

**BODY CAMERAS: CAN TECHNOLOGY
INCREASE PROTECTION FOR LAW
ENFORCEMENT OFFICERS AND THE PUBLIC?**

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**BODY CAMERAS: CAN TECHNOLOGY
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TUESDAY, MAY 19, 2015

UNITED STATES SENATE,
SUBCOMMITTEE ON CRIME AND TERRORISM,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 3 p.m., Room 226, Dirksen Senate Office Building, Hon. Lindsey O. Graham, Chairman of the Subcommittee, presiding.

Present: Senator Graham [presiding], Cornyn, Whitehouse, Klobuchar and Franken.

Also present: Chairman Grassley, Senators Durbin, Coons and Blumenthal.

**OPENING STATEMENT OF HON. LINDSEY O. GRAHAM,
A U.S. SENATOR FROM THE STATE OF SOUTH CAROLINA**

Chairman GRAHAM. Thank you for coming here today. The Subcommittee will come to order. We will have a hearing today entitled "Body Cameras: Can Technology Increase Protection for Law Enforcement Officers and the Public."

We will have two panels. The first panel will be Senator Scott, my colleague from South Carolina.

I will make a very brief opening statement and turn it over to Senator Whitehouse. I know Chairman Grassley and Senator Cornyn may want to say something, but anybody can if they would like.

We have this hearing today at the request of Senator Scott. As most of you know, there has been a lot of discussion in this country about how to protect the public and law enforcement officers when force is involved and the idea of body cameras for all of our police officers not only to protect them, but to protect the public, is a hot topic right now, and Senator Scott has been one of the leaders in this area.

The incident in North Charleston, which I think most of us have seen videos of, is a good indication of how video is priceless in situations like this.

There are a lot of proposals up here on Capitol Hill to have grants and pilot programs about outfitting our law enforcement community with body cameras and that is the purpose of this hearing today, to see which would be the best way forward.

Chairman GRAHAM. Senator Whitehouse.

**OPENING STATEMENT OF HON. SHELDON WHITEHOUSE,
A U.S. SENATOR FROM THE STATE OF RHODE ISLAND**

Senator WHITEHOUSE. Thank you very much, Mr. Chairman. I guess welcome and congratulations to your first Subcommittee hearing as Chairman of our Crime and Terrorism Subcommittee.

Chairman GRAHAM. Do not get used to it.

Senator WHITEHOUSE. I am delighted that we are doing this and I appreciate very much that our Chairman is providing this forum for his junior Senator—always a good tradition in the Senate—to begin to address the question of how well body cameras work.

I would ask unanimous consent that my statement in that regard be entered into the record.

I think this is a very important Subcommittee and I hope we have more hearings in the weeks and months ahead. I have been particularly grateful to work with the Chairman on the Graham-Whitehouse bill improving the criminal enforcement in the cyber arena, and I hope we will be able to pin down a hearing date to begin to get that bill, through a hearing, ready in time so that when we address cyber on the floor, we have alleviated any criticism that our bill did not get a hearing.

I also look forward to what I hope will be a lively hearing on what I consider to be a pretty egregious separation of powers violation by the Administration.

We are looking to schedule at least those two other hearings. They are good topics and I hope that we can make this a very active Subcommittee. I think it may be the most important Subcommittee of the Judiciary Committee, saying that as Ranking Member.

Chairman GRAHAM. Thank you very much. We will do both hearings. Senator Grassley, would you like to make a comment?

**OPENING STATEMENT OF HON. CHARLES E. GRASSLEY,
A U.S. SENATOR FROM THE STATE OF IOWA**

Chairman GRASSLEY. Thank you very much. I want to thank you for holding this hearing. I appreciate Senator Scott and his strong interest in this subject.

As Chairman of the Full Committee, I fully support Senator Scott's request for our Committee to look into this matter.

Recent interactions between police and the public have increased the consideration of body cameras to record an officer's work. It is a good idea to explore the experience of State and local governments that have employed body cameras.

Certainly, the potential exists for body cameras to enhance public trust of police and they may provide evidence to show the public how well law enforcement handles very trying situations. They may also show whether police training is working well, and it is possible that their existence might cause police officers to change how they perform certain aspects of their job.

Body cameras themselves are relatively inexpensive, but costs associated with their use seem to be considerable. Many practical questions regarding their use need to be thought through. These include determining when cameras would and would not be operating, how privacy of people's homes and of crime victims would be

maintained, how footage is to be retained and chain of custody preserved, and public access to the tapes.

The Justice Department has also funded some pilot programs and research to determine the best practices for operation of police body cameras.

Before we decide what, if any, Federal legislative response is appropriate, we should obtain a good sense of the issues that have arisen in State and local use of body cameras. We should also know which of the competing approaches have been more effective and further shared values.

The last thing that we would want to do is create an incentive or even mandate actions that would cost State and local governments large sums of money and not reflect the accumulated wisdom that derives from existing State and local practice.

Mr. Chairman, I thank you once again for holding this hearing and I look forward to the testimony of witnesses, which I am going to have to read because I have another assignment I have to go to. I appreciate having the courtesy of what I have just said.

Chairman GRAHAM. Thank you, Mr. Chairman.

John, would you like to say anything?

**OPENING STATEMENT OF HON. JOHN CORNYN,
A U.S. SENATOR FROM THE STATE OF TEXAS**

Senator CORNYN. Thank you, Mr. Chairman. I would like to express my gratitude to Senator Grassley, as Chairman of the Full Committee, but to you as Chairman of the Subcommittee for starting the conversation here on a topic that I know is very near and dear to Senator Scott's heart.

We all recognize that body cameras are not a panacea and will not solve all the problems, but they may be a piece of the answer and one building block where we can begin to rebuild the public's confidence in law enforcement, which is absolutely critical to maintaining security and safety in our communities.

It is also important—Mr. Chairman, I know you agree because you are a cosponsor of this bill that would create a commission to study our criminal justice system writ large. Once we get through doing the things that we can do to help improve our criminal justice system, things like passing the Corrections Act that Senator Whitehouse and I are the chief cosponsors of, to help act on the lessons of prison reform that have played out in our States, I hope we can continue this conversation in a way that lets us revisit what works and correct and eliminate what does not work, with a goal toward maintaining and rebuilding the public's trust in law enforcement, which is absolutely critical in our communities.

I want to just commend Senator Scott for his leadership in this effort. Thank you for being here today.

Chairman GRAHAM. Senator Franken.

**OPENING STATEMENT OF HON. AL FRANKEN,
A U.S. SENATOR FROM THE STATE OF MINNESOTA**

Senator FRANKEN. Very quickly. I just have a classified briefing at 4 p.m. I am going to stay here until. Maybe I will get to my questions and maybe I will not.

I discussed this very briefly with Senator Scott. There are so many questions here that I assume that we will get to it, and thank you, Mr. Chairman, for calling this hearing about what activities, what practices should be on camera and which ones should not, how we develop the best protocols, how we use the experience of communities and States and studies, to figure out when is the camera on and when is it off.

I am looking forward to hearing from Senator Scott, and I thank you for calling this hearing.

Chairman GRAHAM. Thank you, Senator Franken.

Senator Scott, thank you very much for coming, and I do appreciate your leadership on this. You have been very hands-on when it comes to trying to deal with this issue. Please, proceed.

**STATEMENT OF HON. TIM SCOTT,
A U.S. SENATOR FROM THE STATE OF SOUTH CAROLINA**

Senator SCOTT. Thank you, sir. Thank you, Mr. Chairman and Ranking Member. Thank you all for participating in the hearing today.

I want to also thank Senator Grassley for agreeing to hold this hearing today on a very important issue. A very timely response from you, Mr. Chairman, as well as Senator Grassley.

I would say if a picture is worth 1,000 words, then a video is worth 1,000 pictures and untold lives. It is certainly time for a national conversation about body cameras and policies affecting communities in distress.

Whether we are talking about Ferguson, Baltimore, Ohio, New York City, Oklahoma, or my hometown, North Charleston, South Carolina, one thing is certain—long-term solutions are very important. They are critical.

In addition to body cameras, I will continue to work on things like my opportunity agenda that I believe will breath new hope and new opportunities into distressed communities.

Things that have impacted my life, having grown up myself in a single-parent household in poverty in North Charleston, I will tell you that the foundation for changing some of the outcomes starts with education. Long-term education will provide a path, an avenue out.

Think about work skills for those adult learners, apprenticeship programs where you can earn and learn at the same time, as well as entrepreneurship programs.

I am here today because I believe strongly that another important piece of the puzzle in rebuilding trust between law enforcement and the community truly is body-worn cameras by officers.

I say one piece because there is no silver bullet. There is no panacea, but rather many pieces to this puzzle. We are here today to listen and to learn from experts on how these cameras can be helpful and, at the same time, for us to understand the concerns, like data retention, disclosure issues, including FOIA, costs and training, when do you use the cameras.

I look forward to the discussion, as well as the hard work ahead. The good news is that according to at least one study, public complaints against officers wearing cameras falls by 90 percent. Use of

force—use of force drops by as much as 60 percent. That is moving in the right direction.

Tasking the Federal Government to support body cameras through resources should not be confused with Federalizing local policing, which I would object to, nor is it an attempt to mandate the use of body cameras. Rather, it is an attempt to keep law enforcement officers and our communities safer.

Let me close with the heartfelt desires of Ms. Judy Scott, whose son was killed in North Charleston, Walter Scott. She was not looking for revenge. As a matter of fact, on the first day, she said, “I forgive the officer.”

She did not speak about the need for justice in her initial comments. She allowed the system to work that out. What Ms. Judy Scott simply said to me was this: “I want to make sure, I really want to make sure that mothers do not have to bury their sons.”

Thank you, Mr. Chairman.

[The prepared statement of Senator Scott appears as a submission for the record.]

Chairman GRAHAM. Thank you very much, Senator Scott. Thank you. If our second panel would come forward, please.

Al, did you want to ask questions? He can take my turn if he needs to.

Thank you all. Could you please stand and raise your right hand?

[Witnesses are sworn in.]

Chairman GRAHAM. Our panel consists of Mr. Peter Weir, who is the district attorney for the First Judicial District, State of Colorado, from Golden, Colorado; Lindsay Miller, senior research associate, Police Executive Research Forum, Washington, DC; Wade Henderson, president and CEO of the Leadership Conference on Civil Rights and Human Rights, Washington, DC; and, Jarrod Bruder, executive director, South Carolina Sheriff’s Association, from Columbia, South Carolina.

Welcome to you all. We will start with Ms. Miller and just move across the panel.

**STATEMENT OF LINDSAY MILLER, SENIOR
RESEARCH ASSOCIATE, POLICE EXECUTIVE
RESEARCH FORUM, WASHINGTON, DC**

Ms. MILLER. Good afternoon and thank you, Chairman Graham and Members of the Committee, for the opportunity to speak today about the important issue of body-worn cameras.

My name is Lindsay Miller and I am a senior research associate with the Police Executive Research Forum, which is an independent, nonprofit research organization that focuses on critical issues in policing.

Our work on body cameras began in 2013, when we partnered with the U.S. Department of Justice’s Office of Community-Oriented Policing Services to research the use of body cameras in police agencies.

Last September, PERF and the COPS Office released a publication that examines the benefits of body cameras and considerations for implementation. The report also provides a set of 33 com-

prehensive policy recommendations that reflect promising practices and lessons learned.

Today I am just going to touch briefly on a few of our key findings and recommendations, and my submitted written testimony provides additional details on these topics.

First and foremost, we caution that the decision to implement a body camera program should not be entered into lightly. Agencies must thoughtfully examine all of the issues that cameras raise and develop careful written policies to govern their use.

We also found that when implementing a camera program and developing policies, it is critical that agencies engage with community organizations, line officers and unions, local policymakers and elected officials, prosecutors and other stakeholders. Making it a collaborative process can help strengthen the legitimacy of a program and make implementation run more smoothly.

We also caution, again, that while body cameras can be a very useful tool, they are not a cure-all. We need to view them as just one tool and remember that they are not a substitute for good policies, good training, and good community policing programs.

When it comes to the benefits of body cameras, we found that cameras have been useful for several things: strengthening police accountability and agency transparency; improving the behavior of people on both sides of the camera; as Senator Scott said, reducing and resolving officer use-of-force incidents and complaints against officers; identifying and correcting problems within the agency both at the individual level and throughout the entire agency; strengthening officer performance by using the footage for training and monitoring; and, improving evidence documentation for investigations and prosecutions.

We also looked at some of the considerations that agencies must take into account when implementing cameras. These include privacy considerations, especially when it comes to filming victims and witnesses; the impact that cameras have on relationships between police and members of the community; how to address concerns that officers and unions may have about wearing cameras; managing the expectations that body cameras create especially among courts, oversight bodies and members of the public; and, finally, how to manage the significant ongoing financial costs of a body-worn camera program.

Turning to our actual policy recommendations, I am just going to cover a couple of them. One of the most important questions that an agency will answer is when to require officers to turn their cameras on and off. Our report recommended that with limited exceptions, they should be required to activate their cameras when responding to all calls for service and during all law enforcement-related encounters and activities that occur while the officer is on duty.

We also recommend that officers should be required to obtain consent prior to recording interviews with crime victims and they should have limited discretion to keep their cameras off during conversations with witnesses and members of the community who wish to provide information about a crime, but who do not want to speak on camera. This addresses some of the significant privacy concerns that come with videotaping crime victims and witnesses.

One of the biggest issues that is emerging that is facing police agencies is when to release video footage to the public and the media. This is a very difficult issue and there really are no easy answers.

Our report generally recommended a fairly broad disclosure policy to promote agency transparency and accountability. However, agencies must also balance this need for transparency with the very real privacy and evidentiary concerns that come with releasing footage to the public. We always want to make sure that videos of people in their most vulnerable do not end up on YouTube.

Again, these are just a couple of our 33 recommendations, which also cover data storage and management, training and evaluation. We also provide useful strategies for how police leaders can engage officers, policymakers and the public.

Again, when implemented correctly, body cameras can provide real benefits both for police and the community. However, it is critical that agencies slow down, think about all of these issues, and take an incremental approach to camera deployment. Above all, police agencies must always remember that the ultimate purpose of body cameras is to help officers protect and serve the people within their communities.

I thank you again for the opportunity to speak today and I welcome any questions that you might have.

[The prepared statement of Ms. Miller appears as a submission for the record.]

**STATEMENT OF JARROD M. BRUDER,
EXECUTIVE DIRECTOR, SOUTH CAROLINA SHERIFF'S
ASSOCIATION, COLUMBIA, SOUTH CAROLINA**

Sheriff BRUDER. Chairman Graham, distinguished Members of the Committee, my name is Jarrod Bruder and I am the executive director of the South Carolina Sheriff's Association. It is truly an honor to appear before you today.

I come to testify on behalf of the 46 sheriffs of South Carolina. I would like to begin by applauding the Subcommittee for taking the time to study the positive and negative effects of implementing body-worn cameras before enacting legislation.

As you will hear throughout my testimony, embracing new technology for the purposes of increasing transparency, officer accountability and officer safety can produce tremendous benefits, but it can also generate serious unintended consequences.

For more than 5 years now, law enforcement agencies throughout South Carolina have been experimenting with the use of body-worn cameras. To date, approximately 15 percent of our sheriffs' offices have implemented a body-worn camera program.

These agencies have found this technology provides a significant benefit to their department and individual officers. Not only do these cameras provide valuable training opportunities, but they also help to resolve officer-involved conflicts.

Additionally, these agencies have experienced significant reductions in complaints on officers. Simply put, everyone, including the officer and the person interacting with the officer, tends to behave better when they know they are being filmed.

In the end, body-worn cameras have produced a more accountable and more professional police force for these agencies.

In my experience, the primary issue preventing law enforcement agencies from fully embracing the use of body-worn cameras is the exorbitant cost. While I am sure that every sheriff and police chief would love to have an agency that is more accountable and more professional, they must weigh the cost of this technology against the potential benefits. Unfortunately, the cost is often too much for an agency to absorb.

This technology is extremely unique in that the initial phase of the camera—of implementing the cameras is arguably the cheapest phase of implementation. The greatest cost can be found in the storage or retention of data.

At a time when many law enforcement agencies in South Carolina are struggling to find sufficient funds to protect their officers and the public, a legislative mandate to implement body-worn cameras seems like a nightmare to many.

Thankfully, pending legislation in South Carolina will create a statewide trust that will fund the initial and ongoing costs associated with body-worn cameras. This provision, along with several others, has resulted in our support of this legislation.

Another issue preventing law enforcement agencies from fully embracing this technology is the protection of privacy. While transparency and openness are welcome concepts for some, those notions are not always conducive to producing successful police work. Oftentimes, our best tips come from criminal informants, witnesses or victims who wish to remain anonymous. There is a great fear in the law enforcement community that the proliferation of body-worn cameras will further divide our communities and have a chilling effect on the exchange of information between our officers and the communities they serve.

In my humble opinion, these cameras are not intended to be the source of embarrassment or humiliation. Law enforcement officers often encounter citizens at their lowest moments in life. Data from these cameras should be used as evidence to enhance our pursuit of justice, not to humiliate or entertain our neighbors.

When this data is viewed as evidence rather than as a public document, it ensures that a single moment of indiscretion does not provide a lifetime of embarrassment. It also ensures that one's guilt or innocence is determined in a court of law, not a court of public opinion.

As the use of body-worn cameras increases, it is important for community leaders to manage the expectations of the public. It should be understood that every police action will not be caught on camera. Critical incidents can happen in the blink of an eye. There will be times when it is neither possible nor feasible to have body-worn camera footage. The absence of video should not automatically equate to an innocent suspect or a guilty officer. Rather, data from body-worn cameras should simply assist in the overall quest for justice.

In conclusion, I would like to answer the question that has brought us here today. Yes. When used properly, technology and, more specifically, body-worn cameras can increase protection for law enforcement officers and the public. We should be careful,

though, not to put too much trust in this technology. Body-worn cameras can aid in transparency, but they will not mend community relations alone. Neither will they address the root causes that have led to so many tragic incidents.

Technology, no matter how far it advances, will never accomplish what can be gained when people take the time to sit down, talk, listen and attempt to understand a different perspective.

It is often said that public safety is a core function of government. While I certainly believe that is true, there are far too many law enforcement agencies in this country that are barely making ends meet. Law enforcement agencies are in desperate need for cultural diversity training, use-of-force training, and de-escalation training.

Advanced training, not just basic training, is absolutely critical in our efforts to provide public safety. If we truly want to increase protection for law enforcement officers and the public, then we need to provide our law enforcement agencies with the funds necessary to attract, recruit and retain the best and brightest officers. Those officers should be psychologically tested and equipped with the best training available to ensure they serve and protect our communities with equality, fairness and justice.

With that, I again thank you for the opportunity to speak and will gladly take any questions.

[The prepared statement of Sheriff Bruder appears as a submission for the record.]

**STATEMENT OF PETER WEIR, DISTRICT
ATTORNEY, FIRST JUDICIAL DISTRICT,
STATE OF COLORADO, GOLDEN, COLORADO**

Mr. WEIR. Good afternoon. Chairman Graham, Ranking Member Whitehouse and Members of the Subcommittee, my name is Peter Weir. I am an elected district attorney from the First Judicial District in Colorado. That is located in Golden, Colorado, just to the west of Denver.

