

JOINT STATE GOVERNMENT COMMISSION

General Assembly of the Commonwealth of Pennsylvania

BODY-WORN CAMERA FOOTAGE OUTCOMES FOR LAW ENFORCEMENT OFFICERS AND CIVILIANS

**Report of the House Resolution 113
Advisory Committee**

December 2024



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REPORT

*House Resolution No. 113
Body-Worn Camera Footage Outcomes for
Law Enforcement Officers and Civilians*

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The Joint State Government Commission was created in 1937 as the primary and central non-partisan, bicameral research and policy development agency for the General Assembly of Pennsylvania.¹

A fourteen-member Executive Committee comprised of the leadership of both the House of Representatives and the Senate oversees the Commission. The seven Executive Committee members from the House of Representatives are the Speaker, the Majority and Minority Leaders, the Majority and Minority Whips, and the Majority and Minority Caucus Chairs. The seven Executive Committee members from the Senate are the President Pro Tempore, the Majority and Minority Leaders, the Majority and Minority Whips, and the Majority and Minority Caucus Chairs. By statute, the Executive Committee selects a chairman of the Commission from among the members of the General Assembly. Historically, the Executive Committee has also selected a Vice-Chair or Treasurer, or both, for the Commission.

The studies conducted by the Commission are authorized by statute or by a simple or joint resolution. In general, the Commission has the power to conduct investigations, study issues, and gather information as directed by the General Assembly. The Commission provides in-depth research on a variety of topics, crafts recommendations to improve public policy and statutory law, and works closely with legislators and their staff.

A Commission study may involve the appointment of a legislative task force, composed of a specified number of legislators from the House of Representatives or the Senate, or both, as set forth in the enabling statute or resolution. In addition to following the progress of a particular study, the principal role of a task force is to determine whether to authorize the publication of any report resulting from the study and the introduction of any proposed legislation contained in the report. However, task force authorization does not necessarily reflect endorsement of all the findings and recommendations contained in a report.

Some studies involve an appointed advisory committee of professionals or interested parties from across the Commonwealth with expertise in a particular topic; others are managed exclusively by Commission staff with the informal involvement of representatives of those entities that can provide insight and information regarding the particular topic. When a study involves an advisory committee, the Commission seeks consensus among the members.² Although an advisory committee member may represent a particular department, agency, association, or group, such representation does not necessarily reflect the endorsement of the department, agency, association, or group of all the findings and recommendations contained in a study report.

¹ Act of July 1, 1937 (P.L.2460, No.459); 46 P.S. §§ 65–69.

² Consensus does not necessarily reflect unanimity among the advisory committee members on each individual policy or legislative recommendation. At a minimum, it reflects the views of a substantial majority of the advisory committee, gained after lengthy review and discussion.

Over the years, nearly one thousand individuals from across the Commonwealth have served as members of the Commission's numerous advisory committees or have assisted the Commission with its studies. Members of advisory committees bring a wide range of knowledge and experience to deliberations involving a particular study. Individuals from countless backgrounds have contributed to the work of the Commission, such as attorneys, judges, professors and other educators, state and local officials, physicians and other health care professionals, business and community leaders, service providers, administrators and other professionals, law enforcement personnel, and concerned citizens. In addition, members of advisory committees donate their time to serve the public good; they are not compensated for their service as members. Consequently, the Commonwealth receives the financial benefit of such volunteerism, along with their shared expertise in developing statutory language and public policy recommendations to improve the law in Pennsylvania.

The Commission periodically reports its findings and recommendations, along with any proposed legislation, to the General Assembly. Certain studies have specific timelines for the publication of a report, as in the case of a discrete or timely topic; other studies, given their complex or considerable nature, are ongoing and involve the publication of periodic reports. Completion of a study, or a particular aspect of an ongoing study, generally results in the publication of a report setting forth background material, policy recommendations, and proposed legislation. However, the release of a report by the Commission does not necessarily reflect the endorsement by the members of the Executive Committee, or the Chair or Vice-Chair of the Commission, of all the findings, recommendations, or conclusions contained in the report. A report containing proposed legislation may also contain official comments, which may be used to construe or apply its provisions.³

Since its inception, the Commission has published over 450 reports on a sweeping range of topics, including administrative law and procedure; agriculture; athletics and sports; banks and banking; commerce and trade; the commercial code; crimes and offenses; decedents, estates, and fiduciaries; detectives and private police; domestic relations; education; elections; eminent domain; environmental resources; escheats; fish; forests, waters, and state parks; game; health and safety; historical sites and museums; insolvency and assignments; insurance; the judiciary and judicial procedure; labor; law and justice; the legislature; liquor; mechanics' liens; mental health; military affairs; mines and mining; municipalities; prisons and parole; procurement; state-licensed professions and occupations; public utilities; public welfare; real and personal property; state government; taxation and fiscal affairs; transportation; vehicles; and workers' compensation.

Following the completion of a report, subsequent action on the part of the Commission may be required, and, as necessary, the Commission will draft legislation and statutory amendments, update research, track legislation through the legislative process, attend hearings, and answer questions from legislators, legislative staff, interest groups, and constituents.

³ 1 Pa.C.S. § 1939.

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To the Members of the General Assembly of Pennsylvania:

We are pleased to release, *Body-worn Camera Footage Outcomes for Law Enforcement Officers and Civilians*, as directed by House Resolution no. 113 (Sess. of 2023). HR113 directed the Commission to appoint an advisory committee to assist it in a study of how body-worn camera footage “can be more effectively used to provide positive and safe outcomes for both law enforcement officers and civilians.” Commission staff and the Advisory Committee studied how and by whom body-worn camera footage is used and stored and the costs associated with filming, storing, and viewing the footage. Ensuring that body-worn camera footage is used for the justice of all and shielding that footage from cyber threats were also considered.

The advisory committee included experts from law enforcement, district attorneys’ offices, cyber security, criminology, academia, civil rights advocates, and others. Further, Commission staff administered a survey of Pennsylvania’s police departments to gather information on their policies, training, storage, security, and use of body-worn cameras and footage. The Advisory Committee identified potential benefits of body-worn cameras as supporting transparency, civility, quicker resolution of complaints and lawsuits, sources of corroborating evidence, and training.

The full report is available at <http://jsg.legis.state.pa.us>.

Respectfully submitted,

Glenn J. Pasewicz
Executive Director

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INTRODUCTION

House Resolution no. 113 directed “the Joint State Government Commission to . . . study how body-worn camera footage can be more effectively used to provide positive and safe outcomes for both law enforcement officers and civilians.”⁴ The Commission was also to “study how and by whom body-worn camera footage is currently used and stored in this Commonwealth,” along with “the cost of filming, storing and looking at every piece of body-worn camera footage recorded in this Commonwealth.”⁵ The study was to “include recommendations to ensure that body-worn camera footage is used for the justice of all and shielded from cyber threats.”⁶ An advisory committee was established to assist the Commission “as part of its study.”⁷ The resolution lists 16 “fields, positions or situations” to draw upon for the advisory committee.⁸

Given the abbreviated timeline to “report its findings and recommendations,”⁹ the advisory committee was expanded as the study was ongoing and able to convene only four times.¹⁰ The initial conference covered:

- The resolution’s requirements for the study
- Act no. 22 of 2017
- Pre-existent research on body-camera outcomes for police and civilians
- The Commonwealth’s phased approach to body-worn camera implementation¹¹
- Policy recommendations adopted by Pennsylvania’s Commission on Crime and Delinquency¹²
- Information from vendors

The second advisory committee conference covered:

- A forthcoming survey of police departments
- A discussion and review of departmental policies on body-worn cameras
- Equipment and data handling requirements and standards set forth by Pennsylvania State Police¹³

⁴ Sess. of 2023; appdx. A, *infra* p.43.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ June, July, Aug. & Sept. 2024. The advisory committee wasn’t fully appointed, but its abbreviated timeliness required the study to begin promptly rather than allow it to wait for a fully appointed committee.

¹¹ In collaboration with federal support.

¹² In accordance w/42 Pa.C.S. § 67A07(b)(3).

¹³ And published in Pa. Bull..

The third advisory committee conference covered:

- Recommended or required policies and procedures for body-worn cameras
- Results from the survey of police departments

The final advisory committee conference was used to consider the report as drafted to date and to finalize its findings and recommendations.

The ability of law enforcement to fight crime effectively continues to depend on the public's perception of the legitimacy of the actions of officers. A number of recent civil disturbances across the United States subsequent to instances of lethal use of force by officers highlight the ongoing challenges in maintaining the public's perceptions of law enforcement legitimacy, particularly as it concerns the use of force.

Body-worn cameras have been viewed as one way to address these challenges and improve law enforcement practice more generally. . . .

But what does the research tell us? Current studies suggest that body-worn cameras may offer benefits for law enforcement, but additional research is needed to more fully understand the value of the technology in the field.¹⁴

The potential benefits of body-worn cameras are most prominently: transparency, civility, quicker resolution of complaints and lawsuits, corroborating evidence, and training.¹⁵

¹⁴ Brett Chapman, *Body-Worn Cameras: What the Evid. Tells Us*, 280 NIJ J. 1 (Jan. 2019), available at <https://www.ojp.gov/pdffiles1/nij/252035.pdf>. “[E]arlier evaluations of body-worn cameras found a number of beneficial outcomes for law enforcement agencies. . . . Studies that followed . . . also provided support for body-worn cameras; however, a number of them were plagued with dubious approaches that called the findings into question. . . . Over time, scientific rigor improved, and studies conducted in U.S. law enforcement agencies produced findings that indicated promising support for body-worn cameras.” *Id.* at 2-3.

¹⁵ *Id.* at 2.

EXECUTIVE SUMMARY

To learn how and by whom body-worn camera footage is used and stored in this Commonwealth, police departments¹⁶ were surveyed on their common practices and policies. The response rate for the survey was 52 percent. A majority of responding departments are small, having fewer than 25 officers employed. This sample is representative of the Commonwealth's overall police department population, of which around 80 percent of departments have 20 officers or less.¹⁷ Most departments with body-worn cameras have all officers on duty wearing cameras and, according to policy, they are turned on for any encounter with the public while on duty. Some situations where cameras could be turned off include interviews with sexual assault victims, tactical discussions between officers, a person requesting to not be filmed, and filming in places with a reasonable expectation of privacy.

Body-worn camera footage is most commonly used for supervisory review, evidentiary review, and training. In most departments, footage is regularly or randomly reviewed by a supervisor to ensure that officers were complying with the department's policies. Some departments also allow officers to review footage when writing a report, however this is not typically the case in an officer-involved shooting or other serious incident. The most common way of authorizing access to footage is through a user-specific login to the storage system, which would usually allow an officer to access his own footage but no other officers' unless they were a supervisor. Many departments noted that the software would create an audit trail to track access to the footage.

Body-worn camera footage is most often transferred through a software program or website, with around 30 percent of departments transferring footage on a physical drive like a flash drive or disc. Most departments stored non-evidentiary footage for 90 days or less, however some departments noted that different categories of footage are stored for differing durations. Most of the departments use software to store footage that would automatically delete or overwrite footage once it reached the preset time limit.

The overwhelming majority of responding departments do not use artificial intelligence (AI) to draft police reports or analyze body-worn camera footage. For the five departments that do, departmental personnel also review footage. The departments stated that the vendors they use did not make accuracy claims about their products. Two departments stated that they tested the product for accuracy. Footage was most often stored through the vendors that departments use for their body-worn cameras. Some is stored on a secure server within the department. Most departments stated that cybersecurity of the footage is ensured either by the vendor or by their

¹⁶ As defined in 53 P.a.C.S. § 2162 and Pa State Police.

¹⁷ E-mail from Major William A. Brown, Exec. Dir., Mun. Police Officers' Educ. & Training Comm'n (Aug. 27, 2024).

informational technology (IT) provider, which could be either an internal IT department or a contracted vendor.

The cost of body-worn cameras varies widely based on departmental size and how long the program had been running. Those with upfront equipment costs had higher annual totals than those that were paying only for maintenance and storage costs. Dividing the number of officers wearing body cameras by the total annual cost, Commission staff established an approximate average cost *per* camera of \$1,576. The total, annual cost for those who responded to the survey was \$9,324,913, which is around 19 percent of total departments in Pennsylvania. Using this percentage to extrapolate the total for all departments in Pennsylvania, the approximate, annual cost for all departments to be equipped with body-worn cameras would be \$49,078,488.

