 BWC (Watchguard 4RE In-Car Video System, 2021).

### **State Laws Regarding Body-Worn Cameras**

South Carolina was the first state to require BWCs for law enforcement, and the bill was signed into law on June 10, 2015. South Carolina lawmakers proposed BWC mandates in

## Recommendations and Best Practices for Body-Worn Camera Implementation

December 2014, and after Walter Scott's death on April 4, 2015, the proposal became law.

Walter Scott, an unarmed African American man, was shot and killed by a North Charleston Police Officer. There were no BWC recordings, and the officer claimed he feared for his life.

The officers' account was later contradicted by bystander video (South Carolina Sheriffs'

Association, 2015). After the video surfaced, the officer was charged and later convicted of

Scott's murder and sentenced to twenty years in prison (US Department of Justice, 2017). There

were several high-profile law enforcement involved deaths in 2020 which spurred additional

talks of requiring BWCs. New Mexico, New Jersey, Maryland, Illinois, Connecticut, and

Colorado are among the six states that mandated the implementation of BWCs in 2020 (National Conference of State Legislatures, 2021).

### **Federal Mandates and Laws Regarding Body-Worn Cameras**

Although state and local law enforcement have been utilizing BWCs for several years, federal law enforcement agencies have just begun to implement BWC technology. On September 1, 2021, the US Department of Justice announced that it will require federal agents to use BWCs when interacting with the public on preplanned events such as search warrants and other operations. Agents assigned to the Phoenix and Detroit offices of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) will be the first to begin using the recording devices. Those agents will be followed by members of other federal agencies that will follow suit and implement BWCs. Federal authorities reported that they will rely on Congress to fund the initiative so that every federal officer will be outfitted with a BWC. The move is expected to increase the transparency of federal agencies and provide better documentation of the citizen contacts that occur with federal authorities (US Department of Justice, 2021).

## **Benefits of the Body-Worn Camera**

This section will briefly discuss police use of force in the United States and the benefits of BWCs as a law enforcement tool will be discussed, including complaints against officers, officer perceptions, investigative benefits, and community transparency.

### **Law Enforcement Use of Force**

To preserve order, law enforcement at times must utilize force against citizens. The creation of law in the United States provided the authority as a privilege, for law enforcement officers to use force to ensure observance of the law and to maintain order (Lippman, 2018). The expectation of society to utilize force against citizens is a burden that police carry with them as they protect citizens. The use of force by law enforcement officers is often contentious and brings out many reactions from the public. The actions of law enforcement are often scrutinized long after the event and the use of BWCs are used to document what actions were taken during the incident. Law enforcement's use of force is more controversial than ever, splitting people who try to reconcile their rights as citizens with the obligations of law enforcement. The use of BWCs can often quell those most outspoken about law enforcements actions during incidents.

There is no universally accepted national definition of the use of force. According to the National Institute of Justice (2003), police officers must use no more force than is necessary to make an arrest, manage an incident, or defend themselves or others from injury. When officers utilize force against civilians, it must be fair and not unreasonable. Excessive force incidents, particularly those caught on video, elicit public outrage. Often, incidents are captured on cell phone video and the recordings often begin after the initial contact. When officers are outfitted with BWCs, the incident is captured at the onset and often depicts an entirely different account

## Recommendations and Best Practices for Body-Worn Camera Implementation

of the interaction compared to the cell phone video. According to Gaines and Kappeler (2015), excessive force is described as using more force than a professionally qualified law enforcement officer would use in a similar incident. Such incidents are likely to be investigated by the agency, which may have civilian oversight boards. In some rare cases, criminal charges have been brought against a law enforcement officer for using excessive force (United States Commission of Civil Rights, n.d.).

Johnson and Bridgmon (2009) conducted a study of the Department of Justice's (DOJ) prosecutions of criminal civil rights violations between 2001 – 2006 under federal criminal code 18 U.S.C. 242 (242). Cases prosecuted under U.S.C. 242 include law enforcement officers who are accused of violating a person's civil rights. The cases were reviewed, including the nature of cases and where they begin in the criminal justice system before being brought to federal court. The authors determined that, after receiving thousands of complaints each year, the conviction of U.S.C. 242 cases were incredibly limited. The study has raised concerns about whether the federal government investigated such a limited number of cases when they claim that enforcing civil rights violations is a high priority. The implementation of BWCs and the recordings of them may increase the prosecution of civil rights cases.

With the advancement of technology, BWC utilization has been at the forefront of citizen expectations for law enforcement activity. In a study conducted by Culhane & Schweitzer (2017), the researchers noted that there is a need for better documentation of police interactions within each community that it serves. The study was conducted to understand the public perceptions of the use of force incidents, including officer-involved shootings. The results of the study were that the release of BWC footage should be appropriately timed with the release of additional information from authorities. The researchers suggested that although BWCs are an

## Recommendations and Best Practices for Body-Worn Camera Implementation

important tool, the BWCs and their recordings are subject to limitations in the use of force incidents. According to the researchers, while BWCs are an important law enforcement tool, they have shortcomings in the use of force incidents, but those shortcomings can be overcome with training and advanced technology. According to research done by PERF (2018), the major motivation for deploying BWCs was to improve accountability, transparency, and legitimacy. All these objectives revolve around improving the communities trust in law enforcement.

Ariel, Sutherland, Henstock, Young, Drover, Sykes, Megicks, and Henderson (2016) undertook a BWC study to see how BWCs influenced police use of force. The study utilized law enforcement officers and they were two control groups referred to on or off duties. Officers who were fitted with BWCs were on duty, and those who were not were off duty. The study found that where BWCs were used and worn by participating officers, cases of police use of force declined. Furthermore, when participants did not have a BWC, the number of events involving the use of force rose. According to the study's conclusions, BWCs should be kept on indefinitely while the officer is working and performing their duties. Continuous monitoring would not only reduce the number of events including the use of force, but it will also monitor all citizen communications.