I also am privileged today to be speaking on behalf of the National District Attorneys Association. We appreciate very much the opportunity to lend our voice to this important topic.

I would like to suggest that any discussion of body-worn cameras is also a discussion of the foundation of our criminal justice system and that foundation is one of trust. It is trust in the fairness of the system, trust in the men and women who work in the system, and ultimately trust that justice will be done.

When we talk of data that is generated by body-worn cameras, we need to keep in mind that that data is actually evidence. We are talking about the generation of evidence. There are many, many uses for the recordings generated by body-worn cameras. As has already been alluded to and as it goes to the issue of trust, accountability and transparency are critical functions of that.

However, we cannot lose sight of the fact that there are many, many considerations to take into account when we start dealing with the collection, retention, distribution and processing of evidence, which is what is generated by the body-worn cameras.

Clearly, from a prosecutor's perspective, this evidence can be very, very important. When you present a case to a jury, certainly

they would benefit from being able to see the place and the circumstances immediately after the commission of a crime. Jurors would benefit from being able to evaluate credibility and demeanor of the witnesses that are recorded contemporaneously with the crime.

When we start talking about officer-involved shootings, body-worn cameras can certainly play a role in determining whether or not the officer acted within the scope of his authority or whether that officer may have violated his oath and acted outside justifiable legal grounds.

Clearly the prosecution community supports the use of body-worn cameras in appropriate circumstances with appropriate safeguards and appropriate procedures involved in the use of the body-worn cameras.

As has been mentioned already, there are some areas of concern that are shared by prosecutors, and I need to stress that it is critically important as we go down this path that the prosecution community be part of the dialog in creating policies and procedures not just at the Federal level, but also at the State and local level, to be able to engage with their local law enforcement authorities to identify the issues that may be very unique to each jurisdiction, because in this discussion, one size does not fit all.

We are talking about judicial districts, law enforcement agencies, sheriff's departments of various sizes and what may work in one locale may also not work in other locales.

The question that is critical for prosecutors is exactly what is being recorded, what is the extent of the recording. Perhaps another way to put it, when should you not record? It would be easy to say just record everything; anytime that an officer is on the street, the camera is on. But is this really the process that we want?

This certainly results in extraordinary costs associated with this, the costs of not necessarily the camera itself, but the costs of appropriate storage, archiving and cataloging so that that evidence can really be used in an appropriate manner.

Prosecutors are also concerned with respect to the storage and retrieval of that evidence. We have obligations to present this evidence to defense attorneys. We must be able to know which portion of a recording pertains to a specific case and be able to distribute that to the defense bar.

That leads us to the question of what is our broader responsibility to the public. Many States have open records laws or criminal justice records acts that mandate that much of this information must be disclosed. Where is the right line between collecting this important evidence and what, in fact, we will be distributing to the public at large?

As has already been testified to, these cameras are not a panacea because they show different perspectives. We are very optimistic at the possibility of body-worn cameras and used appropriately, we feel it can be an important tool for both law enforcement and prosecutors.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Weir appears as a submission for the record.]

**STATEMENT OF WADE HENDERSON, PRESIDENT AND
CHIEF EXECUTIVE OFFICER, THE LEADERSHIP CONFERENCE
ON CIVIL AND HUMAN RIGHTS, WASHINGTON, DC**

Mr. HENDERSON. Good afternoon, Chairman Graham, Ranking Member Whitehouse, and Members of the Subcommittee. I am Wade Henderson, president and CEO of the Leadership Conference on Civil and Human Rights, a coalition of more than 200 national organizations charged with the promotion and protection of the rights of all persons in the United States.

I am also the Joseph L. Rauh, Jr. Professor of Public Interest Law at the David A. Clarke School of Law at the University of the District of Columbia. Thank you for bringing us together today.

Over the last year, we have seen a growing movement to address policing practices that have a disproportionate impact on low income communities, communities of color, and African Americans in particular.

These practices, like discriminatory profiling, excessive use of force, and both explicit and implicit racial bias in law enforcement, have framed the national debate around police reform and prompted a national conversation on the use of technology, specifically, body-worn cameras, as one possible means to enhance accountability and transparency in policing.

Americans across the Nation have been transfixed by a series of video clips recorded by concerned citizens that capture tragic encounters between police and the people they serve.

Not since the brutal images of the bloody Sunday marchers being savagely beaten in Selma, Alabama were broadcast across the Nation 50 years ago, have we seen video make such a profound impact on our Nation's public discourse.

Prior to these broadcasts, the Voting Rights Act did not exist, but those images inspired the Nation to write and pass the Voting Rights Act less than 5 months later.

Today, citizen-recorded videos have inspired the Nation once again. When one hears Eric Garner's plea that he cannot breathe or sees Walter Scott being shot from behind, it is hard not to be moved.

Chairman Graham, you spoke for millions and certainly for me when you described the video of Walter Scott's killing in North Charleston as, quote, "horrific and difficult to watch."

There is a temptation to create a false prevalence between these citizen-recorded videos and body-worn cameras operated by law enforcement. I urge the Committee not to give in to this temptation because body-worn cameras won't be operated by concerned citizens and won't be recording officers. The will instead be directed at members of the community.

That is why last Friday, the Leadership Conference joined with a broad coalition of civil rights, privacy and media rights organizations to release shared civil rights principles for the use of body-worn cameras by law enforcement.

These principles, which I would like to introduce into the record today, recognize that cameras are just a tool, not a substitute for broader reforms of policing practices.

They point out that, quote, "Without carefully crafted policy safeguards in place, there is a real risk that these new devices could

become instruments of injustice rather than tools for accountability”, unquote.

That is why it is so important that when cameras are deployed it is with a set of clear and narrowly defined purposes and that policies governing their use are developed in concert with public stakeholders.

These cameras should be tools of accountability for police encounters, not a face or body scanners for everyone who walks by on the street.

Facial recognition and other biometric technologies must be carefully limited. If those technologies are used together with body cameras, it will actually intensify stark disparities in surveillance in more heavily policed communities of color.

Early experiences in pilot programs suggest that without strong rules, officers will not necessarily record when they should. For that reason, it is vitally important that departments impose stringent discipline on officers who fail to record encounters that are supposed to be on camera.

Finally, our principles call for a prohibition on officers viewing footage until after their reports are filed. Footage can be misleading or incomplete. That is why other sources of evidence, including the officer’s own independent recollection of an incident, must be preserved.

Allowing officers to preview footage provides an opportunity to conform reports to what the video appears to show rather than what the officer recollects. Moreover, there is a risk that the officer’s report and the video may seem to confirm each other independently when they really are not independent at all.

The Leadership Conference urges Federal, State and local governments, as well as individual police departments, to consider our principles as they develop and implement body-worn camera policies and programs.

Without the appropriate safeguards, we are at risk of compounding the very problems in policing that we are seeking to fix.

Thank you for your consideration. I look forward to your questions.

[The prepared statement of Mr. Henderson appears as a submission for the record.]

Chairman GRAHAM. Thank you, Mr. Henderson. We will accept your principles, without objection, and make it part of the record.

Senator Franken, would you like to go first?

Senator FRANKEN. Thank you. This is just—I feel like we are in the infancy of this technology and as now Ranking Member on Privacy, Technology and the Law Subcommittee, I can see—Mr. Henderson raised facial recognition and the use of that possibility. We know that technology is here and this raises so many issues.

One of the issues I talked about with Senator Scott before this hearing, just a little while ago was, because we have heard testimony about the cost of this from Sheriff Bruder.

In these studies, Ms. Miller, is there any indication of the benefits in terms of cost—money? In other words, I would imagine that reducing by 80 percent, 90 percent the negative sort of interactions, that there may be an actual financial benefit from that.

Ms. MILLER. That is what we heard from the police executives that we worked with. They said that this drop in complaints, the drop of lawsuits has really helped them on the back end save money. There have not been a lot of studies, cost-benefit analysis yet into the technology. My organization, PERF, is actually starting one now. We are going to be working on that over the next year to kind of look at that, to see what are the cost savings in terms of lawsuits and investigations and do those help outweigh some of these significant costs.

Anecdotally, we hear absolutely, they are worth it 100 percent, even though the costs are very steep.

Senator FRANKEN. There are benefits, but there are also costs. I mean, there are dollar benefits versus other benefits.

Ms. MILLER. Sure. Yes.

Senator FRANKEN. The dollar benefits may not equal the costs, the dollar costs. This is—some of the issues that are being raised are, obviously, when does the officer turn it on, when does he turn it off. I think all of us can sort of, in our minds, see “60 Minutes” stories of a miscarriage of justice because of editing of footage. That is not very hard to do.

Then the question is what kind of protocols are put in place to guarantee that that does not happen. I imagine that that has been thought through.

Does anybody have any response to that in terms of how do we avoid the “60 Minutes” story or the “20/20” story or the “Dateline” story that we all have in our head 3 years from now or 20 years from now, someone who has been in prison for 20 years for something they did not do because of a misuse of this?

Mr. HENDERSON. Senator Franken, it is a terrific question. Let me first thank the Chairman, the Ranking Member and the entire Subcommittee for convening this hearing, because you have, by doing so, put the issue squarely on the public table and we appreciate that.

To avoid the problem you have identified, let us begin with the need to develop these policies in public, that there should be transparency and there should be involvement of various sectors of the public, obviously, the law enforcement professionals, certainly those who are professional advocates in this area, but clearly the public at large, scientists and others, and guidelines have to be developed with an eye toward the subsequent use of this information in various cases.

Second, these cameras are really—they offer protection both to good officers and to the public they serve. Officers who are, in fact, inclined to do what they should be doing—and, by the way, that is the vast majority of officers who are currently on the beat. We lift them and salute that they are committed to do.

Unfortunately, not every officer follows appropriate protocols. The existence of these cameras we hope will have a prophylactic impact and influence on officers who would be inclined not to follow existing protocols or present protocols.

Third, it will require law enforcement to, in fact, revisit the protocols they currently have so that they can ensure that their officers receive appropriate training on the use and appropriate involvement of these cameras.

All of these steps we feel can contribute to a wise investment. This should not be undertaken lightly. The expense is obviously considerable. When you balance the impact on the public they serve, the money that will be saved in litigation costs that result from unfortunate incidents of bad policing, the balance of the costs will probably work out in favor of the purchase of cameras.

Senator FRANKEN. Thank you. I know that all of you have the same kind of questions that I wanted to be asking. Mr. Weir talked about storage, archiving, retrieving and disclosure, essentially, as all policies and before storage, I guess, is what do you shoot and when. Those are all—Mr. Henderson, you talked about a carefully crafted policy. I think those are all things that we need to keep in mind as we go through this technology and this new world.

Chairman GRAHAM. Senator Cornyn.

Senator CORNYN. Thank you for your thoughtful testimony and that is perhaps one of the most refreshing things I have heard, how unsimple this is. This is a little bit more complicated than I think meets the eye, because some of the suggestion is all you need to do is put cameras on officers and you are good to go and that clearly does not appear to be the case.

I have a particular question about victims. There is something called the Federal Crime Victims' Rights Act. One of the rights guaranteed is the right to be reasonably protected from the accused and one of the others is a right to be treated with fairness and respect for victims' dignity and privacy.

I would be interested, Ms. Miller—maybe we can go down the line here and I would just like to get your comment on how do we might be able to make sure that we protect the victims of crime.

Ms. MILLER. Thank you for the question. Our report, we recommend that officers be required to obtain consent prior to filming conversations with crime victims. That puts the—it gives the crime victim the dignity and the privacy to be able to determine whether he or she wants to be filmed. Then on the back end, of course, there is the issue of public disclosure, which is another privacy issue when it comes to victims, and we recommend that agencies really consider the privacy—as I said in my testimony, you do not want to see people that are most vulnerable show up on YouTube.

Careful reviewing, making sure that the footage is not disclosed if it is evidentiary, if it contains interviews with victims, and then careful redactions if it does have to be disclosed.

Senator CORNYN. Mr. Bruder.

Sheriff BRUDER. In South Carolina, we are currently working through State legislation to implement body-worn cameras. One of the moves that we have done there is to basically make body-worn camera footage exempt or actually not even subject to the Freedom of Information Act. It is not considered a public document. In doing that, we make sure that the individual victims of those crimes, they are not—their identity is not shared, their incident is not shared. Those types of things can only be achieved through the discovery process in court and that is one of the biggest concerns we had there, as well as making sure that people were not victimized for long-term periods based on that.

Senator CORNYN. Mr. Weir.

Mr. WEIR. Senator, thank you. Thank you for the attention on victims. I think this is something that is very important in this discussion.

Victims certainly have the right to be protected and they have the privacy rights associated with that. Any policies that have to be crafted have got to be done thoughtfully and in some detail.

There may be circumstances, frankly, when recording of a victim would be appropriate, thinking of the domestic violence victim that is recanting.

There are also circumstances where it would be absolutely inappropriate, the victim of a sex assault or a child victim subject to abuse.

I think the clarity of the policies within an agency becomes critical at that point, because what you are left with in a courtroom setting is video for a number of purposes, and then it is remarkable in its absence when perhaps the most important individual in a proceeding is not on video, and being able to explain that to a jury and perhaps have it in appropriate jury instructions to explain that to a jury I think would be very, very important.

Senator CORNYN. Mr. Henderson.

Mr. HENDERSON. Senator, we agree completely that there has to be clear operational policy for recording, retention and access to film. We certainly believe that the rights of individual victims should be protected and that there are clear incidents where the rights of privacy of the individual would preclude a release, a casual release of this information.

However, in incidents involving the police use of force, there should be access to that information as quickly as possible. It should be shared broadly with the public. Those policies that govern the retention and access to information should be strictly enforced.

That when officers fail to record incidents that should be recorded, there should be consequences for that. Obviously, there has to be adequate training, there has to be reinforcement, and has to be a sense that these officers are, in fact, being helped as much by the existence of these cameras as the public they serve. When those things work in conjunction with one another, we think they produce positive results.

Senator CORNYN. Mr. Henderson, if I could just follow up. As I was telling Senator Scott, as we were talking about the officer being responsible for turning the camera off and on and being trained to turn it on at the right time, I could see how that itself will be controversial, because what did the officer record, what did the officer choose not to record.

As we said earlier, this is not perhaps quite as simple as it appears.

Mr. HENDERSON. You are right, Senator, but, again, if the department provides clear operational guidelines for the recording, retention and access to that film, then the officer is not left having to decide for him or herself what incidents require recording and what do not.

He will have that clear, bright line that we hope will encourage him to do the right thing or her to do the right thing.

That is why it is so important that these guideline be developed with public review, that they be disclosed openly, that that transparency and debate in the public sphere serves the interests of the officer, as well as the public.

Senator CORNYN. Thank you. Thank you, Mr. Chairman.

Chairman GRAHAM. Senator Whitehouse.

Senator WHITEHOUSE. Thank you, Chairman. This is a very interesting hearing and I appreciate all of the witnesses. I will echo what my friend, Senator Cornyn has said. The unsimpleness of this is perhaps the most significant thing that we have heard.

As Sheriff Bruder probably knows better than the rest of the panel, police officers see people at their worst. They see people at times of real emotional agony. They see them with horrific physical injuries. A video record of a great deal of that would be hugely intrusive to those individuals, hugely in demand by our 24/7 news media "if it bleeds, it leads" culture.

I think you could expect some really intense conflict over this availability. You can go into people's homes if you are a police officer. If your camera is running in somebody's home, does that person have a right to not have what is in their home seen? If the person is a celebrity, if they are a public official, a sports hero, or something like that.

I think it is really important to solve the problem of police use of force, but we want to make sure we do not open a whole new array of problems.

Sheriff Bruder, you said there are 46 different sheriffs in your home State.

Sheriff BRUDER. Yes, sir.

Senator WHITEHOUSE. In Rhode Island, we have got 39 cities and towns and most of them have their own police departments.

Sheriff BRUDER. Yes, sir.

Senator WHITEHOUSE. How many of your sheriffs have what you would consider a sophisticated IT department?

Sheriff BRUDER. A handful. Obviously, a lot of them have to comply with CGIS requirements from the FBI. They have got some IT, advanced IT stuff there, but only a handful have the ability to go back and do those things.

Senator WHITEHOUSE. We have police departments that have been hit by CryptoLocker and shut down.

Sheriff BRUDER. Right.

Senator WHITEHOUSE. I think police departments are very often targeted by hackers nowadays, whether it is CryptoLocker or other devices. The question of the hackability of all of this when you consider what the Rupert Murdoch folks did over in England, hacking into telephones, how easy would it be to pay somebody to hack into these and get some of that very, very personal footage out.

I do not know how—I appreciate, Mr. Henderson, your desire that there be a clear, bright line, but at this point, I do not see a clear, bright line if you are a police officer who has to make an on/off decision about when you turn it on. Do you know when you are going to be using force in advance? Probably not.

Does that mean that any encounter, you should turn it on sort of just in case and then maybe erase it after? This is really complicated. What are the best policies out there right now? Are there

a couple that we could look at where you think people have really got this right in the public records law, in terms of something that a patrol officer who already has 5,000 other things to remember can implement in a sensible way and in a way that is protective of the myriad of privacy rights that surround this?

Ms. Miller.

Ms. MILLER. I think that when we——

Senator WHITEHOUSE. PERF is terrific, by the way. Thank you for your work and thank you for your organization's great work.

Ms. MILLER. Thank you. I appreciate that. Thank you for the question.

When we did our research, we looked at a lot of different policies and we spoke to a lot of agencies from across the country, because I think this technology is so new that I could not even really point to one policy that was a model at this point.

I think that for one thing, every State law is different when it comes to disclosure and evidence. They are all going to be a little different. What we did was we gathered all of those policies, we spoke with all of the people who have experience in this, law enforcement officials and civil rights groups and unions and different folks and we kind of came up with what we found were, at that phase, some of the best practices and the best policies.

When it comes to turning the cameras on and off, the policy we saw the most and that we thought was probably the best was to do it during all calls for service. When you get a call on the radio, when an officer gets a call on the radio and goes to that call, they turn it on from the minute they get that call and it goes until the end of that incident.

Then also during all——

Senator WHITEHOUSE. An officer comes to somebody's house responding to a call. The person who made the call says, "I do not want you to come in with your camera on, this is my house, I do not know what you are going to do with all that footage." What is the officer's choice then?

Ms. MILLER. It depends on the jurisdiction. We would recommend that the officer continue recording, unless this is a victim who is saying that they do not want their face on the camera. At that point, we say continue recording because most of the agencies we worked with said as long as the officer has a legal right to be in the home, which he would as responding to a call for service, then that is when they should be recording, because you do not want some incident to occur then and not have the footage of that incident. There is an accountability piece there, as well as the privacy piece.

Senator WHITEHOUSE. That is kind of the backside of the Supreme Court decisions we are dealing with right now about police surveillance, where the Supreme Court has taken a look at things that police always have done, but said now when they are hyper-enabled by technology, it is actually a new question.

My time is up, but this is a really interesting hearing and I appreciate the Chairman holding it.

Chairman GRAHAM. Thank you. Senator Coons. Senator Klobuchar. You all decide among yourselves.

Senator COONS. Thank you, Chairman Graham and Senator Klobuchar and Senator Scott, for calling this hearing, Ranking Member Whitehouse.