The advisory committee considered the data from this survey along with preexistent data to consider how body-worn camera footage can be more effectively used to achieve positive and safe outcomes for law enforcement and civilians. To study how body-worn camera footage is used and stored in this Commonwealth, Commission staff surveyed police throughout the Commonwealth. Its cost was also solicited in the same survey. Finally, the advisory committee considered how body-worn camera footage can be used for justice and how to shield that footage from cyber threats.

POSITIVE & SAFE OUTCOMES

Research

Research on the use of body cameras worn by police has been published dating back approximately a decade before publication of this report. The quality and reliability of the research varies, making it difficult to conclusively determine the effectiveness of body-worn cameras on outcomes, regarding both positivity and safety as well as both law enforcement officers and civilians. The deployment of body-worn cameras is recent but becoming more widespread, common and expected. At least “[e]ight states now mandate the statewide use of body-worn cameras by law enforcement officers.”¹⁸

Additionally, there will likely be more research forthcoming as artificial intelligence is increasingly incorporated in the review of body-worn camera footage by police and researchers. Despite the lack of current, definitive research on the impact of body-worn cameras on policing outcomes, certain benefits and detriments are accepted or presumed to be accurate. It is perceived that body-worn camera footage improves accountability of law enforcement officers and can provide input to increase more favorable outcomes, most notably: reduced complaints from civilians about police and reduced use of force by police. This potential benefit comes with a cost to implement body-worn cameras and can invade the privacy of citizens who are recorded.

“According to” a report published by the federal Bureau of Justice Statistics in 2018, “the main reasons . . . that local police and sheriffs’ offices had acquired body-worn cameras were to improve officer safety, increase evidence quality, reduce civilian complaints, and reduce agency liability.”¹⁹ A meta-analysis published in 2020 “showed no consistent or statistically significant effects” based upon “[a] comprehensive review of 70 studies of body-worn cameras.”²⁰ Ten body worn camera programs evaluated for inclusion in National Institute of Justice’s CrimeSolutions reflected “mixed findings.”²¹ While the deployment of body cameras continues, their potential to be more effectively used will require further research.²² Since body camera programs are studied with police officers wearing cameras, it is difficult to design and implement a study that provides scientifically accepted rigor of randomization and control. There are also other factors that can independently and dependently affect outcomes making it difficult to establish an outcome based upon the deployment of body cameras with officers.

¹⁸ Nat’l Conf. of State Legiss., Body-Worn Camera Laws Database, <https://www.ncsl.org/civil-and-criminal-justice/body-worn-camera-laws-database> (updated Apr. 30, 2021). Colo., Conn., Del., Ill., Maryland, N. J., N. M. & S. C. *Id.*

¹⁹ Nat’l Int. of Just., U.S. Dep’t of Just., Research on Body-Worn Cameras and Law Enforcement, <https://nij.ojp.gov/topics/articles/research-body-worn-cameras-and-law-enforcement> (last modified Jan. 22, 2023).

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

There isn't a conversation about body camera technology without the mention of accountability. A recent study conducted by the Pew Research Center says majorities of both the public (93%) and police (66%) support the use of Body-Worn Cameras for that exact reason. One small device is able to create a piece of evidence that showcases the interactions between all parties involved, holding everyone accountable for their actions.²³

That accountability applies to both police officers and citizens regarding misconduct by the former and false accusations from the latter.²⁴ “While a recent study of the Washington, D.C. Metropolitan Police Department found results that question the impact of body camera technology on the behaviors of both the public and police, many law enforcement leaders still attribute a lot of value to the idea that people being watched change their behavior.”²⁵ The recording of events and dialogue by a body-worn camera presents an impartial (or at least unbiased) account that can accurately preserve information.²⁶ If reviewed, “real-life footage” can also be used to improve the training and development of officers.²⁷

“[A] randomized controlled trial involving more than 400 police officers in” the Las Vegas Metropolitan Police Department found “that officers equipped with body-worn cameras generated fewer complaints and use of force reports relative to officers without cameras. BWC officers also made more arrests and issued more citations than their nonBWC counterparts.”²⁸ Because “[s]everal studies find that BWCs reduce complaints against police officers and officer use of force reports, while other studies find no statistically significant reductions in complaints against BWC officers,” their effect “on the civility of police-citizen encounters is still somewhat unclear.”²⁹ Some of the “evidence . . . suggests BWCs may result in increased enforcement activity by police officers . . . relative to their non-BWC counterparts.”³⁰

In police-citizen encounters, body-worn cameras might deter misconduct and illegal behavior if the perception is that the recording will assure apprehension and punishment.³¹ “A well-developed line of research suggests that people do alter their behavior once they know that they are being observed.”³² If aware of being recorded, there is also a suggestion that self-awareness is stimulated to “exhibit socially desirable behavior in their interactions.”³³ Several randomized controlled trials suggest improved civility between police and citizens in encounters, but that has not been a universal result.³⁴ Some survey research along with some “controlled

²³ *Getac*, 7 Ways Police Body Camera Tech. is Beneficial for Everyone, <https://www.getac.com/us/blog/seven-ways-police-body-camera-technology-is-beneficial-for-everyone/> (Dec. 7, 2021).

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ Anthony A. Braga *et al.*, *The Effects of Body-Worn Cameras on Police Activity & Police-Citizens Encounters: a Randomized Controlled Trial*, 108 *J. Crim. L. & Criminology* 511, 511-12 (2018), available at <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=7632&context=jclc>.

²⁹ *Id.* at 513-14.

³⁰ *Id.* at 514. Enforcement activity in the form of arrests and citations. *Id.*

³¹ *Id.* at 515-16.

³² *Id.* at 516.

³³ *Id.* at 516-17.

³⁴ *Id.* at 517-18. Civility in the form of reduced complaints against officers and use of force by officers. *Id.*

studies suggest that officers . . . increase their law enforcement activities when outfitted with” body-worn cameras.³⁵

For the Las Vegas Metropolitan police study:

Comparing monthly officer means over pre-intervention and intervention periods, treatment officers generated 5.2% more arrests and 6.8% more citations in their responses to call events relative to control officers. While these seem like very modest effects on event outcomes, these increases represent a noteworthy practical impact on the total number of police-citizen encounters with punitive outcomes. . . .³⁶

Between the pre-intervention and intervention periods, the percentage of treatment officers that generated at least one complaint decreased by 16.5% from 54.6% to 38.1% By comparison, between the preintervention and intervention periods, the percentage of control officers that generated at least one complaint decreased by only 2.5% from 48.0% to 45.5%. The absolute differences in the share of officers with at least one complaint between the treatment and control groups over the pre-intervention and intervention periods represented a 14.0% reduction in favor of the treatment group

Similar significant reductions were noted in the likelihood that a treatment officer generated at least one use of force report during the intervention period. Between the pre-intervention and intervention periods, the percentage of treatment officers that generated at least one use of force report decreased by 11.5% from 31.2% to 19.7% By comparison, between the pre-intervention and intervention period, the percentage of control officers that generated at least one use of force report increased by 1.0% from 26.3% to 27.3%. The absolute differences in the share of officers with at least one use of force report between the treatment and control groups over the pre-intervention and intervention periods represented a 12.5% reduction in favor of the treatment group The proportional difference between the two groups over time represented a larger 40.7% reduction in the percentage of treatment officers relative to control officers who generated at least one use of force report.³⁷

“BWC officers were modestly less likely to have the allegations in the complaints against them sustained and dispositions were made more quickly than their control officer counterparts.”³⁸ Reductions in citizen complaints could be attributed to “a substantive change in police-citizen behavior during interactions” or a reduction in frivolous complaints.³⁹ The resultant “reduced complaints and use of force reports for treatment officers relative to non-BWC comparison officers

³⁵ *Id.* at 518-19. Law enforcement activities refer to arrests and citations. *Id.*

³⁶ *Id.* at 532.

³⁷ *Id.* at 533. Treatment officers were the ones with cameras. *Id.* at 534.

³⁸ *Id.* at 535.

³⁹ *Id.* at 536.

. . . support the position that BWCs may de-escalate aggression or have a civilizing effect on the nature of police-citizen encounters.”⁴⁰

The Police Executive Research Forum (PERF) surveyed police agencies nationwide and found “very high interest” reflecting actual and planned usage of body-worn cameras with the primary reason being “to increase trust in the police.”⁴¹ A supermajority of the respondents using body-worn cameras would “strongly recommend” their adoption.⁴² PERF attempted to determine if payments for civil lawsuits declined after introduction of body-worn cameras declined but had difficulty obtaining data.⁴³ PERF was able to obtain data from only three cities and observed: an increase in lawsuits with a decrease in payments, a decline in both lawsuits and payments, and a decline of payouts but with increased dollar amounts.⁴⁴ “Even with the relatively low costs of these partial deployments, the annual costs of the BWC programs in Mesa and Dallas” were “greater than the total annual average lawsuit payouts.”⁴⁵ PERF cautiously concluded that a reduced number of lawsuits and resultant payouts could more significantly offset costs of body-worn cameras in small and medium-sized cities than in large cities, but the data was too sparse “to draw any broad conclusions about the cost-benefit tradeoff of BWC programs.”⁴⁶

A principle of law enforcement first expressed by Sir Robert Peel in 1829 still applies:

The ability of law enforcement to fight crime effectively continues to depend on the public’s perception of the legitimacy of the actions of officers. . . . Current studies suggest that body-worn cameras may offer benefits for law enforcement, but additional research is needed to more fully understand the value of the technology for the field.⁴⁷

Potential benefits of body-worn cameras include:⁴⁸

- Better transparency from interactions
- Increased civility during encounters with officers
- Quicker resolution of complaints
- Corroborating evidence from captured footage
- Training opportunities for law enforcement

⁴⁰ *Id.* at 535.

⁴¹ Police Executive Research Forum, Cost & Benefits of Body-Worn Camera Deployments: Final Rep. 8, 9 (2018), available at <https://www.policeforum.org/assets/BWCCostBenefit.pdf>.

⁴² *Id.* at 10.

⁴³ *Id.* at 10-11.

⁴⁴ *Id.* at 11-12.

⁴⁵ *Id.* at 13.

⁴⁶ *Id.* at 13-14.

⁴⁷ Brett Chapman, Body-Worn Cameras: What the Evidence Tells Us, "Body-Worn Cameras: What the Evidence Tells Us," Nat'l Inst. Of Just. J. (Nov. 14, 2018), available at <https://nij.ojp.gov/topics/articles/body-worn-cameras-what-evidence-tells-us>.

⁴⁸ *Id.*

Earlier studies “had methodological limitations or were conducted in a manner that raised concerns about research independence,” but more recent randomized controlled trials have been conducted to evaluate programs.⁴⁹ Research overall has suggested potential benefits of body-worn cameras, but continued research will likely inform us and help address “knowledge gaps.”⁵⁰

Meta analysis

In an effort to review known benefits of body-worn cameras and compare those benefits to the technological cost, “prior meta-analyses of studies of the impacts of” body-worn cameras “on policing outcomes” were updated in 2021 and carried “out a benefit-cost analysis of” body-worn cameras because “financial barriers are often cited by police departments as a barrier to adoption.”⁵¹

The technology has the potential to help deter police misconduct by better monitoring officer behavior out in the field. On the other hand, there could be unintended consequences if, for example, by creating a formal video record of civilian infractions, officers respond by curtailing discretion and increasing formal enforcement actions.

Measuring the effects of BWCs on policing outcomes is complicated in practice.⁵²

Randomized, controlled trials are “[t]he commonly preferred approach,” but there can still be spillover effects that “would be expected . . . to understate an intervention’s impacts.”⁵³

Extending this meta-analysis from one published the year before, “a larger and more precisely estimated reduction in complaints against police” was produced, along with a larger, “estimated . . . reduction in police use of force.”⁵⁴

The adoption of body-worn cameras has been motivated primarily “to help better monitor police behavior, and hence deter police misconduct.”⁵⁵ Body-worn cameras can potentially “change the behavior of *civilians* in these encounters as well,” either by deterring their misbehavior or their “frivolous or retributive complaints,” or both.⁵⁶ Unintended consequences of recorded encounters could be formal enforcement that might have otherwise remained unenforced, whether it is the police proceeding *versus* the civilian or a civilian complaining about the police.⁵⁷ The policies and practices implemented by police departments impact body-worn cameras’ effect on

⁴⁹ *Id.*

⁵⁰ *Id.* E.g., “little attention has been focused on improvements in training and organizational policies.” *Id.*

⁵¹ Morgan C. Williams, Jr., *et al.*, Body-Worn Cameras in Policing: Benefits and Costs, Nat’l Bureau of Econ. Research 1, 2 (Mar. 2021), available at https://www.nber.org/system/files/working_papers/w28622/w28622.pdf.

