Session 207 | Body Cameras Use to Build Community Trust, Transparency, and Accountability

In 2015, the President’s Task Force on 21st Century Policing issued its report where use of body cameras was encouraged. The report highlighted that the use of this technology can improve policing practices and build community trust and legitimacy. Implementing body cameras can give policy departments an opportunity to fully engage and educate communities in a dialogue about their expectations for transparency, accountability, and privacy. However, implementation of body camera programs has a variety of impacts, including impacts on privacy, legislation determining what data is public or private, retention cost and retention policies, defense cost, prosecution cost, public’s desire to post on social media, long-term collateral consequences on community members, and community accountability.

Moderator:
Irene Kao, League of Minnesota Cities

Speakers:
Rahat N. Babar, Office of the Governor of New Jersey
Aileen Bhandari, Cook County State’s Attorney’s Office
Daniel Lew, Public Defender Office of the Sixth Judicial District
Body Cameras Use

To build community trust, transparency, and accountability
Anger, confrontation after fatal shooting of teen by Ferguson police officer
NUMBER OF LAW ENFORCEMENT AGENCIES WITH BODY CAMERAS OVER TIME

5 states have enacted laws that require at least some officers to use body-worn cameras
13 states and the District of Columbia have legislated funding opportunities for state and local police departments to purchase body camera equipment, hire new support staff, and operate or purchase data systems.
NCSL: Body-Worn Camera Laws

23 states and the District of Columbia have legislated how body-worn camera data is addressed under open record laws.
NCSL: Body-Worn Camera Laws

7 states - California, Georgia, Illinois, Nevada, New Hampshire, Pennsylvania and Oregon - have made exceptions to their eavesdropping laws for police officers wearing body cameras while in the performance of their duties.
NCSL: Body-Worn Camera Laws

20 states and the District of Columbia require written policies in order for law enforcement to use or receive funding for body-worn cameras.
President’s Task Force on 21st Century Policing

- Pillar One: Building Trust and Legitimacy
- Pillar Two: Policy and Oversight
- Pillar Three: Technology and Social Media (body-worn cameras)
- Pillar Four: Community Policing and Crime Reduction
- Pillar Five: Training & Education
- Pillar Six: Officer Wellness and Safety
National Trends on Body-Worn Cameras

- New York City
- Los Angeles
  - Model for California legislation
- Philadelphia
- Smaller jurisdictions
Case Study: New Jersey
Case Study: Minnesota
Overview of Minnesota BWC law

- Minnesota passed BWC law in 2016
- Tension around data classification
  - Generally “private data” but public under certain circumstances
  - Confidential during active criminal investigation
- Tension around how long to retain BWC data
  - Balance between privacy and police accountability
- Written policies must be adopted before BWC use
Land of 10,000 Lakes Minnesota
Duluth Body Cameras

- First large scale rollout in Minnesota in 2016
- 185 body cameras
- All patrol squads, investigators, supervisors, Police Chief, parking enforcement, and animal control
- Data line issue – 40 TB active data
- Download or steam
- Huge storage issues
- Improves behavior on both sides of camera

- 83,000 active body camera videos
- 8 minutes average video
- $85K investment
- $79K per year (storage/maintenance, 2½ year replacement interval, licensing for prosecutors)
- Few public request for public data
- Astounding cost for public defense!!
Power of Body Cams

O’Connor and Cekalla attempted to identify what the pills were. Officer Peterson then returned to the room, stood in front of Defendant and began telling Defendant that if Defendant and Mr. Pollard do not tell law enforcement what happened,

we are going to write our own story about what happened....this is how I’m going to write this story, you guys tell me nothing....this is how I’m going to frame it. This is how it’s going to look to people in Duluth here, be it jurors, judges, attorneys, whatever....here’s the picture that I’m going to paint, I’m going to paint the picture that you guys are a bunch of thugs coming in from out of town, running guns and drugs and shit into here. How much traction do you think that’s going to get in the courts...That’s going to paint you guys pretty damn nasty, am I right?...Is this shit for personal use or are you guys up here selling?
Case Study: Illinois
Illinois Basic Guidelines for Officer-Worn Body Cameras

Agencies must adopt written policies, minimally addressing:

- When BWCs are activated
  - At all times when officer is (1) on-duty and (2) visibly wearing authorized uniform or insignia
- Notice to witnesses and victims
  - Must provide notice of recording if a person has a reasonable expectation of privacy
  - Exigent circumstances: as soon as practicable
- When BWCs are turned off
  - At request of victim, witness, or community member
  - Interaction with confidential informant
  - Engagement in community caretaking functions
Evidence issues

- Questions about redacting, editing video for use as evidence:
  - Obtain stipulation in advance with opposing counsel?
- Video may show items not seen by the officer
- Video may distort distances, height, etc.
- Be familiar with police department policies and procedures:
  - Does the policy allow/require officers to view video before writing reports?
  - What does the policy require about noting in reports that BWC video has been reviewed by officer before writing report?
Body Cameras: Man vs. Machine
Public defender cost

Retaining body cameras has insurmountable cost, nearly $1 million.

High cost of showing body cameras.

Community engagement – best video showing session with law enforcement.

Three high profile cases where officers decided law enforcement is not their chosen career.

In jails - inaccessible to clients.

Cost to share body camera video: terabytes at a time - reduced to TB drives common in sharing client discovery.
Change in Behavior, Community Trust, Transparency
According to Government Technology

Change in Behavior

- Research has mixed results
  - Some found officers wearing cameras were less likely to use force
  - Others found no difference with the cameras
- Number of officer-involved shootings hasn’t substantially changed

Community Trust and Transparency

- Maybe: research shows people felt safety was improved for officers and residents
Questions?
FINAL REPORT OF

THE PRESIDENT’S TASK FORCE ON
21ST CENTURY POLICING

MAY 2015
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CONTENTS

From the Co-Chairs ................................................................. iii
Members of the Task Force ................................................... v
Task Force Staff ................................................................. vii
Acknowledgments ............................................................... ix
Executive Summary ............................................................ 1
Introduction ......................................................................... 5
Pillar 1. Building Trust & Legitimacy .................................... 9
Pillar 2. Policy & Oversight .................................................. 19
Pillar 3. Technology & Social Media ..................................... 31
Pillar 5. Training & Education .............................................. 51
Pillar 6. Officer Wellness & Safety ....................................... 61
Implementation ................................................................. 69
Appendix A. Public Listening Sessions & Witnesses ............. 71
Appendix B. Individuals & Organizations That Submitted Written Testimony ................................. 75
Appendix C. Executive Order 13684 of December 18, 2014 .......... 79
Appendix D. Task Force Members’ Biographies ..................... 81
Appendix E. Recommendations and Actions .......................... 85
FROM THE CO-CHAIRS

We wish to thank President Barack Obama for giving us the honor and privilege of leading his Task Force on 21st Century Policing. The task force was created to strengthen community policing and trust among law enforcement officers and the communities they serve—especially in light of recent events around the country that have underscored the need for and importance of lasting collaborative relationships between local police and the public. We found engaging with law enforcement officials, technical advisors, youth and community leaders, and nongovernmental organizations through a transparent public process to be both enlightening and rewarding, and we again thank the President for this honor.

Given the urgency of these issues, the President gave the task force an initial 90 days to identify best policing practices and offer recommendations on how those practices can promote effective crime reduction while building public trust. In this short period, the task force conducted seven public listening sessions across the country and received testimony and recommendations from a wide range of community and faith leaders, law enforcement officers, academics, and others to ensure its recommendations would be informed by a diverse range of voices. Such a remarkable achievement could not have been accomplished without the tremendous assistance provided by the U.S. Department of Justice's Office of Community Oriented Policing Services (COPS Office), led by Director Ronald L. Davis, who also served as the executive director of the task force. We thank Director Davis for his leadership, as well as his chief of staff, Melanca Clark, and the COPS Office team that supported the operation and administration of the task force.

We also wish to extend our appreciation to the COPS Office's extremely capable logistical and technical assistance provider, Strategic Applications International (SAI), led by James and Colleen Copple. In addition to logistical support, SAI digested the voluminous information received from testifying witnesses and the public in record time and helped facilitate the task force's deliberations on recommendations for the President. We are also grateful for the thoughtful assistance of Darrel Stephens and Stephen Rickman, our technical advisors.

Most important, we would especially like to thank the hundreds of community members, law enforcement officers and executives, associations and stakeholders, researchers and academics, and civic leaders nationwide who stepped forward to support the efforts of the task force and to lend their experience and expertise during the development of the recommendations contained in this report. The passion and commitment shared by all to building strong relationships between law enforcement and communities became a continual source of inspiration and encouragement to the task force.

The dedication of our fellow task force members and their commitment to the process of arriving at consensus around these recommendations is also worth acknowledging. The task force members brought diverse perspectives to the table and were able to come together to engage in meaningful dialogue on emotionally charged issues in a respectful and effective manner. We believe the type of constructive dialogue we have engaged in should serve as an example of the type of dialogue that must occur in communities throughout the nation.
While much work remains to be done to address many longstanding issues and challenges—not only within the field of law enforcement but also within the broader criminal justice system—this experience has demonstrated to us that Americans are, by nature, problem solvers. It is our hope that the recommendations included here will meaningfully contribute to our nation’s efforts to increase trust between law enforcement and the communities they protect and serve.

Charles H. Ramsey  
Co-Chair

Laurie O. Robinson  
Co-Chair
MEMBERS OF THE TASK FORCE

Co-Chairs

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1. SAI provided technical and logistical support through a cooperative agreement with the COPS Office.
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Cincinnati Police Chief Jeffrey Blackwell welcomes the task force to the University of Cincinnati, January 30, 2015.

PHOTO: DEBORAH SPENCE
EXECUTIVE SUMMARY

Trust between law enforcement agencies and the people they protect and serve is essential in a democracy. It is key to the stability of our communities, the integrity of our criminal justice system, and the safe and effective delivery of policing services.

In light of recent events that have exposed rifts in the relationships between local police and the communities they protect and serve, on December 18, 2014, President Barack Obama signed an executive order establishing the Task Force on 21st Century Policing. The President charged the task force with identifying best practices and offering recommendations on how policing practices can promote effective crime reduction while building public trust.

This executive summary provides an overview of the recommendations of the task force, which met seven times in January and February of 2015. These listening sessions, held in Washington, D.C.; Phoenix, Arizona; and Cincinnati, Ohio, brought the 11 members of the task force together with more than 100 individuals from diverse stakeholder groups—law enforcement officers and executives, community members, civic leaders, advocates, researchers, academics, and others—in addition to many others who submitted written testimony to study the problems from all perspectives.

The task force recommendations, each with action items, are organized around six main topic areas or “pillars”: Building Trust and Legitimacy, Policy and Oversight, Technology and Social Media, Community Policing and Crime Reduction, Officer Training and Education, and Officer Safety and Wellness.

The task force also offered two overarching recommendations: the President should support the creation of a National Crime and Justice Task Force to examine all areas of criminal justice and propose reforms; as a corollary to this effort, the task force also recommends that the President support programs that take a comprehensive and inclusive look at community-based initiatives addressing core issues such as poverty, education, and health and safety.

Pillar One: Building Trust and Legitimacy

Building trust and nurturing legitimacy on both sides of the police/citizen divide is the foundational principle underlying the nature of relations between law enforcement agencies and the communities they serve. Decades of research and practice support the premise that people are more likely to obey the law when they believe that those who are enforcing it have authority that is perceived as legitimate by those subject to the authority. The public confers legitimacy only on those whom they believe are acting in procedurally just ways. In addition, law enforcement cannot build community trust if it is seen as an occupying force coming in from outside to impose control on the community. Pillar one seeks to provide focused recommendations on building this relationship.

Law enforcement culture should embrace a guardian—rather than a warrior—mindset to build trust and legitimacy both within agencies and with the public. Toward that end, law enforcement agencies should adopt procedural justice as the guiding principle for internal and external policies and practices to guide their interactions with rank and file officers and with the citizens they serve. Law enforcement agencies should also establish a culture of transparency and accountability to build public trust and legitimacy. This is critical to ensuring decision making is understood and in accord with stated policy.
Law enforcement agencies should also proactively promote public trust by initiating positive non-enforcement activities to engage communities that typically have high rates of investigative and enforcement involvement with government agencies. Law enforcement agencies should also track and analyze the level of trust communities have in police just as they measure changes in crime. This can be accomplished through consistent annual community surveys. Finally, law enforcement agencies should strive to create a workforce that encompasses a broad range of diversity including race, gender, language, life experience, and cultural background to improve understanding and effectiveness in dealing with all communities.

Pillar Two: Policy and Oversight

Pillar two emphasizes that if police are to carry out their responsibilities according to established policies, those policies must reflect community values. Law enforcement agencies should collaborate with community members, especially in communities and neighborhoods disproportionately affected by crime, to develop policies and strategies for deploying resources that aim to reduce crime by improving relationships, increasing community engagement, and fostering cooperation.

To achieve this end, law enforcement agencies should have clear and comprehensive policies on the use of force (including training on the importance of de-escalation), mass demonstrations (including the appropriate use of equipment, particularly rifles and armored personnel carriers), consent before searches, gender identification, racial profiling, and performance measures—among others such as external and independent investigations and prosecutions of officer-involved shootings and other use of force situations and in-custody deaths. These policies should also include provisions for the collection of demographic data on all parties involved. All policies and aggregate data should be made publicly available to ensure transparency.

To ensure policies are maintained and current, law enforcement agencies are encouraged to periodically review policies and procedures, conduct nonpunitive peer reviews of critical incidents separate from criminal and administrative investigations, and establish civilian oversight mechanisms with their communities.

Finally, to assist law enforcement and the community achieve the elements of pillar two, the U.S. Department of Justice, through the Office of Community Oriented Policing Services (COPS Office) and Office of Justice Programs (OJP), should provide technical assistance and incentive funding to jurisdictions with small police agencies that take steps toward interagency collaboration, shared services, and regional training. They should also partner with the International Association of Directors of Law Enforcement Standards and Training (IADLEST) to expand its National Decertification Index to serve as the National Register of Decertified Officers with the goal of covering all agencies within the United States and its territories.

Pillar Three: Technology & Social Media

The use of technology can improve policing practices and build community trust and legitimacy, but its implementation must be built on a defined policy framework with its purposes and goals clearly delineated. Implementing new technologies can give police departments an opportunity to fully engage and educate communities in a dialogue about their expectations for transparency, accountability, and privacy. But technology changes quickly in terms of new hardware, software, and other options. Law enforcement agencies and leaders need to be able
to identify, assess, and evaluate new technology for adoption and do so in ways that improve their effectiveness, efficiency, and evolution without infringing on individual rights.

Pillar three guides the implementation, use, and evaluation of technology and social media by law enforcement agencies. To build a solid foundation for law enforcement agencies in this field, the U.S. Department of Justice, in consultation with the law enforcement field, should establish national standards for the research and development of new technology including auditory, visual, and biometric data, “less than lethal” technology, and the development of segregated radio spectrum such as FirstNet. These standards should also address compatibility, interoperability, and implementation needs both within local law enforcement agencies and across agencies and jurisdictions and should maintain civil and human rights protections. Law enforcement implementation of technology should be designed considering local needs and aligned with these national standards. Finally, law enforcement agencies should adopt model policies and best practices for technology-based community engagement that increases community trust and access.

Pillar Four: Community Policing & Crime Reduction

Pillar four focuses on the importance of community policing as a guiding philosophy for all stakeholders. Community policing emphasizes working with neighborhood residents to co-produce public safety. Law enforcement agencies should, therefore, work with community residents to identify problems and collaborate on implementing solutions that produce meaningful results for the community. Specifically, law enforcement agencies should develop and adopt policies and strategies that reinforce the importance of community engagement in managing public safety. Law enforcement agencies should also engage in multidisciplinary, community team approaches for planning, implementing, and responding to crisis situations with complex causal factors.

Communities should support a culture and practice of policing that reflects the values of protection and promotion of the dignity of all—especially the most vulnerable, such as children and youth most at risk for crime or violence. Law enforcement agencies should avoid using law enforcement tactics that unnecessarily stigmatize youth and marginalize their participation in schools (where law enforcement officers should have limited involvement in discipline) and communities. In addition, communities need to affirm and recognize the voices of youth in community decision making, facilitate youth participation in research and problem solving, and develop and fund youth leadership training and life skills through positive youth/police collaboration and interactions.

Pillar Five: Training & Education

As our nation becomes more pluralistic and the scope of law enforcement’s responsibilities expands, the need for expanded and more effective training has become critical. Today’s line officers and leaders must be trained and capable to address a wide variety of challenges including international terrorism, evolving technologies, rising immigration, changing laws, new cultural mores, and a growing mental health crisis.

Pillar five focuses on the training and education needs of law enforcement. To ensure the high quality and effectiveness of training and education, law enforcement agencies should engage community members, particularly those with special expertise, in the training process and provide leadership training to all personnel throughout their careers.
To further assist the training and educational needs of law enforcement, the Federal Government should support the development of partnerships with training facilities across the country to promote consistent standards for high quality training and establish training innovation hubs involving universities and police academies. A national postgraduate institute of policing for senior executives should be created with a standardized curriculum preparing participants to lead agencies in the 21st century.

One specific method of increasing the quality of training would be to ensure that Peace Officer and Standards Training (POST) boards include mandatory Crisis Intervention Training (CIT), which equips officers to deal with individuals in crisis or living with mental disabilities, as part of both basic recruit and in-service officer training—as well as instruction in disease of addiction, implicit bias and cultural responsiveness, policing in a democratic society, procedural justice, and effective social interaction and tactical skills.

Pillar Six: Officer Wellness & Safety

The wellness and safety of law enforcement officers is critical not only for the officers, their colleagues, and their agencies but also to public safety. Pillar six emphasizes the support and proper implementation of officer wellness and safety as a multi-partner effort.

The U.S. Department of Justice should enhance and further promote its multi-faceted officer safety and wellness initiative. Two specific strategies recommended for the U.S. Department of Justice include (1) encouraging and assisting departments in the implementation of scientifically supported shift lengths by law enforcement and (2) expanding efforts to collect and analyze data not only on officer deaths but also on injuries and “near misses.”

Law enforcement agencies should also promote wellness and safety at every level of the organization. For instance, every law enforcement officer should be provided with individual tactical first aid kits and training as well as anti-ballistic vests. In addition, law enforcement agencies should adopt policies that require officers to wear seat belts and bullet-proof vests and provide training to raise awareness of the consequences of failure to do so. Internal procedural justice principles should be adopted for all internal policies and interactions. The Federal Government should develop programs to provide financial support for law enforcement officers to continue to pursue educational opportunities. Finally, Congress should develop and enact peer review error management legislation.

Implementation Recommendations

The administration, through policies and practices already in place, can start right now to move forward on the recommendations contained in this report. The President should direct all federal law enforcement agencies to implement the task force recommendations to the extent practicable, and the U.S. Department of Justice should explore public-private partnership opportunities with foundations to advance implementation of the recommendations. Finally, the COPS Office and OJP should take a series of targeted actions to assist the law enforcement field in addressing current and future challenges.

Conclusion

The members of the Task Force on 21st Century Policing are convinced that the concrete recommendations contained in this publication will bring long-term improvements to the ways in which law enforcement agencies interact with and bring positive change to their communities.
INTRODUCTION

“When any part of the American family does not feel like it is being treated fairly, that’s a problem for all of us.”

—President Barack Obama

Trust between law enforcement agencies and the people they protect and serve is essential in a democracy. It is key to the stability of our communities, the integrity of our criminal justice system, and the safe and effective delivery of policing services.

In light of the recent events that have exposed rifts in the relationships between local police and the communities they protect and serve, on December 18, 2014, President Barack Obama signed Executive Order 13684 establishing the Task Force on 21st Century Policing.

In establishing the task force, the President spoke of the distrust that exists between too many police departments and too many communities—the sense that in a country where our basic principle is equality under the law, too many individuals, particularly young people of color, do not feel as if they are being treated fairly.

“When any part of the American family does not feel like it is being treated fairly, that’s a problem for all of us,” said the President. “It’s not just a problem for some. It’s not just a problem for a particular community or a particular demographic. It means that we are not, as a country, as strong as we can be. And when applied to the criminal justice system, it means we’re not as effective in fighting crime as we could be.”

These remarks underpin the philosophical foundation for the Task Force on 21st Century Policing: to build trust between citizens and their peace officers so that all components of a community are treating one another fairly and justly and are invested in maintaining public safety in an atmosphere of mutual respect. Decades of research and practice tell us that the public cares as much about how police interact with them as they care about the outcomes that legal actions produce. People are more likely to obey the law when they believe those who are enforcing it have the right—the legitimate authority—to tell them what to do.2 Building trust and legitimacy, therefore, is not just a policing issue. It involves all components of the criminal justice system and is inextricably bound to bedrock issues affecting the community such as poverty, education, and public health.

The mission of the task force was to examine ways of fostering strong, collaborative relationships between local law enforcement and the communities they protect and to make recommendations to the President on ways policing practices can promote effective crime reduction while building public trust. The President selected members of the task force based on their ability to contribute to its mission because of their relevant perspective, experience, or subject matter expertise in policing, law enforcement and community relations, civil rights, and civil liberties.

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The task force was given 90 days to conduct hearings, review the research, and make recommendations to the President, so its focus was sharp and necessarily limited. It concentrated on defining the cross-cutting issues affecting police-community interactions, questioning the contemporary relevance and truth about long-held assumptions regarding the nature and methods of policing, and identifying the areas where research is needed to highlight examples of evidence-based policing practices compatible with present realities.

To fulfill this mission, the task force convened seven listening sessions to hear testimony—including recommendations for action—from government officials; law enforcement officers; academic experts; technical advisors; leaders from established nongovernmental organizations, including grassroots movements; and any other members of the public who wished to comment. The listening sessions were held in Washington, D.C., January 13; Cincinnati, Ohio, January 30–31; Phoenix, Arizona, February 13–14; and again in Washington, D.C., February 23–24. Other forms of outreach included a number of White House listening sessions to engage other constituencies, such as people with disabilities, the LGBTQ community, and members of the armed forces, as well as careful study of scholarly articles, research reports, and written contributions from informed experts in various fields relevant to the task force’s mission.

Each of the seven public listening sessions addressed a specific aspect of policing and police-community relations, although cross-cutting issues and concerns made their appearance at every session. At the first session, Building Trust and Legitimacy, the topic of procedural justice was discussed as a foundational necessity in building public trust. Subject matter experts also testified as to the meaning of “community policing” in its historical and contemporary contexts, defining the difference between implicit bias and racial discrimination—two concepts at the heart of perceived difficulties between police and the people. Witnesses from community organizations stressed the need for more police involvement in community affairs as an essential component of their crime fighting duties. Police officers gave the beat cop’s perspective on protecting people who do not respect their authority, and three big-city mayors told of endemic budgetary obstacles to addressing policing challenges.

The session on Policy and Oversight again brought witnesses from diverse police forces (both chiefs and union representatives), from law and academia, and from established civil rights organizations and grass-root groups. They discussed use of force from the point of view of both research and policy and internal and external oversight; explained how they prepare for and handle mass demonstrations; and pondered culture and diversity in law enforcement. Witnesses filled the third session, on Technology and Social Media, with testimony on the use of body-worn cameras and other technologies from the angles of research and legal considerations, as well as the intricacies of implementing new technologies in the face of privacy issues. They discussed the ever-expanding ubiquity of social media and its power to work both for and against policing practice and public safety.

The Community Policing and Crime Reduction listening session considered current research on the effectiveness of community policing on bringing down crime, as well as building up public trust. Task force members heard detailed descriptions of the methods used by chiefs in cities of varying sizes to implement effective community policing in their jurisdictions over a number of years. They also heard from a panel of young people about their encounters with the criminal justice system.
and the lasting effects of positive interactions with police through structured programs as well as individual relationships. The fifth listening session considered **Training and Education** in law enforcement over an officer’s entire career—from recruitment through basic training to in-service training—and the support, education, and training of supervisors, leaders, and managers. Finally, the panel on **Officer Safety and Wellness** considered the spectrum of mental and physical health issues faced by police officers from the day-to-day stress of the job, its likely effect on an officer’s physical health, and the need for mental health screening to traffic accidents, burnout, suicide, and how better to manage these issues to determine the length of an officer’s career.

A listening session on the **Future of Community Policing** concluded the task force’s public sessions and was followed by the deliberations leading to the recommendations that follow on ways to research, improve, support, and implement policies and procedures for effective policing in the 21st century.

Many excellent and specific suggestions emerged from these listening sessions on all facets of policing in the 21st century, but many questions arose as well. Paramount among them was how to bring unity of purpose and consensus on best practices to a nation with 18,000 separate law enforcement agencies and a strong history of a preference for local control of local issues. It became very clear that it is time for a comprehensive and multifaceted examination of all the interrelated parts of the criminal justice system and a focused investigation into how poverty, lack of education, mental health, and other social conditions cause or intersect with criminal behavior. We propose two overarching recommendations that will seek the answers to these questions.

### 0.1 Overarching Recommendation:

The President should support and provide funding for the creation of a National Crime and Justice Task Force to review and evaluate all components of the criminal justice system for the purpose of making recommendations to the country on comprehensive criminal justice reform.

Several witnesses at the task force’s listening sessions pointed to the fact that police represent the “face” of the criminal justice system to the public. Yet police are obviously not responsible for laws or incarceration policies that many citizens find unfair. This misassociation leads us to call for a broader examination of such issues as drug policy, sentencing and incarceration, which are beyond the scope of a review of police practices.

This is not a new idea.

In the 1967 President’s Commission on Law Enforcement and Administration of Justice report, *The Challenge of Crime in a Free Society*, one of the major findings stated, “Officials of the criminal justice system . . . must re-examine what they do. They must be honest about the system’s shortcomings with the public and with themselves.”

The need to establish a formal structure to take a continuous look at criminal justice reform in the context of broad societal issues has never faded from public consciousness. When former Senator Jim Webb (D-VA) introduced legislation to create the National Criminal Justice Commission in 2009, a number of very diverse organizations from the Major Cities Chiefs Association, the Fraternal Order of Police, the National Sheriffs Association, and the National District Attorneys Association to Human Rights Watch, the American Civil Liberties Union,

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and the National Association for the Advancement of Colored People all supported it. This legislation would have authorized a national criminal justice commission to conduct a comprehensive review of the criminal justice system by a bipartisan panel of stakeholders, policymakers, and experts that would make thoughtful, evidence-based recommendations for reform. The bill received strong bipartisan support and passed the House but never received a final vote.

More recently, a number of witnesses raised the idea of a national commission at the task force’s listening sessions—notably Richard Beary, president of the International Association of Chiefs of Police (IACP), who said,

For over 20 years, the IACP has called for the creation of a National Commission on Criminal Justice to develop across-the-board improvements to the criminal justice system in order to address current challenges and to increase the efficiency and effectiveness of the entire criminal justice community. A deep dive into community-police relations is only one part of this puzzle. We must explore other aspects of the criminal justice system that need to be revamped and further contribute to today’s challenges.  

And Jeremy Travis, president of John Jay College of Criminal Justice, added, in the final listening session,

You said it is time to look at the criminal justice system, and actually I would broaden the scope. We have this question of how to reintegrate into our society those who have caused harms . . . . It is not just the system but these big, democratic, societal questions that go to government functions and how we deal with conflict as well.

0.2 Overarching Recommendation: The President should promote programs that take a comprehensive and inclusive look at community-based initiatives that address the core issues of poverty, education, health, and safety.

As is evident from many of the recommendations in this report, the justice system alone cannot solve many of the underlying conditions that give rise to crime. It will be through partnerships across sectors and at every level of government that we will find the effective and legitimate long-term solutions to ensuring public safety.


PILLAR 1. BUILDING TRUST & LEGITIMACY

People are more likely to obey the law when they believe that those who are enforcing it have the legitimate authority to tell them what to do . . . . The public confers legitimacy only on those they believe are acting in procedurally just ways.

Building trust and nurturing legitimacy on both sides of the police-citizen divide is not only the first pillar of this task force’s report but also the foundational principle underlying this inquiry into the nature of relations between law enforcement and the communities they serve. Since the 1990s, policing has become more effective, better equipped, and better organized to tackle crime. Despite this, Gallup polls show the public’s confidence in police work has remained flat, and among some populations of color, confidence has declined.6

This decline is in addition to the fact that non-Whites have always had less confidence in law enforcement than Whites, likely because “the poor and people of color have felt the greatest impact of mass incarceration,” such that for “too many poor citizens and people of color, arrest and imprisonment have become an inevitable and seemingly unavoidable part of the American experience.”7 Decades of research and practice support the premise that people are more likely to obey the law when they believe that those

Figure 1. Confidence in police to protect them from violent crime, U.S. Whites vs. non-Whites

How much confidence do you have in the ability of the police to protect you from violent crime—a great deal, quite a lot, not very much, or none at all?

% A GREAT DEAL/QUITE A LOT OF CONFIDENCE

<table>
<thead>
<tr>
<th>Year</th>
<th>Whites</th>
<th>Nonwhites</th>
</tr>
</thead>
<tbody>
<tr>
<td>'86</td>
<td>54</td>
<td></td>
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<tr>
<td>'88</td>
<td>46</td>
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<td>'92</td>
<td>42</td>
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<td>'94</td>
<td>33</td>
<td></td>
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<td>'96</td>
<td>40</td>
<td></td>
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<td>'98</td>
<td>51</td>
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<td>'00</td>
<td>52</td>
<td></td>
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<tr>
<td>'02</td>
<td>64</td>
<td></td>
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<tr>
<td>'04</td>
<td>70</td>
<td></td>
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<tr>
<td>'06</td>
<td>52</td>
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<td>'08</td>
<td>63</td>
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<tr>
<td>'12</td>
<td>66</td>
<td></td>
</tr>
<tr>
<td>'14</td>
<td>60</td>
<td></td>
</tr>
</tbody>
</table>

Source: Justin McCarthy, “Nonwhites Less Likely” (see note 6).
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who are enforcing it have the legitimate authority to tell them what to do. But the public confers legitimacy only on those they believe are acting in procedurally just ways.

Procedurally just behavior is based on four central principles:

1. Treating people with dignity and respect
2. Giving individuals “voice” during encounters
3. Being neutral and transparent in decision making
4. Conveying trustworthy motives

Research demonstrates that these principles lead to relationships in which the community trusts that officers are honest, unbiased, benevolent, and lawful. The community therefore feels obligated to follow the law and the dictates of legal authorities and is more willing to cooperate with and engage those authorities because it believes that it shares a common set of interests and values with the police.

There are both internal and external aspects to procedural justice in policing agencies. Internal procedural justice refers to practices within an agency and the relationships officers have with their colleagues and leaders. Research on internal procedural justice tells us that officers who feel respected by their supervisors and peers are more likely to accept departmental policies, understand decisions, and comply with them voluntarily.

External procedural justice focuses on the ways officers and other legal authorities interact with the public and how the characteristics of those interactions shape the public’s trust of the police. It is important to understand that a key component of external procedural justice—the practice of fair and impartial policing—is built on understanding and acknowledging human biases, both explicit and implicit.

All human beings have biases or prejudices as a result of their experiences, and these biases influence how they might react when dealing with unfamiliar people or situations. An explicit bias is a conscious bias about certain populations based upon race, gender, socioeconomic status, sexual orientation, or other attributes. Common sense shows that explicit bias is incredibly damaging to police-community relations, and there is a growing body of research evidence that shows that implicit bias—the biases people are not even aware they have—is harmful as well.

Witness Jennifer Eberhardt said,

Bias is not limited to so-called “bad people.” And it certainly is not limited to police officers. The problem is a widespread one that arises from history, from culture, and from racial inequalities that still pervade our society and are especially salient in the context of criminal justice.


11. Lorie Fridell, “This is Not Your Grandparents’ Prejudice: The Implications of the Modern Science of Bias for Police Training,” Translational Criminology (Fall 2013), 10–11.


To achieve legitimacy, mitigating implicit bias should be a part of training at all levels of a law enforcement organization to increase awareness and ensure respectful encounters both inside the organization and with communities.

The first witnesses at the task force sessions on the first pillar also directly addressed the need for a change in the culture in which police do their work: the use of disrespectful language and the implicit biases that lead officers to rely upon race in the context of stop and frisk. They addressed the need for police officers to find how much they have in common with the people they serve—not the lines of authority they may perceive to separate them—and to continue with enduring programs proven successful over many years.

Several speakers stressed the continuing need for civilian oversight and urged more research into proving ways it can be most effective. And many spoke to the complicated issue of diversity in recruiting, especially Sherrilyn Ifill, who said of youth in poor communities:

> By the time you are 17, you have been stopped and frisked a dozen times. That does not make that 17-year-old want to become a police officer . . . . The challenge is to transform the idea of policing in communities among young people into something they see as honorable. They have to see people at local events, as the person who lives across the street, not someone who comes in and knows nothing about my community.14

The task force’s specific recommendations that follow offer practical ways agencies can act to promote legitimacy.

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1.1 Recommendation: Law enforcement culture should embrace a guardian mindset to build public trust and legitimacy. Toward that end, police and sheriffs’ departments should adopt procedural justice as the guiding principle for internal and external policies and practices to guide their interactions with the citizens they serve.

How officers define their role will set the tone for the community. As Plato wrote, “In a republic that honors the core of democracy—the greatest amount of power is given to those called Guardians. Only those with the most impeccable character are chosen to bear the responsibility of protecting the democracy.”

Law enforcement cannot build community trust if it is seen as an occupying force coming in from outside to rule and control the community.

As task force member Susan Rahr wrote,

> In 2012, we began asking the question, “Why are we training police officers like soldiers?” Although police officers wear uniforms and carry weapons, the similarity ends there. The missions and rules of engagement are completely different. The soldier’s mission is that of a warrior: to conquer. The rules of engagement are decided before the battle. The police officer’s mission is that of a guardian: to protect. The rules of engagement evolve as the incident unfolds. Soldiers must follow orders. Police officers must make independent decisions. Soldiers come into communities as an outside, occupying force. Guardians are members of the community, protecting from within.15

There’s an old saying, “Organizational culture eats policy for lunch.” Any law enforcement
organization can make great rules and policies that emphasize the guardian role, but if policies conflict with the existing culture, they will not be institutionalized and behavior will not change. In police work, the vast majority of an officer’s work is done independently outside the immediate oversight of a supervisor. But consistent enforcement of rules that conflict with a military-style culture, where obedience to the chain of command is the norm, is nearly impossible. Behavior is more likely to conform to culture than rules.

The culture of policing is also important to the proper exercise of officer discretion and use of authority, as task force member Tracey Meares has written. The values and ethics of the agency will guide officers in their decision-making process; they cannot simply rely on rules and policy to act in encounters with the public. Good policing is more than just complying with the law. Sometimes actions are perfectly permitted by policy, but that does not always mean an officer should take those actions. Adopting procedural justice as the guiding principle for internal and external policies and practices can be the underpinning of a change in culture and should contribute to building trust and confidence in the community.

1.2 Recommendation: Law enforcement agencies should acknowledge the role of policing in past and present injustice and discrimination and how it is a hurdle to the promotion of community trust.

At one listening session, a panel of police chiefs described what they had been doing in recent years to recognize and own their history and to change the culture within both their police forces and their communities.

Baltimore Police Commissioner Anthony Batts described the process in his city:

The process started with the commissioning of a study to evaluate the police department and the community’s views of the agency . . . . The review uncovered broken policies, outdated procedures, outmoded technology, and operating norms that put officers at odds with the community they are meant to serve. It was clear that dramatic and dynamic change was needed.17

Ultimately, the Baltimore police created the Professional Standards and Accountability Bureau, tasked with rooting out corruption, holding officers accountable, and implementing national best practices for polices and training. New department heads were appointed and a use of force review structure based on the Las Vegas model was implemented. “These were critical infrastructure changes centered on the need to improve the internal systems that would build accountability and transparency, inside and outside the organization,” noted Commissioner Batts.18

1.2.1 Action Item: The U.S. Department of Justice should develop and disseminate case studies that provide examples where past injustices were publicly acknowledged by law enforcement agencies in a manner to help build community trust.

1.3 Recommendation: Law enforcement agencies should establish a culture of transparency and accountability in order to build public trust and legitimacy. This will help ensure decision making is understood and in accord with stated policy.


18. Ibid.
1.3.1 **Action Item:** To embrace a culture of transparency, law enforcement agencies should make all department policies available for public review and regularly post on the department’s website information about stops, summonses, arrests, reported crime, and other law enforcement data aggregated by demographics.

1.3.2 **Action Item:** When serious incidents occur, including those involving alleged police misconduct, agencies should communicate with citizens and the media swiftly, openly, and neutrally, respecting areas where the law requires confidentiality.

One way to promote neutrality is to ensure that agencies and their members do not release background information on involved parties. While a great deal of information is often publicly available, this information should not be proactively distributed by law enforcement.

**Figure 2. Community members’ confidence in their police officers**

How much confidence do you have in police officers in your community...

<table>
<thead>
<tr>
<th></th>
<th>JUST SOME / VERY LITTLE</th>
<th>A GREAT DEAL / FAIR AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Hispanic</td>
<td>Black</td>
</tr>
<tr>
<td>... to do a good job of enforcing the law?</td>
<td>37%</td>
<td>47%</td>
</tr>
<tr>
<td></td>
<td>63%</td>
<td>52%</td>
</tr>
<tr>
<td></td>
<td>Hispanic</td>
<td>Black</td>
</tr>
<tr>
<td>... to not use excessive force on suspects?</td>
<td>54%</td>
<td>59%</td>
</tr>
<tr>
<td></td>
<td>45%</td>
<td>36%</td>
</tr>
<tr>
<td></td>
<td>Hispanic</td>
<td>Black</td>
</tr>
<tr>
<td>... to treat Hispanics and Whites equally?</td>
<td>51%</td>
<td>55%</td>
</tr>
<tr>
<td></td>
<td>46%</td>
<td>41%</td>
</tr>
<tr>
<td></td>
<td>Hispanic</td>
<td>Black</td>
</tr>
<tr>
<td>... to treat Blacks and Whites equally?</td>
<td>48%</td>
<td>62%</td>
</tr>
<tr>
<td></td>
<td>47%</td>
<td>36%</td>
</tr>
</tbody>
</table>

Note: Survey conducted August 20–24, 2014. Voluntary responses of “None” and “Don’t know/Refused” not shown. Blacks and Whites include only non-Hispanics. Hispanics are of any race.

1.4 Recommendation: Law enforcement agencies should promote legitimacy internally within the organization by applying the principles of procedural justice.

Organizational culture created through employee interaction with management can be linked to officers’ interaction with citizens. When an agency creates an environment that promotes internal procedural justice, it encourages its officers to demonstrate external procedural justice. And just as employees are more likely to take direction from management when they believe management’s authority is legitimate, citizens are more likely to cooperate with the police when they believe the officers’ authority is legitimate.

Internal procedural justice begins with the clear articulation of organizational core values and the transparent creation and fair application of an organization’s policies, protocols, and decision-making processes. If the workforce is actively involved in policy development, workers are more likely to use these same principles of external procedural justice in their interactions with the community. Even though the approach to implementing procedural justice is “top down,” the method should include all employees to best reach a shared vision and mission. Research shows that agencies should also use tools that encourage employee and supervisor collaboration and foster strong relationships between supervisors and employees. A more effective agency will result from a real partnership between the chief and the staff and a shared approach to public safety.19

1.4.1 Action Item: In order to achieve internal legitimacy, law enforcement agencies should involve employees in the process of developing policies and procedures.

For example, internal department surveys should ask officers what they think of policing strategies in terms of enhancing or hurting their ability to connect with the public. Sometimes the leadership is out of step with their rank and file, and a survey like this can be a diagnostic tool—a benchmark against which leadership can measure its effectiveness and ability to create a work environment where officers feel safe to discuss their feelings about certain aspects of the job.

1.4.2 Action Item: Law enforcement agency leadership should examine opportunities to incorporate procedural justice into the internal discipline process, placing additional importance on values adherence rather than adherence to rules. Union leadership should be partners in this process.

1.5 Recommendation: Law enforcement agencies should proactively promote public trust by initiating positive nonenforcement activities to engage communities that typically have high rates of investigative and enforcement involvement with government agencies.

In communities that have high numbers of interactions with authorities for a variety of reasons, police should actively create opportunities for interactions that are positive and not related to investigation or enforcement action. Witness Laura Murphy, for example, pointed out that when law enforcement targets people of color for the isolated actions of a few, it tags an entire community as lawless when in actuality 95 percent are law abiding.20 This becomes a self-reinforcing concept. Another witness, Carmen Perez, provided an example of police engaging with citizens in another way:

19. Tim Richardson (senior legislative liaison, Fraternal Order of Police), in discussion with Ajma Olaghere (research assistant, COPS Office, Washington, DC), October 2014.

20. Listening Session on Building Trust and Legitimacy (oral testimony of Laura Murphy to the President’s Task Force on 21st Century Policing, Washington, DC, January 13, 2015).
In the community [where] I grew up in southern California, Oxnard, we had the Police Athletic League. A lot of officers in our communities would volunteer and coach at the police activities league. That became our alternative from violence, from gangs and things like that. That allows for police officers to really build and provide a space to build trusting relationships. No longer was that such and such over there but it was Coach Flores or Coach Brown.21

In recent years, agencies across the county have begun to institutionalize community trust building endeavors. They have done this through programs such as Coffee with a Cop (and Sweet Tea with the Chief), Cops and Clergy, Citizens on Patrol Mobile, Students Talking It Over with Police, and the West Side Story Project. Joint community and law dialogues and truth telling, as well as community and law enforcement training in procedural justice and bias, are also occurring nationally. Some agencies are even using training, dialogues, and workshops to take steps towards racial reconciliation.

Agencies engaging in these efforts to build relationships often experience beneficial results.22 Communities are often more willing to assist law enforcement when agencies need help during investigations. And when critical incidents occur, those agencies already have key allies who can help with information messaging and mitigating challenges.

1.5.1 **Action Item:** In order to achieve external legitimacy, law enforcement agencies should involve the community in the process of developing and evaluating policies and procedures.


1.5.2 **Action Item:** Law enforcement agencies should institute residency incentive programs such as Resident Officer Programs.

Resident Officer Programs are arrangements where law enforcement officers are provided housing in public housing neighborhoods as long as they fulfill public safety duties within the neighborhood that have been agreed to between the housing authority and the law enforcement agency.

1.5.3 **Action Item:** Law enforcement agencies should create opportunities in schools and communities for positive nonenforcement interactions with police. Agencies should also publicize the beneficial outcomes and images of positive, trust-building partnerships and initiatives.

For example, Michael Reynolds, a member of the Youth and Law Enforcement panel at the Listening Session on Community Policing and Crime Reduction, told the moving story of a police officer who saw him shivering on the street when he was six years old, took him to a store, and bought him a coat. Despite many negative encounters with police since then, the decency and kindness of that officer continue to favorably impact Mr. Reynolds’ feelings towards the police.23

1.5.4 **Action Item:** Use of physical control equipment and techniques against vulnerable populations—including children, elderly persons, pregnant women, people with physical and mental disabilities, limited English proficiency, and others—can undermine public trust and should be used as a last resort. Law enforcement agencies

should carefully consider and review their policies towards these populations and adopt policies if none are in place.

**1.6 Recommendation:** Law enforcement agencies should consider the potential damage to public trust when implementing crime fighting strategies.

Crime reduction is not self-justifying. Overly aggressive law enforcement strategies can potentially harm communities and do lasting damage to public trust, as numerous witnesses over multiple listening sessions observed.

**1.6.1 Action Item:** Research conducted to evaluate the effectiveness of crime fighting strategies should specifically look at the potential for collateral damage of any given strategy on community trust and legitimacy.

**1.7 Recommendation:** Law enforcement agencies should track the level of trust in police by their communities just as they measure changes in crime. Annual community surveys, ideally standardized across jurisdictions and with accepted sampling protocols, can measure how policing in that community affects public trust.

Trust in institutions can only be achieved if the public can verify what they are being told about a product or service, who is responsible for the quality of the product or service, and what will be done to correct any problems. To operate effectively, law enforcement agencies must maintain public trust by having a transparent, credible system of accountability.

Agencies should partner with local universities to conduct surveys by ZIP code, for example, to measure the effectiveness of specific policing strategies, assess any negative impact they have on a community’s view of police, and gain the community’s input.

**1.7.1 Action Item:** The Federal Government should develop survey tools and instructions for use of such a model to prevent local departments from incurring the expense and to allow for consistency across jurisdictions.

A model such as the National Institute of Justice-funded National Police Research Platform could be developed and deployed to conduct such surveys. This platform seeks to advance the science and practice of policing in the United States by introducing a new system of measurement and feedback that captures organizational excellence both inside and outside the walls of the agency. The platform is managed by a team of leading police scholars from seven universities supported by the operational expertise of a respected national advisory board.

**1.8 Recommendation:** Law enforcement agencies should strive to create a workforce that contains a broad range of diversity including race, gender, language, life experience, and cultural background to improve understanding and effectiveness in dealing with all communities.

Many agencies have long appreciated the critical importance of hiring officers who reflect the communities they serve and also have a high level of procedural justice competency. Achieving diversity in entry level recruiting is important, but achieving systematic and comprehensive diversification throughout each segment of the
department is the ultimate goal. It is also important to recognize that diversity means not only race and gender but also the genuine diversity of identity, experience, and background that has been found to help improve the culture of police departments and build greater trust and legitimacy with all segments of the population.

A critical factor in managing bias is seeking candidates who are likely to police in an unbiased manner. Since people are less likely to have biases against groups with which they have had positive experiences, police departments should seek candidates who have had positive interactions with people of various cultures and backgrounds.

1.8.1 Action Item: The Federal Government should create a Law Enforcement Diversity Initiative designed to help communities diversify law enforcement departments to reflect the demographics of the community.

1.8.2 Action Item: The department overseeing this initiative should help localities learn best practices for recruitment, training, and outreach to improve the diversity as well as the cultural and linguistic responsiveness of law enforcement agencies.

National and local affinity police organizations could be formally included in this effort. This program should also evaluate and assess diversity among law enforcement agencies around the country and issue public reports on national trends.

1.8.3 Action Item: Successful law enforcement agencies should be highlighted and celebrated and those with less diversity should be offered technical assistance to facilitate change.

Law enforcement agencies must be continuously creative with recruitment efforts and employ the public, business, and civic communities to help.

1.8.4 Action Item: Discretionary federal funding for law enforcement programs could be influenced by that department’s efforts to improve their diversity and cultural and linguistic responsiveness.

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1.8.5 Action Item: Law enforcement agencies should be encouraged to explore more flexible staffing models.

As is common in the nursing profession, offering flexible schedules can help officers achieve better work-life balance that attracts candidates and encourages retention, particularly for officers with sole responsibility for the care of family members.

1.9 Recommendation: Law enforcement agencies should build relationships based on trust with immigrant communities. This is central to overall public safety.

Immigrants often fear approaching police officers when they are victims of and witnesses to crimes and when local police are entangled with federal immigration enforcement. At all levels of government, it is important that laws, policies, and practices not hinder the ability of local law enforcement to build the strong relationships necessary to public safety and community well-being. It is the view of this task force that whenever possible, state and local law enforcement should not be involved in immigration enforcement.

1.9.1 Action Item: Decouple federal immigration enforcement from routine local policing for civil enforcement and nonserious crime.

The U.S. Department of Homeland Security should terminate the use of the state and local criminal justice system, including through detention, notification, and transfer requests, to enforce civil immigration laws against civil and nonserious criminal offenders.26

In 2011, the Major Cities Chiefs Association recommended nine points to Congress and the President on this issue, noting that “immigration is a federal policy issue between the U.S. government and other countries, not local or state entities and other countries. Any immigration enforcement laws or practices should be nationally based, consistent, and federally funded.”27

1.9.2 Action Item: Law enforcement agencies should ensure reasonable and equitable language access for all persons who have encounters with police or who enter the criminal justice system.28

1.9.3 Action Item: The U.S. Department of Justice should not include civil immigration information in the FBI’s National Crime Information Center database.29

The National Crime Information Center (NCIC) database is an electronic clearinghouse that law enforcement officers can access in the field. It contains data submitted by agencies across the country aimed at helping officers identify people, property, and criminal histories. At one time, NCIC also included civil immigration detainers (nonmandatory temporary hold requests issued by a federal immigration officer), although the FBI has indicated that the practice of accepting this information was discontinued and that the information does not currently exist in the database. The U.S. Department of Justice should ensure that this remains the case.

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26. Listening Session on Building Trust and Legitimacy: Civil Rights/Civil Liberties (oral testimony of Maria Teresa Kumar, president and CEO, Voto Latino, for the President’s Task Force on 21st Century Policing, Washington, DC, January 13, 2015).


PILLAR 2. POLICY & OVERSIGHT

Citizens have a constitutional right to freedom of expression, including the right to peacefully demonstrate.

The issues addressed in the first pillar of this report, building trust and legitimacy between law enforcement agencies and the communities they serve, underlie all questions of law enforcement policy and community oversight. If police are to carry out their responsibilities according to established policies, these policies must be reflective of community values and not lead to practices that result in disparate impacts on various segments of the community. They also need to be clearly articulated to the community and implemented transparently so police will have credibility with residents and the people can have faith that their guardians are always acting in their best interests.

Paramount among the policies of law enforcement organizations are those controlling use of force. Not only should there be policies for deadly and nondeadly uses of force but a clearly stated “sanctity of life” philosophy must also be in the forefront of every officer’s mind. This way of thinking should be accompanied by rigorous practical ongoing training in an atmosphere of nonjudgmental and safe sharing of views with fellow officers about how they behaved in use of force situations. At one listening session, Geoffrey Alpert described Officer-Created Jeopardy Training, in which officers who had been in situations where mistakes were made or force was used came to explain their decision making to other officers. Some explained what they did right and how potentially violent situations were resolved without violence. Other officers told what they did wrong, why they made mistakes, what information was missing or misinterpreted, and how they could have improved their behavior and response to suspects.30

Data collection, supervision, and accountability are also part of a comprehensive systemic approach to keeping everyone safe and protecting the rights of all involved during police encounters. Members of the Division of Policing of the American Society of Criminology recently wrote, “While the United States presently employs a broad array of social and economic indicators in order to gauge the overall ‘health’ of the nation, it has a much more limited set of indicators concerning the behavior of the police and the quality of law enforcement.”31

That body noted that Section 210402 of the Violent Crime Control and Law Enforcement Act of 1994 requires the U.S. Attorney General to “acquire data about the use of excessive force by law enforcement officers” and to “publish an annual summary of the data acquired under this section.”32 But the U.S. Department of Justice (DOJ) has never been allocated the funds necessary to undertake the serious and sustained program of research and development to fulfill this mandate. Expanded research and data collection are also necessary to knowing what works and what does not work, which policing practices are effective and which

31. “Recommendations to the President’s Task Force on 21st Century Policing,” Listening Session on Training and Education (written testimony of Anthony Braga et al., Ad Hoc Committee to the President’s Task Force on 21st Century Policing, Division of Policing, American Society of Criminology, February 13–14, 2015).
32. Ibid.
ones have unintended consequences. Greater acceptance of the Federal Bureau of Investigation’s (FBI) National Incident-Based Reporting System could also benefit policing practice and research endeavors.

Mass demonstrations, for example, are occasions where evidence-based practices successfully applied can make the difference between a peaceful demonstration and a riot. Citizens have a constitutional right to freedom of expression, including the right to peacefully demonstrate. There are strong examples of proactive and positive communication and engagement strategies that can protect constitutional rights of demonstrators and the safety of citizens and the police.33

2.1 Recommendation: Law enforcement agencies should collaborate with community members to develop policies and strategies in communities and neighborhoods disproportionately affected by crime for deploying resources that aim to reduce crime by improving relationships, greater community engagement, and cooperation.

The development of a service model process that focuses on the root causes of crime should include the community members themselves because what works in one neighborhood might not be equally successful in every other one. Larger departments could commit resources and personnel to areas of high poverty, limited services, and at-risk or vulnerable populations through creating priority units with specialized training and added status and pay. Chief Charlie Beck of the Los Angeles Police Department (LAPD) described the LAPD’s Community Safety Partnership, in which officers engage the community and build trust where it is needed most, in the public housing projects in Watts. The department has assigned 45 officers to serve for five years at three housing projects in Watts and at an additional housing project in East Los Angeles. Through a partnership with the Advancement Project and the Housing Authority of the City of Los Angeles, the program involves officers going into the housing developments with the intent not to make arrests but to create partnerships, create relationships, hear the community, and see what they need—and then work together to make those things happen.34 The work in Watts has been documented in an Advancement Project report presented to the task force.35

2.1.1 Action Item: The Federal Government should incentivize this collaboration through a variety of programs that focus on public health, education, mental health, and other programs not traditionally part of the criminal justice system.

2.2 Recommendation: Law enforcement agencies should have comprehensive policies on the use of force that include training, investigations, prosecutions, data collection, and information sharing. These policies must be clear, concise, and openly available for public inspection.

2.2.1 Action Item: Law enforcement agency policies for training on use of force should emphasize de-escalation and alternatives to arrest or summons in situations where appropriate.


34. Listening Session on Policy and Oversight: Civilian Oversight (oral testimony of Charlie Beck, chief, Los Angeles Police Department, for the President’s Task Force on 21st Century Policing, Cincinnati, OH, January 30, 2015).

35. Rice and Lee, Relationship-Based Policing (see note 22).
As Chuck Wexler noted in his testimony,

In traditional police culture, officers are taught never to back down from a confrontation, but instead to run toward the dangerous situation that everyone else is running away from. However, sometimes the best tactic for dealing with a minor confrontation is to step back, call for assistance, de-escalate, and perhaps plan a different enforcement action that can be taken more safely later.36

Policies should also include, at a minimum, annual training that includes shoot/don’t shoot scenarios and the use of less than lethal technologies.

2.2.2 Action Item: These policies should also mandate external and independent criminal investigations in cases of police use of force resulting in death, officer-involved shootings resulting in injury or death, or in-custody deaths.

One way this can be accomplished is by the creation of multi-agency force investigation task forces comprising state and local investigators. Other ways to structure this investigative process include referring to neighboring jurisdictions or to the next higher levels of government (many smaller departments may already have state agencies handle investigations), but in order to restore and maintain trust, this independence is crucial.

In written testimony to the task force, James Palmer of the Wisconsin Professional Police Association offered an example in that state’s statutes requiring that agency written policies “require an investigation that is conducted by at least two investigators . . . neither of whom is employed by a law enforcement agency that employs a law enforcement officer involved in the officer-involved death.”37 Furthermore, in order to establish and maintain internal legitimacy and procedural justice, these investigations should be performed by law enforcement agencies with adequate training, knowledge, and experience investigating police use of force.

2.2.3 Action Item: The task force encourages policies that mandate the use of external and independent prosecutors in cases of police use of force resulting in death, officer-involved shootings resulting in injury or death, or in-custody deaths.

Strong systems and policies that encourage use of an independent prosecutor for reviewing police uses of force and for prosecution in cases of inappropriate deadly force and in-custody death will demonstrate the transparency to the public that can lead to mutual trust between community and law enforcement.

2.2.4 Action Item: Policies on use of force should also require agencies to collect, maintain, and report data to the Federal Government on all officer-involved shootings, whether fatal or nonfatal, as well as any in-custody death.

In-custody deaths are not only deaths in a prison or jail but also deaths that occur in the process of an arrest. The Bureau of Justice Statistics (BJS) implemented the Arrest Related Deaths data collection in 2003 as part of requirements set forth in the Deaths in Custody Reporting Act of

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2000 and reenacted in 2014. Although states receiving grants under the Edward Byrne Memorial Justice Assistance Grant Program are required to provide this data to BJS, the Arrest Related Deaths data collection is a voluntary reporting program for law enforcement agencies. Access to this data is important to gain a national picture of police use of force as well as to incentivize the systematic and transparent collection and analysis of use of force incident data at the local level. The agency-reported data should include information on the circumstances of the use of force, as well as the race, gender, and age of the decedents. Agency data should be reported to the U.S. Department of Justice through the FBI’s Uniform Crime Reporting System or an expansion of collections managed by the BJS.

2.2.5 Action Item: Policies on use of force should clearly state what types of information will be released, when, and in what situation, to maintain transparency.

This should also include procedures on the release of a summary statement regarding the circumstances of the incident by the department as soon as possible and within 24 hours. The intent of this directive should be to share as much information as possible without compromising the integrity of the investigation or anyone’s rights.

2.2.6 Action Item: Law enforcement agencies should establish a Serious Incident Review Board comprising sworn staff and community members to review cases involving officer-involved shootings and other serious incidents that have the potential to damage community trust or confidence in the agency. The purpose of this board should be to identify any administrative, supervisory, training, tactical, or policy issues that need to be addressed.

2.3 Recommendation: Law enforcement agencies are encouraged to implement nonpunitive peer review of critical incidents separate from criminal and administrative investigations.

These reviews, sometimes known as “near miss” or “sentinel event” reviews, focus on the improvement of practices and policy. Such reviews already exist in medicine, aviation, and other industries. According to the National Institute of Justice (NIJ), a sentinel event in criminal justice would include wrongful convictions but also “near miss” acquittals and dismissals of cases that at earlier points seemed solid; cold cases that stayed cold too long; wrongful releases of dangerous or factually guilty criminals or of vulnerable arrestees with mental disabilities; and failures to prevent domestic violence within at-risk families.

Sentinel events can include episodes that are within policy but disastrous in terms of community relations, whether or not everyone agrees that the event should be classified as an error. In fact, anything that stakeholders agree can cause widespread or viral attention could be considered a sentinel event.38

What distinguishes sentinel event reviews from other kinds of internal investigations of apparent errors is that they are nonadversarial. As task force member Sean Smoot has written,

For sentinel event reviews to be effective and practical, they must be cooperative efforts that afford the types of protections provided in the medical context, where state and federal laws protect the privacy of participants and prevent the disclosure of information to anyone outside of the sentinel event review . . . . Unless the sentinel event

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process is honest and trustworthy, with adequate legal protections—including use immunity, privacy, confidentiality, and nondisclosure, for example—police officers, who have the very best information about how things really work and what really happened, will not be motivated to fully participate. The sentinel event review approach will have a better chance of success if departments can abandon the process of adversarial/punitive-based discipline, adopting instead “education-based” disciplinary procedures and policies.39

A recent study by the National Academy of Sciences, Identifying the Culprit: Assessing Eyewitness Identification, studied the important role played by eyewitnesses in criminal cases, noting that research on factors affecting the accuracy of eyewitness identification procedures has given an increasingly clear picture of how identifications are made and, more important, an improved understanding of the limits on vision and memory that can lead to failure of identification.40 Many factors, including external conditions and the witness’s emotional state and biases, influence what a witness sees or thinks she sees. Memories can be forgotten, reconstructed, updated, and distorted. Meanwhile, policies governing law enforcement procedures for conducting and recording identifications are not standard, and policies and practices to address the issue of misidentification vary widely.

2.4 Recommendation: Law enforcement agencies are encouraged to adopt identification procedures that implement scientifically supported practices that eliminate or minimize presenter bias or influence.


2.5 Recommendation: All federal, state, local, and tribal law enforcement agencies should report and make available to the public census data regarding the composition of their departments including race, gender, age, and other relevant demographic data.

While the BJS collects information on many aspects of police activities, there is no single data collection instrument that yields the information requested in this recommendation. Demographic data should be collected and made available to the public so communities can assess the diversity of their departments and do so in a national context. This data will also be important to better understand the impact of diversity on the functioning of departments. Malik Aziz, National Chair of the National Black Police Association (NBPA), reminded the task force that the NBPA not only urges all departments to meet the demographics of the community in which they serve by maintaining a plan of action to recruit and retain police officers of color but also has called for the DOJ to collect the annual demographic statistics from the 18,000 police agencies across the nation. “It is not enough to mandate diversity,” he stated, “but it becomes necessary to diversify command ranks in departments that have historically failed to develop and/or promote qualified and credentialed officers to executive and command ranks.”

2.5.1 Action Item: The Bureau of Justice Statistics should add additional demographic questions to the Law Enforcement Management and Administrative Statistics (LEMAS) survey in order to meet the intent of this recommendation.

2.6 Recommendation: Law enforcement agencies should be encouraged to collect, maintain, and analyze demographic data on all detentions (stops, frisks, searches, summons, and arrests). This data should be disaggregated by school and non-school contacts.

The BJS periodically conducts the Police-Public Contact Survey, a supplement to the National Crime Victimization Survey. The most recent survey, released in 2013, asked a nationally representative sample of U.S. residents age 16 or older about experiences with police during the prior 12 months. But these surveys do not reflect what is happening every day at the local level when police interact with members of the communities they serve. More research and tools along the lines of Lorie Fridell’s 2004 publication, By the Numbers: A Guide for Analyzing Race Data From Vehicle Stops—to help local agencies collect and analyze their data, understand the importance of context to the analysis and reporting process, and establish benchmarks resulting from their findings—would improve understanding and lead to evidence-based policies.


2.6.1 **Action Item:** The Federal Government could further incentivize universities and other organizations to partner with police departments to collect data and develop knowledge about analysis and benchmarks as well as to develop tools and templates that help departments manage data collection and analysis.

2.7 **Recommendation:** Law enforcement agencies should create policies and procedures for policing mass demonstrations that employ a continuum of managed tactical resources that are designed to minimize the appearance of a military operation and avoid using provocative tactics and equipment that undermine civilian trust.

Policies should emphasize protection of the First Amendment rights of demonstrators and effective ways of communicating with them. Superintendent Garry McCarthy of the Chicago Police Department detailed his police force training and operations in advance of the 2012 NATO Summit at the height of the “Occupy” movement. The department was determined not to turn what it knew would be a mass demonstration into a riot. Police officers refreshed “perishable” skills, such as engaging in respectful conversations with demonstrators, avoiding confrontation, and using “extraction techniques” not only on the minority of demonstrators who were behaving unlawfully (throwing rocks, etc.) but also on officers who were becoming visibly upset and at risk of losing their composure and professional demeanor.  

43. **Listening Session on Policy and Oversight** (oral testimony of Garry McCarthy, Chicago Police Department, to the President’s Task Force on 21st Century Policing, Cincinnati, OH, January 30, 2015).

2.7.1 **Action Item:** Law enforcement agency policies should address procedures for implementing a layered response to mass demonstrations that prioritize de-escalation and a guardian mindset.

These policies could include plans to minimize confrontation by using “soft look” uniforms, having officers remove riot gear as soon as practical, and maintaining open postures. “When officers line up in a military formation while wearing full protective gear, their visual appearance may have a dramatic influence on how the crowd perceives them and how the event ends.”

44. **Listening Session on Policy and Oversight** (written testimony of Edward Maguire, American University, for the President’s Task Force on 21st Century Policing, Cincinnati, OH, January 30, 2015).

2.7.2 **Action Item:** The Federal Government should create a mechanism for investigating complaints and issuing sanctions regarding the inappropriate use of equipment and tactics during mass demonstrations.

There has been substantial media attention in recent months surrounding the police use of military equipment at events where members of the public are exercising their First Amendment rights. This has led to the creation of the President’s Interagency Law Enforcement Equipment Working Group.

That group has been tasked by the Executive Order 13688 of January 16, 2015 with a number of issues, including ensuring that law enforcement agencies adopt organizational and operational practices and standards that prevent the misuse or abuse of controlled equipment and ensuring compliance with civil rights requirements resulting from receipt of federal financial assistance.
### 2.8 Recommendation: Some form of civilian oversight of law enforcement is important in order to strengthen trust with the community. Every community should define the appropriate form and structure of civilian oversight to meet the needs of that community.

Many, but not all, state and local agencies operate with the oversight or input of civilian police boards or commissions. Part of the process of assessing the need and desire for new or additional civilian oversight should include input from and collaboration with police employees because the people to be overseen should be part of the process that will oversee them. This guarantees that the principles of internal procedural justice are in place to benefit both the police and the community they serve.

We must examine civilian oversight in the communities where it operates and determine which models are successful in promoting police and community understanding. There are important arguments for having civilian oversight even though we lack strong research evidence that it works. Therefore we urge action on further research, based on the guiding principle of procedural justice, to find evidence-based practices to implement successful civilian oversight mechanisms.

As noted by witness Brian Buchner at the Policy and Oversight Listening Session on January 30,

Citizen review is not an advocate for the community or for the police. This impartiality allows oversight to bring stakeholders together to work collaboratively and proactively to help make policing more effective and responsive to the community. Civilian oversight alone is not sufficient to gain legitimacy; without it, however, it is difficult, if not impossible, for the police to maintain the public’s trust.45

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### 2.8.1 Action Item: The U.S. Department of Justice, through its research arm, the National Institute of Justice (NIJ), should expand its research agenda to include civilian oversight.

NIJ recently announced its research priorities in policing for FY 2015, which include such topics as police use of force, body-worn cameras, and procedural justice. While proposals related to research on police oversight might fit into several of these topical areas, police oversight is not highlighted by NIJ in any of them. NIJ should specifically invite research into civilian oversight and its impact on and relationship to policing in one or more of these areas.

### 2.8.2 Action Item: The U.S. Department of Justice’s Office of Community Oriented Policing Services (COPS Office) should provide technical assistance and collect best practices from existing civilian oversight efforts and be prepared to help cities create this structure, potentially with some matching grants and funding.

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### 2.9 Recommendation: Law enforcement agencies and municipalities should refrain from practices requiring officers to issue a predetermined number of tickets, citations, arrests, or summonses, or to initiate investigative contacts with citizens for reasons not directly related to improving public safety, such as generating revenue.

Productivity expectations can be effective performance management tools. But testimony from Laura Murphy, Director of the Washington Legislative Office of the American Civil Liberties Union, identifies some of the negative effects of these practices:

One only needs to paint a quick picture of the state of policing to understand the dire need for reform. First, there are local and federal incentives that

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45. Listening Session on Policy and Oversight (oral testimony of Brian Buchner, president, National Association for Civilian Oversight of Law Enforcement, for the President’s Task Force on 21st Century Policing, Cincinnati, OH, January 30, 2015).
instigate arrests. At the local level, cities across the country generate much of their revenue through court fines and fees, with those who can’t pay subject to arrest and jail time. These debtors’ prisons are found in cities like Ferguson, where the number of arrest warrants in 2013—33,000—exceeded its population of 21,000. Most of the warrants were for driving violations.46

2.10 Recommendation: Law enforcement officers should be required to seek consent before a search and explain that a person has the right to refuse consent when there is no warrant or probable cause. Furthermore, officers should ideally obtain written acknowledgement that they have sought consent to a search in these circumstances.


2.11 Recommendation: Law enforcement agencies should adopt policies requiring officers to identify themselves by their full name, rank, and command (as applicable) and provide that information in writing to individuals they have stopped. In addition, policies should require officers to state the reason for the stop and the reason for the search if one is conducted.

2.11.1 Action Item: One example of how to do this is for law enforcement officers to carry business cards containing their name, rank, command, and contact information that would enable individuals to offer suggestions or commendations or to file complaints with the appropriate individual, office, or board. These cards would be easily distributed in all encounters.

2.12 Recommendation: Law enforcement agencies should establish search and seizure procedures related to LGBTQ and transgender populations and adopt as policy the recommendation from the President’s
2.13 Recommendation: Law enforcement agencies should adopt and enforce policies prohibiting profiling and discrimination based on race, ethnicity, national origin, religion, age, gender, gender identity/expression, sexual orientation, immigration status, disability, housing status, occupation, or language fluency.

The task force heard from a number of witnesses about the importance of protecting the safety and dignity of all people. Andrea Ritchie noted that gender and sexuality-specific forms of racial profiling and discriminatory policing [include] . . . . Failure to respect individuals’ gender identity and expression when addressing members of the public and during arrest processing, searches, and placement in police custody.47

Invasive searches should never be used for the sole purpose of determining gender identity, and an individual’s gender identity should be respected in lock-ups and holding cells to the extent that the facility allows for gender segregation. And witness Linda Sarsour spoke to how an issue plaguing and deeply impacting Arab-American and American Muslim communities across the country is racial and religious profiling by local, state, and federal law enforcement. We have learned through investigative reports, Freedom of Information Act (FOIA) requests, and lawsuits that agencies target communities by religion and national origin.48

2.13.1 Action Item: The Bureau of Justice Statistics should add questions concerning sexual harassment of and misconduct toward community members, and in particular LGBTQ and gender-nonconforming people, by law enforcement officers to the Police Public Contact Survey.

2.13.2 Action Item: The Centers for Disease Control should add questions concerning sexual harassment of and misconduct toward community members, and in particular LGBTQ and gender-nonconforming people, by law enforcement officers to the National Intimate Partner and Sexual Violence Survey.

2.13.3 Action Item: The U.S. Department of Justice should promote and disseminate guidance to federal, state, and local law enforcement agencies on documenting, preventing, and addressing sexual harassment and misconduct by local law enforcement agents, consistent with the recommendations of the International Association of Chiefs of Police.49

2.14 Recommendation: The U.S. Department of Justice, through the Office of Community Oriented Policing Services and Office of Justice Programs, should provide technical assistance and incentive funding to jurisdictions with small police agencies that take steps towards shared services, regional training, and consolidation.

47. Listening Session on Training and Education (oral testimony of Andrea Ritchie, founder of Streetwise and Safe, for the President’s Task Force on 21st Century Policing, Phoenix, AZ, February 14, 2015).

48. Listening Session on Training and Education (oral testimony of Linda Sarsour, Advocacy And Civic Engagement coordinator for the National Network for Arab American Communities, for the President’s Task Force on 21st Century Policing, Phoenix, AZ, February 14, 2015).

Half of all law enforcement agencies in the United States have fewer than ten officers, and nearly three-quarters have fewer than 25 officers. Lawrence Sherman noted in his testimony that “so many problems of organizational quality control are made worse by the tiny size of most local police agencies . . . less than 1 percent of 17,985 U.S. police agencies meet the English minimum of 1,000 employees or more.” These small forces often lack the resources for training and equipment accessible to larger departments and often are prevented by municipal boundaries and local custom from combining forces with neighboring agencies. Funding and technical assistance can give smaller agencies the incentive to share policies and practices and give them access to a wider variety of training, equipment, and communications technology than they could acquire on their own.

### Table 1. Full-time state and local law enforcement employees, by size of agency, 2008

<table>
<thead>
<tr>
<th>Size of agency</th>
<th>Number of agencies</th>
<th>Total number of full-time employees</th>
</tr>
</thead>
<tbody>
<tr>
<td>All agencies</td>
<td>17,985</td>
<td>1,133,915</td>
</tr>
<tr>
<td>1,000 or more officers</td>
<td>83</td>
<td>326,197</td>
</tr>
<tr>
<td>500–999</td>
<td>89</td>
<td>94,168</td>
</tr>
<tr>
<td>250–499</td>
<td>237</td>
<td>133,024</td>
</tr>
<tr>
<td>100–249</td>
<td>778</td>
<td>174,505</td>
</tr>
<tr>
<td>500–99</td>
<td>1,300</td>
<td>136,390</td>
</tr>
<tr>
<td>25–49</td>
<td>2,402</td>
<td>124,492</td>
</tr>
<tr>
<td>10–24</td>
<td>4,300</td>
<td>98,563</td>
</tr>
<tr>
<td>5–9</td>
<td>3,446</td>
<td>32,493</td>
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<tr>
<td>2–4</td>
<td>3,225</td>
<td>11,498</td>
</tr>
<tr>
<td>0–1</td>
<td>2,125</td>
<td>2,585</td>
</tr>
</tbody>
</table>

Source: Brian A. Reaves, “State and Local Law Enforcement Agencies” (see note 50).

2.15 Recommendation: The U.S. Department of Justice, through the Office of Community Oriented Policing Services, should partner with the International Association of Directors of Law Enforcement Standards and Training (IADLEST) to expand its National Decertification Index to serve as the National Register of Decertified Officers with the goal of covering all agencies within the United States and its territories.

The National Decertification Index is an aggregation of information that allows hiring agencies to identify officers who have had their license or certification revoked for misconduct. It was designed as an answer to the problem “wherein a police officer is discharged for improper conduct and loses his/her certification in that state . . . [only to relocate] to another state and hire on with another police department.” Peace Officer Standards and


51. Listening Session on the Future of Community Policing (oral testimony of Lawrence Sherman, Cambridge University, for the President’s Task Force on 21st Century Policing, Washington, DC, February 24, 2015).

Training (POST) boards can record administrative actions taken against certified police and correctional officers. Currently the criteria for reporting an action on an officer is determined by each POST independently, as is the granting of read-only access to hiring departments to use as part of their pre-hire screening process. Expanding this system to ensure national and standardized reporting would assist in ensuring that officers who have lost their certification for misconduct are not easily hired in other jurisdictions. A national register would effectively treat “police professionals the way states’ licensing laws treat other professionals. If anything, the need for such a system is even more important for law enforcement, as officers have the power to make arrests, perform searches, and use deadly force.”

Implementing new technologies can give police departments an opportunity to fully engage and educate communities in a dialogue about their expectations for transparency, accountability, and privacy.

We live in a time when technology and its many uses are advancing far more quickly than are policies and laws. “Technology” available to law enforcement today includes everything from body-worn cameras (BWC) to unmanned aircraft to social media and a myriad of products in between.

The use of technology can improve policing practices and build community trust and legitimacy, but its implementation must be built on a defined policy framework with its purposes and goals clearly delineated. Implementing new technologies can give police departments an opportunity to fully engage and educate communities in a dialogue about their expectations for transparency, accountability, and privacy. But technology changes quickly in terms of new hardware, software, and other options. Law enforcement agencies and leaders need to be able to identify, assess, and evaluate new technology for adoption and do so in ways that improve their effectiveness, efficiency, and evolution without infringing on individual rights.

Thus, despite (and because of) the centrality of technology in policing, law enforcement agencies face major challenges including determining the effects of implementing various technologies; identifying costs and benefits; examining unintended consequences; and exploring the best practices by which technology can be evaluated, acquired, maintained, and managed. Addressing these technology challenges by using research, accumulated knowledge, and practical experiences can help agencies reach their goals, but law enforcement agencies and personnel also need to recognize that technology is only a tool for doing their jobs; just because you have access to technology does not necessarily mean you should always use it.

BWCs are a case in point. An increasing number of law enforcement agencies are adopting BWC programs as a means to improve evidence collection, to strengthen officer performance and accountability, and to enhance agency transparency. By documenting encounters between police and the public, BWCs can also be used to investigate and resolve complaints about officer-involved incidents.

Jim Bueermann, retired chief of the Redlands (California) Police Department and President of the Police Foundation, told the task force about a seminal piece of research that demonstrated a positive impact of BWCs in policing. The researchers used the gold standard of research models, a randomized control trial, in which the people


being studied are randomly assigned either to a control group that does not receive the treatment being studied or to a treatment group that does. The results of this 12-month study strongly suggest that the use of BWCs by the police can significantly reduce both officer use of force and complaints against officers. The study found that the officers wearing the cameras had 87.5 percent fewer incidents of use of force and 59 percent fewer complaints than the officers not wearing the cameras. One of the important findings of the study was the impact BWCs might have on the self-awareness of officers and citizens alike. When police officers are acutely aware that their behavior is being monitored (because they turn on the cameras) and when officers tell citizens that the cameras are recording their behavior, everyone behaves better. The results of this study strongly suggest that this increase in self-awareness contributes to more positive outcomes in police-citizen interaction.56

But other considerations make the issue of BWCs more complex. A 2014 Police Executive Research Forum (PERF) publication, funded by the Office of Community Oriented Policing Services (COPS Office), reporting on extensive research exploring the policy and implementation questions surrounding BWCs noted:

Although body-worn cameras can offer many benefits, they also raise serious questions about how technology is changing the relationship between police and the community. Body-worn cameras not only create concerns about the public’s privacy rights but also can affect how officers relate to people in the community, the community’s perception of the police, and expectations about how police agencies should share information with the public.57

Now that agencies operate in a world in which anyone with a cell phone camera can record video footage of a police encounter, BWCs help police departments ensure that events are also captured from an officer’s perspective.58 But when the public does not believe its privacy is being protected by law enforcement, a breakdown in community trust can occur. Agencies need to consider ways to involve the public in discussions related to the protection of their privacy and civil liberties prior to implementing new technology, as well work with the public and other partners in the justice system to develop appropriate policies and procedures for use.

Another technology relatively new to law enforcement is social media. Social media is a communication tool the police can use to engage the community on issues of importance to both and to gauge community sentiment regarding agency policies and practices. Social media can also help police identify the potential nature and location of gang and other criminal or disorderly activity such as spontaneous crowd gatherings.59

The Boston Police Department (BPD), for example, has long embraced both community policing and the use of social media. The department put its experience to good and highly visible use in April 2013 during the rapidly developing investigation that followed the deadly explosion of two bombs at the finish line of the Boston Marathon. The

58. Ibid., 1.
BPD successfully used Twitter to keep the public informed about the status of the investigation, to calm nerves and request assistance, to correct mistaken information reported by the press, and to ask for public restraint in the tweeting of information from police scanners. This demonstrated the level of trust and interaction that a department and a community can attain online.60

While technology is crucial to law enforcement, it is never a panacea. Its acquisition and use can have unintended consequences for both the organization and the community it serves, which may limit its potential. Thus, agencies need clearly defined policies related to implementation of technology, and must pay close attention to community concerns about its use.

3.1 Recommendation: The U.S. Department of Justice, in consultation with the law enforcement field, should broaden the efforts of the National Institute of Justice to establish national standards for the research and development of new technology. These standards should also address compatibility and interoperability needs both within law enforcement agencies and across agencies and jurisdictions and maintain civil and human rights protections.

The lack of consistent standards leads to a constantly spiraling increase in technology costs. Law enforcement often has to invest in new layers of technology to enable their systems to operate with different systems and sometimes must also make expensive modifications or additions to legacy systems to support interoperability with newer technology. And these costs do not include the additional funds needed for training. Agencies are often unprepared for the unintended consequences that may accompany the acquisition of new technologies. Implementation of new technologies can cause disruptions to daily routines, lack of buy-in, and lack of understanding of the purpose and appropriate uses of the technologies. It also often raises questions regarding how the new technologies will impact the officer’s expectations, discretion, decision making, and accountability.61

Inconsistent or nonexistent standards also lead to isolated and fractured information systems that cannot effectively manage, store, analyze, or share their data with other systems. As a result, much information is lost or unavailable—which allows vital information to go unused and have no impact on crime reduction efforts. As one witness noted, the development of mature crime analysis and CompStat processes allows law enforcement to effectively develop policy and deploy resources for crime prevention, but there is a lack of uniformity in data collection throughout law enforcement, and only patchwork methods of near real-time information sharing exist.62 These problems are especially critical in light of the threats from terrorism and cybercrime.

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61. Koper et al., Potential of Technology in Policing (see note 54).

62. Listening Session on Technology and Social Media (oral testimony of Elliot Cohen, Maryland State Police, for the President’s Task Force on 21st Century Policing, Cincinnati, OH, January 31, 2015).
3.1.1 Action Item: The Federal Government should support the development and delivery of training to help law enforcement agencies learn, acquire, and implement technology tools and tactics that are consistent with the best practices of 21st century policing.

3.1.2 Action Item: As part of national standards, the issue of technology’s impact on privacy concerns should be addressed in accordance with protections provided by constitutional law.

Though all constitutional guidelines must be maintained in the performance of law enforcement duties, the legal framework (warrants, etc.) should continue to protect law enforcement access to data obtained from cell phones, social media, GPS, and other sources, allowing officers to detect, prevent, or respond to crime.

3.1.3 Action Item: Law enforcement agencies should deploy smart technology that is designed to prevent the tampering with or manipulating of evidence in violation of policy.

3.2 Recommendation: The implementation of appropriate technology by law enforcement agencies should be designed considering local needs and aligned with national standards.
While standards should be created for development and research of technology at the national level, implementation of developed technologies should remain a local decision to address the needs and resources of the community.

In addition to the expense of acquiring technology, implementation and training also requires funds, as well as time, personnel, and physical capacity. A case in point is the Phoenix Police Department’s adoption of BWCs mentioned by witness Michael White, who said that the real costs came on the back end for managing the vast amount of data generated by the cameras. He quoted the Chief of the Phoenix Police Department as saying that it would cost their department $3.5 million to not only outfit all of their officers with the cameras but also successfully manage the program.

### 3.2.1 *Action Item:* Law enforcement agencies should encourage public engagement and collaboration, including the use of community advisory bodies, when developing a policy for the use of a new technology.

Local residents will be more accepting of and respond more positively to technology when they have been informed of new developments and their input has been encouraged. How police use technology and how they share that information with the public is critical. Task force witness Jim Bueermann, president of the Police Foundation, addressed this issue, noting that concerns about BWCs include potential compromises to the privacy of both officers and citizens, who are reluctant to speak to police if they think they are being recorded. And as the task force co-chair, Charles Ramsey, noted, “Just having the conversation can increase trust and legitimacy and help departments make better decisions.”

### 3.2.2 *Action Item:* Law enforcement agencies should include an evaluation or assessment process to gauge the effectiveness of any new technology, soliciting input from all levels of the agency, from line officer to leadership, as well as assessment from members of the community.

Witnesses suggested that law enforcement agencies create an advisory group when adopting a new technology. Ideally, it would include line officers, union representatives, and members from other departmental units, such as research and planning, technology, and internal affairs. External stakeholders, such as representatives from the prosecutor’s office, the defense bar, advocacy groups, and citizens should also be included, giving each group the opportunity to ask questions, express their concerns, and offer suggestions on policy and training.

### 3.2.3 *Action Item:* Law enforcement agencies should adopt the use of new technologies that will help them better serve people with special needs or disabilities.

### 3.3 *Recommendation:* The U.S. Department of Justice should develop best practices that can be adopted by state legislative bodies to govern the acquisition, use, retention, and dissemination of auditory, visual, and biometric data by law enforcement.

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64. Listening Session on Technology and Social Media: Body Cameras—Research and Legal Considerations (oral testimony of Michael White, professor, Arizona State University, for the President’s Task Force on 21st Century Policing, Cincinnati, OH, January 31, 2015).
These model policies and practices should at minimum address technology usage and data and evidence acquisition and retention, as well as privacy issues, accountability and discipline. They must also consider the impact of data collection and use on public trust and police legitimacy.

### 3.3.1 Action Item: As part of the process for developing best practices, the U.S. Department of Justice should consult with civil rights and civil liberties organizations, as well as law enforcement research groups and other experts, concerning the constitutional issues that can arise as a result of the use of new technologies.

### 3.3.2 Action Item: The U.S. Department of Justice should create toolkits for the most effective and constitutional use of multiple forms of innovative technology that will provide state, local, and tribal law enforcement agencies with a one-stop clearinghouse of information and resources.

### 3.3.3 Action Item: Law enforcement agencies should review and consider the Bureau of Justice Assistance’s (BJA) Body Worn Camera Toolkit to assist in implementing BWCs.

A Body-Worn Camera Expert Panel of law enforcement leaders, recognized practitioners, national policy leaders, and community advocates convened a two-day workshop in February, 2015 to develop a toolkit and provide guidance and model policy for law enforcement agencies implementing BWC programs. Subject matter experts contributed ideas and content for the proposed toolkit while a panel composed of privacy and victim advocates contributed ideas and content for the toolkit to broaden input and ensure transparency.

### 3.4 Recommendation: Federal, state, local, and tribal legislative bodies should be encouraged to update public record laws.

The quickly evolving nature of new technologies that collect video, audio, information, and biometric data on members of the community can cause unforeseen consequences. Public record laws, which allow public access to information held by government agencies, including law enforcement, should be modified to protect the privacy of the individuals whose records they hold and to maintain the trust of the community.