This is an important time and an important issue. The American public, as we all know, is searching for answers on how to effectively heal the divisions we have seen play out between law enforcement and the communities they serve.

Last week was National Police Week, and we honored 273 officers killed in the line of duty. A stark reminder that policing is a dangerous profession, and it is our duty as elected officials to provide State and local police with the support, the equipment, the training and the resources they need to come home to their loved ones and families at the end of each day on the job.

In the recent weeks and months, we have also seen disturbing footage taken from a number of scenes in New York, and Missouri, and Ohio, and South Carolina, and in Maryland, and in each of these instances, the actions taken by law enforcement and the ensuing public response has highlighted the deep divisions that still exist in many places between law enforcement and the communities they protect.

It is also our duty as elected officials to try and help bridge those divides, and I welcome today's hearing as an opportunity to learn and work constructively on what is the best way forward for finding common ground.

Like many of my colleagues, I believe that body-worn cameras have tremendous potential if implemented correctly and thoughtfully to increase accountability, to settle conflicting witness accounts, to contribute to officer safety and to transparency, and to heal some of these deep divides. There are very important concerns that you, as witnesses, have raised so far today and I think meeting those concerns will be absolutely essential to ensuring that cameras become properly deployed tools of accountability rather than means of furthering division.

I have a couple of simple questions, and I would appreciate your answering them in turn, if you would not mind, to just continue this conversation.

When designing and implementing rules for the use of body-worn cameras, who should be at the table? How can communities ensure that the rules around use of cameras and access to video footage are properly followed once in place?

If you would, please, Ms. Miller.

Ms. MILLER. Thank you for the question. The first part, we recommend that police agencies engage with pretty much any stakeholder who is going to be affected by the cameras. Community organizations, line officers, unions, prosecutors, local policymakers, courts—all of these people need to be included at the table when it comes to policy develop and engaged and their voices heard.

When it comes to the second part of your question and kind of the accountability portion, we recommend that agencies share their policies online, on their websites with the public, that they share their retention schedules for data with the public, and we recommend that they regularly collect statistical information about the usage of cameras and make that public, as well, so that the public can see how the cameras are being used, what is being re-

leased, things like that. Those are kind of our two recommendations.

Senator COONS. Thank you. Mr. Bruder.

Sheriff BRUDER. Again, in South Carolina, we are looking at implementing statewide legislation to have body-worn cameras. The legislature has kind of sent that task over to the Law Enforcement Training Council, which is made up of various law enforcement agency heads from across the State.

I know that they have already had plans to include many of the groups that Ms. Miller has mentioned, as well as our criminal attorneys, their associations, those kinds of folks to make sure that everybody has input on the implementation and the development of those policies.

I echo Ms. Miller's comments on the accountability, that that is probably the best way to go about doing that.

Senator COONS. Thank you. Mr. Weir.

Mr. WEIR. Thank you, Senator, and thank you for the question. I think it is critical, once again, to keep in mind that we are not just looking at the front end of this process. The accountability and the transparency associated with video recording is very, very important. The back end of this is what are we going to do with it.

This, in fact, is evidence that is being collected and how that evidence is stored, managed and appropriately disclosed to defense counsel and perhaps disclosed to the public or perhaps, under some circumstances, not disclosed to the public to respect privacy interests, all those are very important considerations.

Many of these decisions, I believe, could be—should be addressed on the local level, something that the community itself needs to be engaged in. When we start talking about building and developing trust between law enforcement and the community, this is something that should happen well before we are rolling out body cameras. The community has got to be engaged and those relationships have got to be formed by all partners.

We cannot lose sight of the fact that at the end of the day, the collection of this data fundamentally is for evidentiary purposes and how can we best preserve that evidence.

Senator COONS. Thank you, Mr. Weir. Mr. Henderson.

Mr. HENDERSON. Senator Coons, thank you for the question. I agree with the remarks of my colleagues. All affected stakeholders should be invited to the table and there should be a public debate on these issues. That includes elected officials, that includes members of law enforcement, it certainly includes legal advisors, people who may serve—former prosecutors, defense bar, should be encouraged to come, civic organizations, as well as recognized non-governmental organizations that have roles to play in evaluating the implementation of this; human rights groups, like Amnesty International or Human Rights First might be included in the debate.

Having said that, again, body-worn cameras are only one tool. They cannot accomplish the systemic reform. For example, we do not have a policy addressing a ban on racial profiling, for example, and that continues to be a factor in law enforcement in a particular community. It will defeat the purpose of the body-worn camera if that purpose is to help reiterate law enforcement and the community together in a new approach to law enforcement.

Senator COONS. I really appreciate all your answers and I am, again, grateful to the Chairman for calling this.

As the co-Chair of the Senate Law Enforcement Caucus and someone who worked closely with law enforcement in my previous county role, I will tell you that those are thoughtful and thorough answers and it is my hope that some of the different organizations you represent will work together to help develop some model guidelines and some model policies.

It should be locally driven, but not every community is going to have the resources and the time and the effort. I think body-worn cameras are misperceived as an easy solution to very complex and deep-seated problems. They can be a constructive tool, but we need to do the hard work first to make sure that the parameters and challenges are understood.

I am grateful for your testimony today. Thank you, Mr. Chairman.

Senator WHITEHOUSE. Chairman, before we turn to Senator Klobuchar, can I ask unanimous consent that the statement of our Ranking Member, Senator Leahy, be added to the record of this proceeding?

Chairman GRAHAM. Without objection. Senator Klobuchar.

[The information appears as a submission for the record.]

Senator KLOBUCHAR. Thank you very much, Mr. Chairman and Senator Whitehouse. Thank you all for being here.

This is an issue that is near and dear to my heart. As many of you know, I used to be prosecutor and actually Minnesota was one of the first States in the country that videotaped interrogations both in squad cars and custody, anything that was in custody. It came about because of defense efforts, actually, to prevent any kind of questions about bad activities, but also to protect civil rights. I made the argument, and our police pretty much agreed, that it also protected them. It made for a better process. It allowed people to see videotape of someone when they were being questioned so that jurors could judge for themselves what they thought.

We had a few cases where we had people that would say things that were somewhat incriminating on the videotape that the jurors were able to see, and mostly it made sure Miranda rights were read and that the process was fair.

I guess I would start with that, and I think it has come now in more jurisdictions obviously, and our police have grown to accept it and they did accept it actually pretty quickly when it started there.

Of course, there are other issues with regard to body cameras and privacy that we have pointed out that are different than just interrogating one person. I want to start with this concept of the interrogations. I guess I will start with you, Mr. Weir and Mr. Bruder.

I realize that not every jurisdiction has this mandatory recording of interrogations. How would you compare body cameras to other types of interrogations? What are some of the issues that you do not have with the interrogations that you have with the body cameras?

Mr. WEIR. Thank you, Senator, for the question. As you know, there are other recording devices that are more widespread right

now, such as dashboard cameras used by law enforcement in stops. Those have proven to be very effective law enforcement tools for many of the reasons that you articulated.

Oftentimes it shows the officer acting in absolute conformity with the best practices that you would expect from police and sheriff's officers and State troopers. It is also great evidence of what actually happens on scene.

Senator KLOBUCHAR. It is also a good training thing, actually, I think for officers. They are able to watch each other and see what is good and what is bad and make sure. It is really, I think, a very good way for people to learn when they are able to watch each other. Continue on.

Mr. WEIR. I would certainly agree with that, Senator. I would also agree that we are all about trying to improve our process. From a law enforcement and prosecutor perspective, our goal is to pursue the truth. Our goal is to achieve justice and we do not hide from the facts. If, in fact, the video recording helps establish those facts, then it is a tool that should be used.

With respect to the taping, videotaping of interactions and conversations with witnesses and defendants, that is a good practice. Certainly, in my jurisdiction, we do that as often as we possibly can. However, it is not mandated and I would be very reluctant to be advocating mandating that given the fact that, once again, in the pursuit of truth, the pursuit of justice, there may be legitimate evidence that results from the conversations between law enforcement and individual that could be lost and that subverts our pursuit of truth and justice.

I think in the right circumstances, I think it should be encouraged and it is used extensively, but I certainly would not be in favor of any kind of a mandate.

Senator KLOBUCHAR. I think in our State, it was a Supreme Court decision called the *Scales* decision. I will tell you our police have grown, for the most part, to like it and we have not had issues of not being able to get convictions or anything like that because of this practice.

Sometimes they have to explain why they pursued a certain number of questions or why they did it a certain way, that is true, but I think overall we have found it to be beneficial.

Mr. Bruder.

Sheriff BRUDER. Thank you for the question. I would echo Mr. Weir's comments that it is best practice and probably advisable to go ahead and try to get those interrogations on film when possible, but it is not mandated in South Carolina.

To kind of transition to a different point that you were making and something that was a great fear of ours when we were trying to support this legislation, we too have dash cameras in our cars and we have seen a tremendous problem where somebody's foot can go off the scene of the video and then the cases being dismissed because you do not see everything that is happening on video.

What we do not want to happen is for that to be taking place with dash—body cameras. We do not want to get to the point where the body camera footage is the end-all-be-all of evidence.

Senator KLOBUCHAR. I understand this. We used to call it the CSI effect with juries because we would have a case—and Mr. Hen-

person knows what I am talking about—where there would be no possibility of DNA, but a defense lawyer would say, well, if there is no DNA, and people are used to seeing this on TV. Your point is well taken, although I think some of this—you would have to explain to juries why something went bad, that it is not necessary to have that for a case. I think that is a good point.

When I came in, Senator Whitehouse was asking some questions about just the best—the pilots of you, Ms. Miller. We have a pilot going on in Duluth and in Burnsville, Minnesota. Maybe we want to look into how they are doing there, and Minneapolis with what they are doing. I do think those pilot programs are one good way of figuring out what is working best and allow States to develop some of these privacy policies that are going to have to be in place to make this work.

I do not know if you wanted to add anything to that, Mr. Henderson.

Mr. HENDERSON. Senator, thank you. No. I think pilot studies can be very useful in providing information to be considered by a wider audience before a major investment is made in the purchase of these cameras.

Having said that, I hope that States and localities will not use that delay as a basis for not going forward, particularly now that the Department of Justice is making available grant funds to support some States in moving in this area. I think that should be encouraged. We support the Administration's approach.

Senator KLOBUCHAR. That is why I led with this interrogation issue because at first it was something that our officers were concerned about, and I think they grew to think it was actually a pretty good policy over time.

This one, I will admit, has much more complications in terms of some of the issues that were raised with privacy and what you do with these tapes and that you protect people's privacy as opposed to just interrogating someone in a squad car or in a room.

That is why it is more complicated and we have to consider that as we move forward.

I want to thank all of you for being so thoughtful today. Thank you.

Chairman GRAHAM. Senator Scott.

Senator SCOTT. Thank you, Mr. Chairman. Thank you once again holding this hearing.

I have met with more than a dozen groups over the last couple of weeks and would love to turn the information over to the Committee and submit it for the record.

Chairman GRAHAM. Without objection.

[The information appears as a submission for the record.]

Senator SCOTT. Thank you, sir.

Ms. Miller, do you know how many jurisdictions around the country are currently running some type of a pilot program and/or have adopted the policy of body-worn cameras, approximately?

Ms. MILLER. That is a great question. It is one I get asked a lot, and it is one I do not know the answer to. I do not think anyone knows the exact number. The most recent estimate I have heard was between 3,500 and 4,000 agencies across the country, but,

again, that is just an estimate. I think it is not even the most recent. I do not think it is necessarily current.

That is something would—I think people are working on trying to figure that out.

Senator SCOTT. The number is not nearly as important as the level of activity around the country.

Ms. MILLER. Yes.

Senator SCOTT. I think 4 or 5 years from now, looking back, this will be a foregone conclusion how we find ourselves with the vast majority officers wearing body-worn cameras.

I do think it is important for us to point out the fact that the American Laboratory is currently at work looking for best practices and the best policies. We can look around the country and we will find the weaving together of the best practices and policies around the country.

I do think it is important to perhaps reemphasize the necessity of local development of the policies. Policing is a local effort and not a Federal effort nor should we find ourselves trying to figure out how to Federalize local policing.

I think it is also important for us—Mr. Weir, I would love to hear your thoughts on the mandates. I am of the opinion that we should not mandate from the Federal Government what local law enforcement should do for body cameras, but we certainly should encourage it and we can, I think, Ms. Miller, as we have discussed previously, create a framework for folks to work within.

Thoughts.

Mr. WEIR. Thank you, Senator. I agree and would expect that most of my colleagues in the prosecution community would also agree.

There certainly is a place to delineate best practices and there certainly is a place to try to articulate the kinds of issues that need to be addressed and perhaps even suggest proposed solutions to some of those issues.

Fundamentally, this really is a local issue and it varies significantly from one locale to another based upon resources, officers training and the kind of requirements that are needed to effectively prosecute. The resources are a huge issue not just with respect to the money involved with the data storage, but the personnel associated with that as far as being able to accurately document what data you have on hand and then, from a prosecutor's perspective, to be able to draw down that information and be able to identify which portion of recordings go with which case and how is it going to be used.

Although you are generating significant evidence, you also generate significant work. If you have nine different cameras on in a single incident, that exponentially increases the amount of review that you may have, some of which may be extraordinarily relevant to the issue, but some of it may not. That still translates into personnel and manpower costs. I think it is very, very important that it be done on a local basis, perhaps with guidance from a Federal level or State level and, also, as we have been discussing, I think, input with respect to involved stakeholders from the community would also be an important component.

Senator SCOTT. Thank you.

Sheriff Bruder and Mr. Henderson, I know that we have heard a lot about privacy issues and whether you use cameras or not.

I think one of the questions I have has to do with privacy issues in public spaces. With the number of cameras that are now available, call it the iPhone or whatever, Samsung, but I do not want to get in trouble with anybody, but whatever your phone of choice is and/or your cameras at grocery stores or you are walking down the street and if you are in my neighborhood, you are on camera because I have them all around my house, as well.

The truth is that there is a new conversation, and perhaps new considerations that need to be absorbed as it relates to privacy issues in public spaces, and I am not sure if you have thought this through yet, Mr. Henderson.

For Sheriff, since you are a man who can arrest me in South Carolina, I want to make sure we give you as much time as necessary on that issue of privacy. That is my best joke, by the way.

Mr. HENDERSON. Senator Scott, I'm sorry—I will be very brief. I think you have identified a new, but very complex challenge that faces 21st century society. After all, our Congress has just gone through a debate over the collection of data by the National Security Agency, what kind of information can be gathered in various forms.

There obviously are new sensitivities, heightened sensitivities about privacy in our society and that should be the case.

I think we have to move with care and thoughtfulness. I think that new policies have to be developed to meet new challenges and how we both access this information, how we retain and store it, who has access to it, these are all very relevant questions that should be discussed before an investment is made of substantial cost rather than after.

I am glad you have identified the issue, and I do not feel that we have given adequate attention to the complexity of the privacy challenges that face the country.

Senator SCOTT. I know my time is up, Mr. Chairman. Thank you very much.

Chairman GRAHAM. Thank you, Senator Scott. Senator Blumenthal.

Senator BLUMENTHAL. Thanks, Mr. Chairman.

Chairman GRAHAM. Mr. Bruder, would you like to make a comment?

Sheriff BRUDER. I will be quick. One of things—and that exact conversation happened in the South Carolina Senate Judiciary Committee and they have the exact same conversations there. Ultimately, it came down to a matter of what was subject to the Freedom of Information Act and what was not. Again, it came down to a resource issue and the fact that we have got very small police departments that would ultimately have to create a FOIA department to be able to maintain all of this data that was coming in and out and all of the requests.

Essentially the decision was made not to make it a public document, but to be able to give a copy of that data to a small amount of people and then they, obviously, could do with what they wanted to after that.

That was our way of kind of narrowing it down so that the public still does have input, the public still does have knowledge, and, of course, the agency head, the law enforcement agency head could still release it if it benefited the public, as well.

Senator SCOTT. Thank you very much.

Chairman GRAHAM. Thank you, Senator Scott. Senator Blumenthal.

Senator BLUMENTHAL. Thanks, Mr. Chairman. Thanks for holding this hearing and thanks to Senator Scott for the bill that he has introduced and the initiative that he has taken, and thanks to all of you for being here today.

I am a strong supporter of body-worn cameras by police. In fact, I have supported the full appropriation for existing programs that would fund them, and I think they will make a very substantial contribution to the credibility and effectiveness of law enforcement.

At the same time, I respect Mr. Henderson's point, and I think you have all made it in different words, that a lot of care and thoughtfulness needs to go into this new policy.

A lot of people are pretty simplistic in their view of it. You have a camera, so, of course, it will record everything, no problem and there will be no questions.

In fact, there are questions about privacy, there are questions about chain of custody, who has access to the results of these body-worn cameras, where are the results stored, if so, by a third party. The chain of custody issues are multiplied and what are the standards.

Existing Federal programs do not fund standards and policy guidelines, and I think there is a role for the Federal Government to play, as you just said, Mr. Weir. In fact, not only is there a role, there is a necessity for the Federal Government to try to set some evidentiary standards and criteria for admissibility here.

I might just say one of the toughest cases I ever had to try involved the use of video in a drug prosecution where the video failed for a short period of time and the defense was that the critical, in effect, exculpatory support for the defendant occurred during that period when the video failed and tried to create reasonable doubt because of that malfunction.

We are not done with this topic simply by requiring cameras to be worn by police. There are significant issues to be overcome and I think you have all highlighted them.

I might just ask all of you not just for the number, but could you point us in the direction of programs that are working and working well so that perhaps we have models for what should be done by other cities, in fact, maybe other States, if you know of any.

Ms. MILLER. Thank you again for the question. We worked with several agencies that I think are doing a lot of things right and even though their policies may differ and we may not agree with every single policy they have, I think that they are very thoughtful about what they are doing.

Oakland, California was one of the initial adopters of body cameras. They have had them since 2009–2010. I have worked with their chief quite a bit. Places like Daytona Beach, Florida; Greensboro, North Carolina; Mesa, Arizona; they have all put a lot of thought—Rialto, California, which is where one of the studies was

done. These places have all done a lot of work and I think those are all agencies that have really done a good job of considering all of these issues and are still engaged in trying to reform their policies as they learn new things.

Senator BLUMENTHAL. Mr. Bruder.

Sheriff BRUDER. Thank you for the question. Obviously, it is very new technology, so there are only a few in South Carolina that have done it, and we have got probably 22 agencies out of the 316 in South Carolina that have actually implemented body-worn cameras.

I can think of a couple off the top of my head that are doing it very well. The Spartanburg County Sheriff's Office has been doing this for coming up on a year and they seem to be having great success with it. I also looked at the Charleston Police Department. The Charleston Police Department has taken the route that we have all discussed in bringing everybody to the table to formulate their policies. I believe that they have been approved by the ALCU and a number of other groups. A lot of other agencies are kind of looking to Charleston and their policies as a model that they can follow and implement in similar ways in their own communities.

Mr. WEIR. Senator, in Colorado, approximately 28 percent of the law enforcement agencies are using body cameras in one form or another. The greatest success stories that I hear are coming from the very, very small departments. When I say small, these are departments with less than 10 sworn officers. I think that helps focus some of these issues and also perhaps reduces some of the complexities associated with this.