⁵² *Id.* at 2.

⁵³ *Id.* Spillover effects could be “when an officer with a” body-worn camera “shows up at the same scene as officers without cameras, or if a given officer spends some shifts with a camera and other shifts without.” *Id.*

⁵⁴ *Id.* at 2, 3.

⁵⁵ *Id.* at 4. (citation omitted)

⁵⁶ *Id.*

⁵⁷ *Id.* at 4-5.

police outcomes: *e.g.*, the requirement to record interactions with civilians, accountability for recorded misconduct, the frequency of reviewing footage, the awareness of the public, *etc.*⁵⁸

The research designs and their measurement of key concepts have been heterogenous, which contributes to their varied outcomes.⁵⁹ Also, the mix of police incidents can vary substantially by jurisdiction. The best studies are likely those using randomized controlled trials, but they can understate benefits if officers' behavioral changes spillover from body-worn camera shifts to non-body-worn camera shifts.⁶⁰ An additional spillover effect can occur if "both a treatment and control officer" respond "to the same call. . . . The other challenge with even the best of the" randomized controlled trials "in this literature is limited sample size, which in turn limits the statistical power to detect . . . impacts" of body-worn cameras.⁶¹ Yet another condition that can impact the outcome of these studies, even the randomized controlled ones, involve pilot demonstrations using volunteer participants whose personal attributes could differ from the non-volunteers who would be participating when a policy is implemented applicable to all officers.⁶²

Results from a large randomized controlled trial of a pilot program among New York City Police Department was published in 2020, which found that body-worn camera "implementation led to a 21.1% decrease in complaints against officers filed with the" Citizen Complaint Review Board—but the number of stops increased "38.8% . . . among treatment officers. . . . [I]t is also possible that these changes might instead reflect the effect of" body-worn cameras "on the likelihood that officers report the street stops they make, rather than change the true number of stops that officers actually carry out."⁶³

Another study published in 2020 assembled "data on police use of force from 2,380 police departments across the country," which suggested "a statistically significant 42% reduction in use of force associated with" body-worn camera "adoption."⁶⁴ While this was not a randomized controlled trial, it had more statistical power—at least for the consideration of incidents of force resultant in injury because of a lower likelihood of an officer failing to report those events.⁶⁵

A meta-analytic dataset published in 2020 and updated in 2021 "includes estimates from 30 studies of" body-worn cameras "on police and civilian behavior."⁶⁶ These studies either had a comparison group or "at least two years of data and 24 data points for both pre-intervention and post-intervention periods."⁶⁷ In more than half of these studies, the only reported outcomes were

⁵⁸ *Id.* at 5.

⁵⁹ *Id.* at 6. *E.g.*, "measurement of police use of force can vary greatly from study to study; handcuffing suspects is considered a use of force in many studies, while others restrict use of force to injury-causing incidents or fatal incidents only." *Id.*

⁶⁰ *Id.*

⁶¹ *Id.* at 6-7.

⁶² *Id.* at 8.

⁶³ *Id.* at 8-9.

⁶⁴ *Id.* at 9-10.

⁶⁵ *Id.* at 10.

⁶⁶ *Id.* "Most . . . of these studies were carried out in the U.S." *Id.*

⁶⁷ *Id.*

use of force and complaints.⁶⁸ The average effect on complaints was statistically significant and higher than the effect on use of force.⁶⁹

“Incorporating these new studies does not substantially change the estimated effects of” body-worn camera “adoption on the other main outcomes reviewed in” the study published in 2020.⁷⁰ “[I]f taken at face value”, the estimate reported in 2020 “would imply a decline in complaints from” body-worn camera “adoption of -16/6%” or -16.9% by adding another study published in 2020.⁷¹ For police use of force, the estimated impacts were -6.8% and -9.6%. but those confidence intervals were large.⁷² This “meta-analysis review suggests there is a 1 in 7 chance that there is no effect of” body-worn cameras “on police use of force, given the average estimate of -9.6%.”⁷³

The effect of body-worn cameras on policing outcomes remains uncertain because they are difficult to both accurately measure and value.⁷⁴ A variance of settings can also affect the impact of the technology. “Given the uncertainties of the available evidence, the question of whether to adopt BWCs for a department requires some way to trade off (or balance) risk and reward.”⁷⁵

Aside from measuring the benefits of body-worn cameras, measuring the cost presents variations as well. There are costs for “cameras, storage costs, software licenses, IT infrastructure, training, and personnel costs associated with responding to . . . requests”⁷⁶ for disclosure of the footage. There also is variability depending on whether each officer wears his own camera or if officers on different shifts share a camera.⁷⁷

Measures of benefits could include reduced costs to investigate complaints along with “costs of compensation to community members, together with administrative costs associated with oversight, and report a cost per complaint . . . averted”.⁷⁸ Because “uses of force are so heterogeneous, ranging from handcuffing suspects . . . to the use of the officer’s hands or feet against a civilian up to and including use of pepper spray, tasers, or even non-fatal shootings”, “[e]stimating the value of an averted non-fatal police use of force is . . . complicated.”⁷⁹ Base rates would need to be estimated for the incidence of complaints, non-fatal police use of force and fatal use of force.⁸⁰

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.* at 11. “[S]uch as assaults on officers, arrests, officer-initiated calls for service, dispatched calls for service, traffic stops or tickets, field interviews or stop and frisk, incident reports, response times, non-traffic citations, or time on scene.” *Id.*

⁷¹ This latter no. represents a more precise estimate (with a narrower confidence interval). *Id.*

⁷² *Id.*

⁷³ *Id.* at 12.

⁷⁴ *Cf., id.*

⁷⁵ *Id.*

⁷⁶ *Id.* at 14.

⁷⁷ *Id.*

⁷⁸ *Id.* at 15.

⁷⁹ *Id.*

⁸⁰ *Id.*

The “best estimate . . . that” body-worn cameras “generate benefits to society as a whole that are larger than the costs” extends to “the narrower perspective . . . on government budgets.”⁸¹ This “analysis suggests the ratio of benefits to society from adoption of” body worn cameras “to the costs is on the order of 5 to 1. . . . [C]hanges in police use of force” account “for the largest share of the benefits.”⁸² Relying on “estimated *average* effects . . . among” adopting departments, the analysis notes a possible “site-selection bias” that “early adopters” of body worn cameras “may be the ones with the most pronounced beneficial impacts.”⁸³ Also, “deployment practices may well change over time if professional associations, advocates, or the federal government push departments to adopt more standardized BWC policies and practices.”⁸⁴ Finally, “mass-audits” of “police-civilian interactions” in body-worn camera footage applied by “machine learning tools” using artificial intelligence might warrant “further investigation” or “monitoring and evaluation.”⁸⁵

“Put simply, is having recorded video that is inherently less biased and more reliable than an eyewitness better in a system in which ambiguity is resolved largely by resorting to eyewitness testimony?”⁸⁶ The sole reliance on a recorded video might not capture the whole scene, the situational tension and the officer’s real-time apprehension, but “the circumstances of a situation are less likely to be the subject of debate and second-guessing if there is a video of the incident captured by a police body camera.”⁸⁷

The costs of deploying police body cameras will likely include not only the costs of the cameras, but also ancillary equipment, training in the use of the equipment, protection and storage of the video, administrative and legal costs . . . and other costs related to data storage, management, and disclosure to the public⁸⁸

While the overall costs of body cameras are not insubstantial, . . . advocates of body cameras insist that over time much of the additional expense will be offset by fewer civil suits against police for misconduct, less administrative time for a department investigating a police shooting, and fewer man-hours taken off the streets and dedicated to desk duty or participating in a trial following accusations of a bad shooting. . . . Although such savings may be difficult to quantify, supporters counter they are nevertheless real and should not be ignored.⁸⁹

Aside from any uncertainty of a financial cost-outcome benefit comparison, it does not seem likely the continuing increase of body-camera acquisition and deployment will begin to reverse—especially since police and the public can perceive benefits of the technology.

⁸¹ *Id.* at 17.

⁸² *Id.* at 18. “However, this is the outcome for which there is also the most uncertainty about the size of the impact, and especially for non-fatal police use of force, the appropriate valuation of changes in that outcome from society’s perspective.” *Id.* at 18-19.

⁸³ *Id.* at 19.

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ Albero R. Gonzales & Donald Q. Cochran, *Police-Worn Body Cameras: An Antidote to the “Ferguson Effect”?*, 82 Mo. L. Rev. 299, 312 (2017).

⁸⁷ *Id.* at 320.

⁸⁸ *Id.* at 318.

⁸⁹ *Id.* at 319.

Effective use

The advisory committee believes that the usage of body-worn cameras can encourage de-escalation in encounters between law enforcement officers and civilians. If so, this would be both a positive and safe outcome for both. This has not been conclusively established by research because while some studies found these positive outcomes, others have found no effect.

Extending positive outcomes to officer-involved incidents, body-camera footage that vindicates an officer or serves as a basis to hold an officer accountable for unacceptable performance also is a positive outcome for both law enforcement and civilians.

The advisory committee considered the review of footage as a training tool, which some departments already do. It is unrealistic to look at every piece of body-worn camera footage recorded in this Commonwealth. The only conceivable way to do that would be through artificial intelligence, which is not yet widely done for this footage.

The advisory committee considered the sharing of body-worn camera footage through a central repository for both training and to assess the public safety benefits of the technology. Many departments randomly review footage now, but creating a central repository for that footage would be a challenge to determine who reviews the footage for which purpose, as well as who pays for it. For now, a central repository is cost prohibitive to both store and review the footage, whether humanly or artificially by software. Other complicating considerations for a central repository would be if the material included evidence, and the confidentiality of victims and informants.

Before turning to the next consideration, the advisory committee continued to express interest in an educational, training library for body-worn camera footage. Suggestions from the advisory committee included using district attorneys to identify and approve appropriate footage for this and that individual police departments might be suited to identify and approve appropriate footage for this. This remained unresolved, partially because the advisory committee was unable to address the ancillary, professional implications of officers negatively depicted in such a training library.

The advisory committee considered proposing elements for a model, body-worn camera policy, but written policies are required for municipal law enforcement agencies.⁹⁰ These written policies must be public and are required to cover eight items:⁹¹

- 1. Training of law enforcement officers to record*
- 2. Time periods for operation of the device*
- 3. Proper use, maintenance and storage of the devices including equipment inspections and audits*
- 4. Storage, accessibility and retrieval of the information recorded*
- 5. Retention of electronic records*

⁹⁰ 42 Pa.C.S. § 67A07(a).

⁹¹ *Id.*

6. *Use of facial recognition*
7. *Discipline for violations of an agency's policy*
8. *Supervisory responsibilities*

The Pennsylvania Commission on Crime and Delinquency previously had conditioned grant funding for body-worn cameras on meeting or exceeding its policy recommendations.⁹² The advisory committee also had access to Model Body Worn Camera Procedures, which was an Allegheny County Criminal Justice Advisory Board Project.⁹³ The advisory committee also had access to N.J. Stat. Ann. § 40A:14-118.5 (relating to body worn camera placement & activation of video & audio rec. functions; regulations concerning usage; definitions). Moreover, commission staff viewed scores of policies from Pennsylvania departments and considered them to be generally pretty good, although they vary in particulars and some are better than others. Given the current statute, the availability of good model policies, and the experience of Commonwealth police departments, the advisory committee decided that it was unnecessary to pursue this further; however, it notes that policies should be updated as experience and technological change dictate.

⁹² *Id.* § 67A07(b); Pa. Comm'n on Crime & Delinquency, Body-Worn Camera (BWC) Policy Recommendations, https://www.pccd.pa.gov/criminaljustice/advisory_boards/Documents/BWC%20Policy%20Recommendations%20Commission%20Approved.pdf (last visited Oct. 22, 2024).

⁹³ These procedures were initially issued in 2015 but have been revised four times since then.

BODY-WORN CAMERA FOOTAGE IN THE COMMONWEALTH: USAGE & COSTS

Survey Results

Commission staff developed a survey in August 2024 to circulate to police departments⁹⁴ in Pennsylvania. The Municipal Police Officers' Education and Training Commission (MPOETC) circulated the survey electronically through its Training and Certification System to 1,044 departments. Over two weeks, the survey generated 548 responses, approximately a 52 percent response rate. Most of the survey's questions were closed format but some provided for open-ended responses. A few questions into the survey, departments were asked if they use body-worn cameras. If not, the survey ended for those respondents. The remaining 423 respondents that use body-worn cameras were the answer pool for the remainder of the survey.