Issues such as the accessibility of video captured through dashboard or body-worn cameras are especially complex. So too are the officer use of force events that will be captured by video camera systems and then broadcast by local media outlets. Use of force, even when lawful and appropriate, can negatively influence public perception and trust of police. Sean Smoot, task force member, addressed this by recalling the shooting of a Flagstaff, Arizona, police officer whose death was recorded by his BWC. Responding to public record requests by local media, the police department released the graphic footage, which was then shown on local TV and also on YouTube.65 This illustration also raises questions concerning the recording of police interactions with minors and the appropriateness of releasing those videos for public view given their inability to give informed consent for distribution.

### 3.5 Recommendation: Law enforcement agencies should adopt model policies and best practices for technology-based community engagement that increases community trust and access.

65. Listening Session on Technology and Social Media (Sean Smoot, task force member, for the President’s Task Force on 21st Century Policing, Cincinnati, OH, January 31, 2015).
These policies and practices should at a minimum increase transparency and accessibility, provide access to information (crime statistics, current calls for service), allow for public posting of policy and procedures, and enable access and usage for persons with disabilities. They should also address issues surrounding the use of new and social media, encouraging the use of social media as a means of community interaction and relationship building, which can result in stronger law enforcement. As witness Elliot Cohen noted,

> We have seen social media support policing efforts in gathering intelligence during active assailant incidents: the Columbia Mall shooting and the Boston Marathon bombing. Social media allowed for a greater volume of information to be collected in an electronic format, both audibly and visually.66

But to engage the community, social media must be responsive and current. Said Bill Schrier, “Regularly refresh the content to maintain and engage the audience, post content rapidly during incidents to dispel rumors, and use it for engagement, not just public information.”67 False or incorrect statements made via social media, mainstream media, and other means of technology deeply harm trust and legitimacy and can only be overcome with targeted and continuing community engagement and repeated positive interaction. Agencies need to unequivocally discourage falsities by underlining how harmful they are and how difficult they are to overcome.

Agencies should also develop policies and practices on social media use that consider individual officer expression, professional representation, truthful communication, and other concerns that can impact trust and legitimacy.

### Table 2. What types of social media does your agency currently use, and what types of social media do you plan to begin using within the next 2 to 5 years?

<table>
<thead>
<tr>
<th>Social media type</th>
<th>Percent of responding agencies currently using</th>
<th>Percent of responding agencies planning to begin using in 2 to 5 years</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agency website</td>
<td>100</td>
<td>—</td>
</tr>
<tr>
<td>Facebook</td>
<td>82</td>
<td>14</td>
</tr>
<tr>
<td>Twitter</td>
<td>69</td>
<td>18</td>
</tr>
<tr>
<td>Youtube</td>
<td>48</td>
<td>20</td>
</tr>
<tr>
<td>LinkedIn</td>
<td>34</td>
<td>20</td>
</tr>
</tbody>
</table>

Note: PERF, with the support of the COPS Office and Target Corporation, disseminated a “Future of Policing” survey in 2012 to more than 500 police agencies; nearly 200 responded.


3.6 Recommendation: The Federal Government should support the development of new “less than lethal” technology to help control combative suspects.

The fatal shootings in Ferguson, Cleveland, and elsewhere have put the consequences of use of force front and center in the national news.

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66. Listening Session on Technology and Social Media: Technology Policy (oral testimony of Elliot Cohen, Lieutenant, Maryland State Police, for the President’s Task Force on 21st Century Policing, Cincinnati, OH, January 31, 2015).

67. Listening Session on Technology and Social Media: Technology Policy (oral testimony of Bill Schrier, senior policy advisor, Office of the Chief Information Officer, State of Washington, for the President’s Task Force on 21st Century Policing, Cincinnati, OH, January 31, 2015).
Policies and procedures must change, but so should the weaponry. New technologies such as conductive energy devices (CED) have been developed and may be used and evaluated to decrease the number of fatal police interventions. Studies of CEDs have shown them to be effective at reducing both officer and civilian injuries. For example, in one study that compared seven law enforcement agencies that use CEDs with six agencies that do not, researchers found a 70 percent decrease in officer injuries and a 40 percent decrease in suspect injuries.68 But new technologies should still be subject to the appropriate use of force continuum restrictions. And Vincent Talucci made the point in his testimony that over-reliance on technological weapons can also be dangerous.69

3.6.1 Action Item: Relevant federal agencies, including the U.S. Departments of Defense and Justice, should expand their efforts to study the development and use of new less than lethal technologies and evaluate their impact on public safety, reducing lethal violence against citizens, constitutionality, and officer safety.

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69. Listening Session on Technology and Social Media (oral testimony of Vincent Talucci, International Association of Chiefs of Police, for the President’s Task Force on 21st Century Policing, Cincinnati, OH, January 31, 2015).
3.7 Recommendation: The Federal Government should make the development and building of segregated radio spectrum and increased bandwidth by FirstNet for exclusive use by local, state, tribal, and federal public safety agencies a top priority. A national public safety broadband network which creates bandwidth for the exclusive use of law enforcement, the First Responder Network (FirstNet) is considered a game-changing public safety project, which would allow instantaneous communication in even the most remote areas whenever a disaster or incident occurs. It can also support many other technologies, including video transmission from BWCs.

70. Listening Session on Technology and Social Media: Technology Policy (oral testimony of Bill Schrier, senior policy advisor, Office of the Chief Information Officer, State of Washington, for the President's Task Force on 21st Century Policing, Cincinnati, OH, January 31, 2015).
President Barack Obama delivers remarks to the press following a meeting with members of the President’s Task Force on 21st Century Policing in the Roosevelt Room of the White House, March 2, 2015.
PILLAR 4. COMMUNITY POLICING 
& CRIME REDUCTION

Community policing requires the active building of positive relationships with members of the community.

Community policing is a philosophy that promotes organizational strategies that support the systematic use of partnerships and problem-solving techniques to proactively address the immediate conditions that give rise to public safety issues such as crime, social disorder, and fear of crime.71

Over the past few decades, rates of both violent and property crime have dropped dramatically across the United States.72 However, some communities and segments of the population have not benefited from the decrease as much as others, and some not at all.73 Though law enforcement must concentrate their efforts in these neighborhoods to maintain public safety, sometimes those specific efforts arouse resentment in the neighborhoods the police are striving to protect.

Police interventions must be implemented with strong policies and training in place, rooted in an understanding of procedural justice. Indeed, without that, police interventions can easily devolve into racial profiling, excessive use of force, and other practices that disregard civil rights, causing negative reactions from people living in already challenged communities.

Yet mutual trust and cooperation, two key elements of community policing, are vital to protecting residents of these communities from the crime that plagues them. Community policing combines a focus on intervention and prevention through problem solving with building collaborative partnerships between law enforcement agencies and schools, social services, and other stakeholders. In this way, community policing not only improves public safety but also enhances social connectivity and economic strength, which increases community resilience to crime. And, as noted by one speaker, it improves job satisfaction for line officers, too.

In his testimony to the task force, Camden County, New Jersey, Police Chief J. Scott Thomson noted that community policing starts on the street corner, with respectful interaction between a police officer and a local resident, a discussion that need not be related to a criminal matter.74 In fact, it is important that not all interactions be based on emergency calls or crime investigations.

Another aspect of community policing that was discussed in the listening session on this topic is the premise that officers enforce the law with the people not just on the people. In reflecting this belief, some commented on the negative

73. Listening Session on Community Policing and Crime Reduction: Building Community Policing Organizations (oral testimony of Chris Magnus, chief, Richmond (CA) Police Department, for the President’s Task Force on 21st Century Policing, Phoenix, AZ, February 13, 2015).
results of zero tolerance policies, which mete out automatic and predetermined actions by officers regardless of extenuating circumstances.

Community policing requires the active building of positive relationships with members of the community—on an agency as well as on a personal basis. This can be done through assigning officers to geographic areas on a consistent basis, so that through the continuity of assignment they have the opportunity to know the members of the community. It can also be aided by the use of programs such as Eagle County, Colorado’s Law Enforcement Immigrant Advisory Committee, which the police department formed with Catholic Charities to help the local immigrant community.75 This type of policing also requires participation in community organizations, local meetings and public service activities.

To be most effective, community policing also requires collaborative partnerships with agencies beyond law enforcement, such as Philadelphia’s successful Police Diversion Program described by Kevin Bethel, Deputy Commissioner of Patrol Operations in the Philadelphia Police Department in his testimony to the task force.76 This partnership with the Philadelphia Department of Human Services, the school district, the District Attorney’s office, Family Court, and other stakeholders significantly reduced the number of arrests of minority youths for minor offenses.

Problem solving, another key element of community policing, is critical to prevention. And problems must be solved in partnership with the community in order to effectively address chronic crime and disorder problems. As Office of Community Oriented Policing Services Director Ronald L. Davis has said, “We need to teach new recruits that law enforcement is more than just cuffing ‘perps’—it’s understanding why people do what they do.”77

In summary, law enforcement’s obligation is not only to reduce crime but also to do so fairly while protecting the rights of citizens. Any prevention strategy that unintentionally violates civil rights, compromises police legitimacy, or undermines trust is counterproductive from both ethical and cost-benefit perspectives. Ignoring these considerations can have both financial costs (e.g., lawsuits) and social costs (e.g., loss of public support).

It must also be stressed that the absence of crime is not the final goal of law enforcement. Rather, it is the promotion and protection of public safety while respecting the dignity and rights of all. And public safety and well-being cannot be attained without the community’s belief that their well-being is at the heart of all law enforcement activities. It is critical to help community members see police as allies rather than as an occupying force and to work in concert with other community stakeholders to create more economically and socially stable neighborhoods.

4.1 Recommendation: Law enforcement agencies should develop and adopt policies and strategies that reinforce the importance of community engagement in managing public safety.

75. Listening Session on Community Policing and Crime Reduction: Building Community Policing Organizations (oral testimony of Chris Magnus, chief, Richmond [CA] Police Department, for the President’s Task Force on 21st Century Policing, Phoenix, AZ, February 13, 2015).
Community policing is not just about the relationship between individual officers and individual neighborhood residents. It is also about the relationship between law enforcement leaders and leaders of key institutions in a community, such as churches, businesses, and schools, supporting the community’s own process to define prevention and reach goals.

Law enforcement agencies cannot ensure the safety of communities alone but should seek to contribute to the strengthening of neighborhood capacity to prevent and reduce crime through informal social control. More than a century of research shows that informal social control is a much more powerful mechanism for crime control and reduction than is formal punishment. And perhaps the best evidence for the preventive power of informal social control may be the millions of unguarded opportunities to commit crime that are passed up each day.78

4.1.1 Action Item: Law enforcement agencies should consider adopting preferences for seeking “least harm” resolutions, such as diversion programs or warnings and citations in lieu of arrest for minor infractions.

4.2 Recommendation: Community policing should be infused throughout the culture and organizational structure of law enforcement agencies.

Community policing must be a way of doing business by an entire police force, not just a specialized unit of that force.79 The task force heard testimony from Police Chief J. Scott Thomson of Camden County, New Jersey, who noted:

Community policing cannot be a program, unit, strategy or tactic. It must be the core principle that lies at the foundation of a police department’s culture. The only way to significantly reduce fear, crime, and disorder and then sustain these gains is to leverage the greatest force multiplier: the people of the community.80

This message was closely echoed by Chris Magnus, the police chief in Richmond, California. To build a more effective partnership with residents and transform culture within the police department as well as in the community, the Richmond police made sure that all officers, not just a select few, were doing community policing and neighborhood problem solving. Every officer is expected to get to know the residents, businesses, community groups, churches, and schools on their beat and work with them to identify and address public safety challenges, including quality of life issues such as blight. Officers remain in the same beat or district for several years or more—which builds familiarity and trust.81

Testimony from a number of witnesses also made clear that hiring, training, evaluating, and promoting officers based on their ability and track record in community engagement—not just traditional measures of policing such as arrests, tickets, or tactical skills—is an equally important component of the successful infusion of community policing throughout an organization.

81. Listening Session on Community Policing and Crime Reduction: Building Community Policing Organizations (oral testimony of Chris Magnus, chief, Richmond (CA) Police Department, for the President’s Task Force on 21st Century Policing, Phoenix, AZ, February 13, 2015).
4.2.1 Action Item: Law enforcement agencies should evaluate officers on their efforts to engage members of the community and the partnerships they build. Making this part of the performance evaluation process places an increased value on developing partnerships.

4.2.2 Action Item: Law enforcement agencies should evaluate their patrol deployment practices to allow sufficient time for patrol officers to participate in problem solving and community engagement activities.

4.2.3 Action Item: The U.S. Department of Justice and other public and private entities should support research into the factors that have led to dramatic successes in crime reduction in some communities through the infusion of non-discriminatory policing and to determine replicable factors that could be used to guide law enforcement agencies in other communities.

4.3 Recommendation: Law enforcement agencies should engage in multidisciplinary, community team approaches for planning, implementing, and responding to crisis situations with complex causal factors.

Other professionals making decisions alongside the police regarding planning, implementing, and responding to mental health crisis situations. But this model is applicable to a number of community problems that regularly involve a police response, including homelessness, substance abuse, domestic violence, human trafficking, and child abuse. Ultimately, the idea is for officers to be trained and equipped to make use of existing community resources in the diffusion of crisis situations.

4.3.1 Action Item: The U.S. Department of Justice should collaborate with others to develop and disseminate baseline models of this crisis intervention team approach that can be adapted to local contexts.

4.3.2 Action Item: Communities should look to involve peer support counselors as part of multidisciplinary teams when appropriate. Persons who have experienced the same trauma can provide both insight to the first responders and immediate support to individuals in crisis.

4.3.3 Action Item: Communities should be encouraged to evaluate the efficacy of these crisis intervention team approaches and hold agency leaders accountable for outcomes.

4.4 Recommendation: Communities should support a culture and practice of policing that reflects the values of protection and promotion of the dignity of all, especially the most vulnerable.

The task force heard many different ways of describing a positive culture of policing. David Kennedy suggested there could be a Hippocratic
Oath for Policing: First, Do No Harm. Law enforcement officers’ goal should be to avoid use of force if at all possible, even when it is allowed by law and by policy. Terms such as fair and impartial policing, rightful policing, constitutional policing, neighborhood policing, procedural justice, and implicit bias training all address changing the culture of policing. Respectful language, thoughtful and intentional dialogue about the perception and reality of profiling and the mass incarceration of minorities; and consistent involvement, both formal and informal, in community events all help ensure that relationships of trust between police and community will be built. The vision of policing in the 21st century should be that of officers as guardians of human and constitutional rights.

4.4.1 Action Item: Because offensive or harsh language can escalate a minor situation, law enforcement agencies should underscore the importance of language used and adopt policies directing officers to speak to individuals with respect.

4.4.2 Action Item: Law enforcement agencies should develop programs that create opportunities for patrol officers to regularly interact with neighborhood residents, faith leaders, and business leaders.

4.5 Recommendation: Community policing emphasizes working with neighborhood residents to co-produce public safety. Law enforcement agencies should work with community residents to identify problems and collaborate on implementing solutions that produce meaningful results for the community.

As Delores Jones Brown testified, “Neighborhood policing provides an opportunity for police departments to do things with residents in the co-production of public safety rather than doing

Community policing is not just about the behavior and tactics of police; it is also about the civic engagement and capacity of communities to improve their own neighborhoods, their quality of life, and their sense of safety and well-being. Members of communities are key partners in creating public safety, so communities and police need mechanisms to engage with each other in consistent and meaningful ways. One model for formalizing this engagement is through a civilian governance system such as is found in Los Angeles. As Chief Charlie Beck explained in testimony to the task force,

The Los Angeles Police Department is formally governed by the Board of Police Commissioners, a five-person civilian body with each member appointed by the mayor. The commission has formal authority to hire the chief of police, to set broad policy for the department, and to hold the LAPD and its chief accountable to the people.84

Community policing, therefore, is concerned with changing the way in which citizens respond to police in more constructive and proactive ways. If officers feel unsafe and threatened, their ability to operate in an open and shared dialogue with community is inhibited. On the other hand, the police have the responsibility to understand the culture, history, and quality of life issues of the entire community—youth, elders, faith communities, special populations—and to educate the community, including its children, on the role and function of police and ways the community can protect itself, be part of solving problems, and prevent crime. Community and police jointly share the responsibility for civil dialogue and interaction.

4.5.1 Action Item: Law enforcement agencies should schedule regular forums and meetings where all community members can interact with police and help influence programs and policy.

4.5.2 Action Item: Law enforcement agencies should engage youth and communities in joint training with law enforcement, citizen academies, ride-alongs, problem solving teams, community action teams, and quality of life teams.

4.5.3 Action Item: Law enforcement agencies should establish formal community/citizen advisory committees to assist in developing crime prevention strategies and agency policies as well as provide input on policing issues. Larger agencies should establish multiple committees to ensure they inform all levels of the organization. The makeup of these committees should reflect the demographics of the community or neighborhood being served.

4.5.4 Action Item: Law enforcement agencies should adopt community policing strategies that support and work in concert with economic development efforts within communities.

As several witnesses, including Bill Geller, testified, public safety and the economic health of communities go hand in hand.85 It is therefore important

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84. Listening Session on Policy and Oversight: Civilian Oversight (oral testimony of Charles Beck, chief, Los Angeles Police Department, for the President’s Task Force on 21st Century Policing, Cincinnati, OH, January 30, 2015).

for agencies to work with local, state, and federal partners on projects devoted to enhancing the economic health of the communities in which departments are located.

4.6 Recommendation: Communities should adopt policies and programs that address the needs of children and youth most at risk for crime or violence and reduce aggressive law enforcement tactics that stigmatize youth and marginalize their participation in schools and communities.

The past decade has seen an explosion of knowledge about adolescent development and the neurological underpinnings of adolescent behavior. Much has also been learned about the pathways by which adolescents become delinquent, the effectiveness of prevention and treatment programs, and the long-term effects of transferring youths to the adult system and confining them in harsh conditions. These findings have raised doubts about a series of policies and practices of "zero tolerance" that have contributed to increasing the school-to-prison pipeline by criminalizing the behaviors of children as young as kindergarten age. Noncriminal offenses can escalate to criminal charges when officers are not trained in child and adolescent development and are unable to recognize and manage a child's emotional, intellectual, and physical development issues. School district policies and practices that push students out of schools and into the juvenile justice system cause great harm and do no good.

One witness told the task force a stunning story about what happened to him one day when he was a high school freshman:

As I walked down the hall, one of the police officers employed in the school noticed I did not have my identification badge with me. Before I could explain why I did not have my badge, I was escorted to the office and suspended for an entire week. I had to leave the school premises immediately. Walking to the bus stop, a different police officer pulled me over and demanded to know why I was not in school. As I tried to explain, I was thrown into the back of the police car. They drove back to my school to see if I was telling the truth, and I was left waiting in the car for over two hours. When they came back, they told me I was in fact suspended, but because the school did not provide me with the proper forms, my guardian and I both had to pay tickets for me being off of school property. The tickets together were 600 dollars, and I had a court date for each one. Was forgetting my ID worth missing school? Me being kicked out of school did not solve or help anything. I was at home alone watching Jerry Springer, doing nothing.86

4.6.1 Action Item: Education and criminal justice agencies at all levels of government should work together to reform policies and procedures that push children into the juvenile justice system.87

86. Listening Session on Community Policing and Crime Prevention (oral testimony of Michael Reynolds for the President’s Task Force on 21st Century Policing, Phoenix, AZ, February 13, 2015).
4.6.2 Action Item: In order to keep youth in school and to keep them from criminal and violent behavior, law enforcement agencies should work with schools to encourage the creation of alternatives to student suspensions and expulsion through restorative justice, diversion, counseling, and family interventions.

4.6.3 Action Item: Law enforcement agencies should work with schools to encourage the use of alternative strategies that involve youth in decision making, such as restorative justice, youth courts, and peer interventions.

The Federal Government could incentivize schools to adopt this practice by tying federal funding to schools implementing restorative justice practices.

4.6.4 Action Item: Law enforcement agencies should work with schools to adopt an instructional approach to discipline that uses interventions or disciplinary consequences to help students develop new behavior skills and positive strategies to avoid conflict, redirect energy, and refocus on learning.

4.6.5 Action Item: Law enforcement agencies should work with schools to develop and monitor school discipline policies with input and collaboration from school personnel, students, families, and community members. These policies should prohibit the use of corporal punishment and electronic control devices.

4.6.6 Action Item: Law enforcement agencies should work with schools to create a continuum of developmentally appropriate and proportional consequences for addressing ongoing and escalating student misbehavior after all appropriate interventions have been attempted.

4.6.7 Action Item: Law enforcement agencies should work with communities to play a role in programs and procedures to reintegrate juveniles back into their communities as they leave the juvenile justice system.

Although this recommendation—and therefore its action items—specifically focuses on juveniles, this task force believes that law enforcement agencies should also work with communities to play a role in re-entry programs for adults leaving prisons and jails.

4.6.8 Action Item: Law enforcement agencies and schools should establish memoranda of agreement for the placement of School Resource Officers that limit police involvement in student discipline.

Such agreements could include provisions for special training for School Resource Officers to help them better understand and deal with issues involving youth.

4.6.9 Action Item: The Federal Government should assess and evaluate zero tolerance strategies and examine the role of reasonable discretion when dealing with adolescents in consideration of their stages of maturation or development.
4.7 **Recommendation:** Communities need to affirm and recognize the voices of youth in community decision making, facilitate youth-led research and problem solving, and develop and fund youth leadership training and life skills through positive youth/police collaboration and interactions.

Youth face unique challenges when encountering the criminal justice system. Law enforcement contacts for apparent infractions create trauma and fear in children and disillusionment in youth, but proactive and positive youth interactions with police create the opportunity for coaching, mentoring, and diversion into constructive alternative activities. Moving testimony from a panel of young people allowed the task force members to hear how officers can lead youth out of the conditions that keep them in the juvenile justice system and into self-awareness and self-help.

Phoenix native Jose Gonzales, 21, first went to jail at age nine and had a chaotic childhood, but in turning his life towards a productive and healthy future, he vividly remembers one officer who made a difference:

> Needless to say, I have had a fair amount of interaction with law enforcement in my youth. Some has been very positive. Like the time that a School Resource Officer got me involved in an after school club. Officer Bill D. helped me stop being a bad kid and assisted with after school activities. He sought me out to be a part of a club that included all sorts of youth—athletes, academics—and helped me gain confidence in reaching out to other social circles beyond my troubled community. The important idea I’d like to convey is that approach is everything.88

4.7.1 Action Item: Communities and law enforcement agencies should restore and build trust between youth and police by creating programs and projects for positive, consistent, and persistent interaction between youth and police.

4.7.2 Action Item: Communities should develop community- and school-based evidence-based programs that mitigate punitive and authoritarian solutions to teen problems.
As our nation becomes more pluralistic and the scope of law enforcement’s responsibilities expands, the need for more and better training has become critical. Today’s line officers and leaders must meet a wide variety of challenges including international terrorism, evolving technologies, rising immigration, changing laws, new cultural mores, and a growing mental health crisis. All states and territories and the District of Columbia should establish standards for hiring, training, and education.

The skills and knowledge required to effectively deal with these issues requires a higher level of education as well as extensive and ongoing training in specific disciplines. The task force discussed these needs in depth, making recommendations for basic recruit and in-service training, as well as leadership development in a wide variety of areas:

- Community policing and problem-solving principles
- Interpersonal and communication skills
- Bias awareness
- Scenario-based, situational decision making
- Crisis intervention
- Procedural justice and impartial policing
- Trauma and victim services
- Mental health issues
- Analytical research and technology
- Languages and cultural responsiveness

Many who spoke before the task force recommended that law enforcement partner with academic institutions; organizations such as the International Association of Chiefs of Police (IACP), the Major Cities Chiefs Association (MCCA), the National Organization of Black Law Enforcement Executives (NOBLE), and the Police Executive Research Forum (PERF); and other sources of appropriate training. Establishing fellowships and exchange programs with other agencies was also suggested.

Other witnesses spoke about the police education now offered by universities, noting that undergraduate criminal justice and criminology programs provide a serviceable foundation but that short courses of mixed quality and even some graduate university degree programs do not come close to addressing the needs of 21st-century law enforcement.

In addition to discussion of training programs and educational expectations, witnesses at the listening session made clear that new approaches to recruitment, hiring, evaluation, and promotion are also essential to developing a more highly educated workforce with the character traits and social skills that enable effective policing and positive community relationships.

To build a police force capable of dealing with the complexity of the 21st century, it is imperative that agencies place value on both educational achievements and socialization skills when making hiring decisions. Hiring officers who reflect the
community they serve is also important not only to external relations but also to increasing understanding within the agency. On the other hand, task force member Constance Rice described the best line officer she knew—White, but better at relating to the African-American community than his Black colleagues. Her recommendation was to look for the character traits that support fairness, compassion, and cultural sensitivity.89

The need for understanding, tolerance, and sensitivity to African Americans, Latinos, recent immigrants, Muslims, and the LGBTQ community was discussed at length at the listening session, with witnesses giving examples of unacceptable behavior in law enforcement’s dealings with all of these groups. Participants also discussed the need to move towards practices that respect all members of the community equally and away from policing tactics that can unintentionally lead to excessive enforcement against minorities.

Witnesses noted that officers need to develop the skills and knowledge necessary in the fight against terrorism by gaining an understanding of the links between normal criminal activity and terrorism, for example. What is more, this training must be ongoing, as threats and procedures for combating terrorism evolve.

The need for realistic, scenario-based training to better manage interactions and minimize using force was discussed by a number of witnesses. Others focused more on content than delivery: Dennis Rosenbaum suggested putting procedural justice at the center of training, not on the fringes.90 Ronal Serpas recommended training on the effects of violence not only on the community and individual victims but also on police officers themselves, noting that exposure to violence can make individuals more prone to violent behavior.91 And witnesses Bruce Lipman and David Friedman both spoke about providing officers with historical perspectives of policing to provide context as to why some communities have negative feelings toward the police and improve understanding of the role of the police in a democratic society.92

Though today’s law enforcement professionals are highly trained and highly skilled operationally, they must develop specialized knowledge and understanding that enable fair and procedurally just policing and allow them to meet a wide variety of new challenges and expectations. Tactical skills are important, but attitude, tolerance, and interpersonal skills are equally so. And to be effective in an ever-changing world, training must continue throughout an officer’s career.

The goal is not only effective, efficient policing but also procedural justice and fairness. Following are the task force’s recommendations for implementing career-long education and training practices for law enforcement in the 21st century.

90. Listening Session on Community Policing and Crime Reduction: Community Policing and Crime Prevention Research (oral testimony of Dennis Rosenbaum, professor, University of Illinois at Chicago, for the President’s Task Force on 21st Century Policing, Phoenix, AZ, February 13, 2015).
91. Listening Session on Training and Education: Special Training on Building Trust (oral testimony of Ronal Serpas, advisory board member, Cure Violence Chicago, for the President’s Task Force on 21st Century Policing, Phoenix, AZ, February 14, 2015).
92. Listening Session on Training and Education: Special Training on Building Trust (oral testimony of David C. Friedman, director of National Law Enforcement Initiatives, Anti-Defamation League, for the President’s Task Force on 21st Century Policing, Phoenix, AZ, February 14, 2015); Listening Session on Training and Education: Special Training on Building Trust (oral testimony of Bruce Lipman, Procedural Justice Training, for the President’s Task Force on 21st Century Policing, Phoenix, AZ, February 14, 2015).
5.1 RECOMMENDATION: The Federal Government should support the development of partnerships with training facilities across the country to promote consistent standards for high quality training and establish training innovation hubs.

A starting point for changing the culture of policing is to change the culture of training academies. The designation of certain training academies as federally supported regional “training innovation hubs” could act as leverage points for changing training culture while taking into consideration regional variations. Federal funding would be a powerful incentive to these designated academies to conduct the necessary research to develop and implement the highest quality curricula focused on the needs of 21st century American policing, along with cutting-edge delivery modalities.

5.1.1 ACTION ITEM: The training innovation hubs should develop replicable model programs that use adult-based learning and scenario-based training in a training environment modeled less like boot camp. Through these programs the hubs would influence nationwide curricula, as well as instructional methodology.

5.1.2 ACTION ITEM: The training innovation hubs should establish partnerships with academic institutions to develop rigorous training practices, evaluation, and the development of curricula based on evidence-based practices.

5.1.3 ACTION ITEM: The Department of Justice should build a stronger relationship with the International Association of Directors of Law
Enforcement (IADLEST) in order to leverage their network with state boards and commissions of Peace Officer Standards and Training (POST).

The POSTs are critical to the development and implementation of statewide training standards and the certification of instructors and training courses, as well as integral to facilitating communication, coordination, and influence with the more than 650 police academies across the nation. This relationship would also serve as a pipeline for disseminating information and creating discussion around best practices.

5.2 RECOMMENDATION: Law enforcement agencies should engage community members in the training process.

Not only can agencies make important contributions to the design and implementation of training that reflects the needs and character of their communities but it is also important for police training to be as transparent as possible. This will result in both a better informed public and a better informed officer.

Where appropriate and through managed programs, the community would

- learn about and evaluate the existing training within departments;
- provide input into shaping that some training content and delivery;
- in some cases, participate in training alongside officers.

5.2.1 Action Item: The U.S. Department of Justice should conduct research to develop and disseminate a toolkit on how law enforcement agencies and training programs can integrate community members into this training process.

5.3 RECOMMENDATION: Law enforcement agencies should provide leadership training to all personnel throughout their careers.

Standards and programs need to be established for every level of leadership from the first line to middle management to executive leadership. If there is good leadership and procedural justice within the agency, the officers are more likely to behave according to those standards in the community. As Chief Edward Flynn of the Milwaukee Police Department noted, “Flexible, dynamic, insightful, ethical leaders are needed to develop the informal social control and social capital required for a civil society to flourish.” One example of leadership training is Leading Police Organizations, a program developed by the IACP and modeled after the West Point Leadership Program, which offers training for all levels of agency management in programs based on a behavioral science approach to leading people groups, change, and organizations, focusing on the concept of “every officer a leader.”

5.3.1 Action Item: Recognizing that strong, capable leadership is required to create cultural transformation, the U.S. Department of Justice should invest in developing learning goals and model curricula/training for each level of leadership.

This training should focus on organizational procedural justice, community policing, police accountability, teaching, coaching, mentoring, and communicating with the media and the public. Chief Kim Jacobs noted this in her testimony discussing current issues with training on reviewing investigations of police actions and prepare comprehensive reports for all stakeholders,

93. Listening Session on Training and Education (oral testimony of Edward Flynn, chief, Milwaukee Police Department, for the President’s Task Force on 21st Century Policing, Phoenix, AZ, February 14, 2015).
including the media and citizens. These standards should also influence requirements for promotion and continuing/ongoing education should also be required to maintain leadership positions.

5.3.2 **Action Item:** The Federal Government should encourage and support partnerships between law enforcement and academic institutions to support a culture that values ongoing education and the integration of current research into the development of training, policies, and practices.

5.3.3 **Action Item:** The U.S. Department of Justice should support and encourage cross-discipline leadership training.

This can be within the criminal justice system but also across governments, nonprofits, and the private sector, including social services, legal aid, businesses, community corrections, education, the courts, mental health organizations, civic and religious organizations, and others. When people come together from different disciplines and backgrounds, there is a cross-fertilization of ideas that often leads to better solutions. Furthermore, by interacting with a more diverse group of professionals, police can establish a valuable network of contacts whose knowledge and skills differ from but complement their own. This opportunity does exist for front-line staff on a variety of specialized topics but also needs to happen at decision/policy maker levels. For example, the National Alliance for Drug Endangered Children is an especially appropriate model for the value of cross-discipline training. Their written testimony to the task force explains how their training approach focuses on the formation of community partnerships that engage law enforcement and professionals from multiple disciplines to collaboratively identify and protect drug endangered children and their families.

5.4 **Recommendation:** The U.S. Department of Justice should develop, in partnership with institutions of higher education, a national postgraduate institute of policing for senior executives with a standardized curriculum preparing them to lead agencies in the 21st century.

To advance American law enforcement, we must advance its leadership. To that end, the task force recommends the establishment of a top quality graduate institute of policing to provide ongoing leadership training, education, and research programs which will enhance the quality of law enforcement culture, knowledge, skills, practices and policies. Modeled after the Naval Postgraduate School in Monterey, California, this institute will be staffed with subject matter experts and instructors drawn from the nation’s top educational institutions, who will focus on the real world problems that challenge today’s and tomorrow’s law enforcement, teaching practical skills and providing the most current information for improving policing services throughout the nation. This institute could even, as witness Lawrence Sherman proposed, “admit qualified applicants to a three-month residential course for potential police executives, concluding in an assessment center and examination that would certify qualified graduates to serve as chief police executives anywhere in the United States.”

94. Listening Session on Training and Education (oral testimony of Kim Jacobs, chief, Columbus (OH) Division of Police, for the President’s Task Force on 21st Century Policing, Phoenix, AZ, February 14, 2015).

95. Listening Session on Training and Education (written testimony of the National Alliance for Drug Endangered Children for the President’s Task Force on 21st Century Policing, Phoenix, AZ, February 14, 2015).

96. Listening Session on The Future of Community Policing (oral testimony of Lawrence Sherman, Wolfson Professor of Criminology, University of Cambridge, and Distinguished University Professor, University of Maryland, for the President’s Task Force on 21st Century Policing, Washington, DC, February 24, 2015).
5.5 Recommendation: The U.S. Department of Justice should instruct the Federal Bureau of Investigation to modify the curriculum of the National Academy at Quantico to include prominent coverage of the topical areas addressed in this report. In addition, the COPS Office and the Office of Justice Programs should work with law enforcement professional organizations to encourage modification of their curricula in a similar fashion.97

The Office of Community Oriented Policing Services (COPS Office) and the Office of Justice Programs (OJP) should work with the law enforcement professional organizations to encourage modification of their curricula—for example, the Senior Management Institute for Police run by PERF and the Police Executive Leadership Institute managed by the Major Cities Chiefs Association.

5.6 Recommendation: POSTs should make Crisis Intervention Training (CIT) a part of both basic recruit and in-service officer training.

Crisis intervention training (CIT) was developed in Memphis, Tennessee, in 1988 and has been shown to improve police ability to recognize symptoms of a mental health crisis, enhance their confidence in addressing such an emergency, and reduce inaccurate beliefs about mental illness.98 It has been found that after completing CIT orientation, officers felt encouraged to interact with people suffering a mental health crisis and to delay their “rush to resolution.”99 Dr. Randolph Dupont, Chair of the Department of Criminology and Criminal Justice at the University of Memphis, spoke to the task force about the effectiveness of the Memphis Crisis Intervention Team (CIT), which stresses verbal intervention and other de-escalation techniques.

Noting that empathy training is an important component, Dr. Dupont said the Memphis CIT includes personal interaction between officers and individuals with mental health problems. Officers who had contact with these individuals felt more comfortable with them, and hospital mental health staff who participated with the officers had more positive views of law enforcement. CIT also provides a unique opportunity to develop cross-disciplinary training and partnerships.

5.6.1 Action Item: Because of the importance of this issue, Congress should appropriate funds to help support law enforcement crisis intervention training.

5.7 Recommendation: POSTs should ensure that basic officer training includes lessons to improve social interaction as well as tactical skills.

These include topics such as critical thinking, social intelligence, implicit bias, fair and impartial policing, historical trauma, and other topics that address capacity to build trust and legitimacy in diverse communities and offer better skills for gaining compliance without the use of physical force.

97. Listening Session on Training and Education: Supervisory, Leadership and Management Training (oral testimony of Kimberly Jacobs, chief, Columbus (OH) Division of Police, for the President’s Task Force on 21st Century Policing, Phoenix, AZ, February 14, 2015); Listening Session on Training and Education (e-mail of Annie McKee, senior fellow, University of Pennsylvania, for the President’s Task Force on 21st Century Policing, Phoenix, AZ, February 13–14, 2015); Listening Session on Training and Education (written testimony of Anthony Braga et al. for the President’s Task Force on 21st Century Policing, Phoenix, AZ, February 13–14, 2015).


force. Basic recruit training must also include tactical and operations training on lethal and nonlethal use of force with an emphasis on de-escalation and tactical retreat skills.

5.8 Recommendation: POSTs should ensure that basic recruit and in-service officer training include curriculum on the disease of addiction.

It is important that officers be able to recognize the signs of addiction and respond accordingly when they are interacting with people who may be impaired as a result of their addiction. Science has demonstrated that addiction is a disease of the brain—a disease that can be prevented and treated and from which people can recover.

The growing understanding of this science has led to a number of law enforcement agencies equipping officers with overdose-reversal drugs such as naloxone and the passage of legislation in many states that shield any person from civil and criminal liability if they administer naloxone.

The Obama Administration’s drug policy reflects this understanding and emphasizes access to treatment over incarceration, pursuing “smart on crime” rather than “tough on crime” approaches to drug-related offenses, and support for early health interventions designed to break the cycle of drug use, crime, incarceration, and re-arrest.100 And the relationship between incarceration and addiction is a significant one. A 2004 survey by the U.S.

Department of Justice estimated that about 70 percent of state and 64 percent of federal prisoners regularly used drugs prior to incarceration.101

5.9 Recommendation: POSTs should ensure both basic recruit and in-service training incorporates content around recognizing and confronting implicit bias and cultural responsiveness.

As the nation becomes more diverse, it will become increasingly important that police officers be sensitive to and tolerant of differences. It is vital that law enforcement provide training that recognizes the unique needs and characteristics of minority communities, whether they are victims or witnesses of crimes, subjects of stops, or criminal suspects.

Keeshan Harley, a young Black man, testified that he estimates that he’s been stopped and frisked more than 100 times and that he felt that the problem is not just a few individual bad apples, but the systemic way policing treats certain communities—including low-income and young people, African Americans, LGBTQ people, the homeless, immigrants, and people with psychiatric disabilities. In so doing, police have produced communities of alienation and resentment.102 He is arguably not alone in his opinions, given that research has shown that “of those involved in traffic and street stops, a smaller percentage of Blacks than Whites believed the police behaved properly during the stop.”103

And in a 2012 survey of LGBTQ/HIV contact with police, 25 percent of respondents with any recent police contact reported at least one type of misconduct or harassment, such as being accused of an offense they did not commit, verbal assault, being arrested for an offense they did not commit, sexual harassment, physical assault, or sexual assault.104

5.9.1 Action Item: Law enforcement agencies should implement ongoing, top down training for all officers in cultural diversity and related topics that can build trust and legitimacy in diverse communities. This should be accomplished with the assistance of advocacy groups that represent the viewpoints of communities that have traditionally had adversarial relationships with law enforcement.

5.9.2 Action Item: Law enforcement agencies should implement training for officers that covers policies for interactions with the LGBTQ population, including issues such as determining gender identity for arrest placement, the Muslim, Arab, and South Asian communities, and immigrant or non-English speaking groups, as well as reinforcing policies for the prevention of sexual misconduct and harassment.


102. Listening Session on Training and Education: Voices in the Community (oral testimony of Keeshan Harley, member, Communities United for Police Reform, for the President’s Task Force on 21st Century Policing, Phoenix, AZ, February 14, 2015); see also Tracey L. Meares, “Programming Errors: Understanding the Constitutionality of Stop-and-Frisk as a Program, Not an Incident,” University of Chicago Law Review (forthcoming).

103. Langton and Durose, Traffic and Street Stops, 2011 (see note 42).

5.10 Recommendation: **POSTs should require both basic recruit and in-service training on policing in a democratic society.**

Police officers are granted a great deal of authority, and it is therefore important that they receive training on the constitutional basis of and the proper use of that power and authority. Particular focus should be placed on ensuring that Terry stops\textsuperscript{105} are conducted within constitutional guidelines.

Table 3. College degree requirements for full-time instructors in state and local law enforcement training academies, by type of operating agency, 2006

<table>
<thead>
<tr>
<th>Primary operating agency</th>
<th>Total percentage of academies with a minimum educational requirement that included a college degree</th>
<th>Percentage of academies requiring a 4-year degree</th>
<th>Percent of academies requiring a 2-year degree</th>
</tr>
</thead>
<tbody>
<tr>
<td>All types</td>
<td>19</td>
<td>11</td>
<td>8</td>
</tr>
<tr>
<td>State Peace Officer Standards and Training</td>
<td>13</td>
<td>13</td>
<td>0</td>
</tr>
<tr>
<td>State police</td>
<td>11</td>
<td>7</td>
<td>5</td>
</tr>
<tr>
<td>Sheriff’s office</td>
<td>2</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>County police</td>
<td>5</td>
<td>0</td>
<td>5</td>
</tr>
<tr>
<td>Municipal police</td>
<td>7</td>
<td>4</td>
<td>3</td>
</tr>
<tr>
<td>College/university</td>
<td>35</td>
<td>22</td>
<td>13</td>
</tr>
<tr>
<td>Multiagency</td>
<td>15</td>
<td>2</td>
<td>13</td>
</tr>
<tr>
<td>Other types</td>
<td>8</td>
<td>8</td>
<td>0</td>
</tr>
</tbody>
</table>


5.11 Recommendation: **The Federal Government, as well as state and local agencies, should encourage and incentivize higher education for law enforcement officers.**

While many believe that a higher level of required education could raise the quality of officer performance, law enforcement also benefits from a diverse range of officers who bring their cultures, languages, and life experiences to policing.

5.11.1 Action Item: The Federal Government should create a loan repayment and forgiveness incentive program specifically for policing.

This could be modeled on similar programs that already exist for government service and other fields or the reinstitution of funding for programs such as the 1960s and 70s Law Enforcement Education Program.

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\textsuperscript{105} Terry v. Ohio, 392 U.S. 1 (1968).
5.12 **Recommendation:** The Federal Government should support research into the development of technology that enhances scenario-based training, social interaction skills, and enables the dissemination of interactive distance learning for law enforcement.

This will lead to new modalities that enhance the effectiveness of the learning experience, reduce instructional costs, and ensure the broad dissemination of training through platforms that do not require time away from agencies.

This would be especially helpful for smaller and more rural departments who cannot spare the time for their officers to participate in residential/in-person training programs. Present day technologies should also be employed more often—web-based learning, behavior evaluations through body worn camera videos, software programs for independent learning, scenario-based instruction through videos, and other methods. This can also increase access to evidence-based research and other sources of knowledge.

5.13 **Recommendation:** The U.S. Department of Justice should support the development and implementation of improved Field Training Officer programs.

This is critical in terms of changing officer culture. Field Training Officers impart the organizational culture to the newest members. The most common current program, known as the San Jose Model, is more than 40 years old and is not based on current research knowledge of adult learning modalities. In many ways it even conflicts with innovative training strategies that encourage problem-based learning and support organizational procedural justice.

5.13.1 **Action Item:** The U.S. Department of Justice should support the development of broad Field Training Program standards and training strategies that address changing police culture and organizational procedural justice issues that agencies can adopt and customize to local needs.

A potential model for this is the Police Training Officer program developed by the COPS Office in collaboration with PERF and the Reno (Nevada) Police Department. This problem-based learning strategy used adult learning theory and problem solving tools to encourage new officers to think with a proactive mindset, enabling the identification of and solution to problems within their communities.

5.13.2 **Action Item:** The U.S. Department of Justice should provide funding to incentivize agencies to update their Field Training Programs in accordance with the new standards.
PILLAR 6. OFFICER WELLNESS & SAFETY

The wellness and safety of law enforcement officers is critical not only to themselves, their colleagues, and their agencies but also to public safety.

Most law enforcement officers walk into risky situations and encounter tragedy on a regular basis. Some, such as the police who responded to the carnage of Sandy Hook Elementary School, witness horror that stays with them for the rest of their lives. Others are physically injured in carrying out their duties, sometimes needlessly, through mistakes made in high stress situations. The recent notable deaths of officers are stark reminders of the risk officers face. As a result, physical, mental, and emotional injuries plague many law enforcement agencies.

However, a large proportion of officer injuries and deaths are not the result of interaction with criminal offenders but the outcome of poor physical health due to poor nutrition, lack of exercise, sleep deprivation, and substance abuse. Yet these causes are often overlooked or given scant attention. Many other injuries and fatalities are the result of vehicular accidents.

The wellness and safety of law enforcement officers is critical not only to themselves, their colleagues, and their agencies but also to public safety. An officer whose capabilities, judgment, and behavior are adversely affected by poor physical or psychological health not only may be of little use to the community he or she serves but also may be a danger to the community and to other officers. As task force member Tracey Meares observed, “Hurt people can hurt people.”

Commenting on the irony of law enforcement’s lack of services and practices to support wellness and safety, Dr. Laurence Miller observed in his testimony that supervisors would not allow an officer to go on patrol with a deficiently maintained vehicle, an unserviced duty weapon, or a malfunctioning radio—but pay little attention to the maintenance of what is all officers’ most valuable resource: their brains.

Officer suicide is also a problem: a national study using data of the National Occupational Mortality Surveillance found that police died from suicide 2.4 times as often as from homicides. And though depression resulting from traumatic experiences is often the cause, routine work and life stressors—serving hostile communities, working long shifts, lack of family or departmental support—are frequent motivators too.

In this pillar, the task force focused on many of the issues that impact and are impacted by officer wellness and safety, focusing on strategies in several areas: physical, mental, and emotional health; vehicular accidents; officer suicide; shootings and assaults; and the partnerships with social services, unions, and other organizations that can support solutions.

106. Listening Session on Officer Safety and Wellness (comment of Tracey Meares, task force member, for the President’s Task Force on 21st Century Policing, Washington, DC, February 23, 2015).

107. Listening Session on Officer Safety and Wellness (oral testimony of Laurence Miller, psychologist, for the President’s Task Force on 21st Century Policing, Washington, DC, February 23, 2015).
Physical injuries and death in the line of duty, while declining, are still too high. According to estimates of U.S. Bureau of Labor Statistics, more than 100,000 law enforcement professionals are injured in the line of duty each year. Many are the result of assaults, which underscores the need for body armor, but most are due to vehicular accidents.

To protect against assaults, Orange County (Florida) Sheriff Jerry Demings talked about immersing new officers in simulation training that realistically depicts what they are going to face in the real world. “I subscribe to an edict that there is no substitute for training and experience . . . deaths and injuries can be prevented through training that is both realistic and repetitive.” 108

But to design effective training first requires collecting substantially more information about the nature of injuries sustained by officers on the job. Dr. Alexander Eastman’s testimony noted that the field of emergency medicine involves the analysis of vast amounts of data with regard to injuries in order to improve prevention as well as treatment.

In order to make the job of policing more safe, a nationwide repository for [law enforcement officer] injuries sustained is desperately needed. A robust database of this nature, analyzed by medical providers and scientists involved in law enforcement, would allow for recommendations in tactics, training, equipment, medical care and even policies/procedures that are grounded in that interface between scientific evidence, best medical practice, and sound policing. 109

Poor nutrition and fitness are also serious threats, as is sleep deprivation. Many errors in judgment can be traced to fatigue, which also makes it harder to connect with people and control emotions. But administrative changes such as reducing work shifts can improve officer’s feelings of well-being, and the implementation of mental health strategies can lessen the impact of the stress and trauma.

However, the most important factor to consider when discussing wellness and safety is the culture of law enforcement, which needs to be transformed. Support for wellness and safety should permeate all practices and be expressed through changes in procedures, requirements, attitudes, and behaviors. An agency work environment in which officers do not feel they are respected, supported, or treated fairly is one of the most common sources of stress. And research indicates that officers who feel respected by their supervisors are more likely to accept and voluntarily comply with departmental policies. This transformation should also overturn the tradition of silence on psychological problems, encouraging officers to seek help without concern about negative consequences.

Partnerships are another crucial element. An agency cannot successfully tackle these issues without partners such as industrial hygienists, chaplains, unions, and mental health providers. But no program can succeed without buy-in from agency leadership as well as the rank and file.

The “bulletproof cop” does not exist. The officers who protect us must also be protected—against incapacitating physical, mental, and emotional health problems as well as against the hazards of their job. Their wellness and safety are crucial for them, their colleagues, and their agencies, as well as the well-being of the communities they serve.

108. Listening Session on Officer Safety and Wellness: Officer Safety (oral testimony of Jerry Demings, sheriff, Orange County, FL, for the President’s Task Force on 21st Century Policing, Washington, DC, February 23, 2015).
109. Listening Session on Officer Safety and Wellness: Officer Safety (oral testimony of Dr. Alexander Eastman, lieutenant and deputy medical director, Dallas Police Department, for the President’s Task Force on 21st Century Policing, Washington, DC, February 23, 2015).
6.1 **Recommendation:** The U.S. Department of Justice should enhance and further promote its multi-faceted officer safety and wellness initiative.

As noted by all task force members during the listening session, officer wellness and safety supports public safety. Officers who are mentally or physically incapacitated cannot serve their communities adequately and can be a danger to the people they serve, to their fellow officers, and to themselves.

6.1.1 **Action Item:** Congress should establish and fund a national “Blue Alert” warning system.

Leveraging the current Amber Alert program used to locate abducted children, the Blue Alert would enlist the help of the public in finding suspects after a law enforcement officer is killed in the line of duty. Some similar state systems do exist, but there are large gaps; a national system is needed. In addition to aiding the apprehension of suspects, it would send a message about the importance of protecting law enforcement from undue harm.

6.1.2 **Action Item:** The U.S. Department of Justice, in partnership with the U.S. Department of Health and Human Services, should establish a task force to study mental health issues unique to officers and recommend tailored treatments.

Law enforcement officers are subject to more stress than the general population owing to the nature of their jobs. In addition to working with difficult—even hostile—individuals, responding to tragic events, and sometimes coming under fire themselves, they suffer from the effects of everyday stressors—the most acute of which often come from their agencies, because of confusing messages or non-supportive management; and their families, who do not fully understand the pressures the officers face on the job. And as witness Laurence Miller said, “When both work and family relations fray, the individual’s coping abilities can be stretched to the limit, resulting in alcohol abuse, domestic violence, overaggressive policing, even suicide.”

110. Listening Session on Officer Safety and Wellness (oral testimony of Laurence Miller, psychologist, for the President’s Task Force on 21st Century Policing, Washington, DC, February 23, 2015).
To add to the problems of those suffering from psychological distress, law enforcement culture has not historically supported efforts to treat or even acknowledged mental health problems, which are usually seen as a sign of “weakness.” The challenges and treatments of mental health issues should therefore be viewed within the context of law enforcement’s unique culture and working environment.

This task force should also look to establish a national toll-free mental health hotline specifically for police officers. This would be a fast, easy, and confidential way for officers to get advice whenever they needed to; and because they would be anonymous, officers would be more likely to take advantage of this resource. Since nobody understands the challenges an officer faces like another officer, it should be peer driven—anonimously connecting callers to officers who are not in the same agency and who could refer the caller to professional help if needed. An advisory board should be formed to guide the creation of this hotline service.

**6.1.3 Action Item:** The Federal Government should support the continuing research into the efficacy of an annual mental health check for officers, as well as fitness, resilience, and nutrition.

Currently, most mental health checks are ordered as interventions for anger management or substance abuse and are ordered reactively after an incident. Mental health checks need to be more frequent to prevent problems. Because officers are exposed to a wide range of stressors on a continuous basis as part of their daily routines, mental and physical health check-ups should be conducted on an ongoing basis. Furthermore, officer nutrition and fitness issues change with time, varying widely from those of the new academy graduate to those of the veteran who has spent the last five years sitting in a squad car. Many health problems—notably cardiac issues—are cumulative.

**6.1.4 Action Item:** Pension plans should recognize fitness for duty examinations as definitive evidence of valid duty or non-duty related disability.

Officers who have been injured in the line of duty can exist in limbo, without pay, unable to work but also unable to get benefits because the “fitness for duty” examinations given by their agencies are not recognized as valid proof of disability. And since officers, as public servants, cannot receive social security, they can end up in a precarious financial state.

**6.1.5 Action Item:** Public Safety Officer Benefits (PSOB) should be provided to survivors of officers killed while working, regardless of whether the officer used safety equipment (seatbelt or anti-ballistic vest) or if officer death was the result of suicide attributed to a current diagnosis of duty-related mental illness, including but not limited to post-traumatic stress disorder (PTSD).

Families should not be penalized because an officer died in the line of duty but was not wearing a seat belt or body armor. Though these precautions are very important and strongly encouraged, there are occasions when officers can be more effective without them.111

A couple of situations were mentioned by task force member Sean Smoot, who described the efforts of an officer who took off his seat belt to tend to the injuries of a victim in the back of the car as his partner sped to the hospital. Another

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111. Listening Session on Officer Safety and Wellness: Voices from the Field (oral testimony of William Johnson, executive director, National Association of Police Organizations, for the President’s Task Force on 21st Century Policing, Washington, DC, February 23, 2015).
scenario he mentioned was the rescue of a drowning woman by an officer who shed his heavy body armor to go into the water. Charles Ramsey, task force co-chair, also noted that these types of situations could be further mitigated by the invention of seatbelts that officers could quickly release without getting tangled on their belts, badges, and radios, as well as body armor that is lighter and more comfortable.

### 6.2 Recommendation: Law enforcement agencies should promote safety and wellness at every level of the organization.

Safety and wellness issues affect all law enforcement professionals, regardless of their management status, duty, or tenure. Moreover, line officers are more likely to adopt procedures or change practices if they are advised to do so by managers who also model the behavior they encourage. According to witness David Orr, buy-in from the leaders as well as the rank and file is essential to the success of any program.112

### 6.2.1 Action Item: Though the Federal Government can support many of the programs and best practices identified by the U.S. Department of Justice initiative described in recommendation 6.1, the ultimate responsibility lies with each agency.

Though legislation and funding from the Federal Government is necessary in some cases, most of the policies, programs, and practices recommended by the task force can and should be implemented at the local level. It is understood, however, that there are no "one size fits all" solutions and that implementation will vary according to agency size, location, resources, and other factors.

### 6.3 Recommendation: The U.S. Department of Justice should encourage and assist departments in the implementation of scientifically supported shift lengths by law enforcement.

It has been established by significant bodies of research that long shifts can not only cause fatigue, stress, and decreased ability to concentrate but also lead to other more serious consequences.113 Fatigue and stress undermine not only the immune system but also the ability to work at full capacity, make decisions, and maintain emotional equilibrium. Though long shifts are understandable in the case of emergencies, as a standard practice they can lead to poor morale, poor job performance, irritability, and errors in judgment that can have serious, even deadly, consequences.

### 6.3.1 Action Item: The U.S. Department of Justice should fund additional research into the efficacy of limiting the total number of hours an officer should work within a 24–48-hour period, including special findings on the maximum number of hours an officer should work in a high risk or high stress environment (e.g., public demonstrations or emergency situations).

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112. Listening Session on Officer Safety and Wellness (oral testimony of David Orr, sergeant, Norwalk (CT) Police Department, to the President’s Task Force on 21st Century Policing, Washington, DC, February 23, 2015).

6.4 Recommendation: Every law enforcement officer should be provided with individual tactical first aid kits and training as well as anti-ballistic vests.

Task force witness Dr. Alexander Eastman, who is a trauma surgeon as well as a law enforcement professional, noted that tactical first aid kits would significantly reduce the loss of both officer and civilian lives due to blood loss. Already available to members of the military engaged in combat missions, these kits are designed to save lives by controlling hemorrhaging. They contain tourniquets, an Olaes modular bandage, and QuikClot gauze and would be provided along with training in hemorrhage control. Dr. Eastman estimated that the kits could cost less than $50 each and require about two hours of training, which could be provided through officers who have completed “train the trainer” programs.114

This would be a national adoption of the Hartford Consensus, which calls for agencies to adopt hemorrhage control as a core law enforcement skill and to integrate rescue/emergency medical services personnel into community-wide active shooter preparedness and training. These activities would complement the current “Save Our Own” law enforcement-based hemorrhage control programs.115

To further reduce officer deaths, the task force also strongly recommends the provision of body armor to all officers with replacements when necessary.

6.4.1 Action Item: Congress should authorize funding for the distribution of law enforcement individual tactical first aid kits.

6.4.2 Action Item: Congress should reauthorize and expand the Bulletproof Vest Partnership (BVP) program.

Created by statute in 1998, this program is a unique U.S. Department of Justice initiative designed to provide a critical resource to state and local law enforcement. Based on data collected and recorded by Bureau of Justice Assistance staff,

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114. Listening Session on Officer Safety and Wellness: Officer Safety (oral testimony of Dr. Alexander Eastman, lieutenant and deputy medical director, Dallas Police Department, for the President’s Task Force on 21st Century Policing, Washington, DC, February 23, 2015).

in FY 2012 protective vests were directly attributed to saving the lives of at least 33 law enforcement and corrections officers.

### 6.5 Recommendation: The U.S. Department of Justice should expand efforts to collect and analyze data not only on officer deaths but also on injuries and “near misses.”

Another recommendation mentioned by multiple witnesses is the establishment of a nationwide repository of data on law enforcement injuries, deaths, and near misses. Though the Federal Bureau of Investigation (FBI) does maintain a database of information pertinent to police procedures on officers killed in the line of duty, it does not contain the medical details that could be analyzed by medical providers and scientists to improve medical care, tactics, training, equipment, and procedures that would prevent or reduce injuries and save lives. The Police Foundation, with the support of a number of other law enforcement organizations, launched an online Law Enforcement Near Miss Reporting System in late 2014, but it is limited in its ability to systematically analyze national trends in this important data by its voluntary nature.\(^{116}\)

### 6.6 Recommendation: Law enforcement agencies should adopt policies that require officers to wear seat belts and bullet-proof vests and provide training to raise awareness of the consequences of failure to do so.

According to task force witness Craig Floyd, traffic accidents have been the number one cause of officer fatalities in recent years, and nearly half of those officers were not wearing seat belts.\(^{117}\) He suggests in-car cameras and seat belt sensors to encourage use along with aggressive safety campaigns. Some witnesses endorsed mandatory seat belt policies as well.

The Prince George’s County (Maryland) Arrive Alive Campaign initiated by task force witness Chief Mark Magraw to promote 100 percent seat belt usage relied on incentives and peer pressure for success. The message was, “it is not just about you, it is also about your family and your department.”\(^{118}\)

There were also many calls for mandatory requirements that all officers wear soft body armor any time they are going to be engaging in enforcement activities, uniformed or not. It was also suggested that law enforcement agencies be required to provide these for all commissioned personnel.

### 6.7 Recommendation: Congress should develop and enact peer review error management legislation.

The task force recommends that Congress enact legislation similar to the Healthcare Quality Improvement Act of 1986\(^ {119} \) that would support the development of an effective peer review error management system for law enforcement similar to what exists in medicine. A robust but nonpunitive peer review error management program—in which law enforcement officers could openly and frankly discuss their own or others’ mistakes or

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\(^{117}\) Listening Session on Officer Safety and Wellness (oral testimony of Craig Floyd, National Law Enforcement Officer Memorial Foundation, for the President’s Task Force on 21st Century Policing, Washington, DC, February 23, 2015).

\(^{118}\) Listening Session on Officer Safety and Wellness (oral testimony of Mark Magraw, chief, Prince Georges County [MD] Police Department, for the President’s Task Force on 21st Century Policing, Washington, DC, February 23, 2015).

\(^{119}\) The Health Care Quality Improvement Act of 1986 (HCQIA), 42 USC §11101 et seq., sets out standards for professional review actions. If a professional review body meets these standards, then neither the professional review body nor any person acting as a member or staff to the body will be liable in damages under most federal or state laws with respect to the action. For more information, see “Medical Peer Review,” American Medical Association, accessed February 28, 2015, [http://www.ama-assn.org/ama/pub/physician-resources/legal-topics/medical-peer-review.page](http://www.ama-assn.org/ama/pub/physician-resources/legal-topics/medical-peer-review.page).
near misses without fear of legal repercussions—would go a long way toward reducing injuries and fatalities by improving tactics, policies, and procedures. Protecting peer review error management findings from being used in legal discovery would enable the widespread adoption of this program by law enforcement.

The Near Miss anonymous reporting system developed by the Police Foundation in Washington, D.C., currently collects anonymous data that can be very helpful in learning from and preventing mistakes, fatalities, and injuries—but a program that enabled peer review of errors would provide even more valuable perspectives and solutions.

6.8 Recommendation: The U.S. Department of Transportation should provide technical assistance opportunities for departments to explore the use of vehicles equipped with vehicle collision prevention “smart car” technology that will reduce the number of accidents.

Given that the FBI’s 2003 to 2012 Law Enforcement Officers Killed in Action report showed that 49 percent of officer fatalities were a result of vehicle-related accidents, the need for protective devices cannot be understated. New technologies such as vehicle collision prevention systems should be explored.

Figure 3. Total law enforcement fatalities from 1964–2014

IMPLEMENTATION

The members of the President’s Task Force on 21st Century Policing are convinced that these 59 concrete recommendations for research, action, and further study will bring long-term improvements to the ways in which law enforcement agencies interact with and bring positive change to their communities. But we also recognize that the Administration, through policies and practices already in place, can start right now to move forward on the bedrock recommendations in this report. Accordingly, we propose the following items for immediate action.

7.1 Recommendation: The President should direct all federal law enforcement agencies to review the recommendations made by the Task Force on 21st Century Policing and, to the extent practicable, to adopt those that can be implemented at the federal level.

7.2 Recommendation: The U.S. Department of Justice should explore public-private partnership opportunities, starting by convening a meeting with local, regional, and national foundations to discuss the proposals for reform described in this report and seeking their engagement and support in advancing implementation of these recommendations.

7.3 Recommendation: The U.S. Department of Justice should charge its Office of Community Oriented Policing Services (COPS Office) with assisting the law enforcement field in addressing current and future challenges. For recommendation 7.3, the COPS Office should consider taking actions including but not limited to the following:

- Create a National Policing Practices and Accountability Division within the COPS Office.
- Establish national benchmarks and best practices for federal, state, local, and tribal police departments.
- Provide technical assistance and funding to national, state, local, and tribal accreditation bodies that evaluate policing practices.
- Recommend additional benchmarks and best practices for state training and standards boards.
- Provide technical assistance and funding to state training boards to help them meet national benchmarks and best practices in training methodologies and content.
- Prioritize grant funding to departments meeting benchmarks.
- Support departments through an expansion of the COPS Office Collaborative Reform Initiative.
- Collaborate with universities, the Office of Justice Programs and its bureaus (Bureau of Justice Assistance [BJA], Bureau of Justice Statistics [BJS], National Institute of Justice [NIJ], and Office of Juvenile Justice and Delinquency Prevention [OJJDP]), and others to review research and literature in order to inform law enforcement agencies about evidence-based practices and to identify areas of police operations where additional research is needed.
- Collaborate with the BJS to
  - establish a central repository for data concerning police use of force resulting in death, as well as in-custody deaths, and disseminate this data for use by both community and police;
• provide local agencies with technical assistance and a template to conduct local citizen satisfaction surveys;

• compile annual citizen satisfaction surveys based on the submission of voluntary local surveys, develop a national level survey as well as surveys for use by local agencies and by small geographic units, and develop questions to be added to the National Crime Victimization Survey relating to citizen satisfaction with police agencies and public trust.

• Collaborate with the BJS and others to develop a template of broader indicators of performance for police departments beyond crime rates alone that could comprise a Uniform Justice Report.

• Collaborate with the NIJ and the BJS to publish an annual report on the “State of Policing” in the United States.

• Provide support to national police leadership associations and national rank and file organizations to encourage them to implement task force recommendations.

• Work with the U.S. Department of Homeland Security to ensure that community policing tactics in state, local, and tribal law enforcement agencies are incorporated into their role in homeland security.
APPENDIX A. PUBLIC LISTENING SESSIONS & WITNESSES

The President’s Task Force on 21st Century Policing hosted multiple public listening sessions to gain broad input and expertise from stakeholders. The information collected in these meetings informed and advised the task force in developing its recommendations.

Listening Session 1. Building Trust & Legitimacy

Washington, D.C., January 13, 2015

Panel One: Subject Matter Experts

Jennifer Eberhardt, Associate Professor of Psychology, Stanford University

Charles Ogletree, Jesse Climenko Professor of Law, Harvard Law School

Tom Tyler, Macklin Fleming Professor of Law and Professor of Psychology, Yale Law School

Samuel Walker, Emeritus Professor of Criminal Justice, University of Nebraska Omaha

Panel Two: Community Representatives

Carmen Perez, Executive Director, The Gathering for Justice

Jim St. Germain, Co-Founder, Preparing Leaders of Tomorrow, Inc.

Jim Winkler, President and General Secretary, National Council of Churches of Christ in the USA

Panel Three: Law Enforcement Organizations

Richard Beary, President, International Association of Chiefs of Police

Chuck Canterbury, National President, Fraternal Order of Police

Andrew Peralta, National President, National Latino Peace Officers Association

Richard Stanek, Immediate Past President, Major County Sheriffs’ Association

Panel Four: Civil Rights / Civil Liberties

Sherrilyn Ifill, President and Director-Counsel, National Association for the Advancement of Colored People Legal Defense and Educational Fund

Maria Teresa Kumar, President and CEO, Voto Latino

Laura Murphy, Director, Washington Legislative Office, American Civil Liberties Union

Vikrant Reddy, Senior Policy Analyst, Texas Public Policy Foundation Center for Effective Justice

Panel Five: Mayors

Kevin Johnson, Sacramento

Michael Nutter, Philadelphia

Stephanie Rawlings-Blake, Baltimore

Listening Session 2. Policy & Oversight

Cincinnati, Ohio, January 30, 2015

Panel One: Use of Force Research and Policies

Geoffrey Alpert, Professor, University of South Carolina

Mick McHale, President, National Association of Police Organizations

Harold Medlock, Chief, Fayetteville (North Carolina) Police Department

Sim Gill, District Attorney, Salt Lake County, Utah

Jay McDonald, President, Fraternal Order of Police of Ohio

Kirk Primas, Assistant Sheriff, Las Vegas Metropolitan Police Department

Chuck Wexler, Executive Director, Police Executive Research Forum
Panel Three: Civilian Oversight
Charlie Beck, Chief, Los Angeles Police Department
Brian Buchner, President, National Association for Civilian Oversight of Law Enforcement
Darius Charney, Senior Staff Attorney, Center for Constitutional Rights

Panel Four: Mass Demonstrations
Christina Brown, Founding Organizer, Black Lives Matter: Cincinnati
Garry McCarthy, Superintendent, Chicago Police Department
Rodney Monroe, Chief, Charlotte-Mecklenburg (North Carolina) Police Department
Sean Whent, Chief, Oakland (California) Police Department

Panel Five: Law Enforcement Culture and Diversity
Malik Aziz, National Chairman, National Black Police Association
Hayley Gorenberg, Deputy Legal Director, Lambda Legal
Kathy Harrell, President, Fraternal Order of Police, Queen City Lodge #69, Cincinnati, Ohio
Barbara O’Connor, President, National Association of Women Law Enforcement Executives

Kenton Rainey, Chief, Bay Area Rapid Transit, San Francisco
Richard Van Houten, Sergeant, Fort Worth (Texas) Police Officers Association

Panel Three: Technology Policy
Eliot Cohen, Lieutenant, Maryland State Police
Madhu Grewal, Policy Counsel, The Constitution Project
Bill Schrier, Senior Policy Advisor, Office of the Chief Information Officer, State of Washington
Vincent Talucci, Executive Director / Chief Executive Officer, International Association of Chiefs of Police

Panel Four: Social Media, Community Digital Engagement and Collaboration
Hassan Aden, Director, Research and Programs, International Association of Chiefs of Police
DeRay McKesson, This is the Movement
Steve Spiker, Research and Technology Director, Urban Strategies Council
Lauri Stevens, Founder and Principal Consultant, LAW3 Communications

Listening Session 4. Community Policing & Crime Reduction
Phoenix, Arizona, February 13, 2015
Panel One: Community Policing and Crime Prevention Research
Bill Geller, Director, Geller & Associates
Dr. Delores Jones-Brown, Professor, John Jay College of Criminal Justice, City University of New York
Dr. Dennis Rosenbaum, Professor, University of Illinois at Chicago
Dr. Wesley G. Skogan, Professor, Northwestern University

Panel Two: Building Community Policing Organizations
Anthony Batts, Police Commissioner, Baltimore Police Department
Jeffrey Blackwell, Chief, Cincinnati (Ohio) Police Department
Chris Magnus, Chief, Richmond (California) Police Department
Patrick Melvin, Chief, Salt River Police Department (Salt River Pima-Maricopa Indian Community)
Panel Three: Using Community Policing to Reduce Crime

Kevin Bethel, Deputy Police Commissioner, Philadelphia Police Department
Melissa Jones, Senior Program Officer, Boston’s Local Initiatives Support Corporation
David Kennedy, Professor, John Jay College of Criminal Justice, City University of New York
J. Scott Thomson, Chief, Camden County (New Jersey) Police Department
George Turner, Chief, Atlanta Police Department

Panel Four: Using Community Policing to Restore Trust

Rev. Jeff Brown, Rebuilding Every City Around Peace
Dwayne Crawford, Executive Director, National Organization of Black Law Enforcement Executives
Justin Hansford, Assistant Professor of Law, Saint Louis University School of Law
Cecil Smith, Chief, Sanford (Florida) Police Department

Panel Five: Youth and Law Enforcement

Delilah Coleman, Member, Navajo Nation (Senior at Flagstaff High School)
Jose Gonzales, Alumnus, Foster Care and Crossover Youth
Jamecia Luckey, Youth Conference Committee Member, Cocoa (Florida) Police Athletic League
Nicholas Peart, Staff Member, The Brotherhood-Sister Sol (Class Member, Floyd, et al. v. City of New York, et al.)
Michael Reynolds, Co-President, Youth Power Movement

Dr. Steven Winegar, Coordinator, Public Safety Leadership Development, Oregon Department of Public Safety Standards and Training

Panel Two: In-Service Training

Dr. Scott Decker, Professor, Arizona State University
Aaron Danielson, President, Public Safety Employee Association/AFSCME Local 803, Fairbanks, Alaska
Dr. Cheryl May, Director, Criminal Justice Institute and National Center for Rural Law Enforcement
John Ortolano, President, Arizona Fraternal Order of Police
Gary Schofield, Deputy Chief, Las Vegas Metropolitan Police Department

Panel Three: Supervisory, Leadership and Management Training

Edward Flynn, Chief, Milwaukee (Wisconsin) Police Department
Sandra Hutchens, Sheriff, Orange County (California) Sheriff's Department
Kimberly Jacobs, Chief, Columbus (Ohio) Division of Police
John Layton, Sheriff, Marion County (Indiana) Sheriff's Office
Dr. Ellen Scrivner, Executive Fellow, Police Foundation

Panel Four: Voices in the Community

Allie Bones, MSW, Chief Executive Officer, Arizona Coalition to End Sexual and Domestic Violence
Renaldo Fowler, Senior Staff Advocate, Arizona Center for Disability Law
Keeshan Harley, Member, Communities United for Police Reform
Andrea Ritchie, Senior Policy Counsel, Streetwise and Safe
Linda Sarsour, Executive Director, Arab American Association of New York

Panel Five: Special Training on Building Trust

Lt. Sandra Brown (retired), Principal Trainer, Fair and Impartial Policing
Dr. Randolph Dupont, Professor and Clinical Psychologist, University of Memphis
David C. Friedman, Regional Director of National Law Enforcement Initiatives, Anti-Defamation League
Lt. Bruce Lipman (retired), Procedural Justice /Police Legitimacy Training
Dr. Ronal Serpas, Advisory Board Member, Cure Violence Chicago

Listening Session 5. Training & Education

Phoenix, Arizona, February 14, 2015

Panel One: Basic Recruit Academy

Arlen Ciechanowski, President, International Association of Directors of Law Enforcement Standards and Training
William J. Johnson, Executive Director, National Association of Police Organizations
Benjamin B. Tucker, First Deputy Commissioner, New York City Police Department
Listening Session 6. Officer Safety & Wellness

Washington, D.C., February 23, 2015

Panel One: Officer Wellness

Dr. Laurence Miller, Clinical Forensic Psychologist and Law Enforcement Educator

David Orr, Sergeant, Norwalk (Connecticut) Police Department

Dr. Sandra Ramey, Assistant Professor, University of Iowa College of Nursing

Dr. John Violanti, Research Professor, State University of New York Buffalo

Yost Zakhary, Public Safety Director, City of Woodway, Texas

Panel Two: Officer Safety

Jane Castor, Chief, Tampa (Florida) Police Department

Jerry L. Demings, Sheriff, Orange County (Florida) Sheriff’s Office

Dr. Alexander L. Eastman, Lieutenant and Deputy Medical Director, Dallas Police Department

Craig W. Floyd, Chairman and Chief Executive Officer, National Law Enforcement Officers Memorial Fund

Panel Three: Voices from the Field

Dianne Bernhard, Executive Director, Concerns of Police Survivors

Robert Bryant, Chief, Penobscot Nation

Chuck Canterbury, National President, Fraternal Order of Police

William J. Johnson, Executive Director, National Association of Police Organizations

Jonathan Thompson, Executive Director, National Sheriffs’ Association

Panel Four: Labor/Management Relations

Dr. Chuck Wexler, Executive Director, Police Executive Research Forum

Karen Freeman-Wilson, Mayor, Gary, Indiana

Mark Magaw, Chief, Prince George’s County (Maryland) Police Department

James Pasco, Executive Director, Fraternal Order of Police

Dustin Smith, President, Sacramento (California) Police Officers Association

Listening Session 7. Future of Community Policing

Washington, D.C., February 24, 2015

Panel: Future of Community Policing

Dr. Phillip Goff, Professor, University of California, Los Angeles

Jim McDonnell, Sheriff, Los Angeles County Sheriff’s Department

Dr. Daniel Nagin, Teresa and H. John Heinz III Professor of Public Policy, Carnegie Mellon University

Dr. Lawrence Sherman, Director of the Institute of Criminology of the University of Cambridge, United Kingdom

Jeremy Travis, President, John Jay College of Criminal Justice, City University of New York
APPENDIX B. INDIVIDUALS & ORGANIZATIONS THAT SUBMITTED WRITTEN TESTIMONY

In addition to receiving testimony from those individuals that appeared as witnesses during public listening sessions, the President’s Task Force on 21st Century Policing accepted written testimony from any individual or organization to ensure that its information gathering efforts included as many people and perspectives as possible. The task force thanks the individuals and organizations who submitted written testimony for their time and expertise.

This list reflects organizational affiliation at the time of testimony submission and may not represent submitters’ current positions.

### Individuals

<table>
<thead>
<tr>
<th>Name</th>
<th>Affiliation</th>
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<tbody>
<tr>
<td>Robert Abraham</td>
<td>Chair, Gang Resistance Education &amp; Training (GREAT) National Policy Board</td>
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<tr>
<td>Phillip Agnew</td>
<td>Executive Director, Dream Defenders</td>
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<tr>
<td>Kilolo Ajanaku</td>
<td>National Executive Director, World Conference of Mayors’ Dr. Martin Luther King, Jr. American Dream Initiative</td>
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<tr>
<td>Barbara Attard</td>
<td>Past President, National Association for Civilian Oversight of Law Enforcement</td>
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<tr>
<td>Paul Babeu</td>
<td>Vice President, Arizona Sheriffs Association</td>
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<tr>
<td>Monifa Bandele</td>
<td>Communities United for Police Reform</td>
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<tr>
<td>Dante Barry</td>
<td>Executive Director, Million Hoodies</td>
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<tr>
<td>David Bayley</td>
<td>Distinguished Professor Emeritus, University of Albany</td>
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<tr>
<td>Michael Bell</td>
<td>Lt. Colonel (retired), United States Air Force</td>
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<td>Michael Berkow</td>
<td>Chief, Savannah (Georgia) Police Department</td>
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<td>Greg Berman and Emily Gold LaGratta</td>
<td>Center for Court Innovation</td>
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<tr>
<td>Angela Glover Blackwell</td>
<td>Founder and CEO, PolicyLink</td>
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<tr>
<td>Mark Bowman</td>
<td>Assistant Professor of Justice Studies, Methodist University</td>
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<tr>
<td>Eli Briggs</td>
<td>Director of Government Affairs, National Association of County and City Health Officials (NACCHO)</td>
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<td>Cherie Brown</td>
<td>Executive Director, National Coalition Building Institute</td>
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<tr>
<td>Steven Brown</td>
<td>Journalist / Public Relations Consultant</td>
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<tr>
<td>Chris Calabrese</td>
<td>Senior Policy Director, Center for Democracy and Technology—with Jake Laperruque, Fellow on Privacy, Surveillance, and Security</td>
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<tr>
<td>Melanie Campbell</td>
<td>President and CEO, National Coalition on Black Civic Participation</td>
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<tr>
<td>Mo Canady</td>
<td>Executive Director, National Association of School Resource Officers (NASRO)</td>
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<tr>
<td>Hugh Carter Donahue</td>
<td>Adjunct Professor, Department of History, Rowan University</td>
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<tr>
<td>Anthony Chapa</td>
<td>President, Hispanic American Police Command Officers Association</td>
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<tr>
<td>Lorig Charkoudian</td>
<td>Executive Director, Community Mediation Maryland</td>
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<td>Ralph Clark</td>
<td>President and CEO, SST Inc.</td>
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<td>Faye Coffield</td>
<td>CJ Federal Task Force</td>
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<tr>
<td>The Hon. LaDoris Cordell</td>
<td>Office of the Independent Police Auditor, San Jose, California</td>
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<tr>
<td>Jill Corson Lake</td>
<td>Director of Global Advising, Parsons The New School for Design</td>
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<tr>
<td>David Couper</td>
<td>Chief of Police (retired), Madison (Wisconsin) Police Department</td>
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<tr>
<td>Madeline deLone</td>
<td>Executive Director, The Innocence Project—with Marvin Anderson, Board Member</td>
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<tr>
<td>Jimmie Dotson</td>
<td>Police Chief (retired), Houston Independent School District / GeoDD GeoPolicing Team</td>
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<tr>
<td>Ronnie Dunn</td>
<td>Professor, Cleveland State University</td>
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<tr>
<td>Lauren-Brooke Eisen and Nicole Fortier</td>
<td>Counsel, Justice Program, Brennan Center for Justice at NYU School of Law</td>
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<tr>
<td>Christian Ellis</td>
<td>CEO, Alternative Ballistics</td>
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<tr>
<td>Jeffrey Fagan</td>
<td>Professor of Law, Columbia Law School</td>
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</tbody>
</table>
Mai Fernandez, Executive Director, National Center for Victims of Crime
Johnny Ford, Founder, Alabama Conference of Black Mayors and Mayor, Tuskegee, Alabama
Lisa Foster, Director, Access to Justice Initiative, U.S. Department of Justice
Neill Franklin, Executive Director, Law Enforcement Against Prohibition
S. Gabrielle Frey, Interim Executive Director, National Association of Community Mediation
Lorie Fridell, Associate Professor of Criminology, University of South Florida
Allen Frimpong, Activist—Malcolm X Grassroots Movement: New York’s Self-Defensive Campaign
Ethan Garcia, Youth Specialist, Identity Inc.
Michael Gennaco, Principal, OIR Group
Al Gerhardstein, Civil Rights Attorney
James Gierach, Executive Board Vice Chairman, Law Enforcement Against Prohibition
Fred Ginyard, Organizing Director, Fabulous Independent Educated Radical for Community Empowerment (FIERCE)
Mark Gissiner, Past President, International Association for Civilian Oversight of Law Enforcement
Becca Gomby, SDR Academy
Rev. Aaron Graham, Lead Pastor, The District Church
Fatima Graves, Vice President, National Women’s Law Center—with Lara S. Kaufmann, Senior Counsel and Director of Education Policy for At-Risk Students
Virgil Green, Chairman, Future America National Crime Solution Commission
Sheldon Greenberg, Professor, School of Education, Division of Public Safety Leadership, The Johns Hopkins University
Robert Haas, Police Commissioner, Cambridge (Massachusetts) Police Department
David Harris, Distinguished Faculty Scholar and Professor of Law, Associate Dean for Research, University of Pittsburgh School of Law
W. Craig Hartley, Executive Director, CALEA
Steven Hawkins, Executive Director, Amnesty International USA
Louis Hayes, The Virtus Group, Inc.
Wade Henderson, President and CEO, The Leadership Conference on Civil and Human Rights—with Nancy Zirkin, Executive Vice President
Maulin Chris Herring, Trainer/Consultant, Public Safety
Sandy Holman, Director, The Culture CO-OP
Zachary Horn and Kent Halverson, Aptima, Inc.—with Rebecca Damari and Aubrey Logan-Terry, Georgetown University
Tanya Clay House, Director of Public Policy, Lawyers’ Committee for Civil Rights Under Law
Susan Hutson, Office of the Independent Police Monitor, New Orleans
Ingram Janaye, Executive Director, National Action Network
Melanie Jeffers
Megan Johnston, Executive Director, Northern Virginia Mediation Service
Nola Joyce, Deputy Commissioner, Philadelphia Police Department
Keith Kauffman, Captain, Hawthorne (California) Police Department
Gwendolyn Puryear Keita, Executive Director, American Psychological Association, Public Interest Directorate
Stanley Knee, Chief, Austin (Texas) Police Department
Laura Kunard, Senior Research Scientist, CNA Corporation
David Kurz, Chief, Durham (New Hampshire) Police Department
Deborah Lauter, Director of Civil Rights, Anti-Defamation League—with Michael Lieberman, Washington Counsel
Cynthia Lum and Christopher Koper, George Mason University, Center for Evidence-Based Crime Policy
Bruce Lumpkins
Edward Maguire, Professor of Justice, Law & Criminology, American University
Baron Marquis, Member, Riverside Church, New York
Travis Martinez, Lieutenant, Redlands (California) Police Department
Mike Masterson, Chief, Boise (Idaho) Police Department
Andrew Mazzara, Executive Director, International Law Enforcement Forum—with Colin Burrows QMP (U.K.), ILEF Advisory Board Chair
R. Paul McCauley, Past President, Academy of Criminal Justice Sciences
V. Michael McKenzie
Harvey McMurray, Chair, Department of Criminal Justice, North Carolina Central University
Pamela Meanes, President, National Bar Association
Doug Mellis, President, Massachusetts Chiefs of Police Association—with Brian Kyes, President, Massachusetts Major City Chiefs Association
Seth Miller, President, The Innocence Network
Charlene Moe, Program Coordinator, Center for Public Safety and Justice, Institute of Government and Public Affairs, University of Illinois
Marc Morial, CEO, National Urban League
Richard Myers, Chief, Newport News (Virginia) Police Department
Toye Nash, Sergeant, Phoenix Police Department
Rebecca Neri and Anthony Berryman — UCLA Improvement by Design Research Group
Chuck Noerenberg, President, National Alliance for Drug Endangered Children
Newell Normand, Sheriff, Jefferson Parish (Louisiana) Sheriff’s Office—submitted with Adrian Garcia, Sheriff, Harris County (Texas) Sheriff’s Office; David Mahoney, Sheriff, Dane County (Wisconsin) Sheriff’s Office; Anthony Normore, Ph.D., Criminal Justice Commission for Credible Leadership Development; and Mitch Javidi, Ph.D., International Academy of Public Safety
Gbadegesin Olubukola, St. Louis University
Patrice O’Neill, CEO/Executive Producer, Not In Our Town
Jim Palmer, Executive Director, Wisconsin Professional Police Association
Julie Parker, Media Relations Division Director, Prince George’s County (Maryland) Police Department
George Patterson, Associate Professor, City University of New York
David Perry, President, International Association of Campus Law Enforcement Administrators (IACLEA)
Megan Price, Director, Insight Conflict Resolution Program, School for Conflict Analysis and Resolution, George Mason University
Sue Quinn, Past President, National Association for Civilian Oversight of Law Enforcement
Tess Raser, Teacher, Brooklyn, New York
Daraksan Raja, Program Manager, Washington Peace Center
Sir Desmond Rea and Robin Masefield, Northern Ireland Policing Board
Nuno Rocha
Edwin Roessler, Jr., Chief, Fairfax County (Virginia) Police Department
Jeffrey Rojek, University of Texas at El Paso
Iris Roley, Black United Front of Cincinnati
Julia Ryan, Community Safety Initiative Director, LISC
Robert Samuels, Former Acting Director, DOJ Executive Office for Weed and Seed
Kami Chavis Simmons, Professor of Law and Director of the Criminal Justice Program, Wake Forest University School of Law
Russell Skiba, Professor and Director, Equity Project at Indiana University
Ronald Sloan, President, Association of State Criminal Investigative Agencies
Samuel Somers, Jr., Chief, Sacramento Police Department
Brett Stoudt, Morris Justice Project and Professor, John Jay College of Criminal Justice
“Think Tank Johnny”
Don Tijerina, President, Hispanic American Police Command Officers Association
Nicholas Turner, President and Director, Vera Institute of Justice
James Unnever, Professor of Criminology, University of South Florida
Javier Valdes, Executive Director, Make the Road New York
Kim Vansell, Director, National Center for Campus Public Safety
Nina Vinik, Program Director, Gun Violence Prevention, The Joyce Foundation
Vincent Warren, Executive Director, Center for Constitutional Rights
Barbara Weinstein, Associate Director, Religious Action Center of Reform Judaism
Jenny Yang, Chair, U.S. Equal Employment Opportunity Commission
Organizations

American Friends Service Committee
American Society of Criminology, Division of Policing, Ad Hoc Committee to the President’s Task Force on 21st Century Policing (Anthony Braga, Rod K. Bronson, Gary Cordner, Lorie Fridell, Matthew Hickman, Cynthia Lumm, Stephen D. Mastrofski, Jack McDevitt, Dennis P. Rosenbaum, Wesley G. Skogan, and William Terrill)
Brooklyn Defender Services
The Bronx Defenders
Center for Popular Democracy
Civil Rights Coalition on Police Reform
CNA Corporation (George Fachner, Michael D. White, James R. Coldren, Jr., and James K. Stewart)
Color of Change
Dignity in Schools Campaign
Ethics Bureau at Yale (Lawrence Fox, Supervising Lawyer)
Evangelical Lutheran Church in America
Harvard Kennedy School (John F. Kennedy School of Government)
Illinois Coalition for Immigrant and Refugee Rights
Immigrant Defense Project
Immigrant Defense Project
International Association for Human Values (IAHV) / Works of Wonder International
Latino Justice
Lawyers’ Committee for Civil Rights Under Law (including A. Phillip Randolph Institute, Black Youth Vote, Empowerment Movement, Hip Hop Caucus, Leadership Conference on Civil and Human Rights, Muslim Advocates, National Association for the Advancement of Colored People (NAACP), NAACP Legal Defense Fund, National Coalition on Black Civic Participation, National Council of Churches of Christ in the USA, PICO National Network, and Rainbow PUSH Coalition)
Local Initiatives Support Corporation (LISC)
Major County Sheriffs’ Association
Make the Road New York
National Action Network (NAAN)
National Association for Civilian Oversight of Law Enforcement
National Association of Counties
National Association of Police Organizations
National Association of Women Law Enforcement Executives
National Collaborative for Health Equity, Dellums Commission
National Day Laborer Organizing Network
National Immigration Law Center
National Fraternal Order of Police
National Organization of Black Law Enforcement Executives (NOBLE)
National Sheriffs’ Association
New Sanctuary Coalition of New York
Northern Manhattan Coalition for Immigrant Rights
Northwest Immigrant Rights Project
PICO National Network
Public Science Project
Santa Fe College and the Santa Fe College Police Department, Gainesville, Florida
Southern Poverty Law Center
Streetwise & Safe
Team Kids
Works of Wonder International
APPENDIX C. EXECUTIVE ORDER
13684 OF DECEMBER 18, 2014

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to identify the best means to provide an effective partnership between law enforcement and local communities that reduces crime and increases trust, it is hereby ordered as follows:

Section 1. Establishment. There is established a President’s Task Force on 21st Century Policing (Task Force).