The use of BWCs has been shown to reduce the use of force cases by officers along with a reduction in citizen complaints filed against officers. The implementation of BWCs was monitored for the effects of the use of force incidents and citizen complaints in a study conducted by Headley, Guerette, and Shariati (2017). The study generated data on cases of use of force and citizen complaints. According to the study's findings, officers wearing BWCs experienced an overall decrease in the use of force incidents and those incidents were reduced on

average by 20%. The number of citizen complaints filed against officers wearing BWCs decreased significantly, and the study determined there was an overall decrease in complaints against officers of 50%. According to Lum, Koper, Wilson, Stolz, Goodier, Eggins, Higginson, and Mazerolle (2020), who performed a BWCs research study, the deployment of BWCs by law enforcement agencies can reduce the number of citizen complaints against officers by 17 percent on average.

### **Officer Perceptions of Body-Worn Cameras**

Citizens' perceptions of how law enforcement functions have changed as digital recording technology has advanced. Unless a citizen was directly involved in law enforcement, their opportunity to observe law enforcement in action was severely limited. Citizens' capacity to record police operations using cell phones and post the videos to social media was considered to influence officers' professionalism on the job. In general, video recordings had little effect on law enforcement procedures; instead, the way law enforcement operated was more easily brought to the attention of people via social media and mainstream media.

The successful implementation of a BWC program should be supported by administrative staff and any reform in law enforcement must include officer buy-in (Rosenbaum & McCarty, 2017). If officers believe that when BWCs are implemented, that their use will only be used to monitor officer behavior and policy conformance, the program may fail (Headley et al., 2017). In a study conducted by Goetschel and Peha (2017), the researchers found that a strong predictor of support for a successful BWC program was how officers perceived their relationships with superiors would be affected by the implementation of BWCs. If officers felt that the BWCs were

## Recommendations and Best Practices for Body-Worn Camera Implementation

not being used to evaluate their performance and would not be used merely for discipline matters when poor performance was discovered, they were more supportive of implementation.

Over the last decade, officer attitudes have evolved in parallel with the evolution of surveillance technologies. Sandhu (2019) collected officer impressions in a study, and the results were not what the researchers expected. The Edmonton Canada Police Services provided 60 law enforcement personnel of various ranks for the research. Researchers rode alongside officers and conducted field interviews, asking open-ended questions, and taking notes on the officers' replies. The researchers then classified the officers' replies and recoded them until consistent claims of the data were identified. There was some bias with the researcher's subjective interpretation of the data but ultimately, the researchers determined that the officers found that being recorded was often beneficial, in both an evidentiary standpoint, and to dispute claims of unprofessionalism when citizen complaints were lodged against them. A prevalent trend among officer responses in Sandhu (2019) was playing to the camera in a way to bolster their on-camera experience by providing recordings that will disprove complaints and support a good evaluation of their performance.

Although the use of BWCs has risen over the last decade, there have been few studies that examine officer perceptions of the devices after they were implemented inside agencies. Huff, Katz, Webb, and Hedberg (2020) conducted a study in which they assessed officers' views of BWCs before and after the devices were implemented. The authors performed before and post-implementation surveys on participants and divided the officers into three groups: assigned (those who volunteered or were forced to wear a BWC), resisters (those who refused to wear a BWC), and a control group (were not asked to wear a BWC). According to the study's findings, the introduction of BWCs had limited beneficial impacts, and generally, officers felt more

optimistic about organizational justice and departmental improvements. Officers believed that the BWCs did not always live up to expectations when it came to citizen encounters. The authors did note that their study was time-limited and that a longer length of time between the pre-implementation survey and the post-implementation survey might have an impact on the overall results of their study. Lum et al., (2020) discovered that officers' views toward BWCs improved after deployment because officers believed the devices would safeguard them during investigations of public complaints and allegations of wrongdoing.

### **Investigative Benefits of Body-Worn Cameras**

The use of BWCs provides many advantages to agencies that use them, including investigative advantages. According to Chapman (2019), it has been found that when agencies implement BWCs, arrests, prosecutions, and guilty pleas were shown to increase in those jurisdictions. In those agencies that had a BWC program, the technology provided investigators the advantage of spending less time preparing cases for prosecution and their investigations were resolved faster and overall, those captured on BWC recordings were less likely to take a prosecution to trial.

BWCs are also beneficial in providing more accurate investigations (Honig and Johnson, 2019) and investigators can review recordings to look for leads that may have been overlooked. The Council on Criminal Justice (2021) reported that BWC recordings have assisted in the prosecution of criminal cases as defendants are less likely to go to trial when recordings are available to the prosecutor. The recordings can be used to independently verify a witness's statement and provide a chain of custody for evidence of the case.

## Recommendations and Best Practices for Body-Worn Camera Implementation

Davis and Johnson (2019) conducted a study to determine whether BWCs affect officers' ability to conduct field interviews of victims and witnesses. The study was conducted in cooperation with the Prince Georges County, MD Police Department and involved the researchers conducting ride-along and completing observation forms about the calls they responded to. Follow-up surveys were sent to the citizens that were present during the calls regarding the presence of BWCs. The researchers concluded that 98% of the citizens that were captured on BWCs did not react to the devices, even after being told they were being recorded. Additionally, there were no verbal objections to being recorded by BWCs in the 321 contacts that were made during the study.

### **Community Transparency**

Law enforcement leaders often look to implement a BWC program to promote officer accountability, legitimacy, and transparency which fosters the building of trust within the community. In 2015, the President's Task Force on 21st Century Policing issued a final report that identified six pillars for strengthening community policing and building trust between law enforcement and the communities they serve. Pillar one recommended building trust and legitimacy and the implementation of BWCs by agencies would serve to meet this pillar (President's Task Force, 2015). Quite often, officer use of force videos that are streamed by media outlets is a small fraction of the overall incidents. The videos are generally recorded by bystanders using cell phones and the initial critical portions of the incident are not part of the recordings. While those videos will still be streamed by media outlets or posted to social media and in turn, go viral, law enforcement agencies can release BWC recordings that capture the entire incident. According to Careless (2021), being able to release unaltered BWC recordings to promote transparency is vital to building trust in the community. BWC recordings of police

## Recommendations and Best Practices for Body-Worn Camera Implementation

actions allow police leaders, community leaders, and the public to see what transpired during an incident, from the officer's point of view.

Building transparency through the release of BWC recordings is a good practice, and a Council on Criminal Justice recommendation (2021). Agencies should audit BWC recordings regularly, and if acts of misconduct are discovered during the audits, an investigation should be initiated. When the investigation is concluded, the details of the investigation, as well as the BWC recordings, should be made public. According to the Council on Criminal Justice (2021), when agencies conduct investigations into officer misconduct and hold the involved officers accountable, community trust is enhanced, and the agency becomes more transparent.