Of the 548 responsive departments, 75 percent employ fewer than 22 full time officers. Fifty percent of departments employ fewer than 12, and 25 percent employ fewer than six. This sample is representative of the Commonwealth's overall police department population, of which around 80 percent of departments have 20 or fewer officers.⁹⁵ For part-time officers, 75 percent of departments have fewer than three part-time officers. Overall, respondents employ a total of 11,615 full-time officers and 1,006 part-time officers. Subtracting the respondents who do not use body-worn cameras, the totals were 10,837 full- and 689 part-time officers.⁹⁶

When asked if they use body-worn cameras, 423 departments responded that they do, amounting to about 77 percent of respondents. Of those that responded that they do not use body-worn-cameras, around 63 percent stated that it is because of a lack of funding. A few respondents stated that they do not use body-worn cameras because of a lack of adequate technical support, which is around two and a half percent, and around seven percent noted a policy decision by the department to not use body-worn cameras. Around 27 percent of the responding departments that do not use body-worn cameras attributed it to another reason. A few of these respondents were in the process of getting funded. Other departments stated that the size of the department and number and type of calls received do not necessitate them. Others stated they do not have uniformed or patrol officers, therefore the body-worn cameras would not be useful to them.⁹⁷

⁹⁴ As defined in 53 P.a.C.S. § 2162 and Pa. State Police.

⁹⁵ E-mail from Major William A. Brown, Exec. Dir., Mun. Police Officers' Educ. & Training Comm'n (Aug. 27, 2024).

⁹⁶ Question 3.

⁹⁷ Question 4.

The remainder of the survey questions were answered by the 423 responsive departments that use body-worn cameras. When asked if they have a body-worn camera policy, the majority of these 423 respondents indicated “yes” and attached their policy. Around two and a half percent, or eight respondents, stated that they do not have a policy and did not attach one.⁹⁸

Departments that use body-worn cameras were asked how many officers wear them on a regular basis. Forty-seven respondents wrote that all officers are equipped, some specifying all officers wear body cameras on duty and others simply stating, “All.”⁹⁹ For the 284 that provided numeric responses, the lowest answer was zero and the highest was 750. Seventy-five percent of respondents have under 24 officers that regularly wear body cameras. Twenty-five percent have under 10, and 50 percent have under 15 officers regularly wearing body cameras.¹⁰⁰ Comparing the total number of officers employed by a department with the number of officers wearing body cameras, departments that use body-worn cameras have on average 92 percent of their officers equipped with them.¹⁰¹

Departments that use body-worn cameras were asked if officers receive training before using them, periodically, or not at all. Respondents were able to select multiple options. Almost all, 93 percent, are trained before using body-worn cameras; 39 percent are trained periodically.¹⁰² Ninety-eight percent of respondents stated that officers are required to ensure that their body-worn cameras are in operating order before each shift, with approximately two percent stating that they are not.¹⁰³

Departments were asked under what circumstances recording on a body-worn camera would be mandated. The most popular response by far was that officers should be recording any contact with the public. This includes arrests and uses of force, but also any calls for service or officer-initiated stop or interactions. A small number of departments stated that their officers use discretion on when to record certain types of interactions, with multiple departments using similar policy language: “When Officers respond to calls for service and during law enforcement encounters, the BWMCs will be activated when handling situations or incidents that the officer, through their training and experience, believes should be visually preserved.”¹⁰⁴

Departments were then asked under what circumstances recording on a body-worn camera would be discretionary. The most common responses were protecting the dignity of a person being interviewed in the case of sexual assault, instances where those being filmed would have a reasonable expectation of privacy, like a bathroom or gym locker room, and the person being filmed requesting the filming to stop. A similar portion of respondents stated that there were no instances where filming would be discretionary. A few other reasons that were mentioned by

⁹⁸ Question 5. 42 Pa.C.S. § 67A07(a) requires municipal, law enforcement agencies and sheriffs using body-worn cameras to “establish written policies, which shall be public.”

⁹⁹ Question 7.

¹⁰⁰ *Id.*

¹⁰¹ Questions 3 & 7.

¹⁰² Question 8.

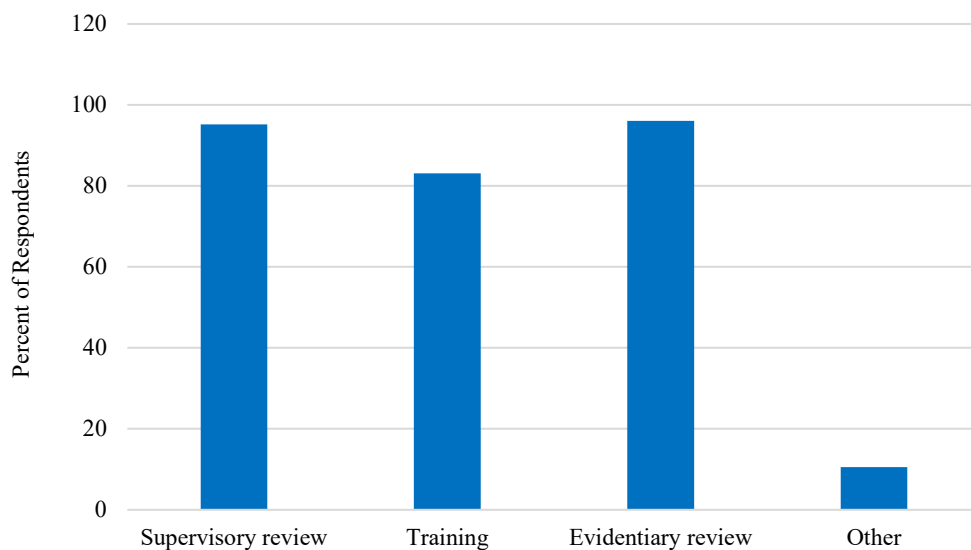
¹⁰³ Question 9.

¹⁰⁴ Question 10.

many respondents included mere encounters, tactical conversations between officers, non-police functions, and certain types of interviews, especially interviews of confidential informants.¹⁰⁵

When asked how their department uses body-worn camera footage, 95 percent responded that footage is used for supervisory review. Eighty-three percent use it for training, and 96 percent use it for evidentiary review. Around 10 percent chose “other.”¹⁰⁶ See Chart 1.

Chart 1
Uses of BWC



Respondents had the opportunity to expand on their answers. Around 50 percent of departments that expanded on their answers use body-worn camera for regular or randomized quality control checks by supervisors to keep officers accountable to departmental policy. For example, in one department, patrol supervisors review footage and report their findings monthly. Another department has lieutenants review 15 randomly selected videos each month from their shifts. One department reviews footage after every use. When reviewing this footage, supervisors can determine that a portion of footage should be used for training, usually footage showing exemplary behavior in a specific situation. Use of force incidents are also to be reviewed and sometimes used for training, either for that specific officer or all officers in a department. Around 20 percent of those expanding on their answers stated that their officers use footage to ensure the accuracy of their report-writing or to review before appearing in court. Over 50 percent of these respondents mentioned using footage as evidence in court. Another popular reason for review was citizen complaints about officer conduct. This footage could also eventually be used for training to improve an officer’s future responses after supervisory review.¹⁰⁷

¹⁰⁵ Question 11.

¹⁰⁶ Question 12.

¹⁰⁷ Question 12.

When asked who determines which body-worn camera footage is exculpatory evidence warranting transfer to the district attorney's office, sixty-one percent of respondents stated both that office and the police department make this determination. Twenty-six percent of respondents said that only the district attorney's office determines this, and almost 10 percent responded that only police departments do so. Almost three percent of respondents gave an open-ended answer, and most of these responses stated that all footage is turned over to the district attorney to determine.¹⁰⁸

Departments were asked how footage is transferred to the prosecutor. The use of a software program or website, *e.g.*, Axon's Evidence.com or NICE Evidence Software, was the most common, with around half of respondents answering this way. About 16 percent use a cloud-based sharing platform; around 30 percent use a physical drive like a flash drive, disc, or hard drive; and, around 14 percent of respondents send footage through email.¹⁰⁹ If material is transferred to a prosecutor through email, around 82 percent of respondents stated that the email is encrypted, while around 18 percent said not.¹¹⁰ When asked who is responsible for transferring footage to the district attorney, the most popular response was the chief of police. These responses were fairly diverse, with no response generating a true majority. A few other options listed slightly less but still notable were the officers on a case, or on duty that day, evidence technicians or custodians, and administrative personnel. Less frequent were mentions of lieutenants, sergeants, captains, detectives, and supervisors.¹¹¹

For 97 percent of the responsive departments, non-compliance with departmental policy on body-worn camera usage would subject an officer to discipline.¹¹² When asked how often body-worn camera footage is reviewed, almost 64 percent of the respondents said that it is reviewed routinely, around 28 percent said that it is reviewed occasionally, and 20 percent said that it is only reviewed if there is an officer-involved incident mandating review of footage. Almost four percent selected "other." *See* Chart 2.

¹⁰⁸ Question 13.

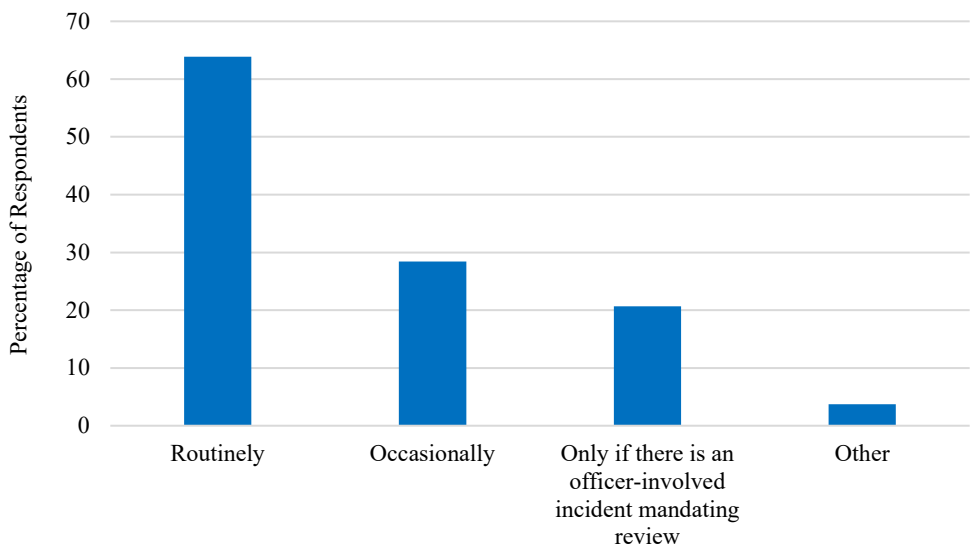
¹⁰⁹ Question 14.

¹¹⁰ Question 15.

¹¹¹ Question 16.

¹¹² Question 19.

Chart 2
Frequency of BWC Footage Review



Most of those who chose to expand on their selections stated that reviews are done regularly to ensure that officers are following policy. Most stated this is done monthly, with a few stating that footage is reviewed weekly or even daily. A few departments review footage only twice a year or quarterly. One department reviews footage only when needed for a case or if an officer complaint arises, though that had not yet happened. Approximately 28 percent of these respondents mentioned use of force or critical incidents as warranting a review, and around 19 percent specifically mentioned complaints on officer conduct as warranting a review.¹¹³

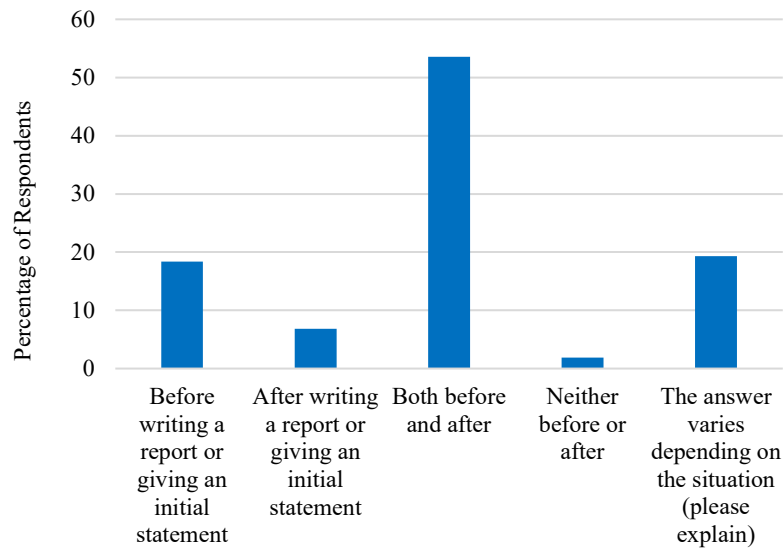
When asked what officer-involved incidents would warrant a supervisory review of footage, departments most commonly responded with use-of-force incidents. The second most popular answer was complaints, commonly citizen complaints and sometimes allegations by other officers of misconduct. Other incidents mentioned by departments include injury of an officer, vehicular or on-foot pursuit, and officer-involved shooting. Arrests and motor vehicle accidents were also mentioned, though less often.¹¹⁴

Departments were asked if and when officers have access to footage of an officer-involved incident. Over 53 percent stated that officers have access to footage both before and after writing a report, while 18 percent said only before writing a report and approximately seven percent said only after. Almost two percent of respondents stated that officers do not have access to footage before or after writing a report, and a little over 19 percent stated that the answer varies based on the situation. *See Chart 3.*

¹¹³ Question 17.