Sec. 2. Membership. (a) The Task Force shall be composed of not more than eleven members appointed by the President. The members shall include distinguished individuals with relevant experience or subject-matter expertise in law enforcement, civil rights, and civil liberties.

(b) The President shall designate two members of the Task Force to serve as Co-Chairs.

Sec. 3. Mission. (a) The Task Force shall, consistent with applicable law, identify best practices and otherwise make recommendations to the President on how policing practices can promote effective crime reduction while building public trust.

(b) The Task Force shall be solely advisory and shall submit a report to the President by March 2, 2015.

Sec. 4. Administration. (a) The Task Force shall hold public meetings and engage with Federal, State, tribal, and local officials, technical advisors, and nongovernmental organizations, among others, as necessary to carry out its mission.

(b) The Director of the Office of Community Oriented Policing Services shall serve as Executive Director of the Task Force and shall, as directed by the Co-Chairs, convene regular meetings of the Task Force and supervise its work.

(c) In carrying out its mission, the Task Force shall be informed by, and shall strive to avoid duplicating, the efforts of other governmental entities.

(d) The Department of Justice shall provide administrative services, funds, facilities, staff, equipment, and other support services as may be necessary for the Task Force to carry out its mission to the extent permitted by law and subject to the availability of appropriations.

(e) Members of the Task Force shall serve without any additional compensation for their work on the Task Force, but shall be allowed travel expenses, including per diem, to the extent permitted by law for persons serving intermittently in the Government service (5 U.S.C.5701-5707).

Sec. 5. Termination. The Task Force shall terminate 30 days after the President requests a final report from the Task Force.

Sec. 6. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to a department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.
(b) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(c) Insofar as the Federal Advisory Committee Act, as amended (5 U.S.C. App.) (the “Act”) may apply to the Task Force, any functions of the President under the Act, except for those in section 6 of the Act, shall be performed by the Attorney General.

THE WHITE HOUSE,
December 18, 2014.
APPENDIX D. TASK FORCE MEMBERS’ BIOGRAPHIES

Co-Chairs

Charles Ramsey

Charles Ramsey is the commissioner of the Philadelphia Police Department (PPD), a position he has held since 2008. Since 2010, he has served as president of the Major Cities Chiefs Association and the Police Executive Research Forum. Commissioner Ramsey began his law enforcement career in 1968 as a cadet with the Chicago Police Department (CPD). Over the next 30 years, he held various positions with the CPD, including commander of the Narcotics Division, deputy chief of the Patrol Division, and deputy superintendent, a role he held from 1994 to 1998. In 1998, he was named chief of the Metropolitan Police Department of the District of Columbia (MPDC), where he served until early 2007. In 2007, Commissioner Ramsey served on the Independent Commission on Security Forces of Iraq, leading a review of the Iraqi Police Force. In addition to his current role at the PPD, he also serves as a member of the Homeland Security Advisory Council. Commissioner Ramsey received a BS and MS from Lewis University.

Laurie Robinson

Laurie Robinson is the Clarence J. Robinson Professor of Criminology, Law and Society at George Mason University, a position she has held since 2012. She served as assistant attorney general for the Office of Justice Programs (OJP) in the U.S. Department of Justice (DOJ) from 2009 to 2012. Prior to that, Ms. Robinson served as the Principal deputy assistant attorney general for OJP and acting assistant attorney general for OJP. Previously, she was a member of the Obama-Biden Transition Team. From 2003 to 2009, Ms. Robinson was the director of the Master of Science Program in Criminology at the University of Pennsylvania. From 1993 to 2000, she served her first term as assistant attorney general for OJP. Before joining DOJ, Ms. Robinson spent over 20 years with the American Bar Association, serving as assistant staff director of the Criminal Justice Section from 1972 to 1979, director of the Criminal Justice Section from 1979 to 1993, and director of the Professional Services Division from 1986 to 1993. She is a senior fellow at the George Mason University Center for Evidence-Based Crime Policy and serves as co-chair of the Research Advisory Committee for the International Association of Chiefs of Police. She also serves on the board of trustees of the Vera Institute of Justice. Ms. Robinson received a BA from Brown University.
Members

Cedric L. Alexander

Cedric L. Alexander is the deputy chief operating officer for Public Safety in DeKalb County, Georgia, a position he has held since late 2013. Dr. Alexander is also the national president of the National Organization of Black Law Enforcement Executives. In 2013, he served as chief of police for the DeKalb County Police Department. Prior to this, Dr. Alexander served as federal security director for the Transportation Security Administration (TSA) at Dallas/Fort Worth International Airport from 2007 to 2013. And from 2006 to 2007, he was deputy commissioner of the New York State Division of Criminal Justice Services. From 2005 to 2006, Dr. Alexander was chief of the Rochester (New York) Police Department (RPD), where he previously served as deputy chief of police from 2002 to 2005. Before joining RPD, Dr. Alexander was a faculty member in the Department of Psychiatry at the University of Rochester Medical Center from 1998 to 2002. He began his career as a deputy sheriff in Florida from 1977 to 1981, before joining the Miami-Dade Police Department, where he was as an officer and detective from 1981 to 1992. He received a BA and MS from St. Thomas University in Miami, Florida, and a PsyD from Wright State University.

Jose Lopez

Jose Lopez is currently the lead organizer at Make the Road New York (MRNY), a Brooklyn-based non-profit community organization focused on civil rights, education reform, and combating poverty. He became lead organizer of MRNY in 2013. Mr. Lopez began his career in 2000 as youth organizer with Make the Road by Walking, which later merged with the Latin American Integration Center to form MRNY in 2007. He continued to serve as youth organizer with MRNY until 2009 when he became senior organizer. Since 2011, Mr. Lopez has represented MRNY on the steering committee of Communities United for Police Reform, a New York City organization advocating for law enforcement reform. From 2001 to 2004, he was an active contributor to the Radio Rookies Project, an initiative of New York Public Radio. He received a BA from Hofstra University.

Tracey L. Meares

Tracey Meares is the Walton Hale Hamilton Professor of Law at Yale Law School, a position she has held since 2007. From 2009 to 2011, she also served as deputy dean of Yale Law School. Before joining the faculty at Yale, she served as a professor at the University of Chicago Law School from 1995 to 2007. She has served on the Committee on Law and Justice, a National Research Council Standing Committee of the National Academy of Sciences. She was appointed by Attorney General Eric Holder to serve on the inaugural U.S. Department of Justice, Office of Justice Programs Science Advisory Board. She also currently serves on the board of directors of the Joyce Foundation. Ms. Meares began her legal career as a law clerk for Judge Harlington Wood, Jr. of the U.S. Court of Appeals for the Seventh Circuit. She later served as a trial attorney in the Antitrust Division at the U.S. Department of Justice. Ms. Meares received a BS from the University of Illinois and a JD from the University of Chicago Law School.

Brittany N. Packnett

Brittany Packnett is currently executive director of Teach For America in St. Louis, Missouri, a position she has held since 2012. From 2010 to 2012, she was a director on the Government Affairs Team at Teach For America. Ms. Packnett was a legislative assistant for the U.S. House of Representatives from 2009 to 2010. From 2007 to 2009, she was a third grade teacher in Southeast Washington, D.C., as a member of the Teach For America Corps. Ms. Packnett has volunteered as executive director
Susan Lee Rahr
Susan Rahr is executive director of the Washington State Criminal Justice Training Commission, a position she has held since 2012. From 2005 to 2012, she served as the first female sheriff in King County, Washington. Ms. Rahr spent over 30 years as a law enforcement officer, beginning as a patrol officer and undercover narcotics officer. While serving with the King County Sheriff’s Office, she held various positions including serving as the commander of the Internal Investigations and Gang Units; commander of the Special Investigations Section; and police chief of Shoreline, Washington. Ms. Rahr received a BA from Washington State University. She has served as a member of the National Institute of Justice and Harvard Kennedy School Executive Session on Policing and Public Safety; president of the Washington State Association of Sheriffs and Police Chiefs, and an executive board member of the National Sheriffs’ Association.

Constance Rice
Constance Rice is a civil rights attorney and co-director of the Advancement Project, an organization she co-founded in 1999. In 2003, Ms. Rice was selected to lead the Blue Ribbon Ram-part Review Panel, which investigated the largest police corruption scandal in Los Angeles Police Department history. In 1991, Ms. Rice joined the NAACP Legal Defense and Educational Fund, and she became co-director of the Los Angeles office in 1996. She was previously an associate at Morrison & Foerster and began her legal career as a law clerk to Judge Damon J. Keith of the U.S. Court of Appeals for the Sixth Circuit. Ms. Rice received a BA from Harvard College and a JD from the New York University School of Law.

Sean Michael Smoot
Sean Smoot is currently director and chief counsel for the Police Benevolent & Protective Association of Illinois (PB&PA) and the Police Benevolent Labor Committee (PBLC), positions he has held since 2000. He began his career with PB&PA and PBLC as a staff attorney in 1995, before becoming chief counsel of both organizations in 1997. Since 2001, Mr. Smoot has served as the treasurer of the National Association of Police Organizations and has served on the Advisory Committee for the National Law Enforcement Officers’ Rights Center since 1996. From 2008 to 2009, he was a policy advisor to the Obama-Biden Transition Project on public safety and state and local police issues and was a member of the National Institute of Justice and Harvard Kennedy School of Government Executive Session on Policing and Public Safety. Mr. Smoot served as police commissioner of Leland Grove, Illinois, from 1998 to 2008. He received a BS from Illinois State University and a JD from Southern Illinois University School of Law.
Bryan Stevenson

Bryan Stevenson is founder and executive director of the Equal Justice Initiative (EJI), a private, non-profit organization headquartered in Montgomery, Alabama. In addition to directing the EJI since 1989, he is a clinical professor at New York University School of Law. He previously has served as a visiting professor of law at the University of Michigan School of Law. Mr. Stevenson has received the American Bar Association’s Wisdom Award for public service, the ACLU’s National Medal of Liberty, and the MacArthur Foundation “Genius” Award Prize. Mr. Stevenson received a BA from Eastern College (now Eastern University), a JD from Harvard Law School, and an MPP from the John F. Kennedy School of Government at Harvard University.

Roberto Villaseñor

Roberto Villaseñor is chief of police for the Tucson (Arizona) Police Department (TPD), a position he has held since 2009. He joined the TPD in 1980 and has served as officer, sergeant, lieutenant, and captain and as assistant chief from 2000 to 2009. Chief Villaseñor was named Officer of the Year for the TPD in 1996 and has been awarded the TPD Medal of Merit three times. He also received the TPD Medal of Distinguished Service. Chief Villaseñor is the incoming president of the Arizona Association of Chiefs of Police and a board member of the Police Executive Research Forum (PERF). He received a BS from Park University and a MEd from Northern Arizona University.
APPENDIX E. RECOMMENDATIONS AND ACTIONS

0.1 OVERARCHING RECOMMENDATION: The President should support and provide funding for the creation of a National Crime and Justice Task Force to review and evaluate all components of the criminal justice system for the purpose of making recommendations to the country on comprehensive criminal justice reform.

0.2 OVERARCHING RECOMMENDATION: The President should promote programs that take a comprehensive and inclusive look at community-based initiatives that address the core issues of poverty, education, health, and safety.

1.1 RECOMMENDATION: Law enforcement culture should embrace a guardian mindset to build public trust and legitimacy. Toward that end, police and sheriffs’ departments should adopt procedural justice as the guiding principle for internal and external policies and practices to guide their interactions with the citizens they serve.

1.2 RECOMMENDATION: Law enforcement agencies should acknowledge the role of policing in past and present injustice and discrimination and how it is a hurdle to the promotion of community trust.

1.2.1 ACTION ITEM: The U.S. Department of Justice should develop and disseminate case studies that provide examples where past injustices were publicly acknowledged by law enforcement agencies in a manner to help build community trust.

1.3 RECOMMENDATION: Law enforcement agencies should establish a culture of transparency and accountability in order to build public trust and legitimacy. This will help ensure decision making is understood and in accord with stated policy.

1.3.1 ACTION ITEM: To embrace a culture of transparency, law enforcement agencies should make all department policies available for public review and regularly post on the department’s website information about stops, summonses, arrests, reported crime, and other law enforcement data aggregated by demographics.

1.3.2 ACTION ITEM: When serious incidents occur, including those involving alleged police misconduct, agencies should communicate with citizens and the media swiftly, openly, and neutrally, respecting areas where the law requires confidentiality.

1.4 RECOMMENDATION: Law enforcement agencies should promote legitimacy internally within the organization by applying the principles of procedural justice.

1.4.1 ACTION ITEM: In order to achieve internal legitimacy, law enforcement agencies should involve employees in the process of developing policies and procedures.

1.4.2 ACTION ITEM: Law enforcement agency leadership should examine opportunities to incorporate procedural justice into the internal discipline process, placing
additional importance on values adherence rather than adherence to rules. Union leadership should be partners in this process.

1.5 **Recommendation:** Law enforcement agencies should proactively promote public trust by initiating positive nonenforcement activities to engage communities that typically have high rates of investigative and enforcement involvement with government agencies.

1.5.1 **Action Item:** In order to achieve external legitimacy, law enforcement agencies should involve the community in the process of developing and evaluating policies and procedures.

1.5.2 **Action Item:** Law enforcement agencies should institute residency incentive programs such as Resident Officer Programs.

1.5.3 **Action Item:** Law enforcement agencies should create opportunities in schools and communities for positive nonenforcement interactions with police. Agencies should also publicize the beneficial outcomes and images of positive, trust-building partnerships and initiatives.

1.5.4 **Action Item:** Use of physical control equipment and techniques against vulnerable populations—including children, elderly persons, pregnant women, people with physical and mental disabilities, limited English proficiency, and others—can undermine public trust and should be used as a last resort. Law enforcement agencies should carefully consider and review their policies towards these populations and adopt policies if none are in place.

1.6 **Recommendation:** Law enforcement agencies should consider the potential damage to public trust when implementing crime fighting strategies.

1.6.1 **Action Item:** Research conducted to evaluate the effectiveness of crime fighting strategies should specifically look at the potential for collateral damage of any given strategy on community trust and legitimacy.

1.7 **Recommendation:** Law enforcement agencies should track the level of trust in police by their communities just as they measure changes in crime. Annual community surveys, ideally standardized across jurisdictions and with accepted sampling protocols, can measure how policing in that community affects public trust.

1.7.1 **Action Item:** The Federal Government should develop survey tools and instructions for use of such a model to prevent local departments from incurring the expense and to allow for consistency across jurisdictions.

1.8 **Recommendation:** Law enforcement agencies should strive to create a workforce that contains a broad range of diversity including race, gender, language, life experience, and cultural background to improve understanding and effectiveness in dealing with all communities.

1.8.1 **Action Item:** The Federal Government should create a Law Enforcement Diversity Initiative designed to help communities diversify law enforcement departments to reflect the demographics of the community.
1.8.2 Action Item: The department overseeing this initiative should help localities learn best practices for recruitment, training, and outreach to improve the diversity as well as the cultural and linguistic responsiveness of law enforcement agencies.

1.8.3 Action Item: Successful law enforcement agencies should be highlighted and celebrated and those with less diversity should be offered technical assistance to facilitate change.

1.8.4 Action Item: Discretionary federal funding for law enforcement programs could be influenced by that department’s efforts to improve their diversity and cultural and linguistic responsiveness.

1.8.5 Action Item: Law enforcement agencies should be encouraged to explore more flexible staffing models.

1.9 Recommendation: Law enforcement agencies should build relationships based on trust with immigrant communities. This is central to overall public safety.

1.9.1 Action Item: Decouple federal immigration enforcement from routine local policing for civil enforcement and nonserious crime.

1.9.2 Action Item: Law enforcement agencies should ensure reasonable and equitable language access for all persons who have encounters with police or who enter the criminal justice system.

1.9.3 Action Item: The U.S. Department of Justice should not include civil immigration information in the FBI’s National Crime Information Center database.

2.1 Recommendation: Law enforcement agencies should collaborate with community members to develop policies and strategies in communities and neighborhoods disproportionately affected by crime for deploying resources that aim to reduce crime by improving relationships, greater community engagement, and cooperation.

2.1.1 Action Item: The Federal Government should incentivize this collaboration through a variety of programs that focus on public health, education, mental health, and other programs not traditionally part of the criminal justice system.

2.2 Recommendation: Law enforcement agencies should have comprehensive policies on the use of force that include training, investigations, prosecutions, data collection, and information sharing. These policies must be clear, concise, and openly available for public inspection.

2.2.1 Action Item: Law enforcement agency policies for training on use of force should emphasize de-escalation and alternatives to arrest or summons in situations where appropriate.

2.2.2 Action Item: These policies should also mandate external and independent criminal investigations in cases of police use of force resulting in death, officer-involved shootings resulting in injury or death, or in-custody deaths.
2.2.3 **Action Item:** The task force encourages policies that mandate the use of external and independent prosecutors in cases of police use of force resulting in death, officer-involved shootings resulting in injury or death, or in-custody deaths.

2.2.4 **Action Item:** Policies on use of force should also require agencies to collect, maintain, and report data to the Federal Government on all officer-involved shootings, whether fatal or nonfatal, as well as any in-custody death.

2.2.5 **Action Item:** Policies on use of force should clearly state what types of information will be released, when, and in what situation, to maintain transparency.

2.2.6 **Action Item:** Law enforcement agencies should establish a Serious Incident Review Board comprising sworn staff and community members to review cases involving officer-involved shootings and other serious incidents that have the potential to damage community trust or confidence in the agency. The purpose of this board should be to identify any administrative, supervisory, training, tactical, or policy issues that need to be addressed.

2.3 **Recommendation:** Law enforcement agencies are encouraged to implement nonpunitive peer review of critical incidents separate from criminal and administrative investigations.

2.4 **Recommendation:** Law enforcement agencies are encouraged to adopt identification procedures that implement scientifically supported practices that eliminate or minimize presenter bias or influence.

2.5 **Recommendation:** All federal, state, local, and tribal law enforcement agencies should report and make available to the public census data regarding the composition of their departments including race, gender, age, and other relevant demographic data.

2.5.1 **Action Item:** The Bureau of Justice Statistics should add additional demographic questions to the Law Enforcement Management and Administrative Statistics (LEMAS) survey in order to meet the intent of this recommendation.

2.6 **Recommendation:** Law enforcement agencies should be encouraged to collect, maintain, and analyze demographic data on all detentions (stops, frisks, searches, summons, and arrests). This data should be disaggregated by school and non-school contacts.

2.6.1 **Action Item:** The Federal Government could further incentivize universities and other organizations to partner with police departments to collect data and develop knowledge about analysis and benchmarks as well as to develop tools and templates that help departments manage data collection and analysis.

2.7 **Recommendation:** Law enforcement agencies should create policies and procedures for policing mass demonstrations that employ a continuum of managed tactical resources that are designed to minimize the appearance of a military operation and avoid using provocative tactics and equipment that undermine civilian trust.
2.7.1 Action Item: Law enforcement agency policies should address procedures for implementing a layered response to mass demonstrations that prioritize de-escalation and a guardian mindset.

2.7.2 Action Item: The Federal Government should create a mechanism for investigating complaints and issuing sanctions regarding the inappropriate use of equipment and tactics during mass demonstrations.

2.8 Recommendation: Some form of civilian oversight of law enforcement is important in order to strengthen trust with the community. Every community should define the appropriate form and structure of civilian oversight to meet the needs of that community.

2.8.1 Action Item: The U.S. Department of Justice, through its research arm, the National Institute of Justice (NIJ), should expand its research agenda to include civilian oversight.

2.8.2 Action Item: The U.S. Department of Justice’s Office of Community Oriented Policing Services (COPS Office) should provide technical assistance and collect best practices from existing civilian oversight efforts and be prepared to help cities create this structure, potentially with some matching grants and funding.

2.9 Recommendation: Law enforcement agencies and municipalities should refrain from practices requiring officers to issue a predetermined number of tickets, citations, arrests, or summonses, or to initiate investigative contacts with citizens for reasons not directly related to improving public safety, such as generating revenue.

2.10 Recommendation: Law enforcement officers should be required to seek consent before a search and explain that a person has the right to refuse consent when there is no warrant or probable cause. Furthermore, officers should ideally obtain written acknowledgement that they have sought consent to a search in these circumstances.

2.11 Recommendation: Law enforcement agencies should adopt policies requiring officers to identify themselves by their full name, rank, and command (as applicable) and provide that information in writing to individuals they have stopped. In addition, policies should require officers to state the reason for the stop and the reason for the search if one is conducted.

2.11.1 Action Item: One example of how to do this is for law enforcement officers to carry business cards containing their name, rank, command, and contact information that would enable individuals to offer suggestions or commendations or to file complaints with the appropriate individual, office, or board. These cards would be easily distributed in all encounters.

2.12 Recommendation: Law enforcement agencies should establish search and seizure procedures related to LGBTQ and transgender populations and adopt as policy the recommendation from the President’s Advisory Council on HIV/AIDS (PACHA) to cease using the possession of condoms as the sole evidence of vice.
2.13 Recommendation: Law enforcement agencies should adopt and enforce policies prohibiting profiling and discrimination based on race, ethnicity, national origin, religion, age, gender, gender identity/expression, sexual orientation, immigration status, disability, housing status, occupation, or language fluency.

2.13.1 Action Item: The Bureau of Justice Statistics should add questions concerning sexual harassment of and misconduct toward community members, and in particular LGBTQ and gender-nonconforming people, by law enforcement officers to the Police Public Contact Survey.

2.13.2 Action Item: The Centers for Disease Control should add questions concerning sexual harassment of and misconduct toward community members, and in particular LGBTQ and gender-nonconforming people, by law enforcement officers to the National Intimate Partner and Sexual Violence Survey.

2.13.3 Action Item: The U.S. Department of Justice should promote and disseminate guidance to federal, state, and local law enforcement agencies on documenting, preventing, and addressing sexual harassment and misconduct by local law enforcement agents, consistent with the recommendations of the International Association of Chiefs of Police.

2.14 Recommendation: The U.S. Department of Justice, through the Office of Community Oriented Policing Services and Office of Justice Programs, should provide technical assistance and incentive funding to jurisdictions with small police agencies that take steps towards shared services, regional training, and consolidation.

2.15 Recommendation: The U.S. Department of Justice, through the Office of Community Oriented Policing Services, should partner with the International Association of Directors of Law Enforcement Standards and Training (IADLEST) to expand its National Decertification Index to serve as the National Register of Decertified Officers with the goal of covering all agencies within the United States and its territories.

3.1 Recommendation: The U.S. Department of Justice, in consultation with the law enforcement field, should broaden the efforts of the National Institute of Justice to establish national standards for the research and development of new technology. These standards should also address compatibility and interoperability needs both within law enforcement agencies and across agencies and jurisdictions and maintain civil and human rights protections.

3.1.1 Action Item: The Federal Government should support the development and delivery of training to help law enforcement agencies learn, acquire, and implement technology tools and tactics that are consistent with the best practices of 21st century policing.

3.1.2 Action Item: As part of national standards, the issue of technology’s impact on privacy concerns should be addressed in accordance with protections provided by constitutional law.

3.1.3 Action Item: Law enforcement agencies should deploy smart technology that is designed to prevent the tampering with or manipulating of evidence in violation of policy.
3.2 Recommendation:
The implementation of appropriate technology by law enforcement agencies should be designed considering local needs and aligned with national standards.

3.2.1 Action Item: Law enforcement agencies should encourage public engagement and collaboration, including the use of community advisory bodies, when developing a policy for the use of a new technology.

3.2.2 Action Item: Law enforcement agencies should include an evaluation or assessment process to gauge the effectiveness of any new technology, soliciting input from all levels of the agency, from line officer to leadership, as well as assessment from members of the community.

3.2.3 Action Item: Law enforcement agencies should adopt the use of new technologies that will help them better serve people with special needs or disabilities.

3.3 Recommendation: The U.S. Department of Justice should develop best practices that can be adopted by state legislative bodies to govern the acquisition, use, retention, and dissemination of auditory, visual, and biometric data by law enforcement.

3.3.1 Action Item: As part of the process for developing best practices, the U.S. Department of Justice should consult with civil rights and civil liberties organizations, as well as law enforcement research groups and other experts, concerning the constitutional issues that can arise as a result of the use of new technologies.

3.3.2 Action Item: The U.S. Department of Justice should create toolkits for the most effective and constitutional use of multiple forms of innovative technology that will provide state, local, and tribal law enforcement agencies with a one-stop clearinghouse of information and resources.

3.3.3 Action Item: Law enforcement agencies should review and consider the Bureau of Justice Assistance’s (BJA) Body Worn Camera Toolkit to assist in implementing BWCs.

3.4 Recommendation: Federal, state, local, and tribal legislative bodies should be encouraged to update public record laws.

3.5 Recommendation: Law enforcement agencies should adopt model policies and best practices for technology-based community engagement that increases community trust and access.

3.6 Recommendation: The Federal Government should support the development of new “less than lethal” technology to help control combative suspects.

3.6.1 Action Item: Relevant federal agencies, including the U.S. Departments of Defense and Justice, should expand their efforts to study the development and use of new less than lethal technologies and evaluate their impact on public safety, reducing lethal violence against citizens, constitutionality, and officer safety.

3.7 Recommendation: The Federal Government should make the development and building of segregated radio spectrum
and increased bandwidth by FirstNet for exclusive use by local, state, tribal, and federal public safety agencies a top priority.

4.1 Recommendation: Law enforcement agencies should develop and adopt policies and strategies that reinforce the importance of community engagement in managing public safety.

4.1.1 Action Item: Law enforcement agencies should consider adopting preferences for seeking “least harm” resolutions, such as diversion programs or warnings and citations in lieu of arrest for minor infractions.

4.2 Recommendation: Community policing should be infused throughout the culture and organizational structure of law enforcement agencies.

4.2.1 Action Item: Law enforcement agencies should evaluate officers on their efforts to engage members of the community and the partnerships they build. Making this part of the performance evaluation process places an increased value on developing partnerships.

4.2.2 Action Item: Law enforcement agencies should evaluate their patrol deployment practices to allow sufficient time for patrol officers to participate in problem solving and community engagement activities.

4.2.3 Action Item: The U.S. Department of Justice and other public and private entities should support research into the factors that have led to dramatic successes in crime reduction in some communities through the infusion of non-discriminatory policing and to determine replicable factors that could be used to guide law enforcement agencies in other communities.

4.3 Recommendation: Law enforcement agencies should engage in multidisciplinary, community team approaches for planning, implementing, and responding to crisis situations with complex causal factors.

4.3.1 Action Item: The U.S. Department of Justice should collaborate with others to develop and disseminate baseline models of this crisis intervention team approach that can be adapted to local contexts.

4.3.2 Action Item: Communities should look to involve peer support counselors as part of multidisciplinary teams when appropriate. Persons who have experienced the same trauma can provide both insight to the first responders and immediate support to individuals in crisis.

4.3.3 Action Item: Communities should be encouraged to evaluate the efficacy of these crisis intervention team approaches and hold agency leaders accountable for outcomes.

4.4 Recommendation: Communities should support a culture and practice of policing that reflects the values of protection and promotion of the dignity of all, especially the most vulnerable.

4.4.1 Action Item: Because offensive or harsh language can escalate a minor situation, law enforcement agencies should underscore the importance of language used and adopt policies directing officers to speak to individuals with respect.
4.4.2 **Action Item:** Law enforcement agencies should develop programs that create opportunities for patrol officers to regularly interact with neighborhood residents, faith leaders, and business leaders.

4.5 **Recommendation:** Community policing emphasizes working with neighborhood residents to co-produce public safety. Law enforcement agencies should work with community residents to identify problems and collaborate on implementing solutions that produce meaningful results for the community.

4.5.1 **Action Item:** Law enforcement agencies should schedule regular forums and meetings where all community members can interact with police and help influence programs and policy.

4.5.2 **Action Item:** Law enforcement agencies should engage youth and communities in joint training with law enforcement, citizen academies, ride-alongs, problem solving teams, community action teams, and quality of life teams.

4.5.3 **Action Item:** Law enforcement agencies should establish formal community/citizen advisory committees to assist in developing crime prevention strategies and agency policies as well as provide input on policing issues.

4.5.4 **Action Item:** Law enforcement agencies should adopt community policing strategies that support and work in concert with economic development efforts within communities.

4.6 **Recommendation:** Communities should adopt policies and programs that address the needs of children and youth most at risk for crime or violence and reduce aggressive law enforcement tactics that stigmatize youth and marginalize their participation in schools and communities.

4.6.1 **Action Item:** Education and criminal justice agencies at all levels of government should work together to reform policies and procedures that push children into the juvenile justice system.

4.6.2 **Action Item:** In order to keep youth in school and to keep them from criminal and violent behavior, law enforcement agencies should work with schools to encourage the creation of alternatives to student suspensions and expulsion through restorative justice, diversion, counseling, and family interventions.

4.6.3 **Action Item:** Law enforcement agencies should work with schools to encourage the use of alternative strategies that involve youth in decision making, such as restorative justice, youth courts, and peer interventions.

4.6.4 **Action Item:** Law enforcement agencies should work with schools to adopt an instructional approach to discipline that uses interventions or disciplinary consequences to help students develop new behavior skills and positive strategies to avoid conflict, redirect energy, and refocus on learning.

4.6.5 **Action Item:** Law enforcement agencies should work with schools to develop and monitor school discipline policies with input and collaboration from school personnel, students,
families, and community members. These policies should prohibit the use of corporal punishment and electronic control devices.

4.6.6 Action Item: Law enforcement agencies should work with schools to create a continuum of developmentally appropriate and proportional consequences for addressing ongoing and escalating student misbehavior after all appropriate interventions have been attempted.

4.6.7 Action Item: Law enforcement agencies should work with communities to play a role in programs and procedures to reintegrate juveniles back into their communities as they leave the juvenile justice system.

4.6.8 Action Item: Law enforcement agencies and schools should establish memoranda of agreement for the placement of School Resource Officers that limit police involvement in student discipline.

4.6.9 Action Item: The Federal Government should assess and evaluate zero tolerance strategies and examine the role of reasonable discretion when dealing with adolescents in consideration of their stages of maturation or development.

4.7 Recommendation: Communities need to affirm and recognize the voices of youth in community decision making, facilitate youth-led research and problem solving, and develop and fund youth leadership training and life skills through positive youth/police collaboration and interactions.

4.7.1 Action Item: Communities and law enforcement agencies should restore and build trust between youth and police by creating programs and projects for positive, consistent, and persistent interaction between youth and police.

4.7.2 Action Item: Communities should develop community- and school-based evidence-based programs that mitigate punitive and authoritarian solutions to teen problems.

5.1 Recommendation: The Federal Government should support the development of partnerships with training facilities across the country to promote consistent standards for high quality training and establish training innovation hubs.

5.1.1 Action Item: The training innovation hubs should develop replicable model programs that use adult-based learning and scenario-based training in a training environment modeled less like boot camp. Through these programs the hubs would influence nationwide curricula, as well as instructional methodology.

5.1.2 Action Item: The training innovation hubs should establish partnerships with academic institutions to develop rigorous training practices, evaluation, and the development of curricula based on evidence-based practices.

5.1.3 Action Item: The Department of Justice should build a stronger relationship with the International Association of Directors of Law Enforcement (IADLEST) in order to leverage their network with state boards and commissions of Peace Officer Standards and Training (POST).
5.2 Recommendation: Law enforcement agencies should engage community members in the training process.

5.2.1 Action Item: The U.S. Department of Justice should conduct research to develop and disseminate a toolkit on how law enforcement agencies and training programs can integrate community members into this training process.

5.3 Recommendation: Law enforcement agencies should provide leadership training to all personnel throughout their careers.

5.3.1 Action Item: Recognizing that strong, capable leadership is required to create cultural transformation, the U.S. Department of Justice should invest in developing learning goals and model curricula/training for each level of leadership.

5.3.2 Action Item: The Federal Government should encourage and support partnerships between law enforcement and academic institutions to support a culture that values ongoing education and the integration of current research into the development of training, policies, and practices.

5.3.3 Action Item: The U.S. Department of Justice should support and encourage cross-discipline leadership training.

5.4 Recommendation: The U.S. Department of Justice should develop, in partnership with institutions of higher education, a national postgraduate institute of policing for senior executives with a standardized curriculum preparing them to lead agencies in the 21st century.

5.5 Recommendation: The U.S. Department of Justice should instruct the Federal Bureau of Investigation to modify the curriculum of the National Academy at Quantico to include prominent coverage of the topical areas addressed in this report. In addition, the COPS Office and the Office of Justice Programs should work with law enforcement professional organizations to encourage modification of their curricula in a similar fashion.

5.6 Recommendation: POSTs should make Crisis Intervention Training (CIT) a part of both basic recruit and in-service officer training.

5.6.1 Action Item: Because of the importance of this issue, Congress should appropriate funds to help support law enforcement crisis intervention training.

5.7 Recommendation: POSTs should ensure that basic officer training includes lessons to improve social interaction as well as tactical skills.

5.8 Recommendation: POSTs should ensure that basic recruit and in-service officer training include curriculum on the disease of addiction.

5.9 Recommendation: POSTs should ensure both basic recruit and in-service training incorporates content around recognizing and confronting implicit bias and cultural responsiveness.

5.9.1 Action Item: Law enforcement agencies should implement ongoing, top down training for all officers in cultural diversity and
related topics that can build trust and legitimacy in diverse communities. This should be accomplished with the assistance of advocacy groups that represent the viewpoints of communities that have traditionally had adversarial relationships with law enforcement.

5.9.2 Action Item: Law enforcement agencies should implement training for officers that covers policies for interactions with the LGBTQ population, including issues such as determining gender identity for arrest placement, the Muslim, Arab, and South Asian communities, and immigrant or non-English speaking groups, as well as reinforcing policies for the prevention of sexual misconduct and harassment.

5.10 Recommendation: POSTs should require both basic recruit and in-service training on policing in a democratic society.

5.11 Recommendation: The Federal Government, as well as state and local agencies, should encourage and incentivize higher education for law enforcement officers.

5.11.1 Action Item: The Federal Government should create a loan repayment and forgiveness incentive program specifically for policing.

5.12 Recommendation: The Federal Government should support research into the development of technology that enhances scenario-based training, social interaction skills, and enables the dissemination of interactive distance learning for law enforcement.

5.13 Recommendation: The U.S. Department of Justice should support the development and implementation of improved Field Training Officer programs.

5.13.1 Action Item: The U.S. Department of Justice should support the development of broad Field Training Program standards and training strategies that address changing police culture and organizational procedural justice issues that agencies can adopt and customize to local needs.

5.13.2 Action Item: The U.S. Department of Justice should provide funding to incentivize agencies to update their Field Training Programs in accordance with the new standards.

6.1 Recommendation: The U.S. Department of Justice should enhance and further promote its multi-faceted officer safety and wellness initiative.

6.1.1 Action Item: Congress should establish and fund a national “Blue Alert” warning system.

6.1.2 Action Item: The U.S. Department of Justice, in partnership with the U.S. Department of Health and Human Services, should establish a task force to study mental health issues unique to officers and recommend tailored treatments.

6.1.3 Action Item: The Federal Government should support the continuing research into the efficacy of an annual mental health check for officers, as well as fitness, resilience, and nutrition.
6.1.4 Action Item: Pension plans should recognize fitness for duty examinations as definitive evidence of valid duty or non-duty related disability.

6.1.5 Action Item: Public Safety Officer Benefits (PSOB) should be provided to survivors of officers killed while working, regardless of whether the officer used safety equipment (seatbelt or anti-ballistic vest) or if officer death was the result of suicide attributed to a current diagnosis of duty-related mental illness, including but not limited to post-traumatic stress disorder (PTSD).

6.2 Recommendation: Law enforcement agencies should promote safety and wellness at every level of the organization.

6.2.1 Action Item: Though the Federal Government can support many of the programs and best practices identified by the U.S. Department of Justice initiative described in recommendation 6.1, the ultimate responsibility lies with each agency.

6.3 Recommendation: The U.S. Department of Justice should encourage and assist departments in the implementation of scientifically supported shift lengths by law enforcement.

6.3.1 Action Item: The U.S. Department of Justice should fund additional research into the efficacy of limiting the total number of hours an officer should work within a 24–48-hour period, including special findings on the maximum number of hours an officer should work in a high risk or high stress environment (e.g., public demonstrations or emergency situations).

6.4 Recommendation: Every law enforcement officer should be provided with individual tactical first aid kits and training as well as anti-ballistic vests.

6.4.1 Action Item: Congress should authorize funding for the distribution of law enforcement individual tactical first aid kits.

6.4.2 Action Item: Congress should reauthorize and expand the Bulletproof Vest Partnership (BVP) program.

6.5 Recommendation: The U.S. Department of Justice should expand efforts to collect and analyze data not only on officer deaths but also on injuries and “near misses.”

6.6 Recommendation: Law enforcement agencies should adopt policies that require officers to wear seat belts and bullet-proof vests and provide training to raise awareness of the consequences of failure to do so.

6.7 Recommendation: Congress should develop and enact peer review error management legislation.

6.8 Recommendation: The U.S. Department of Transportation should provide technical assistance opportunities for departments to explore the use of vehicles equipped with vehicle collision prevention “smart car” technology that will reduce the number of accidents.
7.1 **Recommendation:** The President should direct all federal law enforcement agencies to review the recommendations made by the Task Force on 21st Century Policing and, to the extent practicable, to adopt those that can be implemented at the federal level.

7.2 **Recommendation:** The U.S. Department of Justice should explore public-private partnership opportunities, starting by convening a meeting with local, regional, and national foundations to discuss the proposals for reform described in this report and seeking their engagement and support in advancing implementation of these recommendations.

7.3 **Recommendation:** The U.S. Department of Justice should charge its Office of Community Oriented Policing Services (COPS Office) with assisting the law enforcement field in addressing current and future challenges.

For recommendation 7.3, the COPS Office should consider taking actions including but not limited to the following:

- Create a National Policing Practices and Accountability Division within the COPS Office.
- Establish national benchmarks and best practices for federal, state, local, and tribal police departments.
- Provide technical assistance and funding to national, state, local, and tribal accreditation bodies that evaluate policing practices.
- Recommend additional benchmarks and best practices for state training and standards boards.
- Provide technical assistance and funding to state training boards to help them meet national benchmarks and best practices in training methodologies and content.
- Prioritize grant funding to departments meeting benchmarks.
- Support departments through an expansion of the COPS Office Collaborative Reform Initiative.
- Collaborate with universities, the Office of Justice Programs and its bureaus (Bureau of Justice Assistance [BJA], Bureau of Justice Statistics [BJS], National Institute of Justice [NIJ], and Office of Juvenile Justice and Delinquency Prevention [OJJDP]), and others to review research and literature in order to inform law enforcement agencies about evidence-based practices and to identify areas of police operations where additional research is needed.
- Collaborate with the BJS to establish a central repository for data concerning police use of force resulting in death, as well as in-custody deaths, and disseminate this data for use by both community and police; provide local agencies with technical assistance and a template to conduct local citizen satisfaction surveys;
• Compile annual citizen satisfaction surveys based on the submission of voluntary local surveys, develop a national level survey as well as surveys for use by local agencies and by small geographic units, and develop questions to be added to the National Crime Victimization Survey relating to citizen satisfaction with police agencies and public trust.

• Collaborate with the BJS and others to develop a template of broader indicators of performance for police departments beyond crime rates alone that could comprise a Uniform Justice Report.

• Collaborate with the NIJ and the BJS to publish an annual report on the “State of Policing” in the United States.

• Provide support to national police leadership associations and national rank and file organizations to encourage them to implement task force recommendations.

• Work with the U.S. Department of Homeland Security to ensure that community policing tactics in state, local, and tribal law enforcement agencies are incorporated into their role in homeland security.
“When any part of the American family does not feel like it is being treated fairly, that’s a problem for all of us. It means that we are not as strong as a country as we can be. And when applied to the criminal justice system, it means we’re not as effective in fighting crime as we could be.”

—President Barack Obama

These remarks underpin the mission of the President’s Task Force on 21st Century Policing: to identify ways to build trust between citizens and their law enforcement officers so that all components of a community treat one another fairly and justly and are invested in maintaining public safety in an atmosphere of mutual respect.
The White House
Office of the Press Secretary

For Immediate Release
December 18, 2014

Fact Sheet: Task Force on 21st Century Policing

Today the President will sign an Executive Order to create the Task Force on 21st Century Policing and announce its members. The Task Force is part of the Administration’s efforts to strengthen community policing and strengthen trust among law enforcement officers and the communities they serve. The Task Force will be chaired by Philadelphia Police Commissioner Charles H. Ramsey, who also serves as President of the Major Cities Chiefs Police Association, and Laurie Robinson, professor of Criminology, Law and Society at George Mason University and former Assistant Attorney General for DOJ’s Office of Justice Programs.

The Task Force will include law enforcement representatives, community leaders, academics, and youth leaders. Ron Davis, Director of DOJ’s Community Oriented Policing Services (COPS) Office will serve as the Executive Director of the Task Force under the direction of the co-chairs. The Task Force will examine, among other issues, how to strengthen public trust and foster strong relationships between local law enforcement and the communities that they protect, while also promoting effective crime reduction. The Executive Order directs the Task Force to prepare a report and recommendations to be presented to the President. An initial report will be due to the President in March.

The taskforce will engage with Federal, State, tribal, local officials, technical advisors, young leaders, and nongovernmental organizations through meetings and 21st century technology to provide a transparent process to engage with the public. The Task Force will convene listening sessions where they will hear testimony, including proposed recommendations for consideration, from invited witnesses and also receive comments and questions from the public. The first session will be held in Washington D.C. in mid-January. Subsequent listening sessions and additional outreach details, including the online public comment process, is forthcoming.

Recent events in Ferguson, Staten Island, Cleveland, and around the country have highlighted the importance of strong, collaborative relationships between local police and the communities they protect. As the nation has observed, trust between law enforcement agencies and the people they protect and serve is essential to the stability of our communities, the integrity of our criminal justice system, and the safe and effective delivery of policing services.
Task Force members include:

Charles Ramsey, Appointee for Member and Co-Chair, President’s Task Force on 21st Century Policing

Charles Ramsey is the Commissioner of the Philadelphia Police Department (PPD), a position he has held since 2008. Since 2010, he has served as President of the Major Cities Chiefs Association and the Police Executive Research Forum. Commissioner Ramsey began his law enforcement career in 1968 as a cadet with the Chicago Police Department (CPD). Over the next thirty years, he held various positions with CPD, including Commander of the Narcotics Division, Deputy Chief of the Patrol Division, and Deputy Superintendent, a role he held from 1994 to 1998. In 1998, he was named Chief of the Metropolitan Police Department of the District of Columbia (MPDC), where he served until early 2007. In 2007, Commissioner Ramsey served on the Independent Commission on Security Forces of Iraq, leading a review of the Iraqi Police Force. In addition to his current role at PPD, he also serves as a member of the Homeland Security Advisory Council. Commissioner Ramsey received a B.S. and M.S. from Lewis University.

Laurie Robinson, Appointee for Member and Co-Chair, President’s Task Force on 21st Century Policing

Laurie Robinson is the Clarence J. Robinson Professor of Criminology, Law and Society at George Mason University, a position she has held since 2012. She served as Assistant Attorney General for the Office of Justice Programs (OJP) in the U.S. Department of Justice from 2009 to 2012. Prior to that, Ms. Robinson served as the Principal Deputy Assistant Attorney General for OJP and Acting Assistant Attorney General for OJP. Previously, she was a member of the Obama-Biden Transition Team. From 2003 to 2009, Ms. Robinson was the Director of the Master of Science Program in Criminology at the University of Pennsylvania. From 1993 to 2000, she served her first term as the Assistant Attorney General for OJP. Before joining DOJ, Ms. Robinson spent over twenty years with the American Bar Association, serving as Assistant Staff Director of the Criminal Justice Section from 1972 to 1979, Director of their Criminal Justice Section from 1979 to 1993, and as Director of the Professional Services Division from 1986 to 1993. She is a Senior Fellow at the George Mason University Center for Evidence-Based Crime Policy, and serves as co-chair of the Research Advisory Committee for the International Association of Chiefs of Police. She also serves on the Board of Trustees of the Vera Institute of Justice. Ms. Robinson received a B.A. from Brown University.

Jose Lopez, Appointee for Member, President’s Task Force on 21st Century Policing

Jose Lopez is currently the Lead Organizer at Make the Road New York (MRNY), a Brooklyn-based non-profit community organization focused on civil rights, education reform, and combating poverty. He became Lead Organizer of MRNY in 2013. Mr. Lopez began his career in 2000 as Youth Organizer with Make the Road by Walking, which later merged with the Latin American Integration Center to form MRNY in 2007. He continued to serve as Youth Organizer with MRNY until 2009, when he became Senior Organizer. Since 2011, Mr. Lopez has represented MRNY on the steering
committee of Communities United for Police Reform, a New York City organization advocating for law enforcement reform. From 2001 to 2004, he was an active contributor to the Radio Rookies Project, an initiative of New York Public Radio. He received a B.A. from Hofstra University.

**Bryan Stevenson, Appointee for Member, President’s Task Force on 21st Century Policing**

Bryan Stevenson is Founder and Executive Director of the Equal Justice Initiative (EJI), a private, non-profit organization headquartered in Montgomery, Alabama. In addition to directing the EJI since 1989, he is a Clinical Professor at New York University School of Law. He previously has served as a visiting professor of law at the University of Michigan School of Law. Mr. Stevenson has received the American Bar Association's Wisdom Award for public service, the ACLU's National Medal of Liberty, and the MacArthur Foundation "Genius" Award Prize. Mr. Stevenson received a B.A. from Eastern College (now Eastern University), a J.D. from Harvard Law School, and an M.P.P. from the John F. Kennedy School of Government at Harvard University.

**Brittany Packnett, Appointee for Member, President’s Task Force on 21st Century Policing**

Brittany Packnett is currently Executive Director of Teach For America in St. Louis, Missouri, a position she has held since 2012. From 2010 to 2012, she was a director on the Government Affairs Team at Teach for America. Ms. Packnett was a Legislative Assistant for the United States House of Representatives from 2009 to 2010. From 2007 to 2009, she was a third grade teacher in Southeast Washington, D.C., as a member of the Teach For America Corps. Ms. Packnett has volunteered as Executive Director of Dream Girls DMV, a mentoring program for young girls, and was the founding co-chair of The Collective-DC, a regional organization for Teach For America alumni of color. She currently serves on the boards of New City School, the COCA Associate Board, the Urban League of Metro St. Louis Education Committee, and the John Burroughs School Board Diversity Committee. Ms. Packnett received a B.A. from Washington University in St. Louis and an M.A. from American University.

**Susan Rahr, Appointee for Member, President’s Task Force on 21st Century Policing**

Susan Rahr is Executive Director of the Washington State Criminal Justice Training Commission, a position she has held since 2012. From 2005 to 2012, she served as the first female Sheriff in King County, Washington. Ms. Rahr spent over thirty years as a law enforcement officer, beginning as a patrol officer and undercover narcotics officer. While serving with the King County Sheriff’s Office, she held various positions including serving as the commander of the Internal Investigations and Gang Units, commander of the Special Investigations Section, and Police Chief of Shoreline, Washington. Ms. Rahr received a B.A. from Washington State University.

**Tracey Meares, Appointee for Member, President’s Task Force on 21st Century Policing**

Tracey Meares is the Walton Hale Hamilton Professor of Law at Yale Law School, a position she has held since 2007. From 2009 to 2011, she also served as Deputy Dean of Yale Law School. Before joining the faculty as Yale, she served as a professor at The University of Chicago Law School from 1995 to 2007. She has served on the Committee on Law and Justice, a National Research Council Standing Committee of the National Academy of Sciences. She was appointed by
Attorney General Holder to serve on the inaugural Department of Justice Office of Justice Programs Science Advisory Board. She also currently serves on the Board of Directors of the Joyce Foundation. Ms. Meares began her legal career as a law clerk for Judge Harlington Wood, Jr. of the U.S. Court of Appeals for the Seventh Circuit. She later served as a trial attorney in the Antitrust Division at the Department of Justice. Ms. Meares received a B.S. from the University of Illinois and a J.D. from The University of Chicago Law School.

Constance Rice, Appointee for Member, President’s Task Force on 21st Century Policing

Constance Rice is a civil rights attorney and Co-Director of the Advancement Project, an organization she co-founded in 1999. In 2003, Ms. Rice was selected to lead the Blue Ribbon Rampart Review Panel, which investigated the largest police corruption scandal in Los Angeles Police Department history. In 1991, Ms. Rice joined the NAACP Legal Defense and Educational Fund, and in 1996, she became Co-Director of the Los Angeles office. She was previously an associate at Morrison & Foerster, and began her legal career as a law clerk to Judge Damon J. Keith of the United States Court of Appeals for the Sixth Circuit. Ms. Rice received a B.A. from Harvard College and a J.D. from New York University School of Law.

Roberto Villaseñor, Appointee for Member, President’s Task Force on 21st Century Policing

Roberto Villaseñor is Chief of Police for the Tucson Police Department (the TPD), a position he has held since 2009. He joined the TPD in 1980, and has served as Officer, Sergeant, Lieutenant, Captain, and as Assistant Chief from 2000 to 2009. Chief Villaseñor was named Officer of the Year for the TPD in 1996, and has been awarded the TPD Medal of Merit three times. He also received the TPD Medal of Distinguished Service. Chief Villaseñor is the incoming President of the Arizona Association of Chiefs of Police and a Board Member of the Police Executive Research Forum (PERF). He received a B.S. from Park University and an M.Ed. from Northern Arizona University.

Sean Smoot, Appointee for Member, President’s Task Force on 21st Century Policing

Sean Smoot is currently Director and Chief Counsel for the Police Benevolent & Protective Association of Illinois (PB&PA) and the Police Benevolent Labor Committee (PBLC), positions he has held since 2000. He began his career with PB&PA and PBLC as a Staff Attorney in 1995, before becoming Chief Counsel of both organizations in 1997. Since 2001, Mr. Smoot has served as the Treasurer of the National Association of Police Organizations, and has served on the Advisory Committee for the National Law Enforcement Officers’ Rights Center since 1996. From 2008 to 2009, he was a policy advisor to the Obama-Biden Transition Project on public safety and state and local police issues, and was a Member of the National Institute of Justice and Harvard Kennedy School of Government Executive Session on Policing and Public Safety from 2008 to 2011. Mr. Smoot served as Police Commissioner of Leland Grove, Illinois from 1998 to 2008. He received a B.S from Illinois State University and a J.D. from Southern Illinois University School of Law.

Cedric L. Alexander, Appointee for Member, President’s Task Force on 21st Century Policing

Cedric L. Alexander is the Deputy Chief Operating Officer for Public Safety in DeKalb County,
Georgia, a position he has held since late 2013. Dr. Alexander is also the National President of the National Organization of Black Law Enforcement Executives. In 2013, he served as Chief of Police for the DeKalb County Police Department. Prior to this, Dr. Alexander served as Federal Security Director for the Transportation Security Administration (TSA) at Dallas/Fort Worth International Airport from 2007 to 2013, and from 2006 to 2007, he was Deputy Commissioner of the New York State Division of Criminal Justice Services. From 2005 to 2006, Dr. Alexander was Chief of the Rochester Police Department (RPD) in Rochester, New York, where he previously served as Deputy Chief of Police from 2002 to 2005. Before joining RPD, Dr. Alexander was a faculty member in the Department of Psychiatry at the University of Rochester Medical Center from 1998 to 2002. He began his career as a Deputy Sheriff in Florida from 1977 to 1981, before joining the Miami-Dade Police Department, where he was as an Officer and Detective from 1981 to 1992. He received a B.A. and M.S. from St. Thomas University in Miami, Florida, and a Psy.D. from Wright State University.
Executive Order 13684 of December 18, 2014

Establishment of the President’s Task Force on 21st Century Policing

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to identify the best means to provide an effective partnership between law enforcement and local communities that reduces crime and increases trust, it is hereby ordered as follows:

Section 1. Establishment. There is established a President’s Task Force on 21st Century Policing (Task Force).

Sec. 2. Membership. (a) The Task Force shall be composed of not more than eleven members appointed by the President. The members shall include distinguished individuals with relevant experience or subject-matter expertise in law enforcement, civil rights, and civil liberties.

(b) The President shall designate two members of the Task Force to serve as Co-Chairs.

Sec. 3. Mission. (a) The Task Force shall, consistent with applicable law, identify best practices and otherwise make recommendations to the President on how policing practices can promote effective crime reduction while building public trust.

(b) The Task Force shall be solely advisory and shall submit a report to the President by March 2, 2015.

Sec. 4. Administration. (a) The Task Force shall hold public meetings and engage with Federal, State, tribal, and local officials, technical advisors, and nongovernmental organizations, among others, as necessary to carry out its mission.

(b) The Director of the Office of Community Oriented Policing Services shall serve as Executive Director of the Task Force and shall, as directed by the Co-Chairs, convene regular meetings of the Task Force and supervise its work.

(c) In carrying out its mission, the Task Force shall be informed by, and shall strive to avoid duplicating, the efforts of other governmental entities.

(d) The Department of Justice shall provide administrative services, funds, facilities, staff, equipment, and other support services as may be necessary for the Task Force to carry out its mission to the extent permitted by law and subject to the availability of appropriations.

(e) Members of the Task Force shall serve without any additional compensation for their work on the Task Force, but shall be allowed travel expenses, including per diem, to the extent permitted by law for persons serving intermittently in the Government service (5 U.S.C. 5701–5707).

Sec. 5. Termination. The Task Force shall terminate 30 days after the President requests a final report from the Task Force.

Sec. 6. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to a department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.
(b) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(c) Insofar as the Federal Advisory Committee Act, as amended (5 U.S.C. App.) (the “Act”) may apply to the Task Force, any functions of the President under the Act, except for those in section 6 of the Act, shall be performed by the Attorney General.

THE WHITE HOUSE,
December 18, 2014.
NYPD Response to Public and Officer Input on the Department’s Proposed Body-Worn Camera Policy

APRIL 2017
Contents
INTRODUCTION .................................................................................................................................................. 1
PART I: RULES FOR THE OFFICER WEARING THE CAMERA ............................................................................. 4
   CAMERA PLACEMENT................................................................................................................................... 4
   NOTICE OF RECORDING .............................................................................................................................. 5
   MANDATORY ACTIVATION ............................................................................................................................ 9
   DEACTIVATION .............................................................................................................................................. 13
   PROHIBITING RECORDINGS/DemonSTRATIONS .................................................................................... 14
   OFFICERS VIEWING BODY-WORN CAMERA FOOTAGE ............................................................................. 15
   SUPERVISORY ACCESS TO OFFICERS’ BODY-WORN CAMERA RECORDINGS ........................................ 19
PART II: RETENTION AND RELEASE OF RECORDINGS .................................................................................. 21
   RETENTION PERIODS FOR BODY-WORN CAMERA RECORDINGS ............................................................. 21
   RELEASE OF BODY-WORN CAMERA RECORDINGS: ................................................................................ 22
PART III: OTHER ISSUES ................................................................................................................................ 26
   EVALUATING THE PILOT ................................................................................................................................. 26
   AUDITING ................................................................................................................................................... 26
   TRAINING .................................................................................................................................................... 27
   BIOMETRIC TECHNOLOGIES ...................................................................................................................... 27
   CONCLUSION ........................................................................................................................................... 28
APPENDIX A
   RESULTS OF THE POLICE OFFICER QUESTIONNAIRE
   RESULTS OF THE PUBLIC QUESTIONNAIRE
APPENDIX B
APPENDIX C
INTRODUCTION

At the request of the NYPD, on June 29, 2016, the Policing Project at New York University School of Law launched an online questionnaire to get input from New Yorkers on the Department’s proposed body-worn camera policy. On the same day, the Marron Institute of Urban Management at New York University launched a separate but similar online questionnaire to get input from police officers. The online questionnaires remained open for 40 days. Our academic partners provided invaluable guidance on crafting the questionnaires, made exhaustive efforts to promote the questionnaires to achieve maximum participation, and did an extraordinary job of organizing the questionnaire results and summarizing participants’ open written comments in two comprehensive reports. We are grateful for their exceptional work and for the time officers and members of the public spent completing the questionnaires and providing comments. The Department made several changes\(^1\) to its proposed policy based on the feedback received through this process, including the following:

- Guidance about where on an officer’s uniform the body-worn camera should be worn was added.
- The procedure now directs officers to give notice to individuals being recorded but allows for some reasonable exceptions, while the previous draft merely *encouraged* them to give notice.
- The ban on body-worn cameras at demonstrations was lifted.
- Inventory searches are now included among the “Mandatory Activation” events. They were excluded in the previous draft.
- “Public interactions that escalate and become adversarial” are now included among the “Mandatory Activation” events.
- Lengthy “NOTES” content of the body worn camera procedure, as originally written, was either integrated into the steps of the procedure or moved to the “Additional Data” section to streamline the procedure.
- The recording of undercover officers was added to the list of “Prohibited Recordings.”
- Additional direction was provided regarding the circumstances when an officer may view a recording related to a serious use of force or an allegation of misconduct.
- The standard retention period for untagged footage was increased from six months to one year.
- The procedure now calls for periodic inspections/audits to ensure that the cameras and the footage are being used in compliance with the Department’s procedure.

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\(^1\) In addition to the changes highlighted here, the Department made other changes based on ongoing research and internal deliberations. We also reformatted the document to comport with the standard structure of the NYPD Patrol Guide.
Summaries of the aggregate results for both questionnaires appear in Appendix A. The Policing Project’s report on the public’s feedback may be viewed here. The Marron Institute’s report on officers’ feedback may be viewed here.

The public was advised of the online questionnaire through various means, including social media, community meetings, and print, online, and TV news outlets. Over 25,000 members of the public participated and responded with overwhelming support for body-worn cameras:

- 92% said that NYPD officers should use body-worn cameras.
- 73%, or more, believed the cameras would improve police/community relations, public safety, officer safety, and the conduct of both officers and members of the public when they are interacting with each other.²
- 80% said they would feel comfortable reporting a crime to an officer wearing a body-worn camera.

Respondents to the public questionnaire were disproportionately white relative to New York City’s population. However, a notable observation reported in the Policing Project’s report was that for the public responses, “on many of the key policy questions, there was virtually no difference in the responses by race.”³

Officers were advised of the online questionnaire by direct emails. About 15%⁴ or 5,419 of the NYPD’s uniformed members participated. Participation may have been impacted by a letter⁵ from Pat Lynch, the President of the Patrolmen’s Benevolent Association (“PBA”), which was distributed to members of the union and posted on the PBA’s website within days of launching the online questionnaire.

The Department’s next body-worn camera pilot will involve the deployment of approximately 1,200 cameras to all police officers assigned to the 4 p.m. to midnight shift in 20 different precincts.⁶ The Department will not be asking officers to volunteer to wear cameras because the pilot’s design preselects the officers who will be issued cameras. However, the officer questionnaire asked officers whether they would volunteer to wear a camera as a way gauge officer support for body-worn cameras.

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² For disaggregated responses, See Policing Project, Report to the NYPD Summarizing Public Feedback on its Proposed Body-Worn Camera Policy, 37
³ See Policing Project Report, 8.
⁴ NYPD has a funded peak headcount of 36,734 uniformed officers. The department reaches this twice a year when its Police Academy graduates a class. The average uniform headcount in January 2016 was 36,613.
⁵ See the letter at: http://us7.campaign-archive1.com/?u=32027216b5955c36da689903e&id=8ec4d6fb6c&e=1ecce4b99d
⁶ Body-worn cameras will be placed in the following commands: Manhattan: 13, Midtown North, 25, 30, and 34. The Bronx: 42, 43, 44, 47, and 48. Brooklyn: 60, 63, 67, 71, 72, and 79. Queens: 102, 105, and 115. Staten Island: 121
Of the more than 5,000 officers who participated:

- 44% said they were either “very likely” or would “definitely” volunteer to wear a body-worn camera.
- 27% said they would be “somewhat likely” to volunteer to wear one.
- 29% said they would not volunteer to wear a body-worn camera.
- 85% to 91%7 of the officers said they believed the cameras would either have no effect or would improve police-community behavior and relations, public safety, and officer safety.
- 10% to 15% said the cameras would worsen behavior, relations, and safety.

Because the NYPD thus far has not used body-worn cameras, save for a small group of approximately 50 officers who helped test various technologies between 2014 and 2016, 95% of the officer participants reported that they had no first-hand experiences with body cameras.

In addition to questions that pertained to body-worn cameras or the body-worn camera policy, both questionnaires included questions that addressed participants’ opinions about police/community relations. For example, both questionnaires asked whether police officers treat members of the public with respect. Of the public participants, 7% said officers “always” treat people with respect, 44% said officers “mostly” do, while another 40% said officers “sometimes” do. Police officers rated their respectfulness much higher. Eighty-eight percent said they agreed or strongly agreed that officers treat members of the public with respect.

Officers were also asked about how the community treats them, and 50% disagreed or strongly disagreed with the statement: “In general, members of the public treat police officers with respect.” The race of the officers who participated in the online questionnaire process appeared to be a significant factor in the way they answered some of the questions in the officer questionnaire, as did the rank of the officer.8 In particular, African-American officers were more likely than white officers to agree that members of the public treated police officers with respect. Similarly, African-American officers were less likely than white officers to agree that police officers treated members of the public with respect.

Peter Zimroth, the court-appointed federal monitor in the “Stop and Frisk” litigation, will monitor and assess the upcoming body-worn camera pilot. The Department voluntarily engaged in this public/officer feedback process; it was not required by the court or the federal monitor. Mr. Zimroth supported and assisted in our efforts, as did all the parties to the litigation. The revised procedure that appears in Appendix B is the Department’s recommendation to the federal monitor. Portions of this procedure, particularly those that relate to Stops and Frisks and arrests

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7 For disaggregated responses, See Marron Institute of Urban Management, Report on the NYPD Officer Body-Worn Camera Questionnaire, 4.
8 See Marron Institute Report, 3-4.
made during interior patrols in NYCHA developments or TAP\(^9\) buildings, are subject to his approval.

In Part I of this response, we address the questionnaire topics that we plan to include in the patrol guide procedure that will govern how body-worn cameras and body-worn camera footage will be used by officers who wear the cameras and the supervisors who supervise them. We also sought input on other issues through the questionnaires, issues that go far beyond the officer wearing the camera or the supervisors in his or her immediate chain of command, including the release and retention of body-camera footage. These are broader, institutional policy considerations, and they are addressed in Part II. Finally, the opportunity to provide open comments on both questionnaires allowed participants to raise other issues not covered by the questionnaires or included in the draft policy. We could not address all of the more than 20,000 comments that were submitted to, and summarized by, our academic partners, but we tried to address major or reoccurring themes in Part III of this response.

**PART I: RULES FOR THE OFFICER WEARING THE CAMERA**

When officers or members of the public visited one of the NYU websites, they had the opportunity to view our draft body-worn camera procedure and a summary of key provisions before completing their respective questionnaires. They also had the opportunity to provide supplemental narrative comments on the draft policy. As noted above, the responses we received led to changes in our proposed body-worn camera procedure.

**CAMERA PLACEMENT**

The Hispanic Bar Association commented that our posted policy was vague regarding the placement of cameras. The prior draft merely noted that the camera should be affixed in a manner that maximizes the camera’s field of view. The revised policy clarifies that the camera should usually be placed on an officer’s outermost garment at the center of his or her chest using mounting hardware that will be provided by the NYPD. This recommendation allows for some officer discretion in circumstances where it makes less sense for the officer to have the camera facing forward at chest level, such as transporting a prisoner in the back of a police vehicle.

\(^9\) Residential buildings enrolled in the City’s “Trespass Affidavit Program.”
NOTICE OF RECORDING

The questionnaires presented officers and the public with the following statement: “An officer who approaches a person in a public space, like a store or on the sidewalk, should be required to tell that person that the camera is recording” … and then participants were given different options for the timing of the notice of recording. Here is how they responded (the blue bars reflect officers’ responses and the orange bars reflect the public’s):

A majority of the public participants felt that an officer who approaches a person in a public place should be required to give notice that the encounter is being recorded, with 27% saying that notice should be given “as soon as the officer approaches,” and 46% saying that notice should be given “as soon as possible, without compromising officer safety or other important law enforcement interests.” The officers who participated had a different view, with 65% saying that officers should never be mandated to give notice.

The prior draft of our procedure – which was posted online along with the questionnaires – did not require officers to give notice that they were recording; rather, it merely encouraged them to do so.
Given the responses we received on this issue, we reexamined how other police departments around the country were managing notification in their policies. Some departments are silent on the issue of notice in their policies. The Los Angeles Police Department encourages police officers to notify members of the public. Others, such as the Washington D.C. Metro Police Department, the Philadelphia Police Department, and the Las Vegas Metro Police Department require officers to notify the public that they are recording when practicable or feasible. The Chicago Police Department requires notification, unless exigent circumstances exist. Others, like the Boston Police Department, are stricter, requiring that officers notify citizens unless there is an immediate threat to the officer’s life or safety that makes notification impossible. In sum, while they define exceptions somewhat differently, a good number of major police departments require notification.

In light of our research and the feedback we received on the issue of notification, we changed our proposed procedure. The notice provision in the procedure now reads as a directive rather than as a best practice, but it also allows for some reasonable exceptions.

It’s important to note that the body-worn cameras will be prominently displayed on officers’ uniforms, and NYPD officers will only be permitted to record events that they have the legal authority to see and hear. Even so, we were persuaded to change the procedure based on both the public’s strong desire to receive notice and our belief that, in the majority of cases, giving notice will help to deescalate an encounter and thus make everyone, including our officers, safer.

We declined to adopt any of the stricter exceptions that excuse the delay or failure to give notice only in the event of an emergency or life-and-death situation. Instead, we adopted exceptions that closely track the exceptions used by many other departments and account for situations when notice may not be feasible. Step 4 of the proposed procedure now reads:

4. As soon as reasonably practical, notify members of the public that an interaction is being recorded, unless notification could compromise the safety of any person or impede an investigation.
   a. Suggested notification: “Sir/Ma’am, I am wearing a body-camera and this encounter is being recorded.”
   b. Consent is not required to start or continue recording.

Officers will now be trained that prompt notice is the rule, and that notice of recording should in most cases accompany their introduction. The exceptions are not intended to water down the notice requirement, but rather account for situations when immediate notice is not possible. A
few examples may shed light on the meaning of these exceptions. For example, it would not be “reasonably practical” to require officers responding to a domestic dispute at a home in Queens to immediately provide notification of recording to a suspect, who they encounter sitting on the outside steps of the home, ranting about how his wife “deserved it.” If upon their approach, the officers know from the central dispatcher that the victim was struck in the face, but is now safe and stable and at her sister’s house next door, at that moment, there may not be an “exigency” or life-threatening situation that would excuse notice, but immediate notice would certainly deter the suspect’s further admissions, impede the investigation and not be reasonably practical.

And, for example, if officers are called by relatives to respond to a home in Staten Island because a family member with a severe mental illness has stopped taking his medication and is becoming violent, officers may assess upon arrival that telling this particular individual they are taping him would only serve to agitate the individual. They may conclude that prompt notice may not be “safe” for those present.

We believe the safety and investigative exceptions as currently written – exceptions that were supported by a significant number of public participants – account for those kinds of exceptional situations.

Officers and the public were presented with the statement: “An officer who enters a person’s home should be required to tell that person that the camera is recording” … and were given the same set of options. Here is how they responded:
When the recording takes place in a person’s home as opposed to a public place, the questionnaire responses reflected an increase in both officers’ willingness to give notice and the public’s wish to receive it.

As described in the next section below, officers entering a person’s home generally will be recording encounters that are enforcement actions or situations where they believe they are likely to take an enforcement action. Officers have the right to use their body-worn cameras in a private home as long as they have a legal right to be there, in response, for instance, to a 9-1-1 caller reporting a crime and requesting officers respond to their residence.

We know that a home can often be a crime scene. An all-too-common example is a domestic violence incident when the perpetrator may still be inside the residence. Officers entering a potentially chaotic scene with ongoing violence must be able to assess the situation before giving notice.

Most of the policies we reviewed from other police departments that do contain notice provisions do not differentiate between notice in a person’s home and notice in a public place, and we declined to differentiate in the NYPD procedure as well. Our notice provision, as now written, is a directive to give notice rather than merely encouraging officers to give notice. It will
protect the interests of a person wishing to be informed that he or she is being recorded in a residence. The investigative and safety exceptions are no less necessary simply because the encounter occurs in a home.

**MANDATORY ACTIVATION**

Officers and the public were presented with a range of 11 possible police encounters and asked whether an officer wearing a body-worn camera should be required to record each of these encounters. The graph below indicates the percentage of officers (blue) who answered “yes” for each type of encounter and the percentage of public participants (orange) who answered “yes.” The column on the far right indicates whether our proposed policy requires the recording of each type of encounter.
The proposed procedure requires officers to record the last seven of the 11 types of encounters listed in the chart above: arrests; searches in the home; searches in the street; vertical patrols; uses of force; stops and frisks; and traffic stops.

Officer support for the mandatory recording of these events ranged from 60% to 77%, while public support ranged from 79% to 91%. The newly proposed procedure also requires the
recording of events that were not included in the questionnaire, such as summons encounters and responses to certain “in progress” calls. [See Appendix B, Step 5 for the full list].

In response to online comments critical of the exclusion of inventory searches in our initial draft, the revised procedure now requires the recording of any search of a person or his or her property without an exception for inventory searches. The only remaining exception applies to strip searches.

The first four types of encounters listed on the chart above require further discussion. Both officers and members of the public were asked if an officer should be mandated to record “Any interaction with members of the public,” and 64% of the public participants agreed that officers should be mandated, while only 26% of the officers agreed that they should.

In addition to the questionnaire responses, there were a significant number of public comments supporting continuous recording, requiring officers to always be recording while on patrol.

Our proposed procedure does not mandate the recording of any and all interactions with the public, nor does it require an officer to be continuously recording while on patrol. Non-stop recording is impractical both because it would require a vast increase in long-term data storage capacity and because it would represent an invasion of the privacy of many people whom the police encounter. To mandate the recording of any and all interactions with the public would require that an officer record, for example, someone asking for directions, a casual conversation with a member of the public, or situations where the officer is rendering aid, including performing CPR on someone who may not wish to be recorded and is not conscious to object to it.

In their comments, the NYCLU urged the NYPD to “limit recording to interactions with the public that have an investigative or law enforcement purpose.” They noted that, “community members need to be able to trust that they can speak with officers privately and not have every casual interaction or mere observation by officers be recorded.” We agree and declined to recommend a mandatory activation procedure that would capture every interaction.

Sixty-four percent of the public participants said an officer should be mandated to record “any time an officer approaches someone to ask a question,” while only 29% of the officer participants agreed. For the same reasons that we declined to mandate recording any and all interactions between officers and members of the public, we have also declined to mandate the recording of any and all questions an officer might put to a member of the public. Such a rule would require an officer to record every occasion when he approaches a possible eyewitness,

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10 See Policing Project Report, 16.
including situations where confidentiality may be vital, or any situation where he approaches a person to ask whether the person needs assistance.

Rather than mandating the recording of any and all questioning, our proposed policy mandates the recording of questions officers put to people they suspect of criminality [see Step 5(d)]. Barring an applicable exception, pursuant to the proposed procedure, officers will already be recording questioning that flows from a response to a call regarding a crime in progress, and they will already be recording what are known in “Stop and Frisk” parlance as “Level 2” and “Level 3”\(^{12}\) investigative encounters.\(^{13}\) These levels of investigative encounters are based on some degree of suspicion of criminality. “Level 1” encounters may or may not relate to criminality and were excluded so that officers would not be mandated to record “public service” types of Level 1 encounters, such as rendering aid to a sick person. NYPD officers will be encouraged through training to exercise the discretion afforded to them in the proposed procedure and record “Level 1” encounters they believe are likely to elevate to “Level 2” or “Level 3” encounters, and the phrasing of the mandate to record “interactions with persons suspected of criminality” should buttress that training guidance.

The fourth and final questionnaire category related to the topic of mandatory activation that requires discussion here is witness interviews. Seventy-one percent of public participants and 49% of officer participants said that officers should be required to record witness interviews.

In the NYPD’s judgment, and based on many of the views shared with us not only through the comment process but also in smaller meetings with criminal justice stakeholders, including victim advocates and prosecutors, the procedure should not mandate officers to record all witness interviews.

Certain witnesses may feel uncomfortable being recorded, such as sex crimes victims, confidential informants, child victims, or witnesses who simply feel too fearful to have their statements recorded and ultimately made available to the accused as required by criminal procedure laws. The NYPD proposed procedure bars the recording of confidential informants, undercover officers, and sex crimes victims [Appendix B, Steps 10(e) through 10(g)]. It otherwise allows for, and in some applications will call for, officers to record a witness’s initial report, spontaneous utterances, physical injuries, and other relevant observations at the scene. Beyond that, the proposed procedure gives the officer the discretion to discontinue recording upon the request of a victim or witness. [Appendix B, Step 9(b)].

\(^{12}\) Also known as Terry stops.

\(^{13}\) The four levels of investigative encounters are based on a case decided by the New York State Court of Appeals. \textit{People v. DeBour}, 40 N.Y.2d 210 (1976).
DEACTIVATION

The questionnaires presented officers and the public with the following statement: “If a person asks an officer to turn off the camera, the officer should” … and then participants were given a series of possible actions by an officer. Here is how they responded:

Sixty-two percent of the public participants said an officer, upon receiving a request to turn off the camera, should be allowed to keep the camera on for the officer’s safety, the safety of others, or to record evidence. An additional 22% of the public participants said officers may keep recording for the officer’s safety or the safety of others, while excluding the collection of evidence as a motivating factor to continue to record.

In all, 91% of public respondents felt that officers should be permitted to have some discretion about when to turn off the camera. The responses from the officer participants closely tracked the public’s responses. The NYPD draft procedure is in accord with these views. The procedure requires continued recording of an arrest or if a suspect is present. For other interactions, officers are afforded discretion to deactivate. Step 9 of the department’s procedure states:
9. Once the BWC has been activated, continue recording until the investigative or enforcement action is concluded.
   a. In the case of an arrest, continue recording until the prisoner is lodged at the command for arrest processing.
   b. The UMOS may choose to deactivate the BWC upon the request of a member of the public if a suspect is not present, and it is safe and advisable to do so after considering all the circumstances, including the requester's desire for privacy or confidentiality.

PROHIBITING RECORDINGS/DEMONSTRATIONS
Step 10 of the proposed procedure (Appendix B) lists individuals and events an officer is prohibited from recording, such as confidential informants, strip searches, and personal conversations among colleagues in the stationhouse.

The draft policy posted with the questionnaires included among its prohibitions the recording of any activity whatsoever at protests or demonstrations. The procedure was drafted with an absolute ban to comply with the Handschu guidelines that govern the circumstances under which NYPD personnel may record individuals at protests or demonstrations. The Police Executive Research Forum (PERF) and the Brennan Center for Justice urged the NYPD to revise this provision to allow for the recording of enforcement activities at demonstrations in a manner that would still protect an individual’s right to exercise his or her constitutionally-protected rights free from surveillance. While still adhering to the Handschu guidelines, we revised the provision to follow this recommendation. We also moved this provision out of the “Prohibited Recordings” section and created a stand-alone Step for demonstrations. Step 12 now reads:

12. DEMONSTRATIONS AND CIVIL DISOBEDIENCE: Record only if engaged in one of the actions listed in step 5 above (Mandatory Activation of BWC) and in uniform.
   a. The Technical Assistance and Response Unit (TARU) remains solely responsible for documenting protests, demonstrations, political events, etc., by means of photos and/or video.

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14 The Handschu guidelines were created as a result of a lawsuit against the NYPD during the 1970s.
15 Policing Project’s Report, 16.
OFFICERS VIEWING BODY-WORN CAMERA FOOTAGE

Officers and the public were asked whether, and under what circumstances, officers should be permitted to view recordings from their own body-worn camera recordings. Here is a breakdown of when each group said officers should be able to view their own footage:

An overwhelming majority of the officer participants said they should be able to view their own footage anytime, including before preparing a report or making a sworn statement. The public opinions were more varied:

- 27% of the public said that officers should be able to view their footage at any time.
- 19% of the public said that officers should be able to view their footage at any time, unless there is an incident involving the use of force.
- 43% of the public said that officers should only view video after first writing their report.
- 6% said officers should never be able to view their video.

Based on the supplemental comments submitted on this topic, it seems that some portion of the 43% who said officers should view video only after writing their first reports, and/or the 6% who said an officer should never be able to view the video, were concerned that an officer could tamper with or alter a body-worn camera recording. The proposed procedure strictly prohibits officers from attempting to tamper with or alter original recordings. Furthermore, the technology the Department will be using prevents officers from tampering with original recordings. Beyond the concern that officers would alter recordings, other comments conveyed a concern that officers would tailor their statements to fit events depicted on video if they were able to view the footage before writing reports or making sworn statements.

It is a police officer’s duty to accurately report the events he or she observes. The Department and prosecutors expect that an arresting officer will review the documentation and available
Evidence associated with a case before preparing reports or swearing out a criminal complaint. Body-worn camera footage is simply another form of documentation, and possibly an additional piece of evidence, just like an officer’s notes or a transcript of a 9-1-1 call. Prosecutors often demand to see body-worn camera recordings (if they exist) before they will draw up charges in a case. It surely would be impractical for the prosecutor to view the video in the complaint room while the arresting officer would be prohibited from contemporaneously viewing it to answer the prosecutor’s questions.

The NYPD body-worn-camera working group has reviewed the body-worn camera policies of nearly 30 police departments. All of them allow officers, without restriction, to review body-worn camera video prior to filling reports when there has not been a significant use of force. Forty-six percent (46%) of the public participants would support the approach taken by these other departments while 49% of them would not (5% had no opinion), a near-equal split of opinion.

We have concluded the best course is for the NYPD procedure to follow the approach overwhelmingly taken by the other departments we surveyed, one that is consistent with the views of 46% of the public participants and aligned with the views of 91% of the officer participants.

Accordingly, in cases where there is no allegation of a significant use of force or officer misconduct related to a recording, our proposed policy allows the recording officer to view his or her own footage and the footage of other responding officers before completing reports or making sworn statements about the recorded event. This would permit an arresting officer who, for example, meets with a prosecutor to prepare a felony complaint for a robbery case, to view and discuss all the relevant body-worn camera recordings with the prosecutor before charges are filed. It should be noted that when an officer views a recording through the Department’s video management system – whether it is his or her own or that of another responding officer – the system will automatically make a record of each viewing.

The prior draft of the procedure that was posted online permitted officers involved in a significant use of force to see their own body-worn camera recordings before making sworn statements. The timing of the viewing, however, was to be controlled by a supervisor conducting the force investigation.

In our review of the policies of other police departments, we found that while most allow officers involved in a significant use of force to view their body-worn camera recordings of the event prior to making their first statements, some do not.16

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16 Atlanta, Oakland, San Francisco, San Jose, and Washington DC are major cities that prohibit officers who are involved in shootings from reviewing their footage prior to making an initial report or submitting to an initial...
PERF prepared a comprehensive report on best practices for police departments implementing body-worn camera programs, and they too recommend permitting officers “to review video footage of an incident in which they were involved prior to making a statement about the incident.”

After receiving the questionnaire results, the NYPD revised the officer-viewing provisions in the proposed procedure. The revisions provide more detail and more direction. They now address not only use-of-force incidents but any incident for which there is an allegation of misconduct, while still affording officers the opportunity to view their own body-worn camera recordings before making compelled statements about an incident. [See Step 17.]