Of that 28 percent in Colorado, there is only 1 department in excess of 50 officers that have used body cameras and that has been on a pilot basis. I think in Colorado that it is still an open question, although the response from the agencies, the smaller agencies, has been very positive.

Senator BLUMENTHAL. Mr. Henderson.

Mr. HENDERSON. Senator, that is a great question. It deserves a thoughtful response. I would prefer to submit my answer in writing. I would like to consult with the task force that helped to produce our civil rights principles, and I think they have surveyed some of the programs currently in place and I would like to get their advice before I respond.

Senator BLUMENTHAL. I would welcome that response and any other written responses after this hearing from any of you on any of these topics. I might just say with all the questions that may be raised, body-worn cameras are going to be a fact of life for better, not for worse; better that the images should come from cameras worn by police than cameras held by bystanders. We know that the images from those bystander-held cameras are going to be a fact of life, whether we like it or not; better that they should be held or worn by police officers who are sworn to tell the truth and enforce the law and seek justice.

I am a strong advocate and simply raise these questions because I think they are inevitable and you as professionals would want them answered.

Thanks, Mr. Chairman.

Chairman GRAHAM. Senator Durbin.

Senator DURBIN. Thank you, Mr. Chairman. Thank you for coming before us today to discuss this issue.

Mr. Henderson, I am kind of stuck on this one point here that Mr. Bruder raised. The State of South Carolina has deemed data recorded by a body-worn camera not to be a public document. Thus, the data is not subject to Freedom of Information Act disclosure. He goes on to say in his testimony, "Doing so will ensure that a single moment of indiscretion does not provide a lifetime of embarrassment, ensures that one's guilt or innocence is determined in a court of law and not a court of public opinion."

In your testimony, you noted the fact that footage from body-worn cameras can be a valuable source of evidence to help protect both officers and the public. The public needs access to that information if it is going to protect them, does it not?

Mr. HENDERSON. Senator Durbin, thank you for the question. The answer is yes. I do think the public needs access to that information.

I would say in every instance where there has been a use of force by the police department in a particular encounter with the public, that information should be made available and accessible and relatively quickly in the aftermath of a particular incident.

Heretofore, we have not had adequate data about the use of force or, for that matter, death in custody. It was not until the Senate this year adopted a provision requiring the collection of data of individuals who died in the custody of law enforcement that we are beginning to get that information.

I am concerned about unilateral declarations that exclude access of this information to the general public without having first a clear discussion of why that approach has been taken and whether it conforms with existing exemptions of the Freedom of Information Act.

I think in many instances, the judgment, and understandably done in the desire to protect individuals from permanent embarrassment over incidents that are relatively minor in nature, that is a legitimate concern. That should not override the public's need or access to information that is involved particularly where the use of force by police officers has taken place.

Senator DURBIN. Mr. Bruder, what you are saying to us is that you do not want this to be a fishing expedition. That is the way I read your testimony.

How do you respond to this balance, protecting police officers and protecting the public, while saying the police can hold that information from that body cam and it does not have to be disclosed.

Mr. Henderson suggests that if there is use of force, that ought to create the exception. What do you think?

Sheriff BRUDER. I agree with Mr. Henderson's concerns and that is a fine line that we have been trying to walk in South Carolina to allow access, that the public can see and have confidence in what the law enforcement agencies have been doing, but also to protect ourselves and protect the victims and other people on the video from excessive or abusive FOIA requests.

Our bill in South Carolina still allows the public to get that information, whether that is through the individual who is on the camera can request a copy of that and he can obviously do what

he would like to do with that data then, or the agency head, the law enforcement agency head could still release that information if he felt like it was in the best interest of the public to go ahead and do that, and we have seen that time and time again where questionable uses of force have been used and we have gone back to gone ahead released the video.

One of the questions that was brought up earlier was about tapering with the video or doing those types of things. This is a topic that came up when we considered our release of information.

Not only does FOIA prohibit us from releasing certain things, but there are also certain things in South Carolina that prohibit us from releasing victim identifying characteristics or juveniles and those types of things and for us to do that, we would have to go back and redact.

Obviously, it is easy to redact a document or a piece of paper where you have got a black Sharpie that we can go out and do those things, but how do you redact a video. Then furthermore, once we get into court, will the question be raised, okay, it is obvious that you have been able to redact and do this to some degree, how do we know that what we are watching here in court today is the actual true event of what took place that day.

Those are all questions that we are still trying to figure out as this new technology moves forward.

Senator DURBIN. We are all trying to learn and I think the march of science challenges us constantly. It was not that many years ago DNA did not mean anything to anybody and now it has ended up resulting in much better, I think, more complete efforts to find the truth and justice and video evidence the same.

The march of science is going to give us access to information in real time with some degree of certainty that we never had before.

Thank you very much. Thanks, Mr. Chairman.

Chairman GRAHAM. Thank you, Senator Durbin. I will wrap it up here. You all have been very informative. I have learned a lot.

Number one, Ms. Miller, in the dash cam recording history, has that worked pretty well as far as dash cams?

Ms. MILLER. Yes. I mean, I think that there has been a lot of success with dash cams. I think it is a good way for us to kind of look to body cameras and see what they can do. I do think there are a lot of differences and so it is hard to—we always advice agencies you can incorporate things from your dash cam policy, but we would not recommend relying on it.

Chairman GRAHAM. You have to go much further with body cameras.

Ms. MILLER. Exactly. I do think they can be instructive.

Chairman GRAHAM. Has any jurisdiction ever outlawed a dash camera after it came into being for any reason?

Ms. MILLER. No, not to my knowledge. I have talked to places that—actually, there was one agency that I can remember that ended up getting rid of their dash cams because of the expectations that the courts started having and it was kind of the CSI effect that was discussed earlier.

They found that their officers' credibility was being undermined.

Chairman GRAHAM. That is just one.

Ms. MILLER. Yes. Just one that I have ever talked to.

Chairman GRAHAM. Mr. Bruder, dash cams in South Carolina, are they pretty common?

Sheriff BRUDER. They are common. They are mostly required by law, but we are still having a problem getting the funding for that.

Chairman GRAHAM. Would you say 80 percent, 70 percent?

Sheriff BRUDER. Probably 70 to 80 percent of patrol vehicles, not all law enforcement vehicles, but patrol vehicles that do traffic enforcement.

Chairman GRAHAM. How do they store the data or keep the data?

Sheriff BRUDER. They have methods that they do that within the local agency there. They can go back and they can either download that through a cloud means or they can go in and physically connect to a computer and download it.

Chairman GRAHAM. How much more expensive would it be with body cameras? Would it be exponentially more expensive?

Sheriff BRUDER. Based on the sheer number of hours and amount of video that you are getting, it is going to be exponentially greater. Most of our agencies have been looking at these and trying to get different cost examples and a lot of them have come back with the number of \$100 per month per officer to store data.

Chairman GRAHAM. \$100 per month per officer.

Sheriff BRUDER. Yes, sir.

Chairman GRAHAM. Ms. Miller, what is a guesstimate as to how much it would cost the Nation, if every agency, every law enforcement official had a body camera?

Ms. MILLER. To store the data?

Chairman GRAHAM. Just to buy the cameras, store the data, the whole package.

Ms. MILLER. Gosh, I am terrible at math. I hate to even try. I have talked to agencies that spend millions per year on storage alone.

Chairman GRAHAM. Can somebody try to find that answer for us?

Ms. MILLER. Yes. We can definitely look into that.

Chairman GRAHAM. Do you agree about \$100 per month per officer sounds right as far as storage?

Ms. MILLER. I heard that. I have heard \$800 per officer per year. It depends on the size of the agency, how many videos they are shooting, that sort of thing.

Chairman GRAHAM. Mr. Weir, you talked about looking at this as an evidence device; is that correct?

Mr. WEIR. Yes, sir.

Chairman GRAHAM. Chain of custody all would be very important.

Mr. WEIR. Absolutely, Senator.

Chairman GRAHAM. Have you had a problem use dash camera evidence?

Mr. WEIR. We have not. In Colorado, the dash cameras are used routinely by the Colorado State Patrol and then it is left up to individual police departments as to whether or not they also want to use the dash cameras.

Chairman GRAHAM. From a prosecutor's point of view, this has not been a difficult tool to employ.

Mr. WEIR. Not with respect to dash cameras, Senator. Once again, the complexity is logarithmic when you start talking about body cameras.

Chairman GRAHAM. No, no. I got you, but I just want to make sure that what we use is good to go.

Mr. Henderson, the only reason we are probably having this hearing is because of these private videos that have shocked everybody. Do you agree with that?

Mr. HENDERSON. I do.

Chairman GRAHAM. In those cases, we are glad we have video evidence. You have got the North Charleston case that is in litigation. I will be careful of what I say, but in that case only God knows what the story would have been.

Mr. HENDERSON. You are absolutely right. It is these private videos that have really motivated the public debate. As I said earlier, you deserve great credit for convening this conversation.

Chairman GRAHAM. On balance, if you could get the right protocols to protect privacy and make sure the officer is using the camera in an appropriate manner, do you think it is best for the Nation to go down this road?

Mr. HENDERSON. Without question, I think it is absolutely essential.

Chairman GRAHAM. Does everybody agree with that? If you do not, speak up.

Mr. WEIR. Senator, I think going down—

Chairman GRAHAM. I am not saying a Federal mandate, but just for law enforcement in general.

Mr. WEIR. I think it can be an effective tool, but once again, we have got to be very careful primarily on the back end.

Chairman GRAHAM. I got you. All the problems are real that you have identified, but is this something worth pursuing? Is the benefit greater than the cost, Mr. Weir?

Mr. WEIR. I think potentially, yes.

Chairman GRAHAM. That is common ground for everybody. The benefit is worth the cost if we can do it right.

Does anybody know if the Capitol Hill Police wear body cameras?

Ms. MILLER. I think they are looking into it, but I do not think that they wear them now.

Chairman GRAHAM. It seems to me that if we were that concerned about it, as Members of Congress, we would look into that. I intend to do that.

I very much appreciate your testimony. One last question. Let us say there is a grant program. Would you agree that having certain criteria, that you have got to do certain things before you get the grant, would make sense, Mr. Henderson?

Mr. HENDERSON. I think that is also absolutely essential.

Chairman GRAHAM. Mr. Bruder, would that be okay with you?

Sheriff BRUDER. Yes, sir. Absolutely. I would take that opportunity just to point out that in the current grant funding, I am not sure that data retention is covered, and obviously we have pointed out today that is the most expensive part.

Chairman GRAHAM. You would not want to spend money on a program that was not sound. Having conditions on the grant makes sense.

Sheriff BRUDER. Yes, sir.

Chairman GRAHAM. Does that make sense to you, Mr. Weir?

Mr. WEIR. It certainly does, Senator, yes.

Chairman GRAHAM. Ms. Miller.

Ms. MILLER. Yes.

Chairman GRAHAM. A block grant is probably not the way to go here. Have some conditions attached to it.

Ms. MILLER. Yes.

Chairman GRAHAM. Thank you all very much. I have learned a lot.

The hearing will be adjourned. We will leave the record open for 1 week for further questions and any information you want to provide for the Committee. You have really done the country a great service. Thank you all.

[Whereupon, at 4:34 p.m., the hearing was adjourned.]

[Additional material submitted for the record follows.]

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Senator Tim Scott
SJC Subcommittee Hearing on Police Body Cameras
Testimony

I want to thank both my senior Senator Chairman Graham, as well as Chairman Grassley for agreeing to hold a hearing today on this important issue.

Mr. Chairman –the past year has shown, in no uncertain terms, that there are problem spots across this country in interactions between law enforcement and minority and low-income communities. It is well past time for a national conversation about this and the policies affecting people that are growing up and living in communities like I did as a poor kid with a single mom in North Charleston, South Carolina.

Whether we are talking about Ferguson or Baltimore, Ohio or New York City, Tulsa Oklahoma or North Charleston South Carolina, working together to find meaningful, long-term solutions is absolutely critical. I have been working on many of these through my Opportunity Agenda, and will continue to do so, quite frankly, for the rest of my life – be it improving educational opportunity or emphasizing programs like apprenticeships to ensure the skills of the workforce match the needs of employers.

I am here today because I believe strongly that another important piece of that puzzle to help rebuild trust and construct brighter futures in many communities around the country is body-worn cameras. I say one piece, because I think we can all acknowledge there is no single solution, but rather many critical steps we must take to tackle poverty, criminal justice reform and instances of police brutality.

We are here today to listen and learn from experts as to how body-worn cameras will improve safety for both law enforcement officers and the public, as well as what challenges lie ahead for localities as they move forward with purchasing and using the cameras. We have some statistics available that we will hear more about today from another witness and that frankly are pretty amazing – one study shows that public complaints against officers wearing body cameras fell by almost 90% and that officers' use of force decreased by 60%. At a minimum, we owe it to our communities and law enforcement officers to consider this study and other evidence to explore the wisdom of widespread deployment of body-worn cameras.

I understand that there are multiple and complex questions surrounding the use of body cameras, including privacy concerns, data retention and disclosure issues, and the effects of recording on community relationships. It is essential that we explore these and other concerns today, and determine how we can best empower localities and states to utilize this technology and determine their rules for usage.

I am not proposing that we federalize local policing, or mandate the use of body-worn cameras, but rather that we find the best way possible to make technologies available to local departments looking for ways to keep both their officers and the public they serve safer. As

Senator Tim Scott

SJC Subcommittee Hearing on Police Body Cameras

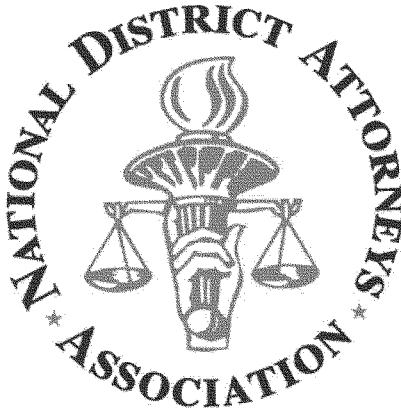
Testimony

states and localities around the country implement body-worn camera programs, we should consider ways in which the federal government may add to the conversation.

I would ask that we all remember the words of Mrs. Judy Scott, who lost her son Walter last month in my hometown of North Charleston. I had the chance to speak with this amazing woman and her family multiple times since this tragedy, and when I asked what she wanted to see, she said something seemingly obvious, but which should be the driving force behind what we do on this matter. Mrs. Scott simply said "I just want for no more mothers to have to bury their sons."

I believe that body-worn cameras are an important step towards helping achieve that goal, and that's why I look forward to hearing today's testimony from our experts. I hope to see you again soon in this committee, as I will be introducing legislation using the information we gain today, as well as from weeks of meeting with groups and coalitions invested in this matter.

Thank you again Mr. Chairman.



Testimony of Peter A. Weir

District Attorney

First Judicial District, Golden, Colorado

Body-Worn Cameras by Police Officers—A Prosecutor's Perspective

United States Senate Judiciary Committee

Subcommittee on Crime and Terrorism

Tuesday, May 19, 2015

Chairman Graham, Ranking Member Whitehouse, and members of the subcommittee, my name is Peter Weir. I am the elected district attorney for the First Judicial District of Colorado, located in Golden. My district comprises a suburban county of approximately 500,000 people and a much smaller mountain county. I am a member of the National District Attorneys Association which I am proud to represent today. Thank you for the opportunity to address you on this vitally important topic of body-worn cameras for police officers.

Trust in our law enforcement community and the criminal justice system is essential to an ordered democracy. Without it, confidence in the means of enforcing the criminal law dissolves, leaving all of us at risk. Any method of enhancing that trust, including advances in technology, serves to create an atmosphere of safety and security. Body-worn cameras constitute movement toward that goal.

Prosecutors are elected by the People to hold offenders accountable and protect the public safety of our communities. We work closely with our local law enforcement agencies, but act independently. Our only obligation is to seek justice, and in furtherance of that effort we use all tools at our command to search out the truth, wherever that leads. Prosecutors in America do not hesitate to file charges and take to trial anyone who violates our laws, including police officers. My office has prosecuted peace officers for violating the law, including cases of excessive force, sexual assaults while on duty, and interfering with ongoing investigations. Despite perceptions to the contrary, we have no reason to exonerate a police officer simply because we are both members of law enforcement.

Certainly the impetus for body worn cameras grows out of concerns about officer-involved shootings, but the cameras will provide solid evidence for all crimes investigated by the police. Because accurate and reliable evidence are the foundation for all prosecutions, the promise of body-worn cameras affords a tremendous opportunity for the resolution of cases without factual dispute. We welcome the advent of technological advances in this area just as we have embraced the use of DNA results which serve to both convict the guilty and exonerate the innocent.

Body cams can not only record the entire context of a police encounter, but are invaluable in assessing the demeanor of victims, witnesses, and suspects. For example, the drunk driver who is unable to exit his vehicle without falling down will be far less likely to convince a jury he was not drunk. Domestic violence victims can be recorded immediately after calling the police, allowing jurors to see the entire context of the report. We all know a picture is worth a thousand words of testimony, and a video is worth perhaps a thousand times more.

However, as with all new technologies, adjustments will need to be made to current law enforcement practices. The rollout of new technology fosters a level of confusion, apprehension, and concern. There are many ways to view implementation of body cams, but the concerns can be placed in at least five categories: costs, extent of recording, cataloguing for use in criminal prosecution, release of video to the public, and the acceptance of limitations of body cams.

Costs for this technology are uncertain, but clearly significant. The cameras themselves do not come cheap, but the real costs lie in storage and accessibility for the recordings. Depending on a department's policy on when and what to record, an officer can be expected to generate hours of video on each shift. Multiply this by the number of officers who, of course, must cover their city every hour of every day, and it is easy to see how the amount of data, and its concomitant cost of storage, skyrockets. Police departments may need to devote a substantial portion of their budget to this effort.

Compounding that problem is the question of how long should video be saved. At what point do storage costs overwhelm budgets inhibiting the purchase of other law enforcement tools? And certainly, as with all technology, upgrades to both hardware and software will be necessary.

Perhaps the most difficult and pressing decision for law enforcement agencies is creation of policies on when not to record. Although for many the initial reaction is to write a policy with the single command of "record everything," the reality of such a policy gives

one pause. Privacy and other constitutional rights may prohibit the recording of every minute a police officer spends on shift.

Should every victim of every crime be compelled to agree to recording in order to make a complaint? Victims of sexual assault, especially child victims, may suffer from such a policy to the point where reporting of these offenses drops. If a department allows the officer to turn off the camera in accepting a reported sexual assault, what will that mean to a defendant who wants to examine the victim's demeanor at the time of the report?

Police officers regularly respond to places where people possess a reasonable expectation of privacy. For example, an officer walking through a hospital emergency room to contact a victim, witness, defendant, or medical professional would record many patients who might not like the world to know they sought medical care. It is this type of legal and practical tug-of-war between privacy and transparency police and prosecutors need to resolve when making the "when to record" decision.

As a prosecutor, I am subject to ethical and legal requirements to make police and other reports available to the defense in a timely manner. Failure to do so can result in serious consequences for the case and for the prosecutor personally. Every prosecutor's office has detailed policies and procedures to assure compliance with these obligations. The advent of digital cameras, computers, and voluminous record-keeping of things like cell phone calls and surveillance video have significantly increased our workload. Murder cases in my office routinely generate thousands of pages of reports and stacks of compact discs.

