

RECOMMENDATIONS FOR DEVELOPING A FEDERAL BODY-WORN CAMERA  
POLICY APPLICABLE TO ALL FEDERAL LAW ENFORCEMENT AGENCIES

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by

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## Abstract

# RECOMMENDATIONS FOR DEVELOPING A FEDERAL BODY-WORN CAMERA POLICY APPLICABLE TO ALL FEDERAL LAW ENFORCEMENT AGENCIES

Jessica L. Sklenar

Under the Supervision of Dr. Susan M. Hilal

### *Purpose of the Study*

The purpose of this research is to examine key aspects of body-worn camera policies and their effect on the use of body-worn cameras and use this information to make recommendations for developing a federally based BWC policy. Body-worn camera programs have the potential to aid in criminal proceedings and positively impact officers and members of the community. Each of these beneficial outcomes are made possible by the strong foundation and guidelines outlined in body-worn camera policies. Developing a singular BWC policy to apply to all federal law enforcement agencies will ensure that all Department of Justice guidelines are followed and that BWC programs may begin phasing into federal agencies as soon as possible.

### *Method of Approach*

This paper will utilize secondary research of peer reviewed articles from reputable websites, databases, and scholarly journals. Information will be largely in part found using the Bureau of Justice Statistics, the National Criminal Justice Reference Service, and current body-worn camera policies of public record as well as academic journal articles found via the library. The literature collected will be used to identify the strengths and weaknesses of current BWC policies, collect information on federal policy, and explore plans for federally based BWC program integration. An exploration of what information law enforcement agencies are using in body-worn camera policies, the way said policies are alike and differ from those of other

agencies, and the impact said guidelines have on program effectiveness will be conducted to provide recommendations for developing a federal BWC policy applicable to all federal law enforcement agencies.

*Key Findings*

The International Association of Chiefs of Police (2019) provided vital framework based on previously developed BWC policies to be referenced in the development of future policies. This information may be used in accordance with federal BWC policy requirements as outlined by Deputy Attorney General, Lisa Monaco (2021). Development of federal BWC policies and federal BWC programs may be expedited through the generalized development of a singularly implemented federal BWC policy applicable to all federal law enforcement agencies.

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## Section I: INTRODUCTION

### *Statement of the Problem*

On June 3<sup>rd</sup>, 2021, the North Star Fugitive Task Force was attempting to arrest Winston Smith, Jr. when Deputies from the Hennepin and Ramsey County Sheriff's Offices fatally shot Smith in a Minneapolis, Minnesota parking garage (FOX 9 KMSP Staff, 2021). Upon further investigation evidence suggested that Smith, who had committed a felony firearms violation and had a warrant out for his arrest, had fired his weapon several times from the inside of his vehicle (Yancey-Bragg, 2021). According to the Bureau of Criminal Apprehension, there was no body-worn camera, herein abbreviated to 'BWC', or vehicle footage of the shooting (FOX 9 KMSP Staff, 2021). At the time, the U.S. Marshal Service did not allow the use of BWCs for officers serving on the taskforce even given the statement released by the Department of Justice (DOJ) on October 29, 2020, allowing the use of BWC's for federal officer's service on taskforces. In the aftermath of the shooting, protestors gathered in Minneapolis, a dumpster was set on fire, and many businesses were vandalized and looted (FOX 9 KMSP Staff, 2021). Activists in Minneapolis called for the U.S. Marshal for the District of Minnesota to be fired and for the head of U.S. Marshal Service, Ramona Dohman to step down (Yancey-Bragg, 2021). Monique Cullars-Doty, co-founder of Black Lives Matter in Minnesota, commented on the shooting stating that the officers not using BWCs was "an international lack of transparency and an intentional lack of accountability." (Yancey-Bragg, 2021). Responding to the event, the U.S. Deputy Attorney General, Lisa Monaco announced on June 7<sup>th</sup>, 2021, that federal agents would therein be required to wear BWCs when executing search warrants or making previously planned arrests (Yancey-Bragg, 2021). Ramsey County Sheriff, Bob Fletcher, later released a statement explaining that deputies under his authority are barred from participating in the U.S. Marshal's

North Star Fugitive Task Force, “until body cameras are actually authorized.” (Yancey-Bragg, 2021). While the U.S. Department of Justice has taken the initial steps to integrate BWC programs at the federal level, there are several steps that must take place before BWC can begin to be used.

Deputy Attorney General, Manaco, announced the new policy in a memo acknowledging the vitality of “transparency and accountability”, building trust amid federal law enforcement officers and the communities they serve (Pruitt-Young, 2021). The Department of Justice’s new policy comes as not only a spark from the death of Winston Smith, Jr. but from recent killings of Black men and women by law enforcement officers (Pruitt-Young, 2021). As a stipulation to the integration of BWC programs in federal law enforcement agencies, the DOJ included that the Bureau of Alcohol, Tobacco, Firearms and Explosives; the Drug Enforcement Administration; the FBI, and the United States Marshals Office each have 30 days to propose their own BWC policies (Pruitt-Young, 2021). These policies must include, how often body cameras will be recording, methods for footage storage, and plans for releasing footage in a timely manner in the case of serious bodily injury or death (Pruitt-Young, 2021). After reviewing each policy, the DOJ will then move forward with plans to phase in BWC’s developed by the ATF, DEA, FBI, and Marshal’s Service and approved by the DOJ (Pruitt-Young, 2021). According to former Attorney General, William P. Barr, the integration of BWC programs at the federal level seeks to fulfill their main priority, ensuring the safety and security of American citizens (Office of the Attorney General, 2020). Without well-developed body-worn camera policies applicable to all federal law enforcement agency BWC programs, this mission may not be fulfilled.