The propriety of this approach requires some understanding of how serious use-of-force investigations proceed in New York City. This example, while somewhat simplistic, conveys the main principles. Assume two officers respond to a 9-1-1 call about a robbery. The officers see a male matching the description provided by the victim, they pursue him and he runs from them. The male then stops and turns to face the officers with a small, shiny object in his raised hand. One officer fears it is a weapon and fires his gun at the suspect striking him in the leg but he survives. The other officer does not discharge his weapon at all. For purposes of this example, assume the individual who was shot was not the robber, and the item in his hand was not a gun. Two investigations will flow from this event. There will be a criminal investigation into the discharging officer’s use of his weapon. There will also be an administrative/disciplinary investigation into the incident that will address the one officer’s use of his firearm but both officers compliance with general procedures. In the criminal investigation, the discharging officer has the same 5th Amendment right anyone in the United States has, and he cannot be compelled to make a statement. That is not the case in the internal disciplinary investigation. NYPD internal procedures do not allow an officer to remain silent in connection with an internal disciplinary investigation. He must submit to an administrative interview. Because prosecutors fear that leads from a compelled administrative interview may spillover and “taint” the criminal investigation, they direct the Internal Affairs Bureau and Force Investigation Division NOT to subject officers who may be criminally liable to compelled administrative interviews until the criminal investigation into that officer’s conduct is concluded.

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Accordingly, in our example, a supervisor will respond to the scene and collect the officers’ cameras, and the Department will lock the recordings of both officers so they may not be viewed. The discharging officer will be investigated for possible criminal charges by the District Attorney’s Office and/or the State Attorney General’s Office with the assistance of NYPD investigators, but the officer will not be compelled to make a statement in the administrative case, which will be stayed as to him until the criminal investigation or case concludes. The administrative investigation will proceed as to the non-discharging officer, and he will be required to submit to a compelled administrative interview, before which he will be afforded an opportunity to see his own body-worn camera recording at a time deemed appropriate by the investigating supervisor. The goal of the administrative/internal investigation is not only to determine whether the individual officer should be subject to discipline or an adverse employment action. It is also to determine if the investigation reveals a gap in the officer’s (or the Department’s) training in a particular area.

The Department will not compel the discharging officer to make a statement until it is advised by the appropriate prosecuting authority that the criminal investigation as to that officer is over (either because the prosecutor or the grand jury determined there was insufficient evidence or the criminal case has concluded). Then and only then will the administrative/disciplinary case proceed against the discharging officer and he too may see his own recording at a time set by the investigating supervisor, but before being compelled to make a statement. At this point in the investigation, the risk that the officer can tailor his testimony and mislead investigators is low. They already know a great deal about the case. Furthermore, events may be recorded by multiple officers from multiple vantage points, further reducing the possibility of tailoring or misleading. Moreover, any risk is outweighed by a) the best practice of viewing all the evidence before making sworn statements and b) the fairness inherent in allowing an officer to see the video he made for the Department before being made to make a compelled statement for use in the disciplinary case.

Pursuant to the proposed procedure, the protocols described above would apply not only to serious use-of-force incidents but to any investigation of misconduct for which the officer is compelled to make a statement.

It should be noted that if our city encounters something like what we have seen in other cities around the country, that is, there is police-involved shooting of a civilian that is followed by protests and a demand for the release of body camera recordings, the above restrictions are effectively moot.
SUPERVISORY ACCESS TO OFFICERS’ BODY-WORN CAMERA RECORDINGS
This topic was covered in the officer questionnaire only. Officers were asked: “How much access should supervisors have to the video footage of the officers they supervise?” The respective ranks of the participants appeared to have influenced their responses.

Participants with the rank of sergeant or above tended to be more permissive on supervisory review.

The results below are aggregated (not broken down by rank):

- 22% of all ranks said supervisors should be able to view any video they select.
- Another 30% agreed, provided the reviews were tracked and were not conducted only to address performance deficiencies but also to provide positive comment.
- 32% said that supervisors should only be able to review videos related to civilian complaints or uses of force.
- 8% said that supervisors should only be able to see videos that were selected by a third-party supervisor, like the precinct’s Integrity Control Officer.
- 8% said supervisors should never be able to review a subordinate’s body-worn camera recordings.

The version of our policy that was posted online has now been revised with respect to supervisory review and reflects a blend of some of the views described above. The policy permits discretionary supervisory review not only for addressing performance deficiencies, but also to make positive comments. Such reviews will be tracked electronically.

In addition, supervisors will be required to conduct specific reviews pursuant to set auditing guidelines that are still under development. These viewings will also be tracked electronically. The proposed procedure describes the immediate supervisor’s duties at Steps 26 and 27:

26. Review BWC video in conformance with the self-inspection program promulgated by the Quality Assurance Division.

27. Periodically review video in addition to the self-inspection program, as appropriate, to provide positive feedback and address any performance deficiencies observed.

The topic of supervisory access is related to officers’ concerns about Department discipline. Of the more than 5,000 officers who completed the online questionnaire, 81% either agreed or strongly agreed with the statement “I am concerned that the department will use body-worn
camera video to penalize officers for minor violations, even when the video shows that their police work was handled appropriately.”

Supervisory review of a fair sampling of an officer’s videos has the potential to be a highly beneficial management tool. Logistically speaking, supervisors cannot be present with their officers for every enforcement or investigative encounter. Viewing a supervisee’s recordings gives the supervisor an opportunity to provide positive and corrective guidance. The Department is concerned, however, that if supervisory reviews are routinely used to “nitpick” officers for minor transgressions depicted in recordings that reflect otherwise good police work, such a practice will negatively impact officer acceptance of, and compliance with, the body-worn camera program. This does not mean that officers should not be disciplined for violations that are observed on body-worn camera footage; but rather that supervisors should be trained to use their best judgment and bear in mind the goals of supervisory review. The procedure itself reminds them of the goals in Step 27 (see above).

If an NYPD officer violates a mandatory provision of the body-worn camera procedure, he or she faces possible discipline after the conclusion of a 90-day period of field training. During the 90 days of field training, mistakes will be handled as a training matter at the officer’s precinct. Thereafter, non-compliance with any of the mandatory provisions of the Department’s body-worn camera procedure will subject an officer to possible discipline.

Some comments from organizations and citizens suggested the policy should specifically describe the discipline officers will face for particular breaches of the procedure.

In the NYPD, the severity of discipline escalates based upon the frequency and/or the seriousness of the infraction: for example, an officer who, for the first time, forgets to activate his camera during a routine traffic stop may be warned and admonished or retrained; but the officer who deactivates his camera during an illegal use of force may ultimately face the most severe penalty. The variables relevant to the appropriate level of discipline, including mitigating and aggravating factors, do not lend themselves to a predetermined discipline “schedule.”

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18 See page 25 of this report for full description of the 90 day field training.
PART II: RETENTION AND RELEASE OF RECORDINGS

As noted in the introduction, both the public and the officer questionnaires contained questions related to two topics that go beyond the duties of the officer wearing the camera: the retention of body-worn camera videos and the release of those videos to the public. These topics involve other NYPD bureaus, including the Information Technology Bureau and Legal Bureau, and will be addressed in this section.

RETENTION PERIODS FOR BODY-WORN CAMERA RECORDINGS

The Department’s goal is to devise categorization and retention protocols that will ensure that relevant body-worn camera footage is preserved for any related investigation, prosecution, civilian complaint, or lawsuit. The Department seeks to balance these needs against legitimate concerns over both long-term storage costs and the privacy implications associated with a law enforcement agency maintaining unneeded video records for lengthy periods of time.

But how long is “too long”? In our first 54-camera experiment, we used a one-year default retention period for untagged video, but privacy groups have since recommended shorter default retention periods for untagged videos. As a result, we proposed reducing the default storage time to 6 months.

The public questionnaire summarized some key aspects of our proposed retention policy and invited comments. Only 20% of the public participants (approximately 5,000) answered the retention question and, overall, they disagreed with what we have heard from privacy advocates: the public participants favor longer retention periods.

The public questionnaire asked participants:

“Under the proposed policy, the NYPD will keep all video recordings for a minimum of 6 months. Certain videos must be kept longer:

- Arrests or civilian complaints: until the case is over
- Use of Force: 3 years
- Adversarial police-citizen encounter: 18 months
- Any other encounter (e.g. stops/witness interviews): 6 months”

A clear majority of the public participants, including the New York State Black, Puerto Rican, Hispanic, and Asian Legislative Caucus, said that our retention periods should be longer, and a re-occurring comment was to keep all footage for a minimum of one year.

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19 See ACLU’s report: Police Body-Mounted Cameras: With Right Policies in Place, a Win for All, Jay Stanley
https://www.aclu.org/sites/default/files/assets/police_body-mounted_cameras-v2.pdf
Based on this feedback, we plan to revert to a one-year default retention period.

The proposed procedure directs officers to “categorize” or “tag” recordings so that the recordings will be preserved and retrievable for future use. Officers will identify recordings related to arrests so that the recordings will be available for the prosecution of those cases. All stops and interior patrols will be tagged for the court-ordered pilot. Additionally, if a complaint is made or a lawsuit is filed, the NYPD will administratively tag the video for further retention. We also plan to work collaboratively with the Civilian Complaint Review Board to make access to body-worn camera recordings of events related to complaints available to both officers and witnesses.

We anticipate developing tags for other events, but developing a tagging matrix requires consultation with the Department’s body-camera vendor. The Department’s contract with the vendor, VieVu, was approved and registered on February 8, 2017, thus allowing meetings to begin with VieVu to customize a video management system, including a tagging matrix.

The Leadership Conference and Color of Change organizations submitted comments urging the NYPD to promptly delete footage once it has surpassed the retention period. The technology that NYPD will use automatically deletes footage when the retention period has expired. No further action by NYPD is required.

RELEASE OF BODY-WORN CAMERA RECORDINGS:
Officers and the public were asked whether they agreed or disagreed with this statement: “If a person has an interaction with an officer wearing a body-worn camera, the NYPD should be required to show that person the footage upon request.” Here is how they responded:

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20 Appendix B, Step 13.
Participants were then presented with a similar question, this time concerning a media or advocacy group request. They were asked whether they agreed or disagreed with this statement: “If a person has an interaction with an officer wearing a body-worn camera, and a news reporter or advocacy group requests the footage, the department should be required to give it to them.” Here is how they responded:

Overall, the public favored release of the videos, particularly when the requests were from “first party requesters” seeking videos of their own personal interactions with the police. The officer participants expressed much less support for disclosure.
There is an important exception with respect to release of body-worn camera footage: if a person is arrested and has a pending criminal case, and seeks body camera footage related to his or her arrest, he or she may not come to the NYPD to circumvent the standard discovery process between the prosecution and the defense. Discovery is governed by New York State Criminal Procedure Law. Criminal defendants are entitled to these recordings under the law, but such requests are handled by prosecutors in accordance with existing criminal discovery practices and procedures.

But if someone is, for example, stopped and frisked but not arrested, and thereafter seeks to obtain a copy of the body-worn camera recording of the encounter, he or she may do so by filing a first-party Freedom of Information Law (FOIL) request. If the release of the recording is not otherwise precluded by law, the individual will receive a copy of the recording.

As we prepare to launch our first large-scale deployment of body-worn cameras, we intend to operate within the framework of the Freedom of Information Law. Some commenters and criminal justice stakeholders have expressed a concern that the FOIL process is slow and cumbersome. But it is the law and offers a process with privacy controls that, in our view, is far superior to the live-streaming of NYPD policing online, as some departments have tried to do with sometimes extremely harmful consequences.

There were several comments emphasizing the importance of providing clear instructions on how to submit a FOIL request. The NYPD has a standard FOIL request letter that has long been posted on the Department’s website. In response to the comments the Department received, we have proposed to adapt this form to facilitate its submission for requesters seeking body camera videos. The proposed revised form is attached as Appendix C. In addition, FOIL requests may be made by email at FOIL@NYPD.ORG and NYC has created a centralized portal, located at https://a860-openrecords.nyc.gov/new, where members of the public can request records from any city agency, including BWC footage from the NYPD.

The release analysis can be more complicated when there is a third-party requester. The law requires the Department to perform an analysis of the potential consequences of release of any requested record. That analysis must include an assessment of whether the release would constitute an unwarranted invasion of a person’s privacy, or be subject to any legal exceptions.

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21 See Public Officers Law § 87. Examples of when NYPD would not be able release video include video of arrests where a criminal case has been dismissed or video that includes a victim of sexual assault.
22 www.nytimes.com/2016/10/23/magazine/police-body-cameras.html?_r=1
24 See Public Officers Law § 87
The NYPD performs this type of careful assessment in relation to any third party request, including one from the media or an advocacy group.

The decision to release a body camera video is arguably the most complex when it involves an officer-involved shooting.

The public questionnaire included the question, “If a body-worn camera captures a high-profile incident of interest to the public, the department should make the footage public ...” and then the public was given a range of possible responses:

- About half of the public participants (51%) wanted the footage released as soon as possible.
- 25% said the NYPD should release it after it completes an internal investigation.
- 17% said the NYPD should release it at the end of any related court case or judicial proceeding.
- 3% said it should never be released.
- 5% had no opinion.

If an officer uses deadly force against a member of the public, as described above, units within the NYPD are engaged, including the Force Investigation Division and the Internal Affairs Bureau, and a complete internal investigation is conducted. In addition, often the local District Attorney’s Office or the New York State Attorney General’s Office conducts an investigation into the incident.

When an officer’s use of force appears to be clearly unjustified, there may be a summary arrest, or a grand jury may be convened immediately. In such situations, the ethical Rules of Professional Conduct that bind prosecutors may prohibit the release of the footage.\(^{25}\)

However, in many cases, the internal and external investigations may take weeks or months. The NYPD is studying the various approaches\(^{26}\) that other police departments take when releasing

\(^{25}\) See RPC 3.6(b)(5) at http://www.nycourts.gov/rules/jointappellate/NY-Rules-Prof-Conduct-1200.pdf

\(^{26}\) Most police departments do not have set policies. A few have formal policies or consistently followed informal policies. In Chicago, an independent agency must release video footage within 60 days, unless the Chicago Police Department asks for an additional 30 days in writing. Los Angeles will not publicly release any video, unless it is needed in a court proceeding. Police in San Diego County will release video after the San Diego County District Attorney’s Office has reviewed the incident and provided its findings to the police agency. If criminal charges are filed, then release will be delayed pending the criminal trial. In Washington D.C., the Mayor may, in matters of public interest, after consulting with the Chief of Police and the U.S. Attorney’s Office, release body-worn camera recordings that would not otherwise be releasable under FOIA. Las Vegas releases video of fatal police shootings approximately 3-5 days after the incident, along with additional details about the shooting. In New Orleans, within 48 hours of critical incident, the Public Integrity Bureau (PIB) provides recordings to partner agencies. Within 7 days, PIB makes a recommendation on the release of video. Partner agencies may submit objections. Within 9 days of incident, the Superintendent makes a determination on the release of recordings.
video of police shootings. In Ferguson, Charlotte, New York and elsewhere, we have seen how civilian deaths caused by an officer’s use of deadly force can cause significant pain and disruption in a community. It may be appropriate in some cases to release a recording of the event in an effort to be transparent, answer questions, and ease unrest. But body-worn cameras are not a panacea, and will not necessarily answer all questions in the wake of an officer-involved shooting. We must confront these situations with our partner criminal justice agencies with the goals of being transparent and fair – to everyone.

PART III: OTHER ISSUES
As noted in the introduction, many individuals and organizations submitted supplemental comments on the proposed policy that raised issues not covered by the questionnaire itself or the posted procedure. More than 20,000 comments were submitted and our academic partners did an exceptional job of summarizing the major themes that emerged through these comments. We attempt to address some of them in this section.

EVALUATING THE PILOT
Several organizations commented on the need for a comprehensive and transparent assessment of our body-worn camera program to determine whether the benefits of body-worn cameras do in fact outweigh the costs. Communities United for Police Reform and the Data and Society Research Institute noted that there should be an independent, evidence-based evaluation of the program’s efficacy.

The Department’s new pilot will undergo a robust evaluation. Professor Anthony Braga, an expert on the federal monitor’s team, has designed a randomized control trial that will inform the monitor and our Department whether the presence of cameras affects the quality of stops, the number of civilian complaints, uses of force, officer injuries, resisting arrest charges, arrests, summonses, outcomes of CCRB complaints, lawsuits, and other important metrics.  

AUDITING
The Legal Aid Society commented that “there should be mechanisms for auditing when footage has been accessed and by whom.” The New York State Black, Puerto Rican, Hispanic, and Asian Legislative Caucus, The Brennan Center for Justice, and the Hispanic Bar Association noted that the proposed policy posted online had insufficient auditing protocols. And as noted above, many participants commented that they were concerned officers would alter the recordings.

27 Readers can learn more about the next pilot’s design by going to the federal monitor’s website at nypdmonitor.org
The technology the Department will use addresses some of these concerns. It will not allow an officer to alter the original recording, and it will create an “audit trail” of any viewings of any recording.

We have also added audit provisions to our policy: supervisors will be tasked to review a certain number and kind of events pursuant to a “self-inspection” plan now being developed.

**TRAINING**

The Brennan Center for Justice noted that nothing in our policy addresses training for officers. Plans for training are not normally covered by the wording of an NYPD procedure itself, but NYPD officers will certainly receive training on the final procedure and the equipment before they are outfitted with body-worn cameras.

The NYPD is planning to provide a full day of training to the officers before they receive the cameras. This training will cover the content of the procedure and will also familiarize them with how to use the cameras and with the video management system. We plan to deliver this training through both lecture-based instruction and hands-on, scenario-based exercises.

This one-day training at the Police Academy will be followed by 90 days of field training. Training sergeants will review any mistakes made by officers, issue corrective instructions and provide general guidance as to the proper use of body-worn cameras.

**BIOMETRIC TECHNOLOGIES**

Some commenters urged the NYPD to make a commitment not to use biometric technologies in conjunction with stored body-worn camera recordings. In our next pilot, the NYPD does not plan to include biometric technologies, such as facial-recognition software, as a feature of our video management system. The cameras that the NYPD will use in our upcoming pilot will not have capabilities that significantly differ from the human eye: they will not have night vision, infrared, x-ray, or other such capabilities.
CONCLUSION
The comments we received from the public and officers were carefully considered and made a difference.

We have made changes to the proposed procedure based on the comments we received. We are aware that in some cases our proposed procedure differs from a majority opinion. In the cases where we differ, we have attempted to explain our reasoning. Ultimately we are seeking a policy that is fair and reasonable for everyone. We now await approval of our proposed procedure from the monitor and will continue to evaluate our final procedure as the pilot progresses.
APPENDIX A
RESULTS OF THE POLICE OFFICER QUESTIONNAIRE:

1) Have you or an officer you’ve worked with worn an NYPD issued body-worn camera?

<table>
<thead>
<tr>
<th>Yes</th>
<th>5%</th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td>95%</td>
</tr>
</tbody>
</table>

2) If you were offered an opportunity to volunteer to wear a body-worn camera, would you volunteer?

<table>
<thead>
<tr>
<th>Yes, Definitely</th>
<th>25%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very Likely</td>
<td>19%</td>
</tr>
<tr>
<td>Somewhat Likely</td>
<td>27%</td>
</tr>
<tr>
<td>No, Definitely Not</td>
<td>29%</td>
</tr>
</tbody>
</table>

3) In general, members of the public treat police officers with respect:

<table>
<thead>
<tr>
<th>Strongly Agree</th>
<th>2%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agree</td>
<td>27%</td>
</tr>
<tr>
<td>Neither Agree nor Disagree</td>
<td>21%</td>
</tr>
<tr>
<td>Disagree</td>
<td>31%</td>
</tr>
<tr>
<td>Strongly Disagree</td>
<td>19%</td>
</tr>
</tbody>
</table>

4) In general, police officers treat members of the public with respect:

<table>
<thead>
<tr>
<th>Strongly Agree</th>
<th>24%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agree</td>
<td>64%</td>
</tr>
<tr>
<td>Neither Agree nor Disagree</td>
<td>9%</td>
</tr>
<tr>
<td>Disagree</td>
<td>2%</td>
</tr>
<tr>
<td>Strongly Disagree</td>
<td>1%</td>
</tr>
</tbody>
</table>
5) Will police use of body-worn cameras cause the following it improve or worsen?

<table>
<thead>
<tr>
<th></th>
<th>Police-Community relations and public trust</th>
<th>Public Safety</th>
<th>Officer Safety</th>
<th>Conduct of members of the public when interacting with officers</th>
<th>Conduct of officers when interacting with members of the public</th>
</tr>
</thead>
<tbody>
<tr>
<td>Improve</td>
<td>40%</td>
<td>36%</td>
<td>49%</td>
<td>45%</td>
<td>55%</td>
</tr>
<tr>
<td>No Change</td>
<td>49%</td>
<td>55%</td>
<td>36%</td>
<td>40%</td>
<td>37%</td>
</tr>
<tr>
<td>Worsen</td>
<td>11%</td>
<td>10%</td>
<td>15%</td>
<td>15%</td>
<td>8%</td>
</tr>
</tbody>
</table>

6) Officers should be required to use body-worn cameras to record:

<table>
<thead>
<tr>
<th>Activity</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arrests</td>
<td>74%</td>
</tr>
<tr>
<td>Searches within the home</td>
<td>65%</td>
</tr>
<tr>
<td>Searches on the street</td>
<td>60%</td>
</tr>
<tr>
<td>Vertical patrols of public housing buildings</td>
<td>60%</td>
</tr>
<tr>
<td>Uses of force</td>
<td>66%</td>
</tr>
<tr>
<td>Pedestrian stops/frisks</td>
<td>61%</td>
</tr>
<tr>
<td>Traffic stops</td>
<td>77%</td>
</tr>
<tr>
<td>Witness interviews</td>
<td>49%</td>
</tr>
<tr>
<td>Anytime an officer approaches someone as part of investigating criminal activity</td>
<td>58%</td>
</tr>
<tr>
<td>Anytime an officer approaches someone to ask a questions</td>
<td>29%</td>
</tr>
<tr>
<td>Any interactions with members of the public</td>
<td>26%</td>
</tr>
</tbody>
</table>

7) An officer who approaches a citizen in a public space like a store or on the sidewalk should be required to tell that person that the camera is recording:

<table>
<thead>
<tr>
<th>Statement</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>As soon as the officer approaches the person</td>
<td>2%</td>
</tr>
<tr>
<td>As soon as possible, without compromising officer safety or other important law enforcement interests</td>
<td>23%</td>
</tr>
<tr>
<td>Never</td>
<td>65%</td>
</tr>
<tr>
<td>No Opinion</td>
<td>10%</td>
</tr>
</tbody>
</table>

28 When responders chose “Any interaction with members of the public,” they were assumed to have indicated all other areas as well.
8) An officer who enters a person’s home should be required to tell that person that the camera is recording:

<table>
<thead>
<tr>
<th>Option</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>As soon as the officer enters</td>
<td>4%</td>
</tr>
<tr>
<td>As soon as possible, without compromising officer safety or other important law enforcement interests</td>
<td>36%</td>
</tr>
<tr>
<td>Never</td>
<td>50%</td>
</tr>
<tr>
<td>No Opinion</td>
<td>10%</td>
</tr>
</tbody>
</table>

9) If a person asks an officer to turn off a camera, the officer should:

<table>
<thead>
<tr>
<th>Option</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Immediately turn off the camera</td>
<td>0%</td>
</tr>
<tr>
<td>Be allowed to keep the camera on for his own safety or that of others</td>
<td>21%</td>
</tr>
<tr>
<td>Be allowed to keep the camera on to record evidence</td>
<td>4%</td>
</tr>
<tr>
<td>Be allowed to keep it on for both his and others’ safety and to record evidence</td>
<td>71%</td>
</tr>
<tr>
<td>No opinion</td>
<td>4%</td>
</tr>
</tbody>
</table>

10) I am concerned that the department will use body-worn camera video to penalize officers for minor violations, even when the video shows that their police work was handled appropriately.

<table>
<thead>
<tr>
<th>Opinion</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly Agree</td>
<td>57%</td>
</tr>
<tr>
<td>Agree</td>
<td>24%</td>
</tr>
<tr>
<td>Neither Agree nor Disagree</td>
<td>10%</td>
</tr>
<tr>
<td>Disagree</td>
<td>7%</td>
</tr>
<tr>
<td>Strongly Disagree</td>
<td>1%</td>
</tr>
</tbody>
</table>

11) If a person has an interaction with an officer wearing a body-worn camera, the NYPD should be required to show that person the footage if that person requests to see it at a later date following the interaction.

<table>
<thead>
<tr>
<th>Opinion</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly Agree</td>
<td>4%</td>
</tr>
<tr>
<td>Agree</td>
<td>18%</td>
</tr>
<tr>
<td>Neither Agree nor Disagree</td>
<td>19%</td>
</tr>
<tr>
<td>Disagree</td>
<td>32%</td>
</tr>
<tr>
<td>Strongly Disagree</td>
<td>28%</td>
</tr>
</tbody>
</table>
12) If a person has an interaction with an officer wearing a body-worn camera, and a news reporter or advocacy group files a freedom of information request to view the footage, the NYPD should be required to give it to them.

<table>
<thead>
<tr>
<th>Strongly Agree</th>
<th>4%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agree</td>
<td>21%</td>
</tr>
<tr>
<td>Neither Agree nor Disagree</td>
<td>22%</td>
</tr>
<tr>
<td>Disagree</td>
<td>26%</td>
</tr>
<tr>
<td>Strongly Disagree</td>
<td>27%</td>
</tr>
</tbody>
</table>

13) An officer should be permitted to view a recording from his own body-worn camera:

| Any time, including before he prepares a report or makes a sworn statement | 86% |
| Any time unless there is a use of force incident, in which case the officer must first submit a report | 5% |
| Only after first submitting a report about the incident, whether or not there is a use of force by the officer | 4% |
| Never | 1% |
| No opinion | 4% |

14) How much access should supervisors have to the video footage of the officers they supervise? A supervisor should be able to review:

| Any video that he or she selects | 22% |
| Any video that he or she selects, provided the reviews are tracked and are done to not only address performance deficiencies by also to provide positive feedback | 30% |
| Only videos randomly selected by a neutral NYPD manager | 8% |
| Only videos of incidents involving a civilian complaint or use of force | 32% |
| No videos of officers they supervise | 8% |
15) In which Patrol Borough/Bureau do you work?

<table>
<thead>
<tr>
<th>Patrol Borough</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bronx</td>
<td>11%</td>
</tr>
<tr>
<td>Brooklyn North</td>
<td>8%</td>
</tr>
<tr>
<td>Brooklyn South</td>
<td>9%</td>
</tr>
<tr>
<td>Manhattan North</td>
<td>7%</td>
</tr>
<tr>
<td>Manhattan South</td>
<td>9%</td>
</tr>
<tr>
<td>Queens North</td>
<td>6%</td>
</tr>
<tr>
<td>Queens South</td>
<td>6%</td>
</tr>
<tr>
<td>Staten Island</td>
<td>2%</td>
</tr>
<tr>
<td>Transit</td>
<td>7%</td>
</tr>
<tr>
<td>Transportation</td>
<td>2%</td>
</tr>
<tr>
<td>Detective</td>
<td>11%</td>
</tr>
<tr>
<td>Housing</td>
<td>6%</td>
</tr>
<tr>
<td>Other</td>
<td>17%</td>
</tr>
</tbody>
</table>

16) What is your current rank?

<table>
<thead>
<tr>
<th>Rank</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Police Officer/Detective</td>
<td>67%</td>
</tr>
<tr>
<td>Sergeant</td>
<td>18%</td>
</tr>
<tr>
<td>Lieutenant</td>
<td>9%</td>
</tr>
<tr>
<td>Captain or above</td>
<td>6%</td>
</tr>
</tbody>
</table>

17) What is your gender?

<table>
<thead>
<tr>
<th>Gender</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Male</td>
<td>87%</td>
</tr>
<tr>
<td>Female</td>
<td>13%</td>
</tr>
<tr>
<td>Other</td>
<td>2%</td>
</tr>
</tbody>
</table>

18) What is your race?

<table>
<thead>
<tr>
<th>Race</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>White</td>
<td>55%</td>
</tr>
<tr>
<td>Black</td>
<td>10%</td>
</tr>
<tr>
<td>White Hispanic</td>
<td>17%</td>
</tr>
<tr>
<td>Black Hispanic</td>
<td>4%</td>
</tr>
<tr>
<td>American Indian/Alaskan Native</td>
<td>0%</td>
</tr>
<tr>
<td>Asian/Pacific Islander</td>
<td>6%</td>
</tr>
<tr>
<td>Middle Eastern/Southwest Asian</td>
<td>1%</td>
</tr>
<tr>
<td>Other</td>
<td>7%</td>
</tr>
</tbody>
</table>

19) How long have you been a police officer?

<table>
<thead>
<tr>
<th>Duration</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 2 years</td>
<td>9%</td>
</tr>
<tr>
<td>Years</td>
<td>Percentage</td>
</tr>
<tr>
<td>------------</td>
<td>------------</td>
</tr>
<tr>
<td>2-5 years</td>
<td>15%</td>
</tr>
<tr>
<td>6-10 years</td>
<td>20%</td>
</tr>
<tr>
<td>11-20 years</td>
<td>39%</td>
</tr>
<tr>
<td>20+ years</td>
<td>16%</td>
</tr>
</tbody>
</table>
RESULTS OF THE PUBLIC QUESTIONNAIRE

1) New York City police officers should use body-worn cameras

<table>
<thead>
<tr>
<th>Strongly Agree</th>
<th>74%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agree</td>
<td>18%</td>
</tr>
<tr>
<td>Neither Agree nor Disagree</td>
<td>4%</td>
</tr>
<tr>
<td>Disagree</td>
<td>2%</td>
</tr>
<tr>
<td>Strongly Disagree</td>
<td>2%</td>
</tr>
</tbody>
</table>

2) Will use of body-worn cameras cause the following to improve or worsen?

<table>
<thead>
<tr>
<th></th>
<th>Police-Community relations and public trust</th>
<th>Public Safety</th>
<th>Officer Safety</th>
<th>Conduct of members of the public when interacting with officers</th>
<th>Conduct of officers when interacting with members of the public</th>
</tr>
</thead>
<tbody>
<tr>
<td>Improve</td>
<td>82%</td>
<td>82%</td>
<td>77%</td>
<td>73%</td>
<td>89%</td>
</tr>
<tr>
<td>Worsen</td>
<td>3%</td>
<td>3%</td>
<td>3%</td>
<td>3%</td>
<td>2%</td>
</tr>
<tr>
<td>No Change</td>
<td>14%</td>
<td>16%</td>
<td>19%</td>
<td>24%</td>
<td>9%</td>
</tr>
</tbody>
</table>

3) Officers should be required to use body-worn cameras to record:

<table>
<thead>
<tr>
<th>Description</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arrests</td>
<td>91%</td>
</tr>
<tr>
<td>Searches within the home</td>
<td>84%</td>
</tr>
<tr>
<td>Searches on the street</td>
<td>87%</td>
</tr>
<tr>
<td>Vertical patrols of public housing buildings (NYCHA)</td>
<td>79%</td>
</tr>
<tr>
<td>Uses of force</td>
<td>91%</td>
</tr>
<tr>
<td>Pedestrian stops/frisks</td>
<td>88%</td>
</tr>
<tr>
<td>Traffic stops</td>
<td>85%</td>
</tr>
<tr>
<td>Witness interviews</td>
<td>71%</td>
</tr>
<tr>
<td>Anytime an officer approaches someone as part of investigating criminal activity</td>
<td>82%</td>
</tr>
<tr>
<td>Anytime an officer approaches someone to ask a questions</td>
<td>64%</td>
</tr>
<tr>
<td>Any interactions with members of the public</td>
<td>64%</td>
</tr>
</tbody>
</table>
4) I would feel comfortable reporting a crime to an officer is recording with a body-worn camera.

<table>
<thead>
<tr>
<th>Opinion</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly Agree</td>
<td>56%</td>
</tr>
<tr>
<td>Agree</td>
<td>24%</td>
</tr>
<tr>
<td>Neither Agree nor Disagree</td>
<td>13%</td>
</tr>
<tr>
<td>Disagree</td>
<td>4%</td>
</tr>
<tr>
<td>Strongly Disagree</td>
<td>3%</td>
</tr>
</tbody>
</table>

5) An officer who approaches a person in a public space like a store or on the sidewalk should be required to tell that person that the camera is recording:

<table>
<thead>
<tr>
<th>Method of Telling</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>As soon as the officer approaches the person</td>
<td>27%</td>
</tr>
<tr>
<td>As soon as possible, without compromising officer safety or other important law enforcement interests</td>
<td>46%</td>
</tr>
<tr>
<td>Never</td>
<td>14%</td>
</tr>
<tr>
<td>No Opinion</td>
<td>13%</td>
</tr>
</tbody>
</table>

6) An officer who enters a person’s home should be required to tell that person that the camera is recording:

<table>
<thead>
<tr>
<th>Method of Telling</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>As soon as the officer enters</td>
<td>37%</td>
</tr>
<tr>
<td>As soon as possible, without compromising officer safety or other important law enforcement interests</td>
<td>50%</td>
</tr>
<tr>
<td>Never</td>
<td>8%</td>
</tr>
<tr>
<td>No Opinion</td>
<td>5%</td>
</tr>
</tbody>
</table>

7) If a person asks an officer to turn off a camera, the officer should:

<table>
<thead>
<tr>
<th>Action</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Immediately turn off the camera</td>
<td>5%</td>
</tr>
<tr>
<td>Be allowed to keep the camera on for the officer’s safety or that of others</td>
<td>22%</td>
</tr>
<tr>
<td>Be allowed to keep the camera on if necessary to record evidence</td>
<td>7%</td>
</tr>
<tr>
<td>Be allowed to keep it on for both the officer’s and others’ safety and to record evidence</td>
<td>62%</td>
</tr>
<tr>
<td>No opinion</td>
<td>4%</td>
</tr>
</tbody>
</table>
8) If a person has an interaction with an officer wearing a body-worn camera, the NYPD should be required to show that person the footage upon request.

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly Agree</td>
<td>53%</td>
</tr>
<tr>
<td>Agree</td>
<td>23%</td>
</tr>
<tr>
<td>Neither Agree nor Disagree</td>
<td>12%</td>
</tr>
<tr>
<td>Disagree</td>
<td>7%</td>
</tr>
<tr>
<td>Strongly Disagree</td>
<td>4%</td>
</tr>
</tbody>
</table>

9) An officer should be permitted to view a recording from his own body-worn camera:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Anytime, including before writing a report or giving a sworn statement</td>
<td>27%</td>
</tr>
<tr>
<td>Anytime, unless there is an incident involving the use of force, in which case the officer must first write a report</td>
<td>19%</td>
</tr>
<tr>
<td>Only after first writing a report about the incident, whether or not there is a use of force by the officer</td>
<td>43%</td>
</tr>
<tr>
<td>Never</td>
<td>6%</td>
</tr>
<tr>
<td>No opinion</td>
<td>5%</td>
</tr>
</tbody>
</table>

10) If a person has an interaction with an officer wearing a body-worn camera, and a news reporter or advocacy group requests the footage, the NYPD should be required to give it to them.

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly Agree</td>
<td>33%</td>
</tr>
<tr>
<td>Agree</td>
<td>24%</td>
</tr>
<tr>
<td>Neither Agree nor Disagree</td>
<td>19%</td>
</tr>
<tr>
<td>Disagree</td>
<td>14%</td>
</tr>
<tr>
<td>Strongly Disagree</td>
<td>9%</td>
</tr>
</tbody>
</table>

11) If a body-worn camera captures a high-profile incident of interest to the public, the department should make the footage public:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>As soon as possible</td>
<td>51%</td>
</tr>
<tr>
<td>After it completes and investigation</td>
<td>25%</td>
</tr>
<tr>
<td>At the end of any court case or judicial proceeding</td>
<td>17%</td>
</tr>
<tr>
<td>Never</td>
<td>3%</td>
</tr>
<tr>
<td>No opinion</td>
<td>5%</td>
</tr>
</tbody>
</table>
12) When was your most recent interaction with a New York City Police Officer?

<table>
<thead>
<tr>
<th></th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Within the past month (30 Days)</td>
<td>21%</td>
</tr>
<tr>
<td>More than 1 month ago but within the last year</td>
<td>23%</td>
</tr>
<tr>
<td>More than 1 year ago, but less than 5 years</td>
<td>25%</td>
</tr>
<tr>
<td>More than 5 years</td>
<td>11%</td>
</tr>
<tr>
<td>Never</td>
<td>20%</td>
</tr>
</tbody>
</table>

13) I believe that NYPD officers treat members of the public with courteousness and respect:

<table>
<thead>
<tr>
<th></th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Always</td>
<td>7%</td>
</tr>
<tr>
<td>Mostly</td>
<td>44%</td>
</tr>
<tr>
<td>Sometimes</td>
<td>40%</td>
</tr>
<tr>
<td>Rarely</td>
<td>1%</td>
</tr>
<tr>
<td>Never</td>
<td>8%</td>
</tr>
</tbody>
</table>

14) What is your race?

<table>
<thead>
<tr>
<th>Race</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>White</td>
<td>60%</td>
</tr>
<tr>
<td>Black</td>
<td>15%</td>
</tr>
<tr>
<td>White Hispanic</td>
<td>8%</td>
</tr>
<tr>
<td>Black Hispanic</td>
<td>3%</td>
</tr>
<tr>
<td>American Indian/Alaskan Native</td>
<td>&lt;1%</td>
</tr>
<tr>
<td>Asian/Pacific Islander</td>
<td>6%</td>
</tr>
<tr>
<td>Middle Eastern/Southwest Asian</td>
<td>1%</td>
</tr>
<tr>
<td>Other</td>
<td>7%</td>
</tr>
</tbody>
</table>

15) What is your gender?

<table>
<thead>
<tr>
<th>Gender</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Male</td>
<td>50%</td>
</tr>
<tr>
<td>Female</td>
<td>49%</td>
</tr>
<tr>
<td>Other</td>
<td>1%</td>
</tr>
</tbody>
</table>
16) How old are you?

<table>
<thead>
<tr>
<th>Age Range</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 13</td>
<td>&lt;1%</td>
</tr>
<tr>
<td>13-17</td>
<td>1%</td>
</tr>
<tr>
<td>18-25</td>
<td>18%</td>
</tr>
<tr>
<td>26-34</td>
<td>39%</td>
</tr>
<tr>
<td>35-54</td>
<td>29%</td>
</tr>
<tr>
<td>55-64</td>
<td>8%</td>
</tr>
<tr>
<td>65 or over</td>
<td>6%</td>
</tr>
</tbody>
</table>

17) Which borough do you live in?

<table>
<thead>
<tr>
<th>Borough</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brooklyn</td>
<td>34%</td>
</tr>
<tr>
<td>Bronx</td>
<td>8%</td>
</tr>
<tr>
<td>Manhattan</td>
<td>28%</td>
</tr>
<tr>
<td>Queens</td>
<td>19%</td>
</tr>
<tr>
<td>Staten Island</td>
<td>3%</td>
</tr>
<tr>
<td>Not a New York City Resident</td>
<td>8%</td>
</tr>
</tbody>
</table>

18) Do you live in a New York Housing Authority (NYCHA) or Trespass Affidavit Program (TAP) building?

<table>
<thead>
<tr>
<th>Response</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes, NYCHA</td>
<td>3%</td>
</tr>
<tr>
<td>Yes, TAP</td>
<td>1%</td>
</tr>
<tr>
<td>No</td>
<td>92%</td>
</tr>
<tr>
<td>I’m not sure</td>
<td>4%</td>
</tr>
</tbody>
</table>
1. The Department will be issuing “Body-Worn Cameras” (BWCs) to certain uniformed members of the service assigned to the 13, MTN, 25, 30, 34, 42, 43, 44, 47, 48, 60, 63, 67, 71, 72, 79, 102, 105, 115, and 121 Precincts. The BWC pilot program will serve to provide a contemporaneous, objective record of encounters, facilitate review by supervisors, foster accountability, and encourage lawful and respectful interactions between the public and the police. The program will be examined to determine whether BWCs contribute to officer safety, provide evidence for criminal prosecutions, help to resolve civilian complaints, reduce unconstitutional Terry stops, and foster positive relations with the community.

2. Therefore, effective immediately, when a uniformed member of the service has been issued a Body-Worn Camera, the following procedure will be complied with:

**PURPOSE**

To visually and audibly record certain interactions between uniformed members of the service and the public for official law enforcement purposes.

**SCOPE**

The Department is issuing Body-Worn Cameras (BWC) to certain uniformed members of the service. This procedure applies to all uniformed members of the service issued a BWC as well as personnel responsible for supervising, supporting and maintaining the use of BWCs.

**PROCEDURE**

When a uniformed member of the service is assigned a “Body-Worn Camera” (BWC):

**UNIFORMED MEMBER OF THE SERVICE**

1. Prior to roll call:
   a. Retrieve the personally assigned BWC from the docking station
   b. Inspect the BWC to ensure that the battery is fully charged and the device is operational
   c. Position the BWC to facilitate the optimal recording field of view. This will normally entail attaching it to the outermost garment in the center of the chest using the mounting hardware provided.

2. Utilize BWC only when personally issued and authorized by the Department to record official activity while on-duty.
   a. The use of any non-Department issued recording device is strictly prohibited.

3. Notify the desk officer if a BWC is not functioning properly, becomes damaged or is otherwise unaccounted for at any point during the tour and document notification in ACTIVITY LOG (PD112-145).
NOTICE OF BWC RECORDING

UNIFORMED MEMBER OF THE SERVICE
4. As soon as reasonably practical, notify members of the public that an interaction is being recorded, unless notification could compromise the safety of any person or impede an investigation.
   a. Suggested notification: “Sir/Ma’am, I am wearing a body-camera and this encounter is being recorded.”
   b. Consent is not required to start or continue recording.

MANDATORY ACTIVATION OF BWC

UNIFORMED MEMBER OF THE SERVICE
5. Activate BWC prior to engaging in, or assisting another uniformed member of the service with, the following police actions:
   a. Arrests
   b. Summonses, except for a Notice of Parking Violation (parking violation summons) unless the owner/operator of the vehicle is present
   c. Vehicle stops
   d. Interactions with persons suspected of criminal activity
   e. A search of an individual and/or his/her belongings, except for strip searches
   f. Interactions with an emotionally disturbed person
   g. Use of force as defined in P.G. 221-03, “Reporting and Investigation of Force Incident or Injury to Persons During Police Action”
   h. Public interactions that escalate and become adversarial
   i. Responding to the scene of crime-in-progress calls, including radio code signals 10-10, 10-13, 10-30 series, 10-85 (excluding administrative assistance), calls for service involving a weapon, and Shot Spotter activations
   j. Interior patrols of New York City Housing Authority buildings as well as any privately-owned building. The BWC must be activated upon entering the building and will not be deactivated until exiting the building and terminating the interior patrol along with any associated police action, if any.

6. Notify patrol/unit supervisor when there is a failure to record a mandatory event as described in step “5.”
   a. Document notification in ACTIVITY LOG.

EXIGENT CIRCUMSTANCES

UNIFORMED MEMBER OF THE SERVICE
7. Activate the BWC as soon as it is feasible and safe to do so after taking necessary police action to preserve human health and safety. At no time should proper tactics be compromised to begin a recording.

DISCRETIONARY ACTIVATION OF BWC

UNIFORMED MEMBER OF THE SERVICE
8. Uniformed members of the service may record other official activities when, in the uniformed member’s judgment, it would be beneficial to record, so long as it is not one of the prohibited recordings described in step “10.”
DEACTIVATION OF BWC

UNIFORMED
MEMBER OF
THE SERVICE

9. Once the BWC has been activated, continue recording until the investigative or enforcement action is concluded.
   a. In the case of an arrest, continue recording until the prisoner is lodged at the command for arrest processing.
   b. The UMOS may choose to deactivate the BWC upon the request of a member of the public if a suspect is not present, and it is safe and advisable to do so after considering all the circumstances, including the requestor’s desire for privacy or confidentiality.

PROHIBITED BWC RECORDINGS

UNIFORMED
MEMBER OF
THE SERVICE

10. Do not activate the BWC for any of the following:
   a. Performance of administrative duties or non-enforcement functions
   b. Routine activities within Department facilities
   c. Departmental meetings or training
   d. Off-duty employment including paid detail assignments
   e. Interviewing a current or potential confidential informant
   f. Undercover officers
   g. Interviewing the victim of a sex crime, as soon as the nature of the offense becomes apparent
   h. Strip searches
   i. When present in a court facility, except for the immediate lodging of a prisoner
   j. The inside of a medical facility unless engaging in a police action as listed under step “5.”

11. Notify patrol/unit supervisor if a prohibited event as described in step “10” was recorded.
   a. Document notification in ACTIVITY LOG.

DEMONSTRATIONS AND CIVIL DISOBEDIENCE

UNIFORMED
MEMBER OF
THE SERVICE

12. Record only if engaged in one of the actions listed in step “5” above (Mandatory Activation of BWC) and in uniform.
   a. The Technical Assistance and Response Unit (TARU) remains solely responsible for documenting protests, demonstrations, political events, etc., by means of photos and/or video.

DOCUMENTATION, MAINTENANCE AND NOTICES FOR CASE USE

UNIFORMED
MEMBER OF
THE SERVICE

13. Use the video management system software to “categorize” or “tag” videos based upon the nature of the event utilizing the drop-down menu provided.

14. Document in ACTIVITY LOG and the appropriate caption or in the narrative of any Department report prepared (e.g., STOP REPORT (PD383-153), THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET (PD370-154), AIDED REPORT, OPERATIONS ORDER NO. DRAFT 16
UNIFORMED MEMBER OF THE SERVICE (continued)

COMPLAINT REPORT (PD313-152), ON LINE BOOKING SYSTEM ARREST WORKSHEET (PD244-159), etc.) when an incident has been captured on a BWC recording.

a. Include the identity of member(s) recording the event.

15. Insert the BWC into the docking station in the station house for transfer of data and to recharge the battery at the completion of the tour.

16. Notify the following when necessary:

a. Appropriate prosecutor when a member of the service has knowledge that any portion of an incident relating to an arrest, prosecution, or other criminal matter before the court is captured by a BWC
   (1) Identify other members of the service who captured all or part of the event on their BWC
   (2) Provide copies of related BWC video utilizing the appropriate features of the video management system

b. Legal Bureau any time a member of the service becomes aware of potential or actual civil litigation involving a matter captured by a BWC.

VIEWING OF BWC RECORDINGS

UNIFORMED MEMBER OF THE SERVICE

17. In the performance of their duties, members of the service may view the following BWC recordings:

a. Their own BWC recordings, subject to steps “17(c)” and “17(d)”

b. BWC recordings made by other members of the service, if the viewing is in furtherance of an investigation, preparation of a case or other official purpose, subject to steps “17(c)” and “17(d)”

c. When a member of the service is the subject of an official departmental investigation, or is a witness in an official departmental investigation, the member may view his/her own BWC recording of the incident prior to making a statement under the provisions of P.G. 206-13, “Interrogation of Members of the Service,” at a time and place deemed appropriate by the supervisor in charge of the investigation

d. When a recording is related to a police firearms discharge, a Level 3 use of force, or a serious injury/death in custody as defined in P.G. 221.03, Reporting and Investigation of Force Incident or Injury to Persons During Police Action, the member may view his/her own BWC recording of the incident prior to making a statement under the provisions of P.G. 206-13, “Interrogation of Members of the Service,” at a time and place deemed appropriate by the supervisor in charge of the investigation.
FIREARMS DISCHARGES, LEVEL 3 USE OF FORCE AND DEATH/SERIOUS INJURY IN CUSTODY INCIDENTS

18. Respond to police firearms discharges, Level 3 uses of force and serious injury/death in-custody incidents and assume command.
   a. In addition to other necessary actions, obtain and secure BWCs that may contain relevant video from members of the service, documenting which officer had each camera.
   b. Provide BWCs to Force Investigation Division, Internal Affairs Bureau, or other supervisor in charge of the investigation.

19. Instruct members of the service to deactivate BWC if enforcement action has terminated, the event has been stabilized and interaction with the subject(s) of the police activity has concluded.

SUPERVISORY AND ADMINISTRATIVE FUNCTIONS FOR BWC

20. Provide members performing duty with the platoon sufficient time after the start of their tour but prior to roll call to retrieve their individually assigned BWC from the docking station.

21. Inspect members who are issued BWCs for their personally assigned BWCs and ensure that they are properly affixed to their uniform or outermost garment and functioning properly.

22. Visit members of the service equipped with BWCs while on assignment and ensure they are recording events and activities as required.

23. Instruct members of the service to deactivate BWC if enforcement action has terminated, the event has been stabilized and interaction with the subject(s) of the police activity has concluded.

24. Conduct an investigation when notified that a member failed to record all or part of an encounter as mandated in step “5.”
   a. Make determination regarding the propriety of the circumstances surrounding the failure to record and notify the desk officer to document results in Command Log.
   b. Ensure that any resulting failure to record is documented in the uniformed member’s ACTIVITY LOG.
   c. Prepare and forward a report on Typed Letterhead detailing the investigation, findings, and actions taken to the Chief of Department (through channels).
      (1) Forward additional copies to the Deputy Commissioner, Information Technology and the Commanding Officer, Risk Management Bureau.

25. Notify the desk officer whenever notified that a member made a prohibited recording as described in step “10.”

26. Review BWC video in conformance with the self-inspection program promulgated by the Quality Assurance Division.

27. Periodically review video in addition to the self-inspection program, as appropriate, to provide positive feedback and address any performance deficiencies observed.

OPERATIONS ORDER NO. DRAFT 16

Page 5 of 8
DESKTOP OFFICER

28. Account for all BWCs assigned to the command at the start of the tour.
   a. Enter details in the Command Log.

29. Conduct an immediate investigation when notified that a BWC is not functioning properly, has become damaged, or is otherwise unaccounted for, and comply with P.G. 217-10, “Accidents – Department Property” or P.G. 219-20, “Loss or Theft of Department Property,” as appropriate, and record discrepancies in the Command Log.
   a. Notify the Information Technology Bureau Service Desk and follow guidance for obtaining a replacement BWC.

30. Ensure that all BWCs are returned to their docking station for video upload and/or recharging at the end of tour.

31. Notify the commanding officer/duty captain whenever notified that a member made a prohibited recording as described in step “10.”

INTEGRITY CONTROL OFFICER

32. Be responsible for the integrity and security of the BWCs, related hardware and the video management system.

33. Supervise review of BWC video in conformance with the self-inspection program promulgated by the Quality Assurance Division.

COMMANDING OFFICER

34. Designate a secure area within the muster room/desk area and under the control of the desk officer for storage of BWCs not being used.

35. Conduct an investigation when notified of the recording of an event which is prohibited in step “10.”
   a. Prepare and forward a report on Typed Letterhead detailing the investigation, findings, and actions taken to the Chief of Department (through channels).
   b. Forward additional copies to the Deputy Commissioner, Information Technology and the Commanding Officer, Risk Management Bureau.

ADDITIONAL DATA

OPERATIONAL CONSIDERATIONS

The BWC and related hardware/software, as well as video, audio and data captured by the BWC, irrespective of the content, are at all times the property of the Department. Other than providing copies of BWC video to members of the Department for official purposes (e.g., detectives conducting criminal investigation, etc.) and prosecutors as described above, uniformed members of the service may not copy, publish, share or disseminate any audio, video, image or data to anyone unless authorized by the Police Commissioner. Furthermore, members of the service may not edit, delete or alter any video or audio captured by the BWC or stored on the Department’s network or approved storage media.

The default preservation period for BWC video is one year, at which time it will be automatically deleted. Depending upon the “category” or “tag” assigned to the video, certain videos (e.g., arrests) may be retained for longer periods. Commanding officers may request that a BWC recording be retained beyond the prescribed retention period, if necessary. Requests should be submitted through channels to the Deputy Commissioner, Information Technology, detailing the reasons for the request and expected duration of the preservation.
ADDITIONAL DATA
(continued)

LEGAL CONSIDERATIONS

The Department is required by law to disclose certain information and material related to criminal and civil proceedings pursuant to the New York Criminal Procedure Law, People v. Rosario, rules governing discovery in civil cases, The Freedom of Information Law (F.O.I.L.), subpoenas, and court orders. The Legal Bureau’s Document Production Unit will respond to subpoenas, court orders, and F.O.I.L. requests as per P.G. 211-17, “Processing Legal Bureau Requests for Department Records Including Requests Under the Freedom of Information Law.” The Internal Affairs Bureau will process requests from the Civilian Complaint Review Board for body-worn camera video as per P.G. 211-14, “Investigations by Civilian Complaint Review Board.” Arresting officers will provide the assigned prosecutor with access to all BWC video related to an arrest utilizing the BWC video management system.

Requests by a witness or victim to view a BWC recording must be declined and referred to the appropriate prosecutor handling the case. Confirmatory identifications (“show-ups”) must be done in person and not by the witness viewing a BWC video of the suspect. Requests by civilians to view a BWC recording that is not related to a criminal case must be declined and referred to the Legal Bureau’s Document Production Unit. Requests for BWC recordings can be made by emailing FOIL@NYPD.ORG or by making a request on New York City’s FOIL website at https://a860-openrecords.nyc.gov/new

RELATED PROCEDURES

Accidents – Department Property (P.G. 217-10)
Firearms Discharge by Uniformed Members of the Service (P.G. 221-04)
Guidelines for the Use of Video/Photographic Equipment by Operational Personnel at Demonstrations (P.G. 212-71)
Guidelines for Uniformed Members of the Service Conducting Investigations Involving Political Activities (P.G. 212-72)
Interior Patrol (P.G. 212-59)
Interior Patrol of Housing Authority Buildings (P.G. 212-60)
Interrogation of Members of the Service (P.G. 206-13)
Investigations by Civilian Complaint Review Board (P.G. 211-14)
Investigative Encounters: Requests for Information, Common Law Right of Inquiry and Level 3 Stops (P.G. 212-11)
Loss or Theft of Department Property (P.G. 219-20)
Processing Legal Bureau Requests for Department Records Including Requests Under the Freedom of Information Law (P.G. 211-17)
Reporting and Investigation of Force Incident or Injury to Persons During Police Action (P.G. 221-03)

FORMS AND REPORTS

ACTIVITY LOG (PD112-145)
COMPLAINT REPORT (PD313-152)
ON LINE BOOKING SYSTEM ARREST WORKSHEET (PD244-159)
STOP REPORT (PD383-153)
THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET (PD370-154)
AIDED REPORT
Typed Letterhead
3. Operations Order 48, series 2014 is hereby **REVOKED**.

4. Commanding officers will ensure that the contents of this Order are immediately brought to the attention of members of their commands.

**BY DIRECTION OF THE POLICE COMMISSIONER**

**DISTRIBUTION**
All Commands
DATE: ________________

REQUESTOR’S NAME: _____________________________________________________________

ADDRESS: ____________________________________________________________APT # _______________________

CITY: ________________________ STATE: ____________________ ZIP: ______________________

PHONE: (_____________) _____________

UNDER THE FREEDOM OF INFORMATION LAW, I AM REQUESTING THE FOLLOWING:

(FOR SEALED RECORDS SUBMIT A NOTARIZED REQUEST OR NOTARIZED AUTHORIZATION FOR
RELEASE FROM THE ACCUSED IN WHOSE FAVOR A CRIMINAL ACTION OR PROCEEDING WAS
TERMINATED)

COMPLAINT REPORT#: ________________________________ DATE:____________________

PRECINCT # __________ TIME: __________

ADDRESS OF COMPLAINANT: __________________________________________________________________________

VICTIM/COMPLAINANT NAME: _________________________ OFFENSE: ________________________________

ARREST REPORT# : __________________ PRECINCT # __________ NAME: ______________________________________________________________________

DATE OF ARREST: ___________ D.O.B. ____________

S.S.#________________________ NYSID# _______________ CHARGE: ________________________________

VICTIM/COMPLAINANT NAME: _________________________

AIDED CARD#: __________________ NAME: ______________________________________________________________________

PRECINCT # __________ DATE: __________

TIME: __________ LOCATION: ______________________________________________________________________

NATURE OF ILLNESS/INJURY: ______________________________________________________________________

SPRINT REPORT: (911 CALL)  DATE: __________ PRECINCT # __________ TIME: ____________

ADDRESS OF CALL: __________________________________________________________________________

NAME OF CALLER: ________________________ NATURE OF CALL: ________________________________

PERSONNEL FILE: (SUBMIT A NOTARIZED REQUEST OR NOTARIZED AUTHORIZATION FOR
RELEASE) (ONLY FOR RETIRED OR SEPARATED MEMBERS OF THE NYC POLICE DEPARTMENT)

NAME: ______________________ TAX#: __________________ SS#: _________________________________

DOCUMENT(S) NEEDED: ______________________________________________________________________

BODY-WORN CAMERA FOOTAGE: Officer Name (if known): __________ Date: __________

Time: __________ Location: __________ Precinct # : __________

OTHER (TYPE OF REQUEST): __________________________________ REPORT # __________

NAME: ______________________ PRECINCT # __________ DATE(S): __________________

LOCATION: ________________________________________________________________________________

NAME: (PRINT) ___________________ SIGNATURE: __________________________________________________________________________
PURPOSE
To visually and audibly record certain interactions between uniformed members of the service and the public for official law enforcement purposes.

SCOPE
The Department is issuing Body-Worn Cameras (BWCs) to certain uniformed members of the service. This procedure applies to all uniformed members of the service issued a BWC as well as personnel responsible for supervising, supporting and maintaining the use of BWCs.

PROCEDURE
When a uniformed member of the service is assigned a Body-Worn Camera (BWC):

1. Prior to roll call:
   a. Retrieve the personally assigned BWC from the docking station
   b. Turn power on and inspect the BWC to ensure that the battery is charged and the device is operational
   c. Position the BWC to facilitate the optimal recording field of view. This will normally entail attaching it to the outermost garment in the center of the chest using the mounting hardware provided.

2. Utilize BWC only when personally issued and authorized by the Department to record official activity while on-duty.
   a. The use of any non-Department issued recording device is strictly prohibited.

3. Notify the desk officer if a BWC is not functioning properly, becomes damaged or is otherwise unaccounted for at any point during the tour and document notification in ACTIVITY LOG (PD112-145).

MANDATORY ACTIVATION OF BWC

4. Activate BWC prior to engaging in, or assisting another uniformed member of the service with the following police actions:
   a. Potential crime-in-progress assignments, including:
      (1) 10-10 (e.g., suspicious person, shots fired, person with a gun, person selling drugs, etc.)
      (2) 10-50 disorderly person or group
      (3) 10-30 series
      (4) 10-85 (excluding administrative assistance) and 10-13
      (5) Any incident involving a weapon
      (6) ShotSpotter activation.
   b. Interior patrols of New York City Housing Authority buildings as well as any privately owned buildings. The BWC must be activated upon entering the building and will not be deactivated until exiting the building and terminating the interior patrol along with any associated police action
   c. Public interactions that escalate and become adversarial
UNIFORMED MEMBER OF THE SERVICE (continued)

- d. Interactions with an emotionally disturbed person
- e. Interactions with persons suspected of criminal activity
- f. A search of an individual and/or his/her belongings, except for strip searches
- g. Vehicle stops
- h. Summonses, except for a Notice of Parking Violation (parking violation summons) unless the owner/operator is present
- i. Use of force as defined in P.G. 221-03, “Reporting and Investigation of Force Incident or Injury to Persons During Police Action”
- j. Arrests.

5. Notify patrol/unit supervisor when there is a failure to record a mandatory event as described in step “4.”
   - a. Document notification in ACTIVITY LOG.

BWC ACTIVATION, NOTICE OF RECORDING AND EXIGENT CIRCUMSTANCES

UNIFORMED MEMBER OF THE SERVICE

- 6. Begin recording prior to or immediately upon arrival at incident location.
- 7. In the event of an unanticipated or exigent occurrence, activate the BWC as soon as it is feasible and safe to do so after taking necessary police action to preserve human health and safety. At no time should proper tactics be compromised to begin a recording.
- 8. As soon as reasonably practical, notify members of the public that an interaction is being recorded, unless notification could compromise the safety of any person or impede an investigation.
   - a. Suggested notification: “Sir/Ma’am, I am wearing a body-camera and this encounter is being recorded.”
   - b. Consent is not required to start or continue recording.

DISCRETIONARY ACTIVATION OF BWC

UNIFORMED MEMBER OF THE SERVICE

- 9. Uniformed members of the service may record other official activities when, in the uniformed member’s judgment, it would be beneficial to record, so long as it is not one of the prohibited recordings described in step “11.”

DEACTIVATION OF BWC

UNIFORMED MEMBER OF THE SERVICE

- 10. Once the BWC has been activated, continue recording until the investigative, enforcement, or other police action is concluded.
   - a. In the case of an arrest, continue recording until the prisoner is lodged at the command for arrest processing.
b. The uniformed member of the service may choose to deactivate the BWC upon the request of a member of the public if a suspect is not present, and it is safe and advisable to do so after considering all the circumstances, including the requester’s desire for privacy or confidentiality.

PROHIBITED BWC RECORDINGS

11. Do not activate the BWC for any of the following:
   a. Performance of administrative duties or non-enforcement functions
   b. Routine activities within Department facilities
   c. Departmental meetings or training
   d. Off-duty employment including paid detail assignments
   e. Interviewing a current or potential confidential informant
   f. Undercover officers
   g. Interviewing the victim of a sex crime, as soon as the nature of the offense becomes apparent
   h. Strip searches
   i. When present in a court facility, except for the immediate lodging of a prisoner
   j. The inside of a medical facility.

12. Notify patrol/unit supervisor if a prohibited event as described in step “11” was recorded.
   a. Document notification in ACTIVITY LOG.

DEMONSTRATIONS AND CIVIL DISOBEEDIENCE

13. Record only if engaged in one of the actions listed in step “4” above (Mandatory Activation of BWC) and in uniform.
   a. The Technical Assistance and Response Unit (TARU) remains solely responsible for documenting protests, demonstrations, political events, etc., by means of photos and/or video.

DOCUMENTATION, MAINTENANCE AND NOTICES FOR CASE USE

14. Access the video management system on the Department intranet to “categorize” and or “tag” videos based upon the nature of the event utilizing the “Edit Details” feature.
   a. The default category for BWC video is “Uncategorized.”
   b. Select one category, if any or all are applicable, from the dropdown list in the following priority order:
      (1) Arrest
      (2) Homicide
      (3) Summons
      (4) Investigative Encounter.
c. Select all applicable “Tags” from the dropdown list provided under the “Add tag” feature.

d. If related to an arrest, enter the complete arrest number, beginning with the borough letter designation, in the field labeled “Report Number.”

e. If related to a Terry Stop/Level 3 Encounter not involving an arrest, enter the Stop Report number in the field labeled “Report Number.”

15. Document in ACTIVITY LOG and the appropriate caption or in the narrative of any Department report prepared (e.g., STOP REPORT [PD383-151], THREAT, RESISTANCE OR INJURY [T.R.I.] INCIDENT WORKSHEET [PD370-154], AIDED REPORT, COMPLAINT REPORT [PD313-152], ON LINE BOOKING SYSTEM ARREST WORKSHEET [PD244-159], etc.) when an incident has been captured on a BWC recording.
   a. Include the identity of member(s) recording the event.

16. Insert the BWC into the docking station in the station house for transfer of data and to recharge the battery at the completion of the tour.

17. Notify the following when necessary:
   a. Appropriate prosecutor when a member of the service has knowledge that any portion of an incident relating to an arrest, prosecution, or other criminal matter before the court is captured by a BWC
      (1) Identify other members of the service who captured all or part of the event on their BWC
      (2) Provide copies of related BWC video utilizing the appropriate features of the video management system
   b. Legal Bureau any time a member of the service becomes aware of potential or actual civil litigation involving a matter captured by a BWC
   c. Assigned detective/investigator anytime that any portion of an incident under investigation is captured by a BWC.

VIEWING OF BWC RECORDINGS

18. In the performance of their duties, members of the service may view the following BWC recordings:
   a. Their own BWC recordings, subject to steps “18(c)” and “18(d)”
   b. BWC recordings made by other members of the service, if the viewing is in furtherance of an investigation, preparation of a case or other official purpose, subject to steps “18(c)” and “18(d)”
   c. When a member of the service is the subject of an official Departmental investigation, or is a witness in an official Departmental investigation, the member may view his/her own BWC recording of the incident prior to making a statement under the provisions of P.G. 206-13, “Interrogation of Members of the Service,” at a time and place deemed appropriate by the supervisor in charge of the investigation

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UNIFORMED MEMBER OF THE SERVICE  (continued)

d. When a recording is related to a police firearms discharge, a Level 3 use of force, or a serious injury/death in custody as defined in P.G. 221-03, “Reporting and Investigation of Force Incident or Injury to Persons During Police Action,” the member may view his/her own BWC recording of the incident prior to making a statement under the provisions of P.G. 206-13, “Interrogation of Members of the Service,” at a time and place deemed appropriate by the supervisor in charge of the investigation.

FIREARMS DISCHARGES, LEVEL 3 USE OF FORCE, AND DEATH/ SERIOUS INJURY IN CUSTODY INCIDENTS

PATROL SUPERVISOR/UNIT SUPERVISOR
19. Respond to police firearms discharges, Level 3 uses of force, and serious injury/death in-custody incidents and assume command.
   a. In addition to other necessary actions, obtain and secure BWCs from all members of the service who were on the scene, documenting which officer had each camera.
   b. Provide BWCs to Force Investigation Division, Internal Affairs Bureau, or other supervisor in charge of the investigation.

20. Instruct members of the service to deactivate BWC if enforcement action has terminated, the event has been stabilized and interaction with the subject(s) of the police activity has concluded.

SUPERVISORY AND ADMINISTRATIVE FUNCTIONS FOR BWC

SUPERVISOR CONDUCTING ROLL CALL
21. Provide members performing duty with the platoon sufficient time after the start of their tour but prior to roll call to retrieve their individually assigned BWC from the docking station.

22. Inspect members who are issued BWCs for their personally assigned BWCs and ensure that they are properly affixed to their uniform or outermost garment, powered on, and functioning properly.

PATROL SUPERVISOR/UNIT SUPERVISOR
23. Visit members of the service equipped with BWCs while on assignment and ensure they are recording events and activities as required.

24. Instruct members of the service to deactivate BWC if enforcement action has terminated, the event has been stabilized and interaction with the subject(s) of the police activity has concluded.

25. Conduct an investigation when notified that a member failed to record all or part of an encounter as mandated in step “4.”
   a. Make determination regarding the propriety of the circumstances surrounding the failure to record and notify the desk officer to document results in Command Log.
   b. Ensure that any resulting failure to record is documented in the uniformed member’s ACTIVITY LOG.
PATROL SUPERVISOR/UNIT SUPERVISOR (continued)

c. Prepare and forward a report on **Typed Letterhead** detailing the investigation, findings, and actions taken to the Chief of Department (through channels).

(1) Forward additional copies to the Deputy Commissioner, Information Technology and the Commanding Officer, Risk Management Bureau.

26. Notify the desk officer whenever notified that a member made a prohibited recording as described in step “11.”

27. Periodically review BWC video as appropriate, to provide positive feedback and address any performance or tactical deficiencies observed.

DESK OFFICER

28. Account for all BWCs assigned to the command at the start of the tour.
   a. Enter details in the Command Log.

29. Conduct an immediate investigation when notified that a BWC is not functioning properly, has become damaged, or is otherwise unaccounted for, and comply with P.G. 217-10, “Accidents – Department Property” or P.G. 219-20, “Loss or Theft of Department Property,” as appropriate, and record discrepancies in the Command Log.
   a. Notify the Information Technology Bureau Service Desk and follow guidance for obtaining a replacement BWC.

30. Ensure that all BWCs are returned to their docking station for video upload and/or recharging at the end of tour.

31. Ensure that all BWC videos related to an arrest are provided to the arresting officer and the appropriate District Attorney’s office by utilizing the “Share” function in the video management system.
   a. Ensure that all BWC videos related to a previous tour’s arrest are provided to the arresting officer and the appropriate District Attorney’s office prior to the end of tour.
   b. Enter details in the Command Log.

32. Notify the commanding officer/duty captain whenever notified that a member made a prohibited recording as described in step “11.”

TRAINING SERGEANT

33. Periodically review BWC video as appropriate, to provide positive feedback and address any performance or tactical deficiencies observed.

34. Assess compliance with the procedure and take necessary remedial action to correct deficiencies.

INTEGRITY CONTROL OFFICER

35. Be responsible for the integrity and security of the BWCs, related hardware and the video management system.

36. Supervise review of BWC video by supervisors assigned to the command.

37. Periodically review BWC video as appropriate, to provide positive feedback and address any performance deficiencies observed.
### Commanding Officer

38. Designate a secure area within the muster room/desk area and under the control of the desk officer for storage of BWCs not being used.

39. Ensure compliance with the BWC procedure.

40. Conduct an investigation when notified of the recording of an event which is prohibited in step “11.”
   - Prepare and forward a report on **Typed Letterhead** detailing the investigation, findings, and actions taken to the Chief of Department (through channels).
   - Forward additional copies to the Deputy Commissioner, Information Technology and the Commanding Officer, Risk Management Bureau.

### Patrol Borough Adjutant/COUNTERPART

41. Be responsible and provide oversight for the BWC program.

42. Evaluate compliance with the procedure and manage systems to address deficiencies.

### Additional Data

#### Operational Considerations

When entering a Department facility equipped with an electronic access control system, uniformed members of the service should cover the lens of their BWC while entering the access code into the keypad to prevent the inadvertent recording of access information.

The BWC and related hardware/software, as well as video, audio and data captured by the BWC, irrespective of the content, are at all times the property of the Department. Other than providing copies of BWC video to members of the Department for official purposes (e.g., arresting officers processing an arrest, detectives conducting criminal investigation, etc.) and prosecutors as described above, uniformed members of the service may not copy, publish, share or disseminate any audio, video, image or data to anyone unless authorized by the Police Commissioner. Furthermore, members of the service may not edit, delete or alter any video or audio captured by the BWC or stored on the Department’s network or approved storage media. The video management system maintains an audit trail for all transactions conducted in the system.

The default preservation period for BWC video is one year, at which time it will be automatically deleted. Depending upon the “category” assigned to the video, certain videos (e.g., arrests) may be retained for longer periods. Commanding officers may request that a BWC recording be retained beyond the prescribed retention period, if necessary. Requests should be submitted through channels to the Deputy Commissioner, Information Technology, detailing the reasons for the request and expected duration of the preservation.

#### Legal Considerations

The Department is required by law to disclose certain information and material related to criminal and civil proceedings pursuant to the New York Criminal Procedure Law, People v. Rosario, rules governing discovery in civil cases, The Freedom of Information Law (F.O.I.L.), subpoenas, and court orders. The Legal Bureau’s Document Production...
Unit will respond to subpoenas, court orders, and F.O.I.L. requests as per P.G. 211-17, “Processing Legal Bureau Requests for Department Records Including Requests Under the Freedom of Information Law.” The Internal Affairs Bureau will process requests from the Civilian Complaint Review Board for body-worn camera video as per P.G. 211-14, “Investigations by Civilian Complaint Review Board.” Arresting officers will provide the assigned prosecutor with access to all BWC video related to an arrest utilizing the BWC video management system.

Confirmatory identifications (“show-ups”) must be done in person and not by the witness viewing a BWC video of the suspect. Requests by a witness or victim to view a BWC recording must be declined and referred to the appropriate prosecutor handling the case. Requests by civilians to view a BWC recording that is not related to a criminal case must be declined and referred to the Legal Bureau’s Document Production Unit. Requests for BWC recordings can be made by emailing FOIL@NYPD.ORG or by making a request on New York City’s FOIL website at https://a860-openrecords.nyc.gov.

**RELATED PROCEDURES**

- Accidents – Department Property (P.G. 217-10)
- Firearms Discharge by Uniformed Members of the Service (P.G. 221-04)
- Guidelines for the Use of Video/Photographic Equipment by Operational Personnel at Demonstrations (P.G. 212-71)
- Guidelines for Uniformed Members of the Service Conducting Investigations Involving Political Activities (P.G. 212-72)
- Interior Patrol of Multiple Dwelling Buildings Enrolled in the Trespass Affidavit Program (P.G. 212-59)
- Interior Patrol of Housing Authority Buildings (P.G. 212-60)
- Interrogation of Members of the Service (P.G. 206-13)
- Investigations by Civilian Complaint Review Board (P.G. 211-14)
- Investigative Encounters: Requests for Information, Common Law Right of Inquiry and Level 3 Stops (P.G. 212-11)
- Loss or Theft of Department Property (P.G. 219-20)
- Processing Legal Bureau Requests for Department Records Including Requests Under the Freedom of Information Law (P.G. 211-17)
- Reporting and Investigation of Force Incident or Injury to Persons During Police Action (P.G. 221-03)

**FORMS AND REPORTS**

- ACTIVITY LOG (PD112-145)
- COMPLAINT REPORT (PD313-152)
- ONLINE BOOKING SYSTEM ARREST WORKSHEET (PD244-159)
- STOP REPORT (PD383-151)
- THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET (PD370-154)
- AIDED REPORT
- Typed Letterhead
Assembly Bill No. 748

CHAPTER 960

An act to amend Section 6254 of the Government Code, relating to peace officers.

[Approved by Governor September 30, 2018. Filed with Secretary of State September 30, 2018.]

LEGISLATIVE COUNSEL’S DIGEST

AB 748, Ting. Peace officers: video and audio recordings: disclosure.

Existing law, the California Public Records Act, requires that public records, as defined, be available to the public for inspection and made promptly available to any person. Existing law makes records of investigations conducted by any state or local police agency exempt from these requirements. Existing law requires specified information regarding the investigation of crimes to be disclosed to the public unless disclosure would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation.

This bill would, notwithstanding the above provisions, commencing July 1, 2019, allow a video or audio recording that relates to a critical incident, as defined, to be withheld for 45 calendar days if disclosure would substantially interfere with an active investigation, subject to extensions, as specified. The bill would allow the recording to be withheld if the public interest in withholding video or audio recording clearly outweighs the public interest in disclosure because the release of the recording would, based on the facts and circumstances depicted in the recording, violate the reasonable expectation of privacy of a subject depicted in the recording, in which case the bill would allow the recording to be redacted to protect that interest. If the agency demonstrates that the reasonable expectation of privacy of a subject depicted in the recording cannot adequately be protected through redaction, the bill would require that the recording be promptly disclosed to a subject of the recording, his or her parent, guardian, or representative, as applicable, or his or her heir, beneficiary, immediate family member, or authorized legal representative, if deceased.

By requiring local agencies to make these recordings available, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.
The people of the State of California do enact as follows:

SECTION 1. Section 6254 of the Government Code, as amended by Section 1 of Chapter 560 of the Statutes of 2017, is amended to read:

6254. Except as provided in Sections 6254.7 and 6254.13, this chapter does not require the disclosure of any of the following records:

(a) Preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business, if the public interest in withholding those records clearly outweighs the public interest in disclosure.

(b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810), until the pending litigation or claim has been finally adjudicated or otherwise settled.

(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(d) Records contained in or related to any of the following:

1) Applications filed with any state agency responsible for the regulation or supervision of the issuance of securities or of financial institutions, including, but not limited to, banks, savings and loan associations, industrial loan companies, credit unions, and insurance companies.

2) Examination, operating, or condition reports prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

3) Preliminary drafts, notes, or interagency or intra-agency communications prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

4) Information received in confidence by any state agency referred to in paragraph (1).

(e) Geological and geophysical data, plant production data, and similar information relating to utility systems development, or market or crop reports, that are obtained in confidence from any person.

(f) Records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, the Office of Emergency Services and any state or local police agency, or any investigatory or security files compiled by any other state or local police agency, or any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes. However, state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, carjacking, vandalism,
vehicle theft, or a crime as defined by subdivision (b) of Section 13951, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation. However, this subdivision does not require the disclosure of that portion of those investigative files that reflects the analysis or conclusions of the investigating officer.

Customer lists provided to a state or local police agency by an alarm or security company at the request of the agency shall be construed to be records subject to this subdivision.

Notwithstanding any other provision of this subdivision, state and local law enforcement agencies shall make public the following information, except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation:

(1) The full name and occupation of every individual arrested by the agency, the individual’s physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.

(2) (A) Subject to the restrictions imposed by Section 841.5 of the Penal Code, the time, substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including, to the extent the information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date, and location of occurrence, the time and date of the report, the name and age of the victim, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property, or weapons involved. The name of a victim of any crime defined by Section 220, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3, 288.4, 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code may be withheld at the victim’s request, or at the request of the victim’s parent or guardian if the victim is a minor. When a person is the victim of more than one crime, information disclosing that the person is a victim of a crime defined in any of the sections of the Penal Code set forth in this subdivision may be deleted at the request of the victim, or the victim’s parent or guardian if the victim is a minor, in making the report of the crime, or of any crime or incident accompanying the crime, available to the public in compliance with the requirements of this paragraph.

(B) Subject to the restrictions imposed by Section 841.5 of the Penal Code, the names and images of a victim of human trafficking, as defined in Section 236.1 of the Penal Code, and of that victim’s immediate family,
other than a family member who is charged with a criminal offense arising from the same incident, may be withheld at the victim’s request until the investigation or any subsequent prosecution is complete. For purposes of this subdivision, “immediate family” shall have the same meaning as that provided in paragraph (3) of subdivision (b) of Section 422.4 of the Penal Code.

(3) Subject to the restrictions of Section 841.5 of the Penal Code and this subdivision, the current address of every individual arrested by the agency and the current address of the victim of a crime, if the requester declares under penalty of perjury that the request is made for a scholarly, journalistic, political, or governmental purpose, or that the request is made for investigation purposes by a licensed private investigator as described in Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code. However, the address of the victim of any crime defined by Section 220, 236.1, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3, 288.4, 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code shall remain confidential. Address information obtained pursuant to this paragraph shall not be used directly or indirectly, or furnished to another, to sell a product or service to any individual or group of individuals, and the requester shall execute a declaration to that effect under penalty of perjury. This paragraph shall not be construed to prohibit or limit a scholarly, journalistic, political, or government use of address information obtained pursuant to this paragraph.

(4) Notwithstanding any other provision of this subdivision, commencing July 1, 2019, a video or audio recording that relates to a critical incident, as defined in subparagraph (C), may be withheld only as follows:

(A) (i) During an active criminal or administrative investigation, disclosure of a recording related to a critical incident may be delayed for no longer than 45 calendar days after the date the agency knew or reasonably should have known about the incident, if, based on the facts and circumstances depicted in the recording, disclosure would substantially interfere with the investigation, such as by endangering the safety of a witness or a confidential source. If an agency delays disclosure pursuant to this paragraph, the agency shall provide in writing to the requester the specific basis for the agency’s determination that disclosure would substantially interfere with the investigation and the estimated date for disclosure.

(ii) After 45 days from the date the agency knew or reasonably should have known about the incident, and up to one year from that date, the agency may continue to delay disclosure of a recording if the agency demonstrates that disclosure would substantially interfere with the investigation. After one year from the date the agency knew or reasonably should have known about the incident, the agency may continue to delay disclosure of a recording only if the agency demonstrates by clear and convincing evidence that disclosure would substantially interfere with the investigation. If an agency delays disclosure pursuant to this clause, the agency shall promptly

91
provide in writing to the requester the specific basis for the agency’s
determination that the interest in preventing interference with an active
investigation outweighs the public interest in disclosure and provide the
estimated date for the disclosure. The agency shall reassess withholding
and notify the requester every 30 days. A recording withheld by the agency
shall be disclosed promptly when the specific basis for withholding is
resolved.

(B) (i) If the agency demonstrates, on the facts of the particular case,
that the public interest in withholding a video or audio recording clearly
outweighs the public interest in disclosure because the release of the
recording would, based on the facts and circumstances depicted in the
recording, violate the reasonable expectation of privacy of a subject depicted
in the recording, the agency shall provide in writing to the requester the
specific basis for the expectation of privacy and the public interest served
by withholding the recording and may use redaction technology, including
blurring or distorting images or audio, to obscure those specific portions of
the recording that protect that interest. However, the redaction shall not
interfere with the viewer’s ability to fully, completely, and accurately
comprehend the events captured in the recording and the recording shall
not otherwise be edited or altered.

(ii) Except as provided in clause (iii), if the agency demonstrates that the
reasonable expectation of privacy of a subject depicted in the recording
cannot adequately be protected through redaction as described in clause (i)
and that interest outweighs the public interest in disclosure, the agency may
withhold the recording from the public, except that the recording, either
redacted as provided in clause (i) or unredacted, shall be disclosed promptly,
upon request, to any of the following:

(I) The subject of the recording whose privacy is to be protected, or his
or her authorized representative.

(II) If the subject is a minor, the parent or legal guardian of the subject
whose privacy is to be protected.

(III) If the subject whose privacy is to be protected is deceased, an heir,
beneficiary, designated immediate family member, or authorized legal
representative of the deceased subject whose privacy is to be protected.

(iii) If disclosure pursuant to clause (ii) would substantially interfere with
an active criminal or administrative investigation, the agency shall provide
in writing to the requester the specific basis for the agency’s determination
that disclosure would substantially interfere with the investigation, and
provide the video or audio recording. Thereafter, the recording may be
withheld by the agency for 45 calendar days, subject to extensions as set
forth in clause (ii) of subparagraph (A).

(C) For purposes of this paragraph, a video or audio recording relates to
a critical incident if it depicts any of the following incidents:

(i) An incident involving the discharge of a firearm at a person by a peace
officer or custodial officer.

(ii) An incident in which the use of force by a peace officer or custodial
officer against a person resulted in death or in great bodily injury.
(D) An agency may provide greater public access to video or audio recordings than the minimum standards set forth in this paragraph.

(E) This paragraph does not alter, limit, or negate any other rights, remedies, or obligations with respect to public records regarding an incident other than a critical incident as described in subparagraph (C).

(F) For purposes of this paragraph, a peace officer does not include any peace officer employed by the Department of Corrections and Rehabilitation.

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except as provided for in Chapter 3 (commencing with Section 99150) of Part 65 of Division 14 of Title 3 of the Education Code.

(h) The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained. However, the law of eminent domain shall not be affected by this provision.

(i) Information required from any taxpayer in connection with the collection of local taxes that is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying the information.

(j) Library circulation records kept for the purpose of identifying the borrower of items available in libraries, and library and museum materials made or acquired and presented solely for reference or exhibition purposes. The exemption in this subdivision shall not apply to records of fines imposed on the borrowers.

(k) Records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

(l) Correspondence of and to the Governor or employees of the Governor’s office or in the custody of or maintained by the Governor’s Legal Affairs Secretary. However, public records shall not be transferred to the custody of the Governor’s Legal Affairs Secretary to evade the disclosure provisions of this chapter.

(m) In the custody of or maintained by the Legislative Counsel, except those records in the public database maintained by the Legislative Counsel that are described in Section 10248.

(n) Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with the licensing agency to establish his or her personal qualification for the license, certificate, or permit applied for.

(o) Financial data contained in applications for financing under Division 27 (commencing with Section 44500) of the Health and Safety Code, if an authorized officer of the California Pollution Control Financing Authority determines that disclosure of the financial data would be competitively injurious to the applicant and the data is required in order to obtain...
guarantees from the United States Small Business Administration. The California Pollution Control Financing Authority shall adopt rules for review of individual requests for confidentiality under this section and for making available to the public those portions of an application that are subject to disclosure under this chapter.