Additional hours of video recordings will create heavy demands on both police agencies and my staff. Recordings will have to be properly catalogued so they can accurately be placed with the proper case file. During a shift a police officer can expect to be involved with several different incidents. These are currently tracked by police report number. Officers will need to be diligent to assure every video is properly identified for cataloguing. Multiple defendants, multiple offenses, and crowd situations need to be dealt with to assure compliance with legal requirements while not infringing on privacy rights.

Inevitably recordings will be destroyed, lost, or technologically compromised presenting practical and legal problems.

The integration of police recordings into a prosecution can be a major concern. I work with 15 different police agencies in my jurisdiction. And while we work cooperatively, I do not control either their budgets or their policies. Some departments might choose to record all transactions, while others decide to be more limited. If there is not unanimity in selection of camera vendors and storage methods, my office will need to possess multiple means to get all required video into a form which comports with my ethical and legal responsibilities.

Release of information creates issues for release to criminal defendants, to the media and members of the public. Open records laws vary from state to state. As technology has improved we have applied these statutes to photos and video, but the flood of information contained in body cams presents an exponential increase in the application of these laws. Body cams will record information which those recorded may not want released. We have already referenced the sexual assault victim. For those who need to report a home burglary the officer will certainly want to document the layout of the home and the places where the victim suffered theft or damage. Should the public be allowed to access this video? People contacting the police often have to reveal their social security numbers or other personal information. Redaction of this information and irrelevant material will be time-consuming and labor-intensive.

Many police contacts have nothing to do with commission of crimes. Often it is a citizen assist of an inoperable vehicle, or standby while medical personnel attend to someone needing help. These need not be subject to release.

Finally, although body-worn cameras carry the potential to create conclusive records of police activity, they are not all-encompassing, nor are they a panacea. Cameras are worn on the chest, shoulder, or attached to glasses. Each perspective has benefits and limitations. For example, an officer who pulls his gun may need to place his hands exactly in front of the camera mounted on his chest. Even a camera on a pair of glasses cannot scan as the eyes do.

Cameras on the torso will not turn with the officer's head. They cannot completely record everything an officer experiences. These limitations are not reasons to delay or resist their use, but acceptance of camera limitations must be part of the discussion. Placing body cameras on police officers cannot completely resolve police-citizen tensions, but they can go a long way to reducing them. Departments using body cams have seen a reduction in citizen complaints of police misconduct. As with any tool, they give us access to more information, but they cannot completely replace human reporting.

Responses to many of these issues require resolution on a local level. Federal assistance is welcomed, but standardized solutions may not be applicable in every district nor possible to implement in every community. While all Americans have a vested interest in the implementation of tools to enhance confidence in the criminal justice system, each state and locality must evaluate their specific circumstances in deciding how to best incorporate this new technology into their community.

Thank you for the opportunity to discuss the potential, and challenges, of body-worn cameras. I welcome any questions.

Statement of Lindsay Miller, J.D.
Senior Research Associate, Police Executive Research Forum
Before the U.S. Senate Judiciary Committee's Subcommittee on Crime and Terrorism
May 19, 2015

Thank you, Chairman Graham and Members of the Committee for the opportunity to testify today about the use of body-worn cameras by law enforcement agencies. My name is Lindsay Miller and I am a Senior Research Associate at the Police Executive Research Forum (PERF), an independent research organization based in Washington, D.C. that focuses on critical issues in policing. PERF strives to advance professionalism in policing and to improve the delivery of police services through the exercise of strong national leadership, public debate of police and criminal justice issues, and research and policy development.

PERF's executive director, Chuck Wexler, would have been here today but he is on previously-scheduled travel to the Middle East. I know that he truly regrets being unable to testify, as he has been an outspoken advocate for both the importance of body-worn cameras as well as their limitations.

During the past year, the incidents that have occurred in places like Ferguson, Missouri, Staten Island, New York, and Baltimore, Maryland have prompted a national conversation about the current state of policing in this country. Body-worn cameras have emerged as one of the focal points of this discussion, as many believe that this technology can help strengthen police accountability and improve interactions between officers and people in the communities they serve.

Body-worn cameras can certainly offer many benefits, but they also raise serious questions about privacy rights, police-community relationships, and the appropriate policies that should govern their use.

To address these questions and produce policy guidance to law enforcement agencies, in 2013 PERF, with support from the U.S. Department of Justice's Office of Community Oriented Policing Services (COPS Office), conducted research into the use of body-worn cameras by police agencies. This research included a survey of 250 police agencies, interviews with more than 40 police executives, a review of existing body-worn camera policies, and a national conference at which more than 200 police chiefs, sheriffs, federal justice representatives, and other experts shared their knowledge of and experiences with body-worn cameras.

Drawing from our research, PERF and the COPS Office developed [Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned](#), a publication that was released in September 2014.¹ The report describes our research findings, explores the issues

¹ Miller, Lindsay, Jessica Toliver, and Police Executive Research Forum. 2014. *Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned*. Washington, DC: Office of Community Oriented Policing Services. Available online at http://www.policeforum.org/assets/docs/Free_Online_Documents/Technology/implementing%20a%20body-worn%20camera%20program.pdf

surrounding body-worn cameras, and provides specific policy recommendations based on promising practices and lessons learned.

First, I would like to share some of our overall findings with respect to body-worn cameras. **Above all, we believe that the decision to deploy body-worn cameras should not be entered into lightly.** Body-worn cameras can have a significant impact on public privacy, on how police officers relate to members of the community, on how evidence is collected and presented in court, and on police resources and operations. And once a police agency goes down the road of deploying cameras—and once the public comes to expect the availability of video records—it can be difficult to reconsider or slow down the process.

It is therefore critical that police agencies consider all of these larger policy issues when deciding whether to implement a body-worn camera program. **It is also important that each agency develop its own comprehensive written policy to govern body-worn camera usage, and that agencies engage with community organizations, line officers and unions, local policymakers, and other stakeholders when implementing their programs.** Incorporating input from these groups through a collaborative process will increase the legitimacy of a body-worn camera program and will make implementation go more smoothly. Agencies should also make their body-worn camera policies available to the public.

We would also caution that body-worn cameras, while a potentially useful tool, are not a panacea. Cameras cannot be a substitute for good policies, training, and community policing efforts.

Turning to the potential benefits of body-worn cameras, we found there is an overall perception that body-worn cameras can serve as a useful tool for police and for the community as a whole. For one, body-worn cameras can help strengthen police accountability and transparency. As recent events have shown, there is an increasing public demand for police agencies to be open about their operations. By providing a video record of incidents and encounters between officers and the public, body-worn cameras can help agencies demonstrate transparency and address the community's questions about controversial events.

We also heard from many police executives that body-worn cameras can help prevent unnecessary officer use of force and de-escalate confrontational encounters between officers and the public. As one police chief told PERF, "We actually encourage our officers to let people know that they are recording. Why? Because we think that it elevates behavior on both sides of the camera."

Recent studies have offered evidence that supports this claim. For example, a 2012 study conducted in Rialto, California found a 60 percent reduction in officer use-of-force incidents and an 88 percent reduction in complaints against officers following camera

deployment.² A similar study conducted in Mesa, Arizona, found that officers who wore cameras experienced 75 percent fewer use-of-force complaints than officers without cameras.³

When questions do arise following an event or encounter, police executives told PERF that having a video record helps lead to a quicker resolution. In cases involving alleged officer misconduct, for example, supervisors, Internal Affairs units, civilian review boards, courts, and other oversight bodies are using body-worn camera footage to review and address the officer's actions. This quicker resolution can help save agencies time and money that they would otherwise spend investigating complaints and defending against lawsuits.

Another reported benefit of body-worn cameras is their use as a training tool to help improve officer performance. For example, agencies are using camera footage to provide scenario-based training, to evaluate the performance of new officers in the field, and to identify areas in which more training is needed. By using body-worn cameras in this way, agencies have the opportunity to raise standards of performance when it comes to tactics, communication, and customer service. This can help increase the perceived legitimacy of the police and the sense of procedural justice that communities have about their police departments.

Police executives also told PERF that body-worn cameras help them to identify and address internal weaknesses, both at the individual officer level and across the entire department. For example, some agencies have used body-worn cameras to detect patterns of racially-based policing and to develop new policies and training to address this problem. Police agencies facing Justice Department consent decrees or external investigations have found that implementing a body-worn camera program can help demonstrate that they are improving policies and practices and engaging in constitutional policing.

Finally, police executives report that body-worn cameras are helping officers to more accurately document evidence for investigations and court proceedings. For example, police are using cameras to record interrogations and arrests, to capture what officers witness at crime scenes, and to document statements made by crime victims and witnesses who are willing to speak on camera.

Having described the reported benefits of body-worn cameras, I will now turn to some of the policy questions regarding privacy, police-community relationships, and internal departmental affairs that must be carefully addressed if a police agency deploys this technology.

One of the most significant considerations is the impact that body-worn cameras have on the public's privacy rights. **When deploying body-worn cameras, police agencies must balance privacy considerations with the need for transparency of police operations and accurate documentation of events.** Unlike many of the public security cameras that we have become accustomed to, body-worn cameras can record both audio and video, capture close-up images of people's faces, and be used to record inside private homes and during sensitive

² William Farrar, "Operation Candid Camera: Rialto Police Department's Body-Worn Camera Experiment," *The Police Chief* 81 (2014): 20-25.

³ Harold Rankin, "End of Program Evaluation and Recommendations: On-Officer Body Camera System" (Mesa, AZ: Mesa Police Department, 2013).

situations that arise during police calls for service. There are also privacy concerns related to how camera videos are stored, how long videos are retained, who has access to the footage, and the circumstances under which police videos will or will not be released to the public or the news media.

Another issue to consider is the impact that body-worn cameras may have on everyday relationships between police officers and community members. The success of a police department depends in large part on how well it can build relationships of trust within the community. Some police executives told PERF they fear that community members may be reluctant to have casual conversations with officers on the beat if the officer is recording every word they say, which will undermine openness and trust. Additionally, some members of the community may be less likely to share sensitive information with officers about crime or other problems in their neighborhood if they know that they are being recorded. Later in this testimony, I will discuss our recommendations for how to deploy cameras in a way that preserves these important relationships.

Body-worn cameras can also have an impact on relationships and levels of trust within a police agency. Many police executives who have deployed body-worn cameras said that officers had initial concerns that supervisors would use the cameras to track and scrutinize their every move, thus signaling a lack of trust in the officers. Many of these concerns can be addressed by engaging officers and police unions in the decision-making process, making officers aware of how body-worn cameras can help them do their jobs, and using internal audit units (rather than direct supervisors) to randomly monitor officers' video footage for general compliance and performance.

Another consideration involves the expectations that body-worn cameras create among courts, arbitrators, civilian review boards, and the public. Many police executives said it is becoming increasingly common for people to expect that cameras will perfectly capture everything that occurs while an officer is on duty, but that this expectation can be unrealistic. **Again, we would caution that body cameras are not a panacea, and they cannot take the place of good policies, training, and community policing efforts.** We recommend that agencies conduct outreach to courts, oversight bodies, and the public in order to raise awareness about what body-worn cameras can and cannot achieve.

Finally, police agencies must also consider the significant financial and human resources costs that body-worn cameras present. In addition to the initial purchasing cost of the cameras, which can range from \$120 to \$2,000 per device, agencies must also pay for ongoing data storage, training, program management, and camera maintenance. Police executives told PERF that the cost of storing body-worn camera footage represents the bulk of program costs. Agencies must also be prepared to devote considerable time and resources to reviewing and redacting footage in order to respond to public disclosure requests for footage.

Drawing from our examination of these benefits and considerations, PERF developed a set of 33 policy recommendations to guide police agencies as they implement body-worn camera programs. These recommendations are based on the promising practices and lessons that emerged from our research. **Of course, every police agency is different, and what works in**

one department might not be feasible in another. Agencies should adapt these recommendations to fit their own needs, budget and staffing limitations, and state law requirements.

For the purpose of this testimony, I will highlight just a few of PERF's key policy recommendations and provide the rationale behind them. The complete list of our recommendations can be found in our publication.

Perhaps the most significant policy decision that agencies must make is determining when officers should be required to activate their cameras. **PERF recommends that, with limited exceptions, officers should be required to activate their cameras when responding to all calls for service and during all law enforcement-related encounters and activities that occur while the officers is on duty.** This is the most common policy adopted by the police agencies that PERF consulted, and it means that activities such as traffic or pedestrian stops, pursuits, searches, arrests, interrogations, and other enforcement-related events should always be recorded. Though some experts advocate recording *all* encounters between an officer and the public, we believe this approach can undermine the important informal relationships that officers develop with people in the community. We recommend that officers not be required to record non-law enforcement-related encounters; for example, an informal conversation with a shop owner about a football game, or a friendly chat with an elderly resident about her grandchildren.

We also outline limited exceptions to our general recording recommendation. For example, **we recommend that officers should be required to obtain consent prior to recording interviews with crime victims, and that officers should have discretion to not record conversations with crime witnesses or members of the community who wish to discuss confidential information that might relate to criminal activity, but who are unwilling to speak on camera.** This policy helps address the significant concerns about privacy or fear of retaliation that come with recording crime victims and witnesses.

Our recommendations emphasize that any recording discretion given to officers should be guided, limited, and subject to accountability mechanisms. Officers should be required to document, on camera or in writing, their reasons for not recording a particular encounter or event. And when in doubt, officers should record.

PERF also recommends that officers should be required to inform subjects when they are being recorded unless doing so would be unsafe, impractical, or impossible. This recommendation is based on reports that officers and community members tend to behave better and de-escalate conflicts if everyone present knows that the encounter is being recorded. In the relatively small number of states with two-party consent laws, officers must also always obtain the consent of the person being recorded.

Another critical issue facing police agencies is how to protect the security and integrity of body-worn camera data. The police agencies that PERF consulted store videos on an in-house server (managed internally) or on an online cloud database (managed by a third-party vendor). PERF recommends that, regardless of the storage method, an agency's policies should include specific measures to prevent unauthorized access, data tampering, deleting, or copying of video

files. Common strategies include data storage systems with built-in audit trails, requirements that supervisors download footage of serious officer-involved incidents, and forensic reviews of questionable footage.

Policies should also specifically state the length of time that body-worn camera videos should be retained. If the video contains footage that may be used in an investigation or a trial, or that captures a confrontational encounter between an officer and the public, it should be deemed “evidentiary” and categorized according to the type of incident. Retention times for evidentiary videos are typically governed by state evidentiary laws and regulations. If the video does not contain evidence or if it captures a routine, non-confrontational encounter, it should be categorized as “non-evidentiary.” When setting retention times for non-evidentiary footage, agencies should take into account the need to preserve footage long enough to promote transparency and investigate complaints, data storage capacity, and departmental policies governing other types of electronic records. Most agencies PERF consulted retain non-evidentiary data for 60 to 90 days. Retention times should be made available to the public.

One of the most important questions that an agency will face is when to release body-worn camera footage externally to the public and news media. First and foremost, each agency’s policy must comply with the state’s public disclosure laws. **With that in mind, PERF generally recommends a broad disclosure policy to promote agency transparency and accountability. By choosing to deploy cameras, agencies are creating a reasonable expectation that members of the public and the news media will be able to review the actions of officers.** However, agencies must always balance transparency with the very real privacy and evidentiary considerations that come with releasing footage to the public. We also stress that policies should include specific measures for preventing unauthorized video access or release.

Training is another key component of any body-worn camera program. We recommend that rigorous, ongoing training should be required for all agency personnel who may use or otherwise be involved with body-worn cameras. This includes officers who wear cameras, supervisors whose officers wear cameras, records management personnel, training personnel, and Internal Affairs units. Training should include an overview of relevant laws, procedures for operating the equipment safely and effectively, scenario-based exercises, data management procedures, and how to present video evidence in court.

Finally, PERF recommends that agencies should collect statistical data concerning body-worn camera usage and regularly make this data available to the public. Agencies should conduct periodic reviews of their body-worn camera policies and practices to assess the program’s effectiveness, financial impact, legal compliance, and impact on the community.

In conclusion, we believe that when implemented correctly, body-worn cameras can help strengthen the policing profession. They can help promote police accountability and transparency, strengthen officer professionalism and performance, improve evidence collection, and provide a more accurate documentation of police activities. However, body-worn cameras raise difficult issues as a practical matter and at the policy level that agencies must thoughtfully examine.

PERF's recommendations provide guidance that is grounded in current research and in the lessons learned from police agencies that have adopted body-worn cameras. Because this technology is so new, our recommendations may evolve as the impact of body-worn cameras is more fully understood. Above all, agencies must always remember that the ultimate purpose of body-worn cameras is to help officers protect and serve the people in their communities.

Thank you again for the opportunity to testify today. I would be pleased to answer any questions that you might have about this important issue.

Addendum to the Statement of Lindsay Miller, J.D.
Senior Research Associate, Police Executive Research Forum
Before the U.S. Senate Judiciary Committee's Subcommittee on Crime and Terrorism
May 19, 2015

During the May 19, 2015 hearing on body-worn cameras, Senator Graham asked us to estimate the total annual costs for outfitting every law enforcement officer in the country with a camera. We are submitting our response to his question as an addendum to the testimony, and we respectfully request that it be included in the official record.

First, we must note that these calculations represent only rough estimates. These types of estimates require us to make a number of assumptions and to include several factors that can vary widely from jurisdiction to jurisdiction (e.g., the total number of officers in the country, officer salaries, data storage requirements, etc.).

The estimated costs for outfitting every officer in the U.S. with a body-worn camera are:

- **\$3.1 – \$3.6 billion for upfront, first-year costs**
- **\$2.5 - \$2.9 billion each year for ongoing annual costs**

Below is how we calculated these estimates. Again, estimates for full national deployment of BWCs and ongoing scheduled costs are only possible by making a number of assumptions.

First, the total number of full-time officers in the US is itself an estimate. The FBI, through the UCR program, provide a figure of 626,942 full-time officers in 2013. However this count only covers 13,051 agencies (other estimates suggest there are 18,000 law enforcement agencies in the US) and covers a population of nearly 269 million people. So the FBI counts represent the most conservative estimate of officers. Another source of information is the Law Enforcement Management and Administrative Statistics (LEMAS) Survey, sponsored by the Bureau of Justice Statistics. That survey reported 724,690 full-time officers across 15,388 agencies; this count includes sheriff's offices and state police, as well as any officer who possesses full arrest powers (in contrast, the UCR counts officers with arrest powers who also have a firearm and badge and paid by governmental funds set aside to law enforcement, hence why the UCR count is lower). While neither of these counts are perfect, they can serve as a conservative range for estimates.

Second, the costs of ongoing costs, particularly storage, tend to vary. Estimates generally range between \$800 to \$1200 per camera each year. The variance comes with different negotiated packages by BWC manufacturers. Such costs may or may not (depending on the negotiated contract) include coverage for replacement parts and repair of cameras. As a conservative metric, we can assume \$1000 as a representative cost that could coverage storage and repair.