¹¹⁴ Question 18.

Chart 3
When Officers Have Access to Footage



Those that stated that the access varies depending on the situation were given the opportunity to explain. Most of these respondents noted that officers typically have access to their own footage before and after completing a report. Several of these departments noted that officers have viewing access to videos but no editing capabilities. One department stated that officers must add a note to a report if they view the video before writing the report. However, half of these departments noted that in the case of a custodial death or officer-involved shooting, officers are either restricted from the footage indefinitely or are unable to view footage until after they give initial statements to investigators. One department gives discretion to the sergeant and chief on allowing officers to access footage after a complaint or officer-involved incident.¹¹⁵

When asked if they use AI to draft police reports, just under two percent of departments, totaling six departments, responded affirmatively. The overwhelming majority of departments do not use this technology.¹¹⁶ When asked if footage is reviewed by software or departmental personnel or both, approximately 98 percent of departments responded with departmental personnel. When asked who within the department reviewed footage, the most common answer was the chief of police, followed by the shift supervisor and sergeant. Other popular answers were lieutenant, command staff, and police administration. Some respondents noted that officers can review their own footage, but only supervisors or higher are able to access other officers' footage.¹¹⁷

¹¹⁵ Question 20.

¹¹⁶ Question 21.

¹¹⁷ Question 23.

No departments solely use software to review footage, but five departments, making up about 1.5 percent of respondents, use both software and departmental personnel.¹¹⁸ Those five departments were asked what software they use. Two departments use Axon, one uses TRULEO, one uses VLC Media Player, and one uses Tyler Technologies and Motorola.¹¹⁹ Two of these departments tested this software for accuracy and three did not.¹²⁰ The two departments that claimed to have tested for accuracy did not explain how or how frequently they did so in a follow-up question.¹²¹ None of these respondents stated that the software vendors made accuracy claims about the software.¹²² One department uses facial recognition software within the video review software.¹²³

When asked how they store body-worn camera footage, around 58 percent of departments stated that they use a cloud-based third-party vendor. Approximately 37 percent use an in-house server, and around six percent use an in-house server with a cloud-based backup.¹²⁴ Approximately three and a half percent selected “other.” Some of these respondents are in the process of moving to a cloud-based system or are using a cloud-based system through their body-worn camera vendor. A few store the footage on an external hard drive. One department stores the footage on the officer-in-charge’s PC, but stated that it is attempting to move to the police server.¹²⁵

Departments were asked how long they keep non-evidentiary footage before disposing it. Approximately 32 percent stated that they keep the footage for the minimum 60-day statutory requirement.¹²⁶ Approximately 28 percent keep footage for between 60 to 90 days. Approximately 22 percent keep the footage for longer than 90 days. About 18 percent of respondents selected “other,” and were able to expand.¹²⁷ *See* Chart 4.

¹¹⁸ Question 22.

¹¹⁹ Question 24.

¹²⁰ Question 25.

¹²¹ Question 27.

¹²² Question 26.

¹²³ Questions 28 & 29.

¹²⁴ Question 30.

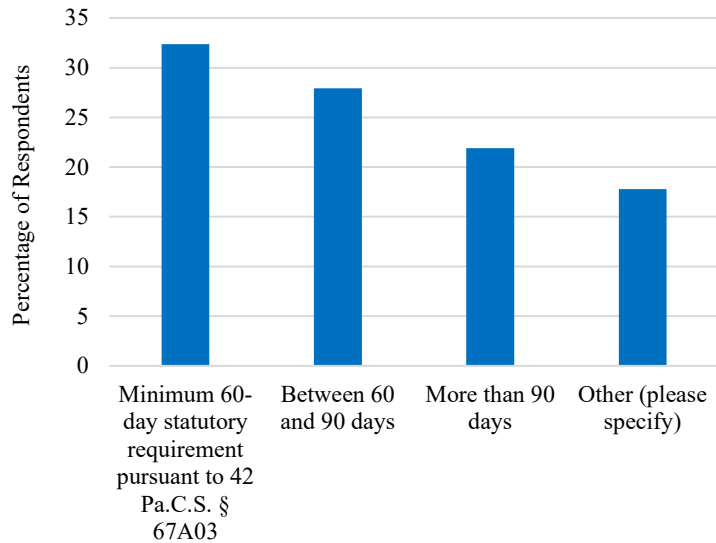
¹²⁵ *Id.*

¹²⁶ 42 Pa.C.S. §§ 67A03(1), 67A05(c).

¹²⁷ Question 31.

Chart 4

Frequency of Deletion of Non-Evidentiary Footage



For those that selected “other,” the most popular lengths of time were a minimum of 90 days and a minimum of 180 days. Many departments noted that their policies differentiated lengths of time that certain types of footage is to be stored, for example: “Retention Schedule: (1) Arrest or Prisoner Transport 180 days (2) Traffic Stop or Field Interview 120 days (3) Patrol Incident Response (non arrest) 90 days (4) TCP (Traffic Control Point) 45 days (5) Test/Maintenance 30 days.”¹²⁸ Another department stores training footage and arrest footage indefinitely, test recording for 60 days, and all other categories for 195 days. A few other outliers in length of time include 25 months, three years, and five years. A few respondents said one year or two years, and notably, two respondents said 30 days. One of these respondents said this was only for non-contested footage.¹²⁹

When asked what their procedure for deleting footage, the vast majority of departments use a software that would automatically delete or overwrite footage after a specified period of time. Based on how footage was tagged when it was uploaded, the footage would remain in the system for a certain amount of time and then be automatically deleted. Others simply would be overwritten by new footage past the specified time. Just under 10 percent of respondents stated that a supervisor or police chief would have to approve of the deletion of footage. Less than four percent of respondents said they had not yet deleted any footage.¹³⁰

When asked how they ensured the cyber security of footage, the most common response was that cyber security was handled by the body-worn camera vendor. The next most popular answer was that cyber security was handled by an IT professional, either within the department or the county, or as a third-party contractor. A secure in-house server was also mentioned by many

¹²⁸ Question 31.

¹²⁹ *Id.*

¹³⁰ Question 32.

respondents. Some security measures mentioned less often included encryption, password protection, multi-factor identification, and a firewall. A few respondents mentioned the files or hard drives being in a physically secure location that could only be accessed by a few workers.¹³¹

When departments were asked for their protocols authorizing access to footage, departments commonly stated that officers had differing levels of access to footage that were assigned when they received body-worn cameras. The most common delineation was between an officer who could review only his own footage and a supervisor who could review the footage of any subordinates. Some departments mentioned that chiefs and other high level administrators could view any officer's footage. The differing levels of access were controlled by giving each officer a distinct login and password that would provide them with the appropriate level of access. Many departments noted that the software they use has an audit trail to track each officer's use of the software. Some departments require a chief's approval to review any footage.¹³²

Some departments also explained the process for allowing footage to be seen by those not within the department. Typically, the discretion in these cases was in the hands of the chief of police. District attorney offices could also request footage. A few departments referenced 42 Pa.C.S. ch. 67A (relating to recordings by law enforcement officers), which establishes practices for recording disclosures. Several departments stated that civilian requests for footage would be handled with Right-to-Know Law Requests. Because of the enactment of ch. 67A in 2017, body-worn camera footage no longer falls under the Right-to-Know Law.¹³³ However, requests for footage from the public are to be directed to the department's Open Records Officer, who handles Right-to-Know inquiries. The respondents that referenced Right-to-Know may have been simply referencing this officer. One department stated that footage would not be available without a court order: "Any portion of the video that contains events surrounding a violation of the law is considered a record of a criminal investigation. They are not available for inspection, review, or viewing by the public. Generally, copies of BWC media will not be duplicated, viewed, or disseminated to anyone except under valid court order."¹³⁴

Departments were asked what grant programs supported their body-worn cameras. Respondents could select multiple options. Approximately 49 percent of respondents selected "N/A," indicating that they did not receive grants. Approximately 38 percent of departments utilized the Pennsylvania Commission on Crime and Delinquency body-worn camera grant. Almost three percent of respondents used Department of Community and Economic Development

¹³¹ Question 33.

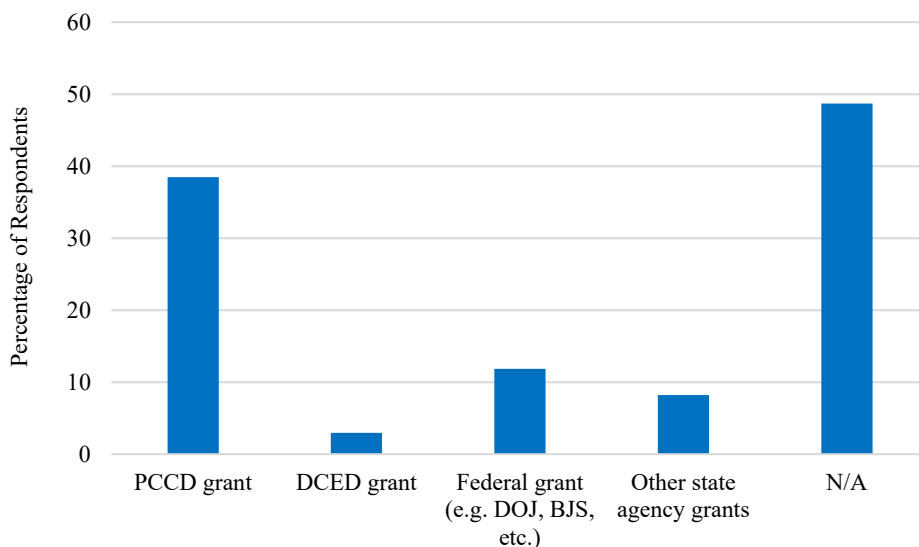
¹³² Question 34.

¹³³ Act of Feb. 14, 2008 (P.L.6, No.3); 65 P.S. §§ 67.101-67.3104.

¹³⁴ Question 34. The statute doesn't require a judicial order to disclose footage. Under 42 Pa.C.S. § 67A05(a), a law enforcement agency denying requested disclosure is to "identify in writing the basis for denying the request within 30 days of receiving the request." If the requested recording isn't timely provided and there is no explanation of denial, the request is "deemed denied by operation of law." *Id.* § 67A05(b). If a denial is judicially appealed, a judicial order would be forthcoming to disclose if the denial was "arbitrary and capricious" and "[t]he public interest in disclosure of the . . . recording or the interest of the petitioner outweighs the interests of the . . . law enforcement agency . . . interest in nondisclosure." *Id.* § 67A06(e). If a law enforcement agency doesn't review a request to determine a statutory basis to deny it and never considers if a recording can be reasonably redacted so that it can be disclosed, it seems that this would be an "arbitrary and capricious" denial.

grants, and almost 12 percent used federal grants. A little over eight percent of respondents used other state agency grants.¹³⁵ See Chart 5.