(p) (1) Records of state agencies related to activities governed by Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), and Chapter 12 (commencing with Section 3560) of Division 4, that reveal a state agency’s deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or that provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under these chapters. This paragraph shall not be construed to limit the disclosure duties of a state agency with respect to any other records relating to the activities governed by the employee relations acts referred to in this paragraph.

(2) Records of local agencies related to activities governed by Chapter 10 (commencing with Section 3500) of Division 4, that reveal a local agency’s deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or that provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under that chapter. This paragraph shall not be construed to limit the disclosure duties of a local agency with respect to any other records relating to the activities governed by the employee relations act referred to in this paragraph.

(q) (1) Records of state agencies related to activities governed by Article 2.6 (commencing with Section 14081), Article 2.8 (commencing with Section 14087.5), and Article 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, that reveal the special negotiator’s deliberative processes, discussions, communications, or any other portion of the negotiations with providers of health care services, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy, or that provide instruction, advice, or training to employees.

(2) Except for the portion of a contract containing the rates of payment, contracts for inpatient services entered into pursuant to these articles, on or after April 1, 1984, shall be open to inspection one year after they are fully executed. If a contract for inpatient services that is entered into prior to April 1, 1984, is amended on or after April 1, 1984, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after it is fully executed. If the California Medical Assistance Commission enters into contracts with health care providers for other than inpatient hospital services, those contracts shall be open to inspection one year after they are fully executed.

(3) Three years after a contract or amendment is open to inspection under this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.
(4) Notwithstanding any other law, the entire contract or amendment shall be open to inspection by the Joint Legislative Audit Committee and the Legislative Analyst’s Office. The committee and that office shall maintain the confidentiality of the contracts and amendments until the time a contract or amendment is fully open to inspection by the public.

(p) Records of Native American graves, cemeteries, and sacred places and records of Native American places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code maintained by, or in the possession of, the Native American Heritage Commission, another state agency, or a local agency.

(s) A final accreditation report of the Joint Commission on Accreditation of Hospitals that has been transmitted to the State Department of Health Care Services pursuant to subdivision (b) of Section 1282 of the Health and Safety Code.

(t) Records of a local hospital district, formed pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code, or the records of a municipal hospital, formed pursuant to Article 7 (commencing with Section 37600) or Article 8 (commencing with Section 37650) of Chapter 5 of Part 2 of Division 3 of Title 4 of this code, that relate to any contract with an insurer or nonprofit hospital service plan for inpatient or outpatient services for alternative rates pursuant to Section 10133 of the Insurance Code. However, the record shall be open to inspection within one year after the contract is fully executed.

(u) (1) Information contained in applications for licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department that indicates when or where the applicant is vulnerable to attack or that concerns the applicant’s medical or psychological history or that of members of his or her family.

(2) The home address and telephone number of prosecutors, public defenders, peace officers, judges, court commissioners, and magistrates that are set forth in applications for licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(3) The home address and telephone number of prosecutors, public defenders, peace officers, judges, court commissioners, and magistrates that are set forth in licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(v) (1) Records of the Managed Risk Medical Insurance Board and the State Department of Health Care Services related to activities governed by former Part 6.3 (commencing with Section 12695), former Part 6.5 (commencing with Section 12700), Part 6.6 (commencing with Section 12739.5), or Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code, or Chapter 2 (commencing with Section 15810) or Chapter 4 (commencing with Section 15870) of Part 3.3 of Division 9 of the Welfare and Institutions Code, and that reveal any of the following:
(A) The deliberative processes, discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the board or the department, entities with which the board or the department is considering a contract, or entities with which the board or department is considering or enters into any other arrangement under which the board or the department provides, receives, or arranges services or reimbursement.

(B) The impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff or the department or its staff, or records that provide instructions, advice, or training to their employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts entered into pursuant to former Part 6.3 (commencing with Section 12695), former Part 6.5 (commencing with Section 12700), Part 6.6 (commencing with Section 12739.5), or Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code, or Chapter 2 (commencing with Section 15810) or Chapter 4 (commencing with Section 15870) of Part 3.3 of Division 9 of the Welfare and Institutions Code, on or after July 1, 1991, shall be open to inspection one year after their effective dates.

(B) If a contract that is entered into prior to July 1, 1991, is amended on or after July 1, 1991, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after the effective date of the amendment.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto, until the contracts or amendments to the contracts are open to inspection pursuant to paragraph (3).

(w) (1) Records of the Managed Risk Medical Insurance Board related to activities governed by Chapter 8 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) Except for the portion of a contract that contains the rates of payment, contracts for health coverage entered into pursuant to Chapter 8 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, on or after January 1, 1993, shall be open to inspection one year after they have been fully executed.

(3) Notwithstanding any other law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit
Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto, until the contracts or amendments to the contracts are open to inspection pursuant to paragraph (2).

(x) Financial data contained in applications for registration, or registration renewal, as a service contractor filed with the Director of Consumer Affairs pursuant to Chapter 20 (commencing with Section 9800) of Division 3 of the Business and Professions Code, for the purpose of establishing the service contractor’s net worth, or financial data regarding the funded accounts held in escrow for service contracts held in force in this state by a service contractor.

(y) (1) Records of the Managed Risk Medical Insurance Board and the State Department of Health Care Services related to activities governed by Part 6.2 (commencing with Section 12693) or former Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code or Sections 14005.26 and 14005.27 of, or Chapter 3 (commencing with Section 15850) of Part 3.3 of Division 9 of, the Welfare and Institutions Code, if the records reveal any of the following:

(A) The deliberative processes, discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the board or the department, entities with which the board or department is considering a contract, or entities with which the board or department is considering or enters into any other arrangement under which the board or department provides, receives, or arranges services or reimbursement.

(B) The impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or the department or its staff, or records that provide instructions, advice, or training to employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts entered into pursuant to Part 6.2 (commencing with Section 12693) or former Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code, on or after January 1, 1998, or Sections 14005.26 and 14005.27 of, or Chapter 3 (commencing with Section 15850) of Part 3.3 of Division 9 of, the Welfare and Institutions Code shall be open to inspection one year after their effective dates.

(B) If a contract entered into pursuant to Part 6.2 (commencing with Section 12693) or former Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code or Sections 14005.26 and 14005.27 of, or Chapter 3 (commencing with Section 15850) of Part 3.3 of Division 9 of, the Welfare and Institutions Code, is amended, the amendment shall be open to inspection one year after the effective date of the amendment.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts...
and amendments thereto until the contract or amendments to a contract are open to inspection pursuant to paragraph (2) or (3).

(5) The exemption from disclosure provided pursuant to this subdivision for the contracts, deliberative processes, discussions, communications, negotiations, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or the department or its staff, shall also apply to the contracts, deliberative processes, discussions, communications, negotiations, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of applicants pursuant to Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code or Chapter 3 (commencing with Section 15850) of Part 3.3 of Division 9 of the Welfare and Institutions Code.

(z) Records obtained pursuant to paragraph (2) of subdivision (f) of Section 2891.1 of the Public Utilities Code.

(aa) A document prepared by or for a state or local agency that assesses its vulnerability to terrorist attack or other criminal acts intended to disrupt the public agency’s operations and that is for distribution or consideration in a closed session.

(ab) Critical infrastructure information, as defined in Section 131(3) of Title 6 of the United States Code, that is voluntarily submitted to the Office of Emergency Services for use by that office, including the identity of the person who or entity that voluntarily submitted the information. As used in this subdivision, “voluntarily submitted” means submitted in the absence of the office exercising any legal authority to compel access to or submission of critical infrastructure information. This subdivision shall not affect the status of information in the possession of any other state or local governmental agency.

(ac) All information provided to the Secretary of State by a person for the purpose of registration in the Advance Health Care Directive Registry, except that those records shall be released at the request of a health care provider, a public guardian, or the registrant’s legal representative.

(ad) The following records of the State Compensation Insurance Fund:

(1) Records related to claims pursuant to Chapter 1 (commencing with Section 3200) of Division 4 of the Labor Code, to the extent that confidential medical information or other individually identifiable information would be disclosed.

(2) Records related to the discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the fund, and any related deliberations.

(3) Records related to the impressions, opinions, recommendations, meeting minutes of meetings or sessions that are lawfully closed to the public, research, work product, theories, or strategy of the fund or its staff, on the development of rates, contracting strategy, underwriting, or competitive strategy pursuant to the powers granted to the fund in Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code.
(4) Records obtained to provide workers’ compensation insurance under Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code, including, but not limited to, any medical claims information, policyholder information provided that nothing in this paragraph shall be interpreted to prevent an insurance agent or broker from obtaining proprietary information or other information authorized by law to be obtained by the agent or broker, and information on rates, pricing, and claims handling received from brokers.

(5) (A) Records that are trade secrets pursuant to Section 6276.44, or Article 11 (commencing with Section 1060) of Chapter 4 of Division 8 of the Evidence Code, including, without limitation, instructions, advice, or training provided by the State Compensation Insurance Fund to its board members, officers, and employees regarding the fund’s special investigation unit, internal audit unit, and informational security, marketing, rating, pricing, underwriting, claims handling, audits, and collections.

(B) Notwithstanding subparagraph (A), the portions of records containing trade secrets shall be available for review by the Joint Legislative Audit Committee, California State Auditor’s Office, Division of Workers’ Compensation, and the Department of Insurance to ensure compliance with applicable law.

(6) (A) Internal audits containing proprietary information and the following records that are related to an internal audit:

(i) Personal papers and correspondence of any person providing assistance to the fund when that person has requested in writing that his or her papers and correspondence be kept private and confidential. Those papers and correspondence shall become public records if the written request is withdrawn, or upon order of the fund.

(ii) Papers, correspondence, memoranda, or any substantive information pertaining to any audit not completed or an internal audit that contains proprietary information.

(B) Notwithstanding subparagraph (A), the portions of records containing proprietary information, or any information specified in subparagraph (A) shall be available for review by the Joint Legislative Audit Committee, California State Auditor’s Office, Division of Workers’ Compensation, and the Department of Insurance to ensure compliance with applicable law.

(7) (A) Except as provided in subparagraph (C), contracts entered into pursuant to Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code shall be open to inspection one year after the contract has been fully executed.

(B) If a contract entered into pursuant to Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code is amended, the amendment shall be open to inspection one year after the amendment has been fully executed.

(C) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.
(D) Notwithstanding any other law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto until the contract or amendments to a contract are open to inspection pursuant to this paragraph.

(E) This paragraph is not intended to apply to documents related to contracts with public entities that are not otherwise expressly confidential as to that public entity.

(F) For purposes of this paragraph, “fully executed” means the point in time when all of the necessary parties to the contract have signed the contract.

This section does not prevent any agency from opening its records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law.

This section does not prevent any health facility from disclosing to a certified bargaining agent relevant financing information pursuant to Section 8 of the National Labor Relations Act (29 U.S.C. Sec. 158).

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district under this act would result from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution.
OFFICE OF THE CHIEF OF POLICE

ADMINISTRATIVE ORDER NO. 6

APPROVED BY THE BOARD OF POLICE COMMISSIONERS ON MARCH 20, 2018

APRIL 13, 2018

SUBJECT: CRITICAL INCIDENT VIDEO RELEASE POLICY – ESTABLISHED

PURPOSE: It is the intent of the Los Angeles Board of Police Commissioners (Commission), through the adoption of this policy, to increase transparency with respect to the operations of the Los Angeles Police Department (LAPD); and in doing so, foster greater public trust. The people of Los Angeles have an undeniable interest in being informed, in a timely fashion and based on the most accurate information available, about how their police department conducts its business, especially where officers use lethal force or where the use of force by the police result in the death or serious injury of a civilian.

This policy sets the standards and criteria for the public release of video recordings that capture critical incidents involving LAPD officers. This policy is intended to balance two important interests: the public’s interest in transparency and police accountability, and the privacy interests of the individuals depicted in such videos. The public has a strong interest in obtaining timely access to information, including video footage, regarding incidents where officers use lethal force and/or where a person has died or suffered a serious injury as a result of a police encounter or while in police custody. At the same time, the individuals who appear in these videos have a privacy interest which must be considered. These individuals include not only the involved individuals and the police officers, but also witnesses, bystanders, and the subject upon whom force is used.

There are considerations, such as preserving the integrity of related investigations, that may justify a delay or deviation from the standard procedure, and these considerations are also detailed in this policy. In recognizing that a video may not tell the whole story, the LAPD will also provide the necessary context when releasing video so the public has the most accurate picture of what occurred based on the information known at the time of release.

This policy takes effect on April 19, 2018. This policy does not apply retroactively to any incidents occurring prior to this date.

PROCEDURE: Department Manual Section 1/420.55, Critical Incident Video Release Policy, has been established and is attached.

AMENDMENT: This Order adds Section 1/420.55 to the Department Manual.
AUDIT RESPONSIBILITY: The Commanding Officer, Audit Division, shall review this directive and determine whether an audit or inspection shall be conducted in accordance with Department Manual Section 0/080.30.

CHARLIE BECK
Chief of Police

Attachment

DISTRIBUTION "D"
DEPARTMENT MANUAL
VOLUME I
Revised by Administrative Order No. 6, 2018

420.55 CRITICAL INCIDENT VIDEO RELEASE POLICY.

It is the policy of the Los Angeles Police Department (LAPD) that video evidence in the Department’s possession of “Critical Incidents” involving LAPD officers be released to the public within 45 days of the incident. The Board of Police Commissioners (Commission) or the Chief of Police (COP) may determine that earlier release is in the public interest. This release shall consist of relevant video imagery that depicts the actions and events leading up to and including the “Critical Incident.” Relevant video imagery is video and accompanying audio footage that is typically considered by the COP, Commission, and criminal prosecutors to determine the propriety of an officer’s conduct during such “Critical Incidents.” The release of video shall be accompanied by additional information to provide context based on the evidence available at the time of release.

Critical Incidents. This policy applies to video imagery concerning the following types of incidents:

- Officer-involved shootings, regardless of whether a person was hit by gunfire (this does not include unintentional discharges or officer-involved animal shootings);
- A use of force resulting in death or serious bodily injury requiring hospitalisation;
- All deaths while an arrestee/detainee is in the custodial care of the Department unless there is no preliminary evidence of any of the following: misconduct, a use of force, or an act committed by an arrestee/detainee that appears intended to cause injury or death; or,
- Any other police encounter where the Commission or the COP determines release of video is in the public’s interest.

Video Sources. The sources of video that may be released pursuant to this policy includes, but are not limited to, body-worn camera video, digital in-car video, police facility surveillance video, video captured by the Department’s use of a small Unmanned Aerial System, and video captured by third parties that is in the Department’s possession.

Privacy Protections. Video shall not be released where prohibited by law or court order. Further, consistent with the protections afforded juveniles and the victims of certain crimes, video imagery shall be redacted or edited to the extent necessary to ensure that the identity of such individual(s) is protected. Where the video cannot be sufficiently redacted or edited to protect the person’s identity, it shall be withheld. In addition, video may also be redacted or edited to protect the privacy interests of other individuals who appear in the video. In each instance, such redaction may include removing sound or blurring of faces and other images that would specifically identify involved individuals, sensitive locations, or reveal legally protected information. Further, where possible, such redaction or editing shall not compromise the depiction of what occurred during the incident.

Delayed Release. There may be circumstances under which the release of such video must be delayed to protect one or more of the following:
• Safety of the involved individuals, including officers, witnesses, bystanders, or other third parties;
• Integrity of an active investigation (including criminal or administrative);
• Confidential sources or investigative techniques; or,
• Constitutional rights of an accused.

These reasons may not be general; they must have a factual basis and be specific to the individual case. For example, investigators have identified but not yet been able to interview a key witness to the incident. The delay of the release of video, in accordance with this policy, shall be made pursuant only to the unanimous decision of the COP and the Commission's two designated liaisons for video release. In the absence of an unanimous decision supporting a delay, the video imagery shall be released. Any decision to permit a delay shall be re-assessed every 14 days. If the delay in the release continues for more than 28 days, the matter shall be placed on the next regularly-scheduled Commission meeting for consideration of the continued justification for delay, as well as the anticipated time frame for release. The Commission shall make the decision to release or continue the delay. The video imagery in question shall be released as soon as the reason for delay has been resolved.

Notifications. Absent exigent circumstances, reasonable attempts shall be made to notify the following individuals or entities 48 hours prior to the release of video imagery:

• Officers depicted in the video and/or significantly involved in the use of force;
• The subject upon whom force was used;
  o If the subject is deceased, the next of kin will be notified.
  o If the subject is a juvenile, the subject’s parents or legal guardian will be notified.
  o If the subject is known by the Department to be represented by legal counsel, that representative will be notified.

• The District Attorney’s Office and City Attorney's Office;
• The Los Angeles Police Protective League; and,
• Other individuals or entities connected to the incident as deemed appropriate.

Posting. All released video shall remain posted on the Department’s designated website until 12 months after the Commission adjudicates the incident.

Release – Limited Waiver. The release of any specific video imagery does not waive the Department’s right to withhold other video imagery or investigative materials in the same case or any other case, as permitted by law. This policy is not intended to displace or supersede any legal right or remedy available to any person or entity, and it is also not intended to prevent or hinder compliance by the Department with respect to any legal disclosure requirements, including but not limited to, any court order or disclosure provisions of the California Public Records Act.
INTRADEPARTMENTAL CORRESPONDENCE

March 14, 2018
1.0

TO: The Honorable Board of Police Commissioners

FROM: Executive Director, Board of Police Commissioners

SUBJECT: SUMMARY OF PUBLIC INPUT ON DRAFT CRITICAL INCIDENT VIDEO RELEASE POLICY

RECOMMENDED ACTION

1. Approve the draft Critical Incident Video Release Policy as amended and direct the Department to place it in the Special Order format.
2. Direct the Department to prepare the necessary procedures to implement the approved Critical Incident Video Release policy.

DISCUSSION

At the Board of Police Commissioners (Board) meeting on February 20, 2018 the direction was given to staff to post on the Department web site the draft Critical Incident Video Release Policy to provide an opportunity for public comment.

The draft was posted on February 20, 2018 with a specific electronic mail address provided to provide input for a period of two weeks. As of this date fifty-nine electronic mail responses were received of which fifty-five contained the same comments.

Below is a summary of the comments received:

- Support for the release of body cam footage being released to the public
- Release of video is important for strengthening the relationship between the police and the public
- The Department should demand that any news agency, news individual, news group, blogger, etc. only be allowed to rebroadcast videos released in their entirety
- Recommend adding a fifth category for delayed release of video imagery. That individuals involved in the incident (not including officers, witnesses, bystanders or other third parties) and/or those who lost a loved one in the incident and who have standing to bring a civil lawsuit, submit an objection to the release of the video. In the event an objection is submitted release be delayed until the issuance of a court order to release the video imagery
- Fifty-five responses with the same text stated that the maximum time for delayed release of video imagery should be ninety days. Also, that the exception allowing with withholding of video relating to any death in custody should be eliminated
The comments have been reviewed by the Board’s two liaisons on video release, Vice-President Matthew M. Johnson and Commissioner Shane Murphy Goldsmith. After their review, they do not recommend the comments be incorporated into the policy.

During the Board’s discussion at the meeting of February 20, 2018 Commissioner Cynthia McClain-Hill expressed concerns relative to the process for consideration of the Board’s two designated liaisons and the Chief of Police for delaying the release of video imagery within forty-five days.

Because of that discussion and input from Commissioner McClain-Hill the below revised language (highlighted in bold font) is proposed as an amendment relative to the process when there is a decision for “Delayed Release” of video imagery:

“These reasons may not be general; they must have a factual basis and be specific to the individual case. For example, investigators have identified but not yet been able to interview a key witness to the incident. The delay of the release of video, in accordance with this policy, shall be made pursuant only to the unanimous decision of the Chief of Police and the Commission’s two designated liaisons for video release. In the absence of a unanimous decision supporting a delay, the video imagery will be released. Any decision to permit a delay shall be re-assessed every fourteen days. If the delay in the release continues for more than twenty-eight days, the matter shall be placed on the next regularly scheduled Commission meeting for consideration of the continued justification for delay, as well as anticipated time frame for release. The Commission shall make the decision to release or continue the delay. The video imagery in question shall be released as soon as the reason for delay has been resolved.”

The above revised wording has been incorporated into the attached draft policy that is before the Board for consideration. If approved the Board should also direct the Department to prepare the appropriate procedures to implement the Special Order.

Should you have any questions please contact me at (213) 236-1400.

Respectfully submitted,

RICHARD M. TEFANK, Executive Director
Board of Police Commissioners

Attachment
PURPOSE

It is the intent of the Los Angeles Board of Police Commissioners (Commission), through the adoption of this policy, to increase transparency with respect to the operations of the Los Angeles Police Department (LAPD), and in doing so, foster greater public trust. The people of Los Angeles have an undeniable interest in being informed, in a timely fashion and based on the most accurate information available, about how their police department conducts its business, especially where officers use lethal force or where the use of force by the police result in the death or serious injury of a civilian.

This policy sets the standards and criteria for the public release of video recordings that capture critical incidents involving LAPD officers. This policy is intended to balance two important interests: the public’s interest in transparency and police accountability, and the privacy interests of the individuals depicted in such videos. The public has a strong interest in obtaining timely access to information, including video footage, regarding incidents where officers use lethal force and/or where a person has died or suffered a serious injury as a result of a police encounter or while in police custody. At the same time, the individuals who appear in these videos have a privacy interest which must be considered. These individuals include not only the involved individuals and the police officers, but also witnesses, bystanders, and the subject upon whom force is used.

There are considerations, such as preserving the integrity of related investigations, that may justify a delay or deviation from the standard procedure, and these considerations are also detailed in this policy. In recognizing that a video may not tell the whole story, the LAPD will also provide the necessary context when releasing video so the public has the most accurate picture of what occurred based on the information known at the time of release.

POLICY

It is the policy of the Los Angeles Police Department that video evidence in the Department’s possession of “Critical Incidents” involving LAPD officers be released to the public within 45 days of the incident. The Commission or the Chief of Police may determine that earlier release is in the public interest. This release shall consist of relevant video imagery that depicts the actions and events leading up to and including the “Critical Incident”. Relevant video imagery is video and accompanying audio footage that is typically considered by the Chief of Police, Board of Police Commissioners, and criminal prosecutors to determine the propriety of an officer’s conduct during such “Critical Incident”. The release of video shall be accompanied by additional information to provide context based on the evidence available at the time of release. This policy applies only to incidents occurring after the effective date set forth below.
Critical Incidents: This policy applies to video imagery concerning the following types of incidents:

- Officer-involved shootings, regardless of whether a person was hit by gunfire;  
- A use of force resulting in death or serious bodily injury requiring hospitalization;  
- All deaths while an arrestee/detainee is in the custodial care of the Department unless there is no preliminary evidence of any of the following: misconduct, a use of force, or an act committed by an arrestee/detainee that appears intended to cause injury or death; or  
- Any other police encounter where the Commission or the Chief of Police determines release of video is in the public interest.

Video Sources: The sources of video that may be released pursuant to this policy includes, but are not limited to, body-worn camera video, digital in-car video, police facility surveillance video, video captured by the Department’s use of a small Unmanned Aerial System (sUAS), and video captured by third parties that is in the Department’s possession.

Privacy Protections: Video will not be released where prohibited by law or court order. Further, consistent with the protections afforded juveniles and the victims of certain crimes, video imagery shall be redacted or edited to the extent necessary to ensure that the identity of said individual(s) is protected. Where the video cannot be sufficiently redacted or edited to protect the person’s identity, it will be withheld. In addition, video may also be redacted or edited to protect the privacy interests of other individuals who appear in the video. In each instance, such redaction may include removing sound or blurring of faces and other images that would specifically identify involved individuals, sensitive locations, or reveal legally protected information. Further, where possible, such redaction or editing shall not compromise the depiction of what occurred during the incident.

Delayed Release: There may be circumstances under which the release of such video must be delayed to protect one or more of the following:

- Safety of the involved individuals, including officers, witnesses, bystanders, or other third parties  
- Integrity of an active investigation (including criminal or administrative)  
- Confidential sources or investigative techniques  
- Constitutional rights of an accused

These reasons may not be general; they must have a factual basis and be specific to the individual case. For example, investigators have identified but not yet been able to interview a key witness to the incident. The delay of the release of video, in accordance with this policy, shall be made pursuant only to the unanimous decision of the Chief of Police and the Commission’s two designated liaisons for video release. In the absence of a unanimous decision supporting a delay, the video imagery will be released. Any decision to permit a delay shall be re-assessed every fourteen days. If the delay in the release continues for more than twenty-eight days, the matter shall be placed on the next regularly scheduled Commission meeting for

1 This does not include unintentional discharges or officer-involved animal shootings.
consideration of the continued justification for delay, as well as anticipated time frame for release. The Commission shall make the decision to release or continue the delay. The video imagery in question shall be released as soon as the reason for delay has been resolved.

Notifications: Absent exigent circumstances, reasonable attempts shall be made to notify the following individuals or entities forty-eight hours prior to the release of video imagery:
- Officers depicted in the video and/or significantly involved in the use of force
- Subject upon whom force was used
  - If the subject is deceased, the next of kin will be notified.
  - If the subject is a juvenile, the subject’s parents or legal guardian will be notified.
  - If the subject is represented by legal counsel, that representative will be notified.
- District Attorney’s Office and City Attorney’s Office
- Los Angeles Police Protective League
- Other individuals or entities connected to the incident as deemed appropriate.

Posting: All released video shall remain posted on the Department’s designated website until twelve months after the Board of Police Commissioners adjudicates the incident.

RELEASE – LIMITED WAIVER

The release of any specific video imagery does not waive the Department’s right to withhold other video imagery or investigative materials in the same case or any other case, as permitted by law. This policy is not intended to displace or supersede any legal right or remedy available to any person or entity, and it is also not intended to prevent or hinder compliance by the Department with respect to any legal disclosure requirements, including but not limited to, any court order or disclosure provisions of the California Public Records Act.

EFFECTIVE DATE

This policy shall take effect 30 days after approval by the Board of Police Commissioners.
SUBJECT:  BODY-WORN CAMERAS
PLEAC 2.4.2

1. BACKGROUND

A. The Pennsylvania Wiretapping and Electronic Surveillance Control Act (18 Pa.C.S. §5704(16)) has been amended to authorize the use of Body-Worn Cameras by law enforcement officers under certain conditions. These recording devices provide an unbiased audio and video recording of events that officers encounter. These recordings are useful for law enforcement:

1. To enhance officer safety.

2. To enhance the public trust by preserving factual representations of officer-citizen interactions in the form of video and audio recordings.

3. To document statements and events during the course of an incident.

4. To enhance law enforcement’s ability to document and review statements and actions for both reporting requirements and for courtroom preparation/presentation.

5. To preserve visual and audio information for use in current and future investigations.

6. To provide an impartial measurement for self-critique and field evaluations during officer training.

B. Body-Worn Cameras (BWCs) are not a substitute for an officer’s reasonable beliefs and perceptions, and cannot account for an officer’s physiological responses (i.e., visual tunneling or auditory exclusion) during critical incidents. BWCs should not be viewed as the only measure of truth because they may show more or less than what the officer sees, hears, or observes. BWCs have an important, but limited, use as one of many policing tools.
2. PURPOSE

A. The primary purpose of this directive is to establish clear policy and procedures to document incidents involving police officers and the public, while also protecting the privacy rights of all parties being recorded.

B. To effectively perform their duties, officers must have a level of comfort in which minor disciplinary offenses recorded while performing their duties that would not otherwise become known but for wearing a BWC, will not adversely affect an officer’s career.

1. Thus, the secondary purpose of this directive is to provide officers with the knowledge that “minor disciplinary code violations” that are captured on any Body Worn Camera will not result in an official Internal Affairs investigation or 75-18s based solely upon their minor infraction. Rather, any such violations may result in Command level discipline, training, and/or counseling consistent with Directive 8.06, “Disciplinary Procedure.”

   a. For purposes of this directive, “minor disciplinary code violations” shall mean any Disciplinary Code violation where the 1st offense has a penalty range of a Reprimand to 5 days.

3. PENNSYLVANIA LAW

A. Wiretapping and Electronic Surveillance Act (18 Pa. C.S. 5702)

As a result of amendments made to the Pennsylvania Wiretapping and Electronic Surveillance Act on July 7, 2017, Law Enforcement Officers (State Police, MPO Certified Officers, Sheriffs, and Deputy Sheriffs) may, regardless of the location, lawfully use any approved electronic, mechanical or other device to intercept communication in the course of law enforcement duties, when the law enforcement officer is on official duty, in uniform or otherwise clearly identifiable as a law enforcement officer.

4. POLICY

A. Officers shall place and maintain their BWC in “Stand-by” mode immediately after receiving them at the beginning of the tour. BWCS will be activated prior to responding to all calls for service, during all law enforcement related encounters, and during all activities involving the general public.
This shall include, but not be limited to, the following circumstances (PLEAC 2.4.2 a):

1. When responding to in-progress crimes and priority one (1) assignments;
2. When initiating any vehicular or foot pursuit;
3. When conducting any vehicle or pedestrian investigation;
4. When initiating a sight arrest or citation;
5. When taking a statement or information from a victim or witness;
6. When handling a disturbance or crisis related incident;
7. When handling any protest or demonstration;
8. When confronted by any member of the general public that is or may become confrontational, antagonistic or hostile;
9. When handling a situation or incident that the officer, through their training and experience, believes should be visually preserved; and
10. When conducting a suspect confrontation (i.e., show-up identification of a suspect by a victim or witness). A view of the suspect should be recorded during the confrontation, when reasonable. (PLEAC 2.9.1 e)

NOTE: Officers should be mindful that there is a thirty (30) second “buffer” whenever the cameras are activated from “Stand-by” mode. This means that the BWC will record thirty (30) seconds of image immediately preceding the activation. However, no audio transmissions will be recorded during this buffer period.

B. With the following exceptions, once a BWC has been activated, it shall remain activated until the event has concluded and the officer has been placed back into service by Police Radio. In the event that the BWC is to be deactivated prior to the conclusion of the event, the officer shall state, aloud, the reason why it is being turned off. Officers shall deactivate a BWC prior to the conclusion of an incident or event under the following circumstances. (PLEAC 2.4.2 a)

1. When interacting with crime victims, witnesses, or informants, who request to not be recorded, officers shall use discretion in deciding whether to deactivate the BWC and shall balance the value of capturing such recording against the reluctance of the victim, witness, or informant.
2. When the recording would capture gruesome images, or when private areas of the human body are exposed and there is no legitimate law enforcement need to capture the images.

3. When entering a religious institution, during services.

4. When entering a hospital room or private patient area in a hospital.

5. When a crime scene has been established and officers have been placed on post to safeguard the scene.

*3 NOTE: A BWC officer **SHALL NOT** be called to a crime scene to specifically record video regardless of whether the Crime Scene Unit is responding unless exigent circumstances exist when departmental equipment is unavailable and there is no other means to record the item or event.

C. PROHIBITED RECORDING AND ACTIONS

1. Body-Worn Cameras shall not be used to record:
   a. Non-work related personal activities or conversation;
   b. Places where a reasonable expectation of privacy exists (i.e., locker rooms, dressing rooms or restrooms);
   c. Conversations with confidential informants and undercover officers;
   d. Strip searches;
   e. Operational strategies or tactics;
   f. Conversations of fellow employees or supervisors during routine administrative activities not related to those incidents or events described in Section 4-A.
   g. Media captured on a BWC to another recording device i.e., cell phone.

2. Officers shall not lead a person to believe the BWC has been deactivated when in fact, the BWC is left active.

D. Unless a specific incident or event is marked as evidence or tagged for further review, digital recordings captured on BWCs shall be retained for **no less than seventy-five (75) days** from the date of the incident or event. The retention of digital recordings marked as evidence shall be consistent with existing document retention period for the appropriate investigative files. (PLEAC 2.4.2 h)
5. DEFINITIONS

A. **Activate** - Any process or action that causes a Body-Worn Camera to begin recording and storing both audio transmissions and visual images.

B. **Stand-by-Mode** - This refers to when officers turn on their BWCs and it is ready to record audio transmissions and video images, but has not been activated.

C. **Body-Worn Camera** - This refers to any system that captures audio, visual images or a combination of both that is individually worn by officers.

D. **Body-Worn Camera Coordinator** - Designated individual(s) who assigns, tracks and maintains Body-Worn Camera equipment, and acts as a liaison with the Digital Media Evidence unit to diagnose and troubleshoot any issues related to the use of the cameras or the Digital Evidence Management System (DEMS).

NOTE: The Commanding Officer will designate supervisory personnel to perform the duties of the Digital Evidence Custodian and the Body-Worn Camera System Administrator. The PPD Office of Forensic Science and Philadelphia Office of Innovation and Technology will provide technical support as needed.

E. **Bookmarking/Tagging** - Refers to a feature similar to the conventional bookmarks you place within the pages of a book that allows the investigator to indicate points of interest in a BWC video clip thereby, allowing future viewers to quickly locate the points of interest without the need to view the entire video.

F. **De-activate** - Any process or action that causes a mobile recording device to stop recording and storing both audio transmissions and visual images.

G. **Digital Evidence Custodian** - The individual or unit given the authority to receive, store, protect, review, redact, and disseminate all digital recording made or obtained by the Philadelphia Police Department.

NOTE: The duties and responsibilities of the Digital Evidence Custodian and the Body-Worn Camera System Administrator, identified below, shall be merged and staffed by designated supervisory personnel from each district that has officers utilizing BWCs.

H. **Digital Evidence Management System (DEMS)** - A collection of hardware, software and/or firmware designed to provide for the security, storage, organization and/or distribution of digital evidence.

I. **DEMS Administrator** - The person(s) responsible for managing and maintaining the efficient operation of the DEMS. The DEMS Administrator’s responsibilities shall
include, but not be limited to the following: creation/deletion of new users, roles, permissions, groups and other logical structures, creating metadata tags, configuring retention periods and purging files that have become irrelevant or ordered destroyed by a court of law.

J. **Hardware**- Physical parts of the BWC such as wires, batteries, lenses, button, etc.

K. **Intercept**- Aural (hearing/listening) or other acquisition of the content of any wire, electronic or oral communication through the use of any electronic, mechanical, or other device.

L. **Law Enforcement Officer**- As used in this Directive, means a member of the Pennsylvania State Police, an individual employed as a police officer who holds a current certificate under 53 Pa.C.S. Chapter 21, Subchapter D (i.e., a MPO Certified Officer), a sheriff or a deputy sheriff.

M. **Oral Communication** - Any oral communication uttered by a person possessing an expectation that such communication is not subject to interception under circumstances justifying such expectation. The term does not include:

1. An electronic communication.

    or

2. A communication made in the presence of a law enforcement officer who is using an electronic, mechanical or other device which has been approved under 18 Pa. C.S. 5706(B)(4) to intercept the communication in the course of law enforcement duties.

N. **Recorded Media**- Audio-video signals recorded or digitally stored on a storage device or portable media.

O. **Smart Device**- Any number of devices not generally considered a computer, but still capable of processing and storing electronic data. Smart devices typically include cell phones, smart phones, PDA devices, GPS devices, and tablet computers.


### 6. GENERAL PROCEDURES

A. Only those officers who have received training in the use of the departmentally-issued BWCs and the content of this directive shall be authorized to use such equipment. (PLEAC 2.4.2 e)
B. Only officers in uniform or otherwise clearly identifiable as law enforcement officers are permitted to use a BWC.

C. Only departmentally authorized BWCs will be used by officers while on duty.

D. Officers shall not use other electronic devices or other means to intentionally interfere with the capability of the BWC system.

E. Officers shall not erase, alter, modify, or tamper with any BWC software, or hardware, recorded audio/video data or related metadata. (PLEAC 2.4.2 c)

F. BWCs shall be worn center mass of the chest.

G. No personally or privately owned recording equipment, devices, cameras, or smart devices shall be used to record law enforcement related encounters or activities involving the general public while on duty.

H. If an incident or event that was required to be recorded pursuant to Section 4-A was not recorded for whatever reason, the officer(s) assigned a BWC shall:

1. Notify their immediate supervisor, and

2. Document this fact on the underlying incident 75-48, along with the reason(s) why the incident/event was not recorded.

3. If the incident/event does not require a 75-48 or the officer assigned the Body-Worn Camera is not responsible for the incident 75-48, the officer assigned the BWC shall submit a separate 75-48. This 75-48 will list the underlying incident DC number and the reason why the incident/event was not recorded. This report will be coded “3413 - Informational Request.”

I. All data will be stored on a secured server location, cloud service or other secured service as determined by the department. (PLEAC 2.4.2 h)

J. Officers, investigators and supervisors shall have access to recorded events for the legitimate law enforcement purposes identified in Section 1. (PLEAC 2.4.2 c)

K. Officers, investigators and supervisors shall not personally make any copies of any recordings for their personal use. (PLEAC 2.4.2 c)

7. OPERATIONAL PROTOCOLS

A. Inspection of BWCs shall be the responsibility of the officer who is issued the BWC equipment.
B. Prior to beginning each shift, officers authorized to use BWCs shall perform an inspection to ensure that the BWC is performing in accordance with the manufacturer’s specifications. If problems are encountered with any component of the system, the BWC will not be used. (PLEAC 2.4.2 d)

1. BWC Coordinators will check the system time on the district server to ensure that it falls within accepted parameters.

C. Malfunctions, damage, loss or theft of BWCs shall be reported to the officer’s immediate supervisor and a 75-48 report shall be completed. The supervisor shall notify the Body-Worn Camera Coordinator to arrange for replacement.

D. The BWCs shall be activated when responding to all calls for service and during all law enforcement related encounters and activities involving the general public as identified in Section 4-A.

E. Once on the location of an incident or event and as soon as practical, officers shall inform the individuals identifiably present that the officer has intercepted and recorded the oral communication (i.e., that they are being recorded) (PLEAC 2.4.2 b).

F. Officers shall record on the Patrol Log and any subsequent police report, such as the 75-48, 75-48A, or citation that the incident or event was recorded.

G. Whenever an officer with a BWC obtains a video statement, the fact that a statement was recorded will be listed on the 75-48. The officer will:

1. Report to their district and have the video of the statement uploaded into the DEMS.

2. Review the video and then proceed to the Detective Division to process the arrest. Inform the assigned detective that a recording of the arrest was made.

H. If an arrest is made and it is recorded on a BWC, the officer shall:

1. As soon as possible, report to their district and have the video associated with the arrest uploaded into the DEMS.

2. At this time, review the video and then proceed to the Detective Division to process the arrest. Inform the assigned detective that a recording of the arrest was made.

   NOTE: The assigned detective shall indicate in the PARS report that BWC video evidence exists.

3. In those arrests that do not involve the Detective Divisions, (e.g., DUI arrests),
after reviewing the video, officers will complete all necessary paperwork/data uploads at their district and advise the District Attorney’s Office Charging Unit (DACU) that video evidence exists and has been made available to them.

4. Upon the filing of criminal charges and the submission of a PARS report, the assigned investigator shall ensure that all associated recorded media is made accessible to the DACU via the DEMS.

5. The assigned detective shall indicate in the PARS report that BWC video evidence exists.

NOTE: The purpose of these procedures is to ensure that the investigator/DACU has access to video evidence as soon as possible so as to facilitate a timely charging decision.

I. If an officer is required to deactivate the BWC prior to the conclusion of any incident or event pursuant to Sections 4-B and/or C, the officer shall state aloud, while the device is still activated, why the device is being deactivated.

NOTE: If the event is ongoing and the conditions that required the deactivation have ceased, the officer SHALL REACTIVATE the Body-Worn Camera.

J. If any BWC video captures a police discharge, a seriously injured officer, a motor vehicle accident involving serious bodily injury, any death, or any use of force resulting in serious bodily injury or death, the officer’s BWC shall be taken to the district by the first available supervisor and uploaded into the DEMS.

1. The supervisor shall immediately notify the DEMS Administrator of the incident and request the video footage be restricted from being viewed by all departmental personnel except the Police Commissioner, Deputy Commissioners, the appropriate investigative unit and the District Attorney’s Office. However, the Police Commissioner or their designee may approve access to other individuals or entities if necessary or required by court order.

2. Once the recorded media is uploaded, stored, and restricted from view, the BWC will be returned to the officer, as soon as possible.

K. Locating Points of Interest.

1. Mandatory Bookmarking/Tagging - To efficiently identify and view the specific points of interest in a body camera recording, the following points of interest shall be bookmarked/tagged by the recording officer:

a. The beginning of any response to a priority one (1) assignment;
b. The beginning of any vehicular or foot pursuit;

c. The beginning of any vehicle or pedestrian investigation;

d. The beginning of any sight arrest or citation;

e. The beginning of any disturbance or crisis related incident;

f. The beginning of an officer’s involvement at any protest or demonstration;

g. The beginning of any incident where an officer is confronted by any member of the general public that, in the officer’s opinion, became confrontational, antagonistic or hostile;

h. The beginning when taking a statement or information from a victim or witness;

i. The beginning of any arrest that occurs in the presence of an officer wearing a BWC. This includes responding officers who respond to an arrest and aid the arresting officer(s) or who are merely present when an arrest occurs. **THESE VIDEOS ARE STILL EVIDENCE THAT MUST BE PRESERVED AND PRODUCED FOR DISCOVERY.** In these situations, officers must tag the incident with the arrest DC number. This will ensure that all videos related to an arrest are properly preserved and forwarded to both the assigned detective and the District Attorney’s Office.

2. **Discretionary Bookmarking/Tagging** – Officers may bookmark/tag any point of interest that they believe is useful, important, or may become important during an investigation or any exemplary acts involving themselves or other officer(s).

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**8. BODY-WORN CAMERA UPLOADING PROCEDURE**

A. At the end of each tour, officers utilizing a BWC shall place their assigned BWC to the appropriate docking station. This will allow the data to be transferred from the BWC through the docking station to the District’s BWC server. The data is considered impounded at this point and the BWC is cleared of existing data. The BWC should not be removed from the docking station/connection until the data has been fully uploaded.

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**9. ACCESSING AND REVIEW OF BODY-WORN CAMERA DATA (PLEAC 2.4.2 g)**

A. Evidentiary and Public Access to Data (42 Pa. C.S. Chapter 67 A)

1. The retention period of BWC footage shall be no less than seventy-five (75) days, unless the digital recording is required for evidentiary purposes or further review.

DIRECTIVE 4.21 - 10
The retention of digital recordings marked as evidence shall be consistent with the existing document retention period for the appropriate investigative files. (PLEAC 2.4.2 h)

2. Evidentiary copies of digital recordings from BWCs shall be managed and maintained by the Digital Evidence Custodian (PLEAC 2.4.2 c).

   a. The Digital Evidence Custodian shall manage and maintain all media, deemed to be of evidentiary value, on the DEMS.

   b. PPD investigators and pertinent members of the District Attorney’s Office shall be provided access to view and download such video recordings as needed for official investigations and evidence production.

3. Temporary access rights may be given to the Philadelphia District Attorney’s Office, the City of Philadelphia Law Department, or other prosecutorial agencies associated with any future prosecution or legal defense arising from an incident in which a BWC was utilized.

4. The processing of any requests for digital recordings by non-law enforcement agencies will be governed by 42 Pa. C.S. Chapter 67A. To ensure compliance with state law, the Department’s Right-to-Know Officer shall be responsible for accepting and processing these requests in coordination with the Digital Evidence Custodian.

B. Departmental Review/Access to Data.

1. Digital recordings from BWCs shall not be randomly reviewed for the sole purpose of finding disciplinary infractions. However, supervisors may, upon good cause and with prior authorization from the Commanding Officer, review the digital recordings of specific officers to monitor their behavior.

2. Department personnel shall review their own digital recordings for report writing, court preparations, and/or training purposes (See also, Section 6-G). The following statement will be recorded on all police reports prepared after reviewing their BWC video:

   “The contents of this document are based on my observations of the incident and a review of the recordings captured by a mobile video recording system.”

3. An investigator, who is participating in an official department investigation, claims investigation, administrative inquiry, or criminal investigation, may review specific incidents contained on a digital recording from BWCs.
a. It is expected that the assigned detective review all available digital recordings as part of a thorough investigation.

b. The Digital Evidence Custodial shall manage and maintain all images captured on a secure server for the applicable retention period.

c. Personnel from Internal Affairs, while conducting any official investigation, shall be provided access to view and download such video recordings as needed for evidence.

1) Consistent with Section 2-B, Internal Affairs Bureau (IAB) has the duty and responsibility to review any BWC recordings associated with a potential investigation, Use of Force Report, or when prisoners are hospitalized in police custody. However, IAB shall not initiate any internal investigation based solely upon a minor disciplinary violation observed, as defined in Section 2-B-1-a.

4. In no event shall any digital recording captured by a BWC be used for the purpose of officer or civilian ridicule or embarrassment. This includes submission of any portion of a digital recording from a BWC to a media organization, social media, or any other media platform designed to be viewed by the general public or other members of the department.

5. If there is a legitimate law enforcement need, only the Police Commissioner or their designee shall have the authority to release any digital recordings from a BWC to the media and/or social media outlets.

10. SUPERVISORY RESPONSIBILITIES (PLEAC 2.4.2 f)

A. Supervisors are responsible for ensuring that all personnel assigned to their unit have uploaded their recordings on a regular basis. Supervisors shall conduct random inspections of BWC equipment to confirm that it is in proper working order. (PLEAC 2.4.2 d)

B. Supervisors will review recordings of all officers involved in the following incidents:

1. Injury to an employee;
2. Injury to a prisoner;
3. Response to resistance;
4. When any member of the Department, intentionally or unintentionally, discharges a firearm;
5. Vehicle pursuits;

6. Vehicle crashes involving patrol officers;

7. Citizen complaints;

8. Documented internal complaints; or

9. As directed by the Police Commissioner or the Deputy Commissioner, Office of Professional Responsibility.

C. Supervisors may review footage for documenting exemplary performance, heroic actions and/or other praiseworthy service for appropriate recognition and commendation, unless under review by the Use of Force Review Board (UFRB).

D. Supervisors should not review recordings for the sole purpose of discovering violations of departmental policy which are not related to a specific complaint or incident; however, they may review video recordings for the purpose of:

1. Training;

2. Critique;

3. Early intervention inquiries;

4. Civil Claims;

5. Administrative inquiries; or


11. LOST, STOLEN OR DAMAGED BODY-WORN CAMERAS

A. Personnel are responsible and financially accountable for lost, stolen, or damaged BWC equipment whenever the circumstances indicate the officer was negligent.

B. If a BWC is lost, stolen or damaged the officer will:

1. Immediately notify a Patrol Supervisor;

2. Notify the appropriate Operations Room Supervisor;

3. Prepare a Complaint or Incident Report (75-48); and

4. Notify the Detective Division of occurrence for an investigation.
C. The Mobile Communications Unit is the distribution point for BWCs and the source for all repairs. (PLEAC 2.4.2 d)

1. When a BWC is in need of repair, a 75-48 will be prepared describing the damage.

2. The damaged BWC and a copy of the 75-48 will be transported to the Mobile Communications Unit for repair.

D. When an investigation reveals negligence or carelessness, the officer will be subjected to disciplinary action and/or be required to pay for the lost, stolen, or damaged BWC equipment.

**RELATED PROCEDURES:** Directive 6.11, Social Media and Networking Directive 8.9, Police Department Counseling Form for Sworn Personnel

**BY COMMAND OF THE POLICE COMMISSIONER**

**PLEAC** – Conforms to the standards according to the Pennsylvania Law Enforcement Accreditation Commission.

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ATTORNEY GENERAL LAW ENFORCEMENT DIRECTIVE NO. 2015-1

TO: Director, Division of Criminal Justice
Superintendent, New Jersey State Police
All County Prosecutors
All County Sheriffs
All Chief Law Enforcement Executives

FROM: John J. Hoffman, Acting Attorney General

DATE: July 28, 2015

SUBJECT: Law Enforcement Directive Regarding Police Body Worn Cameras (BWCs) and Stored BWC Recordings

In recent months, law enforcement agencies have begun to equip their officers with body worn cameras ("BWCs"). A small number of police departments in New Jersey already deploy BWCs, while others plan to do so and currently are balancing the costs and benefits of these devices. New grant programs will incentivize departments to acquire BWCs by helping to defray costs.

In light of the proliferation of BWCs across the State, it is appropriate for the Attorney General, as the State’s chief law enforcement officer, to provide guidance to police departments on how to make the best possible use of electronic recording technology. See N.J.S.A. 52:17B-98 (Attorney General is responsible for general oversight of law enforcement, and for ensuring the uniform and efficient enforcement of the criminal laws and the administration of criminal justice). It is decidedly in the public interest to establish foundational statewide standards with respect to certain critical policy issues, such as how an agency explains its BWC policy to the general public, when officers are required to activate their BWCs, when officers are permitted to turn off the recording device during an ongoing police-civilian encounter, and when and for what purposes law enforcement agencies and officers are authorized to access, view, copy, or disseminate stored BWC recordings. Although the statewide standards will establish basic requirements that all police departments must satisfy, these standards also should permit agencies to account for local community needs and interests, and should encourage agencies to develop and share best practices as they gain experience in using these devices.

Accordingly, I, John J. Hoffman, Acting Attorney General of the State of New Jersey,
pursuant to the authority granted to me by the Constitution of the State of New Jersey and the Criminal Justice Act of 1970, N.J.S.A. 52:17B-97 to -117, hereby DIRECT that all law enforcement agencies and officers shall implement and comply with the following procedures, standards, and practices concerning the use of body worn cameras and recordings.

1. GOVERNING PRINCIPLES

1.1 Establishing Uniform Statewide Standards While Permitting Departmental Policies to Address Local Concerns.

The policies and standards established in this Directive are designed to help police departments achieve an optimal balance between potentially competing interests. For example, it is necessary to balance the need to promote police accountability and transparency on the one hand, against the need to respect the privacy interests of persons whose images and home interiors will be captured in a BWC recording on the other. So too, it is necessary to balance the benefits achieved by electronically recording evidence that might help to solve a crime and successfully prosecute an offender against the costs incurred if a BWC were to chill a victim or witness from providing a camera-equipped officer with information necessary to solve a crime and convict the offender.

This Directive does not mandate the acquisition or deployment of BWCs. Rather, the decision to acquire these devices, and the decision as to when and in what circumstances officers will be equipped with them, is left to each law enforcement agency. If a department decides to equip an officer with a BWC, this Directive provides guidance on how the device is to be used, when it will be activated, when it might be de-activated in the course of an unfolding police-civilian encounter, and when a BWC recording may be accessed, viewed, copied, disseminated, or otherwise used. In providing such guidance, this Directive establishes certain foundational requirements that all police departments must satisfy. Law enforcement agencies nonetheless are expressly authorized to impose additional requirements beyond – but not inconsistent with – those established in this Directive. In this way, police agencies are afforded an opportunity to tailor their BWC policies and procedures to address local concerns and needs.

Although police executives are afforded some flexibility in developing departmental policies and practices that address local needs and community concerns, this Directive makes clear that all policies must limit the discretion of individual officers in the field. The decision to activate a BWC must be based on objective criteria (e.g., the initiation of a specified type of police action, such as a consensual field inquiry, or the start of an officer’s duty shift). Furthermore, in any circumstance where an officer is afforded discretion in deciding whether to de-activate a BWC, the reasons for exercising that discretion must be documented to permit supervisory review.
1.2 Recognizing the Multitude of Reasons for Deploying BWCs.

It is widely recognized that BWCs can play an important role in addressing public concerns about police use of force. A BWC recording of a police-involved shooting or other use-of-force event provides objective evidence of what occurred. The practical utility of BWCs, however, lies not only in their ability to record objectively the circumstances of a police-civilian confrontation, but also in their capacity to discourage both officers and civilians from engaging in inappropriate conduct. Thus, for example, a BWC operating during a police-civilian encounter can deter the officer from using force inappropriately, while at the same time deter a civilian from engaging in provocative conduct that might prompt the officer to use force. These devices also can serve to discourage both law enforcement and civilian witnesses from providing false information about the circumstances of the encounter; a BWC recording not only can vindicate an officer who is falsely accused of misconduct, and do so very quickly, but also will discourage a person from making false allegations against the officer in the first place.

The foregoing benefits provide ample reason for police departments to consider deploying BWCs. The practical utility of these recording devices, however, is not limited to those rare occasions when police employ force, or are accused by civilians of misconduct. BWC recordings will be used far more routinely to document visual and aural evidence learned in the course of conducting police investigations. Not only will BWC recordings preserve accurate visual depictions of physical evidence, such as weapons and illicit drugs and paraphernalia, but also will document where and how physical evidence was found, thereby helping to establish the facts that must be presented in Fourth Amendment suppression hearings. BWCs also will record the physical appearance of suspects and crime victims, preserving evidence of any apparent injuries. The audio portion of BWC recordings, meanwhile, will document witness and suspect statements, preserving not only the substantive content of those statements, but also showing whether officers had complied with Miranda and other legal requirements.

Although BWCs record events accurately and objectively, they do not replace the need for complete and accurate police reports and testimony. The fact that a BWC is not activated to record an encounter or event does not, of course, preclude an officer from testifying as to the circumstances of the encounter or event, or affect the admissibility of evidence. Nor does it suggest that the officer’s written report or testimony is inaccurate or incomplete. However, a BWC recording can supplement and corroborate the accuracy of written reports and testimony, which is one of the significant benefits of deploying these devices.

1.3 Practical and Policy-Related Differences Between BWCs and Vehicle-Mounted Video Cameras.

Many police departments have been using vehicle-mounted dashboard cameras ("dash cams") for years. Those departments already have well-established and reliable procedures in place for downloading electronic video/audio data securely, for preserving recordings, and for making
them available for discovery in criminal prosecutions.

Police officers in jurisdictions that deploy dash cams have developed expertise in using these electronic recording devices to preserve evidence and to protect themselves against false allegations of misconduct. Our State’s longstanding experience with dash cams is important and must be integrated into the development of sound BWC practices and procedures. But it is not enough simply to copy and apply existing dash cam policies to this new form of electronic recording device. The inherent differences between dash cams and BWCs require a careful analysis of existing policies, practices, and procedures, recognizing that BWCs will record events that transpire during a much broader range of police-civilian encounters than traditionally have been recorded by dash cams. Vehicle-mounted cameras, of course, record events that occur out on the street, where there is a reduced expectation of privacy as compared to police-civilian encounters that occur, for example, inside private homes. An activated BWC, in contrast to a dash cam, will record events occurring during any type of police-civilian encounter occurring in any setting. BWCs thus raise privacy issues and other complex issues that dash cam policies have not had to address.

Accordingly, it is appropriate and necessary by means of this Directive to provide guidance to police departments on how best to balance competing interests and values to make the best possible use of this new law enforcement technology.

2. DEFINITIONS

For purposes of this Directive:

a. “Activate” means to actuate the recording mode/function of a body worn camera.¹

b. “Body worn camera” (“BWC”) means a device worn by a law enforcement officer that makes an electronic audio/video recording of activities that take place during any law enforcement action. The term does not include a mobile video recording device when mounted inside a police vehicle (i.e., a dash cam). The term also does not include any form of electronic recording device worn by a law enforcement officer while acting in an undercover capacity. Nor does the term include an electronic recording device when used to comply with the requirements of Rule 3:17 (electronic recording of station house custodial interrogations).

¹ Some BWC models may be turned on and remain in a standby or buffering mode, during which the device does not make a permanent record of images/sounds unless the officer activates the recording mode/function. With respect to these models, when the officer activates the recording mode/function, the device automatically preserves an electronic recording of the events that transpired a fixed period of time (e.g., 30 seconds) before the recording mode/function was activated. This time-delay or “buffering” feature allows the device to capture data concerning the event/circumstances that prompted the officer to activate the BWC. When an officer does not activate the recording mode/function, data captured while the device is in standby/buffering mode is overwritten automatically.
c. "Constructive authority" shall have the same meaning as defined in the Attorney General's Use of Force Policy, except that the term shall apply only to constructive authority directed against a person who is subject to an investigative detention or arrest (e.g., "show me your hands," "get out of the vehicle," etc.), or directed against any person if the officer has un-holstered a firearm or a conducted energy device (e.g., "move out of the way," "get down," etc.).

d. "Force" shall have the same meaning as defined in the Attorney General's Use of Force Policy. The term "force" shall include physical, mechanical, enhanced mechanical, and deadly force.

e. "Investigation of a criminal offense" means any police activity pertaining to the investigation of an indictable crime, disorderly persons offense, or petty disorderly offense, including but not limited to responding to a report of a possible criminal offense; an investigative detention based on or leading to reasonable and articulable suspicion to believe that a criminal offense has been or is being committed; an arrest for a criminal offense; an interview of a potential witness to a criminal offense; or canvassing an area, neighborhood, or premises for potential witnesses to a criminal offense.

f. "Law enforcement agency," "agency," or "department" means a law enforcement agency operating under the authority of the laws of the State of New Jersey.

g. "Law enforcement officer" or "officer" means a sworn officer employed by a law enforcement agency.

h. "School" means an elementary or secondary school.

i. "Youth facility" means a facility where children assemble under adult supervision for educational or recreational purposes, such as day-care centers, youth camps, etc.

3. POLICE DEPARTMENT POLICIES GOVERNING DEPLOYMENT AND USE OF BWCs AND RECORDINGS

3.1 Promulgation of Police Department Policies and Procedures.

Within 60 days of the issuance of this Directive, every law enforcement agency that already has equipped any of its officers with a BWC shall promulgate and enforce a policy, standing operating procedure, directive, or order, in a form as may be appropriate given the customs and practices of the agency, which shall comply with the policies, standards, and requirements of this Directive. In the event that an agency has not deployed BWCs prior to the issuance of this Directive, the agency shall not deploy or use BWCs without first promulgating a policy, standing operating
procedure, directive, or order in accordance with this paragraph.

Any policy, standing operating procedure, directive, or order promulgated by an agency pursuant to this Directive shall provide that: 1) a law enforcement officer employed by the agency only may use a BWC system that has been issued and approved by the agency; 2) an officer equipped with a BWC must comply at all times with the requirements established in this Directive and in the agency’s policy, standing operating procedure, directive, or order issued pursuant to this Directive; 3) a BWC shall be used only in performance of official police duties and not for personal purposes; 4) no BWC recording shall be accessed, viewed, copied, disseminated, or otherwise used by a sworn officer or civilian employee of the agency except for an official purpose specified in this Directive; and 5) any sworn officer or civilian employee of the agency who knowingly violates the requirements of this Directive or the agency’s policy, standing operating procedure, directive, or order shall be subject to discipline.

3.2 Officers Authorized to Wear/Use BWCs.

The chief law enforcement officer of the department shall determine which officers will be equipped with BWCs, and shall determine the type(s) of duty assignments (e.g., uniformed patrol, plainclothes detective, special/tactical operations deployments, etc.) when those officers will wear BWCs. In the case of a task force, team, or unit composed of officers from more than one law enforcement agency, the chief law enforcement officer of the agency overseeing the task force, team, or unit (e.g., the County Prosecutor in the case of a countywide task force) shall determine whether and in what circumstances officers assigned to the task force, team, or unit will wear BWCs.

An officer shall not wear a BWC unless he or she: 1) has been authorized to do so by the chief law enforcement officer of the department, or by the chief law enforcement officer of the agency overseeing a multi-agency task force, team, or unit; and 2) has received training on the proper care and use of the device in accordance with the requirements of this Directive and the policy, standing operating procedure, directive, or order promulgated pursuant to section 3.1. Nothing in this Directive shall be construed to require that officers assigned to any particular type of duty assignment will be equipped with BWCs. That decision is left to the department. Rather, this Directive provides foundational standards governing the use of BWCs by officers who have been directed by their agency to wear the device. Nothing in this Directive shall be construed to prevent an agency from developing a pilot program to determine when and in what circumstances/duty assignments the deployment of BWCs would be most efficacious.

3.3 Duty to Inspect and Report Malfunctions.

An officer equipped with a BWC shall be responsible for determining that the device is fully functional and that its battery is adequately charged at the start of the officer’s duty shift and before going into the field. If a malfunction is detected, the officer shall report the malfunction to a supervisor before going into the field. If the BWC malfunctions while out in the field, the
malfuction upon its discovery shall be reported to the officer’s supervisor as soon as it is safe and practicable to do so.


The decision to activate or de-activate a BWC is a police action subject to the rule established in Attorney General Law Enforcement Directive No. 2005-1, which strictly prohibits any form of racially-influenced policing.

3.5 Training.

Every department that deploys BWCs shall designate one or more training officers and shall establish a training program to ensure that officers equipped with BWCs and officers and civilian employees who access or handle BWC recordings are familiar with the provisions of this Directive and the policy, standing operating procedure, directive, or order promulgated by the agency pursuant to section 3.1.

4. NOTICE THAT BWCs ARE DEPLOYED/ACTIVATED

4.1 General Policy Considerations.

Eventually, BWCs are likely to become commonplace such that private citizens will expect that uniformed police officers are equipped with these devices, just as citizens today understand that patrol officers carry two-way radios, firearms, flashlights, o.c. spray, batons, and handcuffs as standard equipment. But until such time as the use of BWCs becomes that universal, it is appropriate to provide some form of notice to citizens so that they understand that anything said to a BWC-equipped officer may be electronically recorded, and that the images and sounds of the police-civilian interaction will be stored and accessible for future law enforcement use in accordance with the provisions of this Directive. Such notice to the public that BWCs are in use will help to achieve the above-noted benefits of discouraging persons from engaging in conduct that might provoke the use of law enforcement force, and discouraging persons from filing false complaints against police.

4.2 General Public Notice.

Every police department that acquires/deploys BWCs shall take reasonable steps to inform the citizenry of the agency’s decision to deploy this technology. The department shall publish a statement that it deploys BWCs on its internet web site or, if the department does not have its own web site, then on the municipality’s web site when feasible. The County Prosecutor may assist departments in providing general public notice of their deployment of BWCs pursuant to this section. The web site posting shall include a picture showing what the device looks like, and how it is to be
worn by uniformed officers or plainclothes detectives so that citizens will be able to determine whether an officer is equipped with the device.

4.3 **Specific Notice to Certain Individuals During an Encounter.**

When an officer equipped with a BWC is required to activate the device during an encounter 1) with a civilian occurring inside the person’s residence, or 2) with a person reasonably believed to be a victim of a criminal offense, the officer shall verbally notify the person(s) with whom the officer is conversing that the BWC has been activated unless it is unsafe or infeasible to provide such notification. If the officer decides not to provide notification of BWC activation because it is unsafe or infeasible to do so, the officer shall document the reasons for that decision in a report and/or by narrating the reasons on the BWC recording. The failure to verbally notify a person pursuant to this section shall not affect the admissibility of any statement or evidence. See section 15 (non-enforceability by third parties). Nothing herein shall preclude a department from adopting a policy, standing operating procedure, directive, or order that requires a BWC-equipped officer to provide verbal notification in other specified circumstances, and/or that requires that an indicator light be illuminated when the BWC is activated.

4.4 **Truthful Response to Specific Inquiries.**

If a civilian inquires of an officer whether the officer is equipped with a BWC, or inquires whether the device is activated, the officer shall answer truthfully unless the County Prosecutor or designee, or Director of the Division of Criminal Justice or designee, has expressly authorized the officer to make a covert electronic recording. Cf. section 2(a) (Directive does not apply to officers while operating in an undercover capacity, or while conducting/participating in a station house custodial interrogation electronically recorded in accordance with Rule 3:17). Nothing in this section shall be construed to establish a basis for suppressing a statement or other evidence. See section 15 (non-enforceability by third parties).

5. **STANDARDS GOVERNING THE ACTIVATION OF BWCs**

5.1 **BWCs Used Only in Performance of Official Duties.**

A BWC shall be activated only while in performance of official police duties and for the purpose of recording incidents, investigations, and police-civilian encounters involving those law enforcement activities specified in this Directive, or specified in a department’s policy, standing operating procedure, directive, or order promulgated pursuant to this Directive. A BWC shall not be activated while the officer is on break or otherwise is not actively performing law enforcement functions (e.g., while eating meals, while in a restroom, etc.). A BWC shall not be activated or used by an officer for personal purposes, or when engaged in police union business. Nor shall a BWC be used to record conversations involving counseling, guidance sessions, personnel evaluations, or any similar supervisory interaction.
5.2 Circumstances When Activation by a Uniformed Officer Generally is Required.

Except as otherwise expressly provided in section 7 or any other provision in this Directive, a uniformed officer equipped with a BWC shall be required to activate the device in any of the following circumstances as soon as it is safe and practicable to do so:

a) the officer initiates an investigative detention (e.g., a Delaware v. Prouse traffic stop, a Terry v. Ohio criminal suspicion stop, or a checkpoint or roadblock stop);

b) the officer is responding to a call for service and is at or near the location to which the officer has been dispatched;

c) the officer is conducting a motorist aid or community caretaking check;

d) the officer is interviewing a witness in the course of investigating a criminal offense;

e) the officer is conducting a custodial interrogation of a suspect, unless the interrogation is otherwise being recorded in accordance with Rule 3:17 (electronic recording of station house interrogations);

f) the officer is making an arrest;

g) the officer is conducting a protective frisk for weapons;

h) the officer is conducting any kind of search (consensual or otherwise);

i) the officer is engaged in a police response to any type of civil disorder in circumstances where the officer is engaged with or in the presence of civilians and the officer or any other officer on the scene may be required to employ constructive authority or force;

j) the officer uses constructive authority or force, or reasonably believes that

Two or more of the below-listed activities are likely to occur during a single encounter or event. For example, a frisk ordinarily occurs after an officer already has initiated an investigative detention (i.e., a “stop”), and a custodial interrogation typically occurs after the officer has arrested the person being interrogated. Although these specified activities often will co-occur and overlap, they are presented in this section to ensure complete coverage of the circumstances when a BWC must be activated. The specified activity that occurs first during an unfolding encounter will trigger the obligation to activate a BWC. As explained in section 5.4, once activated based upon the initiation of any of the listed police activities, the BWC generally must remain in operation until the police-civilian encounter is concluded (i.e., until the officer is no longer interacting with or in the presence of the civilian), and not just while the officer is engaged in the specified activity that required activation.
constructive authority or force may be used in any encounter or situation not otherwise listed in this subsection based on specific and articulable facts warranting heightened caution that are documented by narration on the recording and/or in any investigation or incident report; 3

k) the officer is transporting an arrestee to a police station, county jail, or other place of confinement, or a hospital or other medical care or mental health facility; or

l) the officer reasonably believes that any other officer on the scene has undertaken or is engaged in any of the foregoing police actions/activities.

5.3 Authority to Specify Additional Police Activities When Uniformed Officers Must Activate BWCs.

Subject to the provisions of sections 5.1, 7, and 12 of this Directive, an agency may promulgate a policy, standing operating procedure, directive, or order that requires uniformed officers to activate a BWC when conducting a specified law enforcement activity not listed in section 5.2. For example, a department may require uniformed officers to electronically record consensual field inquiries (i.e., police-civilian interactions where an officer approaches a person under circumstances where a reasonable person would believe that he/she is free to leave and is under no obligation to converse with the officer), or may require uniformed officers to electronically record any police action where the officer would be required by departmental policy to file a report or to make a notation in the officer’s official patrol log. A department also might choose to require that BWCs be activated during a uniformed officer’s entire duty shift (excluding circumstances specified in sections 5.1 and 7 of this Directive). In that event, the department may specify circumstances when the BWC may be de-activated, provided that the department’s policy does not authorize deactivation in circumstances where this Directive requires that the BWC remain activated.

To ensure that all citizens are treated uniformly when officers decide to electronically record an encounter, the department’s policy, standing operating procedure, directive, or order must limit

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3 See State v. Smith, 134 N.J. 599 (1994) (requiring “specific and articulable facts that would warrant heightened caution” before exercising police discretion to remove a passenger from a lawfully detained vehicle); see also note 1 (discussing a time-delay or “buffering” feature on some BWC models). When circumstances necessitating the use of constructive authority or force arise suddenly during the course of swiftly-developing events, it may not be safe and practicable for an officer to activate a BWC before employing constructive authority or force. Nothing in this Directive should be construed or applied in a manner that jeopardizes officer safety by distracting the officer’s attention from the immediate need to use such constructive authority or force. It should be noted that in many circumstances where the need to use constructive authority or force arises, the officer already would have initiated a police activity, such as a motor vehicle stop, “Terry” stop, or response to a call for service, that would have triggered the requirement to activate the BWC; see note 2 (recognizing that two or more police activities enumerated in this section often will co-occur during the course of a single police-citizen encounter).
the discretion of officers in the field. When a department chooses to expand the list of specified law enforcement activities set forth in section 5.2, it shall clearly establish the objective circumstances that require activation. A department is not permitted under this section to authorize uniformed officers to exercise discretion based upon subjective factors. A department may not, for example, authorize an officer to activate a BWC “when otherwise appropriate,” or “when the officer deems it prudent.” Rather, the obligation to activate a BWC must be based on a specified type of police action or an objective event (e.g., going into the field, conversing with a civilian during a consensual field inquiry, etc.). When the officer initiates the specified form of law enforcement activity, the officer automatically shall be required to activate his or her BWC as soon as it is safe and practicable to do so, subject to the exceptions and limitations set forth in this Directive.

5.4 Continuous Recording Pending Completion of Encounter.

To ensure that the entire encounter/event/episode is recorded, when feasible, a BWC should be activated before a uniformed officer arrives at the scene of a dispatched call for service or other police activity listed in section 5.2. See also note 1. However, the officer need not begin recording at the moment he or she receives instructions from a dispatcher to respond to a call for service. Rather, the officer may delay activation until he or she is near the destination.

Except as otherwise expressly provided in section 6 or any other provision of this Directive, when a BWC is required to be activated by a uniformed officer pursuant to this Directive, the device must remain activated throughout the entire encounter/event/episode and shall not be de-activated until it is concluded (e.g., the BWC-equipped officer has left the scene; all civilians involved in the encounter have left the scene; the officer has informed the dispatcher or a supervisor that the event has concluded; the event is “closed” on the department’s computer-aided dispatch (“CAD”) system, etc.).

When a BWC is activated pursuant to section 5.2(k) (transport of arrestee), whether by an officer in uniform or in plain clothes, it shall remain activated at all times while the BWC-equipped officer is in the presence of the arrestee and until the arrestee is secured in the holding cell or processing room, or until custody of the arrestee has been transferred to county jail personnel, or until the arrestee is with hospital/medical/mental health personnel and the officer is no longer in the presence of the arrestee.

5.5 Provisions Governing Use of BWCs by Plainclothes Officers.

Recognizing that detectives and other plainclothes officers perform different functions than uniformed officers, this Directive affords flexibility to agencies in determining when and in what circumstances plainclothes officers will wear and use BWCs, provided that the agency limits the discretion of individual officers in deciding when to activate/de-activate a BWC. Subject to the provisions of sections 5.1, 7, and 12 of this Directive, if an agency authorizes an officer to wear a BWC while in a plainclothes duty assignment, the agency’s policy, standing operating procedure,
directive, or order promulgated pursuant to section 3.1 shall specify the circumstances when a BWC-equipped plainclothes officer shall be required to activate the device, which shall include the circumstances specified in section 5.2 (j) and (k) and section 5.6 (i.e., situations involving use of constructive authority or force, transport of an arrestee, deadly force events, and responses to emergency assistance requests). The agency's policy, standing operating procedure, directive, or order also shall specify the circumstances when a plainclothes officer may de-activate the device.

5.6 Special Activation Rules Governing Deadly-Force Incidents and Other Exigent Circumstances Where Officers Are in Danger.

Notwithstanding any other provision of this Directive, when an officer equipped with a BWC is dispatched to or otherwise goes to the scene of an incident knowing or reasonably believing that police deadly force has been or is being employed, or to a scene where an officer has requested emergency assistance (e.g., an officer in distress, shots fired, etc.), the officer shall activate the BWC before arriving at the scene when feasible. Notwithstanding any other provision of this Directive, an officer while at the scene of a police deadly-force event or the on-scene investigation of that event shall not de-activate the BWC unless instructed to do so by the assistant prosecutor or assistant or deputy attorney general supervising the investigation of the deadly-force incident pursuant to Attorney General Law Enforcement Directive No. 2006-5, or his or her designee. Such instruction may be given telephonically by the assistant prosecutor, assistant or deputy attorney general, or designee supervising the investigation.

6. STANDARDS GOVERNING THE DE-ACTIVATION OF BWCs UPON THE REQUEST OF A CIVILIAN, WHEN DISCUSSING INVESTIGATION STRATEGY/PLANNING, OR ON INSTRUCTION OF A PROSECUTOR

6.1 De-Activation at the Request of a Civilian Providing Information/Cooperation.

Notwithstanding section 5.4, and unless the agency adopts a policy that prohibits or restricts de-activation as may be authorized by this section, an officer may de-activate a BWC when a civilian conversing with the officer requests that the device be turned off under circumstances where it reasonably appears that the person will not provide information or otherwise cooperate with the officer unless that request is respected. The officer shall not suggest to the person that the BWC should be de-activated; nor shall the officer ask the person whether he or she would prefer that the BWC be de-activated. Rather, the request for de-activation must be self-initiated by the civilian. The officer may explain the consequences of de-activation (e.g., evidence relevant to a criminal investigation will not be recorded). In deciding whether to de-activate the BWC, the officer shall

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4 Cf. R. 3:17(b)(iv) (explaining that station house custodial interrogations must be electronically recorded unless "a statement is made during a custodial interrogation by a suspect who indicated, prior to making the statement, that he/she would participate in the interrogation only if it were not recorded; provided however, that the agreement to participate under that condition is itself recorded").
consider the privacy and safety interests of the person requesting de-activation, whether the encounter is occurring in the person’s residence, and the need for the information or assistance that the person will provide only if the de-activation request is honored.

6.2 **De-Activation at the Request of a Person Seeking Emergency Medical Assistance.**

Notwithstanding section 5.4, and unless the agency adopts a policy that prohibits or restricts de-activation as may be authorized by this section, an officer may de-activate a BWC when a person, other than an arrestee, is seeking emergency medical services for him or herself or another and requests that the BWC be de-activated. In deciding whether to de-activate the BWC, the officer shall consider the privacy interests of the person requesting de-activation and the person in need of medical assistance.

6.3 **Procedures for De-Activation Upon a Civilian’s Request.**

When an officer de-activates a BWC pursuant to section 6.1 or 6.2, the following procedures shall be followed: 1) the colloquy between the officer and the civilian concerning the request for de-activation shall be electronically recorded; 2) the officer before de-activating the BWC shall narrate the circumstances of the de-activation (e.g., “I am now turning off my BWC as per the victim’s request.”); 3) the officer shall report the circumstances concerning the de-activation to his or her superior as soon as is practicable; and 4) the officer shall document the circumstances of the de-activation in any investigation or incident report concerning the incident under investigation. See also section 9.3 (notations (i.e., “tagging”) to indicate BWC recordings that raise special privacy or other issues).

6.4 **Decision to Decline a Civilian’s De-Activation Request.**

If an officer declines a request to de-activate a BWC pursuant to section 6.1 or 6.2, the reasons for declining the request (e.g., the officer believes that there is a reasonable possibility that it may be necessary to use constructive authority or force during the encounter) must be documented and shall be reported to the officer’s superior as soon as it is safe and practicable to do so, unless the agency’s policy prohibits de-activation authorized by section 6.1 or 6.2.

In the event that the officer declines a de-activation request, the officer immediately shall inform the person making the request of that decision. An officer shall be prohibited from misleading the person making the de-activation request pursuant to section 6.1 or 6.2 into believing that the BWC has been turned off when in fact it is operating unless the County Prosecutor or designee or the Director of the Division of Criminal Justice or designee expressly has authorized covert recording.
6.5 De-Activation During Criminal Investigation Strategy/Planning Discussions.

Notwithstanding section 5.4, and subject to the requirements of section 5.6, unless the agency adopts a policy that prohibits or restricts de-activation as may be authorized by this section, a BWC-equipped officer may de-activate a BWC while participating in a discussion pertaining to criminal investigation strategy and planning (e.g., to consider what investigative techniques to pursue, such as what questions to pose to a suspect or witness, whether to summon a drug/explosives detection canine, whether to apply for a search warrant, whether to request permission to conduct a consent search, or to conduct another type of warrantless search, etc.), provided that the strategy/planning discussion is not conducted in the immediate presence of a civilian (i.e., under circumstances where a civilian might overhear the strategy discussion), and further provided that the BWC-equipped officer is not actively engaged in the collection of physical evidence (i.e., conducting a search). When an officer de-activates a BWC pursuant to this section, the officer shall narrate the circumstances of the de-activation (e.g., “I am now turning off my BWC to discuss investigative strategy with my supervisor.”).

6.6 De-Activation on Instruction From Prosecutor.

Notwithstanding section 5.4, an officer may de-activate a BWC when specifically authorized to do so by an assistant prosecutor or assistant or deputy attorney general for good and sufficient cause as determined by the assistant prosecutor or assistant or deputy attorney general. When an officer de-activates a BWC pursuant to this section, the officer shall narrate the circumstances of the de-activation indicating the assistant prosecutor or assistant or deputy attorney general who authorized the de-activation (e.g., “I am now turning off my BWC as per the instruction of assistant prosecutor (insert name).”).

6.7 Re-activation When Reason for De-Activation No Longer Exists.

In any instance where a BWC was de-activated pursuant to section 6.1, 6.2, 6.5, or 6.6, the device shall be re-activated as soon as it is safe and practicable to do so if and when the circumstances justifying de-activation no longer exist (e.g., the interview of the person requesting de-activation is completed), and the officer would otherwise be required to activate the BWC (e.g., where the officer proceeds to other investigative activities that are required to be recorded pursuant to this Directive).

6.8 Re-Activation When Actual Law Enforcement Force is Authorized.

Notwithstanding any other provision of this Directive, in any instance where a BWC was de-activated pursuant to section 6.1, 6.2, 6.5, 6.6, or any other provision of this Directive, or de-activated pursuant to any policy, standing operating procedure, directive, or order issued by a department, if the circumstances develop so that an officer is authorized to use force, the BWC shall be re-activated as soon as it is safe and practicable to do so.
7. CIRCUMSTANCES WHEN BWC ACTIVATION/USE IS SUBJECT TO SPECIAL CONDITIONS/RESTRICTIONS

7.1 Special Restrictions When Recording in Schools, Healthcare/Treatment Facilities, and Places of Worship.

Notwithstanding sections 5.2 and 5.3 of this Directive, and except as otherwise required by section 5.6, unless the officer is actively engaged in investigating the commission of a criminal offense, or is responding to an emergency, or reasonably believes that he or she will be required to use constructive authority or force, the officer shall not activate a BWC, or shall de-activate a BWC that has been activated, while the officer: 1) is in a school or youth facility or on school or youth facility property under circumstances where minor children would be in view of the BWC; 2) is in a patient care area of a healthcare facility, medical office, or substance abuse treatment facility under circumstances where patients would be in view of the BWC; or 3) is in a place of worship under circumstances where worshippers would be in view of the BWC. See also section 9.3 (notation (i.e., “tagging”) of certain events/encounters raising privacy or other special issues).

If an officer is required to de-activate the BWC in accordance with the provisions of this section, the officer shall narrate the reason for de-activation (e.g., “I am entering a school building where children are present.”). The BWC shall be re-activated as soon as it is safe and practicable to do so if and when the circumstances requiring de-activation no longer exist (e.g., the officer is conversing with an adult as part of a criminal investigation while in a place within the school where children would not be in view of the BWC).

In the event that a BWC captures the image of a patient in a substance abuse treatment facility, the County Prosecutor or designee, or Director of the Division of Criminal Justice or designee, shall be notified to ensure compliance with all applicable federal laws and regulations providing for the confidentiality of substance abuse treatment information. See 42 U.S.C. § 290dd-2, 42 C.F.R. §23.1 to 23.41. The recording shall not be accessed without the permission of the County Prosecutor or designee, or Director or designee. (Note that destruction of the recording would be inappropriate until it has been determined that it had not captured exculpatory information that must be provided to a defendant in discovery.)

7.2 Special Restrictions When Undercover Officers or Confidential Informants May Be Recorded.

Notwithstanding the provisions of sections 5.2 and 5.3 of this Directive, and except as otherwise required by section 5.6, an officer shall not activate a BWC, or shall de-activate a BWC that has been activated, if the officer knows or reasonably believes that the BWC would capture the image of an undercover officer or confidential informant or otherwise would pose a risk to the safety of an undercover officer or confidential informant, unless such activation is expressly authorized by a supervisor, or unless the exigency of the situation and danger posed to an officer (e.g., active
shooter, actual use of police force, officer in distress, etc.) require that the encounter/incident be recorded, in which event the officer shall inform his or her supervisor that the image of an undercover officer or confidential informant was recorded. See also section 9.3 (notation or “tagging” to indicate a BWC recording that raises special issues), and section 9.5 (prosecutor’s authority to seek protective order when complying with discovery obligations). Notwithstanding the foregoing general rule prohibiting the recording of an undercover officer or confidential informant, in the event of a planned arrest/search warrant execution where it is expected that an undercover officer or confidential informant would be present (e.g., a raid where the undercover operative will be arrested to preserve his or her cover), the County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee, may provide specific instruction to any BWC-equipped officers participating in the operation on whether to activate their devices.

The BWC shall be activated/re-activated as soon as it is safe and practicable to do so if and when the risk of capturing the image of an undercover officer or confidential informant no longer exists.

7.3 Special Precautions When a BWC Recording May Reveal Tactical Operations Information.

In the event that a BWC worn during the execution of tactical operations (e.g., “Special Operations” or “SWAT” operations, execution of arrest and/or search warrant, etc.) records confidential tactical information the disclosure of which might jeopardize future operations or officer safety (e.g., verbal codes or hand signals used to communicate information or instructions, techniques for interior movements and clearing rooms, techniques to convince persons to open doors, etc.), the recording shall be “tagged” in accordance with section 9.3. See N.J.S.A. 47:1A-1.1 (exempting from disclosure under the Open Public Records Act “security measures and surveillance techniques which, if disclosed, would create a risk to the safety of persons”); N.J.A.C. 13:1E-3.2 (2) (exempting records that may reveal “surveillance, security, tactical, investigative, or operational techniques”); see also section 9.5 (prosecutor’s authority to seek protective orders when complying with discovery obligations).

7.4 Special Restrictions on Recording in Courtrooms.

An officer shall not activate a BWC while in a courtroom during court proceedings, unless the officer is responding to a call for service or is authorized to use constructive force or authority, or unless such activation is expressly authorized by the judge.

7.5 De-Activation/Removal of BWC From Alcohol Breath Testing Area.

If the BWC model selected by a department produces radio-frequency interference while activated or while in standby mode, see note 1, the device shall be de-activated while in the area where an electronic alcohol breath testing device is being used, or, as necessary, shall be removed from the area where such device is being used. Nothing herein shall be construed to preclude the
use of a BWC to record the behavior of a person arrested for driving while intoxicated or other than while the person is in the breath-testing area while the electronic breath testing device is being operated. If this provision requires de-activation of a BWC, the officer shall narrate the reasons for de-activation (e.g., “I am de-activating the BWC because the suspect is about to take a breath test.”), and the BWC shall be re-activated when safe and practicable to do so following the completion of the breath testing operation.

7.6 Restrictions on Using BWCs With Enhanced Audio/Visual Capabilities.

Subject to the provisions of Section 12 of this Directive, if a department acquires a BWC with enhanced audio/video capabilities that allow it to record an image or conversation that could not be seen or heard by the officer wearing the device (e.g., infrared night vision or thermal imaging, sound amplification that would record conversations occurring at a remote distance), that feature/capability shall not be used without the express approval of the County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee, in accordance with any applicable legal requirements.