### **Disadvantages of the Body-Worn Camera**

This current study has suggested that the benefits of implementing a BWC program significantly exceed any negative consequences. Several studies have addressed some of the issues to be discussed. This section will discuss implications that agencies might experience when implementing a BWC program.

### **Various Costs of Implementing a Body-Worn Camera Program**

The implementation of BWCs within agencies can come at a substantial cost to the organization and is a long-term investment (Laming, 2019). Larger police agencies will have higher overall costs, including the continual cost of data storage while smaller agencies will experience a smaller impact. When implementing BWCs, agencies must carefully consider how they will outfit their staff with the devices and if each member will be issued a BWC or the devices will be shared. There will be additional costs of the program including administrative and personnel to facilitate the program and the redaction and release of records. Once BWCs are

## Recommendations and Best Practices for Body-Worn Camera Implementation

deployed, it could be detrimental to the agency to send officers out on patrol without the devices (Police Executive Research Forum, 2018). If an officer is involved in a deadly force incident and due to equipment shortages, does not possess a BWC in a department that has implemented the devices, the scrutiny would likely be overwhelming for the officer and the department.

Therefore, BWCs for all officers should be considered.

Storage of the data produced by the devices is one of the primary expenditures connected with BWCs (PERF, 2018). Agencies must examine how BWC recordings will be kept, whether in an agency-purchased terminal server or a cloud-based storage system maintained by the BWC vendor. Agencies must evaluate storage expenses in relation to retention schedules imposed by state statute or agency policy. Depending on the investigation and its outcome, certain types of videos may be needed to be kept for a period that exceeds standard retention limits, even indefinitely. One way to keep overall costs down is to eliminate recordings as soon as possible. According to Stanley (2015), the American Civil Liberties Union (ACLU) advocates retaining BWC recordings just for as long as they are required. The duration of BWC retention should be assessed in weeks rather than years. Insignificant videos with no public interest should be purged as soon as possible.

The true cost of BWC implementation is primarily determined by the department's size. Davis and Johnson (2019), estimate that the average cost per BWC is between \$800 and \$1200. Larger agencies would incur a higher expense than smaller agencies since they have more citizen contacts and require more storage capacity. According to a PERF (2018) study, the maximum large agency cost for officers above 250 was about \$1,334,727 per year for equipment and an additional \$4,000,000 for storage. Smaller agencies (fewer than 250 sworn) would pay about \$97,000 per year for equipment and an additional \$50,000 for storage. Personnel expenses to

manage the equipment and record requests for BWC recordings are not included in those references (PERF, 2018).

### **Officer Privacy Concerns of Body-Worn Cameras**

While there is growing interest in and many claimed benefits to utilizing BWCs, there are also several concerns regarding officer and civilian privacy posed by their use. Law enforcement officers are public officials and what they do on duty is of interest to the public. Officer activity and their time on duty could be subject to public records requests. If an officer sends text messages through a department-issued phone or sends an email through department-issued computer equipment, the content of those messages could become public through a public records request by a citizen (WI Department of Justice, 2019). BWC recordings are also considered public records and subject to release under state statute. The request for BWC recordings could include the time that officers were on duty but not actively engaged in service to the community. If the BWC wasn't activated, there would not be a recording available to release. If the officer inadvertently activated the recording, it could be subject to release.

When implementing a BWC program, organizations can choose from several BWC manufacturers. The devices from each manufacturer are comparable, but the Motorola Watchguard system has one major privacy concern: the Record After the Fact (RATF) technology. Although agencies may switch off the audio recording on RATF, the Watchguard system is always recording (Motorola Solutions Inc., 2021). Officers must be aware of their whereabouts while on duty, especially while using the restroom or stopping somewhere private for a break as the cameras will capture those activities (del Pazo, 2017). Although a public

## Recommendations and Best Practices for Body-Worn Camera Implementation

records request would be denied if the recording raised privacy concerns, authorized staff could view these recordings.

There are additional concerns for officers when utilizing BWCs including their privacy, and those that are captured on their recordings. Law enforcement officers should be allowed to have private conversations with fellow officers, including personal experiences, without being worried that the BWC captured their conversation. Officers are no different than other citizens and they often receive cell phone calls from family and friends while on-duty. The content of those conversations could be captured on BWC (del Pozo, 2017). Officers that stop home during their meal break are concerned about their homes being captured on BWC recordings, along with the children or other family members who might be present when they arrive home. Private text messages sent on their phones could be captured by the BWC. Officers entering a locker room must be conscious to remove their cameras to not capture unsuspecting persons in a state of undress, especially those officers that are using Motorola Watchguard cameras that are constantly recording with RATF (Johnson and Davis, 2019).

### **Citizen Privacy Concerns of Body-Worn Cameras**

Concerns have been raised by civilians who have been recorded on BWCs by police enforcement over the intimacy of the recording. As surveillance technology has improved, the typical citizen gets recorded on surveillance cameras more frequently than they realize in the United States. According to Melore (2020), a person is captured on camera at least 238 times every week. Surveillance camera interactions frequently occur while people are outside of their homes and out in public as they go about their daily lives. There is a considerable contrast between what is filmed on security cameras and what is captured on BWCs worn by police

## Recommendations and Best Practices for Body-Worn Camera Implementation

officers when they enter people's homes, frequently on the citizen's worst day, to conduct investigations. The size of BWCs makes them difficult to see on an officer who has a vest full of police equipment and the technology allows them to easily record inside of homes (Davis and Johnson, 2019).

Privacy inside people's homes is of the utmost importance and they are often unwilling to let just anyone inside of their homes. When law enforcement enters a home with their BWC recording, the privacy of that home interior is compromised. The recordings can be used in criminal proceedings, civil proceedings, or become available to the public through a public records request. BWCs often capture victims, witnesses, and suspects in various states of distress, confusion, intoxication, or other situations that might be embarrassing to them (Davis and Johnson, 2019). BWCs might capture uninvolved people while inside the home including the elderly or children, those that don't have standing to not be captured in the recordings. These are just a few examples of privacy concerns inside the residences. An additional concern in a private home is the layout of the home and the items contained within the home. Unsuspecting citizens could have their homes targeted by burglars if BWC footage reveals they have antiques or valuable items in their homes.