### *Purpose of the Study*

The purpose of this research is to examine key aspects of body-worn camera policies and their effect on the use of body-worn cameras and use this information to make recommendations for developing a federally based BWC policy. Body-worn camera programs have the potential to aid in criminal proceedings and positively impact officers and members of the community. Each of these beneficial outcomes are made possible by the strong foundation and guidelines outlined in body-worn camera policies. Developing a singular BWC policy to apply to all federal law enforcement agencies will ensure that all Department of Justice guidelines are followed and that BWC programs may begin phasing into federal agencies as soon as possible.

### *Significance of the Study*

For law enforcement agencies to deploy strong body-worn camera programs to an effective degree, they must be implemented accurately. Without these aspects of implementation, departments might not always experience the positives they can serve. Currently, most of the problems concerning body-worn camera programs today are a lack of policy guidelines and the foundation for adaptiveness (Hyland, 2018).

This paper provides recommendations for developing a federal body-worn camera policy applicable to all federal law enforcement agencies. By compiling and evaluating a series of secondary information about the effectiveness and means by which BWC program policies are currently being implemented and applying said information to the program, a generalized policy-based foundation can be used to support federally based BWC programs as they continue to develop because of the new Department of Justice policy requiring the use of BWC's. Utilization of federally based BWC policy will ensure sound evidence collection techniques and program guidance across federally based BWC programs.

### *Method of Approach*

This paper will utilize secondary research of peer reviewed articles from reputable websites, databases, and scholarly journals. Information will be largely in part found using the Bureau of Justice Statistics, the National Criminal Justice Reference Service, and current body-worn camera policies of public record as well as academic journal articles found via the library. The literature collected will be used to identify the strengths and weaknesses of current BWC policies, collect information on federal policy, and explore plans for federally based BWC program integration. An exploration of what information law enforcement agencies are using in body-worn camera policies, the way said policies are alike and differ from those of other agencies, and the impact said guidelines have on program effectiveness will be conducted to provide recommendations for developing a federal BWC policy applicable to all federal law enforcement agencies.

#### *Contribution to the Field*

It is anticipated that this research will be able to provide recommendations for the development of a federal body-worn camera policy applicable to all federal law enforcement agencies with body-worn camera programs. Through a review of empirical studies, it is apparent that current BWC programs at the state level have positively impacted the relationship between law enforcement agencies and their communities, provided expert evidence in court proceedings, and upheld testimony from law enforcement officers and witnesses (Yokum, Ravishankar, & Coppock, 2019). As BWC programs are integrated at the federal level a strong policy is the foundation by which these programs may be effective. By reviewing strengths and weaknesses, similarities and contradictions in current body-worn camera policies, effective recommendations can be made and the foundation for policy development to be established. Implementing BWC policies requirements and guidelines for federal body-worn camera programs will ensure that as

BWC programs are utilized at the federal level, said policy will work to not only ensure the safety and security of American citizens, but the federal officers that serve their communities as well.

### *Delimitations of Research*

The research cited in this study was limited to sources publicly available through the internet and library search engines. Research was also limited to body-worn camera policies developed by departments at the municipal and state levels as federal law enforcement agencies are still in the process of developing and publishing said policies.

## Section II: LITERATURE REVIEW

The following review is divided into seven sections. The first section begins with a review of the history of BWC use followed by the presentation of common arguments made for and against the use of BWCs. Subsequent is an analysis of model BWC policies at the state level. The fifth section outlines the current procedures utilized at the federal level. Sixth is a section that examines the integration process of BWC programs at the federal level. Lastly, the seventh and final section explores federal BWC policy requirements.

### *History of Body-Worn Camera Programs*

Prior to the use of BWCs law enforcement utilized dashboard cameras and closed-circuit television, herein abbreviated to ‘CCTV’, footage to capture incidents of crime and provide law enforcement with vital information via video footage (Bureau of Justice Assistance, n.d.). Said evidence retention devices proved to be useful but each left something to be desired. For instance, dashboard cameras are only able to capture video from the front of a vehicle and some have audio capabilities, whereas CCTV cameras are stationary, only recorded in public spaces, and do not have audio capabilities (Bureau of Justice Assistance, n.d.). BWCs adapted from

previous footage methods having the capability to accompany the officer wherever they go using both audio and visual capabilities (Bureau of Justice Assistance, n.d.).

In 2013, the Rialto Police Department in California was sighted as the first police department in the nation to utilize BWCs on all its uniformed officers (Demetrius, 2014). Prior to the implementation of BWCs, they conducted a yearlong study in which half of its fifty-four uniformed patrol officers were given BWCs at a time (Demetrius, 2014). Throughout the study, officers were advised to turn the devices on amid every interaction with members of the public (Demetrius, 2014). Officers were not permitted to utilize said equipment when responding to incidents involving the sexual assault of a minor or police informants (The Force Science Institute, 2015). The study observed an eighty-eight percent decline in officer complaints and a sixty percent decline in use-of-force incidents (Demetrius, 2014). After the study concluded, the department continued the use of BWCs department wide (Demetrius, 2014). TASER, one of the leading manufacturers of BWCs, even reported that they saw a dramatic increase in sales after the study's publication (Demetrius, 2014).

In 2015, the U.S. Department of Justice invested over twenty-three million dollars into the development and deployment of BWC programs throughout the country (Yokum, Ravishankar, & Coppock, 2019). Major stakeholders have sighted these investments as the nation's attempt to coincide the goals of civil liberties and civil rights groups and the goals of the law enforcement agencies that serve their communities (Ardia & Jones, 2018). As of 2015, twenty-five states have enacted laws for BWC use and the role said footage plays in the judicial process of law (Bureau of Justice Assistance, n.d.).