8. RETENTION OF BWC RECORDINGS

The policy, standing operating procedure, directive, or order promulgated by a law enforcement agency pursuant to section 3 of this Directive shall specify the period of time during which a BWC recording shall be retained. The retention period shall not be less than 90 days, and shall be subject to the following additional retention periods:

a) when a BWC recording pertains to a criminal investigation or otherwise records information that may be subject to discovery in a prosecution, the recording shall be treated as evidence and shall be kept in accordance with the retention period for evidence in a criminal prosecution.

b) when a BWC records an arrest that did not result in an ongoing prosecution, or records the use of police force, the recording shall be kept until the expiration of the statute of limitations for filing a civil complaint against the officer and/or agency.

c) when a BWC records an incident that is the subject of an internal affairs complaint, the recording shall be kept pending final resolution of the internal affairs investigation and any resulting administrative action.
9. STANDARDS TO ENSURE SECURE STORAGE AND ACCESSIBILITY OF BWC RECORDINGS

9.1 Procedures to Protect Integrity of BWC Recordings.

Every department that deploys BWCs shall establish and maintain a system and procedures to ensure the integrity and proper handling and storage of all BWC recordings. This system shall include provisions to: 1) ensure that all recordings are uploaded to a secure data storage system in a timely fashion; 2) prevent tampering with or deletion of recorded data both before and after downloading from the BWC and uploading to the storage system; 3) prevent unauthorized access to stored BWC recordings; 4) document all instances where BWC recordings are accessed, viewed, copied, disseminated, or deleted; and 5) permit auditing of all instances where BWC recordings are accessed, viewed, copied, or deleted.

9.2 Capacity to Locate Specific BWC Recordings.

Every department that deploys BWCs shall establish and implement a system that permits the agency to locate and retrieve all recordings associated with a specific incident/event, investigation, case, or criminal charge. Accordingly, every department deploying BWCs shall be required to develop and maintain a BWC control ledger or log, which may be computerized.

Every department that deploys BWCs shall establish and implement a system to ensure that relevant BWC recordings are provided in discovery in a timely fashion. The system established by the agency should include a provision to ensure that police arrest/incident/continuation reports indicate whether the incident or investigative activity described in the report was electronically recorded by a BWC. Police reports should, when feasible, indicate the corresponding BWC control ledger/log number, and the BWC control ledger/log should cross-reference the incident case number. Copies of BWC recordings made for the purpose of complying with the State’s discovery obligations shall be provided to the prosecutor in a readily available media format approved by the Director of the Division of Criminal Justice in consultation with the Administrative Office of the Courts.

The best practices developed pursuant to section 13 of this Directive shall include recommended practices and procedures to address the logistical issues that may arise in fulfilling the requirements of this section.

9.3 Provisions to Identify (“Tag”) Recordings That Raise Special Privacy or Safety Issues.

To identify BWC recordings that may raise special privacy or safety issues, every department that deploys BWCs shall establish and implement a system that permits a notation (i.e., “tagging”) to be made when the recording: 1) captures the image of a victim of a criminal offense; 2) captures the image of a child; 3) was made in a residential premises (e.g., a home, apartment, college dormitory room, hotel/motel room, etc.), a school or youth facility, a healthcare facility or medical
office, a substance abuse or mental health treatment facility, or a place of worship; 4) captures a conversation with a person whose request to de-activate the BWC was declined; 5) captures a special operations event or execution of an arrest and/or search warrant where confidential tactical information (e.g., verbal codes and hand signals used to give direction to officers, techniques for interior movements and clearing rooms during execution of a warrant, techniques for convincing persons to open doors during warrant execution, etc.) may have been recorded; 6) captures the image of an undercover officer or confidential informant; or 7) captures the screen of a police computer monitor that is displaying confidential personal or law enforcement sensitive information. See also section 7.1 (requiring notice to the prosecutor when a BWC captures the image of a patient at a substance abuse treatment facility).

Subject to the provisions of section 12 of this Directive, an agency’s policy, standing operating procedure, directive, or order issued pursuant to section 3.1 may specify additional circumstances when a BWC recording will be “tagged.”

9.4 Approval for Access to “Tagged” BWC Recordings.

A BWC recording tagged pursuant to section 9.3 shall not be accessed, viewed, copied, disseminated, or otherwise used without first obtaining the permission of the County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee. Except for recordings tagged pursuant to section 7.1 (when a BWC captures the image of a patient at a substance abuse treatment facility), and subject to the requirements of section 11.1 (requiring notice to County Prosecutor or Director prior to complying with a subpoena, court order, or request for records under the Open Public Records Act or the common law right to know), the County Prosecutor or Director may authorize the chief of the department, and one or more superior officers or duty positions (e.g., head of the detective bureau) identified by the chief of the department, to grant permission pursuant to this section to access, view, copy, disseminate, or otherwise use BWC recordings tagged pursuant to section 9.3. See also section 10.1 (specifying the purposes for which access to a BWC recording is permitted).

9.5 Compliance with Discovery Obligations Relating to BWC Recordings That Might Expose Officers or Other Persons to Danger.

If disclosure of a BWC recording as part of the State’s discovery obligations in a prosecution might present a danger to any officer or civilian (e.g., reveal an undercover officer, confidential informant, surveillance site, etc.), or might reveal confidential tactical information the disclosure of which might jeopardize future operations or officer safety (e.g., verbal codes or hand signals used to communicate information or instructions, techniques for interior movements and clearing rooms during execution of warrant, techniques for convincing persons to open doors during warrant execution, etc.), the County Prosecutor or designee, or Director of the Division of Criminal Justice or designee in cases prosecuted by the Division, shall, in the exercise of sound prosecutorial discretion, take such steps as are appropriate and authorized by law and/or Court Rule to protect the
information from disclosure, such as by seeking a protective order from the court. See section 7.3 ("tagging" of such BWC recordings).

10. RESTRICTIONS ON ACCESS TO, USE, AND DISSEMINATION OF BWC RECORDINGS

10.1 Specified Authorized Purposes for Accessing/Using Stored BWC Recordings.

No law enforcement officer or civilian employee of a law enforcement agency shall access, view, copy, disseminate, or otherwise use a BWC recording except for an official purpose as specified in this section. Access to and use of a stored BWC recording is permitted only:

a) when relevant to and in furtherance of a criminal investigation or prosecution;

b) when relevant to and in furtherance of an internal affairs investigation;

c) when relevant to and in furtherance of a management review process to identify circumstances indicating possible police misconduct or to determine the existence of a pattern or practice of possible misconduct;

d) to assist the officer whose BWC made the recording in preparing his or her own police report, subject to the restrictions established in section 10.2;

e) when relevant to a supervisor's review of an officer's actions as part of the supervisory process authorized by the agency;

f) to show to a civilian who intends to file a complaint against an officer to demonstrate what actually occurred during the encounter so that the person can make an informed decision whether to file the complaint;

g) to comply with the State's discovery obligations in prosecutions pursuant to the Rules of Court;

h) to comply with any other legal obligation to turn over the recording to a person or entity;

i) to show or disseminate the recording to a civilian or a non-law enforcement entity,

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5 When responding to a subpoena or court order, or a request pursuant to the Open Public Records Act or common law right to know, disclosure of a BWC recording under this paragraph is permitted only after providing notice to the County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee, pursuant to section 11 of this Directive.
or to disseminate it to the public, where the County Prosecutor or designee, or Director of the Division of Criminal Justice or designee, determines that disclosure to that particular person/entity or the public is warranted because the person’s/entity’s/public’s need for access outweighs the law enforcement interest in maintaining confidentiality;

j) for training purposes, provided that the recording is edited so that the identity of individuals depicted in the recording cannot be determined by persons viewing the training video unless the depicted individuals have consented to the recording being used for training purposes;

k) to conduct an audit to ensure compliance with this Directive and a department’s policy, standing operating procedure, directive, or order promulgated pursuant to this Directive;

l) to enhance officer and public safety by providing intelligence information in preparation for a raid/warrant execution (e.g., by providing information about the layout of a premises to be searched), when such use is approved by the County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee; or

m) any other specified official purpose where the County Prosecutor or designee, or Director of the Division of Criminal Justice or designee, finds in writing that good and sufficient cause exists to authorize access to a particular BWC recording.


The assistant prosecutor or assistant or deputy attorney general overseeing a police use-of-force investigation pursuant to Attorney General Law Enforcement Directive No. 2006-5, or his or her designee, may in the exercise of sound discretion authorize a civilian or law enforcement witness to be given access to or view a BWC recording of the incident under investigation. To ensure the integrity of investigations of police-involved shootings and other use-of-force incidents and to avoid possible contamination of a witness’s personal recollection of events that could undermine his or her credibility as a witness, notwithstanding any other provision of this Directive, no civilian or law enforcement witness, including the principal(s) of the investigation, shall be given access to or view a BWC recording of the incident, or a BWC recording of the response or on-scene investigation of the incident, without the express prior approval of the assistant prosecutor, assistant or deputy attorney general, or designee.

10.3 Documenting Access to Stored BWC Recordings.

Each department that deploys a BWC shall maintain a record of all access to stored BWC
recordings pursuant to this Directive. The department's record keeping system shall document the following information:

a) the date and time of access;

b) the specific BWC recording(s) that was/were accessed;

c) the officer or civilian employee who accessed the stored BWC recording;

d) the person who approved access, where applicable; and

e) the reason(s) for access, specifying the purpose or purposes for access authorized pursuant to section 10.1 or section 10.2, and specifying the relevant case/investigation number, where applicable.

11. PUBLIC DISCLOSURE OF BWC RECORDINGS

11.1 Notice to Prosecutor of Subpoena, Court Order, or OPRA/Common Law Request.

Any agency receiving a subpoena, court order, or request pursuant to the Open Public Records Act, or the common law right to know, for a BWC recording shall, within one business day of receipt of such subpoena, court order, or request, and before complying with it, provide notice to the County Prosecutor, or to the Division of Criminal Justice where the recording was made by a state-level law enforcement agency. Such notice shall state clearly the deadline by which a response must be made.

11.2 Disclosure of BWC Recordings Pertaining to Criminal Investigations.

Except as otherwise provided in section 10.1, a BWC recording of an event or encounter that involves an investigation of a criminal offense as defined in section 2(e) shall not be shared with or provided or shown to any person, entity, or government agency, other than a law enforcement agency or officer or authorized civilian employee of such agency, unless such disclosure is required by the Rules of Court governing discovery in prosecutions, or by a court order, or unless the law enforcement agency in consultation with the County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee, determines that the person's/entity's/non-law enforcement agency's/public's need for access outweighs the law enforcement interest in maintaining confidentiality.

12. AUTHORITY OF COUNTY PROSECUTOR TO IMPOSE ADDITIONAL REQUIREMENTS

Nothing in this Directive shall be construed to in any way limit the authority of a County
Prosecutor to issue directives or guidelines to the law enforcement agencies subject to his or her supervisory authority, setting forth additional procedural or substantive requirements or restrictions concerning BWCs and BWC recordings, provided that such directives or guidelines do not conflict with any explicit provision of this Directive. For example, a County Prosecutor may: specify additional circumstances when a municipal police department BWC must be activated; impose limits on the authority of a municipal police department to specify additional circumstances when a BWC must be activated; categorically prohibit the use of BWCs with enhanced audio/visual capabilities such as infrared night vision (cf. section 7.6, which requires prosecutorial approval to use such features); and specify additional circumstances when a BWC recording will be “tagged,” etc.

13. ADVISORY GROUP TO REPORT ON IMPLEMENTATION AND SHARE BEST PRACTICES

The Director of the Division of Criminal Justice shall establish a Body Worn Camera Advisory Group consisting of members of the community and representatives from law enforcement as the Director deems appropriate. The Advisory Group will meet on a quarterly basis to review implementation of this Directive and to advise the Attorney General on the need for any revisions. The Advisory Committee also shall identify, study, and share best practices to facilitate the uniform and efficient implementation of this Directive, and shall study and advise the Attorney General on issues relating to the public dissemination of BWC recordings pursuant to this Directive.

14. VIOLATIONS

Any willful or repetitive violations of this Directive shall be reported promptly to the appropriate County Prosecutor and to the Director of the Division of Criminal Justice. The County Prosecutor and Director are authorized to take such actions as are reasonable and necessary to ensure compliance with this Directive and to prevent future violations.

15. NON-ENFORCEABILITY BY THIRD PARTIES

This Directive is issued pursuant to the Attorney General’s authority to ensure the uniform and efficient enforcement of the laws and the administration of criminal justice throughout the State. This Directive imposes limitations on the exercise of law enforcement discretion that may be more restrictive than the limitations imposed under the United States and New Jersey Constitutions, and federal and state statutes and regulations. Nothing in this Directive shall be construed in any way to create any promises or any rights beyond those established under the Constitutions, statutes, and regulations of the United States and the State of New Jersey. The provisions of this Directive are intended to be implemented and enforced by law enforcement agencies that deploy BWCs, and these provisions do not create any promises or rights that may be enforced by any other persons or entities.
16. **QUESTIONS**

Any questions concerning the interpretation or implementation of this Directive shall be addressed to the Director of the Division of Criminal Justice, or designee.

17. **EFFECTIVE DATE**

This Directive shall take effect 60 days after it is issued in order to provide an opportunity for law enforcement agencies to prepare to comply with its requirements and to develop and issue policies and procedures consistent with the policies, standards, and procedures established herein. Once effective, this Directive shall remain in force and effect unless and until it is repealed, amended, or superseded by Order of the Attorney General.

John J. Hoffman  
Acting Attorney General

ATTEST:  
Elie Honig  
Director, Division of Criminal Justice

Issued on: July 28, 2015  
Effective on: September 26, 2015
ATTORNEY GENERAL LAW ENFORCEMENT DIRECTIVE NO. 2018-1

TO: All Law Enforcement Chief Executive Officers

FROM: Gurbir S. Grewal, Attorney General

DATE: February 26, 2018

SUBJECT: Law Enforcement Directive Concerning Public Release of Video Recordings Depicting Police Deadly Force Incidents

This Directive instructs that, in any case involving police use of deadly force as defined in Attorney General Directive 2006-5, law enforcement agencies presumptively will make available, upon formal request by the media or other public requestor, video footage captured by body-worn cameras ("BWCs") and patrol vehicle dashboard-mounted cameras ("dash-cams") once the initial investigation of the use-of-force incident is substantially complete. This typically will occur within 20 days of the incident itself. As discussed in Section 3 below, this Directive does not take effect unless and until the Advisory Committee on Professional Conduct advises that such public release comports with applicable Rules of Professional Conduct.

1. BACKGROUND

A. Balancing the Benefits of Transparency Against the Need for Confidentiality

Records generated during a criminal investigation generally are not made available to the public. Increasingly, and with financial and policy support from the Attorney General's Office, police officers in New Jersey are being equipped with BWCs and/or dash-cams that capture investigative activities in real time. Questions have arisen as to whether, when, and to what extent the public will have access to these recordings depicting police activity.

Particular interest is focused on videos of incidents in which police officers use deadly force. Some advocate that such videos are unique and should, for the sake of transparency, be released immediately. In any criminal investigation, however, if video evidence is released before witnesses are interviewed, the public availability of this evidence may taint witnesses' recollections of the incident and compromise the integrity of the investigation – whether that investigation pertains to a law enforcement officer, a civilian, or both. In any context other than the rare instances in which police officers use deadly force, little or no dispute would exist that a grand jury should be able to carry out its important work confidentially, without piecemeal
public release of evidence. In the special case of police uses of lethal force, however, the law enforcement community must take special care to foster public confidence that the incidents will be investigated impartially, thoroughly, and expeditiously. Law enforcement must balance the public’s interest in transparency with the interest of the government and of the individuals subject to criminal investigation in fostering a fair criminal investigatory and judicial process.

B. OPRA and the Common Law Right of Access

The starting point for this analysis is the Open Public Records Act ("OPRA"), N.J.S.A. 47:1A-1 et seq., pursuant to which the public may request many kinds of government records. OPRA exempts “criminal investigatory records” from disclosure if such records (1) are not required by law to be made, maintained, or kept on file by a law enforcement agency, and (2) pertain to any criminal investigation. In North Jersey Media Grp., Inc. v. Twp. of Lyndhurst, 229 N.J. 541, 569 (2017), the Supreme Court agreed with the Appellate Division’s finding that, “when an officer turns on a mobile-video recorder to document a traffic stop or pursuit of a suspected criminal violation of law, that recording may pertain to a ‘criminal investigation,’ albeit in its earliest stages.” The Supreme Court held that, under OPRA, the media was not entitled to access to dash-cam video recordings of police officers’ high-speed pursuit and subsequent fatal shooting of a civilian, because the recordings were not required by law to be made or maintained and they pertained to a criminal investigation. Thus, under Lyndhurst, BWC and dash-cam footage that records potential criminal offenses are exempt from OPRA.

However, the Court in Lyndhurst ultimately granted access to the dash-cam footage under the common law right of access, a second legal basis under which the public may seek access to government records. Under the common law, once a requestor establishes a cognizable interest in the records requested, courts balance the requestor’s interest in disclosure against the government’s interest in confidentiality. Courts at all levels have acknowledged that both the government and the public retain a strong interest in criminal investigations being conducted thoroughly and reliably, without the taint of early disclosure of investigative details. Despite that interest, “the public’s interest in transparency is heightened when governmental action leads to the death of a civilian.” Lyndhurst at 580. Accordingly, the Lyndhurst Court found that the media was entitled to the dash-cam footage under the common law because the public’s interest in disclosure of the recordings outweighed the State’s interest in preventing disclosure. Such footage could “inform the public’s strong interest in a police shooting that killed a civilian . . . without placing potential witnesses and informants at risk,” and could be “released without undermining the integrity of an investigation once investigators, shortly after an incident, have interviewed the principal witnesses . . .”. Id.

This Directive therefore assumes, consistent with the Supreme Court in Lyndhurst, that BWC and dash-cam footage depicting police officers’ investigations of crimes — including, but by no means limited to, video showing officers’ use of deadly force — falls within OPRA’s exemption for criminal investigatory records and therefore could be subject to compelled disclosure, if at all, only pursuant to the common law right of access.

C. Building on Ongoing Initiatives to Improve Police-Community Relations

On July 28, 2015, the then-Acting Attorney General issued a Law Enforcement Directive Regarding Police Body-Worn Cameras and Stored BWC Recordings ("BWC Directive"). The
BWC Directive encourages police departments to equip patrol officers with these electronic recording devices, and establishes uniform statewide standards governing use of BWCs and access to BWC footage. That same day, the then-Acting Attorney General also issued a Supplemental Directive Amending Attorney General Law Enforcement Directive No. 2006-5 ("2015 Independent Prosecutor Directive"). The 2015 Independent Prosecutor Directive ensures that all police uses of deadly force are thoroughly investigated by specialized teams that have no relationship with the subject officers; that all lethal force incidents involving a municipal police officer are investigated by the County Prosecutor, and that the police department employing the subject officer is excluded from the investigation; that all such cases are presented to a grand jury, unless the Attorney General or Director of the Division of Criminal Justice ("Director") determines that the justifiability of force is not in material dispute; that the Attorney General's Office, through the Division of Criminal Justice, supervises and reviews de novo the County Prosecutor's investigation and any determination that a case should be closed without grand jury presentation; and that the investigating agency issue a detailed public statement of facts at the conclusion of every case. Both the BWC Directive and the 2015 Independent Prosecutor Directive embrace a common overarching theme: for law enforcement agencies to fulfill their core mission, they must earn and retain the trust, respect, and support of the communities they protect and serve.

Police BWCs raise special privacy concerns. BWCs will capture images of crime victims in the moments after they have been victimized, and images of witnesses to those crimes. BWCs will capture images of the interior of private residences. They will capture images of police incident-response tactics and communications protocols, the release of which could put officers and members of the public in danger. We recognize, however, that where police video equipment records an event of extraordinary public significance, the common-law balancing test may tip in favor of disclosure at some point. Recordings of officers' use of deadly force may be one such category of video where, at least in some cases, courts may compel disclosure under the common law, finding that the public has a strong interest in ensuring that police deadly force is used appropriately and that investigations are conducted transparently and fairly.

Accordingly, pursuant to my authority under the New Jersey Constitution and the Criminal Justice Act of 1970, N.J.S.A. 52:17B-97 to -117, I hereby DIRECT all law enforcement agencies and officers to implement and comply with the following procedures, standards, and practices concerning the public disclosure of police deadly-force BWC and dash-cam recordings.

2. GUIDANCE TO LAW ENFORCEMENT

A. General Rule: Presumptive Disclosure Upon Substantial Completion of Initial Investigation

When an investigation is conducted pursuant to Attorney General Law Enforcement Directive No. 2006-5 and/or the 2015 Independent Prosecutor Directive, it shall be the responsibility of the Director or the County Prosecutor to determine on a case-by-case basis whether and when a deadly-force recording will be made publicly available.¹ Unless the

¹ This Directive applies to all force incidents as defined in Paragraph 1 of Directive 2006-5, specifically: "[A]ny use of force by a law enforcement officer involving death or serious bodily
Director, or the County Prosecutor with the Director’s express approval, finds specific and compelling reasons to delay public disclosure of a deadly-force recording, such recording shall be issued publicly (1) upon substantial completion of the initial investigation and (2) upon formal request by a member of the public or media (pursuant to the common law right of access). 2

It shall be within the discretion of the Director or County Prosecutor to determine precisely when the initial investigation is substantially complete. Typically, this will occur after principal, material eyewitnesses to a use-of-force event have been interviewed and after physical and documentary evidence most relevant to the actual use of force has been gathered. This does not, however, mean that the entire investigation must be substantially complete before disclosure of a deadly-force recording.

While it is impossible to place precise temporal parameters on substantial completion of the initial investigation, generally such initial investigation should be concluded within 20 days of the use-of-force event. The initial investigation may in some cases be substantially complete before 20 days after the event. In such cases, the Director or County Prosecutor may, in his or her discretion, authorize release of the deadly-force recording sooner than 20 days after the incident occurred.

Conversely, in some cases, it may take more than 20 days to substantially complete the initial investigation. In such cases, the Director or County Prosecutor may decline to authorize release of a deadly-force recording until such initial investigation is substantially complete. The Director or County Prosecutor must document the reasons that additional time is necessary, and an estimate of when substantial completion will be achieved. Such documentation must be submitted for approval to the Attorney General or designee. The written memorialization of reasons is confidential and privileged attorney work product. Appropriate reasons for an extension beyond the 20-day period include but are not limited to: the need to review and/or redact videos to protect the privacy of victims or other persons depicted; and the need to complete interviews with principal eyewitnesses or to complete other essential aspects of initial investigation.

B. Consultation With Persons Depicted In a Recording or Their Families

Before releasing a deadly-force recording, the Director or County Prosecutor should consult with persons appearing in the recording (not including bystanders or people appearing only in the background) or, in the case of decedents, with their families. For example, if a video injury to a person, or where deadly force is employed with no injury, or where any injury to a person results from the use of a firearm by a law enforcement officer.”

2 As the Lyndhurst Court held, video footage of police lethal force incidents is not subject to OPRA because it falls within the “criminal investigatory records” exemption. However, as the Lyndhurst Court also opined, the common law right of access stands on different footing, and may (depending on the circumstances of a given case) weigh in favor of public disclosure. In all cases, the media or a member of the public must formally request access to trigger the potential release of lethal-force video footage by the County Prosecutor or Director, upon substantial completion of the initial investigation.
tends to show that a decedent acted with the intent to cause police officers to end that decedent’s life, the decedent’s family members may prefer that the video not be released. Prosecutors may and should take those wishes into account in deciding how to proceed. Although this Directive permits the Director or County Prosecutor to authorize digital obscuring of civilians or of police officers who use deadly force, Prosecutors may take into account objections from affected persons, including law enforcement officers, that such steps will not adequately protect them. Where public release of a video would unduly compromise the safety or privacy of any person, including a law enforcement officer, the Prosecutor may seek approval from the Attorney General or a designee not to release the recordings, or to release at a later date.

C. Editing D eclosed Copies of Deadly-Force Recording to Protect Privacy Rights

As necessary and within the discretion of the Director or County Prosecutor, the copy of any deadly-force recording publicly released pursuant to this Directive may be digitally modified to obscure the identity of any person, including (but not limited to) any law enforcement officer who is the subject of a criminal investigation, unless the identity of such person or officer already has been officially disclosed or confirmed. The editing shall be done in a way that does not conceal any actions by any person constituting the use of force. Further, and as made clear in the 2015 Independent Prosecutor Directive, under no circumstances may any person alter in any manner the master copy of any recording.

D. Notification to County Prosecutors and Attorney General

Law enforcement officials who receive OPRA or common-law requests for BWC or dash-camera videos must, per existing policies (including the BWC Directive at Section 11.1), notify the County Prosecutor or Director of such requests within one business day of receipt. In cases involving requests for disclosure of police deadly-force recordings, the County Prosecutor (or the State Police, if it receives such a request) shall notify the Attorney General, the Director, or a designee within 24 hours of receiving the request.

3. ETHICAL CONSIDERATIONS AND EFFECTIVE DATE

New Jersey Rule of Professional Conduct 3.6 prohibits an attorney from “mak[ing] an extrajudicial statement that the lawyer knows or reasonably should know will have a substantial likelihood of materially prejudicing an adjudicative proceeding.” Rule of Professional Conduct 3.8(f) provides that a prosecutor must “refrain from making extrajudicial comments that have a substantial likelihood of heightening public condemnation of the accused.” In its March 16, 1989 notice to the bar concerning extrajudicial statements, the Supreme Court noted that “the public production of any physical evidence” is “inappropriate.” And in a February 17, 2017 opinion, the Advisory Committee on Professional Ethics (“Advisory Committee”) held that “extrajudicial statements featuring displays of seized drugs, weapons, or other contraband do not accord with the Rules of Professional Conduct 3.6 and 3.8 and are not permitted.” (Op. at 1).

Public release by prosecutors of BWC or dash-cam footage of police lethal-force incidents upon substantial conclusion of the initial investigation implicates similar but not identical ethical concerns as public display of seized contraband. Every police lethal force case will result in a criminal investigation – of the involved police officer, of a civilian, or in some instances, both. By releasing video footage upon substantial completion of the initial
investigation, the prosecutor will make public evidence that relates to a criminal case that has not yet been tried or, in most instances, charged.

To ensure that prosecutors stay well within the bounds of ethical conduct, my Office has submitted a request to the Advisory Committee seeking clarification on whether the public release of lethal-force recordings upon substantial completion of the initial investigation complies with applicable Rules of Professional Conduct. In that submission, my Office argues that such a public release does not conflict with any Rule of Professional Conduct. It is impossible to know in advance, of course, how the Advisory Committee will rule on this request. Therefore, this Directive does not take effect unless and until the Advisory Committee advises that such public release comports with all applicable Rules of Professional Conduct.

4. PRESERVATION OF PRIVILEGE TO MAINTAIN CONFIDENTIALITY AND NON-ENFORCEABILITY BY THIRD PARTIES

This Directive is issued pursuant to the Attorney General’s constitutional and statutory authority to ensure the uniform and efficient enforcement of criminal justice throughout the State. Neither this Directive, nor the release of any recording pursuant to this Directive, shall constitute a waiver of any privilege to maintain the confidentiality of a record that a law enforcement agency may have under OPRA, any other statute, or the common law right of access. This Directive does not create any new requirement that any record be made, maintained or kept. Nothing in this Directive shall be construed to create any promises or any rights beyond those established under the Constitution, statutes, regulations, and decisional law of New Jersey. This Directive is to be implemented by the Division of Criminal Justice and County Prosecutors, and creates no promises or rights that other persons or entities may enforce.

5. SUPERSEDURE

Any provision of the BWC Directive or the 2015 Independent Prosecutor Directive that is inconsistent with any provision of this Directive is hereby superseded to the extent of such inconsistency. All provisions of the BWC Directive and the 2015 Independent Prosecutor Directive that are not inconsistent with this Directive shall remain in full force and effect.

Gurbir S. Grewal
Attorney General

ATTEST:

Eli Honig
Director, Division of Criminal Justice
Dated: February 26, 2018
For Immediate Release:  
February 26, 2018  

Office of The Attorney General  
- Gurbir S. Grewal, Attorney General  
Division of Criminal Justice  
- Elie Honig, Director  

Attorney General Grewal Announces Statewide Policy  
Governing Release of Body- & Dash-Camera Videos of  
Police Deadly Force Incidents  

Policy Encourages Transparency and Calls for Videos to be  
Released in Most Cases After Substantial Completion of  
Investigation if Formally Requested  

View AG’s Directive

TRENTON – Recognizing the vital importance of transparency in police-community relations, Attorney General Gurbir S. Grewal today announced a new policy that – pending approval by the Judiciary – will make body- and dash-camera videos of police deadly force incidents subject to public release, following a formal request, once the initial investigation of the incident is substantially complete, typically within 20 days of the incident.

“Law enforcement executives and agencies across New Jersey are committed to improving public trust through increased transparency and accountability,” said Attorney General Grewal. “They work tirelessly every day in this regard and with support from the Attorney General’s Office, many are now using body- and dash-cameras as tools to promote mutual accountability, gather evidence and protect their officers. This policy not only makes good on the promise of transparency and accountability embodied in these devices, but also reaffirms our understanding that only when there is trust in police-community relations will people have confidence in the fair administration of justice and will officers be able to perform their difficult jobs effectively.”

“By providing an objective witness to critical incidents, body-worn cameras and dashboard cameras have increased public confidence in police, while reducing unfounded complaints against officers,” said Director Elie Honig of the Division of Criminal Justice. “This new directive strikes the right balance in use-of-force cases by allowing witness interviews to be completed without danger of taint from public airing of video footage, while ultimately recognizing the public’s strong interest in this information.”

The directive seeks to provide guidance to prosecutors and law enforcement agencies in light of the New Jersey Supreme Court’s 2017 decision in North Jersey Media Group v. Lyndhurst, which makes such footage potentially available to the public upon formal request. But because the Lyndhurst decision and the directive both implicate a New Jersey Supreme Court Rule (Rule of Professional Conduct 3.6), which the Court has said generally prohibits public release of evidence in a pending criminal matter, the Attorney General has sought clarification from the Court’s Advisory Committee on Professional Ethics on whether releasing lethal-force videos under the directive would comply with the rule. The directive will take effect if and when the Advisory Committee determines that it complies with the Court Rule.

Attorney General Directive 2018-1 provides that in any case where a police officer uses force resulting in death or serious bodily injury – or where a firearm or other deadly force is used without injury – and video footage of the incident is captured by a body-worn camera or dashboard camera, the investigating law enforcement agencies will presumptively make the video available, upon formal request by a member of the public or media, once the initial investigation of the incident is substantially complete.
While determination as to when the initial investigation is substantially complete is left to the discretion of the County Prosecutor – or Director of the Division of Criminal Justice in cases investigated by the Attorney General’s Office – the initial investigation will typically be deemed substantially complete after principal, material eyewitnesses have been interviewed and the most relevant physical and documentary evidence has been gathered. Generally this should occur within 20 days of the incident.

In cases where it takes more than 20 days to substantially complete the initial use-of-force investigation, the County Prosecutor or Director may decline to release the video footage, but must document the reasons that additional time is necessary and estimate when substantial completion will be achieved, submitting that information to the Attorney General or a designee within the Attorney General’s Office.

Before releasing a deadly-force recording, prosecutors are directed to consult with persons appearing in the video footage or their families in the case of decedents. Where release of the video would unduly compromise the safety or privacy of any person, including any law enforcement officers, the prosecutor may seek approval from the Attorney General’s Office to postpone or decline release of the video. In other cases, the released video footage may be digitally modified to obscure the identity of a person, where that person’s identity has not been disclosed, provided the editing does not conceal any actions by a person constituting a use of force.

In New Jersey, investigations of police-involved shootings and other deadly force incidents are directly overseen by the Attorney General, who acts as an independent prosecutor in such matters. Specifically, these investigations are governed by an Attorney General directive that establishes detailed procedures and safeguards to ensure independent and impartial investigations. With respect to body-worn cameras, the Attorney General’s Office has issued a statewide policy establishing guidelines for deploying such devices for those agencies that elect to deploy them. The Attorney General’s Office also has provided over $4.5 million to enable the New Jersey State Police and other police departments across New Jersey to equip their officers with body cameras.

“While we have statewide policies in place to guide police use-of-force investigations, we are currently in the process of examining what further safeguards are needed, what reporting mechanisms are used, and how the information is reviewed,” said Attorney General Grewal. “To this end, we are consulting with law enforcement executives, community leaders and advocates on these issues. Together we will explore how we can enhance accountability, cooperation and trust in police-community relations.”

Follow the New Jersey Attorney General’s Office online at Twitter, Facebook, Instagram, Flicker & YouTube. The social media links provided are for reference only. The New Jersey Attorney General’s Office does not endorse any non-governmental websites, companies or applications.

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Synopsis

Background: Reporters employed by owner of print and Internet news organizations brought action against municipalities, police departments, State Police and their records custodians, seeking to compel the release of various records pertaining to the fatal police shooting of a criminal suspect following a high-speed chase across multiple municipalities. The Superior Court, Law Division, Bergen County, Peter E. Doyne, A.J.S.C., 2015 WL 223064, issued order compelling disclosure pursuant to the Open Public Records Act (OPRA) and the common law. Attorney General sought leave to appeal, which was granted. The Superior Court, Appellate Division, Ostrer, J.A.D., 441 N.J.Super. 70, 116 A.3d 570, reversed and remanded. The Superior Court, Law Division, Bonnie J. Mizdol, A.J.S.C., determined that disclosure was not required. Defendants moved for leave to appeal, which was granted.

Holdings: The Supreme Court, Rabner, C.J., held that:

[1] use of force reports that police officers who employed deadly force were required to complete pursuant to Attorney General's use of force policy were required by law to be made, and thus were not exempt from disclosure under OPRA's criminal investigatory records exception;
dash-cam videos from mobile video recorders in police vehicles, detailedinvestigative reports, and witness statements about the incident pertained to criminalinvestigation, and thus were exempt from disclosure under OPRA's criminal investigatory records exception;

OPRA's exception for ongoing investigations, which required the release of information as to the identity of the investigating and arresting personnel, required the disclosure of the names of police officers involved in fatal shooting of criminal suspect;

disclosure of dash-cam videos from mobile video recorders in police vehicles would not have been inimical to the public interest, and thus, recordings were not exempt from disclosure under OPRA's ongoing investigation exception;

disclosure of use of force reports that police officers who employed deadly force were required to complete would not have been inimical to the public interest, and thus, reports were not exempt from disclosure under OPRA's ongoing investigation exception;

State's interest in preventing disclosure of investigative reports and witness statements outweighed media organization's interest to inspect the records, and thus, organization could not gain access to the records under the common law right of access; and

public's substantial interest in disclosure of dash-cam videos from mobile video recorders in police vehicles warranted release of those materials under common law right of access.
[3] Records

Investigatory or law enforcement records

If a document meets both prongs of the exception for criminal investigatory records under the Open Public Records Act (OPRA), a public agency need not disclose it. N.J. Stat. Ann. § 47:1A-1.1.

Cases that cite this headnote

[4] Statutes

Plain Language; Plain, Ordinary, or Common Meaning

Extrinsic Aids to Construction

When interpreting a statute, courts look first to the plain language of the statute to try to give meaning to the Legislature's intent; if that language is ambiguous, courts may turn to extrinsic sources.

10 Cases that cite this headnote


Powers and Duties

The Attorney General is the State's chief law enforcement officer and has the authority to adopt guidelines, directives, and policies that bind police departments throughout the State.

2 Cases that cite this headnote

[6] Records

Investigatory or law enforcement records

Use of force reports that police officers who employed deadly force were required to complete pursuant to Attorney General's use of force policy were required by law to be made, and thus were not exempt from disclosure under Open Public Records Act's (OPRA) criminal investigatory records exception; policy was not generic set of rules about record retention but was clear, pointed statement of policy from the chief law enforcement official to all officers who used deadly force, and policy had the force of law for police entities. N.J. Stat. Ann. § 47:1A-1.1.

2 Cases that cite this headnote

[7] Records

General retention schedules generated to implement the Destruction of Public Records Law (DPRL) and adopted by State Records Committee did not meet the “required by law” standard for the Open Public Records Act's (OPRA) criminal investigatory records exception; because many records pertaining to criminal investigations were required to be retained, the exception would have little meaning if it applied to the

Cases that cite this headnote

[8] Records
☞ Investigatory or law enforcement records
Dash-cam videos from mobile video recorders in police vehicles, which pursued criminal suspect who was fatally shot as he attempted to elude police officers, detailed investigative reports, and witness statements about the incident pertained to criminal investigation, and thus were exempt from disclosure under the Open Public Records Act's (OPRA) criminal investigatory records exception; actions of police, who tried to stop and arrest two suspects and responded to resistance, all pertained to investigation into actual or potential violations of criminal law, and the recordings pertained to the investigation into fatal police shooting of suspect. N.J. Stat. Ann. § 47:1A-1.1.

2 Cases that cite this headnote

[9] Records
☞ Investigatory or law enforcement records
Open Public Records Act's (OPRA) exception for ongoing investigations, which required the release of information as to the identity of the investigating and arresting personnel, required the disclosure of the names of police officers involved in fatal shooting of criminal suspect; the exception used “name” and “identity” interchangeably, “identity” referred to names of investigating and arresting officers as well as other identifying information, such as officer's rank and badge number, and generic reasons, such as stigma associated with investigation and media coverage of officers, did not justify withholding the information. N.J. Stat. Ann. § 47:1A-3(b).

Cases that cite this headnote

[10] Statutes
☞ Natural, obvious, or accepted meaning
Statutes
☞ Context
To understand the meaning of a statute, judges read words and phrases in their context and apply their generally accepted meaning. N.J. Stat. Ann. § 1:1-1.

6 Cases that cite this headnote

☞ Investigatory or law enforcement records
Open Public Records Act's (OPRA) exception for ongoing investigations, which required the release of specific information about criminal investigation within 24 hours or as
soon as practicable, did not bar public agency from satisfying the exception's disclosure requirement with press release; statute did not specify how information was to be made available to the public, it simply required disclosure of information, and it did not require agency to release records. N.J. Stat. Ann. § 47:1A-3(b).

1 Cases that cite this headnote

[12] Records

FE Investigatory or law enforcement records

Early disclosure of police investigative reports and witness statements will often be inimical to the public interest, as required for the records to be exempt from disclosure under the Open Public Records Act's (OPRA) ongoing investigation exception. N.J. Stat. Ann. § 47:1A-3.

Cases that cite this headnote

[13] Records

FE Investigatory or law enforcement records

Although it may be appropriate to deny a request for police investigative reports under Open Public Records Act's (OPRA) ongoing investigation exception early in an investigation, the outcome might be different later in the process; indeed, depending on the circumstances, the exception may not justify withholding reports after a grand jury votes not to file charges. N.J. Stat. Ann. § 47:1A-3(a).

1 Cases that cite this headnote

[14] Records

FE Investigatory or law enforcement records

Disclosure of dash-cam videos from mobile video recorders in police vehicles, which pursued criminal suspect who was fatally shot as he attempted to elude police officers, would not have been inimical to the public interest, and thus, recordings were not exempt from disclosure under the Open Public Records Act's (OPRA) ongoing investigation exception; disclosure of recordings would not have jeopardized officer safety or reliability and effectiveness of ongoing investigation, police did not assert that the essential witnesses to the shooting had not been interviewed, and the public's interest in disclosure was strong since incident resulted in fatal police shooting of the suspect. N.J. Stat. Ann. § 47:1A-3(a).

1 Cases that cite this headnote

[15] Records

FE Investigatory or law enforcement records

Although a particularized threat is not required, the State must
present more than generic allegations about safety in order to show that disclosure of police records would be inimical to the public interest, as required to invoke the Open Public Records Act's (OPRA) ongoing investigation exception. N.J. Stat. Ann. § 47:1A-3(a).

Cases that cite this headnote

[16] Records

💌 Investigatory or law enforcement records

As to the integrity of an ongoing investigation, courts must consider the particular reasons for non-disclosure of police records under the Open Public Records Act's (OPRA) ongoing investigation exception in a given matter; among a number of relevant factors are the nature of the details to be revealed, how extensive they are, and how they might interfere with an investigation. N.J. Stat. Ann. § 47:1A-3(a).

Cases that cite this headnote

[17] Records

💌 Investigatory or law enforcement records

Disclosure of use of force reports that police officers who employed deadly force were required to complete would not have been inimical to the public interest, and thus, reports were not exempt from disclosure under the Open Public Records Act's (OPRA) ongoing investigation exception; reports contained relatively limited information, reports called for the names of officer and subject along with basic demographic information, and release of the reports presented far less risk of taint to ongoing investigation than release of witness statements and investigative reports. N.J. Stat. Ann. § 47:1A-3(a).

Cases that cite this headnote

[18] Records

💌 Access to records or files in general

To constitute a “common law public record,” the item must be a written memorial made by a public officer, and the officer must be authorized by law to make it.

Cases that cite this headnote

[19] Records

💌 Proceedings for access

To gain access to common law public records, the requestor must make a greater showing than the Open Public Records Act (OPRA) requires: (1) the person seeking access must establish an interest in the subject matter of the material; and (2) the citizen's right to access must be balanced against the State's interest in preventing disclosure. N.J. Stat. Ann. § 47:1A-1 et seq.
Cases that cite this headnote

[20] Records
❖ Persons entitled to disclosure; interest or purpose

Media organization had interest to inspect public records pertaining to the fatal police shooting of criminal suspect following high-speed chase across multiple municipalities, as required for organization to gain access to the records under the common law right of access; organization was not private citizen seeking to correct private harm, and in its role as media organization, it sought access to information to further a public good.

Cases that cite this headnote

[21] Records
❖ Access to records or files in general

State's interest in preventing disclosure of investigative reports and witness statements, pertaining to the fatal police shooting of criminal suspect following high-speed chase across multiple municipalities, outweighed media organization's interest to inspect the records, and thus, organization could not gain access to the records under the common law right of access; although requested materials could shed light on possible use of excessive force by police, Attorney General's interest in the integrity of investigations was strongest when it came to disclosure of detailed documents, and State had interest in thorough and reliable investigations that were untainted by early disclosure of investigative details.

Cases that cite this headnote

[22] Records
❖ Access to records or files in general

Public's substantial interest in disclosure of dash-cam videos from mobile video recorders in police vehicles, which pursued criminal suspect who was fatally shot as he attempted to elude police officers, warranted release of those materials under common law right of access; dash-cam footage could inform public's strong interest in police shooting that killed suspect without placing potential witnesses and informants at risk, and it could be released without undermining the integrity of investigation once investigators interviewed principal witnesses.

Cases that cite this headnote

**891** On appeal from the Superior Court, Appellate Division, whose opinion is reported at 441 N.J. Super. 70, 116 A.3d 570 (App. Div. 2015).
Attorneys and Law Firms

Samuel J. Samaro argued the cause for appellant (Pashman Stein, attorneys; Mr. Samaro and Jennifer A. Borg, of counsel; Mr. Samaro, CJ Griffin, and James W. Boyan III, on the briefs).

Raymond R. Chance, III, Assistant Attorney General, argued the cause for respondents (Christopher S. Porrino, Attorney General of New Jersey, attorney; Mr. Chance and Jeffrey S. Jacobson, Assistant Attorney General, of counsel; Mr. Chance, Mr. Jacobson, and Daniel M. Vannella, Deputy Attorney General, on the briefs).


Richard M. Gutman, attorneys; Mr. Gutman, on the brief).


Michael A. Bukosky argued the cause for amici curiae State Troopers Fraternal Association and Bergen County Policemen's Benevolent Association Conference (Loccke, Correia, & Bukosky, attorneys).

Jeffrey S. Mandel, attorney for amici curiae Association of Criminal Defense Lawyers of New Jersey, joined in the brief of American Civil Liberties Union of New Jersey (Cutolo Mandel, attorneys).

Opinion

CHIEF JUSTICE RABNER delivered the opinion of the Court.

*550 This appeal explores the scope of two exceptions in the Open Public Records Act (OPRA): exemptions for criminal investigatory records, N.J.S.A. 47:1A–1.1, and records of investigations in progress, N.J.S.A. 47:1A–3. The matter also implicates the common law right of access.
The case arises out of a high-speed chase in which a suspect eluded the police, crashed into a guardrail, and reportedly placed officers in danger as he tried to drive away. The officers then fired at the suspect and killed him. Two reporters filed OPRA requests for the names of the officers who used deadly force. The reporters also sought access to Use of Force Reports, dash-cam videos, activity logs, various investigative reports, and related items.

The trial court ordered the records disclosed. For the most part, the Appellate Division concluded the items were exempt from disclosure under OPRA. N. Jersey Media Grp., Inc. v. Township of Lyndhurst (NJMG), 441 N.J.Super. 70, 78–79, 105, 116 A.3d 570 (App. Div. 2015). We consider the two exemptions the panel analyzed and the common law right of access.

OPRA's criminal investigatory records exception does not apply to records that are “required by law to be made, maintained or kept on file.” N.J.S.A. 47:1A–1.1. As a result, the exemption does not cover Use of Force Reports, which the Attorney General requires officers to prepare after the use of deadly force.

To analyze OPRA's exemption for records of ongoing investigations, courts must weigh various factors to decide whether disclosure will “be inimical to the public interest.” N.J.S.A. 47:1A–3(a). We conclude that the danger to an ongoing investigation would typically weigh against disclosure of detailed witness statements and investigative reports while the investigation is underway, under both OPRA and the common law. Footage captured by dashboard cameras, however, presents less of a risk. Under the common law, the public's powerful interest in disclosure of that information, in the case of a police shooting, eclipses the need for confidentiality once the available, principal witnesses to the shooting have been interviewed. In an ordinary case, investigators take statements from those witnesses soon after an incident, while the events are fresh in mind.

**893 We therefore affirm in part and reverse in part the judgment of the Appellate Division.

I.

To recount the facts, we rely on press releases and certifications by the Attorney General and other law enforcement officers, as well as other materials in the record.

Shortly after 2 a.m. on September 16, 2014, a North Arlington resident called 9–1–1 to report an attempt to break into a car in her driveway. The caller described the suspect and the car he drove away in—a black SUV. Police dispatchers in North Arlington radioed information to officers in the area, and officers from North Arlington, Lyndhurst, Rutherford, and the Bergen County Police Department (BCPD) looked for the vehicle. At some point, New Jersey State Police troopers also got involved. An officer *552 from Lyndhurst first spotted the SUV, which the police confirmed was stolen.

The police tried to stop the suspect's car, but the driver—later identified as Kashad Ashford—eluded them and led police on a high-speed chase through several towns for about
four minutes. At one point, Ashford tried to ram a Lyndhurst patrol car head-on. Ashford ultimately lost control of his vehicle and crashed it into a guardrail at an overpass on Route 3.

Officers then positioned their patrol cars around the SUV and ordered Ashford to stop the car. He refused. According to the Attorney General's press release, Ashford instead tried to get free of the barrier by accelerating, which caused the car to “jerk[ ] in a rear and forward motion.”

An unidentified officer said that he thought the SUV might strike and possibly kill him and another officer. Both of those officers—as well as others—fired at Ashford, who was pronounced dead hours later. A passenger in the SUV, Jemmaine Bynes, was not shot. Police took him into custody and charged him with several firearms offenses and receiving stolen property.

When law enforcement officials are involved in a fatal shooting, the Director of the Division of Criminal Justice must be notified immediately—“before any investigation of the incident is undertaken other than to secure the scene.” Attorney General, Law Enforcement Directive No. 2006–5 (Directive), at 1–2 (Dec. 13, 2006). In response, the Attorney General's Shooting Response Team (SRT) may—and, in some cases, must—conduct an investigation into the use of deadly force. Id. at 2.

Here, the SRT launched an investigation, and the Attorney General issued a press release hours after the event. The release recounted many of the facts described above. Press Release, Attorney General, Attorney General's Shooting Response Team Investigates Fatal Shooting in Rutherford Involving State Police & Local Officers (Sept. 16, 2014). It did not, however, reveal the *553 names of the officers involved or say how many fired their weapons. Ibid.

Each officer who uses deadly force must complete a “Use of Force Report” (UFR) along with “[a]ny reports made necessary by the nature of the underlying incident.” Attorney General, Use of Force Policy, at 7 (Apr. 1985, revised June 2000). The UFR calls for information about the officer, the type of force used, and the subject and his or her conduct.

Within days of the shooting, a reporter from The Record and another from the South Bergenite filed requests for records under OPRA and the common law right of access. The Record reporter asked Lyndhurst, North Arlington, Rutherford, and the BCPD for incident or investigation **894 reports; log book notations and activity logs; audio recordings and written transcripts, including all 9–1–1 calls; arrest reports; UFRs; dash-cam videos from Mobile Video Recorders (MVRs) in police vehicles; motor vehicle accident reports; Computer Aided Dispatch reports (CADs); Mobile Data Terminal Printouts; and all information required to be released under N.J.S.A. 47:1A–3(b). The reporter filed a similar request with the State Police later the same day.

The South Bergenite reporter asked Lyndhurst to disclose the following documents “as they [were] created”: police reports about the pursuit; UFRs; “[a]ny additional
documentation” about the incident; and “[a]ny video tape” or transcript “obtained during the course of the investigation.”

The records custodians gave varied responses, which are described in the Appellate Division's decision.  *NJMG, supra, 441 N.J.Super. at 82–83, 116 A.3d 570.* None of them produced any materials before plaintiff North Jersey Media Group, Inc. (NJMG) filed a complaint and order to show cause on November 3, 2014. At the time, NJMG owned *The Record* and the South Bergenite, among other news organizations.

The two-count complaint named Lyndhurst, North Arlington, Rutherford, the BCPD, the State Police, and their records custodians *554* as defendants. The complaint alleged violations of OPRA and the common law right of access. NJMG sought release of the requested records, or their review in camera, along with fees and costs pursuant to *N.J.S.A. 47:1A–6.*

After NJMG filed its complaint, Rutherford and the State Police released a limited number of records. Rutherford's counsel candidly acknowledged that certain items should have been disclosed earlier. *Id. at 83, 116 A.3d 570.* Rutherford provided copies of a CAD report, property report, recordings of three phone calls from the public, recordings of radio transmissions, and three redacted investigation reports. A *Vaughn* index set forth reasons for the redactions. See *Vaughn v. Rosen,* 484 F.2d 820, 826–28 (D.C. Cir. 1973), cert. denied, 415 U.S. 977, 94 S.Ct. 1564, 39 L.Ed.2d 873 (1974).

On December 22, 2014, the Attorney General, acting on behalf of defendants, released a recording of the original 9–1–1 call as well as redacted dispatch reports.  *NJMG, supra, 441 N.J.Super. at 84–85, 116 A.3d 570.* The reports were contained within three other records from North Arlington, Lyndhurst, and the BCPD; all had been redacted and did not have the names of the officers involved.  *Id. at 85, 116 A.3d 570.*

In response to the order to show cause, the Attorney General provided certifications in December 2014 from Detective Cortney Lawrence, the lead detective in the SRT investigation, and Lieutenant Robert McGrath, a supervisor in the Division of Criminal Justice.

Detective Lawrence represented that the SRT assumed control once the shooting took place, and that the investigations into both the shooting and Bynes's conduct were ongoing. Detective Lawrence claimed that all records after the initial 9–1–1 call were the “products” of an open criminal investigation.

Lieutenant McGrath explained the Attorney General's Directive and use of force policy. He certified that when the SRT completed its ongoing investigation, the matter would likely be presented to a *555* state grand jury. Aside from the 9–1–1 recording and CAD reports relating to it, Lieutenant McGrath asserted that the release of “any of the other requested records ... would irrevocably compromise **895** the ongoing investigation” and “corrupt the independent recollections of witnesses.” He also offered to disclose “case-specific examples”—under seal and ex parte—of how
“the integrity of the ongoing investigation” would be threatened by additional disclosures.

II.

As background for the sections that follow, we discuss the State's Open Public Records Act, N.J.S.A. 47:1A–1 to –13, at this point.

OPRA succinctly sets forth the State's policy in favor of broad access to public records: (1) “government records shall be readily accessible for inspection, copying, or examination by the citizens of this State, with certain exceptions, for the protection of the public interest,” N.J.S.A. 47:1A–1; (2) “any limitations on the right of access ... shall be construed in favor of the public's right of access,” ibid.; and (3) public agencies “shall have the burden of proving that the denial of access is authorized by law,” N.J.S.A. 47:1A–6.

[1] [2] Under that framework, “government records”—which are defined broadly in N.J.S.A. 47:1A–1.1—are subject to disclosure unless a public agency can demonstrate that an exemption applies. To justify non-disclosure, the agency must make a “clear showing” that one of the law's listed exemptions is applicable. Asbury Park Press v. Ocean Cty. Prosecutor's Office, 374 N.J.Super. 312, 329, 864 A.2d 446 (Law Div. 2004). That approach serves the statute's aim “to maximize public knowledge about public affairs in order to ensure an informed citizenry and to minimize the evils inherent in a secluded process.” Mason v. City of Hoboken, 196 N.J. 51, 64, 951 A.2d 1017 (2008) (quoting Asbury Park Press, supra, 374 N.J.Super. at 329, 864 A.2d 446).

*556 [3] This appeal involves two specific exemptions. First, OPRA exempts “criminal investigatory records” from the definition of “[g]overnment record.” N.J.S.A. 47:1A–1.1. The Act defines a “criminal investigatory record” as “a record [1] which is not required by law to be made, maintained or kept on file that is held by a law enforcement agency [2] which pertains to any criminal investigation or related civil enforcement proceeding.” Ibid. Thus, if a document meets both prongs of the exception, an agency need not disclose it. O'Shea v. Township of West Milford, 410 N.J.Super. 371, 380–81, 982 A.2d 459 (App. Div. 2009). But if, for example, a record is required to be made by law, the exception does not apply.

Second, OPRA protects records of an ongoing investigation from disclosure. See N.J.S.A. 47:1A–3. The statute has two parts: section 3(a) covers records that pertain to an investigation in progress; section 3(b) identifies information that the public agency must disclose within 24 hours of a request.

More specifically, section 3(a) exempts from disclosure records that “pertain to an investigation in progress by any public agency” if their examination “shall be inimical to the public interest.” N.J.S.A. 47:1A–3(a). In addition, the records must not have been “open for public inspection, examination, or copying before the investigation commenced.” Ibid.

Section 3(b) identifies categories of “information concerning a criminal...
investigation” that “shall be available to the public within 24 hours or as soon as practicable, of a request.” N.J.S.A. 47:1A–3(b). Among other items, the statute requires disclosure of “information as to the identity of the investigating and arresting personnel and agency.” Ibid. The statute also mandates disclosure of “information of the circumstances immediately surrounding the arrest, including but not limited to the time and place of the arrest, resistance, if any, pursuit, possession and nature and use of weapons and ammunition by the suspect and by the police.” Ibid.

However, a public agency may withhold information otherwise required under section 3(b) when “it shall appear that the information requested or to be examined will jeopardize the safety of any person or jeopardize any investigation in progress or may be otherwise inappropriate to release.” Ibid. The safety exception “shall be narrowly construed to prevent disclosure of information that would be harmful to a bona fide law enforcement purpose or the public safety.” Ibid. A record need only satisfy one exception to be exempt from disclosure.


III.

Against that backdrop, we return to the procedural history of this case.

On January 12, 2015, the Honorable Peter E. Doyne, A.J.S.C., ruled on NJMG's order to show cause and found that defendants had improperly withheld the requested records. In a detailed written opinion, he concluded that neither OPRA's criminal investigatory records exception nor its ongoing investigation exception applied.

The court initially observed that the Attorney General's press release did not satisfy the requirements of N.J.S.A. 47:1A–3(b) because OPRA mandates the disclosure of records, not information. As to the merits of the ongoing investigation exception, the court found that the general assertions in Lieutenant McGrath's certification were insufficient to justify withholding the records because defendants failed to demonstrate that disclosure would be “inimical to the public interest.” The court also found that defendants “failed to meet their burden to justify denying NJMG access to reports” about the circumstances of the arrest and the personnel involved, citing N.J.S.A. 47:1A–3(b).

In addition, the court concluded that the criminal investigatory records exception, N.J.S.A. 47:1A–1.1, was inapplicable because defendants did not prove that the records were “not required by law to be made.” The court also declined defendants'
motion to seal a second certification from Lieutenant McGrath. Finally, the court balanced the relevant factors under the common law and found that NJMG's interest in disclosure outweighed defendants' concerns for confidentiality.  

In a separate order, the court directed defendants to release unredacted copies of records within three days in response to NJMG's OPRA requests. The Appellate Division granted the Attorney General's emergent motion for leave to appeal and stayed the trial court's order.

In a published opinion dated June 11, 2015, the Appellate Division reversed the **897 order of disclosure and remanded for reconsideration. *559 ‘required by law’ standard with respect to criminal investigatory records.” *Ibid.*  

Next, the panel considered what documents “pertain” to a criminal investigation—language that appears in both exceptions in question. The panel observed “that a document ... created before an investigation starts ... does not ‘pertain’ to an investigation at that point, [and] does not change its character once an investigation begins.” *Id.* at 104, 116 A.3d 570. “On the other hand,” the panel noted, “when an officer turns on a mobile video recorder to document a traffic stop or pursuit of a suspected criminal violation of law, that recording may pertain to a ‘criminal investigation,’ albeit in its earliest stages.” *Id.* at 104–05, 116 A.3d 570. By contrast, routine documents that police prepare, like activity logs or CAD reports, do not “pertain” to an investigation. *Id.* at 105, 116 A.3d 570.  

Applying those principles, the panel concluded that, aside from the 9–1–1 recording, motor vehicle accident reports, and portions of CAD records and other logs that do not relate to the criminal investigations, the requested documents fell within the criminal investigatory records exception. *Id.* at 105–07, 116 A.3d 570.

For the sake of completeness, the Appellate Division also reviewed OPRA’s exception for ongoing investigations. The panel noted that whether the release of documents would be “inimical to the public interest” under section 3(a) is a fact-sensitive issue. *Id.* at 108, 116 A.3d 570. As a result, the panel found that it was premature to reject the State’s concerns about
disclosure “absent review of Lt. McGrath’s proposed ex parte, in camera submission.”

Id. at 110, 116 A.3d 570.

As to section 3(b) of the exemption, the panel held that the State may convey information in a press release. Id. at 112, 116 A.3d 570. In this case, though, the panel found the release was incomplete. Id. at 113, 116 A.3d 570. The panel identified certain facts that the State was required to disclose and directed it to release the information promptly or explain “to the trial court why it should be excused from doing so.” Ibid.

*560* The Appellate Division remanded to the trial court to reconsider NJMG’s request under section 3(a) and the common law. Id. at 118, 116 A.3d 570. As part of that review, the panel directed the trial court to consider the proposed ex parte certification of Lieutenant McGrath and a {Vaughn} index, if necessary. Id. at 119, 116 A.3d 570.

In response to the ruling, the Attorney General sent NJMG a letter dated June 22, 2015, with additional information. It revealed that “[f]our law enforcement officers discharged a total of thirteen rounds toward Mr. Ashford,” and it identified the types of weapons used and the number of **898** rounds fired from each. The letter named three officers who arrested Bynes but withheld the names of the officers who discharged their weapons for “safety and security concerns” and because of the ongoing SRT investigation.2

On remand, the Honorable Bonnie J. Mizdol, A.J.S.C., considered Lieutenant McGrath’s second certification, ex parte. Although the document appears in the record, it is under seal. In an opinion dated July 30, 2015, Judge Mizdol found the certification to be “cursory at best.” She observed that it “failed to categorize the types of records and proffer any specific justifications for their non-disclosure.” The court added that the document “simply gave the same generic reasoning” as the first certification. As a result, the court ordered the Attorney General to produce a {Vaughn} index. The Attorney General complied and also submitted a certification *561* of Paul Morris, Chief of Detectives of the Division of Criminal Justice. We review his certification below.

After further briefing and oral argument, Judge Mizdol ruled on September 14, 2015 that defendants were not required to release the names of the officers who fired at Ashford or investigated the shooting. The trial court also declined to require defendants to disclose two remaining UFRs, three dash-cam videos, and three police reports. The court relied heavily on the need to maintain the integrity of the ongoing investigation. Finally, the court denied NJMG’s request for access under the common law.

Soon after, the Attorney General issued a press release that announced the state grand jury had voted not to file criminal charges against the four officers who fired at Ashford. Press Release, Attorney General, State Grand Jury Returns “No Bill” in Fatal Police–Involved Shooting in Rutherford Last Year Following Vehicular Pursuit of Stolen Car (Sept. 23, 2015). The release outlined details of the incident and revealed that four officers discharged their weapons. Two Lyndhurst officers shot and struck Ashford; a Rutherford
officer and a State Police trooper fired at Ashford but did not hit him. *Ibid.* The release did not identify those officers by name. 3

We granted defendants' motion for leave to appeal. 223 N.J. 553, 127 A. 3d 699 (2015). We also relaxed the Court Rules to consider the September 14, 2015 judgment the Law Division entered on remand.

IV.

A.

NJMG argues that the Appellate Division erred in its interpretation of OPRA. NJMG contends that the criminal investigatory records exception must be construed narrowly in favor of public access. **899** To interpret the “required by law” standard in the exception, NJMG maintains that it is inappropriate to rely on pre-OPRA case law that reviewed a more restrictive RTKL. NJMG contends that Attorney General Directives satisfy the current standard. NJMG also argues that the Appellate Division misconstrued the phrase “pertain to an investigation,” which appears in both the criminal investigatory records exception and section 3(a). According to NJMG, the language does not encompass records about the apprehension of a suspect.

As to OPRA's exemption for ongoing investigations, NJMG asserts that the Legislature did not bestow unreviewable discretion on the State to withhold records. In addition, NJMG contends that an agency must show more than a purely speculative risk of harm to justify non-disclosure. NJMG also claims that defendants cannot satisfy section 3(b)'s disclosure requirement with a press release.

Finally, NJMG argues that the Law Division did not conduct the proper inquiry under the common law on remand.

B.

Defendants claim that the Appellate Division correctly interpreted OPRA's criminal investigatory records exception consistent with identical language in the RTKL, OPRA's predecessor. According to defendants, a directive from the Attorney General does not satisfy the “required by law” standard. Defendants also contend that records about the pursuit or arrest of a suspect can “pertain” to a criminal investigation and be protected under both the criminal investigatory records and ongoing investigation exceptions.

Defendants argue that section 3(b) does not require disclosure of the “names” of the officers involved in a shooting incident and, in any event, allows law enforcement to withhold that information under circumstances that apply here. Defendants also maintain that section 3(b) requires the release of information, not records.

*563* In addition, defendants argue that NJMG could not clear the steep hurdle that exists under the common law when a requester seeks records relating to an ongoing criminal investigation.
C.

We granted amicus curiae status to several groups. A number of them support NJMG's position and echo its arguments. The Reporters Committee for Freedom of the Press, American Civil Liberties Union of New Jersey, New Jersey Press Association, and sixteen additional organizations submitted a single brief to stress “the importance of interpreting OPRA in a manner that ensures the press and the public meaningful access to law enforcement records.” They point to “recent incidents across the country,” many of which involved “unarmed minorities,” which strengthen the “overwhelming public interest in access to records involving police officers' use of deadly force.”

The New Jersey Foundation for Open Government and Police Accountability Project of New Jersey Libertarian Party together contend that “records of stops, **900 pursuits, shootings and arrests are not, in and of themselves,” covered by the two OPRA exceptions in question.

The American Civil Liberties Union of New Jersey, Association of Black Women Lawyers of New Jersey, Black Lives Matter —NJ, Garden State Bar Association, Garden State Equality, Latino Action Network, Latino Leadership Alliance, LatinoJustice PRLDEF, and the People's Organization for Progress also submitted a single brief as amicus. They claim that the Appellate *564 Division's ruling “ignores the Legislature's mandate that OPRA be broadly construed” and urge the Court to reverse the ruling. They note, in particular, that public access to video footage is important because of video's unique capacity to document and convey information.

The State Troopers Fraternal Association and Bergen County Policemen's Benevolent Association Conference together address the privacy, health, and safety interests that should be considered under OPRA's exceptions before the release of any records. They note that the use of deadly force that results in a civilian fatality “represents an extraordinary event” that “requires special consideration.” Among other arguments, the groups urge that law enforcement officers be notified before “any potential release of documents.”

* * * * *

We have had the benefit of fine presentations by able counsel in this case, but the record is somewhat limited. It is not clear precisely which documents have been disclosed, which requests remain outstanding, and which of those are pressed on appeal. We therefore focus on what we perceive to be the key questions that require attention in this interlocutory appeal: the scope of the criminal investigatory records exception in cases that involve a police shooting under investigation by the SRT; the meaning and scope of the ongoing investigations exemption in those matters; and the application of the common law balancing test to this challenging area. We discuss each in turn.

V.
We begin with OPRA’s criminal investigatory records exception. Once again, to qualify for the exception—and be exempt from disclosure—a record (1) must not be “required by law to be made,” and (2) must “pertain[ ] to a criminal investigation.” N.J.S.A. 47:1A–1.1. We consider UFRs and certain other items under that standard. We find that the criminal investigatory records exception does not apply to UFRs because defendants cannot satisfy the test’s first prong. Specifically, defendants cannot show that the records requested were “not required by law to be made.” N.J.S.A. 47:1A–1.1. Certain other outstanding records are covered by the exception.

A. Criminal Investigatory Records Exception—Use of Force Reports

[5] The Attorney General is the State’s chief law enforcement officer and has the authority to adopt guidelines, directives, and policies that bind police departments throughout the State. See O’Shea, supra, 410 N.J.Super. at 382, 982 A.2d 459 (citing N.J.S.A. 52:17B–97 to –117); see also Doe v. Poritz, 142 N.J. 1, 23, 662 A.2d 367 (1995). In 1985, and again in 2000, different Attorneys General issued and revised the Use of Force Policy that still applies to state and local law enforcement officers. Use of Force Policy, supra. The policy requires that “[i]n all instances when physical, mechanical, or deadly force is used, each officer who has employed such force shall complete” a “Use of Force Report” (901) and “[a]ny reports made necessary by the nature of the underlying incident.” Id. at 7.

[6] The policy is not a generic set of rules about record retention; it is a clear, pointed statement of policy from the chief law enforcement official to all officers who have used deadly force. We therefore agree with the Appellate Division’s analysis in O’Shea, supra, that the Use of Force Policy has “the force of law for police entities.” 410 N.J.Super. at 382, 982 A.2d 459. And because Use of Force Reports are “required by law to be made,” they cannot be exempt from disclosure under OPRA’s criminal investigatory records exemption. N.J.S.A. 47:1A–1.1.

To reach that conclusion, we do not rely on the “required by law” standard in the Right to Know Law, OPRA’s predecessor. The prior law permitted access to “public records” but used a narrow definition for the term, namely, those records “required by law to be made, maintained or kept on file” by a public body. N.J.S.A. 47:1A–2 (repealed by OPRA, L. 2001, c. 404, § 17). Because that phrase mirrors language in the criminal investigatory records exception, the Appellate Division relied on pre-OPRA case law to interpret OPRA’s use of “required by law.” NJMG, supra, 441 N.J.Super. at 92–97, 116 A.3d 570.

Under the old law, the Court consistently held that the definition of a public record was “narrow and [was] to be strictly construed.” Keddie v. Rutgers, 148 N.J. 36, 46, 689 A.2d 702 (1997). But this is not a situation in which the Legislature simply imported language from one statute to another to preserve an existing judicial interpretation. See Lemke v. Bailey,

We therefore interpret OPRA's criminal investigatory records exemption in light of the current law's stated purpose, which favors broad access, and not prior case law that analyzed the narrower RTKL. See O'Shea, supra, 410 N.J.Super. at 381, 982 A.2d 459. We do not accept that the Legislature used the phrase “required by law” in OPRA “to broaden the scope of documents concealed from public view.” Paff v. Ocean Cty. Prosecutor's Office, 446 N.J.Super. 163, 183, 141 A.3d 300 (App. Div.), certif. granted, 228 N.J. 403, 157 A.3d 831 (2016).

Our conclusion reflects the nature of investigations that must follow a law enforcement officer's use of deadly force. Prosecutors typically have discretion about whether to investigate allegations that a crime has occurred. When they conduct an investigation in such instances, the criminal investigatory records exception has broader application. After a fatal police shooting, though, each officer involved is required to file a UFR, and an investigation must be conducted—all in accordance with the directives and policies of the Attorney General.

*567 B. Criminal Investigatory Records Exception—MVR Recordings

It appears from the Vaughn index that three dash-cam videos have not been disclosed. Our analysis of those items is limited by the extent of the record.

No one has pointed to an Attorney General directive relating to the use of dashboard cameras. We cannot tell from the record if the officers in this case turned on their dash-cameras in an exercise of discretion or in response to an order at the local level. We also do not know whether the recording devices turned on automatically.

A divided Appellate Division panel recently wrestled with this challenging area in Paff, supra. The majority found that the MVR recordings in question were “required by law to be made.” 446 N.J.Super. at 185, 141 A.3d 300. The majority relied on a local police chief's general order to use MVRs to protect officers and enhance training. Id. at 171, 141 A.3d 300. Under the chief's policy, MVRs automatically began recording when a “patrol vehicle's emergency lights [were] activated or the wireless microphone [was] turned on.” Ibid. The majority likened the local police chief's policy to the Attorney General's directive in O'Shea and found that it was a binding, enforceable policy—“the equivalent of a record required by law.” Id. at 185, 141 A.3d 300 (citing delegation of power provided by N.J.S.A. 40A:14–118).
The dissent observed that

to hold that an order issued by a municipal chief of police makes a document required by law would, by logical extension, effectively eliminate the criminal investigatory records exemption. Applying the majority's reasoning, any time there is a written directive calling for a document to be created in a police department that document would be required by law to be made and, thus would not come within the ambit of “criminal investigatory records.” It is hard to imagine that there are any criminal investigatory documents created in a police department for which there is not an order, directive or instruction calling for that document to be prepared.

[Id. at 199, 141 A.3d 300 (Gilson, J., dissenting).]

Because we do not know whether the officers in this case acted pursuant to any local directives, the intriguing issue raised in \textit{Paff} is not before the Court here. \textsuperscript{5} NJMG instead points to general retention schedules generated to implement the Destruction of Public Records Law (DPRL), \textit{N.J.S.A.} 47:3–15 to –32, and contends they satisfy the “required by law” standard. Proposed record retention schedules are approved by the State Records Committee, an administrative agency the Legislature created under the DPRL. \textit{See N.J. Land Title Ass'n v. State Records Comm.}, 315 \textit{N.J.Super.} 17, 19, 716 A.2d 541 (App. Div. 1998). NJMG points to various retention requirements for police records in support of its position.

The retention of public records serves valuable purposes. In criminal and quasi-criminal matters, retention schedules benefit defendants and victims, who may need access to records long after an incident. Not surprisingly, the schedules are quite comprehensive. \textit{See Division of Archives and Records Management, Municipal Police Departments: Records Retention and Disposition Schedule}, http://www.state.nj.gov/treasury/revenue/rms/pdf/m9000000.pdf. No reported decision, however, has found that retention schedules carry the force of law under OPRA or the RTKL. If that were the case, the RTKL's narrow definition of public records would have been anything but narrow. And because many records that pertain to criminal investigations must be retained, the criminal investigatory records exception would have little meaning. \textit{See NJMG, supra, 441 N.J.Super.} at 107, 116 A.3d 570. We are unable to conclude that the Legislature intended those results and do not find that the retention schedules adopted by the State Records Committee meet the “required by law” standard for purposes of OPRA.

To be exempt from disclosure, a record must also “pertain[ ] to any criminal investigation.” \textit{N.J.S.A.} 47:1A–1.1. To “pertain” means “to have some connection with or relation to something.” \textit{Webster's Third New International Dictionary}, 1688 (3d ed. 1981).

The Appellate Division highlighted that some police records relate to an officer's community-caretaking function; others to the investigation of a crime. \textit{NJMG, supra, 441 N.J.Super.} at 105, 116 A.3d 570. Only the latter are covered.
by the OPRA exception, which thus calls for a case-by-case analysis. The panel also correctly noted that “when an officer turns on a mobile video recorder to document a traffic stop or pursuit of a suspected criminal violation of law, that recording may pertain to a ‘criminal investigation,’ albeit in its earliest stages.”

NJMG, supra, 441 N.J.Super. at 104–05, 116 A.3d 570.

We do not suggest that a dash-cam recording of a routine traffic stop, in which a suspect obeyed the police and pulled over, would necessarily “pertain” to a criminal investigation. That question is not before the Court. Here, however, multiple patrol cars pursued Ashford as he attempted to elude them in violation of the law. The actions of the police—who tried to stop and arrest two suspects, and responded to resistance—all pertained to an investigation into actual or potential violations of criminal law. The dash-cam recordings also pertained to the SRT investigation into Ashford's fatal shooting, which was later presented to a grand jury. Id. at 106, 116 A.3d 570. The same principles apply to detailed investigative reports and witness statements about the incident. The records therefore fall within the criminal investigatory records exception.

We note that this OPRA exception, unlike the exemption for ongoing investigations discussed below, does not consider whether disclosure would “be inimical to the public interest.” N.J.S.A. 47:1A–3(a). 6

We turn now to OPRA's exception for ongoing investigations, N.J.S.A. 47:1A–3, on which defendants also rely. We begin our discussion with the disclosures called for under section 3(b), which took place first in this case.

A. Section 3(b)

Section 3(b) requires the release of specific information about a criminal investigation “within 24 hours or as soon as practicable, of a request.” Among other categories, “information as to the identity of the investigating and arresting personnel” must be disclosed. N.J.S.A. 47:1A–3(b).

In a letter to NJMG dated June 22, 2015, defendants identified the names of the officers who arrested and charged Bynes. The letter “withheld” the names “of the officers who discharged their weapons ... due to safety and security concerns” and the ongoing SRT investigation at the time.

As a threshold matter, the State's brief argues that section 3(b) does not require the disclosure of “names” of officers involved in shooting incidents; only their “identity” is required. We do not agree.

To understand the meaning of a statute, judges read words and phrases in their context and apply their “generally accepted meaning.” N.J.S.A. 1:1–1; see also DiProspero, supra, 183 N.J. at 492, 874 A.2d 1039 (reading statutory words “in context with related provisions so as to give sense to the legislation as a whole”).

*570 VI.
Section 3(b) uses “name” and “identity” interchangeably. For example, the statute calls for disclosure of the “name, address, and age of any victims,” subject to particular exceptions. N.J.S.A. 47:1A–3(b) (emphasis added). The statute goes on to note that, “[i]n deciding on the release of information as to the identity of a victim, the safety of the victim and victim's family, and the integrity of any ongoing investigation, shall be considered.” Ibid. (emphasis added). The statute also provides for the release of “the *571 identity of the complaining party” unless otherwise exempt. Ibid. (emphasis added).

Read in context, the meaning of “identity” is plain: it refers to the names of the investigating and arresting officers as well as other identifying information, like an officer's rank and badge number. To distinguish between an officer who “shoots” and one who “arrests” makes little sense. See Tennessee v. Garner, 471 U.S. 1, 7, 105 S.Ct. 1694, 1699, 85 L.Ed.2d 1, 7 (1985) (noting that “apprehension by the use of deadly force is a seizure”).

The Attorney General presented additional reasons to justify withholding information in certifications from Paul Morris and Robert McGrath. Both serve in leadership positions at the Division of Criminal Justice. Paul Morris is the Chief of Detectives; Lieutenant McGrath has been part of the Attorney General's Shooting Response Team for more than a decade.

Chief Morris's certification focuses on why defendants need not identify by name the officers who discharged their weapons. He submits that an officer involved in a shooting whose actions are ultimately “deemed justified ... should not have his or her name released”; that the “stigma of even being associated with a law enforcement investigation is palpable, ... potentially devastating,” and “not so easily removed” even if “no charges are substantiated”; that the officers would face extensive media coverage with real consequences to them, their families, and the agencies they serve; that the officers and their families would face the “risk of retaliation”; and that disclosure “would greatly prejudice” the integrity of “the ongoing SRT investigation.” Chief Morris submits that only the names of officers whom a grand jury chooses to charge should be disclosed.

The carefully detailed reasons Chief Morris outlines apply to nearly all cases in which a law enforcement officer uses deadly force. If accepted by the Legislature, the arguments could lead to a change in the current law. But we are required to interpret the existing statute as written. The law calls for disclosure of “the identity of the investigating and arresting personnel” and adds *572 that the exception on which defendants rely “shall be narrowly construed.” N.J.S.A. 47:1A–3(b).

Although section 3(b) does not require the State to demonstrate an actual threat against an officer, generic reasons alone cannot satisfy the statutory test. A more particularized showing is required.

To meet the statutory requirements, OPRA requires the State to show that disclosure of the identity of an officer involved in an arrest or investigation “will jeopardize the safety of any person ... or any investigation in progress”
or “would be harmful to a bona fide law enforcement purpose or the public safety.” Ibid. The certifications here did not demonstrate how the release of the officers' names would lead to either result.

OPRA adds that “[w]henever a law enforcement official determines that it is necessary to withhold information, the official shall issue a brief statement explaining the decision.” Ibid. That language, though, does not grant law enforcement agencies sole discretion to withhold information. Here, although defendants offered a brief explanation, their reasons did not satisfy the standards set forth in section 3(b).

We note as well that section 3(b) allows some flexibility as to when an agency must respond to requests for information: “within 24 hours or as soon as practicable, of a request.” N.J.S.A. 47:1A–3(b) (emphasis added).

[11] Finally, the parties disagree about whether a public agency can satisfy section 3(b)'s disclosure requirement with a press release. NJMG contends that an agency must disclose actual records and cannot rely on a release.

The statute does not specify how information should be made available to the public. The text simply requires disclosure of “information”; it does not require an agency to release “records.” Based on the plain language of section 3(b), we cannot conclude that the Legislature meant to bar an agency from using a press release under the tight timeframe the law imposes. See NJMG, supra, 441 N.J.Super. at 112, 116 A.3d 570.

*573 B. Section 3(a)

Section 3(a) of the ongoing investigation exception applies to other requests for information in this appeal. To avail itself of the exemption, a public agency must show that (1) the requested records “pertain to an investigation in progress by any public agency,” (2) disclosure will “be inimical to the public interest,” and (3) the records were not available to the public before the investigation began. N.J.S.A. 47:1A–3(a).

Few reported decisions have analyzed the exception. In Serrano v. South Brunswick Township, 358 N.J.Super. 352, 367, 817 A.2d 1004 (App. Div. 2003), the Appellate Division rejected a claim that the release of a 9–1–1 tape could make it difficult to impanel a jury in a murder case and might call for a change of venue. Even if that were to happen, the panel observed, the “inconveniences to the prosecutor” did not make disclosure “inimical to the public interest.” Ibid. The panel also initially noted that the tape “was created hours before the police investigation began” and was “open for public inspection” at that time. Ibid. at 366, 817 A.2d 1004 (quoting N.J.S.A. 47:1A–3(a)). Section 3(a) expressly carves that type of record out of the ongoing investigations exception.

The Appellate Division rejected similar arguments in Courier News v. Hunterdon County Prosecutor's Office, 358 N.J.Super. 373, 383, 817 A.2d 1017 (App. Div. 2003), when it ordered the release of a 9–1–1 tape tied to a homicide investigation. In that case, the
defendant claimed that release of the tape to the media would be “inimical to the public interest” for two reasons: it would be more difficult to “select[ ] an impartial jury” and would “likely cause juror confusion” when the jury heard an electronically enhanced tape at trial. \( Id. \) at 380, 817 A.2d 1017. In its ruling, the panel highlighted various ways to guard against the first concern, \( id. \) at 382, 817 A.2d 1017, and found that speculative fears of jury confusion did not meet section 3(a)'s burden of proof, \( id. \) at 383, 817 A.2d 1017.

More recently, in \( Paff, \) supra, the Appellate Division briefly addressed section 3(a). In light of the facts of the case, which are discussed above, a majority of the panel found that the MVR recordings preceded any investigation and that their release would not be inimical to the public interest. \( 446 \) N.J.Super. at 189–90, 141 A.3d 300.

With those cases in mind, we consider whether defendants have satisfied the statutory burden under section 3(a)—whether they have shown that disclosure will “be inimical to the public interest.”

As recent events across the nation make clear, shootings that involve law enforcement officers generate widespread interest—when an officer, a civilian, or both are harmed. In such matters, “the public interest” encompasses various strands. Officer safety is always a vital concern. The need for a prompt, thorough, and reliable investigation is likewise important. And the need for transparency, which OPRA is designed to foster, also weighs heavily, particularly when law enforcement uses its most awesome authority—deadly force. Courts must balance those interests to assess whether disclosure would be inimical to the overall public interest. We evaluate different categories of information in this case in light of those concerns.

1. Investigative Reports and Witness Statements

\[12\] Investigative reports prepared after a police shooting ordinarily contain factual details and narrative descriptions of the event. Among other things, the reports may summarize witness statements, detail an officer's role in an incident, and reveal preliminary forensic information. If made public and read by witnesses to the incident, detailed reports could taint a witness's memory and infect the reliability of an investigation. As a result, the danger to an ongoing investigation would typically weigh against disclosure of reports while the investigation is underway, particularly in its early stages. Early disclosure will often be “inimical to the public interest.” \( N.J.S.A. \) 47:1A–3.

Section 3(a) does not contain a time limit for ongoing investigations, and no fixed limit would apply to all cases. In part of Lieutenant McGrath's second certification, he addresses general risks of corrupting a witness's memory. Although he submits that \( *575 \) the risk of taint remains until a witness testifies at trial, he acknowledges that the risk is greatest in the first days and weeks after an incident—before potential eyewitnesses are identified and interviewed.
[13] We note that SRT investigations cannot continue indefinitely and invoke the protection of section 3(a). The risk of taint partly fades once the principal witnesses to an incident have made statements to law enforcement. After their statements are preserved, prosecutors and defense counsel can probe inconsistencies at trial under N.J.R.E. 613 and 803(a). As a result, although it may be appropriate to deny a request for investigative reports under section 3(a) early in an investigation—as in this case—the outcome might be different later in the process. Indeed, depending on the circumstances, section 3(a) may not justify withholding reports after a grand jury votes not to file charges. See NJMG, supra, 441 N.J.Super. at 118, 116 A.3d 570; see also Daily Journal v. Police Dep’t, 351 N.J.Super. 110, 127–31, 797 A.2d 186 (App. Div. 2002) (interpreting common law right of access).

In this case, the incident took place on September 16, 2014, and the grand jury acted more than one year later, on September 23, 2015. The Attorney General concedes that “the investigation and grand jury presentment [took] longer than it should have”; the office also represents that other more recent SRT investigations “have occurred more quickly.”

There is a strong public interest to expedite SRT investigations. They raise serious questions that should be addressed promptly to maintain public confidence in the criminal justice system.

2. Dash-cam videos

[14] Dash-cam videos, or MVR recordings, raise somewhat different concerns. The recordings, made while an event unfolds, protect the public and police alike in that the videos can expose misconduct and debunk false accusations.

In many instances, section 3(a) will not apply to MVR recordings because they either do not “pertain to an investigation in progress” or were “open for public inspection ... before the investigation commenced.” N.J.S.A. 47:1A–3(a). Other cases will call for a fact-specific analysis of how the statutory standard applies.

Here, as well, to invoke the ongoing investigations exception, the State must show that disclosure would be “inimical to the public interest.” Ibid. The same issues about officer safety, the reliability of ongoing investigations, and transparency are pertinent to this inquiry.