Chart 5
Types of Grant Programs Utilized



When asked if the grants they received covered the full cost of their body-worn camera usage, 54 percent of departments responded in the negative. Approximately 22 percent said yes, and 24 percent said it was partially covered.¹³⁶

Departments were asked to estimate how much they spent annually on body-worn cameras, including equipment, training, and software. For valid responses that provided estimates, the average cost was \$29,696. The numbers provided by departments varied both depending on the size of departments, and on whether they had recently purchased equipment or were only paying for maintenance and storage. Departments were also asked to break down the total cost into three categories: equipment and use, footage storage costs, and review of the footage. Commission staff analyzed the responses of those that included all categories: an annual total cost, equipment costs, footage storage costs, and costs to review footage. Some departments included equipment costs in their breakdowns that were not included in their annual total. For this analysis, these departments' responses were removed. These 115 departments used an average of 62.4 percent of their annual spending on equipment, 32.4 percent on storage, and 5.1 percent on review of footage. Many respondents noted that their total costs were paid to a contract that covered both equipment and storage costs, therefore they could not break them down into these categories, causing them to put 100 percent in one of these categories and zero in the other.¹³⁷

¹³⁵ Question 35.

¹³⁶ Question 36.

¹³⁷ Question 38.

To determine the cost *per* body-worn camera, Commission staff combined responses to a previous question about how many officers wear them with responses on their total annual costs. Those who provided valid responses to both questions were averaged to produce the figures in table 1:¹³⁸

<p style="text-align: center;">Table 1 Costs for Body-worn Cameras in Pa. 2024</p>		
Average Number of Officers Wearing BWC	Average Total Annual Cost	Average Price <i>per</i> BWC
27	\$53,591	\$1,576

Source: Pa. J. State Gov't Comm'n survey for Pa. House Resolution no. 113 (Sess. of 2023).

To determine the cost of equipping all police departments in Pennsylvania with body-worn cameras, Commission staff determined the total cost from the 201 departments that gave annual costs, which was \$9,324,913. These respondents made up about 19 percent of the 1,044 total departments in Pennsylvania. By using these figures to extrapolate for the total cost for all departments, Commission staff determined a possible annual total of \$49,078,488. However, once again this is simply a rough approximation due to the amount of variance between costs reported by departments of similar sizes.

A separate survey to determine the costs of body-worn cameras was sent to three vendors, but there were no responses so that the cost information was related by consuming departments.

Conclusion

The survey determined that many police departments have similar policies in place for when body-worn cameras are recording, with most departments recording any civilian contact and only allowing discretion on recording for very specific instances involving the privacy of civilians or officers. Once recorded, footage is most often used for supervisory review, training, and evidentiary review. The supervisory review in most departments is regular at certain, mandated intervals. Footage of an officer behaving in an exemplary way or an extraordinary circumstance could be saved for training, however most non-evidentiary footage is kept for an amount of time dictated by policy and then deleted by the body-worn camera vendor's software system unless it

¹³⁸ Questions 7 & 37. As a comparison, this average price *per* body-worn camera is a bit more than a Glock model 17, 9mm, outfitted with a mounted light and sights upgraded to a red dot optic sight, which would total approximately \$1,205. The total average annual cost is a little lower in comparison to an approximate cost of \$57,000 for a fully upfitted police SUV.

is earmarked as evidence. Many departments allow officers to review their own footage when writing incident reports, unless there was an officer-involved shooting or other serious incident.

Many of the departments use software that contains an audit trail that would track access to footage. Footage is most often stored by the vendor in the cloud but is sometimes stored in a secure onsite server. Cybersecurity is most often handled by the vendor and sometimes handled by the police department's IT personnel. Most departments do not use any kind of AI software to review footage, but for the few that do, the footage flagged by AI would also be reviewed by department personnel. A few of these departments tested the software for accuracy. Though it is difficult to quantify an average cost *per* body-worn camera because of the vast amounts of variance between departments, the average, annual cost based on the information given by respondents was \$1,576.

Grant Funding

As has been discussed in this report, the acquisition and utilization of body-worn cameras are a significant investment for a police department. To implement a body-worn camera program, departments must consider the capital outlay, which often includes the number of body-worn cameras, mounting kits, tablets, field viewers, and docking stations. In addition, departments must also factor in operational costs, such as data storage, software, redaction costs, and associated administrative costs (*i.e.*, download time, work time spent reviewing footage), as well as the labor of tracking footage and providing it to district attorneys' offices for evidence in prosecutions. Since body-worn camera hardware does not last forever, departments also incur costs for replacement, repairs, upgrades to next-generation technology, warranties, and full replacement of outdated or unrepairable equipment. Other expenses also include ongoing training for officers who wear body cameras, technical support, and addressing potential noncompliance issues with individual police officers.¹³⁹

With all these costs adding up, departments must weigh costs, analyzing how much their programs will impact their budgets. Considerations in this analysis can include:

- Limiting the types of encounters a department requires for recordation.
- Adopting shorter data-retention time periods to limit the cost of storage.
- Establishing alternative storage options for videos required to be stored for longer periods (*e.g.*, saving critical incidents to a separate internal drive or to a disk).¹⁴⁰

One pivotal way police departments can alleviate the growing costs of body-worn camera programs is to apply for available grant funding. Police departments can seek grant funding at both federal and state levels.

¹³⁹ E-mail from Sally Barry, Dir., Office of Just. Programs, Pa. Comm'n on Crime & Delinquency (June 6, 2024).

¹⁴⁰ *Id.*

State Grant Programs

Local Law Enforcement Support Program. An example of a grant funding resource available at the state level is the Local Law Enforcement Support Grant Program (LLESGP),¹⁴¹ but this is no longer being actively funded. Under the LLESGP, the Pennsylvania Commission on Crime and Delinquency (PCCD) was required to administer a grant program to “provide a law enforcement agency with the necessary resources to allow the law enforcement agency to implement information technology improvements, purchase or upgrade equipment, cover nontraditional law enforcement personnel costs, support retention and recruitment efforts and provide necessary training and cover related expenses.”¹⁴² All local law enforcement agencies (LLEAs) may apply for the grants. For purposes of grant eligibility, local law enforcement agencies included the following:

1. A public agency of a political subdivision having general police powers and charged with making arrests in connection with the enforcement of the criminal or traffic laws.
2. A campus police or university police department.
3. A railroad or street railway police department (*i.e.*, SEPTA police)
4. An airport authority police department, including the Harrisburg International Airport Police.
5. A county park police force.¹⁴³

Once awarded, grant funds under the LLESGP can be used for the following:

- Purchasing and upgrading technology and information technology improvements including but not limited to:
 - Record management systems
 - Report management systems
 - National incident-based reporting system updates
- Purchasing and upgrading hardware and software equipment, including but not limited to:
 - ***Body-worn cameras***
 - Vehicle cameras
 - Mobile information technology equipment
- Support non-sworn personnel costs, including, but not limited to:
 - Civilian personnel
 - Co-responder models
 - Crisis intervention specialists
 - Civilian community relations specialists

¹⁴¹ Act of Apr. 9, 1929 (P.L.343, No.176), § 116-C; 72 P.S. § 116-C.

¹⁴² *Id.* § 116-C(a), (b); 72 P.S. § 116-C(a), (b).

¹⁴³ *Id.* § 116-C(j); 72 P.S. § 116-C(j).

- Support non-reoccurring personnel costs for sworn officers, including but not limited to:
 - Officer wellness programs
 - Programs that support increased diversity
 - Retention and recruitment programs

- Support policy development, evidence-based practices and training, including but not limited to:
 - Crisis intervention training
 - Use of force training
 - Implicit bias training
 - De-escalation training
 - Associated costs related to training¹⁴⁴

While a total of \$135 million dollars in funding for this program had been available through the American Rescue Plan Act, there were categorical limitations for the amount any eligible applicant could receive based on the population of the municipality served by the department. See Table 2.

Table 2 LLESGP Funding Limits 2022	
Municipality Size/Population	Maximum Award Amount
City of the First Class	\$25,000,000
City of the Second Class	20,000,000
Municipality size greater than 55,000	10,000,000
Municipality size between 18,000 – 55,000	5,000,000
Municipality under 18,000	1,000,000
Transit Agency or Campus Police	5,000,000
Airport Police or County Park Police	500,000

Source: Pennsylvania Commission on Crime and Delinquency, “New Grant Programs for Law Enforcement,” https://www.pccd.pa.gov/criminaljustice/advisory_boards/Pages/PCCD-Enhancing-Law-Enforcement-.aspx. Last accessed on Sept. 18, 2024.

The PCCD was required to prioritize funding for applicants with high rates of crime or low clearance rates.¹⁴⁵ To obtain grant funds, LLEAs had to file an application with the PCCD-prescribed form and procedures.¹⁴⁶ The application period had a limited “open solicitation” period.

¹⁴⁴ *Id.* § 116-C(d); 72 P.S. § 116-C(d).

¹⁴⁵ *Id.* § 116-C(e); 72 P.S. § 116-C(e).

¹⁴⁶ *Id.* § 116-C(c); 72 P.S. § 116-C(c).

Gun Violence Investigation and Prosecution Grant Program. The purpose of the Gun Violence Investigation and Prosecution Grant Program (GVIP) is to provide funds to county district attorneys' offices and local law enforcement agencies to investigate and prosecute violations of crimes related to firearms.¹⁴⁷ Once an eligible applicant is awarded funds, it could use them for the following:

- To improve and enhance coordination of federal, state, and local law enforcement investigations and prosecutions of crimes involving firearms.
- To support personnel costs, including salaries and overtime, relating to investigations and prosecutions of crimes involving firearms. (Priority is given to applications focusing on straw purchasers and firearms trafficking.)
- To purchase ***technology systems, including related hardware and software to improve investigations and prosecutions*** or increase clearance rates, including the purchase of gunshot detection technology and other technologies to reduce firearms violence.
- Initiatives that support the tracing of firearms used to commit crimes or delinquent acts and the identification of illegal firearms traffickers.
- Any other efforts that aid in the investigation, arrest, and prosecution of a firearms crime.¹⁴⁸

Though the program does not directly mention the purchase of body-worn cameras, it does allow the funds to be used for the purchase of “technology systems, including related hardware and software to improve investigations and prosecutions.”¹⁴⁹

According to the PCCD, \$50 million in federal American Rescue Plan Act funds were allocated to this program,¹⁵⁰ with limitations on the amount of funding an applicant could receive based on the population of the municipality served that is identical to the maximum award breakdown in Table 2 for the LLESGP.¹⁵¹ One key difference, however, is that 10 percent (\$5 million) of available grant funding under this program was reserved for county district attorneys' offices and rural law enforcement agencies.¹⁵² Like the LLESGP, grant solicitation was competitive and PCCD was legally required to prioritize agencies operating in areas with high rates of gun violence.¹⁵³ Ultimately, 29 applicants were recommended for approval of grants; however, it is unknown if any of the awardees were able to use any of the grant funding on body-worn cameras.¹⁵⁴

¹⁴⁷ *Id.* § 117-C(b); 72 P.S. § 117-C(b).

¹⁴⁸ *Id.* § 117-C(d); 72 P.S. § 117-C(d).

¹⁴⁹ *Id.* § 117-C(d)(3); 72 P.S. § 117-C(d)(3).

¹⁵⁰ Pa. Comm'n on Crime & Delinquency, New Grant Programs for Law Enforcement, https://www.pccd.pa.gov/criminaljustice/advisory_boards/Pages/PCCD-Enhancing-Law-Enforcement-.aspx (2024).

¹⁵¹ Act of Apr. 9, 1929 (P.L.343, No.176), § 117-C(e); 72 P.S. § 117-C(e).

¹⁵² *Id.* § 117-C(f); 72 P.S. § 117-C(f).

¹⁵³ *Id.*

¹⁵⁴ Office of Just. Programs/Crim. Just. Sys. Improvements, Pa. Comm'n on Crime & Delinquency, Gun Violence Investigation & Prosecution Grant Program Project Summary & Analysis, <https://www.pccd.pa.gov/criminaljustice/GunViolence/Documents/GVIP%20dashboard%20files/GVIP%20project%20summaries.pdf> (*last visited* Oct. 1, 2024).