#### *Arguments For the Use of Body-Worn Cameras*

In the last several years there has been a significant push for the use of BWCs by all law enforcement agencies. BWC supporters cite improved officer-citizen relationships, determining factual evidence, and the elimination of bias as some of the many reasons why BWC programs should be adopted (Hung, et. al., 2016). Major stakeholders, i.e., the American Civil Liberties Union, Campaign Zero, and Black Lives Matter, are urging law enforcement agencies to deploy the use of BWCs as a means of improving policing, documenting police behaviors and practices, and improving relationships between law enforcement officers and the communities they serve (Yokum, Ravishankar, & Coppock, 2019). This insistence comes as a response to incidents involving the use of force by police officers. The Black Lives Matter movement references the cases such as George Floyd, Breonna Taylor, and Rayshard Brooks, as a call for police reform and the use of BWCs (Carrega & Campbell, 2021). It is perceived that being recorded via BWC will heighten the self-awareness of and deter wrongdoing by citizens and law enforcement officers (Hung, et. al., 2016). Research suggests that when people believe that they are being watched or recorded, they tend to act differently, i.e., increasing productivity, rule adherence, and practicing generally considered socially acceptable conduct (Yokum, Ravishankar, & Coppock, 2019). Previous efforts to record law enforcement encounters did not achieve the same results that BWCs are perceived to create (Hung, et. al., 2016).

White's 2014 study on BWCs, analyzed the results of five empirical studies. Among these studies were the Plymouth Head Camera Project, Renfrewshire/Aberdeen Studies, Rialto (California) Police Department, Mesa (Arizona) Police Department, and the Phoenix (Arizona) Police Department. From the results of these studies, a series of perceived benefits of using BWCs in law enforcement were compiled. Several benefits to BWC use were derived and accumulated from these studies. They are as follows:

1. Increased transparency in police departments
2. Increased departmental validity from the perception of the public
3. Improved conduct of both police officers and members of the public
4. Expedition in the resolute of citizen complaints
5. New opportunities for police training
6. Improved evidence to be used in prosecutorial measures (White, 2014)

Perhaps the most significant perceived arguments for the use of BWCs are derived from the strengthening of police transparency as cited by BWC supporters. Jay Stanley from the American Civil Liberties Union, herein referred to as ‘the ACLU’, addressed the use of BWCs in his role as a policy analyst (Ballotpedia, n.d.). In 2015, Stanley published a policy paper describing that while the ACLU does not commonly address their views on surveillance equipment, the ACLU does recognize the potential for BWCs to serve as a check and balances process within the law enforcement departments BWCs are utilized in (Ballotpedia, n.d.). By this accord, BWCs are probable to be a win-win for both prohibiting police misconduct and addressing false accusations of misconduct on behalf of police departments (Ballotpedia, n.d.). Nonetheless, BWCs are not seamlessly flawless.

#### *Arguments Against the Use of Body-Worn Cameras*

1. Concerns for the privacy of the public
2. Concerns for the privacy of the officers
3. Concerns for the health and safety of the officers
4. Long term departmental investments regarding training and policy development
5. Pledge of substantial finances, resources, and logistics (White, 2014)

These are not the only perceived concerns regarding the use of BWC technologies.

William Evans, who served as the Boston Police Commissioner from 2013 until 2018 (Smyth, 2018) voiced that the use of BWCs brings about the concern that members of the public would possibly deter from interacting with police officers if they knew they were being recorded (Ballotpedia, n.d.). This poses a significant threat to members of the public considering the need for the presence of law enforcement. BWC technologies also pose a significant threat as there is the potential that the retained footage may be released and exploited for the purpose of entertainment (Ballotpedia, n.d.). As BWC technologies are continued to be implemented in police departments worldwide, the amount of BWC footage released for public consumption will continue to rise.

The U.S. Department of Justice acknowledged that one of the major issues with the use of BWCs is a lack of operational procedures and protocols (U.S. Department of Justice, 2012). Without these standards, law enforcement officers lack the adequate ability to accurately use BWCs (U.S. Department of Justice, 2012). If BWCs are not used accurately they possess the potential to inhibit the degree to which they produce a return on investment for behalf of stakeholders. Agencies must consider all conditions of deployment for the program to be efficient.

#### *Model Body-Worn Camera Policies*

In April of 2019, the International Association of Chiefs of Police, published a body-worn camera review containing a considerations document as well as a concepts and issues paper (International Association of Chiefs of Police, 2019). According to the International Association of Chiefs of Police, herein referred to as 'IACP', a considerations document provides a framework for articles that should be addressed when agencies are developing their own BWC policies and highlighting points agencies should examine when developing said policy. The

IACP also specified that a concepts and issues paper is intended to outline model policies and, in turn, allow agencies to develop a deeper understanding of the topic.

*Considerations Document Summary*

Several aspects were addressed in the considerations document published by the IACP.

Among these aspects were:

1. Purpose
2. Policy
3. Procedures
  1. When and Where to Record
  2. When and Where Not to Record
  3. General Considerations
  4. General Use
  5. BWC Recordings
  6. Storage and Retention
  7. Release of Recordings
  8. Supervisors
  9. Misconduct

Each section addressed elements that are required to develop a strong BWC policy following legal and departmental protocols. The purpose section outlined the objectives that BWCs can be used to accomplish as well as the general importance of the development of a strong BWC policy. Secondly, the policy component outlines the importance of a generic policy statement for the purpose of portraying said agencies policy on BWC use. In the procedure section, it outlines when and where agents are presumed to be recordings and not recording, general considerations

of said recordings, the general use of BWCs, generic aspects of BWC recordings, the storage, retention, and release of said recordings, officer responsibilities, and general misconduct. It is the goal that by reviewing these elements in depth and portraying BWC program supported suggestions, that agencies may develop strong BWC policies and maintain said policies as adaptations are required.