[15] As to officer safety, the principles underlying section 3(b) remain relevant. Although a particularized threat is not required, the State must present more than generic allegations about safety.

[16] As to the integrity of an ongoing investigation, courts must consider the particular reasons for non-disclosure in a given matter. Among a number of relevant factors are the nature of the details to be revealed, how extensive they are, and how they might interfere with an investigation. The fact that a video depicts a fatal shooting does not by itself
establish that disclosure would undermine the reliability of an investigation.

As noted earlier, a key consideration is whether investigators have interviewed the available, principal witnesses to the incident—namely, the witnesses on the scene who saw the shooting and are willing to speak with law enforcement. In a routine case, officers typically conduct those interviews and take statements within days of an incident, well before a grand jury presentation or possible trial.

The public's interest in transparency favors disclosure under section 3(a) in matters of great public concern. Ready access to government records lies at the heart of OPRA. And in the case of a police shooting, non-disclosure of dash-cam videos can undermine confidence in law enforcement and the work that officers routinely perform. It can also fuel the perception that information is being concealed—a concern that is enhanced when law enforcement officials occasionally reveal footage that exculpates officers.8

In this case, defendants did not make a particularized showing under section 3(a) that disclosure of the MVR recordings after the incident would have jeopardized officer safety or the reliability and effectiveness of an ongoing investigation. Defendants did not assert that the essential witnesses to the shooting had not been interviewed. Also, the public's interest in disclosure was strong. In other words, disclosure would not have been "inimical to the public interest."

We recognize, however, that disclosure was not required in this matter in light of the criminal investigatory records exception. We reviewed the meaning of section 3 nonetheless to offer guidance in related areas, including the section that follows.

3. Use of Force Reports

[17] Under the above principles, we find that section 3(a) did not justify withholding or redacting Use of Force Reports. UFRs contain relatively limited information. A model UFR form is attached to the Attorney General's Policy. Use of Force Policy, supra, at 10. It calls for the names of the officer and the subject(s) along with basic demographic information. Ibid. The form also contains a checklist for the "subject's actions." Ibid. Beside each item are boxes to check off, such as "[r]esisted police officer control," "[t]hreatened/attacked officer or another with blunt object," "[f]ired at officer or another," and "[o]ther (specify)." Ibid. Another checklist appears under "officer's use of force toward this subject," with boxes to check off for "[c]ompliance hold," "[h]ands/fists," "[s]trike/use baton or other object," "[f]irearms [d]ischarge”—"[i]ntentional" and "[a]ccidental”—and a few other items. Ibid.

*578 Witness statements and investigative reports with narrative details reveal far more. Based on the nature of the form, the release of UFRs presents far less of a risk of taint to an ongoing investigation. Also, as noted earlier, defendants in this case raised only general safety concerns. Under the circumstances, defendants did not demonstrate that disclosure of UFRs was inimical to the public interest, and
the records should have been released without redactions. 9

VII.

NJMG also sought access to records in this case under the common law. Although similar considerations arise under both OPRA and the common law—especially concerns about the public interest under section 3(a)—OPRA does not compel the outcome under the common law test. In fact, the Legislature expressly stated that “[n]othing contained in [OPRA] ... shall be construed as limiting the common law right of access to a government record, including criminal investigatory records of a law enforcement agency.” N.J.S.A. 47:1A–8; see also N.J.S.A. 47:1A–1.


[19] To gain access to this broader class of materials, the requestor must make a greater showing than OPRA requires: “(1) ‘the person seeking access must establish an interest in the subject matter of the material’; and (2) ‘the citizen's right to access must be balanced against the State's interest in preventing disclosure.’ ” Mason, supra, 196 N.J. at 67–68, 951 A.2d 1017 *579 (quoting Keddie, supra, 148 N.J. at 50, 689 A.2d 702 (internal quotation marks omitted)).

This Court's ruling in Loigman v. Kimmelman, 102 N.J. 98, 113, 505 A.2d 958 (1986), identified a number of factors to consider in the balancing process. They are not all relevant in the context of a police shooting. We consider a number of **909 the core concerns that also arise under section 3(a) to address the most pertinent question: how to balance NJMG's interest in the records against defendants' need for confidentiality.

[20] Defendants stress the need for confidentiality to protect the integrity of a criminal investigation. In that regard, the State and the public have an interest in thorough and reliable investigations that are untainted by the early disclosure of investigative details. See NJMG, supra, 441 N.J.Super. at 117, 116 A.3d 570; see also Loigman, supra, 102 N.J. at 107–08, 505 A.2d 958 (recognizing “vital public interest in ... the success of criminal prosecutions and the protection of potential witnesses and informants”). Without question, it is preferable to shield potential witnesses from other accounts as a general rule.

NJMG asserts other compelling interests. To begin with, it is not a private citizen seeking to correct a private harm; in its role as a media organization, NJMG “seeks access to information to further a public good.” Loigman, supra, 102 N.J. at 104, 505 A.2d 958; see also S. Jersey Pub. Co. v. N.J. Expressway Auth., 124 N.J. 478, 487, 591 A.2d 921 (1991) (noting “newspaper's interest in keep[ing] a watchful eye on the workings

NJMG requested materials that may shed light on “the possible use of excessive force by police”—an area of “intense public interest.” NJMG, supra, 441 N.J. Super. at 117, 116 A.3d 570. The same evidence may also reassure the public that the police acted professionally and lawfully—another legitimate public interest. In either event, the public's interest in transparency is heightened when governmental action leads to the death of a civilian.

[21] To conduct the careful balancing that each case—and this sensitive area—require, we look in particular at the level of detail contained in the materials requested. More detailed disclosures, of course, present a greater risk of taint to an investigation. With that in mind, we find that the Attorney General's interest in the integrity of investigations is strongest when it comes to the disclosure of investigative reports, witness statements, and other comparably detailed documents. In those areas, the State's interest outweighs NJMG's.

[22] The balance can tip in favor of disclosure, however, for materials that do not contain narrative summaries and are less revealing. Footage of an incident captured by a police dashboard camera, for example, can inform the public's strong interest in a police shooting that killed a civilian. It can do so in a typical case without placing potential witnesses and informants at risk. Dash-cam footage can also be released without undermining the integrity of an investigation once investigators, shortly after an incident, have interviewed the principal witnesses who observed the shooting and are willing to speak to law enforcement. Based on our in camera review of the certifications the State submitted in this case, we note that the State advanced only generic safety concerns.

Under the circumstances of this case, we find that the public's substantial interest in disclosure of MVR recordings, which NJMG's requests fostered, warranted the release of those materials under the common law right of access. To the extent that a viewer might incorrectly assume certain things from an MVR recording, as the State suggests, it may supplement the videos with facts that offer appropriate context.

VIII.

Both sides have raised thoughtful policy concerns in this appeal about the importance of officer safety and transparency, which do not always align. When the Legislature drafted OPRA, it made certain policy choices about those issues. It may of course revisit those difficult questions. Our responsibility, however, is to follow the law as written.

For the reasons stated above, we find that NJMG was entitled to disclosure of unredacted Use of Force Reports, under OPRA, and dash-cam recordings of the incident, under the common law. Investigative reports, witness statements, and similarly detailed records were
not subject to disclosure at the outset of the investigation, when they were requested.

We therefore affirm in part and reverse in part the judgment of the Appellate Division.

JUSTICES LaVECCHIA, ALBIN, PATTERSON, FERNANDEZ–VINA, SOLOMON, and TIMPONE join in CHIEF JUSTICE RABNER's opinion.

All Citations

229 N.J. 541, 163 A.3d 887, 45 Media L. Rep. 2212

Footnotes

1 Judge Doyne's January 2015 opinion noted that charges had been filed against Bynes and that the investigation into Bynes “is alleged to be ongoing.” Bynes, however, had been released on bail and “was fatally shot in Newark in March 2015.” NMG, supra, 441 N.J.Super. at 85, 116 A.3d 570.

2 The Attorney General also issued a Supplemental Directive on July 28, 2015, which outlined best practices for use of force investigations. Attorney General, Supplemental Law Enforcement Directive Amending Attorney General Law Enforcement Directive No. 2006–5 (July 28, 2015) (Supplemental Directive). Among other things, the new directive outlined a “comprehensive conflicts inquiry” to ensure the independence of SRT investigations. Id. at 3. The Supplemental Directive also requires that use of force investigations be presented to a grand jury unless “the undisputed facts indicate that the use of force was justifiable under the law.” Id. at 7. If the grand jury declines to indict, or the matter is not presented, the revised directive calls for the release of a public statement. Id. at 9.

3 We note that the record before this Court includes copies of three redacted UFRs. None of them are from the Lyndhurst Police Department. NJMG claims that UFRs for the two Lyndhurst officers who fired their weapons remain unaccounted for.


5 The Court granted certification in Paff on November 29, 2016. 228 N.J. 403, 157 A.3d 831 (2016). The Ocean County Prosecutor's Office also appealed as of right.

6 Because defendants produced the CAD report that existed, we do not consider whether CAD reports may be exempt from disclosure under OPRA. We discuss investigative reports and related items further in section VI.B.1.

7 A separate analysis would be necessary under the criminal investigatory records exception. N.J.S.A. 47:1A–1.1.

8 Videos taken by members of the public, which sometimes surface after shooting incidents, are of course not subject to OPRA or other restrictions.

9 In response to amicus's argument, police departments can certainly notify officers before they release any UFR.

10 The timing of a request may affect the balancing process. As the Appellate Division aptly noted, “the need for confidentiality in investigative materials may wane after the investigation is concluded.” NMG, supra, 441 N.J.Super. at 115, 116 A.3d 570; see also Shuttleworth v. City of Camden, 258 N.J.Super. 573, 585, 610 A.2d 903 (App. Div. 1992); cf. Keddie, supra, 148 N.J. at 54, 689 A.2d 702.
John PAFF, Plaintiff-Respondent, v. OCEAN COUNTY PROSECUTOR'S OFFICE, Defendant-Appellant.

A-17 September Term 2016
| 078040
| Argued February 27, 2018
| Decided August 13, 2018

Synopsis

Background: Requester of police vehicles' video recordings brought action and order to show cause against county prosecutor's office, seeking access under the Open Public Records Act (OPRA) and common law. The Superior Court, Law Division, Ocean County, Vincent J. Grasso, J., 2014 WL 5139407, entered judgment in favor of requester. Prosecutor's office appealed. The Superior Court, Appellate Division, 446 N.J. Super. 163, 141 A.3d 300, affirmed. Prosecutor's office appealed and its petition for certification was granted.

Holdings: The Supreme Court, Patterson, J., held that:

[1] OPRA's criminal investigatory records exemption from disclosure applied;

[2] OPRA's investigations in progress exemption from disclosure did not apply; and

[3] third-party's privacy interest did not warrant withholding the recordings.

Judgment of the Appellate Division reversed and remanded.

Albin, J., filed dissenting opinion in which LaVecchia and Timpone, JJ., joined.

Procedural Posture(s): Petition for Discretionary Review; On Appeal; Judgment.

West Headnotes (18)

[1] Statutes

⇒ Intent

In the construction of statutory provisions, the objective is to determine and carry out the Legislature's intent.

Cases that cite this headnote

[2] Statutes

⇒ Plain Language; Plain, Ordinary, or Common Meaning

Courts look first to the plain language of a statute to try to give meaning to the Legislature's intent.

Cases that cite this headnote
[3] Statutes
   ➔ Extrinsic Aids to Construction
If the statutory language is ambiguous, courts may examine extrinsic evidence for guidance.

Cases that cite this headnote

[4] Records
   ➔ Investigatory or law enforcement records
An agency seeking to withhold a record from disclosure under the Open Public Records Act (OPRA) as a criminal investigatory record must satisfy both prongs of the exception by demonstrating that the record is not required by law to be made, maintained, or kept on file, and that it pertains to a criminal investigation or related civil enforcement proceeding. N.J. Stat. Ann. § 47:1A-1.1.

Cases that cite this headnote

1 Cases that cite this headnote

[5] Records
   ➔ Investigatory or law enforcement records
Mobile video recordings from police vehicles were not required by law to be made, maintained, or kept on file, and therefore recordings met first prong of standard for criminal investigatory records exemption from disclosure under Open Public Records Act (OPRA); even though recordings were made and retained in accordance with order from local police chief, chief did not have statutory power to adopt guidelines, directives, and policies that bound law enforcement like an Attorney General. N.J. Stat. Ann. §§ 40A:14-118, 47:1A-1.1.

Cases that cite this headnote

[6] Records
   ➔ Investigatory or law enforcement records
Mobile video recordings from police vehicles pertained to criminal investigation, and therefore criminal investigatory records exemption from disclosure under Open Public Records Act (OPRA) applied; when recordings were made they pertained to investigation of driver's alleged eluding of police, and when disclosure was sought recordings pertained to several investigations, including criminal investigation of driver for eluding and resisting arrest, and internal affairs and criminal investigations of police officer into official misconduct and aggravated assault for using police dog on driver as she was being arrested. N.J. Stat. Ann. § 47:1A-1.1.

Cases that cite this headnote

[7] Records
   ➔ Investigatory or law enforcement records
Investigations in progress exemption from disclosure under Open Public Records Act (OPRA) did not apply to mobile video recordings from police vehicles showing driver evading police and police officer using police dog on driver as she was being arrested; even though recordings pertained to investigations of driver and investigations of officer for official misconduct and aggravated assault, and even though recordings were not available to public before investigation began, disclosure four months after incident posed no threats to public safety or to ongoing investigation, and there was strong public interest in interaction of police officers and driver. N.J. Stat. Ann. § 47:1A-3(a).

Cases that cite this headnote

[8] Records

Investigatory or law enforcement records

In order to invoke the investigations in progress exemption under the Open Public Records Act (OPRA), a public agency must demonstrate that (1) the requested records pertain to an investigation in progress by any public agency, (2) disclosure will be inimical to the public interest, and (3) the records were not available to the public before the investigation began. N.J. Stat. Ann. § 47:1A-3(a).

Cases that cite this headnote

[9] Records

Investigatory or law enforcement records

Whether disclosure would be inimical to the public interest, as required to apply the investigations in progress exemption to disclosure under the Open Public Records Act (OPRA), calls for a fact-specific analysis of how the statutory standard applies. N.J. Stat. Ann. § 47:1A-3(a).

Cases that cite this headnote

[10] Records

Investigatory or law enforcement records

Records

Discretion and equitable considerations; balancing interests

Driver's privacy interest did not warrant withholding from disclosure under Open Public Records Act (OPRA) mobile video recordings from police vehicles depicting driver evading police and police officer using police dog on driver as she was being arrested; even though driver formally objected to disclosure, recordings depicted driver's arrest in public place without showing driver's face, driver did not identify specific privacy concern, and recordings would constitute crucial evidence in driver's civil
action against borough arising from interaction with officer and dog.  

Cases that cite this headnote

➡ Matters Subject to Disclosure; Exemptions
A third party's reasonable expectation of privacy may warrant withholding a record from disclosure under the Open Public Records Act (OPRA).  

Cases that cite this headnote

[12] Records
➡ Discretion and equitable considerations; balancing interests
In making sensitive determinations of whether a third party's reasonable expectation of privacy warrant withholding a record from disclosure under the Open Public Records Act (OPRA), courts should give serious consideration to the objections of individuals whose privacy interests are implicated.  

Cases that cite this headnote

[13] Records
➡ In general; request and compliance

A generic objection to disclosure under the Open Public Records Act (OPRA) based on privacy gives a court scant basis to explore the issue, and any privacy concerns about a disclosure sought pursuant to OPRA or the common law should be explained in detail.  

Cases that cite this headnote

[14] Records
➡ Access to records or files in general
The Open Public Records Act (OPRA) does not determine the outcome when a request for disclosure is evaluated under the common law.  

Cases that cite this headnote

[15] Records
➡ Access to records or files in general
The common-law right of access applies to a more expansive class of records than the category of government records defined by the Open Public Records Act (OPRA).  

Cases that cite this headnote

[16] Records
Access to records or files in general

To qualify as a public record subject to disclosure under the common law, the item must be a written memorial made by a public officer, and the officer must be authorized to make it.

Cases that cite this headnote

[17] Records

Access to records or files in general

To gain access to a public record under the common law: (1) the person seeking access must establish an interest in the subject matter of the material, and (2) the citizen's right to access must be balanced against the State's interest in preventing disclosure.

Cases that cite this headnote

[18] Records

Access to records or files in general

In the careful balancing that each case regarding disclosure of records under the common law require, courts look in particular at the level of detail contained in the materials requested.

Cases that cite this headnote

**977** On appeal from and certification to the Superior Court, Appellate Division, whose opinion is reported at 446 N.J. Super. 163, 141 A.3d 300 (App. Div. 2016).

Attorneys and Law Firms

Samuel J. Marzarella, Chief Appellate Attorney, argued the cause for appellant (Joseph D. Coronato, Ocean County Prosecutor, attorney; Samuel J. Marzarella, of counsel and on the briefs, and Nicholas D. Norcia, Assistant Prosecutor, on the briefs).

Richard M. Gutman argued the cause for respondent (Richard M. Gutman, on the briefs).

Raymond R. Chance, III, Assistant Attorney General, argued the cause for amicus curiae Attorney General of New Jersey (Gurbir S. Grewal, Attorney General, attorney; Raymond R. Chance, III, of counsel, and Daniel M. Vannella, Deputy Attorney General, on the brief).

Ian C. Kennedy, Assistant Prosecutor, argued the cause for amicus curiae County Prosecutors Association of New Jersey (Richard T. Burke, President, attorney; Ian C. Kennedy and Annmarie Cozzi, Senior Assistant Prosecutor, of counsel and on the brief).

Vito A. Gagliardi, Jr., argued the cause for amicus curiae New Jersey State Association of Chiefs of Police (Porzio, Bromberg & Newman, attorneys; Vito A. Gagliardi, Jr., of counsel and on the brief, and David L. Disler, on the brief).

Richard D. Pompelio argued the cause for amicus curiae New Jersey Crime Victims'
In this appeal, we apply the Open Public Records Act (OPRA), N.J.S.A. 47:1A-1 to -13, to recordings made by mobile video recorders (MVRs) in police vehicles in compliance with a municipal police chief's general order. The MVR recordings at issue documented an incident in which police officers pursued and arrested a driver who had allegedly eluded an officer attempting a traffic stop. One officer's decision to deploy a police dog during the arrest led to internal affairs investigations and criminal charges against the officer.

Plaintiff John Paff sought access to the MVR recordings under OPRA and the common law, and filed suit when defendant the Ocean County Prosecutor's Office (OCPO) declined his request. The OCPO opposed disclosure of the MVR recordings based on three OPRA provisions: the statute's exclusion of a “criminal investigatory record” from the definition of a “government record,” N.J.S.A. 47:1A-1.1; its exemption for records pertaining to an “investigation in progress,” N.J.S.A. 47:1A-3(a); and its mandate that a public agency “safeguard from public access” a citizen's personal information entrusted to it, where disclosure of that information “would violate the citizen's reasonable expectation of privacy,” N.J.S.A. 47:1A-1.

The trial court rejected the OCPO's arguments and ordered disclosure of the MVR recordings. A divided Appellate Division panel affirmed the trial court's determination. Paff v. Ocean Cty. Prosecutor's Office, 446 N.J. Super. 163, 177, 141 A.3d 300 (App. Div. 2016). The panel's dissenting member concluded that the MVR recordings constitute criminal investigatory records for purposes of N.J.S.A. 47:1A-1.1. Id. at 203, 141 A.3d 300 (Gilson, J., dissenting). The OCPO appealed as of right on that issue, and we granted its petition for certification on the applicability of OPRA's “investigations in progress” exemption, N.J.S.A. 47:1A-3(a), and the statute's privacy clause, N.J.S.A. 47:1A-1.

We reverse the judgment of the Appellate Division panel. We concur with the panel's dissenting judge that the MVR recordings were not “required by law” within the meaning of N.J.S.A. 47:1A-1.1, that they

Law Center (New Jersey Crime Victims' Law Center, attorneys; Richard D. Pompelio, of counsel and on the brief).

CJ Griffin argued the cause for amici curiae Latino Leadership Alliance of New Jersey, Garden State Equality, People's Organization for Progress, and the New Jersey Chapter of the Society for Professional Journalists (Pashman Stein Walder Hayden, attorneys; CJ Griffin, of counsel and on the brief).

Alexander Shalom argued the cause for amici curiae American Civil Liberties Union of New Jersey (Edward L. Barocas, Legal Director, attorney; Alexander Shalom, Edward L. Barocas, Jeanne M. LoCicero, and Iris Bromberg on the brief).

Opinion

JUSTICE PATTERSON delivered the opinion of the Court.

*6 **978 In this appeal, we apply the Open Public Records Act (OPRA), N.J.S.A. 47:1A-1 to -13, to recordings made by mobile video recorders (MVRs) in police vehicles in compliance with a municipal police chief's general order. The MVR recordings at issue documented an incident in which police officers pursued and arrested a driver who had allegedly eluded an officer attempting a traffic stop. One officer's decision to deploy a police dog during the arrest led to internal affairs investigations and criminal charges against the officer.

Plaintiff John Paff sought access to the MVR recordings under OPRA and the common law, and filed suit when defendant the
constitute criminal investigatory records under that provision, and that they are therefore not subject to disclosure under OPRA. We agree with the Appellate Division panel's conclusion that the recordings are not within OPRA's "investigations in progress" provision, and that OPRA's privacy clause does not exempt the recordings from disclosure. We remand the matter to the trial court for its consideration of plaintiff's claim of a common-law right of access to the MVR recordings.

I.

A.

1.

On January 9, 2014, the Barnegat Township Police Department issued a revised version of its General Order No. 08-02 (General Order), entitled “Mobile Video Recording Equipment.” The General Order was issued under the authority of the Chief of the Barnegat Township Police Department, and applied only to that department.

The General Order stated the Barnegat Township Police Department's policy “to use [MVRs] in order to protect the members of this agency and to record information related to motorist contacts and other patrol related activities.” The General Order instructed officers to record by MVR several categories of incidents. The incidents to be recorded included, among others, “[a]ll traffic stops, criminal enforcement stops, motorist aid situations, motor vehicle collisions, and pedestrian contacts in their entirety”; “[p]olice pursuits as defined by department policy”; “[m]ajor crime scenes”; and “[s]ituations which arise wherein the officer by reason of training or experience determines that the incident should be recorded.”

Noting that “[t]he record function of the MVR equipment is automatically initiated when the patrol vehicle's emergency lights are activated or the wireless microphone is turned on,” the General Order barred officers from deactivating the MVR's recording function when the vehicle's emergency lights are activated “except for dismounted posts or traffic details.” Pursuant to the General Order, officers were prohibited from deactivating an MVR once it was activated to document an “incident or [motor vehicle] stop” until the conclusion of the incident or the release of the detained vehicle.

It is undisputed that the MVR recordings at the center of this appeal were made in compliance with the General Order.

2.

On January 29, 2014, a Tuckerton Borough police officer on patrol activated his overhead lights and attempted to pull over a motorist. The driver disregarded the officer and continued to drive, prompting a police chase. As the driver approached Barnegat Township, officers in that Township were alerted and two Barnegat Township patrol vehicles joined the Tuckerton officer's pursuit of the driver. The chase ended when the driver stopped her vehicle in the parking lot of a
Barnegat Township municipal building. As officers at the scene removed the driver from her vehicle, a Tuckerton Borough police officer and his police dog arrived and participated in the driver's arrest. According to the OCPO, the officer unlawfully caused the police dog to injure the driver.

MVR equipment installed in two Barnegat Township police vehicles recorded the police pursuit and arrest of the driver. The trial court found, and the parties agree, that the recordings documented the interaction between the driver and the police dog.

As a result of the contact between the police dog and the driver, the OCPO and the Tuckerton Police Department initiated internal affairs investigations of the Tuckerton Borough police officer. The OCPO later charged the officer with two counts of second-degree official misconduct, N.J.S.A. 2C:30-2; third-degree aggravated assault, N.J.S.A. 2C:12-1(b)(1); fourth-degree false swearing, N.J.S.A. 2C:28-2(a); third-degree tampering with public records or information, N.J.S.A. 2C:28-7(a)(1); and second-degree hindering apprehension or prosecution, N.J.S.A. 2C:29-3(b). The driver was charged with eluding, N.J.S.A. 2C:29-2(b), and resisting arrest, N.J.S.A. 2C:29-2(a)(3), and was issued four summonses for motor vehicle violations. Accordingly, the driver was both a victim of the Tuckerton officer's alleged criminal offenses and the defendant in criminal and motor vehicle violation proceedings arising from the same incident.

Approximately four months after the driver's arrest, plaintiff wrote to the OCPO. He stated that he had read in a local newspaper that “the police dog's interaction with [the driver] may have been captured by a video camera that is owned or under the control of Barnegat Township.” Pursuant to OPRA and the common-law right of access, plaintiff requested “a copy of the video of this incident.”

The OCPO objected to the release of the requested MVR recordings on the ground that they involved a “criminal investigation in progress, pursuant to N.J.S.A. 47:1A-3 as well as an internal affairs matter,” under the New Jersey Attorney General's Guidelines on Internal Affairs and Procedures.

Plaintiff contested the OCPO's reliance on N.J.S.A. 47:1A-3. He argued that any record that was public before a criminal investigation or internal affairs investigation would not be exempt from production under OPRA. The OCPO responded by reiterating its objections to the production of the MVR recordings.

By letter dated June 30, 2014, counsel for the driver advised the OCPO of the driver's objection “to the release of any audio or video tapes at this time, because of privacy and other related issues.”
Plaintiff filed a verified complaint and order to show cause, seeking access to the MVR recordings on the basis of OPRA and the common-law right of access. In opposition to the order to show cause, the OCPO presented certifications by two officers setting forth the General Order governing MVR recordings, the driver's objection to production of the recordings, and the criminal and internal affairs investigations that arose from the January 29, 2014 incident.

In its initial opinion in this matter, the trial court found the MVR recordings to be government records under N.J.S.A. 47:1A-1.1. The court stated that “at this juncture,” the OCPO had failed to meet its burden to demonstrate that the MVR recordings were criminal investigatory records under N.J.S.A. 47:1A-1.1. It held that the OCPO had not proven that the recordings were “not required by law,” as N.J.S.A. 47:1A-1.1 mandates in order for a record to be exempt from OPRA, and stated that it was unclear whether the recordings were made as part of an investigation.5

The trial court also rejected the OCPO's contention that the MVR recordings were subject to OPRA's exemption for records pertaining to an “investigation in progress,” pursuant to N.J.S.A. 47:1A-3(a). It reasoned that any investigation regarding the police officer and the driver did not commence until after the MVR cameras captured the incident. The court did not reach the question whether the OCPO had met OPRA's second requirement for the “investigation in progress” exemption: that the release of the recordings would be “inimical to the public interest.” Ibid.

Finally, the trial court held that the driver had no reasonable expectation of privacy that would justify the OCPO's denial of plaintiff's request pursuant to OPRA's privacy clause, N.J.S.A. 47:1A-1.

*12 Accordingly, the trial court held that the OCPO had improperly withheld the MVR recordings. However, pending supplemental briefing as to the applicability of the criminal investigatory exemption, it stayed its determination for thirty days and ordered the OCPO to submit the MVR recordings for in camera review to allow the court to further assess the impact of the release of the recordings on the driver's privacy interest.

Following further briefing, in camera review of the MVR recordings, and a second oral argument, the trial court issued a supplemental opinion. It determined that by virtue of the Barnegat Township Police Department's General Order, which it construed to carry the “force of law,” the MVR recordings were “required by law” to be made, and were therefore outside the scope of N.J.S.A. 47:1A-1.1's exemption for criminal investigatory records. The court did not reach that provision's additional requirement that the recordings pertain to “any criminal investigation or related civil enforcement proceeding.” N.J.S.A. 47:1A-1.1.

The trial court reiterated its prior holding that the release of the recordings would not violate the driver's reasonable expectation of privacy because the recordings depicted a “motor vehicle traffic stop in a public area,” and did not show the driver's face. The court found that
the **982 recordings were not “so horrific or chilling” as to warrant nondisclosure. The court therefore found that plaintiff had proven his claim under OPRA, and awarded attorneys' fees to plaintiff. It did not address plaintiff's common-law claim.

The OCPO appealed the trial court's judgment, and the Appellate Division panel granted amicus curiae status to the Attorney General and the County Prosecutors Association of New Jersey.

The majority of the Appellate Division panel affirmed the trial court's judgment, Paff, 446 N.J. Super. at 177, 141 A.3d 300. The majority concurred with the trial court that the MVR recordings constitute government records and were not exempt as records pertaining to a criminal investigation under N.J.S.A. 47:1A-1.1. The majority construed the phrase *13 “required by law” in that provision to encompass any record that is required by a local law enforcement order, as long as the order is issued pursuant to a delegation of power under N.J.S.A. 40A:14-118. The panel also held that because the MVR recordings preceded the commencement of any criminal investigation, they did not “pertain” to any such investigation, and that the OCPO therefore failed to meet its burden under the criminal investigatory exemption's second prong. Id. at 188, 141 A.3d 300.

The majority of the panel also affirmed the trial court's determination as to N.J.S.A. 47:1A-3(a)'s “investigations in progress” exemption. Id. at 188-90, 141 A.3d 300. It held that the exemption did not apply to the MVR recordings because the recordings were made prior to the investigations and the OCPO did not demonstrate that disclosure would be inimical to the public interest. Ibid.

Finally, based on its in camera review of the recordings and its consideration of the factors that this Court identified in Doe v. Poritz, 142 N.J. 1, 88, 662 A.2d 367 (1995), the panel's majority found that the driver's privacy interest did not outweigh the public's interest in disclosure under OPRA's privacy clause, N.J.S.A. 47:1A-1.1. Paff, 446 N.J. Super. at 192-93, 141 A.3d 300.

One member of the panel dissented from the majority's holding regarding N.J.S.A. 47:1A-1.1's exemption for criminal investigatory records. Id. at 194, 141 A.3d 300 (Gilson, J., dissenting). The dissenting judge focused on the first of that provision's two prongs, under which a record must not be “required by law to be made, maintained, or kept on file” in order to qualify for the exemption. Id. at 195-201, 141 A.3d 300 (quoting N.J.S.A. 47:1A-1.1). The dissenting judge rejected the majority's conclusion that a record is “required by law” under N.J.S.A. 47:1A-1.1 because it was created pursuant to the order of a police chief. Id. at 199-201, 141 A.3d 300. He observed that “[i]t is hard to imagine that there are any criminal investigatory documents created in
a police *14 department for which there is not an order, directive or instruction calling for that document to be prepared.”

Id. at 199, 141 A.3d 300. The dissenting judge reasoned that the majority’s broad construction of the “required by law” prong in N.J.S.A. 47:1A-1.1 would exclude virtually any document generated in a police department from OPRA's criminal investigatory records exception. Ibid. He further concluded that the MVR recordings pertained to a criminal investigation, as N.J.S.A. 47:1A-1.1 mandates in order for the exemption to apply.

The OCPO appealed as of right with respect to the issue raised in the dissent. **983 R. 2:2-1(a). We granted the OCPO's petition for certification regarding the remaining issues addressed by the Appellate Division panel. 228 N.J. 403, 157 A.3d 831 (2016). We also granted amicus curiae status to the New Jersey State Association of Chiefs of Police, the New Jersey Crime Victims' Law Center, the American Civil Liberties Union of New Jersey, the Latino Leadership Alliance of New Jersey, Garden State Equality, People's Organization for Progress, and the New Jersey Chapter of the Society of Professional Journalists.

II.

The OCPO contends that the MVR recordings are within OPRA's exemption for criminal investigatory records. It argues that when the Legislature replaced the Right to Know Law (RTKL), L. 1963, c. 73, with OPRA, L. 2001, c. 404, it intended to preserve the narrow definition of “required by law” that applied under the RTKL. According to the OCPO, the MVR recordings were not “required by law” because the General Order at issue here is not analogous to the Attorney General Directive mandating Use of Force Reports that we reviewed in North Jersey Media Group, Inc. v. Township of Lyndhurst, 229 N.J. 541, 565-66, 163 A.3d 887 (2017). The OCPO asserts that the MVR recordings satisfy the second part of the definition of “criminal investigatory records” as well because they pertain to the early stage of a criminal investigation, as did the recordings of a police shooting in Lyndhurst, 229 N.J. at 569, 163 A.3d 887.

The OCPO also argues that the MVR recordings are within the exemption set forth in N.J.S.A. 47:1A-3 for records of an investigation in progress because they pertain to criminal and internal affairs investigations, and their disclosure would be inimical to the public interest. Finally, the OCPO contends that disclosure of the recordings would violate the driver's reasonable expectation of privacy recognized in N.J.S.A. 47:1A-1.

Plaintiff counters that the OCPO failed to demonstrate that the MVR recordings fall within the criminal investigatory records exemption. He notes that in Lyndhurst, we rejected the definition of “required by law” that had been set forth in the RTKL. Plaintiff contends that the General Order is analogous to the Attorney General Directive addressed in Lyndhurst for purposes of OPRA. He urges, further, that we consider only an investigator's work product to “pertain” to
a criminal investigation, as that term is used in  

**N.J.S.A. 47:1A-1.1.**

Plaintiff asserts that the MVR recordings are not within **N.J.S.A. 47:1A-3's** exemption for records of an investigation in progress because they were created before any investigation began and the public has a compelling interest in disclosure. He contends that there is no showing in this case that disclosure of the MVR recordings would intrude on the driver's reasonable expectation of privacy, or that any privacy interest outweighs the public interest in the recordings.

Amici curiae the Attorney General, the County Prosecutors Association of New Jersey, and the New Jersey State Association of Chiefs of Police assert that the MVR recordings are exempt from disclosure as criminal investigatory records because they are not required by law to be made, maintained, or kept, and they pertain to a criminal investigation. They argue that the recordings should be withheld from disclosure to protect the driver's reasonable expectation of privacy.

Amici curiae New Jersey Crime Victims' Law Center contends that a crime victim's privacy interest *16 and right to be treated with fairness, compassion, and respect outweigh the public interest in disclosure.

Amicus curiae American Civil Liberties Union of New Jersey argues that MVR **984 recordings are made to protect law enforcement and to serve as instructional material, not to investigate criminal activity. Amicus asserts that police conduct and criminal activity in a public setting do not implicate privacy interests, and that when the factors set forth in **Doe, 142 N.J. at 88, 662 A.2d 367, are applied to this case, the public's interest in disclosure outweighs any privacy interest.

Amici curiae the Latino Leadership Alliance of New Jersey, Garden State Equality, People's Organization for Progress, and the New Jersey Chapter of the Society of Professional Journalists assert that the criminal investigatory exemption does not apply to this appeal. Amici contend that records created pursuant to a police chief's directive are “required by law” under **N.J.S.A. 47:1A-1.1** and that the MVR recordings did not pertain to any investigation for purposes of OPRA's exemptions for criminal investigatory records and records of an investigation in progress. They argue that redaction of a record prior to production under OPRA adequately protects the privacy interest of a crime victim.

III.

The Legislature enacted OPRA “to promote transparency in the operation of government.” **Carter v. Doe (In re N.J. Firemen's Ass'n Obligation),** 230 N.J. 258, 276, 166 A.3d 1125 (2017) (quoting **Sussex Commons Assocs., LLC v. Rutgers,** 210 N.J. 531, 541, 46 A.3d 536 (2012) ). The statute serves “the bedrock principle that our government works best when its activities are well-known to the public it serves.” **Burnett v. County of Bergen,** 198 N.J. 408, 414, 968 A.2d 1151 (2009). In OPRA, the Legislature declared it public policy that government records “shall be readily accessible for inspection, copying, or examination by the citizens of this State, with certain exceptions,
for the protection of the public interest,” and that any limitation of the right of action accorded by OPRA “shall be construed in favor of the public's right of access.” Opposite N.J.S.A. 47:1A-1. OPRA imposes on public agencies “the burden of proving that the denial of access is authorized by law.” Opposite N.J.S.A. 47:1A-6.

This appeal requires that we interpret three of OPRA’s exemptions: the exclusion of “criminal investigatory records” from N.J.S.A. 47:1A-1.1’s definition of “government records”; the exemption for records pertaining to an “investigation in progress,” N.J.S.A. 47:1A-3; and the statute’s privacy clause, N.J.S.A. 47:1A-1.

In our construction of those provisions, our objective “is to determine and carry out the Legislature's intent.” Opposite Sussex Commons, 210 N.J. at 540-41, 46 A.3d 536; accord Carter, 230 N.J. at 274, 166 A.3d 1125; Gilleran v. Township of Bloomfield, 227 N.J. 159, 171, 149 A.3d 800 (2016). “We look first to the plain language of the statute to try to give meaning to the Legislature's intent.” Opposite Lyndhurst, 229 N.J. at 557, 163 A.3d 887. If that language is ambiguous, we “may examine extrinsic evidence for guidance.” Opposite Sussex Commons, 210 N.J. at 541, 46 A.3d 536.

A.

We first consider the criminal investigatory records exemption set forth in N.J.S.A. 47:1A-1.1.

In OPRA, the Legislature expansively defined the term “[g]overnment record[s]” to encompass any record “made, maintained or kept on file in the course of his or its official business by any officer, commission, agency or authority of the State or of any political subdivision thereof,” or any record “that has been received in the course of his or its official business by any such officer, commission, agency, or authority of the State or of any political subdivision thereof.” Opposite N.J.S.A. 47:1A-1.1.

“[C]riminal investigatory records” are among the several categories of records that the statute excludes from its definition of “government record[s].” Opposite Ibid. That term is defined as “a record which is not required by law to be made, maintained or kept on file that is held by a law enforcement agency which pertains to any criminal investigation or related civil enforcement proceeding.” Opposite Ibid.

Accordingly, an agency seeking to withhold a record from disclosure as a criminal investigatory record must satisfy “both prongs of the exception” by demonstrating that the record is not required by law to be made, maintained or kept on file, and that it “pertains” to a criminal investigation or related civil enforcement proceeding. Opposite Lyndhurst, 229 N.J. at 556, 163 A.3d 887.

1.

In Lyndhurst, decided while this appeal was pending, we rejected the narrow construction of OPRA's definition of a public record adopted
by the Appellate Division in that appeal as inconsonant with OPRA’s more expansive reach. \[\text{Id. at 566, 163 A.3d 887.}\] Instead, we construed the criminal investigatory exemption “in light of the current law’s stated purpose, which favors broad access, and not prior case law that analyzed the narrower RTKL.” \[\text{Ibid.}\]

In accordance with that principle, we applied the “not required by law” prong of the \[\text{N.J.S.A. 47:1A-1.1}\] standard to two categories of records relating to a police shooting: Use of Force Reports (UFRs) and MVR recordings of the incident. \[\text{Id. at 564-69, 163 A.3d 887.}\]

The contested UFRs were prepared in accordance with a Use of Force Policy that was promulgated by the Attorney General and governed law enforcement across the State. \[\text{Id. at 565, 163 A.3d 887.}\] That policy mandated that “‘[i]n all instances when physical, mechanical, or deadly force is used [by law enforcement], each officer who has employed such force shall complete’ a ‘Use of Force Report’ and ‘[a]ny reports made necessary by the nature of the underlying incident.’ ” \[\text{Ibid.}\] (first and third alterations in original) (quoting Attorney General, Use of Force Policy 7 (Apr. 1985, rev. June 2000) (Use of Force Policy) ).

\*19 Recognizing the Attorney General's role as New Jersey's chief law enforcement officer, with the authority to adopt guidelines, directives, and policies that bind police departments statewide, we deemed the Use of Force Policy to be “a clear, pointed statement of policy from the chief law enforcement official to all officers who have used deadly force.” \[\text{Ibid.}\] We viewed the Use of Force Policy to have “the force of law for police entities.” \[\text{Ibid.}\] (quoting \[\text{O'Shea v. Township of West Milford, 410 N.J. Super. 371, 382, 982 A.2d 459 (App. Div. 2009) .}\] We concluded that the defendant municipality failed to meet its burden to demonstrate that the UFRs were “not required by law to be made, maintained or kept on file” under \[\text{N.J.S.A. 47:1A-1.1.}\] See \[\text{ibid.}\]

We reached the opposite conclusion with respect to the MVR recordings at issue in the \[\text{Lyndhurst}\] appeal. \[\text{Id. at 567-69, 163 A.3d 887.}\] We noted that the parties identified no Attorney General directive addressing such recordings. \[\text{Id. at 567, 163 A.3d 887.}\] Moreover, it was unclear whether the MVR cameras had recorded the police shooting automatically, or had been activated by police officers “in an exercise of discretion or in response to an order at the local level.” \[\text{Ibid.}\] \[\*986\] We thus found no \[\text{evidence}\] that the police officers in \[\text{Lyndhurst}\] were “required by law” to make the MVR recordings in dispute. \[\text{Id. at 567-68, 163 A.3d 887.}\]

We rejected the plaintiff's argument in \[\text{Lyndhurst}\] that the MVR recordings in that case were “required by law” because they were retained in accordance with retention schedules generated in compliance with the Destruction of Public Records Law, \[\text{N.J.S.A. 47:3-15}\] to -32. \[\text{Id. at 568, 163 A.3d 887.}\] We observed that the criminal investigatory records exemption “would have little meaning” if records were deemed “required by law” simply because
retention schedules required that they be maintained for a specific period.  

In short, we found no evidence in the record in  

that the MVR recordings in that case were “required by law to be made, maintained or kept on file” in accordance with a directive carrying the force of law.  

We held that those recordings were within  

's criminal investigatory records exemption to OPRA.  

Guided by the plain language of  

and the principles set forth in  

, we apply the first prong of the test for criminal investigatory records to the MVR recordings in this case.

We find significant distinctions between the Attorney General's Use of Force Policy -- deemed in  

 to carry the force of law for police entities -- and the Barnegat Township Police Chief's General Order. First, no statute gives a General Order promulgated by the Barnegat Township Police Chief the force of law.  

cited by the Appellate Division majority in support of its conclusion that the General Order was “required by law,” falls short of the mark. That statute empowers a municipality to create a police department and to appoint a police chief as the head of that department, and generally describes the duties of a police chief.  

It does not grant to a municipal police chief authority analogous to the Attorney General's statutory power to adopt guidelines, directives, and policies that bind law enforcement throughout our State. See  

 (noting Attorney General's authority under  

 to -117);  

same). We do not consider the Barnegat Township Police Chief's General Order to constitute a “law” as that term is used in  

.

We are unpersuaded by our dissenting colleagues' invocation of the 1981 amendment to  

 as evidence that the Legislature intended to enable municipal police chiefs to promulgate orders with the “force of law.”  

 As its plain language confirms, the Legislature amended the statute to simply “redefine the relationship between a municipal governing body and the chief of police.”  

 As amended,  

 limited the authority of municipalities to regulate the internal affairs of police departments, designated properly-appointed chiefs of police as the heads of police forces, and granted such chiefs the authority to “[p]rescribe the duties and assignments of all subordinates and other personnel.”  

 The amended statute thus “sought to avoid undue interference by a governing body into the operation of the police force.”  

. It does nothing to invest police chiefs with the authority to impose binding legal obligations on their subordinates.

Second, we agree with the dissenting Appellate Division judge that the majority's construction of the criminal investigatory records exemption
would exclude all but a few records from that provision. See \textbf{Paff}, 446 N.J. Super. at 199, 141 A.3d 300 (Gilson, J., dissenting). If, as the Appellate Division majority concluded, a municipal police chief's directive to his or her subordinates were deemed to carry the force of law, any record pertaining to a criminal investigation that was created in accordance with a directive would be ineligible for N.J.S.A. 47:1A-1.1's exemption for such records. The exemption would be limited to criminal investigatory records that are not addressed in any order or instruction from a police chief to his or her officers. In short, the vast majority of criminal investigatory records would fall outside of the exemption for such records.

Such an interpretation of N.J.S.A. 47:1A-1.1 would effectively write the criminal investigatory records exemption out of OPRA, contrary to our rules of statutory construction. See \textbf{Carter}, 230 N.J. at 274, 166 A.3d 1125 (“[L]egislative language must not, if reasonably avoidable, be found to be inoperative, superfluous or meaningless.” (alteration in original) (quoting \textbf{State v. Regis}, 208 N.J. 439, 449, 32 A.3d 1109 (2011)) ). We decline to construe the "required by law" language of N.J.S.A. 47:1A-1.1 so as to virtually eliminate the criminal investigatory records exemption from OPRA. 8

Here, the MVR recordings were made and retained in accordance with a local police chief's order to his subordinates, not in compliance with any law or directive carrying the force of law. The OCPO has therefore satisfied the first prong of N.J.S.A. 47:1A-1.1's standard for OPRA's criminal investigatory records exemption.

2.

In \textbf{Lyndhurst}, we held that the MVR recordings in dispute met the second prong of the test for OPRA's criminal investigatory records exemption because they “pertain[ ] to any criminal investigation.” \textbf{Id.} at 569, 163 A.3d 887 (alteration in original) (quoting N.J.S.A. 47:1A-1.1). We agreed with the Appellate Division panel in that case that “when an officer turns on a mobile video recorder to document a traffic stop or pursuit of a suspected criminal violation of law, that recording may pertain to a ‘criminal investigation,’ albeit in its earliest stages.” \textbf{Id.} at 569, 163 A.3d 887 (quoting \textbf{N. Jersey Media Grp., Inc. v. Township of Lyndhurst}, 441 N.J. Super. 70, 104-05, 116 A.3d 570 (App. Div. 2015) ). Observing that the MVR recordings in that case depicted a series of police actions -- officers' attempts to stop and arrest two suspects, their pursuit of a suspect “as he attempted to elude [officers] in violation of the law,” and their response to his resistance -- we concluded that the MVR recordings pertained to two investigations: the officers' investigation of “actual or potential violations of criminal law,” and the investigation by the Attorney General's Shooting Response Team into the fatal shooting of one suspect. \textbf{Ibid.}

cf. \textbf{O'Shea}, 410 N.J. Super. at 385, 982 A.2d 459 (noting “the absence of a factual showing that any of the reports sought in this matter
pertained to an actual criminal investigation or to an existing related civil enforcement proceeding”).

[6] Our holding in Lyndhurst governs our application of N.J.S.A. 47:1A-1.1’s requirement that the disputed record “pertain[ ] to any criminal investigation” in this appeal. See 229 N.J. at 569, 163 A.3d 887. When the MVR recordings in this matter were made, they pertained -- at a minimum -- to the investigation of the driver's alleged eluding of police. That investigation was at its inception, but it was clearly underway. By the time plaintiff sought the MVR recordings, those recordings pertained to not one but several investigations: the criminal investigation of the driver for eluding and resisting arrest, and the internal affairs and criminal investigations of the Tuckerton Borough police officer.

Accordingly, the OCPO has satisfied the second prong of OPRA's criminal investigatory records exemption. N.J.S.A. 47:1A-1.1. We hold that that exemption warrants the OCPO's decision to withhold the MVR recordings from disclosure under OPRA, and *24 we reverse the Appellate Division panel's determination on that ground.

B.

[7] We next consider OPRA's “investigations in progress” exemption, prescribed by N.J.S.A. 47:1A-3(a). *989

That exemption provides in relevant part that where it shall appear that the record or records which are sought to be inspected, copied, or examined shall pertain to an investigation in progress by any public agency, the right of access provided for in [OPRA] may be denied if the inspection, copying or examination of such record or records shall be inimical to the public interest; provided, however, that this provision shall not be construed to allow any public agency to prohibit access to a record of that agency that was open for public inspection, examination, or copying before the investigation commenced.

[N.J.S.A. 47:1A-3(a).]

[8] As we observed in Lyndhurst, in order to invoke that exemption, a public agency must demonstrate that “(1) the requested records ‘pertain to an investigation in progress by any public agency,’ (2) disclosure will ‘be inimical to the public interest,’ and (3) the records were not available to the public before the investigation began.” 229 N.J. at 573, 163 A.3d 887 (quoting N.J.S.A. 47:1A-3(a) ).

The OCPO has met N.J.S.A. 47:1A-3(a)'s first requirement: at the moment that the MVR cameras were activated in this case, the recordings pertained to the police investigation of the driver's alleged eluding of officers. As the incident progressed, portions of those recordings also pertained to the police investigation of the driver's alleged offense of resisting arrest, and the police and internal affairs investigation of the Tuckerton police officer's alleged official misconduct and aggravated assault offenses. The *25 OCPO
has also satisfied the third component of the
test; the MVR cameras recorded the eluding
incident as it unfolded, and the recordings were
not publicly available before the investigation
began.

[9] The OCPO, however, has failed to satisfy
the second prong of the N.J.S.A. 47:1A-3(a)
standard, which requires proof that disclosure
would be “inimical to the public interest.” See
Courier News v. Hunterdon Cty. Prosecutor's
Office, 358 N.J. Super. 373, 381-83, 817 A.2d
1017 (App. Div. 2003) (rejecting agency's
claim that ongoing investigations exemption
applied because release of 9-1-1 tape would
make it difficult to empanel jury at trial);
Serrano v. South Brunswick Township, 358
Lakewood Twp. Police Dep't, 354 N.J. Super.
146, 161-64, 804 A.2d 1178 (Law Div. 2002)
(finding that release of 9-1-1 tapes would not
be inimical to public interest under RTKL).
That aspect of the test calls for “a fact-specific
analysis of how the statutory standard applies.”
Lyndhurst, 229 N.J. at 576, 163 A.3d 887.

In Lyndhurst, we considered whether
disclosure of the MVR recordings of a
police shooting would be “inimical to the
public interest” for purposes of N.J.S.A.
47:1A-3(a). 229 N.J. at 575-77, 163 A.3d
887. We noted that “officer safety, the
reliability of ongoing investigations, and
transparency” are relevant to the question
whether disclosure of a given record is
“inimical to the public interest.” Id. at 576,
163 A.3d 887. In that setting, we found that the
release of the MVR recordings posed no threat
to officer safety or the integrity of the ongoing
investigation, and that the public interest in
disclosure was compelling. Id. at 576-77,
163 A.3d 887.

Here, the OCPO has identified no threat
to officer safety, so the first component of
the test weighs in favor of disclosure. Its
concerns about the impact of a disclosure
on the reliability of the investigations at
issue are not compelling. As we noted
in Lyndhurst, when addressing a police
shooting, a court should consider “whether
investigators have interviewed the available,
principal witnesses to the incident --
namely, the witnesses on the scene who saw
the shooting and are willing to speak with
law enforcement.” 229 N.J. at 576, 163
A.3d 887. Here, as in Lyndhurst, there is
no assertion that when plaintiff sought the
MVR recordings four months after the incident
depicted in those recordings, any eyewitness
interview relevant to the criminal investigation
of the driver, or the criminal or internal affairs
investigations of the police officer, had yet to be
conducted. The second factor that we identified
in Lyndhurst to be relevant to the “inimical to
the public interest” standard therefore supports
disclosure.

Finally, there is a strong public interest in the
interaction of police officers and the driver,
and the setting of this case. As we observed
in Lyndhurst, “non-disclosure of dash-cam
videos can undermine confidence in
law enforcement and the work that officers
routinely perform” and “fuel the perception
that information is being concealed.” Id.
at 576-77, 163 A.3d 887. The final factor identified in Lyndhurst as pertinent to the question whether disclosure is “inimical to the public interest” under N.J.S.A. 47:1A-3(a) thus weighs in plaintiff's favor.

Accordingly, we agree with the Appellate Division panel that the OCPO did not sustain its burden to show that the MVR recordings are within OPRA's “investigation in progress” exemption. N.J.S.A. 47:1A-3(a).

C.

Finally, we apply OPRA's privacy clause, which instructs a public agency to refrain from disclosing “a citizen's personal information with which it has been entrusted when disclosure thereof would violate the citizen's reasonable expectation of privacy.” N.J.S.A. 47:1A-1. In our inquiry, we consider the fact that in this case, the driver formally objected to disclosure based on unspecified privacy concerns.

In Burnett, we applied the privacy clause to bar an OPRA request for “eight million pages of land title records of all types, extending over a period of twenty-two years, which contain names, addresses, social security numbers, and signatures of countless citizens of this State.” 198 N.J. at 414, 968 A.2d 1151. We viewed OPRA's legislative history to “offer[ ] direct support for a balancing test that weighs both the public's strong interest in disclosure with the need to safeguard from public access personal information that would violate a reasonable expectation of privacy.” Id. at 427, 968 A.2d 1151.

Relying on our decision in Doe, 142 N.J. at 88, 662 A.2d 367, we identified the following factors to be relevant to that balancing test:

1. the type of record requested;
2. the information it does or might contain;
3. the potential for harm in any subsequent nonconsensual disclosure;
4. the injury from disclosure to the relationship in which the record was generated;
5. the adequacy of safeguards to prevent unauthorized disclosure;
6. the degree of need for access; and
7. whether there is an express statutory mandate, articulated public policy, or other recognized public interest militating toward access.

In the “unusual circumstances” of Burnett, we found that OPRA's privacy clause warranted disclosure only after the redaction of social security numbers from the records, with the cost of such redaction imposed on the requestor. Id. at 415, 437-40, 968 A.2d 1151.

We reach a different conclusion in the setting of this appeal. The MVR recordings depicted a driver's arrest in a public place. The trial court, which conducted an in camera review of the recordings, stated that the driver's face is not shown in the recordings, and the Appellate Division panel agreed that the recordings disclosed no private information.
Moreover, when the driver objected to disclosure of the recordings, she identified no specific privacy concerns. Indeed, the driver's counsel's letter disclosed that she had filed a civil suit against the Borough of Tuckerton arising from her interaction with the Tuckerton police officer and the police dog. As plaintiff notes, in such a lawsuit, the MVR recordings of the incident would constitute crucial evidence.

We concur with the determinations of the trial court and Appellate Division panel that the driver's privacy interest did not warrant the OCPO's decision to withhold recordings from disclosure in this case.

In other settings, a third party's reasonable expectation of privacy may warrant withholding a record from disclosure under N.J.S.A. 47:1A-1. For example, if a sexual assault or similar crime were recorded by MVR, the victim would have a compelling objection to the disclosure of that recording, even in redacted form. In other circumstances, the blurring of a victim's face or other methods of redaction prior to disclosure of an MVR recording may resolve a privacy concern.

In making these sensitive determinations, courts should give serious consideration to the objections of individuals whose privacy interests are implicated. We remind objecting parties and their attorneys that a generic objection based on privacy gives a court scant basis to explore the issue, and that any privacy concerns about a disclosure sought pursuant to OPRA or the common law should be explained in detail.

By virtue of its conclusion that the MVR recordings are government records under OPRA and are not within any exemption from the statute, the trial court did not reach the question whether plaintiff has a common-law right of access to the recordings. Nor did the Appellate Division address that issue.

As we noted in Lyndhurst, OPRA does not determine the outcome when a request for disclosure is evaluated under the common law. 229 N.J. at 578, 163 A.3d 887. The common-law right of access applies to a more expansive class of records than the category of government records defined by OPRA; to qualify as a public record under the common law, “the item must be ‘a written memorial[ ] ... made by a public officer, and ... the officer [must] be authorized to make it.’ ” Mason v. City of Hoboken, 196 N.J. 51, 67, 951 A.2d 1017 (2008) (alterations in original) (quoting Nero v. Hyland, 76 N.J. 213, 222, 386 A.2d 846 (1978) ). As we noted in Lyndhurst, To gain access to this broader class of materials, the requestor must make a greater showing than OPRA requires: “(1) the person seeking access must establish an interest in the subject matter of the material; and (2) the citizen's right to access must be balanced against the State's interest in preventing disclosure.”

[18] In Lyndhurst, we identified considerations relevant to a common-law claim of access to the MVR recording of a police shooting and other materials relating to that incident; those considerations were distilled from factors that we identified in Loigman v. Kimmelman, 102 N.J. 98, 113, 505 A.2d 958 (1986), and from the “core concerns” arising from N.J.S.A. 47:1A-3(a). Lyndhurst, 229 N.J. at 579, 163 A.3d 887. The considerations identified in Lyndhurst are (1) the State's and public's “interest in thorough and reliable investigations that are untainted by the early disclosure of investigative details”; and (2) the plaintiff's objective to promote the public good by requesting materials that may “shed light on the ‘possible use of excessive force by police,’ ” and may “also reassure the public that the police acted professionally and lawfully.” Id. at 579, 163 A.3d 887 (quoting Lyndhurst, 441 N.J. Super. at 117, 116 A.3d 570). In the careful balancing “that each case -- and this sensitive area -- require, we look in particular at the level of detail contained in the materials requested.” Id. at 580, 163 A.3d 887.

We concluded in Lyndhurst that the balancing of those considerations, as applied to “investigative reports, witness statements, and other comparably detailed documents,” weighed against disclosure. Id. at 580, 163 A.3d 887. We determined, however, that the balancing test favored disclosure in the case of the MVR recordings of the police shooting that were disputed in that appeal. *30 Ibid. We held that the recordings should be disclosed under the common law. Ibid.

We remand this matter to the trial court so that the court may address plaintiff's claim of a common-law right of access to the MVR recordings at issue. In that inquiry, the trial court should consider the interests identified by the parties as well as any other relevant factors.

V.

The judgment of the Appellate Division is reversed, and the matter is remanded to the trial court for proceedings consistent with this opinion.

CHIEF JUSTICE RABNER and JUSTICES FERNANDEZ-VINA and SOLOMON join in JUSTICE PATTERSON's opinion. JUSTICE ALBIN filed a dissent, in which JUSTICES LaVECCHIA and TIMPONE join.

JUSTICE ALBIN, dissenting.

works best when its activities are well-known to the public it serves,” Burnett v. County of Bergen, 198 N.J. 408, 414, 968 A.2d 1151 (2009). Although today's majority opinion gives a nod to those general principles, it does not follow them.

In the wake of today's majority opinion, the operations of our government will be less transparent and our citizenry less informed, which may lead to greater misunderstanding and more distrust between the public and the police. The majority drastically limits the public's right to access video recordings made by police officers when they interact or have confrontations with members of the public. This closing of what ordinarily should be an open door of access to records violates both specific statutory provisions and the broad principles of OPRA, and is inconsistent with our own jurisprudence. For those reasons, I respectfully dissent.

I.

A.

In this case, a Barnegat Township police vehicle's mobile video recorder (MVR) filmed an officer setting a police dog on a woman pulled from her car after she committed several motor vehicle infractions and eluded the police. No public safety justification warranted the officer allowing the dog to attack and injure the driver. The video recording clearly established what occurred, and its release might have quelled rumors or false reports. Importantly, at this point, the release of the video would not undermine any ongoing police investigation.

Plaintiff John Paff sought access to the video recording by filing an OPRA request with the Ocean County Prosecutor's Office. The Prosecutor's Office denied Paff access, citing as one of its reasons for nondisclosure the criminal investigatory records exception to OPRA.

Under OPRA, government records, which include video recordings, must generally be made available for examination by our citizens, and any limitation on the right to disclosure must “be construed in favor of the public's right of access.” N.J.S.A. 47:1A-1. There are exceptions, however, to the rule of general disclosure. The one at issue here is the criminal investigatory records exception. A law enforcement agency does not have to disclose “a record which is not required by law to be made, maintained or kept on file that is held by a law enforcement agency which pertains to any criminal investigation or related civil enforcement proceeding.” N.J.S.A. 47:1A-1.1 (emphasis added).

*32 Here, the Barnegat Township Chief of Police issued a General Order to members of the police department to video-record certain interactions with the public. The General Order states that “[i]t is the policy of [the Barnegat Township Police Department] to use mobile video recorders in order to protect the members of this agency and to record information related to motorist contacts and other patrol related activities.” The Chief's General Order is a command to all officers in the police department explicitly directing when and how
to video-record encounters with the public. No police officer under the Chief's command has the discretion to disobey that Order. In other words, that Order has the force of law. Because the video recording was “required by law to be made,” it therefore does not constitute an exempt record under OPRA's criminal investigatory records exception.

That the Chief's command has the force of law is clear from the powers delegated to him by the Legislature. N.J.S.A. 40A:14-118 provides that the chief of police “shall be the head of the police force and that he shall be directly responsible to the appropriate authority for the efficiency and routine day to day operations thereof.” The chief of police has the duty to “[a]dminister and enforce rules and regulations and special emergency directives for the disposition and discipline of the force and its officers”; “exercise, and discharge the functions, powers and duties of the force”; and “[p]rescribe the duties and assignments of all subordinates.” N.J.S.A. 40A:14-118(a) to (c) (emphasis added). The current version of N.J.S.A. 40A:14-118 is the product of a 1981 legislative amendment, L. 1981, c. 266, § 1, which gave chiefs of police “express statutory authority ... to avoid undue interference by a governing body into the operation of the police force.” Falcone v. De Furia, 103 N.J. 219, 221-22, 510 A.2d 1174 (1986). Before the amendment, a chief of police derived his power from “ordinances, resolutions, rules and regulations adopted and promulgated by the governing body in the exercise of its broad statutory responsibility.” Grasso v. Borough Council of Glassboro, 205 N.J. Super. 18, 29, 500 A.2d 10 (App. Div. 1985) (quoting *33 Gauntt v. City of Bridgeton, 194 N.J. Super. 468, 480-81, 477 A.2d 381 (App. Div. 1984) ); cf. Sponsor's Statement to S. 1243 (L. 1981, c. 266, § 1) (“This bill clarifies responsibility for the conduct of municipal police activities by providing for the duties and responsibilities of chiefs of police.”).

The Legislature delegated to the Chief of Police the power to issue the General Order to his officers. The failure to abide by that direct order presumably would subject an officer to discipline, perhaps even removal. See N.J.S.A. 40A:14-181 (referencing Police Bureau of the Div. of Criminal Justice, Internal Affairs Policy & Procedures (Nov. 2017) ). Under OPRA's broad right of disclosure, a chief of police's direct order has the force of law, and therefore the video recordings were “required by law” in this case, meaning that **994 the criminal investigatory records exception does not apply.

B. The majority, however, concludes that because the Chief of Police's General Order is not an ordinance or statute, or even an Attorney General directive, the video recording is not a record “required by law” to be maintained and therefore not subject to OPRA's disclosure requirement. Ante at 20–21, 192 A.3d at 986. To reach that conclusion, however, the majority abandons OPRA's declaration that any limitation on the right to disclosure must “be construed in favor of the public's right of access,” N.J.S.A. 47:1A-1, and eviscerates our holding in North Jersey Media Group,

In *Lyndhurst*, this Court recognized that the Attorney General, as the State's chief law enforcement officer, “has the authority to adopt guidelines, directives, and policies that bind police departments throughout the State.” *Id.* at 565, 163 A.3d 887. With that in mind, we held that the Attorney General's policy requiring officers to complete a Use of Force Report had “the force of law for police entities.” *Ibid.* (quoting *O'Shea v. Township of West Milford*, 410 N.J. Super. 371, 382, 982 A.2d 459 (App. Div. 2009)). Because the Attorney General's policy had “the force of law,” we determined that the “Use of Force Reports are ‘required by law to be made’ ” *34 and therefore “cannot be exempt from disclosure under OPRA's criminal investigatory records exemption.” *Ibid.* (quoting *N.J.S.A. 47:1A-1.1*).

*Lyndhurst* supports the disclosure of the video recording in this case because the chief of police's power to bind police officers to follow a general order is in no meaningful way distinguishable from the Attorney General's power to bind police forces to follow his directives. Both a chief of police and the Attorney General act under authority delegated by the Legislature.

The majority's claim that there are “significant distinctions between the Attorney General's Use of Force Policy ... and the Barnegat Township Police Chief's General Order” does not hold water. See *ante* at 20, 192 A.3d at 986. The majority states that “no statute gives a General Order promulgated by the Barnegat Township Police Chief the force of law,” citing *N.J.S.A. 40A:14-118*. *Ante* at 20, 192 A.3d at 986. Although I do not dispute that the Legislature has given the Attorney General the power to “bind police departments throughout the State” to follow statewide directives, *Lyndhurst*, 229 N.J. at 565, 163 A.3d 887, it is also true that the Legislature has delegated to chiefs of police the power to issue general directives that are binding on police officers under *N.J.S.A. 40A:14-118*.

The arbitrary distinction created by the majority undermines the effectiveness of OPRA in an area where the transparency of the government's conduct in its affairs with the public is of critical importance to an informed citizenry. Sunlight is the greatest disinfectant when the government acts in dark corners. See *Buckley v. Valeo*, 424 U.S. 1, 67, 96 S.Ct. 612, 46 L.Ed.2d 659 (1976) (quoting Louis Brandeis, What Publicity Can Do, in Other People's Money and How the Bankers Use It 62 (National Home Library Foundation ed. 1933)).

In *Lyndhurst*, this Court generally observed:

Ready access to government records lies at the heart of OPRA. And in the case of a police shooting, non-disclosure of dash-cam videos can undermine confidence in law enforcement and the work that officers routinely perform. It can also fuel the *35 perception that information is being concealed -- a concern that is enhanced **995 when law enforcement officials
occasionally reveal footage that exculpates officers.

[229 N.J. at 576-77, 163 A.3d 887.]

The concerns expressed by the Court in favor of disclosure of a dash-cam video in a police shooting case apply with equal force here where a police dog was allowed to attack a driver stopped for motor vehicle infractions and eluding. The majority's decision will make exceedingly more difficult the ability of citizens to gain access to police video recordings and reports. That is not in keeping with a statute that calls itself the Open Public Records Act.

C.

The majority's decision will have far-ranging consequences. For the most part, this decision will render superfluous the ongoing investigation exception under OPRA. See N.J.S.A. 47:1A-3. When records, such as the video recording in this case, are exempt under the criminal investigatory records exception, the analysis ends. The Legislature evidently intended that the ongoing investigation exception and other exceptions would narrow the scope of criminal records subject to disclosure. Thus, if the video recording in this case -- and other records -- were not subject to the criminal investigatory records exception, its disclosure would still be contingent on the analyses under a number of other potential OPRA exceptions, such as the ongoing investigation exception, N.J.S.A. 47:1A-3; the victim's personal identifying information exception, N.J.S.A. 47:1A-2.2; the citizen's reasonable expectation of privacy exception, N.J.S.A. 47:1A-1; the emergency or security information exception, N.J.S.A. 47:1A-1.1; the security measures and surveillance techniques exception, ibid.; and executive orders of the Governor, N.J.S.A. 47:1A-1. Those additional safeguards refute the majority's suggestion that the sky would fall if a chief of police's direct order were to have the force of law.

With the majority's expansive reading of the criminal investigatory records exception, the general rule effectively will be nondisclosure. In that way, the majority has turned OPRA on its head. *36 Contrary to the majority's approach, exceptions to OPRA should be construed narrowly in light of OPRA's declaration that “any limitations on the right of access ... shall be construed in favor of the public's right of access.” N.J.S.A. 47:1A-1.

The majority still gives Paff and the public a pathway to disclosure under the common law. But that will be a difficult and burdensome path fraught with litigation and increased costs. Because of the complicated formula under the common law right to access, which requires the weighing of a number of competing factors, custodians will be loath to disclose records voluntarily. The responsibility will fall to judges to engage in factfinding and balance the factors for and against release. The common law is not an adequate substitute for OPRA because the Legislature intended a streamlined and simplified methodology for records custodians to make decisions. See Pub. Hearing Before S. Judiciary Comm., S. 161, 351, 573, 866 80 (Mar. 9, 2000) (“[I]f [OPRA]...
is passed, [requestors are] going to get the records a lot more quickly ... and a lot less expensively, than having to litigate under the common law.”).

II.

In accordance with Lyndhurst, the Attorney General or the Legislature can undo the damage caused by today's decision. The Attorney General can adopt a statewide policy that addresses whether and how police video recordings are made and maintained, as he did with Use of Force Reports.

**996 The public -- particularly marginalized communities -- will have greater trust in the police when law enforcement activities are transparent. Because the majority's decision does not advance that purpose, I respectfully dissent.

All Citations

235 N.J. 1, 192 A.3d 975

Footnotes

1  We summarize the facts based on the record submitted to the trial court.

2  Although the indictment stated that the officer was charged with “aggravated assault-third degree,” the Code provision cited in the indictment sets forth a second-degree offense.

3  Plaintiff represented to the OCPO that in an identical OPRA and common-law request, he sought video recordings from Barnegat Township. That request is not relevant to this appeal.

4  Plaintiff also requested any summonses issued against the driver, with the driver's name and address unredacted. Although the OCPO initially stated that it had no records responsive to that request, it later produced a criminal complaint and four motor vehicle summonses issued to the driver as a result of the January 29, 2014 incident.

5  In its brief, the OCPO clarified that it relied on OPRA's exemption for a “criminal investigatory record,” N.J.S.A. 47:1A-1.1, as well as the statute's exemption for records pertaining to an “investigation in progress,” N.J.S.A. 47:1A-3(a), and its privacy clause, N.J.S.A. 47:1A-1. The trial court noted that the OCPO had not cited N.J.S.A. 47:1A-1.1 in its initial objection to plaintiff's request, but ruled on the merits of that objection nevertheless.

6  In Lyndhurst, we acknowledged but did not reach the “intriguing issue” raised in this appeal -- whether a local police chief's order is analogous to a directive from the Attorney General for purposes of OPRA's exemption for criminal investigatory records -- because there was no indication that the officers in Lyndhurst “acted pursuant to any local directives.” Id. at 567-68, 163 A.3d 887.

7  N.J.S.A. 40A:14-118 permits a municipality's governing body, by ordinance, to “create and establish ... a police force, whether as a department or as a division, bureau or other agency thereof, and provide for the maintenance, regulation and control thereof.” For a municipality that chooses to appoint a chief of police, the statute provides that the chief “shall be the head of the police force” and “shall be directly responsible to the appropriate authority for the [police force's] efficiency and routine day to day operations.” Ibid. The police chief “shall, pursuant to policies established by the appropriate authority,” undertake a range of functions including the administration and enforcement of “rules and regulations and special emergency directives for the disposition and discipline of the force and its officers and personnel.” Id. § 118(a).

8  Our dissenting colleagues suggest that we should view the General Order to be “required by law,” and thus outside the scope of the criminal investigatory records exemption, in order to give greater weight to other exemptions that may apply in a given case. Post at 34–36, 192 A.3d at 994–95. They also suggest that OPRA's general objective to promote disclosure compels us to exclude the MVR recordings at issue from that exemption. Post at 33–34, 36. 192 A.3d at 993–94, 995–96. Both arguments are unavailing. We base our holding on the plain language of the exemption, which expresses the
Legislature's intent to exclude from disclosure records that "pertain[ ] to any criminal investigation," if those records are "not required by law to be made, maintained or kept on file." N.J.S.A. 47:1A-1.1; see also Lyndhurst, 229 N.J. at 557, 163 A.3d 887 (stating that courts should construe OPRA exemptions in accordance with their plain language).

Although we conclude that the MVR recordings are exempt from disclosure under N.J.S.A. 47:1A-1.1, we nonetheless consider the two other OPRA exemptions at issue in this case to offer guidance about the exemptions. See Lyndhurst, 229 N.J. at 570-78, 163 A.3d 887 (addressing application of N.J.S.A. 47:1A-3 exemption to MVR recordings notwithstanding determination that recordings were exempt from disclosure under N.J.S.A. 47:1A-1.1).

At oral argument, plaintiff's counsel represented that the driver filed an action in the United States District Court as a result of the incident. The record contains no details regarding that action.
INFORMATION MEMO

Use of Body-Worn Cameras

State law offers significant guidance on policies governing law enforcement use of body-worn cameras (BWC) and the resulting data. This discussion and the linked model policy are intended to help cities administer BWC programs and data soundly and in accordance with law.

RELEVANT LINKS:

Sec. Justice Department Announces $20 Million in Funding to Support Body-Worn Camera Pilot Program, May 1, 2015, (last viewed June 29, 2016).

I. Program considerations

Body-worn cameras (BWCs) are a relatively new addition to the law enforcement toolkit. According to the United States Department of Justice, they hold “tremendous promise” for improving public safety and increasing transparency and accountability. In addition, BWCs provide a means of capturing more convincing proof for use in criminal cases and protecting officers against false claims of wrongdoing. However, communities considering a move toward body cameras should also take stock of the costs involved in setting up and maintaining a BWC program. These will include purchasing the necessary hardware and software, arranging and paying for data storage, responding to requests for access, preparing data for release, and paying for independent biennial audits of the BWC program.

II. Transparency, reporting, and external oversight

Minnesota’s new laws mandate that communities moving forward with a BWC program receive public comments at three junctures in the process. First, enforcement agencies must provide an opportunity for public comment before purchasing or implementing a BWC system. Minimally, the agency must receive comments by mail and email, but may certainly hold public meetings and forums if desired. Second, the council or board with budget oversight for the agency needs to allow public comment at one of its regular
meetings. Third, agencies must allow for public comment and input when developing their BWC policies.

Next, the legislation appears to be forward looking in that it anticipates further evolution of BWC technologies. It requires agencies that obtain BWC equipment with capabilities that go beyond recording video and audio to notify the BCA of these acquisitions within 10 days. In turn, these notifications will be accessible to the public and must be posted on the BCA’s website.

Finally, the new legislation imposes independent audit requirements on agencies that operate BWC programs. Agencies will be required to arrange for an independent biennial audit to determine whether they are classifying data as required by law, how the data is being used, and whether the data is being purged and destroyed as required by statute. The audits must also examine whether personnel have obtained unauthorized access to BWC data or inappropriately shared data with other agencies. The audit results are public with few exceptions, and must be reviewed by the governing body. In turn, the law mandates the governing body to order the suspension of a BWC program if the audit shows a pattern of substantial noncompliance with legal requirements. Summaries of the audit results must be provided to the Legislative Commission on Data Practices and Personal Data Privacy within 60 days following completion of the audit.

III. Policy requirements

Minnesota’s new legislation mandates that agencies have a written policy to govern their BWC programs. Professional organizations, including the International Association of Chiefs of Police (IACP) and the Police Executive Research Forum (PERF) have released model policies in the past to aid agencies in developing their own guidelines. While these may be useful references, Minnesota law now lists a number of areas that must be covered by the policy, including state-specific rules on the administration and retention of BWC data. The 2016 state law identifies the following as mandatory policy elements:
• Data classifications, access procedures, and retention policies.
• Procedures for testing the recording equipment, documenting malfunction reports, and addressing malfunctions.
• Circumstances under which recording is mandatory, prohibited, or is left to officer discretion.
• Circumstances under which officers must tell people they are being recorded.
• Guidelines for when a recording may be ended.
• Procedures for the secure storage of data and the creation of backup copies.
• Procedures to ensure compliance with the policy and to address violations.

Red **face** in the League’s model policy indicates that the language is included to satisfy a requirement for guidance on that particular topic. While this language is recommended, agencies may certainly have other options for addressing mandatory elements.

### IV. Deciding what to record

The new legislation does not establish mandatory rules for when officers are required to record or are prohibited from recording. Agencies must instead cover these topics in their written policies, along with specifying when decisions to record are left to the discretion of officers in the field.

Developing guidelines on when to record involves tradeoffs, and as of now, there is no recognized consensus as to best practices. If the agency’s goal for having BWCs is to maximize accountability, then the most logical policy choice might be to have officers turn on their cameras whenever they respond to a call for service or interact with someone in the community. On the other hand, if the agency’s goal is just to gather better proof for use in criminal cases, then it might make sense to have officers treat body cameras like any other evidence-gathering tool, and exercise their professional judgment in deciding when to record.

Most all agree that officers should turn on their cameras when they anticipate making an arrest, using force, or finding themselves in conflict situations with members of the public. The model acknowledges these differing schools of thought and also the areas of common agreement. Option 1 under “General guidelines for recording” requires the activation of cameras during all responses to calls for service and law enforcement-related activities. Option 2 more narrowly defines the class of events subject to mandatory recording, and then relies on officer judgment to identify and record other circumstances likely to yield relevant evidence. Both options require recording in situations such as arrests, uses of force, and public contacts that involve conflict.
Practical and economic considerations, as well as philosophical ones, come to bear on deciding which option to choose and how much (i.e., when) to record. Once video data is recorded, it must be administered and retained in accordance with legal requirements. Agencies should expect that data storage costs and the time it takes to administer data will increase commensurately with the amount of data they choose to collect and store. Desires for accountability and transparency may weigh in favor of mandatory, broad, and encompassing recording requirements. But considerations of cost and practicality may point toward less mandatory recording and more reliance on officer judgment.

Deciding which approach is best involves weighing these competing factors in the context of the prevailing social, political, and economic considerations within each community. This is a determination particularly suited to elected officials acting on input from law enforcement professionals. Agencies should consult with their city councils or county boards to develop a community-specific approach.

V. Data administration issues

Part of the new legislation treats data collected through the use of BWCs differently than most other forms of data. While most government data is presumptively public, BWC data is presumptively private. A specific provision, applicable only to BWC data, delineates who is a subject of the data. The new laws also establish unique access rights to BWC data. The model policy contains a multi-page section under the heading of “Administering access to BWC data” to address these issues. There are ambiguities in the new law, and agencies are encouraged to consult with their city attorneys or legal advisors for guidance.

A. Labeling data for retention purposes

Administering BWC data under both the Minnesota Government Data Practices Act and the Records Retention Schedule is complicated. In very general terms, the Records Retention Schedule indicates how long entities need to keep data, and the Data Practices Act describes who is to have access. But BWC data is unlike other kinds of law enforcement data because retention is governed both by the Data Practices Act and the city’s or county’s records retention schedule.
Under the 2016 Data Practices amendments, all BWC data must be maintained for a period of 90 days and then be destroyed according to the agency’s retention schedule. Some specific kinds of BWC data must be maintained for one year and then be destroyed under the records retention schedule, such as data documenting duty-related firearms discharges, certain uses of force, and cases in which a formal complaint is made against an officer. But the expiration of these minimum retention periods under Data Practices does not necessarily mean that the data can or must be destroyed.

Rather, the General Records Retention Schedule for Minnesota Cities (and the concordant General Records Retention Schedule for Counties) basically “kicks in” once the statutory retention periods have passed. The model policy includes a series of suggested labels for BWC data files, and envisions that officers will assign those labels to data files at the time of capture or transfer into storage. The labels have been developed to help agencies match up data files with the correct retention periods. For instance, if an officer has a recording from a DUI or disorderly conduct arrest, the model provides for labeling that file as “Evidence—Criminal.” This label correlates to the category of “Arrest & Charge,” found in the General Records Retention Schedule for Minnesota Cities. The retention schedule directs that this data should be maintained until the disposition of the criminal case, which may take longer than the statutory 90-day retention period. By labeling this data at the time it is captured or moved to storage, the agency is informing itself from the outset that this data has evidentiary value in a criminal case, and should be retained accordingly.

Agencies that choose not to deal with labeling data files at the time of capture or storage are likely deferring, rather than avoiding, the work involved in determining the correct retention period. Various BWC systems may offer different options for labeling data files, and agencies may find it useful to keep their own systems in mind when developing their policy.

B. Data access issues and flagging

The model policy also provides for a system of flagging BWC files to indicate the likely presence of information about individuals whose identities may be legally protected from disclosure to others. Examples of such individuals include undercover officers, victims of criminal sexual conduct, and vulnerable adults who are victims of maltreatment. Whether or not agencies use the flagging process, the categories of protected identities listed in the policy may serve as a useful checklist when responding to requests for access to BWC data. The policy includes the more commonly occurring protected identities, but is not intended to be all-inclusive.

RELEVANT LINKS:

Minn. Stat. § 13.825, subd. 3(a).

Minn. Stat. § 13.825, subd. 3(b).

General Records Retention Schedule for Minnesota Cities.

General Records Retention Schedule for Minnesota Counties.
C. Officer access to video and critical incidents

PERF notes that officers will be able to report and testify more accurately when they are provided access to “all possible evidence of the event.” It is extremely unlikely that an officer could ever perceive or recall the same amount of information captured by a digital, high-definition recording device, particularly when under stress. The model recommends allowing officers to review BWC video footage before writing reports, giving statements, or providing testimony concerning typical law enforcement events. As PERF counsels, withholding video evidence from an officer until after he or she testifies can “unfairly undermine the officer’s credibility.”

Some agencies and prosecutors have expressed reservations, however, about allowing officers to view BWC and other video footage prior to giving statements about an officer-involved shooting or other critical incident. Because the BWC captures more information than the officer could have possibly perceived at the time, the concern is that viewing the video may taint the officer’s recollection by introducing new information to him or her before a statement is obtained. The model provides two options for addressing this situation, and leaves it to agencies to include restrictions on viewing videos in their policies addressing critical incidents.

Whether or not an agency allows officers to review video footage before being interviewed about a critical incident, PERF’s concern about unreasonably undermining officers’ credibility warrants consideration. BWC footage is likely to bring forward a greater amount of information and more accurate details than a human observer or participant. It follows that comparing an officer’s recollection to the video is not a fair measure of credibility or truthfulness.

D. Supervisory review

Under the new legislation, agency policies must include procedures for making sure that personnel are complying with the policy. One of the obvious measures for ensuring that officers are following the policy is to involve supervisors in monitoring BWC use. Under the heading, “Agency Use of Data,” the model requires that supervisors review BWC “usage” on a monthly basis for the purpose of determining whether officers have used their cameras in accordance with the department’s guidelines. Reviewing “usage” could be limited to a cursory comparison of when officers are making recordings, and how they are labeling them, as compared to other records of the officer’s activities. An alternative position is to have supervisors review actual footage to gain an additional perspective on officer performance in the field.
The IACP’s model policy takes the position that supervisors should review random BWC recordings at least monthly to observe officer performance in the field. PERF, however, notes there is ongoing debate over this issue. While random supervisory review may promote accountability, officers may see this practice as an expression of mistrust and become resentful. This is an issue for agencies to consider in light of their own particular circumstances.

VI. Further assistance

The issue of body-worn cameras is a policy area with developing concerns. To discuss latest developments or for assistance with your questions, please contact the League of Minnesota Cities or the Minnesota Counties Intergovernmental Trust.
Language from police body camera footage shows racial disparities in officer respect

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Contributed by Jennifer L. Eberhardt, March 26, 2017 (sent for review February 14, 2017; reviewed by James Pennebaker and Tom Tyler)

Using footage from body-worn cameras, we analyze the respectfulness of police officer language toward white and black community members during routine traffic stops. We develop computational linguistic methods that extract levels of respect automatically from transcripts, informed by a thin-slicing study of participant ratings of officer utterances. We find that officers speak with consistently less respect toward black versus white community members, even after controlling for the race of the officer, the severity of the infraction, the location of the stop, and the outcome of the stop. Such disparities in common, everyday interactions between police and the communities they serve have important implications for procedural justice and the building of police–community trust.

rational disparities | natural language processing | procedural justice | traffic stops | policing

Over the last several years, our nation has been rocked by an onslaught of incidents captured on video involving police officers’ use of force with black suspects. The images from these cases are disturbing, both exposing and igniting police–community conflict all over the country: in New York, Missouri, Ohio, South Carolina, Maryland, Illinois, Wisconsin, Louisiana, Oklahoma, and North Carolina. These images have renewed conversations about modern-day race relations and have led many to question how far we have come (1). In an effort to increase accountability and transparency, law enforcement agencies are adopting body-worn cameras at an extremely rapid pace (2, 3).

Despite the rapid proliferation of body-worn cameras, no law enforcement agency has systematically analyzed the massive amounts of footage these cameras produce. Instead, the public and agencies alike tend to focus on the fraction of videos involving high-profile incidents, using footage as evidence of innocence or guilt in individual encounters. Left unexamined are the common, everyday interactions between the police and the communities they serve. By best estimates, more than one quarter of the public (ages 16 y and over) comes into contact with the police during the course of a year, most frequently as the result of a police-initiated traffic stop (4, 5). Here, we examine body-worn camera footage of routine traffic stops in the large, racially diverse city of Oakland, CA.