Federal Grant Programs

Body-Worn Camera Policy and Implementation Program. The Bureau of Justice Assistance (BJA) administers a grant program designed to assist state, local, and tribal jurisdictions “[e]stablish, expand, or enhance a comprehensive” body-worn camera program.¹⁵⁵ The BJA is a federal agency that works to assist “state, local, and tribal jurisdictions reduce and prevent crime, lower recidivism, and promote a fair and safe criminal justice system.”¹⁵⁶ It “provides resources--including grants, funding, and training and technical assistance.”¹⁵⁷ In addition to helping law enforcement establish or expand body-worn camera programs, the Policy and Implementation Program also permits grant funds to be utilized to integrate digital body-worn camera footage with other forms of digital evidence, as well as to improve prosecutors’ ability “to receive, access, process, and use digital” body-worn camera evidence.¹⁵⁸

The list of eligible applicants for the BJA grant opportunity is much broader than the LLES GP grant in Pennsylvania. Eligible applicants for this grant include the following:

- City or township
- County
- Special district
- State
- Federally recognized Native American tribal governments
- Independent school districts
- Public and state-controlled institutions of higher education
- Public housing/Indian housing authorities
- State, county, and local law enforcement agencies
- Correctional agencies that perform law enforcement functions
- University and college law enforcement agencies at publicly funded institutions
- Publicly funded specialized police, transit police or fish and game enforcement agencies
- Prosecutors’ offices
- State and regional consortia that support such agencies, including State Administering Agencies¹⁵⁹

The maximum amount of funds *per* award appear in Table 3:

¹⁵⁵ Office of Just. Programs, U.S. Dep’t of Just., FY 2024 Body-Worn Camera Policy & Implementation Program to Support Law Enforcement Agencies, <https://bja.ojp.gov/funding/fy24-sol-overview-bwcpip.pdf> (May 2024).

¹⁵⁶ *Id.* at 2.

¹⁵⁷ *Id.* at 2.

¹⁵⁸ *Id.* at 1.

¹⁵⁹ *Id.*

Table 3
BJA BWC Policy and Implementation Program
to Support Law Enforcement Agencies Maximum per Award
2024

Agency/Entity	Maximum Award Amount
Law Enforcement and State Correctional Agencies	\$2,000,000
Demonstration Project Award	1,000,000

Source: Office of Justice Programs, U.S. Department of Justice, Bureau of Justice Assistance Solicitation Overview, “FY 2024 Body-Worn Camera Policy and Implementation Program to Support Law Enforcement Agencies,” <https://bja.ojp.gov/funding/fy24-sol-overview-bwcpip.pdf> (May 2024).

The BJA encouraged agencies that had not previously received BJA funding to apply, as well as governing bodies that could apply on behalf of agencies.¹⁶⁰ Deadlines to apply for this grant were in July 2024.¹⁶¹ In addition to offering grant funds for body-worn camera programs, the BJA offers events and training seminars, webinars, and informative publications on crafting body-worn camera policies.

Small, Rural, and Tribal Body-Worn Camera Program. The BJA also funded a body-worn camera program for small, rural, and tribal law enforcement agencies.¹⁶² This is a “micro-grant program . . . funded by the” BJA “and operated by Justice & Security Strategies, Inc.”¹⁶³ In 2024, the BJA “announced that it was awarding \$6 million to 170 small, rural, and tribal law enforcement agencies for body-worn cameras. The grantees include 112 small towns, 40 county sheriff’s and county policy agencies, 12 federally-recognized tribal law enforcement agencies, and six university/technical school law enforcement agencies across 46 states.”¹⁶⁴

¹⁶⁰ *Id.*

¹⁶¹ *Id.*, <https://bja.ojp.gov/funding/opportunities/o-bja-2024-172141> (May 21, 2024).

¹⁶² *Id.*, Funding Available: Small, Rural, & Tribal Body-Worn Camera Program, <https://bja.ojp.gov/news/funding-available-small-rural-and-tribal-body-worn-camera-program> (Feb. 5, 2024).

¹⁶³ *Id.* Justice & Security Strategies “is a consulting firm that works with law enforcement and criminal justice agencies throughout the country and internationally.” Small Rural Tribal Body Worn Camera Program, <https://www.srtbwc.com/about-srt/> (2024).

¹⁶⁴ *Id.*, Award Announcement 2024, <https://www.srtbwc.com/> (2024).

Table 4
Micro Grantees in Pennsylvania¹⁶⁵
2024

Police Department	Requested BWC	Total Award Amount
Bethlehem Twp.	24	\$7,307.50
Castle Shannon Borough	15	2,000
Clearfield Reg'l	3	6,000
Derry Twp.	10	10,020
E. Norriton Twp.	28	56,000
Mansfield Borough	6	4,000
Moon Twp.	32	32,000
Pulaski Twp.	8	8,000
Sharon	25	50,000
Silver Spring Twp.	25	50,000
Slippery Rock U. of Pa.	15	15,000
Solebury Twp.	4	8,000
W. Chester Borough	44	40,000

Source: Small Rural Tribal Body Worn Camera Program, Micro Grantees 2024, <https://www.srtbwc.com/micro-grantees-2024/> (2024).

In the Commonwealth, a dozen municipal and one university police department received awards under this program this year. The amounts of the awards ranged from a low of \$2,000 to a high of \$56,000 but averaged \$22,179.04 *per* awardee. The requested number of body cameras ranged from a low of three to a high of 44 but averaged 18.4 *per* requesting department. The awards averaged \$1,205.38 *per* requested body camera.

The program provides “funds and technical support to small, rural, and tribal agencies to implement” body-worn cameras.¹⁶⁶ Agencies are required to use the funds for the “purchase or lease” of body-worn cameras “and *may* include expenses reasonably related to a” body-worn camera “program.”¹⁶⁷ The program funds can also be used for pilot programs, create new programs, or expand existing ones.¹⁶⁸

¹⁶⁵ “These agencies have been selected for funding pending the completion of a few more administrative questions, forms, and other necessary documents.” *Id.*, Micro Grantees 2024, <https://www.srtbwc.com/micro-grantees-2024/> (2024).

¹⁶⁶ State Just. Inst., Small, Rural, & Tribal Body-Worn Camera Program, <https://fundingtoolkit.sji.gov/funding/small-rural-and-tribal-body-worn-camera-program/> (2024).

¹⁶⁷ *Id.*

¹⁶⁸ *Id.*

To be eligible for grant funds under the program, an applicant must be a rural agency “law enforcement department with 50 or fewer full-time sworn personnel, (. . . within non-urban or non-metro counties)” or a federally-recognized tribal agency.¹⁶⁹ The due date for grant applications was March 4, 2024.¹⁷⁰

¹⁶⁹ *Id.*

¹⁷⁰ *Id.*

How can body-worn camera footage be used to ensure justice of all? Audio and video recordings made by law enforcement agencies are subject to public production under 42 Pa.C.S. ch. 67A (relating to recordings by law enforcement officers) rather than the Right-to-Know Law.¹⁷¹ A comment published in a law review concluded that 42 Pa.C.S. ch. 67A would not increase “police accountability and transparency” because public access to body-worn camera footage is “heavily” restricted.¹⁷² However, “even if the footage were accessible, the law would have little impact on police accountability because police accountability is a *structural* problem, not an *evidentiary* one.”¹⁷³

The restrictions of body-worn camera footage under 42 Pa.C.S. § 67A04(a) (relating to law enforcement review) to deny disclosure are similar to the exemptions from access of public records relating to criminal investigations under the Right-to-Know Law.¹⁷⁴ The bigger difference between the two is not the statutory criteria upon which to deny disclosure, rather the statutory presumption that a record is public under the Right-to-Know Law¹⁷⁵ but not under 42 Pa.C.S. ch. 67A. However, the Right-to-Know Law exempts agency records relating to a criminal investigation from disclosure,¹⁷⁶ but ch. 67A authorizes disclosure of audio and video recordings if they can be reasonably redacted to safeguard potential evidence and preserve confidentiality of investigative and victim information.¹⁷⁷ In other words, the Right-to-Know Law categorically exempts public records relating to criminal investigations from disclosure, but, under ch. 67A, recordings relating to criminal investigations can be disclosed so long as they are redacted to preserve confidentiality.

If a local law enforcement agency denies a request under the Right-to-Know Law, the appeals officer is the district attorney’s designee,¹⁷⁸ whereafter, judicial review is in the court of common pleas where the local agency is located.¹⁷⁹ Requests denied under ch. 67A can be judicially reviewed by a court of common pleas directly¹⁸⁰ rather than go to an appeals officer first.

¹⁷¹ 42 Pa.C.S. § 67A02(a).

¹⁷² Peter Hyndman, Comment, “*Body Cameras Won’t Bring Justice*”: *Why Pa.’s Ch. 67A Does Not Promise Police Accountability*, 91 Temp. L. Rev. 321, 323 (2019). The author argues that 42 Pa.C.S. ch. “67A makes public disclosure of” body-worn camera “footage more difficult than the Right-to-Know Law.” *Id.* Perhaps the biggest distinctions between the two laws are that the latter presumes that a record is public regardless of intended use unless statutorily exempt from disclosure while ch. 67A authorizes judicially ordered disclosure if the denial of disclosure was arbitrary and capricious and the public interest of disclosure outweighs the Commw.’s interest in nondisclosure. *Id.* at 334-36.

¹⁷³ *Id.*

¹⁷⁴ Act of Feb. 14, 2008 (P.L.6, No.3), § 708(b)(16); 65 P.S. § 67.708(b)(16).

¹⁷⁵ *Id.* § 305(a); 65 P.S. § 67.305(a).

¹⁷⁶ *Id.* § 708(b)(16); 65 P.S. § 67.708(b)(16).

¹⁷⁷ 42 Pa.C.S. § 67A04(a).

¹⁷⁸ Act of Feb. 14, 2008 (P.L.6, No.3), § 503(d)(2); 65 P.S. § 67.503(d)(2).

¹⁷⁹ *Id.* § 1302(a); 65 P.S. § 67.1302(a).

¹⁸⁰ 42 Pa.C.S. § 67A06(a).

If a denial is judicially reviewed under the Right-to-Know Law, the determination is generally whether or not the record is publicly accessible; however, judicial review under ch. 67A reverses a denial if the denial was arbitrary and capricious, and, the public interest in disclosure outweighs the Commonwealth's interest in nondisclosure.¹⁸¹

Theoretically, ch. 67A has broader disclosure than the Right-to-Know Law, because ch. 67A allows any recording to be disclosed if it can be redacted to preserve confidentiality, whereas the Right-to-Know Law categorically exempts similar types of information from disclosure regardless of any redaction. This broader disclosure might not be manifest in practice, but this is how the statutes compare (or contrast).

During an advisory committee conference, some displeasure was expressed with both ch. 67A and the Right-to-Know Law. It was asserted that the requests and appeals under the Right-to-Know Law are easier for individuals to navigate than under ch. 67A. The Right-to-Know Law mandates acceptance of a uniform form requesting records from all Commonwealth and local agencies.¹⁸² The Commonwealth's Office of Open Records published a model form for requests under ch. 67A,¹⁸³ but it is not statutorily mandated to be accepted—and, the advisory committee is uncertain how many departments use this form. The request under ch. 67A requires certain information¹⁸⁴ that differs from the Right-to-Know Law¹⁸⁵ so that mandatory acceptance of a uniform form under ch. 67A makes at least as much sense as it does under the Right-to-Know Law.

Under the Right-to-Know Law, agencies are required to post certain information and include it on an internet website if the agency maintains one.¹⁸⁶ The information required on the internet website is:

- “(1) Contact information for the open-records officer.
- (2) Contact information for the Office of Open Records or other applicable appeals officer.
- (3) A form which may be used to file a request.
- (4) Regulations, policies and procedures of the agency relating to this act.”¹⁸⁷

Additionally, municipal law enforcement agencies making audio or video recordings by body-worn cameras must “establish written policies, which shall be public.”¹⁸⁸ It would seem to be advisable to urge or mandate municipal law enforcement agencies with a computer site presence to include both a form for requests under ch. 67A and the written policy on the computer site.

¹⁸¹ *Id.* § 67A06(e).

¹⁸² Act of Feb. 14, 2008 (P.L.6, No.3), § 505(a); 65 P.S. § 67.505(a).

¹⁸³ Pa. Office of Open Records, Law Enforcement Recording Request Form—Act 22 of 2017, https://www.openrecords.pa.gov/Documents/RTKL/Act22_RequestForm.pdf (updated Mar. 16, 2020).

¹⁸⁴ *E.g.*, “The request shall include a statement describing the requester's relationship to the incident or event that is the subject of the audio or video recording.” 42 Pa.C.S. § 67A03.

¹⁸⁵ “A written request need not include any explanation of the requester's reason for requesting or intended use of the records unless otherwise required by law.” Act of Feb. 14, 2008 (P.L.6, No.3), §§ 702, 703; 65 P.S. §§ 67.702, 67.703.

¹⁸⁶ *Id.* § 504(b); 65 P.S. § 67.504(b).