#### *Concepts and Issues Paper Summary*

The concepts and issues paper developed by the IACP takes a different approach than the considerations document and touches on some different concepts as well. Sections touched on in the concepts and issues paper were:

1. Purpose of Document
2. Background
3. Uses of BWCs
4. Potential Drawbacks of BWC Use
5. Issuing BWCs
6. Procedures
  1. When and Where to Record
  2. When and Where Not to Record
  3. General Considerations
  4. General Use
  5. BWC Recordings
  6. Training

The IACP addressed that the purpose of the document was to provide vital background information, based on prior BWC policies, to help other agencies develop their own BWC

policies. This document provided background information as to the history of BWCs and the history of prior surveillance equipment used by law enforcement agencies. It went into further detail regarding the various uses of BWCs for documentation, public interaction, arrests, and other critical incident interactions. While the uses of BWCs section seemingly points out the arguments for the use of BWCs, the potential drawbacks of BWC use section brings the cons of BWC equipment use to the attention of the reader. Next, the different means by which BWCs may be issued throughout departments was outlined. The procedures section went into depth on the concepts of when/where to record, when/where not to record, general considerations, general use, BWC recordings, and training. General considerations were charted as to the use of BWCs in victim/witness interactions, sensitive locations, when interacting with juveniles, when at crime scenes, in officer-involved shootings, crowds, tactical situations or locations, and during overall community policing efforts. BWC recordings sections of BWC policies were suggested to address the viewing, storage/retention, release of, supervisory responsibilities, and misconduct of recordings. Lastly, the training component outlined suggestions for training conducted prior to utilizing BWC equipment, the reexamination of BWC training on a regular basis, and the release of BWC based knowledge to the public by the agency in question.

By reviewing the documents provided by the IACP, agencies have the potential to develop a prior knowledgebase to refer to when developing their own BWC policies. It is by using the information that law enforcement agencies may be able to develop BWC policies in accordance with previously outlined requirements in an effective manner. The more effective the BWC policy is, the more likely said law enforcement agency is to experience the positive aspects associated with the use of BWC technologies.

*Prior Federal Body-Worn Camera Procedure*

Considering federal law enforcement officers do not regularly interact with the public, there was not previously a push for them to utilize BWCs. The Justice Department even went as far to argue that the use of BWCs by federal officers posed a significant potential risk to classified investigations (Pruitt-Young, 2021). In 2020, following several controversial uses of force cases circulated throughout the mainstream media, the Attorney General at the time, William Barr, authorized the use of BWCs by state and local law enforcement officers participating in federal task forces. (Carrega & Campbell, 2021). Shortly thereafter, the Justice Department announced their intent to invest 1.3 billion dollars in community policing efforts with 13.6 million dollars specifically dedicated to supporting the use of BWCs by federal task force officers (Carrega & Campbell, 2021).

Federal task forces are developed when the Department of Justice works alongside state and local law enforcement agencies (U.S. Department of Justice, 2020). While task force officers, herein referred to as 'TFOs', working on federal task forces were permitted by the Department of Justice to use BWCs, the parameters by which BWCs are to be used by TFOs was determined by the requirements of state or local law enforcement agencies (U.S. Department of Justice: Office of Justice Programs, 2020). The Department of Justice mandate specified that TFOs may only activate said equipment during previously planned attempts to serve arrest warrants or otherwise planned arrests and when executing a search warrant. (U.S. Department of Justice: Office of Justice Programs, 2020).

To aide in the efficiency of the use of BWCs by TFOs, the Department of Justice (2020) developed a policy outlining activation of the BWC, deactivation of the BWC, prohibited recording circumstances, the storage of BWC recordings, federal records to be kept on said recordings, and the memorialization of said recordings. The policy stated that federal officers

serving on task forces were to activate BWC devices upon arriving at the scene of an interest and deactivate the recording when said scene is safe under the control of law enforcement or when said officer is relieved by another law enforcement officer. FTOs were prohibited from using BWCs in situations involving undercover personnel, confidential informants, or confidential sources, when conducting on-scene witness interviews prior to or after an operation, when sensitive techniques or equipment are being used, and/or during any investigations involving public corruption, medical facilities, national security, or other sensitive content. It was the responsibility of the TFO to download all BWC recordings. Once said recordings were downloaded, the TFO, or his/her parent agency personnel, were to place said recordings into external media form and provide them to the federal task force expeditiously. Pursuant to the Federal Records Act, all recordings captured throughout the duration of the task source were considered federal records of the Department of Justice and the federal agency overseeing the task force. Further, due to the sensitive nature of these recordings, they were not mandated to be released for public consumption. However, members of the public could still make requests for said recordings to be released. These requests were to be reviewed by the federal agency overseeing the task force, no recordings could be released without the written permission of the Department of Justice except for internal dissemination and/or expedited public release cases. Lastly, said policy specified that the Assistant Director of the Investigative Operations Division within the U.S. Department of Justice was responsible for documenting all agreements made between state and local law enforcement and federal law enforcement agencies throughout the duration of the task force.

The above policy was only put in place for a short while before the Deputy Attorney General, Lisa Monaco released a statement on June 7, 2021, announcing that the U.S.