Routine traffic stops are not only common, they are consequential, each an opportunity to build or erode public trust in the police. Being treated with respect builds trust in the fairness of an officer’s behavior, whereas rude or disrespectful treatment can erode trust (6, 7). Moreover, a person’s experiences of respect or disrespect in personal interactions with police officers play a central role in their judgments of how procedurally fair the police are as an institution, as well as their willingness to support or cooperate with the police (8, 9).

Blacks report more negative experiences in their interactions with the police than other groups (10). Across numerous studies, for example, blacks report being treated less fairly and respectfully in their contacts with the police than whites (6, 11). Indeed, some have argued that racial disparities in perceived treatment during routine encounters help fuel the mistrust of police in the controversial officer-involved shootings that have received such great attention. However, do officers treat white community members with a greater degree of respect than they afford to blacks?

We address this question by analyzing officers’ language during vehicle stops of white and black community members. Although many factors may shape these interactions, an officer’s words are undoubtedly critical: Through them, the officer can communicate respect and understanding of a citizen’s perspective, or contempt and disregard for their voice. Furthermore, the language of those in positions of institutional power (police officers, judges, work superiors) has greater influence over the course of the interaction than the language used by those with less power (12–16). Measuring officer language thus provides a quantitative lens on one key aspect of the quality or tone of police–community interactions, and offers new opportunities for advancing police training.

Previous research on police–community interactions has relied on citizens’ recollection of past interactions (10) or researcher observation of officer behavior (17–20) to assess procedural fairness. Although these methods are invaluable, they offer an indirect view of officer behavior and are limited to a small number of interactions. Furthermore, the very presence of researchers may influence the police behavior those researchers seek to measure (21).

Significance

Police officers speak significantly less respectfully to black than to white community members in everyday traffic stops, even after controlling for officer race, infraction severity, stop location, and stop outcome. This paper presents a systematic analysis of officer body-worn camera footage, using computational linguistic techniques to automatically measure the respect level that officers display to community members. This work demonstrates that body camera footage can be used as a rich source of data rather than merely archival evidence, and paves the way for developing powerful language-based tools for studying and potentially improving police–community relations.

Author contributions: R.V., N.P.C., D. Jurafsky, and J.L.E. designed research; R.V. and N.P.C. performed research; V.P., W.L.H., R.C.H., C.M.G., and D. Jurgens contributed new reagents/analytic tools; R.V. and N.P.C. analyzed data; R.V., N.P.C., D. Jurafsky, and J.L.E. wrote the paper; and D. Jurafsky and J.L.E. served as PI on this project.

Reviewers: J.P., University of Texas at Austin; and T.T., Yale Law School.

Conflict of interest statement: J.L.E. was invited by a federal judge and monitor to serve as a Subject Matter Expert to assist with the Oakland Police Department’s reform efforts. The assignment began prior to the studies reported here. Freely available online through the PNAS open access option.

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In study 1, human participants rated officer utterances on several overlapping dimensions of respect. With a high degree of agreement, participants inferred these dimensions from officer language. Even though they were not told the race of the stopped driver, participants judged officer language directed toward black motorists to be less respectful than language directed toward whites. In study 2, we build statistical models capable of predicting aspects of respect based on linguistic features derived from theories of politeness, power, and social distance. We discuss the linguistic features that contribute to each model, finding that particular forms of politeness are implicated in perceptions of respect. In study 3, we apply these models to all vehicle stop interactions between officers of the Oakland Police Department and black/white community members during the month of April 2014. We find strong evidence that utterances spoken to white community members are consistently more respectful, even after controlling for contextual factors such as the severity of the offense or the outcome of the stop.

Data
Our dataset consists of transcribed body camera footage from vehicle stops of white and black community members conducted by the Oakland Police Department during the month of April 2014. We examined 981 stops of black ($N = 682$) and white ($N = 299$) drivers from this period, 68.1% of the 1,440 stops of white and black drivers in this period. These 981 stops were conducted by 245 different officers (see SI Appendix, Data Sampling Process for inclusion criteria). Per Oakland Police Department policy, officers turn on their cameras before making contact with the driver and record for the duration of the stop. From the 183 h of footage in these interactions, we obtain 36,738 usable officer utterances for our analysis.

Study 1: Perceptions of Officer Treatment from Language. We first test whether human raters can reliably judge respect from officers’ language, and whether these judgments reveal differences in officer respect toward black versus white community members.

Respect is a complex and gradient perception, incorporating elements of a number of correlated constructs like friendliness and formality. Therefore, in this study, we ask participants to rate transcribed utterances spoken by officers along five conceptually overlapping folk notions related to respect and officer treatment. We randomly sampled 414 unique officer utterances (1.1% of all usable utterances in the dataset) directed toward black ($N = 312$) or white ($N = 102$) community members. On each trial, participants viewed the text of an officer utterance, along with the driver’s utterance that immediately preceded it. All proper names and places were anonymized, and participants were not told the race or gender of the driver. Participants indicated on four-point Likert scales how respectful, polite, friendly, formal, and impartial the officer was in each exchange. Each utterance was rated by at least 10 participants.

Could participants reliably glean these qualities from such brief exchanges? Previous work has demonstrated that different perceivers can arrive at similar judgments from “thin slices” of behavior (22). In a similar vein, participants showed consistency in their perceptions of officer language, with reliability for each item ranging from moderate (Cronbach’s $\alpha = 0.73$) to high ($\alpha = 0.91$) agreement (see SI Appendix, Annotator Agreement). These results demonstrate that transcribed language provides a sufficient and consensual signal of officer communication, enough to gain a picture of the dynamics of an interaction at a given point in time.

To test whether participant ratings uncovered racial group differences, we averaged scores across raters to calculate a single rating on each dimension for each utterance, then built a linear mixed-effects regression model to estimate the fixed effect of community member race across interactions, controlling for variance of a random effect at the interaction level. Officer utterances directed toward black drivers were perceived as less respectful [$b = -0.23, 95\%$ confidence interval ($-0.34, -0.11$)], polite [$b = -0.23 (-0.35, -0.12)$], friendly [$b = -0.24 (-0.36, -0.12)$], formal [$b = -0.16 (-0.30, -0.03)$], and impartial [$b = -0.26 (-0.39, -0.12)$] than language directed toward white drivers (Fig. 1). These differences persisted even when controlling for the age and sex of the driver (see SI Appendix, Model Outputs for Each Rated Dimension).

Given the expected conceptual overlap in the five perceptual categories we presented to the participants, we used principal component analysis to decompose the ratings into their underlying components. Two principal components explained 93.2% of the variance in the data (see SI Appendix, Principal Component Analysis (PCA) Loadings for loadings). The first component, explaining 71.3% of the variance and composed of positive loadings on the impartial, respectful, polite, and friendly dimensions with some loading on the formal dimension, we characterize as Respect, broadly construed. The second, explaining 21.9% of the variance and composed primarily of a very high positive loading on the formal dimension and a weak negative loading on the friendly dimension, we characterize as Formality. This component captures formality as distinct from respect more generally, and is likely related to social distance.

Standardizing these factor scores as outcome variables in mixed-effects models, we find that officers were equal in Formality with white and black drivers [$b = 0.01 (-0.19, 0.16)$], but higher in Respect with white drivers [$b = 0.17 (0.00, 0.33)$] (Fig. 1).

Study 1 demonstrates that key features of police treatment can be reliably gleaned from officer speech. Participant ratings from thin slices of police–community interactions reveal racial disparities in how respectful, impartial, polite, friendly, and formal officers’ language to community members was perceived. Such differences were driven by differences in the Respect officers communicated toward drivers rather than the Formality with which officers addressed them.

Study 2: Linguistic Correlates of Respect. The methods of study 1 (human coding of 414 individual utterances), although effective at discovering racial disparities in officer respect toward community members in our dataset, cannot offer a general solution to the analysis of body camera data. One problem is scale: Each year, on the order of 26 million vehicle stops are made (5). Furthermore, using only a small sample of individual utterances makes it impossible to study how police treatment varies over officers, or how the interaction progresses across time in each stop.

![Fig. 1.](Image) (Left) Differences in raw participant ratings between interactions with black and white community members. (Right) When collapsed to two uncorrelated components, Respect and Formality, we find a significant difference for Respect but none for Formality. Error bars represent 95% confidence intervals. PC, principal component.
In this study, we therefore develop computational linguistic models of respect and formality and tune them on the 414 individual utterances; in study 3, we apply these models to our full dataset of 36,738 utterances. Our method is based on linguistic theories of respect that model how speakers use respectful language (apologizing, giving agency, softening of commands, etc.) to mitigate “face-threatening acts.” We use computational linguistic methods (e.g., refs. 23–26) to extract features of the language of each officer utterance. The log-transformed counts of these features are then used as independent variables in two linear regression models predicting the perceptual ratings of Respect and Formality from study 1.

Our model-assigned ratings agree with the average human from study 1 about as well as humans agree with each other. Our model for Respect obtains an adjusted $R^2$ of 0.258 on the perceptual ratings obtained in study 1, and a root-mean-square error (RMSE) of 0.840, compared with an RMSE of 0.842 for the average rater relative to other raters. Our model for Formality obtains an adjusted $R^2$ of 0.190, and an RMSE of 0.882 compared with 0.764 for the average rater (see SI Appendix, Model Comparison to Annotators for more details on how these values were calculated). These results indicate that, despite the sophisticated social and psychological cues participants are likely drawing upon in rating officers’ utterances, a constrained set of objectively measurable linguistic features can explain a meaningful portion of the variance in these ratings.

Fig. 2 lists the linguistic features that received significant weights in our model of Respect (arranged by their model coefficients). For example, apologizing, gratitude, and expressions of concern for citizen safety are all associated with respect. The bars on the right show the log-odds of the relative proportion of interactions in our dataset taken up by each feature, where negative numbers mean that a feature comprised a larger proportion of officers’ speech in interactions with black community members and positive numbers mean the same for interactions with white community members. Example utterances containing instances of the highest-weighted features for the Respect model are shown in Fig. 3. See SI Appendix, Study 2 for full regression outputs and more detailed discussion of particular linguistic findings.

Study 3: Racial Disparities in Respect. Having demonstrated that people can reliably infer features of procedural justice from officer speech (study 1), and that these ratings can be reliably predicted from statistical models of linguistic features (study 2), we are now able to address our central question: Controlling for contextual factors of the interaction, is officers’ language more respectful when speaking to white as opposed to black community members?

We apply our models from study 2 to the entire corpus of transcribed interactions to generate predicted scores for Respect and Formality for each of the 36,738 utterances in our dataset. We then build linear mixed-effects models for Respect and Formality over these utterances. We include, as covariates in our primary model, community member race, age, and gender; officer race; whether a search was conducted; and the result of the stop (warning, citation, or arrest). We include random intercepts for interactions nested within officers.

Controlling for these contextual factors, utterances spoken by officers to white community members score higher in Respect ($\beta = 0.05 (0.03, 0.08)$). Officer utterances were also higher in

![Fig. 2.](image-url)
Respect when spoken to older ($\beta = 0.07$ (0.05, 0.09)) community members and when a citation was issued ($\beta = 0.04$ (0.02, 0.06)); Respect was lower in stops where a search was conducted ($\beta = -0.08$ (−0.11, −0.05)). Officer race did not contribute a significant effect. Furthermore, in an additional model on 965 stops for which geographic information was available, neither the crime rate nor density of businesses in the area of the stop were significant, although a higher crime rate was indicative of increased Formality ($\beta = 0.03$ (0.01, 0.05)).

One might consider the hypothesis that officers were less respectful when pulling over community members for more severe offenses. We tested this by running another model on a subset of 869 interactions for which we obtained ratings of offense severity on a four-point Likert scale from Oakland Police Department officers, including these ratings as a covariate in addition to those mentioned above. We found that the offense severity was not predictive of officer respect levels, and did not substantially change the results described above.

To consider whether this disparity persists in the most “everyday” interactions, we also reran our analyses on the subset of interactions that did not involve arrests or searches ($N = 781$), and found the results from our earlier models were fundamentally unchanged. Full regression tables for all models described above are given in SI Appendix, Study 3.

Another hypothesis is that the racial disparities might have been caused by officers being more formal to white community members, and more informal or colloquial to black community members. However, we found that race was not associated with the formality of officers’ utterances. Instead, utterances were higher in Formality in interactions with older ($\beta = 0.05$ (0.03, 0.07)) and female ($\beta = 0.02$ (0.00, 0.04)) community members.

Are the racial disparities in the respectfulness of officer speech we observe driven by a small number of officers? We calculated the officer-level difference between white and black stops for every officer ($N = 90$) in the dataset who had interactions with both blacks and whites (Fig. 4). We find a roughly normal distribution of these deltas for officers of all races. This contrasts with the case of stop-and-frisk, where individual outlier officers account for a substantial proportion of racial disparities (27); the disparities we observe here cannot be explained by a small number of extreme officers.

Because our model is able to generate scores across all utterances in our dataset, we can also consider aspects of the trajectory of interactions beyond the mean level of respect (Fig. 5). Growth-curve analyses revealed that officers spoke with greater Respect ($b = 0.35$ (0.29, 0.40)) and reduced Formality ($b = -0.57$ (−0.62, −0.53)) as interactions progressed. However, these trajectories varied by community member race: Although stops of white and black drivers converged in the Formality expressed during the interaction ($b = -0.09$ (−0.13, −0.05)), the gap in Respect increased over time ($b = 0.10$ (0.05, 0.15)). That is, officer Respect increased more quickly in interactions with white drivers ($\beta = 0.45$ (0.38, 0.54)) than in interactions with black drivers ($\beta = 0.24$ (0.19, 0.29)).

**Discussion.** Despite the formative role officer respect plays in establishing or eroding police legitimacy (7), it has been impossible to measure how police officers communicate with the public, let alone gauge racial disparities in officer respect. However, body-worn cameras capture such interactions every day. Computational linguistic techniques let us examine police–community contacts in a manner powerful enough to scale to any number of interactions, but sensitive enough to capture the interpersonal qualities that matter to the police and public alike.

In doing so, we first showed that people make consistent judgments about such interactions from officers’ language, and we identified two underlying, uncorrelated constructs perceived by participants: Respect and Formality. We then built computational linguistic models of these constructs, identifying crucial positive and negative politeness strategies in the police–community interactional context. Applying these models to an entire month of vehicle stops, we showed strong evidence for racial disparities in Respect, but not in Formality: Officers’ language is less respectful when speaking to black community members.

Indeed, we find that white community members are 57% more likely to hear an officer say one of the most respectful utterances in our dataset, whereas black community members are 61% more likely to hear an officer say one of the least respectful utterances in our dataset. (Here we define the top 10% of utterances to be most respectful and the bottom 10% to be least respectful.)

This work demonstrates the power of body camera footage as an important source of data, not just as evidence, addressing limitations with methodologies that rely on citizens’ recollection of past interactions (10) or direct researcher observation of police behavior (17–20). However, studying body camera footage presents numerous hurdles, including privacy concerns and the raw scale of the data. The computational linguistic models presented here offer a path toward addressing both these concerns, allowing for the analysis of transcribed datasets of any size, and generating reliable ratings of respect automatically. These models have the potential to allow for useful information about an interaction to be extracted while maintaining officer and community member privacy.

The racial disparities in officer respect are clear and consistent, yet the causes of these disparities are less clear. It is certainly possible that some of these disparities are prompted by the language and behavior of the community members themselves, particularly as historical tensions in Oakland and preexisting beliefs about the legitimacy of the police may induce fear, anger, or stereotype threat. However, community member speech cannot be the sole cause of these disparities. Study 1 found racial disparities in police language even when annotators judged that language in the context of the community member’s utterances. We observe racial disparities in officer respect even in police utterances from the initial 5% of an interaction, suggesting that officers speak differently to community members of different races even before the driver has had the opportunity to say much at all.

Regardless of cause, we have found that police officers’ interactions with blacks tend to be more fraught, not only in terms of disproportionate outcomes (as previous work has shown) but also interpersonally, even when no arrest is made and no use of force occurs. These disparities could have adverse downstream effects, as experiences of respect or disrespect in personal interactions with police officers play a central role in community members’ judgments of how procedurally fair the police are as an institution, as well as the community’s willingness to support or cooperate with the police (8, 9).

![Fig. 4. Kernel density estimate of individual officer-level differences in Respect when talking to white as opposed to black community members, for the 90 officers in our dataset who have interactions with both blacks and whites. More positive numbers on the x axis represent a greater positive shift in Respect toward white community members.](nnas.org/cgi/doi/10.1073/pnas.1702413114 Voigt et al.)
We now have a method for quantifying these troubled interactions. Although the circumstances of any particular stop can vary dramatically, our approach allows us to measure aggregate department-level trends, revealing disparities across hundreds of interactions. These disparities are part of a constellation of differences in officer language spoken toward black versus white community members; a simple classifier trained on only the words used by officers is able to correctly predict the race of the community member in over two thirds of the interactions (see SI Appendix, Linguistic Classification Accuracy of Race).

Future research could expand body camera analysis beyond text to include information from the audio such as speech intonation and emotional prosody, and video, such as the citizen’s facial expressions and body movement, offering even more insight into how interactions progress and can sometimes go awry. In addition, footage analysis could help us better understand what linguistic acts lead interactions to go well, which can inform police training and quantify its impacts over time.

The studies presented here open a path toward these future opportunities and represent an important area of research for the study of policing: Computational, large-scale analyses of language give us a way to examine and improve police–community interaction that we have never had before.

Materials and Methods

Data and Processing. The video for each traffic stop was transcribed into text by professional transcribers, who transcribed while listening to audio and watching the video. Extensive measures were taken to preserve privacy; data were kept on a central server, and transcribers (as well as all researchers) underwent background checks with the Oakland Police Department. Transcribers also “diarized” the text (labeling who was speaking at each time point). We used the diarization to automatically remove all officer speech to the dispatcher or to other officers, leaving only speech from the officer directed toward the community member. After transcription, transcripts were manually cleaned up, heuristically fixing transcriber diarization errors, and correcting typographical errors involving utterance timing so that all transcripts were automatically readable. Every utterance in the dataset was processed with Stanford CoreNLP 3.4.1 (28) to generate sentence and word segmentation, part-of-speech tags, and dependency parses used for feature extraction and analysis.

The raw video footage associated with this paper was available for our research purposes with the cooperation of the Oakland Police Department, and naturally cannot be publicly distributed. However, we make available deidentified data frames for each study described here, so that other researchers can replicate our results. We also release all of the code for the computational linguistic models, as well as pretrained models that can be run on arbitrary text.

Human Annotation of Utterances. A subset of 420 exchanges, consisting of one officer utterance (defined as a “turn” of one or more sentences by transcribers) and, if applicable, the immediately preceding community member utterance were sampled from the corpus for annotation. Utterances were sampled with the constraint that at least 15 words were spoken between the two speakers, and that at least five words were spoken by the officer. These utterances were grouped into seven “batches” of 60 utterances apiece. Due to a data error, six duplicate utterances were annotated, but were excluded from subsequent analyses, resulting in 414 unique utterances toward black (N = 312) and white (N = 102) community members.

Each of 70 participants (39 female, M_age = 25.3) rated a batch of 60 of these utterances, such that each utterance was rated by at least 10 participants. On each trial, participants viewed the text of an exchange between a police officer and a community member: the text of the officer utterance, as well as the text of the community member utterance that immediately preceded it, if there was one. They then indicated, on four-point bipolar Likert scales, how respectful, polite, friendly, formal, and impartial the officer was in each exchange. Participants were allowed to indicate that they could not rate an utterance on a particular dimension, but were encouraged to nonetheless indicate their best guess. Participants had no other information about the interaction besides the officer’s utterance and the immediately preceding community member utterance.

All research was approved by the Stanford University Institutional Review Board, and written informed consent was obtained from all raters before their participation.

Computational Annotation of Utterances. Our model draws on linguistic theories of politeness; the technical term “politeness” refers to how concepts like respect, formality, and social distance take shape in language. These theories suggest that speakers use polite or respectful language to mitigate face-threatening acts (29–31).

Negative politeness is used to mitigate direct commands or other imperatives that limit the freedom of action of the listener, for example, by minimizing the imposition or emphasizing the agency of the interlocutor. Such strategies are central to police–community interactions because of the inherently coercive nature of a traffic stop. For instance, the use of the word “please” can soften requests and provide a sense of agency or choice; apologizing (“sorry,” “excuse me”) can admit regret on the part of the officer that some request is necessary; the use of hedging (“may,” “kinda,” “probably”) may reduce the perception of imposition.

Positive politeness is used to show that the speaker values the interlocutor and their interests, or to minimize the impact of actions that could damage such a perception. Positive politeness strategies are also crucial for police–community interactions, where the inherently unequal social roles at play may necessitate a particular sensitivity to the community member’s positive face. For instance, greetings and introductions can minify the imposition or emphasize the agency of the interlocutor. These theories suggest that speakers use polite or respectful language to mitigate face-threatening acts (29–31).

Expressions of reassurance (“no big deal,” “don’t worry”) seek to assuage the community member’s potential concerns in tense circumstances, and expressions of gratitude (“thank you”) serve to reduce the perceived power differential by deferring to the actions of the community member. Mentions of safety (“Drive safely now”) explicitly acknowledge concern for the community member’s personal well-being. Referring expressions are another important component of positive politeness;
formal titles ("sir,“ “ma’am,” “Mr.,“ “Ms.”) and surnames may convey a contrast with informal titles ("dude,“ “bro,“ “bud") and first names (31–33).

We also include features we expect to capture officer anxiety, such as speech disfluencies ("w-“Well") and commands to keep "hands on the wheel," which may contribute to a community member's perception of disrespect. These are of a different character than the politeness strategies discussed above, but we found that all analyses presented here hold true even if these features are not included.

We use standard techniques to automatically extract features from the text of each utterance (23–26). These features include lexicons (lists of words). For example, to detect informal titles, we used an augmented version of a word list from ref. 34. We also used regular expressions, as such for detecting tag questions ("do that for me, will you?") and syntactic parse features, such as a feature that detects when "just" is used in constructions as an adverbial modifier.

Features were modeled as log-transformed counts in each utterance, and were used as independent variables in two linear regression models predicting the human perceptual ratings of respect and formality obtained in study 1. They were introduced into the regression using stepwise forward selection by R² to remove features that don't substantially contribute to the model's accuracy.

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MPD BODY CAMERA SOP

November 5, 2014

Purpose

The content of this SOP will provide MPD personnel with guidelines and procedures for the use, management, access, retention, handling of evidence, storage, and retrieval of recorded media captured by Portable Video Recording (PVR) equipment during the PVR trial period. The purpose of utilizing PVR equipment by Minneapolis Police Department officers during the trial period is to accomplish the following:

- Capture digital audio-video evidence for criminal, civil, and traffic-related court cases.
- Assist officers with recalling facts or other details captured by the equipment that will help them accurately articulate a chain of events when writing reports.
- Be used as a training tool for officer safety and best practices in the MPD.
- Assist in the assessment of contacts between officers and the public by reviewing procedures and interpersonal actions.
- Assist in the assessment of different manufactures of PVR equipment/systems
- Develop a future SOP
- Develop a policy and procedure

The PVR equipment is not to be used for the purpose of surveillance of officers, initiating an investigation or initiating disciplinary action against an officer. However, data captured by the PVR may be accessed and/or used as evidence: relating to a complaint of misconduct made against an officer; or in situations where evidence of officer misconduct is discovered during the course of authorized access or review of PVR data with regard to pending administrative, criminal, civil, or traffic matters.

For the PVR trial phase, Minneapolis Police Department employees will be responsible for performing assigned duties in accordance with the Portable Video Recording SOP. All officers who are issued a PVR must have a basic knowledge and understanding of the operation of the PVR. Officers must receive training in the use of the PVR by an authorized MPD employee and only those officers that have received the department authorized training may operate a PVR. All MPD employees who have access to the PVR systems shall receive training on these systems.

The term “officer” is used generically in this document and does not assume a level of rank, such as Patrol Officer. It includes all applicable sworn and non-sworn personnel.
OFFICER RESPONSIBILITIES

Officers assigned the PVR shall use it in accordance with MPD training, MPD SOP guidelines, and the manufacturer’s recommendations.

Officers assigned a PVR shall complete department authorized training in the use and operation of the PVR’s.

Officers should wear the PVR during their shift at all times during which they could reasonably anticipate that they may become involved in a situation for which activation is appropriate in accordance with the “Activation” section of this policy. However, officers should not wear the PVR in situations where any recordings are prohibited, such as court.

Officers shall conduct a PVR equipment check to ensure that the equipment is working properly at the beginning of their shift and periodically throughout the shift.

Officers shall notify their immediate supervisor as soon as practical of any missing, damaged, or malfunctioning PVR equipment.

Officers should notify their immediate supervisor of any recorded event believed to be of value for administrative review or training purposes.

Officers shall upload all PVR digital data at the conclusion of their shift by placing their PVR in the assigned docking stations. Officers shall classify recorded events as appropriate based on the options available under the classification/storage software. This classification should be done shortly after the recorded incident is concluded, but must be done prior to upload at the end of the officer’s shift.

Officers who are equipped with a PVR and are operating a squad car that is equipped with Mobile Video Recording (MVR) equipment shall activate the MVR as required by policy, procedures/guidelines, and should activate the PVR as soon as practical and without compromising officer safety.

If asked, officers should inform those inquiring that audio-video recording equipment is in use.

RESTRICTIONS

Officers shall not use the PVR to record interactions solely with or among other department employees; except in circumstances for which activation is appropriate in accordance with the “Activation” section of this policy.

Officers shall not use the PVR for personal use or any other reason inconsistent with the “purposes” as set forth in this policy.

Officers shall not use a PVR for off-duty employment without prior approval of the Chief or her designee.

Officers shall not use a PVR for SWAT related operations.
Disabling PVR equipment and/or altering, duplicating, deleting or destroying PVR recordings is prohibited, except by authorized personnel.

SUPERVISOR RESPONSIBILITIES

Supervisors shall ensure that officers follow established procedures for the use and maintenance of PVR equipment and the completion of PVR documentation.

Ensure that appropriate measures are taken when informed of any missing, damaged, or malfunctioning PVR equipment.

Respond to the scene of an incident that requires immediate retrieval of recordings and ensure that the appropriate downloading procedures are followed.

When conducting force reviews, supervisors should view any pertinent PVR video as part of the review.

ACTIVATION

Officers should manually activate the PVR to Record Mode when reasonably safe and practical in the following situations:

- Traffic stops
- Suspicious vehicle stops
- Suspicious person stops
- Priority responses
- Vehicle pursuits
- Arrest situation
- Work-related transports
- Vehicle searches
- Physical confrontations
- Crimes in progress
- In any situation that the officer feels appropriate when taking a statement and/or gathering information from a victim, suspect or witness
- Any Significant Incident (see definitions)
- When advising an individual of their Miranda rights
- When ordered to do by a supervisor
- Any time an officer feels it is appropriate to preserve audio or visual evidence consistent with the purposes stated in this policy.
DEACTIVATION

Once activated, the PVR may be deactivated during activities such as:

- While protecting accident scenes
- Monitoring assigned traffic posts
- Assisting motorists
- To protect the identity of an officer in an undercover capacity
- To protect the identity of a confidential reliable informant
- The incident or event is such duration that the PVR is deactivated to conserve power and/or storage.
- The officer reasonable believes that the stopping of the recording will not result in the loss of critical evidence.
- Once an event has been stabilized, if it is necessary to discuss issues surrounding the incident/investigation with a supervisor or another officer in private, officers may turn off their PVR. This includes discussions between Field Training Officers with officers in training that are specific to training issues.
- If a request is made for a PVR to be turned off by a party being contacted, the officer should take into account the overall circumstances and what is most beneficial to all involved, before deciding to honor the request. For example, an officer may choose to turn off the PVR if its operation is inhibiting a victim or witness from giving a statement. It is up to the officer to make the determination as to what is best for the investigation or contact. If the PVR is deactivated, the officer should note the reason in their report/supplement.
- When ordered by a supervisor

When a PVR is deactivated officers should note the reason by narration prior to deactivation. If a report is prepared, the deactivation and the reason therefore should also be noted in the officer’s report or supplement.

REPORT WRITING

To ensure the accuracy of reports, an officer should review audio and video data before making a report or statement. An officer shall note the following in his/her report:

- Whether audio or video evidence was gathered relating to the events described in the report.
- If the PVR was deactivated prior to the conclusion of the event, the fact that the PVR was deactivated and the basis for deactivation.
- Any malfunction of the PVR equipment in either the recording or the uploading of the event.
PVR DATA RETENTION

Data that is not classified under one of the specified classification options shall be retained for one year. All data that is classified under one of the specified classification options shall be retained at least six years but in no event less than as otherwise provided under the Minneapolis Records Management Policy, whichever is longer.

PVR ACCESS/REQUESTS FOR DUPLICATION OF RECORDINGS

All PVR recordings are the property of the MPD and original PVR recordings shall remain in the sole custody of the MPD, unless necessary for the preparation of civil, criminal or administrative matters, used in court as evidence, provided to an expert for analysis, or required to be provided to another by lawful order.

Nothing herein shall preclude MPD personnel from reviewing or using recorded data for the purposes of investigation or prosecution of crimes or preparation of reports. Recorded data may only be used for training purposes with the approval of the Deputy Chief of Professional Standards.

An officer is entitled to access audio and video data: derived from PVR equipment issued to him/her; in which his/her voice or image appears; when reasonable and necessary for the officer to perform the essential functions of his/her job; or to defend against allegations of substandard performance or misconduct. Requests by MPD personnel for duplication of PVR data for purposes of official MPD business shall be directed to the Crime Lab Video Forensics section via submission of the Crime Lab Video Request for Services form (MP-9069).

Requests by MPD personnel for duplication of PVR data for non-work related purposes (e.g. teaching, personal reasons) shall be submitted to the Records Information Unit and are subject to the Minnesota Government Data Practices Act and City of Minneapolis data charges.

Requests made by the public for PVR video will be processed by the Records Information Unit (RIU), in conjunction with Precinct Supervisors, the Crime Lab Video Forensics Section and the Public Information Office.

Records Information Unit responsibilities:

- Determine nature of the request;
- Ensure video is not part of an active criminal or internal investigation;
- Submit Crime Lab Video Request for Services form (MP-9069) to the CLU requesting duplication of video;
- Receive recorded media intended for release;
- Ensure the Public Information Office reviews video prior to release to make certain that only public information is released;
- Notify requestor video is ready;
- Collect fees and release video.
• Crime Lab Video Forensics Section responsibilities:
• Receive requests via Crime Lab Video Request for Services form (MP-9069).
• Process requests according to Crime Lab Division SOP’s.

Public Information Office responsibilities:

• Coordinate with Records Information Unit to manage requests.
• Review all videos to be released.

Whenever PVR Data (or access to review such data) is provided to a person or entity other than MPD personnel, the requestor shall be given the Video Advisory attached hereto as Appendix A.

DEFINITIONS

Activation: Any process which causes the PVR system to record audio and/or video data. Activation will be done manually.

Categorize: To classify an event that has been recorded and for which a predetermined retention period has been set.

Critical Incident: An incident involving any of the following situations occurring in the line of duty:
• The use of Deadly Force by or against a Minneapolis Police Officer;
• Death or Great Bodily Harm to an officer;
• Death or Great Bodily Harm to a person who is in the custody or control of an officer;
• Any action by an officer that causes or is intended to cause Death or Great Bodily Harm.

Deadly Force: Minn. Stat. §609.066 states that: "Force which the actor uses with the purpose of causing, or which the actor should reasonably know creates a substantial risk of causing death or great bodily harm. The intentional discharge of a firearm other than a firearm loaded with less-lethal munitions and used by a peace officer within the scope of official duties, in the direction of another person, or at a vehicle in which another person is believed to be, constitutes deadly force."

De-activation: Any process in which causes the PVR system to stop recording. De-activation will be done manually.

Designated Upload Site: Location where officers complete the task of uploading PVR recordings to a storage server through a PC or docking station.

Great Bodily Harm: Bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ, or other serious bodily harm.

Mobile Video Recorder (MVR): Audio/video recording equipment designed for fixed installation in patrol vehicles that includes at a minimum, a camera, microphone, recorder and LCD monitor• Digital: Digitized (text, graphics, audio, and video).
Portable Video Recording (PVR) System: Digital audio-video recording equipment designed to be worn on a person.

PVR Equipment Check: An audio-video test to ensure that the PVR equipment is in working order. This check shall include a test of the video and microphone recording components and a date and time check.

PVR Operational Guide: Training manual/guide which outlines the protocol for operating the PVR system/equipment.

Pre-Event Recording: Video stored by the PVR system prior to manual activation. This is a configurable feature for the digital PVR system and is preset to record video prior to manual activation. The pre-event recording is included as part of the incident and is viewable during playback.

PVR Uploading: The act of transferring recorded data from the PVR to the storage server.

Record Mode: Any time PVR equipment is recording audio and video as indicated on the LCD monitor, wireless microphone and/or DVR.

Recorded Media: Audio-video signals recorded on any of several storage devices, including but not limited to, portable digital storage devices (e.g. CD, DVD, hard drive, flash drive).

Significant Incident: Includes, but are not limited to, any of the following situations occurring in the line of duty:

- Critical incident;
- Domestic abuse incident interview;
- Felony crime;
- Pursuit;
- Squad accident;
- Any incident in which the officer or sworn supervisor believes the recording to be of evidentiary and/or administrative value;
- The identity of someone in the video needs to be protected;
- Man-made or natural disaster or act of terrorism;
- Any event that an officer or supervisor believes should be brought to the immediate attention of police command staff;
- Any time that a citizen makes allegations of police misconduct or discrimination during the incident.
Standing Order on Disclosure of Portable Recording Systems Data Provided Pursuant to Discovery in Criminal and Juvenile Delinquency Cases

Whereas, police departments and other law enforcement agencies in Hennepin County may equip law enforcement officers with portable recording systems as defined in Minn. Stat. § 13.825, subd. 1; and

Whereas, Minn. Stat. §§ 13.82, subd. 7, and 13.825, subd. 2, classify data collected by a portable recording system, and not falling within certain narrow exceptions, as confidential, private or nonpublic data; and

Whereas, Minn. R. Cr. P. 9.01 and 9.04, and other applicable statutes and/or rules of court, may compel a prosecuting authority to disclose portable recording system data to a defendant, defendant’s counsel, agents of defendant’s counsel and potential prosecution or defense witnesses in a criminal proceeding, including a juvenile delinquency proceeding in Juvenile Court (collectively referred to as “Litigation Parties”; individually, a “Litigation Party”); and

Whereas, portable recording system data disclosed to the Litigation Parties may contain confidential, private or nonpublic data not otherwise accessible to those parties under the Minnesota Government Data Practices Act; and

Whereas, portable recording system data disclosed to the Litigation Parties may include unredacted material subject to redaction under the Minnesota Government Data Practices Act, including but not limited to, subjects other than peace officers who do not consent to release of the data, undercover peace officers, and material that is clearly offensive to common sensibilities; and
Whereas, Minn. R. Cr. P. 9.03, subd. 5 and Minn. R. Juv. Del. P. 10.06, subd. 5, permit
courts to place restrictions and conditions upon materials disclosed pursuant to the rules of
discovery;

Now, therefore, the Court enters the following:

ORDER

1. Unless otherwise expressly ordered by the presiding judge in an individual case,
   Litigation Parties may not disclose portable recording system data, in whole or in
   part, (the “data”) that has been obtained from a prosecuting authority pursuant to the
   rules of discovery, to any other person or entity who or which is not a Litigation
   Party, except under the circumstances outlined in numbered paragraph 2 of this
   Order.

2. Any Litigation Party in possession of such portable recording system data may
   request from the prosecuting authority that any such data be exempt from this Order.
   The prosecuting authority, upon review of the data, may agree in writing or on the
   record to exempt the data from this Order, in its original or a redacted form, if it has
determined that the Litigation Party would be independently entitled to the data upon
a request made pursuant to the Minnesota Government Data Practices Act. Upon that
agreement, that data is exempt from this Order.

3. Nothing in this Order prevents a Litigation Party from independently obtaining
   portable recording system data upon a request made pursuant to the Minnesota
   Government Data Practices Act, and upon receipt, disclosing the data to any other
   person or entity who or which is not a Litigation Party.
4. When a prosecuting authority, in the course of discovery, or a Litigation Party provides a physical or electronic copy of portable recording system data to any Litigation Party, the party providing the data shall provide a copy of this Standing Order, or otherwise convey its restrictions on further disclosure to the recipient either verbally or in writing. This requirement does not apply to internal transfers of the data between Litigation Parties employed by a single agency or firm.

5. This Standing Order shall apply permanently with respect to portable recording system data obtained or produced in all criminal and juvenile delinquency court proceedings in the Fourth Judicial District, except as may be ordered by the presiding judge in an individual case.

BY THE COURT:

Dated: December 19, 2016

Ivy S. Bernhardson
Chief Judge of District Court
A bill for an act
relating to data practices; adding provisions for portable recording systems;
classifying audio and video data captured by a law enforcement of [amending
Minnesota Statutes 2014, section 13.82, by adding a subdivision.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2014, section 13.82, is amended by adding a subdivision
to read:

Subd. 31. Portable video recording systems. (a) As used in this subdivision,
"portable video recording system data" means audio or video data collected by a device
worn by a peace of [that is operated pursuant to a written department or agency policy,
and is capable of recording the of [activities and interactions with others or collecting
digital multimedia evidence as part of an investigation.

(b) Except for data [as active criminal investigative data] pursuant to
subdivision 7, portable video recording system data is private data on individuals or
nonpublic data at all times. Notwithstanding subdivision 7, portable video recording
system data that are part of an inactive investigation remain [as provided in
this subdivision. The of [using the system, and any individual or entity that can be
[ ] in the audio or video data captured by the system, is a subject of the data and
must be provided access as provided in this chapter.

(c) The following data related to use of portable video recording systems by a law
enforcement agency are public data at all times:

(1) the total number of devices owned or maintained by the agency;
(2) a daily record of the total number of devices actually deployed and used by
of [ ] and the precincts in which they were used;
(3) the law enforcement agency's policies and procedures for use of portable video
recording systems; and

(4) the total amount of recorded audio and video data collected by portable video
recording systems and maintained by the agency, and the agency's retention schedule for
the data and procedures for destruction.

d) Notwithstanding section 138.17, audio and video data captured by a portable
video recording system that is not part of an active or inactive criminal investigation
must be destroyed within 90 days of the date the data were captured, unless the data
subject, or any peace of by the data, submits a written request to the law
enforcement agency to retain the data for possible use in a future proceeding related to
the circumstances under which the data were originally collected. Any law enforcement
agency that receives a request to retain data shall retain it for a reasonable time, based
upon the likelihood of its future use and the agency's policies for retention. Peace of
who are by portable video recording system data shall have unrestricted access
to the data while it is retained and must be permitted to make copies.

e) A law enforcement agency using portable video recording systems must conduct
a biennial audit of data collected from the systems to determine whether the data has
been destroyed as required by this subdivision. Summary data related to the
results of the audit are public data.

f) A law enforcement agency may not use a portable video recording system unless
the agency has adopted a policy, and any additional necessary procedures and protocols, to
ensure compliance with this subdivision.

EFFECTIVE DATE. This section is effective the day following enactment.

Data collected before the effective date of this section must be destroyed, if required by
this section, no more than 15 days after this section becomes effective.
Body-Worn Cameras Improve Law Enforcement Officer Report Writing Accuracy

Dawes, D., Heegaard, W., Brave, M., Paetow, G., Weston, B., & Ho, J.

ABSTRACT

With cameras becoming ubiquitous in society, it is becoming more important for law enforcement officers (LEOs) to have video recordings of civilian contacts recorded from their own perspectives. This was a prospective study of a convenience sample of LEOs who completed several scenarios and wrote a use-of-force report on one of the scenarios from memory. The LEOs then reviewed their body-worn-camera (BWC) recording of the scenario and amended their reports, as they felt necessary. The 11 LEOs had an average of 2.63 minor errors (range 0-7), 5.4 moderate errors (0-14), and 0.9 major errors (range 0-3) corrected by their BWC recording review in our study. This included 21 errors related to miscounting, mis-sequencing, or omitting force, warnings, compliance, or other important descriptors of the use of force. Point-of-view BWC recording review improved the accuracy of the LEOs' report writing, leading to the correction of important errors from the LEO's original reports.

Keywords: Body-worn camera, BWC, law enforcement, point-of-view, POV, use of force, report writing, memory

TASER International, Inc. (TASER) provided funding and material support for this study. Dr. Ho is the Medical Director for TASER. Dr. Dawes is a consultant to TASER. Dr. Heegaard is a member of TASER's Scientific and Medical Advisory Board (SMAB). Mr. Brave is the National/International Litigation Counsel for TASER and is the Legal Advisor to the SMAB and the TASER Training Board. Dr. Ho, Dr. Heegaard, and Mr. Brave own shares of stock in TASER. Dr. Paetow and Dr. Weston have no conflicts to declare.
Body-Worn Cameras Improve Law Enforcement Officers Report Writing Accuracy

Introduction
With cameras becoming ubiquitous in our society, smart phones and surveillance cameras, public and private, are increasingly recording the actions of law enforcement officers (LEOs). Last year alone, 120 million smart phones were sold in the U.S. (Hughes, 2014). Furthermore, an estimated 30 million surveillance cameras in the U.S. were used to record 4 billion hours of video per week (Vlahos, 2009). LEOs often lack the benefit of reviewing the recordings of an incident prior to writing reports and often rely on their memory of events that often take place quickly and under stress. In use-of-force reporting, there is an expectation of increased scrutiny, and specific incident details are required, especially related to the force used and the justification for each use of force. When reports do not match the available recording, (often obtained during judicial proceedings), it can be used to impeach the LEO's testimony at trial on specific, relevant details or on general credibility by exploiting inconsistencies between the LEO's report and the recording. LEOs have used patrol-car dash cameras since introduced in Texas in the 1980s, with more widespread use in the 1990s with federal funding. Body-worn cameras (BWC), offer LEOs a point-of-view (POV) recording of an incident, whether in front of the vehicle or elsewhere, are a newer phenomenon and have not been extensively studied.

Memory Science
Memory is encoded in a complex and dynamic pattern of neuron synaptic connections (Lacy and Stark, 2013). There is a robust literature on the reconstructive nature of memory retrieval and how errors are introduced. The common misconception is that memory retrieval is similar to playing back a digital recorder, when, in fact, memory retrieval is a reconstructive process and has been likened to paleontology: "out of a few stored bone chips, we remember a dinosaur" (Lacy & Stark, 2013, p. 650). What is encoded is determined by many factors, and the pattern of neuron synaptic connections is shaped by our prior body of knowledge and experience, and can be shaped by experiences that occur later. In the article by Lacy and Stark (2013), in discussing the inaccuracy of memory, and specifically the introduction of schematic errors, put simply, if we believe an event should have happened in a certain way on the basis of our previous experiences, we are likely to think that the event did happen this way. There is a natural bias for people to fill in the gaps' of a memory (Lacy & Stark, 2013). This schematic memory error is likely to occur in law enforcement or other settings in which a person experiences similar circumstances (e.g., “call”) routinely. As stated by Lacy and Stark (2013), memory is an adaptive process based on reconstruction it is not infallible and therefore should not be treated as such.

Law enforcement use-of-force situations can be stressful, and stress has been established to impair memory. The authors of this article have previously conducted a study examining the neurocognitive effects of arrest scenarios, with one scenario simulating a fight between the subject "officer" and a suspect (Dawes, 2014). In this prior study, the authors found subjects had the greatest cognitive deficits after the arrest stressors in the testing of working memory. These deficits had not returned to baseline by one hour (Dawes, 2014). Morgan, et al. also found stress-induced deficits in working
memory in a study of special operations soldiers (Morgan, 2006). These memory deficits are related in part to catecholamine effects. In another study, the authors measured catecholamine release after arrest scenarios, where it was found that a simulated fight between the subject “officer” and “suspect” led to the greatest release of catecholamines (Ho, 2010). Some have described the relationship of stress on memory to be an inverted U-shaped dose-response curve (Yerkes-Dodson law), where some optimal level of stress may lead to better memory for an event, but higher levels will impair memory. However, peripheral details, even when memory is better, may not be well remembered (Lacy & Stark, 2013). In a study of Federal Law Enforcement Training Center (FLETC) law enforcement trainees subjected to a stressful scenario, the trainees had problems with recall: only 43% could accurately recall their shot placement, and only 57% could remember when in the scenario the situation justified lethal force (Meyerhoff, 2004).

Fatigue has also been shown to impair memory. Studies have demonstrated decrements in memory following sleep deprivation (Goel, 2009). Blagrove (1996) noted the “general ‘cognitive slowing’” in sleep deprived individuals, and discussed an increased suggestibility, whether it be due to actual cognitive deficits or having a decreased motivation, and “attempts to avoid confrontation” (p. 55). This latter concept could be extrapolated to the schematic errors in memory. If a LEO is writing a report while sleep deprived and has a poor memory of the events, a tendency may exist to block memories not consistent with prior schema.

Exertion has been implicated in memory deficits. In a study by Hope, et al (2012) of LEO volunteers, the exertion group displayed impaired recall and recognition performance compared to controls. The authors point to a “limited attentional capacity at encoding as a consequence of competing processing goals” (Hope, 2012, p. 389). The interesting part about this study is that the exertion group also had decrements in their ability to recall information encoded before the exertion. Hope (2012) noted that “witnesses may be required to justify or rationalize deficits or inconsistencies in their accounts… the current findings have important forensic, legal and other operational contexts by providing a…. relevant demonstration of impaired eyewitness memory following physical exertion” (p. 389).

Memory is not infallible, and stress, fatigue, and exertion, all factors commonly encountered by LEOs during arrest, can further impair memory. These factors, when coupled with a report that is missing or contains erroneous important use-of-force details, may lead to important, and possible catastrophic consequences for LEOs in legal proceedings that can occur years after the event.

**Literature Review**

The authors of this article were unable to find any published prospective studies on the use of incident recordings, whether BWCs or other cameras, to improve LEO use-of-force report writing. An International Association of Chiefs of Police (IACP) survey study found that officers replayed dash cameras for report writing: “They reported that the video record of each incident allows them to rely less on memory when writing reports afterwards” (Westphal, 2015, para. 12). A survey study by Fouche (2014) involving fielded BWCs with the University of Georgia Police Department found that its LEOs showed a high level agreement with the hypothesis that BWC improved incident documentation. Neither this study, nor the IACP study examined whether or not BWCs...
Body-Worn Cameras /Dawes, Heegaard, Brave, Paetow, Westin, & Ho

actually improved incident documentation. The available literature, some of which is discussed below, focused on the impact of BWCS on other metrics, such as use of force incidents, "civilizing effect," complaints and complaint resolution, and effect on successful prosecutions, which may be indirectly related to improved documentation, but this was not the focus of the available studies.

**Purpose**

Given the understanding of the limitations of memory, particularly under the stress of a use-of-force scenario, and given the paucity of studies on the effect of incident recordings on report writing accuracy, the purpose of this study was to determine whether concurrent LEO review of BWCS recordings would lead to more accurate use-of-force reporting. The study physicians hypothesized that study subjects would improve the accuracy of their report with concurrent review of the BWCS recording. To our knowledge, this is the first of such studies and it is believed that it will help LEOs better understand personal report writing limitations and understand how emerging technologies might help improve such skills; it may help administrators in decisions about how to reduce liability in their departments; and may help researchers in the field by suggesting a novel mechanism to study such problems.

**Methods**

**Participants**

This was a prospective, observational study using a convenience sample of LEOs from the Phoenix, Arizona area. The institutional review board of Hennepin County Medical Center (HCMC) approved the study as an exempt study. The study was conducted at TASER International, Inc. (Scottsdale, AZ) on a weekend when no employees were in the building other than study support personnel and security. Study subjects were required to have recent LEO patrol experience and full duty status in their respective departments. Subjects provided informed consent and completed a screening questionnaire that included basic demographics data. In addition, to reduce confounders, subjects were recruited who had not just completed a night shift and who were not working on the day of the study. Subjects were asked on the day of the study whether they had any conditions that would limit participation in a use-of-force scenario that would involve moderate exertion and use of force on a training dummy. Any subject who answered in the affirmative was to be excluded from the study. No subjects were excluded.

Subjects were provided with a duty belt that had a CO2 charged simulation pistol (empty magazine and chamber), inert pepper spray, a live TASER® X26™ conducted electrical weapon (CEW) with an expended cartridge, an expandable baton, empty magazines, and handcuffs. Subjects were also fitted with an AXON® (TASER, Scottsdale, AZ) BWCS. The BWCS in this instance was worn attached by a magnet to a pair of Oakley™ (Foothill Ranch, CA) glasses specifically manufactured for this purpose. The camera was attached on the "gun side" of the subject. This vantage point allowed the camera to be generally in line with the officer's field of vision. Attaching it on the "gun side" allowed the camera to "see" the field of view if an officer were peaking around a corner, for example. The available systems are discussed in more depth in the
Discussion section below. Two separate safety checks by separate moderators were conducted prior to the start of each scenario. Subjects were advised to do a safety pause prior to using the expandable baton so the area could be cleared. Participants were also advised that the firearm muzzle had to be more than three feet from a live target when fired. Scenario moderators were responsible for scenario safety and advised subjects and actors regarding stopping the scenario for safety violations. All subjects were provided with a note pad and pen to take notes as needed, as they would on calls for service.

Subjects read an instruction sheet that outlined the rules of the scenarios. All use-of-force, if necessary, was to be used on training dummies that would be substituted for the live actors at the time force was used. All persons present in the scenarios, except those wearing yellow vests, were actors and were “in-play” for the subject. Subjects also read a use-of-force policy that applied to the scenarios. The policy was generally consistent with standard law enforcement use-of-force policies and was modelled after the Los Angeles (CA) Sheriff’s Department (LASD) policy that was adapted to the specific force issues in our study (http://shq.lasdnews.net/content/uaa/EPC/force-policy.pdf.). Subjects were to use their hands to simulate radio communications and were advised to use their radio as they normally would in the field. A moderator played the role of dispatch for the subject.

Interventions

The subjects were “dispatched” to three, back-to-back scenarios: 1) domestic disturbance, 2) vehicle stop, and 3) theft report. At each scenario, a moderator acted as dispatch and recorded the scenario with a BWC. There was also a moderator who acted as the referee to ensure the scenario played out according to the script. Both moderators were responsible for participant safety during each scenario. The second and third scenarios were distraction scenarios in that they were not part of the study evaluation. They were meant to create time, stress, and distraction prior to writing the report for the first scenario. Study participants were not aware that Scenario 2 and 3 were unevaluated.

First Scenario: Domestic disturbance (Tested scenario). The first scenario took place in a room simulating an apartment located on the fourth floor of an apartment building. The study participant (referred to as LEO in the rest of the paper) was advised of a domestic disturbance in the apartment with persons arguing. The LEO had to climb four flights of stairs and encountered a partially open apartment door. The LEO found a male and female subject arguing inside the apartment and a third person sitting quietly in the apartment drinking a beer. The lighting was medium to medium-low, but not dark. The lighting level was meant to create stress but not obscure visualization. As soon as the LEO entered the apartment, the female subject in the corner drinking a beer proceeded to throw an empty beer can at the male subject and the male pushed the female to the couch. The male subject was instructed to slowly back away from the female subject. The male subject was instructed to verbally challenge the LEO as the LEO approached and when was next to the training dummy, in an attempt to provoke a use-of-force. If the LEO did not respond to a verbal challenge, the male subject was to move the dummy towards the LEO simulating an assault. The male subject “animated” the dummy during the struggle. This was a variable with each LEO but included making the dummy try to get up, kick the LEO, roll around, etc. The dummy’s hands were tied in the front in
order to simulate a subject who would not release his hands (known as “turtling”),
requiring the LEO to use force to get the subject to release his clasped hands. At the
discretion of the referee, in terms of the timing, the scenario was paused momentarily and
the dummy’s hands were released. The scenario ended when the LEO handcuffed the
dummy, radioed his status to dispatch, and took no further action while waiting for back
up. The scenario included several evidence “plants” including: alcohol, drug
paraphernalia (i.e., a bag simulating marijuana and pill bottles), items which could have
been used as weapons (i.e., hammer, scissors, broom, and handgun) that were all in plain
view. During the struggle with the male subject, the female subject concealed the drugs
and handgun (the latter in her waistband) and then provided a distraction to the LEO both
verbally and by her actions. She was advised per the scenario to approach the LEO while
throwing beer can at the male subject. The female subject was instructed to be a minor
distraction but not to provoke an action to move the LEO away from the male subject.

Second Scenario: Vehicle Stop (Distraction scenario). The second scenario
took place in a parking lot simulating a roadway. Immediately after being cleared
from the first call, dispatch requested the LEO stage at an intersection to intercept a
reported reckless driver whose last known direction of travel was coming towards
the LEO at the intersection. The LEO staged in a live vehicle with the engine
running as a vehicle fitting the description of the subject vehicle approached. The
LEO observed what appeared to be a water bottle being thrown from the subject’s
vehicle, giving the LEO probable cause (PC) to make a traffic stop. The LEO
conducted the traffic stop and found the vehicle occupied with two male subjects
who were mildly uncooperative. The two “actors” were instructed to annoy the
LEO (e.g., not immediately getting off a cell phone, loud music, delays in
producing documents, making the LEO repeat himself) but not to provoke a use-of-
force or the LEO ordering the subjects out of the vehicle. The moderator serving as
the referee was instructed to end the scenario if either of these occurred. A training
dummy was present in the vehicle to make the LEO believe it could be a use-of-
force scenario. The LEO was advised the driver of the vehicle had an out-of-state,
non-extraditable warrant, which heightened the stress of the scenario. The scenario
was designed to conclude with the LEO citing the truck’s passenger for littering.

Third Scenario: Theft Report (Distraction scenario). The third scenario
took place in a parking lot. A theft victim waited for over an hour for an officer to
respond, as all department LEOs were occupied. The theft subject had repeatedly
called the department requesting a LEO to respond. After being cleared from the
second call, the LEO was dispatched to take the theft report. The victim was in the
parking lot next to his vehicle where several items had been taken. The actor was
instructed to act visibly upset about the theft and to list several stolen items
including the detail of some of the stolen items such as serial numbers. The LEO
was forced to take notes about the missing items. After the final scenario the LEO
was cleared and could return to the “station” to write the report for the first
scenario.
Measures

After the completion of all three scenarios, the LEO sat at a computer and filled out a use-of-force reporting form (template) and an arrest report, the latter being a free text narrative of the arrest. There was no time limit for LEOs to complete the free text narrative. The BWC recording was uploaded to Evidence.com, a cloud-based system, where the officer could review the recording. Once the LEO completed the free text narrative, he was given his BWC recording to review and told the recording could be used to make any changes to the original documents that may be needed. The recording player was a standard player that included the usual review functions (including frame-by-frame review). The LEO’s changes to the report were tracked by the Microsoft Word™ track changes function (Microsoft, Redmond, Washington). There was no time limit for the review and changes. Unlimited time was allowed, despite not being practical in a “real world” setting, because a lack of familiarity with the specific word processor and recording player used in the study may create pressure and lead to a lesser review.

Grading criteria for the study, derived beforehand by the study authors, are shown in Figure 1. The authors chose such a grading system since simply counting the number of changes from the track changes function, while yielding quantifiable results, may not have yielded meaningful results. Errors were categorized as minor, moderate, or major as related to their importance in the scenario. The importance was related to such things as safety (i.e., LEO and involved parties), recognizing criminal activity, or to the policy and constitutional justification for use-of-force. For example, inaccurate subject description or inaccurate sequencing of non-force events, while possibly having a bearing on the case were considered minor errors, whereas inaccurate sequencing of use-of-force, which could have a bearing on the policy or constitutional basis for the use-of-force was considered a moderate error. Omitting a use-of-force, for example, was considered a more egregious error and likely to have significant legal proceeding consequences, and was considered a major error. The moderator’s video, as well as details known about the scenario, was used as the “gold standard.” Two of the study authors are physicians/researchers, as well as LEOs, and these authors did all scenario grading. Grading was by consensus and not separately reviewed.

Data Analysis

The limited numerical data were compiled in an Excel spread sheet (Microsoft Corporation, Redmond, Washington). The analysis was very basic and was comprised counting and categorizing by two-person consensus, changes in the reports according to the grading criteria, and as well as counting and categorizing “missed” items. The statistics were limited to basic functions.

Results

Participants

Eleven commissioned LEOs enrolled in the study. None were excluded. One LEO was working the day of the study. Since he had self-recruited, he was allowed to participate, as he was halfway through a scheduled day shift. The LEOs came from five different law enforcement agencies in the Phoenix, Arizona area. The average age of LEO participants was 37 (range 28 to 43). The average number of years on the job was
12 (range 7 to 17.5), and average number of years on patrol was eight (range 4 to 12). Thus, the LEOs had reasonable experience in patrol-type calls and report writing. No LEO had previously used BWCs, and only one LEO had worked in the prior 24 hours (the LEO who self-recruited). Reported LEO health histories included: orthopedic surgeries (3), abdominal surgeries (2), hypertension (1), hypothyroid (1), and a history of meningitis (1).

**Adverse events**

Adverse events were limited. One LEO suffered a minor hand abrasion while applying handcuffs to the training dummy. The BWC failed to record for one LEO, so he was allowed to use the moderator’s recording of the scenario. The BWC fell off during the struggle with the dummy with one LEO.

**Report Writing**

Although there was slight variability in the time from the end of the first scenario to the start of report writing between the LEOs, it generally fell between 15 and 20 minutes. The same moderator acted as the referee for all three scenarios and for all 11 LEOs, so timing was relatively consistent.

Table 1 shows the results for the LEOs with regards to changes from the initial report based on their BWC recording review. The LEOs had an average of 2.63 minor errors (range 0-7), 5.4 moderate errors (0-14), and 0.9 major errors (range 0-3). The moderate errors included 3 errors related to the sequence of the use of force, 7 errors related to miscounting the uses of force, and 4 errors related to some description of the use-of-force (e.g., location of the force). The largest number of errors was with quotations and other statements important to the case, such as commands from the LEO. This accounted for 27 errors. Omitting important subject behaviors accounted for 10 errors. There were 2 major errors related to omitting a use-of-force in the report, and 4 errors with regard to verbal warnings.

Table 2 shows errors that persisted even after the BWC recording review (with the moderator’s recording or what was known about the scenario as the “gold standard”). Errors that should have been corrected with the BWC recording review, but were not corrected, are marked with an asterisk. None of the LEOs reported the bag of marijuana (or pill bottles, although the latter were not counted as evidence since they could have been valid prescriptions). None of the LEOs reported the other potential weapons in the scene, including the gun that was on the ottoman in plain view in front of the male and female actors. In one instance, the gun was obvious on the LEO’s BWC recording. Eight of the 11 LEOs failed to report the third person in the room. Two LEOs did not report uses of force clearly seen on their BWC recording. Between these two LEOs, there were 9 individual uses of force not reported. There were more than 3 uses of force miscounts that persisted which should have been seen on their recordings. In one case, the actual number was not clear on the LEO’s recording but it was clear it was more uses of force than reported. Six of the LEOs also failed to report on important subject actions that were seen on their recordings.

The LEOs answered questions using a 5-point Likert scale about perceived accuracy of their reports. Eight of the 11 LEOs (73%) ranked confidence in their initial report at a 3 (“there may be some minor details that are inaccurate but it is mostly all
accurate”). Nine of the 11 LEOs (82%) ranked their second report a 4 (“I feel very confident in the detail of the report”); and (70%) had at least a 1-point improvement in their Likert scale rating of their confidence in their report writing. Two LEOs had a 2-point improvement. One LEO had a lower confidence in the initial report and corrected report after viewing the recording.

Survey

The LEOs answered a brief survey after the study regarding personal opinions of the use of BWCs in report writing. The average wearability of the BWC on a 10-point Likert scale received a rating of 8. The average usefulness for report writing on a 10-point Likert rating was 8.2. All of the LEOs reported that the recording improved their report writing ability. Ninety-one percent (10) reported that the recording should be viewed concurrently to writing the report. Only one LEO reported the recording should be watched after writing the report.

Comments generally included the BWC recording would help capture details, such as quotes and sequences of events. One LEO commented that reviewing the BWC helped make observations after the fact that would have been missed otherwise, including behaviors of the second subject. Concerns included: the BWC falling off during a struggle (which occurred with one LEO), having to reconcile observations with the recording, potentially making report writing take longer, and the recording being overused for administrative and civilian complaints.

Discussion

According to Bureau of Justice statistics from 2008, in 776,000 uses or threatened uses of force, 74.3% (447,000) of persons who had force used or threatened against them felt LEOs acted “improperly” and 13.7% (61,249) filed a complaint (Eith & Durose, 2011). The 11 LEOs in this study had multiple errors corrected after review of the BWC recording, including 21 errors in our 11 LEOs related to miscounting, mis-sequencing, omitting force, warnings, compliance, or other important descriptors of the use of force. Given that the criminal prosecution of a suspect or the defence of an allegation of excessive force could hinge on the credibility of the LEO, any important errors in a report, but especially use-of-force errors, may represent trial outcome determinative important errors.

The ubiquitous presence of recordings from civilian cell phones or from surveillance cameras from public entities, businesses, or other civilian entities are capturing LEO-civilian interactions more frequently. This may be helpful in resolving conflicting accounts of incidents, as the courts tend to weigh heavily on recordings. In Scott v. Harris, the U.S. Supreme Court stated that in deciding whether a LEO is entitled to qualified-immunity in a plaintiff’s 42 U.S.C. § 1983 federal civil rights lawsuit for an alleged unconstitutional use-of-force, the court usually must adopt the plaintiff’s version of the facts. However, “[w]hen opposing parties tell two different stories, one of which is blatantly contradicted by the [video] record, so that no reasonable jury could believe it, a court should not adopt that [contradicted] version of the facts for purposes of ruling on a motion for summary judgment.” In Scott, the Court stated that the fleeing suspect’s “version of events is so utterly discredited by the [video] record that no reasonable jury could have believed him. The Court of Appeals ... should have viewed the facts in the
light depicted by the videotape,” and not plaintiff’s “visible fiction” version (Scott v Harris, 2007).

**Possible issues**

Despite the weight recordings may be given by the courts and jurors, recordings do not necessarily reflect what the LEO saw, heard or perceived, particularly when recorded from a different vantage point. This may particularly be true when the recording captures only a part of the interaction, or, if there is selective editing of the recording. It may better reflect the LEO’s perspective when it is a point-of-view (POV) BWC that is unedited and captures the entire interaction. But even then, it cannot tell us with certainty what the LEO saw, heard, or perceived. According to Graham v. Connor, “The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight” (Graham v. Connor, 1989, U.S. 396). In other words, in judging the reasonableness of a use-of-force, we have to put ourselves in the POV of the LEO who used the force. In this study, there were many errors where the LEO did not “see” certain scene details, hear certain statements, or see certain subject actions that were “seen” and “heard” clearly on their POV BWC. Or, the LEO was not able to accurately articulate, or failed to accurately articulate the details. In addition, there were things the LEO did not “see” which were not in his field of vision or that of the BWC that could be very obviously “seen” from the moderator’s (extrapolate to bystander’s) POV. Thus, it is important to recognize the various levels of LEO “blindness” in this setting. Some of it is the well-recognized inattention blindness (similar to tunnel vision) in which a LEO focuses on what is perceived as the immediate threat (in our scenario with each LEO it was the male subject). Here the LEO is so focused on the perceived threat that his vision, hearing, and other senses are inattentive to everything other than the threat. The next level of blindness is the POV BWC. The BWC may have a slightly different field of “view” than the LEO. One LEO in our survey data was concerned that the field of view of the BWC is different from the LEO’s field of view. The BWC can be mounted in various locations that may affect the field of view. For the purpose of this study the BWC was worn on the gun-hand side on a glasses mount. Some systems mount on the chest, which “sees” only what is in front of the torso, not where the head is directed. In addition, the BWC in this study had a 75-degree field of view. Human binocular view is wider than this, although central vision, our sharp, well-defined vision, is less, ± 20 degrees from the fovea. In addition, the LEO is processing the visual input real time. The brain ignores some of the incoming data as it prioritizes the visual data (this does not factor in the complexity of what we “see” or perceptions may be determined by our prior knowledge and experiences). This is quite different from a recording review frame-by-frame, with the ability to pause and rewind. Lastly, recordings from other perspectives may “see” things that were never in the LEO’s field of view. In this study, the LEOs routinely missed the female subject picking up the gun off of the ottoman and placing it in her waistband, which was done in plain view. In some of the LEO videos, suspicious activity could be seen, but in some, it was never in their view, but well caught on the moderator’s (again, extrapolate to bystander) recording. With the introduction of BWCs, “reasonableness” needs to factor in these issues.
In the surveys, some of the LEOs commented that they would be concerned about having to reconcile their observations with the recordings if they did not match. LEOs would have to be taught to plainly explain inconsistencies they could not reconcile in their report. As previously discussed, the BWC does not necessarily show what the LEO saw, heard, or perceived and it would be important for the LEO to explain this in the report, since that is the constitutional standard. With cameras becoming ubiquitous, it is the opinion of the authors that it would be better for the LEO to have the opportunity to address any inconsistencies in the original report rather than years later in a federal civil-rights trial when memory is even more likely to be rife with errors. As pointed out by Lacy and Stark (2013), memory can degrade and change with time as new information is introduced (misinformation effect) (Lacy & Stark, 2013). This latter effect is important even with the initial recording review and would need to be part of report writing training and/or policy so that LEOs use the recording to enhance their memory but not to change their memory. In the IACP study previously referenced, there was concern that officers might be writing their reports around the recording rather than using the recording to “verify and enhance their observations and notes” (Westphal, 2015, para. 16). Most of the LEOs, 91% (10), felt that the recordings should be available concurrently to report writing. However, one officer felt the recordings should be reviewed after the original report is written which would ostensibly reduce a “misinformation effect.” The optimal strategy may require additional study.

A few of the LEOs were concerned that the recording review might make report writing take longer. However, some commented that they already listened to audio while report writing, and the average Likert rating for usefulness of the video for report writing was 8.2, and 100% of the LEOs said it improved report writing. It is the opinion of the authors, that with time and experience, the recording technology, especially with back-end solutions for editing and storage may actually lessen the time required by lessening the need for longer written narratives. The LEOs could simply annotate the recording with narrative that was important and not easily shown on the recording, or annotate what he actually saw, heard, or perceived if it was different than what was seen on the recording. In addition, policy could be written such that minor incidents could stand with only the recording with no narrative necessary (e.g., traffic violations). This could make report writing actually take less time. In addition, with compelling evidence offered by recordings, it might be anticipated that more arrestees will plea earlier, reducing total man-hours for LEOs (and prosecutors) involved in the case. Arguing the recorded field sobriety test might be much harder in an obvious driving under the influence case and lead to earlier pleas. Interestingly, in a small pilot study with limited data from the United Kingdom (U.K.), they did find a time savings of approximately 20 minutes per officer per 9-hour shift with the use of BWC recordings. There was also a time benefit in the overall time spent on criminal cases (Goodall, 2007).

There may be legal issues regarding BWCs, particularly in the few states that require two party or all party consent to recordings. Even in single-party states or where law enforcement has an exemption, there may be issues regarding a reasonable expectation of privacy. This expectation of privacy would apply to both civilians and law enforcement. Some subjects in our study were concerned that supervisors could use the recording to search for minor policy violations to bring administrative action against the LEO. Policies would have to address both the private conversations of LEO on duty and
such recording “trolling.” Likewise, there could be sensitive situations such as interviewing a confidential informant, a sexual abuse victim, or young child that might require a more sensitive and flexible policy on BWC recording. There may also be reasonable expectations of privacy particularly with consensual encounters with civilians, and even more so in their own homes (e.g., an alarm call), which the courts protect earnestly. Officers may have to advise civilians that they are being recorded in cases where there may be a reasonable expectation of privacy. Questions about Freedom of Information Act (FOIA) requests and privacy, as well as recording retention durations, would need to be addressed. Many of these issues would have to be addressed by legislative actions, court rulings, and department policies.

Other uses of recordings

An issue alluded to above is that partial recordings or even edited recordings from civilians, especially with the pervasive use of social media, could be used to bias the public in a LEO-civilian interaction. When the only record of the incident is the civilian recording, law enforcement agencies may have difficulty in the “court of public opinion” combating claims of misconduct. Having an immediately available LEO POV BWC recording may be useful in combating such claims by early public release of the recording.

Review of the recording can be used during investigations to more closely examine the crime scene and make observations about the actions of the subjects that were missed. In one of the LEO’s recordings, the firearm is clearly seen but was missed by the LEO (due to the definition of the video, 640x480, while the firearm was visible with other recordings, it was less clearly a firearm). In the first scenario, the female subject concealed the firearm in her waistband. If she were considered the “victim” and never searched (or she hid it elsewhere besides her waistband), the presence of the firearm and her concealment of it would never be known. In another recording of Scenario 1, the male is heard to threaten to kill the female. Details such as this could be picked up by an investigator to add to the criminal charges, assist with a restraining order request, etc. Another benefit to investigators might be that recordings may capture the statements, and, more importantly, other “body language” that may be useful in the analysis of jurors, particularly if the initial spontaneous statements are modified or recanted by a reluctant witness at trial. Body language may help the jurors decide which statement they find more truthful. Goodall (2007) found that evidence gathered using BWCs at the scene of a domestic abuse incident has assisted greatly in supporting reluctant witnesses through the court process. In providing an exact record of the demeanor and language of the accused, the disturbance throughout the scene and the emotional effect on the victim, the use of BWCs can significantly strengthen the prosecution case (Goodall, 2007).

An interesting study by Farrar pointed to an aspect of BWCs not addressed by the current study. Farrar’s study found the wearing of the BWC led to a 50% reduction in use-of-force incidents and also noted that complaints were 10 times higher in the year before the BWCs were deployed (2013). The effect of BWCs on LEO and civilian behavior is an important effect. In 2013, a Manhattan Federal District Court ordered New York City Police Department (NYPD) officers in some precincts where a “stop, question, and frisk” program, found to be unconstitutional by the court, was heavily used to wear BWCs in an effort to prevent racial profiling. (Floyd v City of New York, 2013).
The author of this study found an improvement in use-of-force report accuracy, but a reduction in use-of-force is an even more important goal. In an Aberdeen, Maryland study, there was data to suggest decreased assaults on officers wearing BWCs (White, 2014). Fouche (2014) found LEOs showed a high level agreement with the hypotheses that BWC increased positive resolution of complaints against LEOs. An on-going Mesa, Arizona study preliminarily found fewer complaints in the group of officers wearing the BWC compared to the control group of officers (White, 2014). The U.K. pilot study also found a reduction in citizen complaints. In fact, although the data was limited, the pilot study found a reduction in crime itself and found an increase in successful prosecutions (Goodall, 2007). These metrics may have some relationship to improved documentation, but the authors of this study believe this is the first study to actually look specifically at this question.

Another aspect of this study, not actually part of the study objective but which became apparent is the utility of the BWC recordings for scenario-based training. Recordings with the study LEOs were not shared, but the LEOs could have been shown the “mistakes” they made if this had been a purpose of the scenarios. The authors believed this could be an excellent tool compared to overhead cameras in set training facilities or the traditional “round table” discussion that occurs between the moderators/trainers and participants in scenario-based training. The Miami Florida Police Department has used this technique since 2012 in their academy (White, 2014).

Systems

There are already numerous companies entering the BWC market, including TASER International, VIEVU™, Watch Guard, Panasonic™, and Wolfcom™ Enterprises. While the results of our study apply to any BWC, there are additional benefits of systems such as the TASER AXON BWC used in this study, in the systems that accompany the BWC. With the AXON BWC, the data is contained on the BWC and automatically uploaded through a data port to a secure cloud-based network (Evidence.com). This means that LEOs cannot modify the recording, there are no disks or thumb drives to get lost (or “leaked”), and no local servers or hard drives to crash. It also means less information technology staff requirements. With the cloud-based network, recordings have an access audit trail and can be selectively shared easily with important persons or group such as district attorneys, medical examiners, courts, law enforcement oversight boards, or even media organizations. This can all be done securely without concern for electronic files being lost or misused. So, while the results of this study apply to any BWC, it is important for LEOs and administrators to consider the entire package offered by various competitors in the market. The United States Department of Homeland Security, Science and Technology Dictorate published a BWC system assessment specifically for law enforcement. The full assessment known as the System Assessment and Validation for Emergency Responders (SAVER) is a valuable tool for law enforcement agencies when considering the use of BWC’s. The assessment in its entirety is located at http://www.firstresponder.gov/SAVER/Documents/Body-Worn-Cams-AR_0415-508.pdf
Limitations

As with any scenarios, it is impossible to completely recreate the stress of a real-life situation. Study authors believe that real-life situations, where the outcome is uncertain, the danger to the LEO is real. The real world use of force consequences would be more stressful and likely to lead to greater memory degradation.

This study did not address the effect of fatigue (e.g., length of time on shift, night shift, number of consecutive days, or nights, on). None of the study LEOs had completed a night shift, and only one had worked in the preceding 24 hours. Fatigue may have increased the number of errors in the study.

In this study, the LEOs had modest exertion between the climbing of the stairs and the use of force on the dummy. In real world scenarios, the exertion could be considerably greater. Heavier exertion may have increased the number of errors in our study.

Each scenario was allowed to play out at the discretion of the moderator serving as the referee, so there was not a set time interval from the end of the first scenario until the initiation of report writing. However, the times were roughly consistent and it was believed the minor variability did not affect study results. Study times may have actually been shorter than what might be realistic in the field. LEOs may have scene/transport/processing duties that may be prolonged, may have more calls to go to, and may have multiple reports to write that hold in their mind or with limited notes during a busy shift. LEOs may not write reports until the end of their shift that could be many hours after the use of force. We believe the results underreport the possible errors due to delayed report writing because of this. There is no standard for when a LEO has to write his report as it is all per individual department policy. But even the U.S. Department of Justice Consent Decree for the City of New Orleans only requires the report be written before the end of the LEO’s shift (United States of America v. City of New Orleans, 2012).

Also, in real world use-of-force report writing, there may be more pressure than these test subjects faced since there could be administrative and legal consequences for inaccurate reports. This “pressure” could lead to more errors as the burden for details might challenge the LEO’s memory and could lead to the introduction of more reconstructional errors such as schema or “fill in the gaps” errors. We had several reports that contained minimal details given the force used and we believed the LEOs would have done a more complete report in a real world setting. Additionally, because there were no real world legal consequences, there may have been less intensive review of the recordings than there otherwise would have been. LEOs missed many things that were readily apparent on their recordings that should have been used to amend their reports. Thus, it is believed in a real world setting, usual report writing would be fraught with more errors and the use of the recording may have picked up more errors.

There may have been more accuracy in this study than in a real world setting due to the subjects being very experienced LEOs who understood that part of the study included writing reports. While there were no real world consequences, as discussed above, there was some understanding about the purpose of the study even though it was not explicitly discussed. This understanding may have caused the LEOs to try to recall details for the report more than they would when in a real world setting.

No time limit existed for report writing in this study. LEOs did not have the
pressure of calls holding “on their beat.” This may have given the subjects more time to think about their reports than they might have on a busy shift when dispatch needs units to clear to take calls. Time limits were not given in order to reduce undue pressure and rush.

Recordings were not reviewed with the LEOs. It was presumed if they did not comment on something (e.g., third person in the room), that they did not see it. Some of the LEOs did mention the third person in the room, for example, and it would be expected to include these details in a normal report, so we think this was a valid assumption.

Lastly, the study authors did the grading, rather than a blinded grader, and it was done by consensus. While pre-study derived criteria were used, some cases required judgment and the authors recognize the grading could introduce biases. Study limitations may lead to an important under-capture of errors in reports than might occur with BWC use in the real word.

Conclusion

The hypothesis was affirmed by the study results. Point-of-view BWC improved the accuracy of LEO report writing in this study, as hypothesized, leading to the correction of important errors from the LEO’s original reports. This included 21 errors in our 11 LEOs related to miscounting, mis-sequencing, or omitting force, warnings, compliance, or other important descriptors of the use of force. Many of the errors could have led to, at a minimum, challenges to the officer’s credibility, successful pursuit of an excessive force complaint, or dismissal of charges. The results were obtained in rested study subjects, under modest stress, with modest distractions. It is believed the true incidence of errors in a real-world population would be likely to be higher. Another secondary result from this study, which may be equally important to the primary hypothesis, is that what is seen on the BWC still may not be what the LEO saw, heard, or perceived. This result will be critical to consider in the post hoc analysis of an event using recording evidence. While this could be viewed as a negative consequence of the use of BWCs, the authors believe that the use of BWCs will actually be helpful for LEOs to reconcile the differences in their original reporting. With the pervasive nature of cameras in our society, LEOs are likely going to have to reconcile their reports with other videos at some point in judicial proceedings if there is a complaint or incident review.

This is the first study the authors are aware of that examined prospectively the effect of video/audio recording on LEO use-of-force report writing. It is believed that this study will help front-line LEOs better understand their own memory and report-writing limitations, understand the utility of BWCs to improve report writing accuracy, as well as some of the issues that BWCs will pose to them. This study suggests to administrators that point-of-view BWCs may help the liability posture of their law enforcement agencies, while at the same time may suggest issues that need to be addressed in training and policy. This methodology may offer other researchers a springboard to developing other methodologies for looking at these issues. Recommendations for additional study include using a larger sample size to validate results, as well as a similar study using fielded officers.
About the Authors:

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Mr. Michael Brave is the manager of LAAW International, LLC, and National/International Litigation Counsel for TASER. His experience includes involvement in a wide-range of comprehensive law enforcement and private security risk/liability and litigation management services including: training programs, policy development and review, and liability/risk assessments. He is also a sworn police officer and trainer.

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References


Table 1

**LEO Results to Changes from Initial Report Based on BWC Recording Review**

<table>
<thead>
<tr>
<th>Grading Guidelines</th>
<th>Study LEO Participant</th>
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</thead>
<tbody>
<tr>
<td></td>
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<tr>
<td><strong>Minor Errors</strong></td>
<td></td>
</tr>
<tr>
<td>• Inaccurate sequencing of events (no force)</td>
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<td>• Added quotations/misquotations</td>
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</tr>
<tr>
<td>• Dispatch communication error or add'l info</td>
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<td>• Inaccurate description of physical attributes</td>
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<td>• Miscounting uses of force (+- 0-2)</td>
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<td>• Minor use-of-force change</td>
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<tr>
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<td>• Dispatch communication error, moderate</td>
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<tr>
<td>• Added/inaccurate description behavior/actions</td>
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<tr>
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<td>• Omitting uses of force</td>
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</tr>
<tr>
<td>• Not giving warnings</td>
<td>2</td>
</tr>
<tr>
<td>• Adding comply time/not giving time to comply</td>
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<tr>
<td>• Missing significant statements</td>
<td></td>
</tr>
<tr>
<td>• Missing gun</td>
<td></td>
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<tr>
<td>• Omitting dangerous subject behaviors</td>
<td></td>
</tr>
<tr>
<td>• Dispatch communication error, major</td>
<td></td>
</tr>
<tr>
<td>• Falsely representing a UOF within policy</td>
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<tr>
<td><strong>Total Major Errors</strong></td>
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Table 2

*Errors Persisting After Recording Review by Subject*

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<tr>
<td>• Inaccurate sequencing of events (force)</td>
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<tr>
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<tr>
<td>• Minor use-of-force change</td>
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</tr>
<tr>
<td>• Adding quotations/misquotations</td>
<td>1*</td>
</tr>
<tr>
<td>• Missing statements</td>
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<td>• Missing Evidence</td>
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</tr>
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<td>• Dispatch communication error, moderate</td>
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<tr>
<td>• Added/inaccurate description behavior/actions</td>
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<tr>
<td>• Omitting important subject behaviors</td>
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</tr>
<tr>
<td>• Missing possible weapons (other than gun)</td>
<td>1</td>
</tr>
<tr>
<td>• Missing third person in the room</td>
<td>1*</td>
</tr>
<tr>
<td><strong>Major Errors</strong></td>
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<td>• Miscounting uses of force (&gt;=3)</td>
<td>3</td>
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<tr>
<td>• Omitting uses of force</td>
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<tr>
<td>• Not giving warnings</td>
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<tr>
<td>• Omitting dangerous subject behaviors</td>
<td></td>
</tr>
<tr>
<td>• Dispatch communication error, major</td>
<td></td>
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<tr>
<td>• Falsely representing a UOF within policy</td>
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</table>

**Subtable 2 Number of Errors Seen on Moderator’s BWC.**

<table>
<thead>
<tr>
<th>Grading Guidelines</th>
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<td><strong>Major Errors</strong></td>
<td></td>
</tr>
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<tr>
<td>• Omitting uses of force</td>
<td>3</td>
</tr>
</tbody>
</table>

* = error could be seen on BWC recording.
The number of errors in parentheses is the number seen on the moderator’s BWC.

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Figure 1

**Grading Criteria**

<table>
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<tr>
<th><strong>Minor Errors</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>• Inaccurate sequencing of events (no force)</td>
</tr>
<tr>
<td>• Added quotations/misquotations (minor – no meaning change/less important to case)</td>
</tr>
<tr>
<td>• Dispatch communication error or additional information, minor (on scene, call details)</td>
</tr>
<tr>
<td>• Inaccurate description of physical attributes</td>
</tr>
<tr>
<td>• Inaccurate scene description</td>
</tr>
</tbody>
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<table>
<thead>
<tr>
<th><strong>Moderate Errors</strong></th>
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</thead>
<tbody>
<tr>
<td>• Inaccurate sequencing of events (force)</td>
</tr>
<tr>
<td>• Miscounting uses of force (+/- 0-2)</td>
</tr>
<tr>
<td>• Minor use of force change (location of force, distance)</td>
</tr>
<tr>
<td>• Adding quotations/misquotations (moderate – meaning change/important to case)</td>
</tr>
<tr>
<td>• Missing statements (admissions/complaints of crime/officer commands, not warning of force)</td>
</tr>
<tr>
<td>• Missing evidence (drugs –both in plain view and that female hides them)</td>
</tr>
<tr>
<td>• Dispatch communication error, moderate (one in custody, code 4, request supervisor)</td>
</tr>
<tr>
<td>• Added or inaccurate description of subject/officer behavior/actions</td>
</tr>
<tr>
<td>• Omitting important subject behaviors (male pushes female, female throws beer can first, female throws beer cans during struggle, female kicks male during struggle). If officer recognizes female concealing something but does not recognize it as drugs, it will count in this category.</td>
</tr>
<tr>
<td>• Missing possible weapons – other than gun (scissors, broom, hammer)</td>
</tr>
<tr>
<td>• Missing third person in the room</td>
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<table>
<thead>
<tr>
<th><strong>Major Errors</strong></th>
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</thead>
<tbody>
<tr>
<td>• Miscounting uses of force (&gt;=3)</td>
</tr>
<tr>
<td>• Omitting uses of force</td>
</tr>
<tr>
<td>• Not giving warnings</td>
</tr>
<tr>
<td>• Adding in compliance time or not giving time to comply</td>
</tr>
<tr>
<td>• Missing significant statements (safety cues, threats to other person)</td>
</tr>
<tr>
<td>• Missing gun (both in plain view and female concealing it in her waist band)</td>
</tr>
<tr>
<td>• Omitting dangerous subject behaviors (concealing something in waistband)</td>
</tr>
<tr>
<td>• Dispatch communication error, major (request back up)</td>
</tr>
<tr>
<td>• Falsely representing a use of force as being within policy when it was not.</td>
</tr>
</tbody>
</table>