Third, there is a potential heavy financial cost by governments to provide additional staff to handle BWC administration and public disclosure. These costs are the most difficult to estimate as salaries and disclosure laws vary widely across jurisdictions. While anecdotal estimates exist for the number of hours it takes to clear a video for public release, even these can vary wildly or not have sufficient detail to generate a measurable metric. As a rough estimate, we can use more data from the LEMAS Survey – the average income for two full-time officers (one junior and

one supervisor) dedicated to a BWC program would be approximately \$100,000 per year. By adding in indirect costs (insurance, benefits, etc.) at a rate of 40% of income, the cost would be \$140,000 per year for each law enforcement agency as a conservative estimate.

Finally, it is unlikely that the capacity to store all these videos exists currently. While BWCs usage is clearly accelerating, dedicated storage does not exist in the market if all agencies obtained BWCs tomorrow. As a result, there would likely be additional upfront costs or a gradual increasing cost over the short term to account for rapidly increasing demand within a limited supply. This cost would be a considerable issue if BWC funding was presented as a single block grant, though could be mitigated through a phased funding that could allow the market to increase capacity concurrently. As such, we do not include a cost estimate for this component, though we do include the upfront cost of purchasing BWC units (approximately \$1000 per BWC, on average).

As a general note, we do not include longitudinal factors impacting costs, such as inflation, step increases in salary, or potential declines in cost through technological advancement or market competition. However, these would play a role for ongoing funding over years. The estimate here provides a conservative snapshot of the total costs. Upfront first-year cost estimates range between \$3.1-\$3.6 billion, with ongoing yearly costs estimated at between \$2.5-\$2.9 billion nationwide. See tables below:

	Value	Upfront Cost	Yearly Cost
Full-time Officers (FBI)	626,942	\$3,081,024,000	\$2,454,082,000
Agencies (FBI)	13,051		
BWC hardware	\$1,000		
BWC storage	\$1,000		
Agency support	\$140,000		
	Value	Upfront Cost	Yearly Cost
Full-time Officers (LEMAS)	724,690	\$3,603,700,000	\$2,879,010,000
Agencies (LEMAS)	15,388		
BWC hardware	\$1,000		
BWC storage	\$1,000		
Agency support	\$140,000		

The total costs include agencies that already have BWC programs. Given the uncertainty in the number of departments already using BWCs nationwide, we could subtract roughly 3,500 agencies and a proportionate count of full-time officers from the cost estimates – however, given that both FBI and BJS estimates likely underestimate agency counts by between 2,600-5,000 agencies, the differences may be a wash when looking at aggregate figures and thus suggestive that the cost estimate provided would be a conservative value to bring all law enforcement into BWC usage.

**The Leadership Conference
on Civil and Human Rights**

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20006



**Statement of Wade Henderson, President and CEO
The Leadership Conference on Civil and Human Rights**

**Hearing on “Body Cameras: Can Technology Increase Protection for Law Enforcement Officers
and the Public?”**

**Committee on the Judiciary
Subcommittee on Crime and Terrorism
United States Senate
May 19, 2015**

Chairman Graham, Ranking Member Whitehouse, and members of the Subcommittee: thank you for holding today’s hearing on “Body Cameras: Can Technology Increase Protection for Law Enforcement Officers and the Public?” On behalf of The Leadership Conference on Civil and Human Rights, I am pleased to testify today and provide this written statement for inclusion in the record.

The Leadership Conference on Civil and Human Rights is the nation’s oldest and most diverse coalition of civil and human rights organizations. Founded in 1950 by Arnold Aronson, A. Philip Randolph, and Roy Wilkins, The Leadership Conference seeks to further the goal of equality under law through legislative advocacy and public education. The Leadership Conference provides a powerful unified voice for the various constituencies of the coalition: persons of color, women, children, individuals with disabilities, gays and lesbians, older Americans, labor unions, major religious groups, civil libertarians, and human rights organizations. This hearing is part of a crucial national conversation about the policing in our country. These are discussions the civil and human rights community is eager to have. We believe that thoughtful policies, developed in public with the input of civil rights advocates and the local community, are essential to ensuring that police operated cameras enhance, rather than threaten, civil rights.

Over the last year we’ve seen a growing movement to address policing practices that have a disproportionate impact on low-income communities, communities of color, and African Americans in particular. The realities of “racial profiling,” excessive use of force, and implicit racial bias by law enforcement, have framed the national debate around police reform and prompted a national conversation on the use of technology, specifically body-worn cameras, as one possible means to enhance accountability and transparency in policing.

As we noted in our comments to President Obama’s Task Force on 21st Century Policing, which are attached to this testimony, mobile video cameras are an increasingly ubiquitous tool with the potential to help protect civil rights and build trust between police and the communities they serve. Video footage that documents law enforcement interactions with the public — whether gathered through body-worn cameras, weapon-mounted cameras, dashboard cameras, or citizen video of police activities — can have a valuable role to play in the present and future of policing. By documenting what happens, these cameras can become a new mechanism of police accountability, and can provide an additional source of evidence for administrative and court proceedings.



At the same time, the arrival of new video equipment does not guarantee that a police agency will better protect the civil rights of the community it serves. Department policy will play a critical role in determining whether and how video footage may be used to hold police accountable.

Last Friday, The Leadership Conference joined with a broad coalition of civil rights, privacy, and media rights organizations to release shared civil rights principles for the use of body-worn cameras by law enforcement. These principles, which are attached to this testimony, speak both to the potential benefits of body cameras and to the significant risks the cameras may pose for civil rights. The cameras are just a tool, not a substitute for broader reforms of policing practices.

Rolled out with the right policies, these cameras may become a valuable tool for accountability. However, as our civil rights principles point out, “without carefully crafted policy safeguards in place, there is a real risk that these new devices could become instruments of injustice, rather than tools for accountability.”

Our main focus today is on cameras worn and operated by law enforcement, but we must also acknowledge the vital role played by community members who choose to record the police. Americans across the nation have been transfixed by a series of video clips, recorded by bystanders, which capture tragic encounters between police and the people they serve. Chairman Graham, you spoke for millions, and certainly for me, when you [described](#) the video of Walter Scott’s killing in North Charleston as “horrific,” and “difficult to watch.”

There is an important lesson in the fact that bystanders, and not police, held the cameras that showed us those and other tragic events. Cameras point away from the people who operate them. Body-worn cameras will be trained on the members of the community, not officers themselves. And heavily policed communities of color, where there are more police, will be more heavily recorded.

If this technology becomes a multi-purpose surveillance tool, it will intensify the already stark disparities in how different communities are policed. That’s why we think it’s so important to carefully limit how the footage from police cameras will be used. These cameras should be a tool of accountability for police encounters — not a face or body scanner for everyone who walks by on the street. Facial recognition and other biometric technologies must be carefully limited: if those technologies are used together with body cameras, officers will have far greater visibility into heavily policed communities—where cameras will be abundant—than into other communities where cameras will be rare.

Of course, rules about how footage will be used will only matter when we have the actual footage. For that reason, it’s vitally important that departments impose stringent discipline on officers who fail to record encounters that are supposed to be on camera. Early experiences in pilot programs suggest that without strong rules, officers won’t necessarily record when they should.

Finally, footage from a body-worn camera could be a valuable source of evidence to help protect both officers and the public. But any camera footage can be misleading. That’s why we believe other sources of evidence, including the officer’s own recollection of what happened during an incident, must be preserved. If an officer views the footage before filing his or her report, an opportunity will arise for the officer to conform the report to what the video appears to show, rather than what he or she remembers — even if the footage is misleading or incomplete. Moreover, there is a risk that the officer’s report and the

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video may seem to confirm each other independently, when they really aren't independent at all. For these reasons, our principles call on departments to prohibit their officers from viewing body camera footage until after reports are filed.

The Leadership Conference urges federal, state and local governments, as well as individual police departments, to consider our principles as they develop and implement body-worn camera policies and programs. Without the appropriate safeguards, we are at risk of compounding the very problems in policing we are seeking to fix. And as we continue this important national conversation, we must not forget that body worn cameras are not a substitute for broader reforms that can address issues of profiling, excessive use of force, and implicit and explicit racial bias.

Thank you for your consideration.

Attachments:

Comments to Task Force on 21st Century Policing on Body Worn Cameras (January 30, 2015)
Civil Rights Principles on Body Worn Cameras (May 2015)

Civil Rights Principles on Body Worn Cameras
May 2015

Mobile cameras operated by law enforcement may play a valuable role in the present and future of policing. Whether they're worn by an officer or mounted on police equipment, cameras could help provide transparency into law enforcement practices, by providing first-hand evidence of public interactions.

But police-operated cameras are no substitute for broader reforms of policing practices. In fact, cameras could be used to intensify disproportionate surveillance and enforcement in heavily policed communities of color. Without carefully crafted policy safeguards in place, there is a real risk that these new devices could become instruments of injustice, rather than tools for accountability.

To help ensure that police-operated cameras are used to enhance civil rights, departments must:

1. **Develop camera policies in public** with the input of civil rights advocates and the local community. Current policies must always be publicly available, and any policy changes must also be made in consultation with the community.
2. **Commit to a set of narrow and well-defined purposes** for which cameras and their footage may be used. In particular, facial recognition and other biometric technologies must be carefully limited: if they are used together with body cameras, officers will have far greater visibility into heavily policed communities—where cameras will be abundant—than into other communities where cameras will be rare. Such technologies could amplify existing disparities in law enforcement practices across communities.
3. **Specify clear operational policies for recording, retention, and access**, and enforce strict disciplinary protocols for policy violations. While some types of law enforcement interactions (*e.g.*, when attending to victims of domestic violence) may happen off-camera, the vast majority of interactions with the public—including all that involve the use of force—should be captured on video. Departments must also adopt systems to monitor and audit access to recorded footage, and secure footage against unauthorized access and tampering.
4. **Make footage available to promote accountability** with appropriate privacy safeguards in place. At a minimum: (1) footage that captures police use of force should be made available to the public and press upon request, and (2) upon request, footage should be made available in a timely manner to any filmed subject seeking to file a complaint, to criminal defendants, and to the next-of-kin of anyone whose death is related to the events captured on video. Departments must consider individual privacy concerns before making footage available to broad audiences.
5. **Preserve the independent evidentiary value of officer reports** by prohibiting officers from viewing footage before filing their reports. Footage of an event presents a partial—and sometimes misleading—perspective of how events unfolded. Pre-report viewing could cause an officer to

conform the report to what the video appears to show, rather than what the officer actually saw.

Signed by:

American Civil Liberties Union
Asian Americans Advancing Justice | AAJC
Asian Americans Advancing Justice | Asian Law Caucus
Asian Americans Advancing Justice | Los Angeles
Asian Americans Advancing Justice | Chicago
Center for Democracy and Technology
Center for Media Justice
ColorOfChange.org
Data & Society
Demand Progress
Demos
Dignity and Power Now
Electronic Frontier Foundation
Free Press
Hip Hop Caucus
The Lawyers' Committee for Civil Rights Under Law
The Leadership Conference on Civil and Human Rights
Martinez Street Women's Center
May First/People Link
Media Alliance
Media Literacy Project
Media Mobilizing Project
Million Hoodies Movement for Justice
NAACP
NAACP Legal Defense and Educational Fund, Inc.
National Association of Social Workers
National Council of La Raza
National Hispanic Media Coalition
National Urban League
New America's Open Technology Institute
Public Knowledge
Southwest Workers' Union
Urbana-Champaign Independent Media Center
Voices for Racial Justice
Working Narratives
Alvaro Bedoya, Executive Director, Center on Privacy and Technology at Georgetown Law*

* Affiliation for Identification Purposes Only

**The Leadership Conference
on Civil and Human Rights**

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January 30, 2015

President's Task Force on 21st Century Policing
Office of Community Oriented Policing Services
U.S. Department of Justice
145 N Street, N.E. 11th Floor
Washington, DC 20530
Comment@taskforceonpolicing.us

Submitted via e-mail

Dear Members of the Task Force:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 200 national organizations to promote and protect the civil and human rights of all persons in the United States, we appreciate this opportunity to submit "written comments including proposed recommendations" related to body-worn cameras.¹ The Leadership Conference provides a powerful unified voice for the various constituencies of the coalition: persons of color, women, children, individuals with disabilities, gays and lesbians, older Americans, labor unions, major religious groups, civil libertarians, and human rights organizations. As discussed below, we believe that thoughtful policies, developed in public with the input of civil rights advocates and the local community, are essential to ensuring that police operated cameras enhance, rather than threaten, civil rights.

Mobile video cameras are an increasingly ubiquitous tool with the potential to help protect civil rights and build trust between police and the communities they serve. Video footage that documents law enforcement interactions with the public — whether gathered through body-worn cameras, weapon-mounted cameras, dashboard cameras, or citizen video of police activities — can have a valuable role to play in the present and future of policing. By documenting what happens, these cameras can become a new mechanism of police accountability, and can provide an additional source of evidence for administrative and court proceedings.

At the same time, the arrival of new video equipment does not guarantee that a police agency will better protect the civil rights of the community it serves. Department policy will play a critical role in determining whether and how video footage may be used to hold police accountable. This new technology could also be used to intensify disproportionate surveillance and disproportionate enforcement in heavily policed communities of color. Without the right safeguards, there is a real risk that these new devices could become instruments of injustice.

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Policy and Enforcement

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The Police Executive Research Forum (PERF), working together with the Department of Justice Office of Community Oriented Policing Services (COPS Office), recently prepared a report of best practices for implementing body-worn camera programs. That report found that when developing policies for body-worn cameras, police agencies should seek input from “community groups, other local stakeholders and the general public.”ⁱⁱⁱ The PERF report further concluded that the resulting policies should be made “available to the public, preferably by posting the policies on the agency web site.”ⁱⁱⁱ And because these technologies are so new, “[p]olice agencies should adopt an incremental approach to implementing a body-worn camera program. This means testing the cameras in pilot programs and engaging officers and the community during implementation.”^{iv} We strongly agree with each of these recommendations.

These three principles — community input into the policies governing body-worn cameras, public disclosure of what those policies are, and an incremental, pilot-first approach — are points of agreement among civil rights groups, police executives, and experts who have studied the issue. They are a minimum baseline, and compliance with them should be mandatory for any police agency seeking federal funds for the purchase or operation of body-worn cameras. The same shared baseline should likewise apply to federal support for gun-mounted cameras and any other new video technologies that officers use in the course of their duties.

The following policies are vital to ensuring that new police-operated cameras will enhance civil rights, and should be recommended by the Task Force:

1. Balanced rules should clearly specify when the cameras will and will not record, and should appropriately allow members of the public to decline to be recorded.

- Officers should be required to record all interactions with members of the public (i.e. anyone other than police personnel) while on duty, unless a specific and well defined exception applies. This requirement implies that an officer on foot patrol, for example, would generally be recording throughout the patrol.
- We agree with the Model Policy of the International Association of Chiefs of Police (IACP) that in “locations where individuals have a reasonable expectation of privacy, such as a residence, they [should have the option to] decline to be recorded unless the recording is being made pursuant to an arrest or search of the residence or the individuals.”^v
- Further, we agree with the PERF recommendations that “officers should be required to obtain consent prior to recording interviews with crime victims.”^{vi}
- For situations involving “crime witnesses and members of the community who may wish to report or discuss criminal activity in their neighborhood,”^{vii} and for other conversations in public places, we believe that policies should create reasonable opportunities for officers and subjects to jointly agree not to record their conversation. Rather than relying solely on an officer’s attestation that a subject asked not to be recorded, policies should require the



officer to document the subject's request that recording cease, whether by recording the subject's request, obtaining the subject's signature on a standard form, or by another method. If multiple subjects are involved, then all subjects must consent in order for the camera to be turned off.

2. There should be a presumption against the collection or use of facial or other biometric data in conjunction with police-operated video, whether in live feeds or recorded footage. Technology will soon make it easy for every person who comes within view of a body-worn camera to be automatically identified by their face, gait, or other personal characteristics. Biometric evaluation of footage must be strictly limited to narrow, well-defined uses, and subject to judicial authorization.

3. Members of the public should know when the camera is recording. Officers must make clear to members of the public that they are being recorded. Camera systems must include a clear and automatic signal such as a well-labelled recording light to indicate that recording is underway. Officers should also "be required to inform subjects when they are being recorded unless doing so would be unsafe, impractical, or impossible," as recommended in the PERF report,^{viii} and should be similarly required to notify members of the public when recording ends.

4. Retention of footage should be limited. Scheduled, automatic deletion of most footage is vital to prevent these cameras from becoming tools of injustice. Footage should generally be retained as long as it might become relevant to a timely-filed citizen complaint; evidentiary video of crimes, arrests, citations, searches, uses of force and confrontations should be retained in accordance with the general rules for such evidence.

5. Police access to footage should be logged, and should be limited to preserve the independent evidentiary value of officer recollections of events. Officers should not see police-operated camera footage before filing their reports, because such pre-report viewing effectively eliminates the officer's *independent* recollection of the event as a source of evidence. Footage of an event will always present a partial, not complete, perspective of how events unfolded, and can at times create a misleading impression; in such situations, pre-report viewing could create a counter-productive incentive for the officer to conform his or her report to what the video appears to show, rather than to what he or she actually remembers.^{ix}

6. Footage must be made available to promote accountability, with appropriate privacy safeguards for public access. Raw footage should be available for internal and external investigations of misconduct and available to criminal defendants. An appropriate redaction process for private information should be developed so that redacted footage can be made available for non-commercial public interest purposes to the community and the media, subject to appropriate protections for witnesses and victims.

7. Police agencies must secure footage and must not allow access except in accordance with their publicly announced policy. Limits on an agency's use of its footage would lose their meaning if additional justice agencies, vendors, or other third parties could access the footage without being bound to the same policies and judicial safeguards that apply to the agency itself. Agencies should be free to contract with vendors to assist in the management of footage, where the vendor acts on behalf of the



police agency and is subject to the same restrictions. Agencies and vendors should also consult with security experts to ensure that footage is not vulnerable to unauthorized access.

8. Police agencies should collect and publish statistics regarding their experiences with body-worn cameras. Timely, systematic review and assessment is vital to understanding the impact of these devices. As the PERF report recommends, police agency statistics should include how often footage from the cameras is used in internal affairs matters and how often it is used in criminal prosecutions.^x

9. Officers must be thoroughly trained on how to use body-worn cameras, and must be disciplined if they violate agency policy. We agree with the PERF recommendations that all “agency personnel who may use or otherwise be involved with body-worn cameras” should be fully trained *before* they are equipped with the cameras.^{xi} Training should be periodic and ongoing.

10. Training protocols for personnel who will review or use footage — including police executives, supervisors, and prosecutors — should incorporate best practices drawn from research findings on racial bias in the interpretation of video evidence. Video evidence may seem to speak for itself, but research has found substantial differences in how different viewers interpret the same footage,^{xii} underlining the continued importance of independent sources of evidence such as officer recollections and witness statements.

With these important protections in place, we are optimistic that police operated cameras can become a valuable part of 21st century policing. We stand ready to work with you to ensure that the voices of the civil and human rights community are heard in this important, ongoing national conversation. If you have any questions about these comments, please contact Corrine Yu, Managing Policy Director, or Sakira Cook, Counsel, at 202-466-3311.

Sincerely,

Wade Henderson
President & CEO

Nancy Zinkin
Executive Vice President

ⁱ COPS Office, *Listening Session: Technology and Social Media*, <http://www.cops.usdoj.gov/Default.asp?Item=2768> (last visited Jan. 25, 2015).