Department of Justice was mandating the use of BWCs throughout all federal law enforcement agencies (Pruitt-Young, 2021).

*Integrating Body-Worn Camera Programs at the Federal Level*

The memorandum announcing the changes being made to federal Body-Worn Camera Policies was addressed to the Bureau of Alcohol, Tobacco, Firearms, & Explosives, Drug Enforcement Administration, Federal Bureau of Investigation, and the United States Marshals Service (Monaco, 2021). In brief, the memorandum outlined the previous policy set in place for TFOs working on Department of Justice Task Forces, when the use of BWCs will now be permitted by federal law enforcement officers, the necessary steps each addressed organization must take to introduce the used of BWCs, and the components each BWC policy must include. Further, these changes were to be made based on recommendations made by different vital components of the U.S. Department of Justice.

Prior to integrating the use of BWCs, each organization was directed that a 30-day deadline, from the date of the memorandum, was put in place to submit various articles for review by the Department of Justice (Monaco, 2021). Each law enforcement component was required to propose a BWC policy, an implementation plan, and to designate a senior officer to implement and oversee said BWC policy (Monaco, 2021). The Executive Office for United States Attorneys was also addressed in the memorandum. Members of this component were given ninety days to develop a training program to direct federal prosecutors to the desired way to implore BWC footage as admissible evidence (Pruitt-Young, 2021).

According to the statement released by Monaco, once each component's required segments are submitted to the Department of Justice, a Privacy Impact Assessment will be completed by the Chief Privacy and Civil Liberties Officers. This assessment will evaluate each

organizations planned use of BWCs, equipment required to implement said BWC policy, and the method by which program reviews will take place. The Chief Privacy and Civil Liberties Officers will then deliberate with the Office of Records Management to ensure the proposed policy yields to all pertinent records laws, as well as the current regulations, rules, and policies held by the Department of Justice. Additionally, a supplemental review must be conducted by the Justice Management Division to appraise the financial recourses allocated to the Department of Justice for BWC usage in the 2022 Fiscal Year. Lastly, each component is to design a way to measure the impact of its BWC policy. The directive also gave context as to what must be outlined in each component's BWC policy.

#### *Federal Body-Worn Camera Policy Requirements*

Monaco (2021) briefed that before BWC programs may be phased in at the federal level, an effective BWC policy must first be created by each component. She specified that each policy was to account for the obligations of each agent while carrying, operating, maintaining, and securing BWC equipment. These responsibilities also need to account for when a BWC can be activated and deactivated. Additionally, federal policies must include the type of BWC equipment commissioned for use, the buffering period of said equipment, the operation of BWCs in sensitive circumstances, the use of BWCs by sponsored task forces, and the procedures by which BWC footage may be released to the public (Monaco, 2021). Each policy must encapsulate each of the required components to be approved for the use of BWC equipment and ensure program efficacy. Perhaps it would be more universally effective if there was a singular BWC policy applicable to all federal components as to avoid the use of contrasting practices, expedite the approval process, and remain consistent.

### Section III: RECOMMENDATIONS AND CONCLUSIONS

Deputy Attorney General, Monaco (2021), addressed the need for transparency and accountability in the adoption of federally mandated BWC programs. What Monaco did not acknowledge was the need for consistency between federal agencies. Developing a singular BWC policy applicable to all federal components ensures all procedures outlined by the Department of Justice are maintained linearly. If a singular BWC policy for all federal components was developed by the Department of Justice in collaboration with the federal agencies, it would essentially cut out the middleman and see to it that all policy requirements are followed. With consideration to the BWC policy requirements outlined in Monaco's press release, this section serves to recommend a singular BWC federal policy to include the following sections:

- 1.) Carrying, Operating, Maintaining, and Securing BWC Equipment
- 2.) Commissioned BWC Equipment
- 3.) BWC Use on Sponsored Task Forces
- 4.) Release of BWC Footage to the Public

These recommendations are sought to serve as a framework for the development of a singular BWC policy applicable to all federal BWC programs. It is perceived that future federal taskforce operations will be significantly impacted by the newly required use of BWC equipment and BWC policies at the federal level. An all-encompassing federal BWC policy applicable to all federal components must therefore address current BWC policies on federal task forces and adapt them to represent new policy requirements.

Subsequently, each of these four segments are broken into secondary sections that are categories that must be accounted for when developing a BWC policy. These categories consist of basic camera usage, designated staff responsibilities, recording protocols, video retention process, method for documenting recordings, data retention periods, the process for accessing

and reviewing data, the process for releasing recorded data to the public, training requirements, and program evaluation. The categories were also outlined as requirements to federal BWC policies by Monaco (2021) in the memorandum ordering for the phasing in of BWC equipment use by federal officers.

### *Carrying, Operating, Maintaining, and Securing BWC Equipment*

#### *Designated Staff Responsibilities*

In this section, the BWC policy outlines the responsibilities of the officer the BWC was issued to, the responsibilities of said officer's supervisor, and the responsibilities of the senior officer overseeing the BWC program. The officer wearing the BWC is responsible for making sure all footage is downloaded and stored, charging the equipment, making sure the equipment is always working properly, managing accidental recordings, etc. (U.S. Department of Justice: Office of Justice Programs, 2020). It is ultimately the role of the supervisor to ensure that officers are not only following BWC program policy, but that footage is being downloaded and uploaded properly as well (San Jose Police Department, n.d.). The senior officer overseeing the program holds the responsibility of overseeing all aspects of the BWC program and ensuring officers and supervisors alike are following program policy.