Concerns about citizen privacy raised by BWCs extend beyond private residences and into instances where individuals are being treated for medical conditions by emergency personnel. Law enforcement is commonly the first responders that arrive at medical emergencies, including those that happen while police are conducting investigations (Landry, Aberle, Dennis, & Sztajnkrzyer, 2015). Personal health information is highly protected and although capturing recordings of medical treatment might not rise to the level of a Health Insurance Portability and

## Recommendations and Best Practices for Body-Worn Camera Implementation

Accountability Act (HIPAA) violation, the recordings need to be handled professionally and any release of recordings to the public must be highly scrutinized.

Extending beyond the initial scene response and into health care facilities, law enforcement utilizing BWCs post a genuine concern for patients in the facility. Whether they are taking suspects to the hospital for treatment or checking on patients from automobile accidents, officers enter health care facilities regularly. Although agency policy varies, it is commonplace that BWCs must remain powered on and recording while officers are in contact with individuals, especially during prisoner escorts. As officers travel through the hallways of the health care facilities, their BWC is not only capturing private images of people receiving medical treatment, but also likely recording health care conversations of others taking place (SmithAdumndsen LLC, 2019). Officers often end up in hospital emergency rooms where privacy is often overlooked due to confined spaces and open rooms.

### **Public Records Requests of Body-Worn Camera Recordings**

When responding to public records requests for records, agencies must consider the privacy of those captured on BWC recordings. The state of Wisconsin public records law was written with transparency in mind, and government records are subject to complete public access, subject to specific exceptions and what is known as the balancing test. While there are a few exceptions to the release of records, most records must be provided to the requestor within a reasonable time frame. Requests for BWC recordings kept by law enforcement are included in this category (Wisconsin Department of Justice, 2019).

The definition of public records in Wisconsin is comparable to that of many other states, and those records are defined as mostly all material, in all formats, including digital, created, or

## Recommendations and Best Practices for Body-Worn Camera Implementation

kept by a government agency. The scope of the record includes records created by a government agency as well as material produced by another government agency or the citizens it serves. A citizen-created document that becomes a public record could be a statement completed by the citizen referencing a crime under investigation by law enforcement or a photograph taken of a suspect vehicle (Wisconsin Department of Justice, 2019).

In Wisconsin, a government agency that receives a public records request for records must honor the request within a reasonable time frame. The agency must first determine whether the record exists, and agencies are not required to create records. Once the record has been located, it must be determined whether it is subject to release or falls under one of the numerous exceptions. Some documents may exist, but they are not official records, such as published material, purely personal property, copyrighted material, or officer notes, which may include unfinished preliminary reports (Wisconsin Department of Justice, 2019).

Law enforcement agencies frequently appoint a custodian of records, who is responsible for responding to public records requests. The process of responding to requests for records begins with determining whether the record exists after receiving the request. If there is no record, the requestor is notified, and no further action is required. If the receiver determines that the request was sent to the incorrect entity, the agency should notify the sender of the correct agency to request the records. Unless an exception applies, if the record exists, it must be released in its original format. Fees for records can be collected by agencies, but the amounts are minimal, such as one cent for a black and white photocopy of a document and three cents for a color copy (Wisconsin Department of Justice, 2019).

## Recommendations and Best Practices for Body-Worn Camera Implementation

The State of Wisconsin's public records law contains numerous exceptions that allow records requests to be denied, such as health care records or student records. The state of Wisconsin also allows government agencies to use the balancing test, which weighs the public interest in disclosing records against the public interest in keeping records private. When using the balancing test, it must be used on a case-by-case basis to consider the totality of circumstances when deciding whether to release a record. The balancing test allows agencies to deny the release of a portion of a record or the entire record. The balancing test is beneficial for agencies to use because the statute cannot be written to cover every possible exception to deny a public records request. Agencies must use the balancing test carefully because the requestor can file a mandamus action in the jurisdiction's circuit court which ultimately is heard in front of a judge to review the denial of records. If the judge rules in favor of the requestor, the agency may be fined (Wisconsin Department of Justice, 2019).

When releasing BWC footage, the agency must consider information redaction, such as muting audio recordings that contain personally identifiable information or blurring the faces of minors or certain crime victims (Wisconsin Department of Justice, 2018). BWC manufacturers have created software packages that use artificial intelligence to help with redaction. Motorola Solutions, which sells the Watchguard BWC series, provides law enforcement agencies with the REDACTIVE program for redaction purposes. The program can use facial recognition to track subjects captured on video and blur selected faces, as well as track audio of selected subjects throughout the video and mute the audio of the selected subjects. These features, in addition to muting audio and blurring objects chosen by the video reviewer, are available (Motorola Solutions-REDACTIVE, 2021).

## Recommendations and Best Practices for Body-Worn Camera Implementation

Law enforcement agency administrators may be able to alleviate the concerns raised by the implementation of a BWC program by providing comprehensive employee training. The costs of the program can be reduced by choosing specific features and on-site storage over cloud storage. BWC privacy concerns present several challenges, all of which can be overcome by carefully monitoring when BWCs are activated and then denying requests for records in accordance with public records laws. Agencies must weigh the costs and benefits of implementing a BWC program.

### **Section III – Theoretical Framework**

Many studies and criminological theories have been developed to explain or predict human behavior. Law enforcement agencies have deployed BWCs for several reasons, including community transparency, investigative benefits, and to monitor officer and citizen behavior. According to the Bureau of Justice Assistance (2015), BWCs are extremely useful resources since they provide an unalterable audio and visual record of citizen encounters. BWCs also provide documentation of empirical evidence of the police-citizen interaction. Routine activities theory and deterrence theory are two theories that relate to BWCs and their use.

#### **Routine Activities Theory**

The theoretical framework of routine activities theory was originally proposed by Lawrence Cohen and Marcus Felson. This theory identified three factors that, when present, indicate the potential of an individual to engage in criminal activity. These elements include a motivated offender with a suitable target and a lack of guardianship (Tibbetts & Hemmens, 2015). Using the routine activities theory, guardianship would be the deployment of a BWC to monitor officer behavior. The presence of a BWC may discourage an officer from violating an

## Recommendations and Best Practices for Body-Worn Camera Implementation

agency rule or using excessive force during an arrest. The presence of a BWC improved citizen and officer behavior in a study done by Ariel, Farrar, and Sutherland (2015). By applying the routine activities theory, Argun and Dağlar (2016) determined that guardianship was the major deterrent to offenders engaging in deviant behavior.