ⁱⁱ Lindsay Miller, et. al., *Police Executive Research Forum, Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned* 37 (2014).

ⁱⁱⁱ *Id.* at 38.

^{iv} *Id.* at 51.

^v VII International Association of Chiefs of Police, *Body-Worn Cameras Model Policy 1* (2014).

^{vi} Miller, *supra* note 2, at 41.

^{vii} *Id.*

^{viii} *Id.* at 40.



^{ix} The PERF report ultimately favored allowing officers to review video before filing reports, but noted that some police executives “said that the truth — and the officer’s credibility — are better served if an officer is not permitted to review footage of an incident prior to making a statement.” *Id.* at 30. We agree with this observation.

^x Miller, *supra* note 2, at 48.

^{xi} *Id.* at 47.

^{xii} See, e.g., Dan M. Kahan *et al.*, Who Are You Going to Believe? Scott v. Harris and the Perils of Cognitive Illiberalism, 122 Harv. L. Rev. 837 (2009). *Scott* involved dashcam video footage of a high-speed police chase in which an officer deliberately rear-ended the plaintiff, who became a quadriplegic in the resulting accident and sued under 42 USC § 1983, alleging that the officer had used excessive force (*Scott v. Harris*, 550 U.S. 372 (2007)). The officer claimed that his actions had been justified because the plaintiff had been driving so recklessly during the chase as to endanger others’ lives, but the plaintiff, whose driving was captured on video, denied that his driving had been so reckless. The Supreme Court held that the officer should have prevailed on summary judgment because the plaintiff’s “version of events is so utterly discredited by the [video footage] that no reasonable jury could have believed him,” *id.* at 380, and the courts below “should have viewed the facts in the light depicted by the videotape.” *Id.* at 381. In response to Justice Steven’s dissent (which differently interpreted the video footage, and agreed with the courts below that the plaintiff’s argument was strong enough to survive summary judgment), the majority wrote that “we are happy to allow the video to speak for itself.” *Id.* at 378, n. 5. Kahan and colleagues accepted this invitation, showing the video to “a diverse sample of 1350 Americans.” Kahan *et al.*, 122 Harv. L. Rev. at 838. They found that interpretations were actually widely varied: “African Americans, low-income workers, and residents of the Northeast ... tended to more pro-plaintiff views of the [video] than did the Court,” *id.* at 841. “By asserting that the view of the facts these people came away with was one no ‘reasonable juror’ could have formed, the Scott majority ... denied jurors of this identity a chance to persuade those of another identity to see things a different way,” *id.* at 904.

**United States Senate
Committee on the Judiciary
Body Cameras: Can Technology Increase Protection for Law Enforcement
Officers and the Public?
Tuesday, May 19, 2015**

Chairman Graham, Distinguished Members of the Committee, my name is Jarrod Bruder and I am the Executive Director for the South Carolina Sheriffs' Association. It is truly an honor to appear before you today. I come to testify on behalf of the forty-six Sheriffs of South Carolina. I have also been asked to share my comments on behalf of the South Carolina Law Enforcement Officers' Association, the South Carolina Police Chiefs Association, the South Carolina Chapter of the Fraternal Order of Police, the South Carolina Attorney General, the South Carolina Law Enforcement Division, the South Carolina Department of Public Safety, the South Carolina Commission on Prosecution Coordination, and the South Carolina Crime Victims Council.

I would like to begin by applauding the Subcommittee for taking the time to study the positive and negative effects of implementing body-worn cameras before enacting legislation. As you will hear throughout my testimony, embracing new technology for the purposes of increasing transparency, officer accountability, and officer safety can produce tremendous benefits, but it can also generate serious unintended consequences. As one lawmaker in South Carolina recently noted, "The difference between a young cop and an old cop is that the young cop runs to the fight while the old cop walks to the fight – all the while, he is assessing the situation before jumping in to action." South Carolina Speaker Pro Tempore, Representative Tommy Pope, who is a former law enforcement officer and former Solicitor, used those words to caution his colleagues to slow down and really evaluate the concept before passing legislation that would require all law enforcement agencies in South Carolina to implement body-worn cameras. I would simply ask you to consider those words as the debate over body-worn cameras proceeds.

PROS

For more than five years now, law enforcement agencies throughout the State of South Carolina have been experimenting with the use of body-worn cameras. Approximately 15% of the Sheriffs' Offices in South Carolina have implemented body-worn camera programs to date. For the most part, those agencies have reported that body-worn cameras provide a significant benefit to their department and individual officers. Agencies who have allowed or implemented body-worn cameras have reported significant reductions in complaints on officers. They also credit the cameras with resolving officer-involved incidents. Simply put, everyone – including the officer and the person interacting with the officer – tends to behave better when they know they are being filmed. Body-worn cameras also provide command staffs with a wonderful opportunity to teach younger officers by pointing out tactical mistakes or concerns on film. Many agencies have been heralded for their transparency and willingness to embrace new technology in their pursuit of justice. In the end, body-worn cameras have produced a more accountable and more professional police force for these agencies. It is hard to dispute the effectiveness of body-worn cameras in this regard.

CONS

In my experience, the primary issue preventing law enforcement agencies from fully embracing the use of body-worn cameras is the exorbitant cost. While I am sure that every Sheriff and Chief in this country would love to have an agency that is more accountable and more professional, they must weigh the cost of this technology against the potential benefits. Unfortunately, the cost is often too much for an agency to absorb, even if they desire the benefits. Body-worn cameras are extremely unique in that the initial purchase of the cameras is arguably the cheapest phase of implementation. The greatest cost for this technology can be found in the storage or retention of data. For one Sheriff's Office in South Carolina, the fiscal impact to provide body-worn cameras for approximately 250 deputies was approximately \$600,000 for the initial purchase and implementation of the cameras and approximately \$600,000 each year thereafter in recurring expenses. At a time when many law enforcement agencies in South Carolina are struggling to find sufficient funds to outfit their officers with bullet-proof vests or purchase less lethal technology or other life saving methods, the idea of investing such tremendous amounts of money in body-worn cameras seems like a fairy-tale to many. Thankfully, the South Carolina General Assembly understands the tremendous cost that is associated with this new technology. Pending legislation in South Carolina will create a statewide trust that will fund the initial and ongoing costs associated with body-worn cameras. In fact, the use of body-worn cameras is only required if funding is provided in full. This provision, along with several others, has resulted in our support of body-worn camera legislation.

Likewise, I was encouraged to see the United States Department of Justice announce a new \$20 million pilot grant program that will fund the implementation of body-worn camera programs throughout the country. I would encourage this committee to build upon this program and enhance the funding for such grant programs. I would also encourage this committee to include prosecutors in your funding efforts. All body camera footage that is used as evidence will have to be reviewed by prosecutors. If they do not have the proper IT infrastructure and programs, law enforcement's efforts will ultimately be thwarted by the inability to successfully prosecute a case. Again, the potential benefits of body-worn cameras are great, but so is the cost.

Another issue preventing law enforcement agencies from fully embracing body-worn cameras is the notion of protecting one's privacy. While transparency and openness are welcomed concepts for some, those notions are not always conducive to producing successful police work. Anonymity is a tremendously valuable tool in the world of law enforcement. Often times, our best tips or leads come from criminal informants, witnesses, or victims who wish to remain anonymous. There is great fear in the law enforcement community that the proliferation of body-worn cameras will further divide our communities and have a chilling effect on the exchange of information between officers and the communities they serve. Some are afraid that the concerned neighbor who would ordinarily point law enforcement officers in the direction of a potential law breaker will no longer do so out of a fear of being identified on the officer's body-worn camera.

For this reason, we strongly suggest that governing bodies, on the national, state, and local levels, provide their law enforcement agencies with the opportunity to determine their own policies and procedures when implementing a body-worn camera program. To put it bluntly, the decision of who should wear body-worn cameras and when they should activate or deactivate the camera

should remain a matter of policy and procedure, not law. It is absolutely critical that law enforcement officers retain the ability to turn a camera off when it is necessary to protect the identity of an informant, a witness, or a victim. It is also important to note that the technology behind body-worn cameras is advancing with each day that passes. As technology advances, so too will our policies and procedures. With that said, I again caution against setting such critical decision in law.

Furthermore, protecting one's privacy does not end with an officer's decision to activate or deactivate a camera. In my humble opinion, body-worn cameras are intended to increase officer accountability and trust in the communities they serve. These cameras are not intended to be a source of embarrassment or humiliation. Law enforcement officers often encounter citizens at their lowest moments in life. Data from these cameras should be used as evidence to enhance our pursuit of justice, not to humiliate or entertain our neighbors. To that end, I must commend the South Carolina General Assembly. In their efforts to enact body-worn camera legislation, they have deemed data recorded by a body-worn camera not to be a public document, thus the data is not subject to our Freedom of Information Act laws. Doing so will ensure that a single moment of indiscretion does not provide a lifetime of embarrassment. It also ensures that one's guilt or innocence is determined in a court of law, not a court of public opinion.

MANAGING EXPECTATIONS

As the use of body-worn cameras increases, it is important for law enforcement, prosecutors, judges, and even governing bodies to manage the expectations of the public. Most agencies that have implemented body-worn cameras have done so for their uniformed patrol officers. These are the officers that are most likely to encounter use of force situations in their day to day activities, so it is only natural to want to document their actions more closely. With that being said, it should be understood that every police action will not be caught on camera. Critical incidents can happen in the blink of an eye. There will be times that it is neither possible, nor feasible, to have body-worn camera footage. The absence of video should not automatically equate to an innocent suspect and a guilty officer. Rather, data from body-worn cameras should simply be seen as an additional tool to assist in the overall quest for justice.

For all the good body-worn cameras can do, there are limitations to the technology and its effectiveness, just as we have seen on in-car video cameras. As sophisticated as the technology is, it will never capture an event recorded as well as the human eye, or being there in person, and may in fact distort the incident altogether. The field of view is necessarily limited, the depth perception is skewed and full context of the encounter is not possible. Low light and darkness only exacerbates these limitations. Subtle clues of attack or trouble, which police are trained to observe, will not be captured by body-worn cameras, and neither will the first flinch of a resisting subject, which can often escalate the situation. If you have never tried to handcuff an uncooperative or resisting suspect, you have no idea what that is like, and it is possible that none of your struggle will be picked up by a camera. So if anyone thinks this technology is the sole answer, they are sadly mistaken. The images will always be subjected to interpretation.

CONCLUSION

In conclusion, I would like to answer the question that has brought us here today. Yes, when used properly, technology, and more specifically, body-worn cameras, can increase protection for law enforcement officers and the public. We should be careful, though, not to put too much trust in this technology. While the Sheriffs of South Carolina fully recognize the benefits that can stem from the use of body-worn cameras, we do not want to lead anyone to believe that this use of technology will magically prevent situations, such as the one that led to the tragic loss of Mr. Walter Scott's life in North Charleston, South Carolina, from occurring. Body-worn cameras can aid in transparency, but they will not mend community relations alone. Technology, no matter how far it advances, will never accomplish what can be gained when people take the time to sit down, talk, listen, and attempt to understand a different perspective.

It is often said that public safety is a core function of government. While I certainly believe that is true, I also believe that far too many law enforcement agencies in this country are barely making ends meet. A constant cry for smaller government has resulted in a government that provides less. Law enforcement agencies across this country are in desperate need for cultural diversity, use of force, and de-escalation training. Advanced training, not just basic training, is absolutely critical in our efforts to provide public safety. If we truly want to increase protection for law enforcement officers and the public, then we need to provide our law enforcement agencies with the funds necessary to attract, recruit, and retain the best and brightest officers. Those officers should be psychologically tested and equipped with the best training available to ensure they serve and protect our communities with equality, fairness, and justice.

With that, I again sincerely thank you for the opportunity to speak today. I will gladly answer any questions.

Senator Dick Durbin, Ranking Member
Opening Statement
Subcommittee on the Constitution
Hearing on “Taking Sexual Assault Seriously: The Rape Kit Backlog and Human Rights”
May 20, 2015

Thank you, Mr. Chairman, for convening this important hearing. I'm glad that we were able to work together on a bipartisan basis for this Subcommittee's first hearing in the 114th Congress. Clearly, this is an issue we must work together to solve.

According to the Centers for Disease Control and Prevention, an estimated 19.3% of women and 1.7% of men have been raped during their lifetimes in the United States. And a National Crime Victimization Survey found that between 2006 and 2010, 65% of rapes and sexual assaults went unreported. When a victim does report, she should be confident that there will be a thorough investigation and that her attacker will be prosecuted. Instead, thousands of victims have faced inexcusable, ongoing trauma as their rape kits go untested and rapists get away with their horrific crimes.

Experts have estimated that hundreds of thousands of rape kits remain backlogged across the country, stuffed into police department evidence lockers or awaiting testing at crime labs. Experts believe that this estimate is low, given that jurisdictions are not required to report the number of kits that have yet to undergo testing.

The backlog has resulted in heartbreaking miscarriages of justice. Last week, *New York Times* columnist Nicholas Kristof detailed the story of Natasha, a young woman from Robbins, Illinois who was brutally raped at the age of 14. Years after the assault, the Cook County Sheriff's Office found scores of untested kits in the evidence room of the Robbins Police Department, including Natasha's. After testing, the kit revealed a DNA match—but the statute of limitations had expired, and so Natasha's attacker could not be prosecuted.

For victims like Natasha, justice delayed too often means justice denied. And, as Cook County Sheriff Tom Dart has noted, victims from cash-strapped, low-income communities—like Robbins—often are disproportionately affected.

The good news is that we have made improvements in recent years. In 2004, the Debbie Smith Rape Kit Backlog Reduction Act became law as part of the bipartisan Justice for All Act. I was glad to see the Debbie Smith Act reauthorized last year to help ensure that crime labs have the resources they need to test the kits they receive.

States like Illinois and Texas are leading the way on this issue. In 2010, Illinois passed the first rape kit backlog law in the nation. The law mandates that law enforcement submit kits to the Illinois State Police for testing within ten days of receipt. As a result of this, the backlog of approximately 4000 kits in Illinois has been eliminated, and 969 profiles of suspects have been matched in CODIS, the national DNA databank. While Illinois has more work to do, as evidenced by Natasha's story, the law is a significant step toward justice for victims.

Testing all rape kits not only helps ensure that dangerous offenders are prosecuted; it also helps exonerate innocent people. To cite just one example, when New York City processed its backlog, DNA evidence revealed that a man who had spent 11 years in jail had been wrongfully convicted of rape after the victim mistakenly identified him as the perpetrator.

Beyond the rape kit backlog, we must consider how we can comprehensively address the sexual assault epidemic. We need to focus on preventing rapes from occurring in the first place. We need to provide law enforcement agencies with access to training on how to respond to traumatized victims. As tested kits reveal suspects, we need to provide investigators and prosecutors with adequate funding to pursue cases. And we need to ensure that crisis centers and victim assistance organizations have the resources to aid survivors.

Congress took a step in the right direction by appropriating \$41 million last year to address the rape kit backlog and develop comprehensive, multi-disciplinary responses to sexual assault cases. The House Commerce, Justice, and Science Appropriations Subcommittee included a continuation of this vital funding in its Fiscal Year 2016 bill, along with funding the Debbie Smith Act. This is a step in the right direction, and I hope that the Senate CJS Subcommittee will take the same approach.

This funding will make a significant difference in cities and states across the country, but there is much more work to be done. Eliminating the rape kit backlog, prosecuting offenders, and providing support services to victims will require ongoing appropriations in the years ahead. That's one reason we need to pursue critical reforms to our criminal justice system like the bipartisan Smarter Sentencing Act, which would reduce overcrowding in federal prisons by lowering sentences for non-violent drug offenses. At a time when incarceration and detention costs account for one third of the Department of Justice's budget, we need to free up resources for other priorities, like eliminating the rape kit backlog.

Thank you Mr. Chairman, I look forward to working together to ensure that victims of sexual assault receive the justice they deserve.

Statement of Senator Dianne Feinstein
May 19, 2015 Hearing on “Body Cameras: Can Technology Increase Protection for Law Enforcement Officers and the Public?”

I want to thank Chairman Graham for calling this hearing on body cameras.

Over the last several months, it has become apparent that the bond between law enforcement officers and those they serve has broken down in many communities.

I believe that body cameras are one part of the solution.

The use of body cameras by police officers, with appropriate safeguards, can provide an objective account of use-of-force incidents.

This will benefit both individual officers and the communities they serve.

Body cameras benefit the community by providing greater accountability for the law enforcement officers, and cameras benefit the officer wearing one by preventing false accusations from being leveled against him or her.

The Peace Officers Research Association of California — which represents over 67,000 rank-and-file officers in my home state — supports the use of body cameras.

The Peace Officers Research Association of California’s support for body cameras comes as a result of years-long “significant on-the-ground research and analysis” conducted by their law enforcement legal team. I believe that says something about the value of these cameras for the officers who wear them.

A hearing on this issue is a good first step. I support federal funding for use of body cameras by police officers and commend the Department of Justice for moving forward with soliciting applications for this funding.

But we need to do more than provide funding for body cameras.

I served as Mayor of San Francisco before my election to the Senate.

I have seen firsthand the benefit to public safety when law enforcement officials, community leaders, and residents engage directly with one another and understand each other.

We need to determine how the federal government can help strengthen engagement and understanding between law enforcement and the residents they serve.

Let me share one example from my experience as Mayor.

After the horrifying double assassination of Harvey Milk and George Moscone, I feared violence would ensue when the assassin, former Supervisor Dan White, was convicted of involuntary manslaughter instead of murder.

Our city’s police chief, Charlie Gain, and I took several steps to prevent violence.

First, Chief Gain sat down with the city's community leaders, merchants, and clergy to explain how his officers would police their neighborhoods and what steps they would take if violence occurred.

Second, our police worked in squads. One officer was responsible—and held accountable—for the performance of the squad.

Community engagement and accountability were two lessons that I learned from those tragic days in San Francisco. These are lessons that should be applied as our nation seeks to move forward after recent events in Ferguson, Staten Island, Cleveland, and Baltimore.

I hope this hearing is one first step in our Committee's effort to consider these important issues.

Thank you, Mr. Chairman.

Senator Sheldon Whitehouse
“Body Cameras: Can Technology Increase Protection
for Law Enforcement Officers and the Public?”
May 19, 2015
Opening Statement

Mr. Chairman, thank you for holding this important hearing. Our nation is in the middle of a conversation about our criminal justice system, driven by events in Ferguson, Baltimore, North Charleston, Staten Island, and other communities both large and small. Recent tragic deaths of young black men have undermined the confidence of many Americans in the law enforcement officers who protect them. We all recognize that police officers perform an extremely dangerous job, and the overwhelming majority do so honorably and courageously. But as these incidents have made clear, the sad truth is that, in some communities, trust between the police officers and the residents they serve is virtually nonexistent.

Today’s hearing will explore one possible way to help restore that trust. Studies have shown that, when body cameras are employed, incidents involving the use of force decline, as do civilian complaints against police officers. For instance, a study of the Mesa, Arizona, Police Department found that officers who were assigned body cameras experienced 40 percent fewer total complaints and 75 percent fewer use of force complaints than in the previous year. The reason is simple: As Ken Miller of Greensboro, North Carolina, put it, knowing that you’re being recorded “elevates behavior on both sides of the camera.”