#### *Recording Protocols*

The purpose of this section is to discuss the activation/deactivation of the BWC, when recordings are required, discretionary, and prohibited. Understanding these aspects of BWC operation is vital to the accurate use of BWC technologies by law enforcement officers. However, policies should not articulate every conceivable incident in which a BWC should be on or off. There will be times when the use of BWCs is illogical or pose a danger to public and/or officer safety. Policies serve to form a general framework for when cameras should be

activated/deactivated. In circumstances that the BWC policy does not provide a concise protocol for activation/deactivation, the officer must use their own discretion regarding their professional experiences (San Jose Police Department, n.d.). It was stipulated in Monaco's BWC memorandum that the use of BWCs by federal law enforcement officers was mandated when serving arrest warrants, during planned arrest operations, and when executing search warrants (Carrega & Campbell, 2021). Most commonly BWC footage may be stopped once the encounter has concluded, once the scene is under the control of law enforcement officers, or when said officer is relieved by another law enforcement officer (San Jose Police Department, n.d.: U.S. Department of Justice: Office of Justice Programs, 2020). Officers must attempt to record all feasible circumstances for their full duration. Federal task force policy states that there are several situations in which an officer should not use their BWC, as identified below (U.S. Department of Justice: Office of Justice Programs, 2020). Further, TFOs were prohibited from recording while undercover, speaking with confidential informants/sources, and using specialized investigative techniques or equipment (U.S. Department of Justice: Office of Justice Programs, 2020). They were barred from using BWCs in investigations involving public corruption, medical facilities, national security, or in other sensitive investigations (U.S. Department of Justice: Office of Justice Programs, 2020).

Use of BWCs is often perceived to be a violation of one's civil liberties and first amendment rights (Hung, et. al., 2016). The first amendment of the United States Constitution establishes that,

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

It is recognized that BWCs potentially impede the public's ability to speak anonymously (Hung, et. al., 2016). The "Recording Protocols" section of a BWC policy should, in turn, discuss when advisement of recording and consent for recording must be carried out (San Jose Police Department, n.d.). Federal BWC policies should follow the same structure and discuss the advisement of recording and consent as well.

#### *Video Retention Process*

Video retention protocols account for who will download BWC footage, when said footage will be downloaded, and protection efforts against the tampering of the footage. Most commonly, the officer using the BWC is responsible for downloading footage. According to PERF, it is recommended that officers download, and document all recorded BWC data at the end of each shift (Bureau of Justice Assistance, n.d.). All downloaded data must be protected from possible tampering. Should tampering occur, the data will not be able to be used in court or comprehensive program review/training (Ardia & Jones, 2018). The officer's supervisor(s) and BWC program administrator must ensure that all footage is downloaded properly and handled under protocol without tampering. The Bureau of Justice Assistance recommends that law enforcement agencies seek the counsel of federal prosecutors and legal counsel when detailing video retention processes.

#### *Method for Documenting Recordings*

Documentation in BWC programs serves to exemplify that the presence of BWC footage does not negate the need for detailed and thorough reporting. Said documentation is subject to circumstance, for instance, if an officer forgets to turn their BWC on at the scene, they must document the circumstances. Additionally, if an accidental recording is made, it must be documented and a request for the recording to be deleted must be made.

### *Data Retention Periods*

Data retention periods are dependent on the determination of what type of footage is captured by the BWC. This footage can either be evidentiary or non-evidentiary in nature. As such, retention periods vary accordingly. Evidentiary data is classified as any footage that can be used in an investigation, while non-evidentiary data cannot (Bureau of Justice Assistance, n.d.). The Bureau of Justice Assistance suggests that law enforcement agencies publish their data retention periods/protocols to remain transparent with the public.

### *Process for Accessing and Reviewing Data*

Considering the sensitive nature of BWC footage, processes must be put in place to address when administrative review of BWC files is appropriate and when said files can be used in training. This section of policy also discusses who is authorized to and when they are authorized to review said footage. Supervisors responsible with overseeing and ensuring the proper use of BWCs have access to BWC footage for the purpose of general oversight (San Jose Police Department, n.d.). The review of BWC footage is often necessary when conducting internal affairs and use of force investigations as well (Ardia & Jones, 2018).

### *Training Requirements*

A potential benefit to the federal components utilizing BWC technologies is the ability to utilize captured BWC footage in future training exercises. BWC policies must also define the circumstances by which BWC footage may be used in training. The San Jose Police Department's BWC policy states that their officers are currently trained to operate, maintain, and care for BWC equipment prior to use in the field. Training is mandatory for BWC technology to be used properly and effectively. Departments frequently use parameters for continued training and policy review in this section as well.

### *Program Evaluation*

Lastly, BWC policies and BWC programs are subject to adaptation through trial and error. For a BWC policy to be expressively effective, consideration must be made to evaluate and adapt said programs. As BWC technology advances policies must be flexible and able to evolve. While the supervising officer and program head serve the purpose of making sure program policies and BWC equipment are being used properly, comprehensive program evaluations are necessary to ensure continued effectiveness.

### *Carrying, Operating, Maintaining, and Securing BWC Equipment Recommendations*

Carrying, operating, maintaining, and securing BWC equipment outlines the following processes:

1. Officer Responsibilities
2. Supervisor Responsibilities
3. Senior Officer Responsibilities
4. Activation/Deactivation of Recordings
5. Prohibited Recording Circumstances
6. Retrieval of Consent
7. Video Retention Processes
8. Data Retention Processes

Federal officer BWC responsibilities include, storing and downloading BWC footage, charging equipment, making sure the equipment is working properly, and managing accidental recordings (U.S. Department of Justice: Office of Justice Programs, 2020). The supervisors overseeing federal officers using BWC equipment serve the purpose to ensure that officers are following BWC policies, and that footage is properly downloaded and uploaded (San Jose Police

Department, n.d.). Finally, it is the job of the senior officer overseeing the program to see to it that all aspects of the BWC program are functioning efficiently and that all supervisors and officers are following said BWC policies (U.S. Department of Justice: Office of Justice Programs, 2020).