There are several components to the application of routine activities theory in relation to BWCs and their effect on officer and citizen behavior. The presence of a BWC may alter citizen behavior if the citizen is aware of the device, but patrol officers frequently have multiple pieces of equipment affixed to their uniforms, which essentially camouflages the device. According to Davis and Johnson (2019), a significant number of BWCs go unnoticed by citizens. A record indicator light that illuminates when the camera is in record mode, notifying those in visual contact with the officer that the device is recording, is an industry-standard feature from BWC manufacturers (Motorola Solutions, 2021). Officers can operate in stealth mode, which disables the record indicator light. Therefore, citizens might not be aware of the BWC, negating the guardianship for citizens.

Another factor to consider is the agency policy regarding when officers must wear and activate their BWCs. If the agency has a vague policy that is based on officer discretion, the BWCs may not be used to their full potential. Young and Ready (2016) discovered that agencies that required officers to wear cameras but had a discretionary policy for activation had lower activation rates. As a result, if the BWC is activated at the discretion of the officer, the guardianship component of routine activities is lost.

Agencies that have policies that limit officers' discretion and require them to use their BWCs during every citizen interaction have unintentionally emphasized guardianship. Agencies

## Recommendations and Best Practices for Body-Worn Camera Implementation

that require officers to notify citizens of the presence of a recording BWC are likely to notice a shift in citizen and officer behavior. When citizens are informed that BWCs are recording their interactions, they may discover that the recordings are frequently irrefutable and that their behavior may be replayed if they are charged with a crime. The announcement of the recorded BWC by officers serves as a reminder to them that their behavior is being monitored by the device, which may reduce deviant behavior (Young & Ready, 2016).

There are several reasons to implement a BWC program, and agencies are moving forward with the initiative to deploy BWCs to assist in reducing citizen complaints and officer use of force incidents (Lum et al., 2020, and Headley et al., 2017). When officers are required to wear BWCs and activate them during citizen interactions, they are aware that their behavior is being monitored by the device. Officer behavior should improve as a result, and officers will act in accordance with department policy and state law. BWCs provide a guardianship to monitor officer behavior and maintain an appropriate level of police conduct. Finally, BWCs provide not only scrutiny but also credibility of police conduct. As a result, a stronger sense of legitimacy leads to a stronger desire on the part of the community to follow police directives.

### **Deterrence Theory**

The classical school of criminology and the Enlightenment philosophers are credited with the development of deterrence theory. Tibbetts and Hemmens (2015) defined deterrence theory as Beccaria's concept and the three fundamental parts of punishment characteristics: swiftness, certainty, and severity. Beccaria believed in the swiftness of the punishment and a rapid resolution was regarded as being more just and useful along with the association of crime and punishment. The certainty of the punishment was considered by Beccaria's to be the most

## Recommendations and Best Practices for Body-Worn Camera Implementation

important characteristic. The assumption that committing a crime would result in punishment was thought to be the most influential factor in deterring crime. The third characteristic is the severity of the punishment, which should be significantly greater than the benefit of engaging in deviant behavior. Becarri believed that the penalty should be greater than the reward, but not excessively severe, which would lead to further crime.

In the same way that the BWC fulfills the guardianship component of routine activities theory, the presence of a recording device fulfills the deterrent component of deterrence theory. According to Huff, Katz, Webb, and Hedberg (2020), deterrence theory implies that officers using BWCs will not engage in misconduct if the risks of detection and the consequences of the misconduct are too great. Furthermore, because of increased self-awareness, officers who use BWCs may change and improve their behavior. In theory, arming officers with BWCs could reduce cases of excessive use of force and other deviant behavior by both officers and citizens.

There are several aspects to applying deterrence theory to a BWC program. Officers equipped with BWCs will record citizen interactions that occur while performing their duties. These interactions will range from pleasant and cordial to vile and confrontational. The citizen's perception of the officer may drive the interaction, and contentious interactions may result in disorderly behavior by both the officer and the citizen (McLean, Wolfe, Rojek, Alpert, & Smith, 2020). The presence of a recording BWC may act as a deterrent to the officer and may not contribute to the escalation of the tension in the interaction. If the citizen is aware of, or becomes aware of the BWC, their behavior may be influenced. According to Braga, Barao, Zimmerman, Douglas, and Sheppard (2019), the presence of a BWC will deter potential offenders who do not want their inappropriate behavior recorded and replayed after the fact. Additionally, the presence

of a BWC during interactions may result in a pleasant interaction as both the police and the citizens play to the camera.

The deployment of BWCs by an agency may have additional deterrent effects on officers who do not have the devices or are not recording. Officers who may have engaged in deviant behavior prior to the deployment of the devices may change their behavior out of fear of being caught on BWC recordings, according to Braga et al. (2019). Officers' behavior may change if their misconduct is later discovered by superiors reviewing BWC records. Furthermore, officers may be more likely to report the misconduct of another officer who has engaged in deviant behavior.

Both routine activities and deterrence theory have components and assumptions that can be used to investigate the social behavior of law enforcement officers and citizens. When applied to the deployment of BWCs, the theories can be used to delve deeper into the behavior of those who are affected by the device's use. As new research and findings emerge, the application of these and other theories should be expanded to better understand how BWCs affect police-citizen interactions.

### **Section IV – Case Studies of Notable Incidents**

The case studies review is divided into two sections, the first of which includes three examples of police use of force incidents in which BWCs provided or failed to provide additional facts and context surrounding the incident. The additional information provided by BWCs could have altered the course of events in the aftermath of the incidents. The second section will discuss the media coverage and viral videos of officer use of force, as well as how

they affect public perception. Furthermore, the media's scrutiny of BWC recordings following the incident will be discussed.

### **Ferguson, Missouri**

Officer Darren Wilson of the Ferguson Police Department shot and killed Michael Brown on August 9, 2014. The interaction between Officer Wilson and Brown lasted roughly two minutes and ended when Officer Wilson fired shots at Brown as he charged him in the street. Officer Wilson was not equipped with a body-worn camera (BWC) nor did his police cruiser have a recording system. Additionally, no video of the encounter between Officer Wilson and Brown was recovered from other sources such as surveillance cameras or bystander video (Department of Justice, 2015).