Of course, body cameras will only be effective if they are implemented in a thoughtful way that balances the benefits of their use with the need to protect the privacy of those who might be recorded. Questions such as when cameras are to be deployed; whether officers must obtain consent to record interviews; and how footage is to be kept secure all require serious consideration and may not lend themselves to easy answers. So I am particularly interested in learning more today about what works – and what doesn’t – when it comes to the use of body cameras, and how we can ensure that help police departments use cameras in the most effective way possible.

And body cameras are only one part of the response to the challenges facing our criminal justice system. We need to look at a variety of issues, ranging from sentencing policies to the collateral consequences of criminal convictions to efforts to reduce recidivism and prepare inmates for reentering society. For instance, Senator Cornyn and I have introduced legislation, known as the CORRECTIONS Act, to address the cycle of recidivism by expanding programming in federal prisons, and we are proud to have you as a cosponsor of our bill, Mr. Chairman. In addition, I am a strong supporter of the Smarter Sentencing Act, which would reduce some mandatory minimums for drug offenses.

The Chairman of this Committee, Senator Grassley, recently announced that he has convened discussions to address the issue of sentencing and prison reform, and I appreciate his interest in addressing these important issues – as well as his efforts to draw attention to other aspects of our criminal justice system that need reform. I also thank you, Mr. Chairman, for convening today’s hearing to explore one way we can help to restore trust between police departments and the

communities they protect. As serious as the problems we face with our criminal justice system are, I believe we have an historic opportunity during this Congress to enact meaningful legislation to address them. I hope today's hearing will bring us closer to that goal.

I look forward to hearing from Senator Scott and our other witnesses.



**National
Urban League**

*Empowering Communities.
Changing Lives.*

**Statement of Marc H. Morial
President and CEO
National Urban League**

Before the

Senate Judiciary Subcommittee on Crime and Terrorism

On

***“Body Cameras: Can Technology Increase Protection for Law Enforcement
Officers and the Public?”***

May 19, 2015

Chairman Graham, Ranking Member Whitehouse, members of the Subcommittee, on behalf of the National Urban League, I am encouraged by this opportunity to present our qualified support for body-worn cameras as an extremely important component of a multi-faceted strategy for police reform. I wish to express my sincere appreciation to you, Chairman Graham, to Ranking Member Whitehouse and to Senator Tim Scott for holding this most important hearing.

I am Marc Morial, President and CEO of the National Urban League and former Mayor of New Orleans. It is my hope and expectation that this hearing will mark the beginning of legislative action to address the ongoing pattern and practice of racial violence and systemic discriminatory treatment by law enforcement in so many of our communities of color.

Mr. Chairman and members of this committee, few times in a nation's history is the conscience of its citizens shocked and awakened across racial, economic, generational and even ideological lines. In this catalytic moment driven by cataclysmic circumstances—the deaths of Freddie Gray, Walter Scott, Tamir Rice, Akai Gurley, Michael Brown, John Crawford, Eric Garner, Marlene Pinnock, Rekia Boyd, Levar Jones and too many others—the collective consciousness of this nation screams—and demands without apology—that it's time for a change.

The use of excessive force—deadly force—by law enforcement against unarmed African Americans has no place in our democracy. Police should not fear the communities they have sworn to protect and communities should not fear those who serve to protect them. We as a nation must and can do better. The challenges before us are great, and we all—legislators, civil rights organizations, clergy, everyday Americans and young people—have a role to play in the solutions.

That is why we, the National Urban League, released a *10-Point Justice Plan for Police Reform and Accountability* at the end of 2014 and submitted detailed proposals earlier this year to the President's Task Force on 21st Century Policing.ⁱ

10-Point Justice Plan: National Urban League Police Reform and Accountability Recommendations

1. Widespread Use of Body Cameras and Dashboard Cameras
2. Broken Windows Reform and Implementation of 21st Century Community Policing Model
3. Review Police Use of Deadly Force Policies and Adopt a Uniform Deadly Force Standard
4. Comprehensive Retraining of All Police Officers
5. Comprehensive Review and Strengthening of Police Hiring Standards
6. Appointment of Special Prosecutors to Investigate Police Misconduct
7. Mandatory, Uniform FBI Reporting and Audit of Lethal Force Incidents Involving Law Enforcement
8. Creation and Audit of National Database of Citizens Complaints against Police
9. Revision of National Police Accreditation System for Mandatory Use by Law Enforcement to be Eligible for Federal Funds
10. National Comprehensive Anti-Racial Profiling Law

We are pleased that this hearing will discuss a portion of the first point of our plan: the widespread use of body cameras. As we saw in the recent shooting death of Walter Scott in South Carolina, video footage of law enforcement interactions can be a valuable tool to provide transparency and accountability. Indeed, like the Department of Justice and the ACLU, we believe that widespread use of body cameras have the potential of safeguarding both the public and police by providing dual accountability and transparency.ⁱⁱ

This is why we urge Congress to pass legislation that makes the use of cameras mandatory for Department of Justice grant recipients, subject to appropriate standards and safeguards to ensure their effectiveness and to protect the privacy and civil rights of citizens. To insure that police-operated cameras are used as tools for accountability and do not become instruments of injustice, the National Urban League joined a broad coalition of civil rights, privacy, and media rights organizations in releasing shared civil rights principles for the use of body worn cameras by law enforcement.ⁱⁱⁱ Briefly, these require that we:

- o *Develop camera policies in public with the input of civil rights advocates and the local community.*
- o *Commit to a set of narrow and well-defined purposes for which cameras and their footage may be used.*
- o *Specify clear operational policies for recording, retention, and access, and enforce strict disciplinary protocols for policy violations.*
- o *Make footage available to promote accountability with appropriate privacy safeguards in place.*
- o *Preserve the independent evidentiary value of officer reports by prohibiting officers from viewing footage before filing their reports.*

The majority of law enforcement officers do a respectable and admirable job upholding their pledges to serve and protect the citizens of this nation, and we commend their efforts. However, those who participate in blatant misconduct, whether excessive force or otherwise, undermine this nation's ability to have a justice system that is above reproach. While the taping of interactions between police and civilians with the proper privacy protections is a positive step

forward, it is not the panacea for police misconduct and brutality. This is best illustrated in the case of Eric Garner where bystanders taped his killing by Staten Island police officers, yet none of the officers involved were indicted or held accountable. Therefore, body cameras are not enough. We must also ensure that not only are there strict policies and standards in place regarding the retention, use, access and disclosure of collected data, but that this data is used in conjunction with larger efforts to reform all factors underlying disproportionate law enforcement against our African American communities. We need a new generation of policing strategies for the 21st Century that ensure the safety of *all* of our citizens and communities, while protecting everyone's civil rights and our police officers.

We must deliver on the promise of fair treatment by law enforcement for every American. As citizens, community stakeholders, policy-makers and politicians, we must all commit to play our part for the long haul to right the historic wrong of the unequal treatment of people of color by police under the law. Requiring the universal use of body worn cameras can be a first step in this process.

On behalf of the National Urban League and our over 90 affiliates around the country that provide vital services in their respective urban communities, thank you for the opportunity to present our views.

Marc H. Morial
President and CEO

About the National Urban League

The National Urban League (www.nul.org) is a historic civil rights and urban advocacy organization dedicated to economic empowerment in historically underserved urban communities. Founded in 1910 and headquartered in New York City, the National Urban League has improved the lives of tens of millions of people nationwide through direct service programs that are implemented locally by its 95 Urban League affiliates in 36 states and the District of Columbia. The organization also conducts public policy research and advocacy activities from its D.C.-based, Washington Bureau. The National Urban League, a BBB-accredited organization, has a 4-star rating from Charity Navigator, placing it in the top 10 percent of all U.S. charities for adhering to good governance, fiscal responsibility and other best practices.

ⁱ “Written Testimony and Recommendations of the National Urban League and its CEO, Marc Morial, to the President’s Task Force on 21st Century Policing,” February 23, 2015, corresponding to the “10 Point Justice Plan” publicly released in December 2010, Retrieved at: <http://mulwb.iamempowered.com/policies/civil-rights/10-point-justice-plan>.

ⁱⁱ See Department of Justice, Implementing a Body-Worn Camera Program; Recommendations and Lessons Learned, Retrieved at <http://www.justice.gov/iso/opa/resources/472014912134715246869.pdf>. See also Jay Stanley, “Police Body-Mounted Cameras: With Right Policies in Place, a Win for All,” *American Civil Liberties Union*, October 9, 2014, Retrieved at <https://www.aclu.org/police-body-mounted-cameras-right-policies-place-win-all?redirect=technology-and-liberty/police-body-mounted-cameras-right-policies-place-win-all>.

ⁱⁱⁱ “Civil Rights, Privacy, and Media Rights Groups Release Principles for Law Enforcement Body Worn Cameras,” The Leadership Conference, May 15, 2015. Press Release and Civil Rights Principles on Body Worn Cameras Retrieved at: <http://www.civilrights.org/press/2015/body-camera-principles.html>



Peace Officers Research Association of California

Senate Judiciary Crime and Terrorism Subcommittee Hearing: “Body Cameras: Can Technology Increase Protection for Law Enforcement Officers and the Public?”

May 19, 2015

Written Testimony of Mike Durant
President

Peace Officers Research Association of California

On behalf of the Peace Officers Research Association of California (“PORAC”), I appreciate this opportunity to provide the Subcommittee with testimony on the important and timely issue of law enforcement’s use of body-worn cameras (“BWCs”). Good policing plays a vital role in securing and protecting civil and human rights and in ensuring the safety and well-being of our communities. Local law enforcement is the backbone of anti-crime efforts around the country. PORAC welcomes the opportunity to provide our perspective on several of the most pressing issues of our time.

PORAC is our nation’s largest statewide association representing public safety personnel. As the organization’s president, it is my distinct privilege to represent close to 68,000 members of the public safety community. Our members serve in California and Nevada and include active, retired, and reserve municipal police officers and sheriff’s deputies as well as correctional and probation officers, airport police, and other statewide groups.

PORAC is dedicated to empowering and representing the interests of rank-and-file peace officers and to protecting the rights of the men and women who keep our nation’s communities safe on a daily basis. California is often the testing block for our nation’s experiments in policing and criminal justice, and for that reason, I am pleased to share PORAC’s official position and thoughts on body cameras.

Body-Worn Cameras (BWCs)

After the events in Ferguson, Missouri, many people began calling for the use of BWCs. Recognizing the importance of this issue and cognizant that many departments in California have for the past few years already elected to use body cameras (with positive results), PORAC took the initiative to do significant on-the-ground research and analysis by our law enforcement legal team to develop a formal position on BWCs—which I believe may be the first of its kind from a major law enforcement organization.

On March 2, 2015, PORAC issued an official position supporting BWCs, which contains a series of recommendations that we urge policymakers and law enforcement departments

consider with regard to the implementation of BWC programs.¹ PORAC believes that any department or agency that implements a BWC program must have a policy in place to support responsible BWC use. At a minimum, that policy should address when, where, and how cameras should be operated as well as proper procedures for video downloading and storage. Also, in California we have found it extremely important that rank-and-file officers are included in the development of these policies.

Moreover, department policy must address privacy concerns and procedures for the public access of recordings. Every department must properly train officers and support staff on proper camera use—this includes not only how to use the actual camera but also informing them of the proper policy and procedures regarding the use of video footage.

This last point is particularly important. As BWCs become more common, policymakers must ensure that legislation protects the ability of public safety officers to access recordings for the purposes of testimony preparation and report writing, much like they already do with in-car camera footage, business security camera footage, witness-recorded footage, and other recordings. Denying police officers access to footage in the normal course of their duties undercuts the goal behind the use of BWCs – that being to support accuracy, transparency and enhance trust between officers and community members.

As the debate over body cameras moves forward on the national level, we ask lawmakers to remember that camera usage is incredibly costly, particularly for cataloging, storing and accessing video evidence, and comes at a time when federal and state funding sources for law enforcement are already strained.

PORAC is concerned that once initial funding outlays dry up, there will be insufficient additional funding to take its place. When this occurs, using cameras and storing video evidence will begin to seriously burden local police departments and negatively impact our ability to effectively serve and protect our communities.

Lawmakers must also consider the costs that public disclosure requests will have on already cash-strapped and under-staffed departments. Any BWC legislation must include sufficient funding to ensure that law enforcement agencies can properly support a BWC program that includes, but is not limited to, the ability to store video footage and support the administrative responsibilities that come along with BWC use. Cameras can be beneficial in improving police-civilian interactions, but the cost of such activities should be recognized if any program is to remain effective.

On behalf of PORAC, I thank the members of this Subcommittee for providing us the opportunity to submit this testimony. We stand ready and willing to work with members of the Subcommittee, and with Congress to ensure that federal policy relating to body-worn cameras is able to ensure a safe and fair society.

¹ PORAC's official position statement on body cameras is attached at the end of this testimony.



For Immediate Release:
March 2, 2015

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**LEADING LAW ENFORCEMENT ASSOCIATION IN CALIFORNIA
STRONGLY SUPPORTS BODY CAMERAS**
**Peace Officers Research Association of California Backs Responsible
Implementation and Use of Body Cameras**

Sacramento, CA: PORAC leadership, representing 67,000 public safety members and over 915 associations in California, will testify at a hearing of the California State Assembly Public Safety Committee tomorrow that will be weighing the benefits of law enforcement wearing body cameras to the potential disadvantages.

“I want to be clear that we support the use of body cameras being implemented and used responsibly,” said Michael Durant, President of PORAC. “Body worn cameras are not a complete answer, but they will enhance transparency and hopefully protect both the citizens we serve and the officers who serve them.”

PORAC will testify that the implementation includes local enforcement policies unique to the community (rural versus urban; big city versus small town), as well as statewide legislation.

PORAC believes that each department or agency that implements the use of body cameras should develop a policy relating to use of body cameras. The impacts of the policy should be part of the meet and confer process with the affected employees and at a minimum should include:

- The duration, time, place and circumstance when cameras shall be worn and operational;
- How and when the videos are downloaded;
- Procedures for public access to recordings;
- Personnel assigned and who shall wear and have access to recordings;
- The use of privately owned body-worn cameras while on duty;
- Documentation of the existence of the video
- Notification of subjects being recorded;
- When and how data shall be downloaded;
- Training on the proper use of body-worn cameras;
- Maintaining records and data on the efficacy of body-worn cameras;
- Use of videos for personnel purposes;

Legislation at the state level should include the following:

- **Public Safety Officer Access to Recordings:**
 - Amendment to the Public Safety Officers Procedural Bill of Rights (POBOR) allowing any public safety officer the absolute right to have access to relevant recordings prior



to giving a statement, writing a report, is the subject of any questioning or providing testimony;

- Amend POBOR to provide a public safety officer proper notice prior to the release of any recording of or by that officer.
- **Right to Privacy and Safety:**
 - Amendments to the California Public Records Act to include “audio and video recordings” as additional information which is not to be disclosed due to an on-going law enforcement investigation;
 - Add “privacy” – in addition to safety – as an additional basis for non-disclosure;
 - Entirely preclude the disclosure of video recordings depicting the death or serious injury of any person.

“Every person with whom our peace officers come in contact matters to us,” Durant said. “We get into law enforcement because we want safe streets and our neighbors to understand that we are here to help. There are issues of individual privacy, the cost of cameras, storage of the videos and the limits of what a camera captures that need to be part of the discussion. Ultimately, however, cameras are a step we need to take.”

The Peace Officers Research Association of California (PORAC) was incorporated in 1953 as a professional federation of local, state and federal law enforcement agencies. Today, PORAC represents over 67,000 public safety members and over 915 associations, making it the largest law enforcement organization in California and the largest statewide association in the nation.

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**Statement of Senator Patrick Leahy (D-Vt.),
Ranking Member, Senate Judiciary Committee,
Hearing on “Body Cameras: Can Technology Increase Protection for Law Enforcement
Officers and the Public?”
May 19, 2015**

Americans across the country have been dismayed by recent police encounters that have resulted in the unnecessary loss of life. Communities well beyond Ferguson, Staten Island, North Charleston, and Baltimore are understandably grieving and angry. I share their grief, and we must now make progress on finding a path forward. While the facts surrounding each of these events are complex, we know in Vermont that effective policing requires the trust of the community. The relationship between many Americans and the police is in need of significant repair.

There is no single solution here. But the President’s Task Force on 21st Century Policing has provided us with a good start. Taken together, recommendations for increased citizen engagement and proven community policing initiatives, leadership training and oversight within the ranks, and responsible policing tactics, provide a roadmap for communities looking to heal.

The Task Force also provided guidance for the use of body-worn cameras, which record officers’ interactions with the public. We certainly should not have to depend on brave yet random passers-by to take video of potentially deadly interactions with police. Chance must never be a prerequisite for accountability. Body-worn cameras are a promising option—one that may provide both needed transparency for the public and protection for the vast majority of police officers who serve honorably. I was encouraged, for example, when U.S. Customs and Border Protection made a commitment to pilot the use of body-worn cameras as a result of their troubling reputation when it comes to use of force. I am disappointed that they have yet to implement that pilot and hope that the discussion here today will inspire a renewed commitment from them as well as our state and local partners to explore this promising tool.

Today’s hearing provides an opportunity to examine the effectiveness and feasibility of body-worn cameras, as well as the privacy concerns raised by their use. Several police departments that were early to embrace these cameras have seen real benefits: improved transparency and evidence gathering, and even reports of a reduction in use-of-force complaints.

However, these departments also point to new challenges. Body cameras raise unique privacy concerns—cameras follow officers into even the most private of locations, including bedrooms and hospital rooms, and capture images of innocent victims and bystanders. Some officers report that the cameras discourage already reluctant witnesses from cooperating, as they may fear the accused or others will see the video and retaliate. And almost all departments report extraordinary financial costs associated with data retention and responding to public records requests.

None of these challenges is insurmountable. For the cameras to be effective, however, the public will need meaningful access to the video, so this has to be done right. With appropriate

safeguards and expectations, body-worn cameras can play an important role in rebuilding trust in distressed communities. This hearing is an important step.

But cameras alone are not enough. Many communities suffer from decades-long mistrust of the criminal justice system. Often, misguided or discriminatory policies have contributed to the suspicion. We have seen this at a local level, like the city of Ferguson's alarming approach to policing as exposed by the Justice Department's Civil Rights Division. And we are not immune at a national level, like a Federal sentencing scheme that for decades punished crack cocaine offenders 100 times more severely than powder cocaine offenders. Unless unfair policies like these are exposed and corrected, mistrust will certainly continue.

There is now widespread agreement that mass incarceration, largely driven by mandatory minimum sentencing, similarly needs to be addressed. For too long, this injustice has drained vital resources from all other public safety priorities and left behind a disparate impact on minorities. I hope that in the coming weeks the Senate Judiciary Committee will turn its attention to the bipartisan effort to correct the unfair policies underlying our mass incarceration problem. Senator Paul and I are working to eliminate mandatory minimum sentences. I also support the work of Senators Durbin and Lee who are seeking to reduce mandatory minimum sentences for certain drug crimes. And Chairman Grassley is working with Senator Whitehouse and others to improve our juvenile justice system. We have an historic opportunity to restore the faith that Americans should have in the justice system. If we work together, I know we can make meaningful improvements so that our entire justice system lives up to its name.

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