¹⁸⁷ *Id.*

¹⁸⁸ 42 Pa.C.S. § 67A07(a). The statute authorized the Pa. Comm'n on Crime & Delinquency to condition funding for body-worn cameras on those written policies being “publicly accessible, including being retrievable on a municipal website.” *Id.* § 67A07(b)(2).

The advisory committee considered judicial rulings when there is an absence of body-worn camera footage of a police-involved incident and how courts handle this, from an evidentiary standpoint. Typically, courts do not infer bad faith on the part of the police officer if he just forgets or is circumstantially unable for whatever reason to turn on his body camera prior to the incident.

However, there was some discussion about what happens if an officer routinely does not turn on body-worn cameras during confrontations and encounters with the public, which may weigh against his credibility in an incident. This area could become more frequently litigated as more body-worn cameras continue to be deployed.

New Jersey statutorily requires law enforcement officers to activate their body-worn cameras responding to service calls and during public encounters in accordance with guidelines from the attorney general.¹⁸⁹ The statute also provides a rebuttable presumption that exculpatory evidence in favor of a defendant was not captured or destroyed if the statutory recording and retention requirements were unfulfilled.¹⁹⁰ Similarly, Illinois has a statutory instruction for finders of fact when a court finds an intentional lack of recording in violation of Law Enforcement Officer-Worn Body Camera Act¹⁹¹ so that the jury considers that violation in weighing the evidence.¹⁹² In some jurisdictions without a statute covering this, the same presumption or instruction has been requested.

As in Illinois and New Jersey, some on the advisory committee might prefer a statewide law or policy on what is inferred from the failure to record or retain body-worn camera footage in accordance with departmental policy. The Commonwealth has a suggested standard criminal jury instruction that would allow a jury to infer that the Commonwealth's unavailable body-camera footage would be unfavorable to the Commonwealth had it been produced as potential evidence.¹⁹³ Accordingly, the advisory committee did not decide to recommend codifying this in a statute.

¹⁸⁹ N.J. Stat. § 40A:14-118.5c.

¹⁹⁰ *Id.* § 40A:14-118.5q(2).

¹⁹¹ 50 Ill. Comp. Stat. 706/10-1 to 706/10-35.

¹⁹² 50 Ill. Comp. Stat. 706/10-30.

¹⁹³ Pa. Suggested Standard Crim. Jury Instructions 3.21B (2024).

The final item in the resolution solicited advice on how to ensure that body-worn camera footage is shielded from cyber threats. Cyber threats have been an increasingly pervasive problem potentially affecting everyone who directly or indirectly relies upon information technology whenever that technology stores and transmits data.

The advisory committee relied heavily on a member who has the most professional expertise. He recommended a standard that all local or state law enforcement agencies would already be aware of (and already must comply with) so that the status quo is really the recommendation.

Statutorily, “[t]he Pennsylvania State Police” are required to “annually establish and publish standards in the Pennsylvania Bulletin for the secure onsite and off-site storage of an audio recording . . . or any accompanying video recording. The standards shall comply with the Federal Bureau of Investigation's Criminal Justice Information Services (CJIS) Security Policy.”¹⁹⁴ Similarly, “[a] vendor to law enforcement agencies which stores data related to audio recordings and video recordings shall, at a minimum, comply with the standards set forth by the Pennsylvania State Police”¹⁹⁵ The statute also already requires “[t]he Pennsylvania State Police” to “annually establish equipment standards for” body-worn cameras “for purposes of recording a communication” and publish those “equipment standards . . . annually in the Pennsylvania Bulletin.”¹⁹⁶

The State Police had not been publishing those standards annually in the Pennsylvania Bulletin. The mobile video recording system equipment standards and approved mobile video recording systems were most recently published in 2024¹⁹⁷ but had not been published since 2021.¹⁹⁸ The law enforcement officer camera system data handling requirements were most recently published in 2024¹⁹⁹ but had not been published since 2020.²⁰⁰

¹⁹⁴ 18 Pa.C.S. § 5706(b)(5).

¹⁹⁵ *Id.* § 5706(b)(6).

¹⁹⁶ *Id.* § 5706(b)(4).

¹⁹⁷ 54 Pa. Bull. 6231 (Sept. 28, 2024), *available at*

<https://www.pacodeandbulletin.gov/Display/pabull?file=/secure/pabulletin/data/vol54/54-39/1409.html#>.

¹⁹⁸ 51 Pa. Bull. 1945 (Apr. 3, 2021), *available at*

<https://www.pacodeandbulletin.gov/Display/pabull?file=/secure/pabulletin/data/vol51/51-14/549.html&search=1&searchunitkeywords=state%20police>.

¹⁹⁹ 54 Pa. Bull. 6229 (Sept. 28, 2024), *available at*

<https://www.pacodeandbulletin.gov/Display/pabull?file=/secure/pabulletin/data/vol54/54-39/1408.html>.

²⁰⁰ 50 Pa. Bull. 4830 (Sept. 19, 2020), *available at*

<https://www.pacodeandbulletin.gov/Display/pabull?file=/secure/pabulletin/data/vol50/50-38/1298.html&search=1&searchunitkeywords=>.

CJIS Security Policy is updated recurrently. The following is an excerpt from the policy's executive summary but more simply stated it is a technical requirement affecting all entities²⁰¹ that can access CJIS information and services.

[T]he CJIS Security Policy contains information security requirements, guidelines, and agreements reflecting the will of law enforcement and criminal justice agencies for protecting the sources, transmission, storage, and generation of Criminal Justice Information (CJI). The Federal Information Security Management Act of 2002 provides further legal basis for the APB approved management, operational, and technical security requirements mandated to protect CJI and by extension the hardware, software and infrastructure required to enable the services provided by the criminal justice community.

. . . The CJIS Security Policy provides guidance for the creation, viewing, modification, transmission, dissemination, storage, and destruction of CJI. This Policy applies to every individual—contractor, private entity, noncriminal justice agency representative, or member of a criminal justice entity—with access to, or who operate in support of, criminal justice services and information.

The CJIS Security Policy integrates presidential directives, federal laws, FBI directives and the criminal justice community's APB decisions along with nationally recognized guidance from the National Institute of Standards and Technology. The Policy is presented at both strategic and tactical levels and is periodically updated to reflect the security requirements of evolving business models. The Policy features modular sections enabling more frequent updates to address emerging threats and new security measures. The provided security criteria assists agencies with designing and implementing systems to meet a uniform level of risk and security protection while enabling agencies the latitude to institute more stringent security requirements and controls based on their business model and local needs.

The CJIS Security Policy strengthens the partnership between the FBI and CJIS Systems Agencies (CSA), including, in those states with separate authorities, the State Identification Bureaus (SIB). Further, as use of criminal history record information for noncriminal justice purposes continues to expand, the CJIS Security Policy becomes increasingly important in guiding the National Crime Prevention and Privacy Compact Council and State Compact Officers in the secure exchange of criminal justice records.

The Policy describes the vision and captures the security concepts that set the policies, protections, roles, and responsibilities with minimal impact from changes in technology. The Policy empowers CSAs with the insight and ability to tune their security programs according to their risks, needs, budgets, and resource constraints while remaining compliant with the baseline level of security set forth in this Policy. The CJIS Security Policy provides a secure framework of laws, standards,

²⁰¹ Including local and state law enforcement.

and elements of published and vetted policies for accomplishing the mission across the broad spectrum of the criminal justice and noncriminal justice communities.²⁰²

To emphasize the recommendation of the status quo on this, this is the current standard that gets recurrently updated, is required statutorily and federally to access the CJIS. Moreover, the State Police standards is also compliant with 18 Pa.C.S. §§ 9101—9183 (relating to Criminal History Record Information). It is hoped that the updates and compliance are enough to stymie the evolving sophistication of hacker skills.

²⁰² Fed. Bureau of Investigation Crim. Just. Info. Servs. Div., U. S. Dep’t of Just., Crim. Just. Info. Servs. Security Policy Version 5.9.5, i (July 9, 2024).

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE RESOLUTION

No. 113 Session of
2023

INTRODUCED BY RABB, CEPHAS, SANCHEZ, SHUSTERMAN, HILL-EVANS,
MADDEN, HOHENSTEIN, KINSEY, PARKER, FLEMING, FRANKEL AND
SCOTT, MAY 18, 2023

REFERRED TO COMMITTEE ON JUDICIARY, MAY 18, 2023

A RESOLUTION

1 Directing the Joint State Government Commission to conduct a
2 study on how body-worn camera footage can be more effectively
3 used to provide positive and safe outcomes for both law
4 enforcement officers and civilians.

5 WHEREAS, Body-worn cameras have become more widely used by
6 law enforcement officers throughout the United States, including
7 policing and corrections; and

8 WHEREAS, A 2015 survey of 67 major cities and 76 major
9 counties found that 95% of law enforcement agencies had fully
10 operational body-worn camera programs or intended to implement a
11 full body-worn camera program; and

12 WHEREAS, A Bureau of Justice Statistics study found that 47%
13 of general-purpose law enforcement agencies and 80% of large
14 police departments had acquired body-worn cameras as of 2016, of
15 which 60% of local police departments and 49% of sheriffs'
16 offices had fully deployed their body-worn cameras; and

17 WHEREAS, The Pennsylvania State Police began piloting the use
18 of body-worn cameras in 2018; and

1 WHEREAS, The Philadelphia Police Department, the 4th largest
2 police department in the country, is continuing to work toward
3 fully deploying body-worn cameras over the next several years;
4 and

5 WHEREAS, It is important to ensure that body-worn camera
6 footage protects both law enforcement officers and civilians
7 during conflicts; and

8 WHEREAS, It is vital that body-worn camera footage be
9 available to the prosecution, defense and public as necessary to
10 aide in the speedy and just resolution of criminal cases; and

11 WHEREAS, It is imperative that the data obtained by body-worn
12 camera footage be protected from cyber threats; and

13 WHEREAS, In 2017, Governor Tom Wolf signed a law that enabled
14 law enforcement officers to use body-worn cameras on the job
15 without risking illegal wiretapping or lawsuit charges; and

16 WHEREAS, This Commonwealth is still lagging behind other
17 states in terms of law enforcement body-worn camera usage and
18 studies; and

19 WHEREAS, Law enforcement officers and agencies in this
20 Commonwealth face several obstacles concerning body-worn
21 cameras, including cost and usage of footage; and

22 WHEREAS, The House of Representatives believes that body-worn
23 camera footage could be used more effectively if all pieces of
24 footage, regardless of use in legal proceedings, were studied to
25 understand how they are used in the criminal justice system
26 throughout this Commonwealth; and

27 WHEREAS, The House of Representatives acknowledges the
28 importance of body-worn camera footage being used for the safety
29 of law enforcement officers and residents of this Commonwealth;
30 therefore be it

1 RESOLVED, That the House of Representatives direct the Joint
2 State Government Commission to conduct a study on how body-worn
3 camera footage can be more effectively used to provide positive
4 and safe outcomes for both law enforcement officers and
5 civilians; and be it further

6 RESOLVED, That the Joint State Government Commission study
7 how and by whom body-worn camera footage is currently used and
8 stored in this Commonwealth; and be it further

9 RESOLVED, That the study include the cost of filming, storing
10 and looking at every piece of body-worn camera footage recorded
11 in this Commonwealth; and be it further

12 RESOLVED, That the study include recommendations to ensure
13 that body-worn camera footage is used for the justice of all and
14 shielded from cyber threats; and be it further

15 RESOLVED, That the Joint State Government Commission, as part
16 of its study, establish an advisory committee comprised of, but
17 not limited to, individuals who have expertise or experience in
18 one or more of the following fields, positions or situations:

- 19 (1) Criminal justice.
- 20 (2) Policing.
- 21 (3) Prosecution.
- 22 (4) Criminal defense.
- 23 (5) Corrections.
- 24 (6) Body-worn camera research.
- 25 (7) Law enforcement training.
- 26 (8) Racial justice.
- 27 (9) Psychology.
- 28 (10) Big data in criminal justice.
- 29 (11) Cyber security.
- 30 (12) Collective bargaining.

1 (13) Algorithms in criminal justice.
2 (14) Ethics.
3 (15) Surveillance and facial recognition technology.
4 (16) Being involved in an incident where body-worn
5 camera footage was utilized;
6 and be it further
7 RESOLVED, That the Joint State Government Commission report
8 its findings and recommendations to the House of Representatives
9 within 120 days of the adoption of this resolution.