The initial witness reports were that Brown was both shot in the back and had his hands up when he was shot by Officer Wilson. The media quickly began to report that Brown was unarmed, and an early depiction by the media showed Brown surrendering with his hands in the air. The Ferguson incident dominated television media networks both at night and during the day (Culhane & Schweitzer, 2017). According to initial accounts, Brown was an upstanding member of the community and headed off to college and the shooting by Officer Wilson was excessive, unprovoked, and he was killed with his hands in the air. When the investigation was finished, these allegations were found to be unsubstantiated (Tracinski, 2014).

The investigation showed that Officer Wilson was responding to a theft complaint and that the suspect (Brown), forcefully shoved the store clerk who was trying to stop him. This encounter was captured on store surveillance cameras. As he responded, Officer Wilson encountered Brown and another individual as they walked in the street. As Officer Wilson

## Recommendations and Best Practices for Body-Worn Camera Implementation

attempted to interact with Brown and the squad door was opened, it either bounced back or Brown closed the door. Brown then reached into the squad and began to assault Officer Wilson, ultimately gaining some control of the officer's firearm. Officer Wilson discharged his firearm and Brown retreated and fled on foot with the officer in pursuit. During the foot pursuit, Brown turned around and charged Officer Wilson who fired multiple shots killing Brown (Department of Justice, 2015).

The misreporting of the incident by the media and the portrayal of unconfirmed evidence sparked immediate protests in Ferguson, culminating in widespread demonstrations and arson. The violent uproar fueled by misleading facts reached a climax when Officer Wilson was not charged with a felony and no trial was held for his conduct. Ferguson was left in ashes, with millions of dollars in damage to rebuilding and an irreparable bond between the police and the city (Tracinski, 2014).

If Officer Wilson had been equipped with a BWC, the encounter would have been recorded and readily accessible if the system was activated. In a circumstance that Officer Wilson didn't immediately activate his BWC, the prerecord feature would have likely captured the incident in a video-only mode before the activation of the system. The activation would have been beneficial to the investigators to review the incident. If circumstances hadn't allowed Officer Wilson to activate the BWC, a Motorola Watchguard BWC system would have afforded investigators to use the RAFT technology to review video captured in the system background (Motorola Solutions Inc., 2021).

The use of a BWC by Officer Wilson would have provided additional details of the interaction that were not available to investigators. The BWC would have captured in the initial

## Recommendations and Best Practices for Body-Worn Camera Implementation

contact between Officer Wilson and Brown and if used in conjunction with a squad-equipped camera system, would have captured the approach by the police. The BWC would have captured Brown physically assaulting Officer Wilson as he sat in the cruiser and detailed his violent actions. One of the most contentious issues surrounding the shooting would have been to disprove the accusation that Officer Wilson utilized deadly force as Brown stood with his hands raised in the air.

It is unknown whether the use of a BWC would have helped to quell the civil unrest that followed Brown's shooting. The release of the recordings, if they exist, is something that public officials should consider carefully. According to the President's Task Force on 21st-Century Policing (2015), the recordings should be made available to the public to enhance transparency. Officer Wilson's account of the contact would have been supported by BWC recordings, which would have disputed the original eyewitness reports that Brown was shot while holding his hands in the air. Furthermore, the existence of BWC recordings may have sped up the first criminal investigation, as well as the subsequent investigation by the Federal Bureau of Investigation, Department of Justice.

### **Minneapolis, Minnesota**

Officer Derek Chauvin of the Minneapolis Police Department was one of several officers sent to a business on May 25, 2020, after George Floyd reportedly used a counterfeit bill to make a transaction at a convenience store. All four officers were recording the incident with their department issued BWCs. During his encounter with police, Floyd, who appeared to be under the influence of a controlled substance, resisted the police efforts to secure him in the prisoner compartment of a cruiser. As officers attempted to secure him in the back of a police cruiser, he

## Recommendations and Best Practices for Body-Worn Camera Implementation

pushed himself out of the opposite side of the cruiser and he was laid on the ground with officers pinning him on the ground. As Floyd was held down, Officer Chauvin, one of the responding officers, placed his knee across the upper torso and his neck area while an assisting officer restrained his legs. Citizens started to gather, and one captured the event on video using a cell phone. Floyd repeatedly said that he couldn't breathe and begged the police to let him go. Floyd went unresponsive after about six minutes, and police were unable to locate a pulse on him. Floyd was taken to the hospital by ambulance after becoming unresponsive, where he was pronounced dead an hour later (British Broadcasting Corporation, 2020).

The citizen's video was uploaded on social media and quickly went viral. Viewers from all around the world were shocked by the events in Minneapolis and the death of George Floyd. Several prominent leaders of society spoke out in response to his death, sparking marches, rallies, and civil unrest throughout the world. The video of the incident was widely covered in the media, and experts weighed in, claiming that the force used against Floyd was excessive and unnecessary (American Civil Liberties Union, 2020). The fact that this incident was recorded by store surveillance cameras, citizens' cell phones, and the officers' BWCs was different from the Brown incident in Ferguson, MO.

The BWCs worn by officers assisted investigators who investigated the death of Floyd. There were bystander video recordings that captured the incident after the interaction was initiated by officers. Historically, bystander video begins after the interaction has begun and doesn't portray the full sequence of events. The BWCs in this incident were useful in capturing the incident in its entirety from the officers' point of view. Witness statements and bystander video was further corroborated by BWC recordings and together, a more comprehensive view of the interaction was obtained.

## Recommendations and Best Practices for Body-Worn Camera Implementation

The officers involved in the murder of Floyd, Derek Chauvin, Thomas Lane, J. Kueng, and Tou Thao were fired from the Minneapolis Police Department and criminally charged in his death (Hennepin County Attorney, 2021). Chauvin was convicted of Floyd's death in April of 2021. Lane, Kueng, and Thoa are awaiting trial for their involvement in Floyd's death while the US Department of Justice has charged each with violations of Floyd's civil rights (United States Department of Justice, 2021).