According to the statement released by Monaco, the new BWC federal policy requires that federal officers activate BWC devices when fulfilling arrest warrants, executing search warrants, and during any other planned operations (Carrega & Campbell, 2021). The BWC may be deactivated once either the action is complete or the officer in question is relieved by another officer (San Jose Police Department, n.d.; U.S. Department of Justice: Office of Justice Programs, 2020). Officers are not permitted to record in a series of circumstances, these include,

1. When in undercover operations
2. When speaking with confidential informants or sources
3. When using specialized investigative techniques or equipment
4. In circumstances involving public corruption
5. While in medical facilities
6. In circumstances involving national security
7. During sensitive investigations (U.S. Department of Justice: Office of Justice Programs, 2020)

Officers must receive consent to utilize BWC equipment if recording is taking place in which one of the previously described applicable circumstances is observed (U.S. Department of Justice: Office of Justice Programs, 2020).

For video retention purposes, all BWC footage must remain confidential and void of tampering (Bureau of Justice Assistance, n.d.). The releasing of said footage without

authorization or tampering of said footage renders it useless in prosecutorial arenas. All BWC footage should be kept in a secure database maintained by both the BWC equipment's manufacturer and the checks and balances system put in place to ensure proper footage maintenance.

Lastly, prior to the completion of policy creation, the Department of Justice must collaborate with the Executive Office for United States Attorneys in developing an appropriate time frame by which evidentiary and non-evidentiary BWC footage is stored by each federal component (Bureau of Justice Assistance, n.d.). This will allow a clear establishment of judicial checks and balances between federal officers and the attorneys that try federal cases.

#### *Commissioned BWC Equipment*

##### *Basic Camera Usage*

This section of BWC policies is used to determine who will wear the BWC, where the BWC will be worn, and which BWC will be worn. BWC's are to be worn by all federal agents in circumstances by which BWC use is permitted, according to Deputy Attorney General Monaco (2021). Considering what BWC will be worn and where said camera will be worn takes significant deliberation. There are many different components to review.

In 2012, the U.S. Department of Justice published "*A Primer on Body-Worn Cameras for Law Enforcement*". This primer addresses specifications departments must consider before choosing a BWC to use in their program. Among these factors are costs, battery life, video quality, resolution, frame rate, low-light recording, data storage, warranty, etc. In 2018, PERF studied the price of utilizing BWC technologies in three different departments: Phoenix, Arizona; Mesa, Arizona, and Dallas, Texas (Williams, et. al., 2021). The study observed that annual equipment, maintenance, storage, and labor costs per year ranged between \$1,221 and

\$3,219 as of 2020. However, it was estimated that nearly one-quarter of the benefits associated with the utilization of BWC technologies, accumulate back to department budgets. From a budgeting perspective, the study concluded that BWCs appear to pay for themselves.

The battery life of a BWC refers to the length of time a battery will last should the camera be recording continuously when fully charged with the recommended amount being three consecutive hours (U.S. Department of Justice, 2012). When considering the battery life of a BWC, departments must account for when officers will be able to charge devices. Video quality of BWC recordings is attributed to the resolution the camera records at (U.S. Department of Justice, 2012). The better the resolution, the clearer the image that will be captured by the BWC, is necessary to be admissible in court. It is suggested that to be effective, BWCs must have a resolution of at least 640 x 480 pixels (U.S. Department of Justice, 2012). Weather conditions also play a significant role in footage quality. Like CCTV technologies, BWC footage is subject to poor lighting and low-visibility due to weather conditions (La Vigne, 2015). These conditions may significantly impact the ability for said footage to be diminishable in a court of law, used in further investigations, and analyzed generally.

In addition to resolution, organizations must consider the frame rate of a BWC. Frame rate is the number of frames recorded per second. The higher the frame rate, the smoother the BWC footage will be. Departments abiding by Department of Justice (2012) suggestions should use BWCs with at least a 25 frame per second frame rate. Efficient BWCs should be able to record in all lighting. Components using BWCs must therefore consider the low-light recording capabilities of the BWCs they have chosen to utilize. According to the Department of Justice (2012), cameras must have either a low lux rating and/or IR illuminator to be able to record effectively in low lighting.

A BWC must be able to store footage onboard the device until footage is able to be transferred elsewhere. The Department of Justice (2012) suggests that at a minimum, BWCs should have an onboard storage large enough to hold three hours' worth of recordings. Lastly, any BWC worth consideration should include at least a 1-year warranty. With attention to these aspects, departments will be able to select the best BWC equipment to meet their program goals.

In addition to choosing the correct BWC equipment, departments must consider the best placement of a BWC. Placement of a BWC is contingent on the federal officer's attire, and field of view. PERF endorses that all departments with BWC programs specify in their BWC policies where the cameras should be worn (Hung, et. al., 2016). As outlined by Hung et. al. (2016) there are many different places where a BWC can be worn by an officer. Placements include: the chest, head/sunglasses, and shoulder/collar. The chest is the most popular location to place a BWC across agencies because it is perceived to provide the clearest field of view while maintaining the point of view of the officer. Additionally, the head/sunglasses placement is common because the footage is pointed in the direction the officer is looking. However, some officers have expressed concern with the head/sunglasses placement sighting that officers are not always permitted to wear sunglasses and that the headband placement can be uncomfortable and even obstruct the officer's eyesight. Placement on the shoulder/collar is not as common since footage from the camera can be easily blocked when the officer raises their arm. Some agencies specify that BWCs should be worn on an officer's shooting side, to get a clearer point of view established (Hung, et. al., 2016). Choosing the best placement is vital to the quality of footage taken by the BWC.