### **Kenosha, Wisconsin**

On August 23, 2020, Officer Rusten Sheskey of the Kenosha Police Department was one of three officers who responded to a family disturbance call at a residence. Kenosha Police have cruiser-mounted dash cameras, but officers were not equipped with BWCs. As officers responded, they were notified that Jacob Blake was at the residence and he had a felony warrant for his arrest for sexual assault. As officers arrived, they encountered Jacob Blake outside of the residence as he was attempting to leave in a vehicle without permission. The original caller shouted to officers that her kids were in the car that Blake was attempting to leave in. Officers attempted to take Blake into custody on the active arrest warrant, but he resisted and physically struggled with officers. Two officers attempted to subdue Blake with their conducted energy weapons which were not effective. Officers noted that Blake armed himself with a knife while attempting to enter the vehicle which was also occupied by children. Officer Sheskey was directly behind Blake who was still armed with the knife. Officer Sheskey was attempting to stop Blake from entering the car while holding his shirt. Officer Sheskey stated that Blake made a turning motion with the knife, and he believed Blake was going to stab him. Officer Sheskey discharged his firearm seven times into Blake who ultimately collapsed and dropped the knife.

## Recommendations and Best Practices for Body-Worn Camera Implementation

The encounter was captured on a citizen's cell phone camera from an apartment across the street (Graveley, 2021).

The cell phone video of the incident was posted to social media and quickly went viral. When the world watched the video, they saw a Black male being shot in the back several times. In their quest to be first, the media inaccurately reported that Blake was unarmed when in fact, he was armed with a knife. The media headlines were police shoot an unarmed Black man in the back seven times. Unbeknownst, to those not involved in the investigation, was the fact that Blake had armed himself with the knife and that Officer Sheskey utilized deadly force believing he was going to be stabbed. Although the video was extremely important, the recording was a small piece of the entire incident and there were issues with the video. In a similar fashion to other police-involved incidents, the video began as the incident was unfolding and did not capture the entire incident. The distance the video was recorded from was also an issue. The video was recorded from an upper apartment across the street and due to the distance and positioning, it was not clear that Blake had armed himself with a knife. Investigators would later enhance the video which verified that Blake was armed with the knife (Graveley, 2021).

Citizens took to the streets of Kenosha in the days and nights following the Blake shooting to protest the shootings. The peaceful protests turned into into civil unrest, with activists burning down buildings and widespread looting as nightfall arrived. The Wisconsin National Guard was called in to ensure citizens' safety and security (Bosman, 2020). The damage caused by activists in the aftermath of the shooting and civil unrest was estimated to be more than \$50 million (Flores, 2020).

## Recommendations and Best Practices for Body-Worn Camera Implementation

The shooting was investigated by the Wisconsin Department of Justice, Division of Criminal Investigation which referred the investigation to Kenosha County District Attorney Michael Graveley. After a review of the investigation, Graveley rendered his decision in January of 2021 not to file criminal charges against Officer Sheskey (Graveley, 20210). The investigation was reviewed by the Department of Justice who also declined to file civil rights charges against Officer Sheskey (United States Department of Justice, 2021).

The presence of a BWC during the incident would very certainly have made a difference in the result of the civil disturbance. The bystander video, which went viral on social media, exacerbated anti-police sentiment. The original footage was blurry and difficult to see, raising suspicions that the police used excessive force. BWC recordings would have provided a better view of the use of force and would have almost certainly shown Blake armed with a knife. The BWC footage would have provided greater transparency and clarity to the community about the incident (Graveley, 2020).

The described use of force incidents by officers was only a glimpse of the number of cases that happen regularly in the United States. The usage of BWCs will benefit agencies that deploy them during use of force incident investigations and provide transparency to the community. While the BWC does not capture everything that an officer observes, the footage will be useful in the subsequent investigation and community scrutiny.

### **Section V – Recommendations for Implementing a Body-Worn Camera Program**

The decision to implement a BWC program has many facets, and it is important to understand all aspects of the implementation. The program's implementation will be scrutinized by city officials, community leaders, and BWC users. The department's reputation is heavily

dependent on a properly implemented program, and stakeholders will expect the transparency that comes with the devices. Following a review of research and best practices, key components to successfully implementing a BWC program will be discussed in greater depth.

### **Community Support and Transparency**

One of the primary reasons that government officials and community leaders are considering BWC implementation is to improve transparency in law enforcement operations. In Zwart (2018), the implementation of BWCs goals was to create transparency and a more favorable view of the department by citizens. Often, implementation begins following a high-profile incident in the community. The department's reactionary measure of adding BWCs in the aftermath of the incident gives the impression that it was slow to provide transparency. Government and law enforcement leaders who begin the process of BWC implementation before a high-profile incident may receive more positive community support than those who begin the process after the incident.

Support from the community is one of the factors to consider when implementing a BWC program. Often, citizens interact with officers on what could be described as one of the worst days of their lives. Officers equipped with BWCs will not only record their interactions with the public but will also enter citizens' private residences. Depending on state laws, those recordings may eventually be made available to the public via open records requests. As a result, before implementing BWCs, agency officials should interact with the community and solicit their feedback. Community engagement can take many forms, including town hall meetings, listening sessions, and written and electronic surveys. The outcomes of the community engagement could then be published and used to determine whether the community favors a BWC program.

## Recommendations and Best Practices for Body-Worn Camera Implementation

If the agency decides to proceed with BWC implementation, the program can be promoted to the community through organizational social media and traditional media outlets. The department should use social media to notify the community that BWCs will be deployed before they are deployed (PERF, 2014). Educating the community about the use of BWCs and how officers will use them will help to achieve the transparency that the community seeks. The department should make available the BWC policy and procedure, which cover device use and potential disciplinary action if officers misuse the devices. The policy and procedure could be made public through the department's website or a press release.

During the community engagement sessions, department leaders should also address the members in attendance to provide interested parties with information on how misconduct on BWCs will be addressed. Officers are typically protected by an officer bill of rights, which varies by state. As a result, any information that can be made public should be made public. Following the conclusion of the investigation, the results of the investigation, including BWC recordings associated with the investigation, should be made public. The practice of being transparent with the community with officer misconduct allegations should also include those when officers are falsely accused of misconduct and those results released to the public.