#### *Commissioned BWC Equipment Recommendations*

This section of BWC policy will serve to establish who will be required to utilize the BWC equipment, where the BWC equipment will be worn on the officer, and which BWC will be used throughout each federal component. As Monaco (2021), stated, all federal agents are required to wear BWCs in permitting circumstances. The integrity of the BWC footage captured by said federal officers is visually determinant, in part by, the placement of the BWC on the officer's body.

PERF exemplified the need for BWC policies to explicitly state where on the officer's person the BWC should be worn (Hung, et. al., 2016). It is imperative that all officers wear their BWC equipment in the same place as to maintain footage consistency. Attaching the BWC to the chest of the officer allows for the clearest footage field of view while maintaining the officer's point of view (Hung, et. al., 2016). Federal law enforcement officers should all place their BWC equipment in the same location with the chest being the most common and most preferable.

While the placement of the BWC equipment significantly impacts the quality of footage retained by the BWC, commissioned BWC equipment must also be evaluated by the following categories: battery life, resolution, frame rate, ability to record in all lighting, storage capacity, and warranties. The Department of Justice would significantly benefit from evaluating all current BWC equipment on the market for the following parameters as outlined by the U.S. Department of Justice (2012). BWC equipment should be able to record for at least three consecutive hours with a fully charged battery. The resolution of the BWC should be at least 640 by 480 pixels. Be able to record at least 25 frames per second in all lighting utilizing a low lux rating and/or IR illuminator. BWCs must be able to store at least three hours' worth of footage at a time and the BWC manufacturer must have provided at least a year's warranty for the equipment.

#### *BWC Use on Sponsored Task Forces*

### *BWC Use on Sponsored Task Forces Recommendations*

Inevitably, federal law enforcement agencies will continue to work alongside local and state law enforcement agencies in federal task forces. The current policy set in place for the use of BWCs by federal officers in these task forces outlines that the BWC procedures used in said task force were determined by the BWC policy in place at the state or local level (U.S. Department of Justice: Office of Justice Programs, 2020). With the implication of BWCs at the federal level, it is feasible that federal task forces will now have to follow the BWC policy used by the federal component sponsoring the task force. For documenting purposes, the Assistant Director of the Investigative Operations division of the DOJ should still document all agreements made between state, local, and federal law enforcement agencies participating in federal task forces (U.S. Department of Justice: Office of Justice Programs, 2020). This will ensure that all Department of Justice required guidelines are followed throughout the duration of the task force and all collected data may be admissible for review and judicial process at the federal level as well.

### *Release of BWC Footage to the Public*

#### *Process for Releasing Recorded Data to the Public*

According to Monaco (2021), the use of BWC equipment at the federal level comes as a call for accountability on behalf of the Department of Justice and all federal law enforcement officers. To ensure accountability, BWC footage may be released to the public. Monaco's statement comes in support of the Freedom of Information Act, herein referred to as "FOIA". The FOIA presents that any individual holds the right to request access to all federal agency records and/or information (The United States Department of Justice, 2016). Information can be protected from disclosure by any of the following nine exemptions:

1. Classified information for national defense or foreign policy
2. Internal personnel rules and practices
3. Information that is exempt under other laws
4. Trade secrets and confidential business information
5. Inter-agency or intra-agency memoranda or letters that are protected by legal privileges
6. Personnel and medical files
7. Law enforcement records or information
8. Information concerning bank supervision
9. Geological and geophysical information (The United States Department of Justice, 2016)

The FOIA also states that there are three law enforcement record exclusions that prohibit the distribution of requested information. Information cannot be disclosed when it is being used in a current law enforcement investigation, when it concerns unofficially confirmed informants, or records falling under classified categorization by the Federal Bureau of Investigation (The United States Department of Justice, 2016). The process by which recorded data is released to the public must be addressed in BWC program policies.

*Release of BWC Footage to the Public Recommendations*

Current federal task force BWC policies specify that BWC footage retrieved by federal task force officers were to be considered sensitive footage and not for public consumption (U.S. Department of Justice: Office of Justice Programs, 2020). The same procedure should be followed upon the use of BWC equipment by each federal law enforcement component. However, FOIA states that any individual holds the right to request access to all federal agency records and/or information (U.S. Department of Justice, 2016). By this accord, policies must still be in place for the possible release of BWC footage. Release of said footage would require

previous written approval by the Department of Justice. Footage that meets any of the nine exemptions described in the FOIA may not be disclosed (U.S. Department of Justice, 2016). Any footage being used in current investigations, featuring unofficially confirmed informants, or records falling under classification will not be approved to be released for public consumption either (U.S. Department of Justice, 2016).

### *Conclusion*

When all the information expressly presented in this composition is considered, it is evident that a singular BWC policy implemented across all federal components would significantly expedite the implementation process federally. As the popularity of the use of BWC equipment and support for BWC programs continue to grow, the need for a well-established BWC policy is required to ensure overall program success. When said policy is supported by the framework compiled through the research of the International Association of Chiefs of Police (2019) in accordance with all policy requirements as outlined by Deputy Attorney, Monaco (2021), federal law enforcement agencies have the potential to see program benefits linearly across federal components. As the history of BWC use at the federal level is written, each component can rely on the use of an adaptable universally recognized BWC policy applicable to all federal law enforcement agencies.

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