### **Agency and Local Government Support**

The decision to implement BWCs in an agency raises several concerns for the devices' end users and should be considered carefully. During the early stages of the planning, agency leaders should begin meeting with union stewards to gain support for BWC implementation. Leaders should educate union stewards on how the devices will work and under what conditions interactions will be recorded. In collaboration, agency leaders and union stewards should consult

## Recommendations and Best Practices for Body-Worn Camera Implementation

with employees to understand their concerns and achieve officer buy-in. Understanding employee concerns allows the agency to determine the best way to implement the devices to ensure the program's success (Bureau of Justice Assistance, 2015).

If a department decides to use BWCs, law enforcement leaders should involve officers in the selection of the devices as well as the development of policy and procedure. When a government agency considers purchasing equipment, it issues a request for proposal (RFP) to interested businesses. In the case of BWCs, the RFPs submitted to the agency will then be reviewed to narrow down the possible candidates for devices. BWCs should go through a testing phase before being fully implemented in the field by officers. Following a period of testing, officers can provide feedback to help determine which BWC is best for their application. The software that reviews the recordings and its ease of use are factors to consider. By allowing officers to participate in the selection of BWCs, the agency will gain officer support for the devices (Bureau of Justice Assistance, 2015).

### **Selection of the Body-Worn Camera**

Although there are several leading manufacturers of BWCs, agencies must find the right device to fit their use and budget constraints. The storage and dissemination of recordings are one of many concerns when selecting a company to provide BWCs. Companies such as AXON and BodyWorn by Utility utilize a cloud-based system and maintain video on their internal servers (Utility Associates Inc., 2020). Companies such as Panasonic and Motorola offer the ability to utilize cloud-based storage or an agency's internal storage. There is a significant cost associated with cloud storage, and it is less expensive to store recordings on agency servers (PERF, 2014).

## Recommendations and Best Practices for Body-Worn Camera Implementation

The features of BWCs are very similar, including triggers to start recordings, and with Motorola Solutions' proprietary RATF, the ability to obtain video evidence from the background system is critical to its success. If a user fails to activate the system, administrators can access the video from the previous 40+ hours stored within the BWC. The ability would be especially useful in an officer-involved shooting where the officer failed to activate the BWC. Fan (2017) conducted a study to determine the harm caused by the lack of BWC recordings, whether it was due to equipment failure, officer neglect, or a lack of applicable policy regarding the requirement to activate the camera. The author concluded that having automatic camera activation was the best practice. Automatic camera activation eliminates the human element and initiates BWC recording in response to triggers such as an officer removing their firearm from the holster, the officer running, or entering a geofenced area defined by the software program. The study by Fan (2017) was consistent with society's expectations regarding the capture of video recordings of officer and citizen interactions.

### **Policy and Procedure**

A clear and well-written policy covering BWCs, and their implementation is critical to the overall success of the program. Officers should be allowed to make policy suggestions during the policy development process, which will increase officer support for the program. Policy considerations should include which department members will use BWCs, whether officers can review recordings, under what conditions, and audit checks of recordings to ensure policy compliance.

The policy should specify how BWCs will be used to capture citizen contacts and when recording is not appropriate. Incidents of a sensitive nature, such as mental health commitments,

## Recommendations and Best Practices for Body-Worn Camera Implementation

sexual assaults, or death notifications, would be inappropriate. In terms of recording interactions between individuals, including officers and citizens, Wisconsin is a one-party consent state.

Discussions also include recording in private residences and whether the occupants should be notified. A consideration to be addressed is whether a citizen would demand that the recording stop, even if the recording was required, and the impact this would have on the encounter. In a study conducted by Zwart (2018), privacy rights were addressed, and officers were required to announce that a BWC was recording and determine if the occupants wanted the BWC to stop recording when they entered a private residence.

The policy should specify when officers are permitted to view BWC recordings and make it clear that if an officer is involved in a critical incident, they are or are not permitted to review the footage before providing a statement to investigators. The policy should specify how BWC recordings can be used for training, and it should be clear that sensitive videos used for training remain the department's property and should not be disseminated without the approval of department administration. The policy should specify how supervisors will review BWCs recordings to ensure compliance with department policy. Supervisors should conduct random audit checks on video in as fair a manner as possible (Council on Criminal Justice, 2021). When using RATF, officers should be notified that their BWC was reviewed and why. Employees will remain confident in their department's support if there is a clear policy that is followed by administration and officers.

### **Records Retention and Release of Recordings**

The retention of public records varies by state, and records must be kept for a statutorily defined period. A public record in Wisconsin is defined as any material that is written, drawn,

## Recommendations and Best Practices for Body-Worn Camera Implementation

printed, spoken, visual, or electromagnetic recordings, regardless of physical form or characteristics, and is kept by a government authority (Wisconsin Department of Justice, 2019). BWC recordings in Wisconsin must be kept for a minimum of 120 days. If the recording is of a custodial arrest, officer use of force, or an injury or death caused by the officer, the recording must be kept until the incident is resolved (2019 WISCONSIN ACT 108, 2020).

The Wisconsin public records law, which provides guidance for record release, is broad, allowing agencies to use the balancing test to determine whether a BWC recording should be released. Sensitive recordings, including those of children, must be scrutinized before release, or they must be denied entirely. Before the record is released, the ability to redact faces and audio from recordings should be considered. As a result, the custodian of records for each department must determine whether the public's need for the record outweighs the interest in disclosure (Wisconsin Department of Justice, 2019). Clear guidelines in policy and procedure for records retention and release are required when implementing BWCs to ensure that records are not deleted or released without proper redactions.

### **Section VI – Conclusion**

As the prevalence of BWCs grows, many law enforcement agencies have yet to implement the devices. This paper discussed the advantages of implementing BWCs and provided empirical evidence that the devices reduced officer use of force and citizen complaints. The decrease in the use of force and citizen complaints may be explained by the theoretical concepts discussed in previous discussions, or it may be caused by other factors discussed in this paper. As society demands greater transparency, agencies must adapt to the changes and then implement the tools at their disposal to meet the expectations of the community it serves.

## Recommendations and Best Practices for Body-Worn Camera Implementation

The benefits of implementing BWCs comes with some drawback to officers, citizens, and local governments. The disadvantages can be mitigated with proper training, a clear detailed policy, and department oversight. Although there are disadvantages, the ability to document officer interactions with the public, and provide transparency to the community should outweigh any potential drawbacks associated with BWC implementation.

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