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

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TUESDAY, MAY 19, 2015

United States Senate,
Subcommittee on Crime and Terrorism,
Committee on the Judiciary,
Washington, DC

The Committee met, pursuant to notice, at 3:00 p.m.,
Room 226, Dirksen Senate Office Building, Hon. Lindsey
Graham, Chairman of the Subcommittee, presiding.

Present: Senators Grassley, Cornyn, Durbin,
Whitehouse, Klobuchar, Franken, Coons, and Blumenthal.

1 OPENING STATEMENT OF HON. LINDSEY GRAHAM, A U.S. SENATOR
2 FROM THE STATE OF SOUTH CAROLINA, CHAIRMAN, SUBCOMMITTEE
3 ON CRIME AND TERRORISM, COMMITTEE ON THE JUDICIARY

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5 Chairman Graham. The Subcommittee will come to
6 order. We will have a hearing today entitled Body
7 Cameras: Can Technology Increase Protection for Law
8 Enforcement Officers and the Public.

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

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

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

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

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

6 [The prepared statement of Chairman Graham appears in
7 the appendix.]

8 Chairman Graham. Senator Whitehouse?

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

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

8 Chairman Graham. Do not get used to it.

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

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

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

25 I also look forward to what I hope will be a lively

1 hearing on what I consider to be a pretty egregious
2 separation of powers violation by the Administration.

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

8 [The prepared statement of Senator Whitehouse appears
9 in the appendix.]

10 Chairman Graham. Thank you very much. We will do
11 both hearings.

12 Senator Grassley, would you like to make a comment?
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1 OPENING STATEMENT OF HON. CHARLES E. GRASSLEY, A U.S.
2 SENATOR FROM THE STATE OF IOWA, CHAIRMAN, COMMITTEE ON
3 THE JUDICIARY
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5 Senator Grassley. Thank you very much. I want to
6 thank you for holding this hearing. I appreciate Senator
7 Scott and his strong interest in this subject.

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

11 Recent interactions between police and the public
12 have increased the consideration of body cameras to
13 record an officer's work. So it is a good idea to
14 explore the experience of state and local governments
15 that have employed body cameras.

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

23 Now, body cameras themselves are relatively
24 inexpensive, but costs associated with their use seem to
25 be considerable. Many practical questions regarding

1 their use need to be thought through. These include
2 determining when cameras would and would not be
3 operating, how privacy of people's homes and of crime
4 victims would be maintained, how footage is to be
5 retained and chain of custody preserved, and public
6 access to the tapes.

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

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

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

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

1 [The prepared statement of Chairman Grassley appears
2 in the appendix.]

3 Chairman Graham. Thank you, Mr. Chairman.

4 John, would you like to say anything?

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

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4 Senator Cornyn. Thank you, Mr. Chairman. I would
5 like to express my gratitude to Senator Grassley, as
6 Chairman of the full Committee, but to you as Chairman of
7 the Subcommittee for starting the conversation here on a
8 topic that I know is very near and dear to Senator
9 Scott's heart.

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

16 But it is also important -- Mr. Chairman, I know you
17 agree because you are a cosponsor of this bill that would
18 create a commission to study our criminal justice system
19 writ large. Once we get through doing the things that we
20 can do to help improve our criminal justice system,
21 things like passing the Corrections Act that Senator
22 Whitehouse and I are the chief cosponsors of, to help act
23 on the lessons of prison reform that have played out in
24 our states, I hope we can continue this conversation in a
25 way that lets us revisit what works and correct and

1 eliminate what does not work, with a goal toward
2 maintaining and rebuilding the public's trust in law
3 enforcement, which is absolutely critical in our
4 communities.

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

8 [The prepared statement of Senator Cornyn appears in
9 the appendix.]

10 Chairman Graham. Senator Franken?

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

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4 Senator Franken. Very quickly. I just have a
5 classified briefing at 4:00. I am going to stay here
6 until. So maybe I will get to my questions and maybe I
7 will not.

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

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

18 Chairman Graham. Thank you, Senator Franken.

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

23 So, please, proceed.

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

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4 Senator Scott. Thank you, sir. Thank you, Mr.
5 Chairman and Ranking Member. Thank you all for
6 participating in the hearing today.

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

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

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

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

23 Things that have impacted my life, having grown up
24 myself in a single-parent household in poverty in North
25 Charleston, I will tell you that the foundation for

1 changing some of the outcomes starts with education.
2 Long-term education will provide a path, an avenue out.

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

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

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

17 I look forward to the discussion, as well as the hard
18 work ahead. The good news is that according to at least
19 one study, public complaints against officers wearing
20 cameras falls by 90 percent. Use of force -- use of
21 force drops by as much as 60 percent. That is moving in
22 the right direction.

23 Tasking the Federal Government to support body
24 cameras through resources should not be confused with
25 federalizing local policing, which I would object to, nor

1 is it an attempt to mandate the use of body cameras.
2 Rather, it is an attempt to keep law enforcement officers
3 and our communities safer.

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

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

14 Thank you, Mr. Chairman.

15 [The prepared statement of Senator Scott appears in
16 the appendix.]

17 Chairman Graham. Thank you very much, Senator
18 Scott. Thank you.

19 If our second panel would come forward, please.

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

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

24 [Witnesses sworn.]

25 Chairman Graham. Our panel consists of Mr. Peter

1 Weir, who is the District Attorney for the First Judicial
2 District, State of Colorado, from Golden Colorado;
3 Lindsay Miller, Senior Research Associate, Police
4 Executive Research Forum, Washington, DC; Wade Henderson,
5 President and CEO of the Leadership Conference on Civil
6 Rights and Human Rights, Washington, DC; and, Jarrod
7 Bruder, Executive Director, South Carolina Sheriff's
8 Association, from Columbia, South Carolina.

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

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1 TESTIMONY OF MS. LINDSAY MILLER, SENIOR RESEARCH
2 ASSOCIATE, POLICE EXECUTIVE RESEARCH FORUM, WASHINGTON,
3 DC

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5 Ms. Miller. Good afternoon and thank you, Chairman
6 Graham and members of the committee, for the opportunity
7 to speak today about the important issue of body-worn
8 cameras.

9 My name is Lindsay Miller and I am a Senior Research
10 Associate with the Police Executive Research Forum, which
11 is an independent, nonprofit research organization that
12 focuses on critical issues in policing.

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

17 Last September, PERF and the COPS office released a
18 publication that examines the benefits of body cameras
19 and considerations for implementation. The report also
20 provides a set of 33 comprehensive policy recommendations
21 that reflect promising practices and lessons learned.

22 So today I am just going to touch briefly on a few of
23 our key findings and recommendations, and my submitted
24 written testimony provides additional details on these
25 topics.

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

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

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

18 So when it comes to the benefits of body cameras, we
19 found that cameras have been useful for several things:
20 strengthening police accountability and agency
21 transparency; improving the behavior of people on both
22 sides of the camera; as Senator Scott said, reducing and
23 resolving officer use-of-force incidents and complaints
24 against officers; identifying and correcting problems
25 within the agency both at the individual level and

1 throughout the entire agency; strengthening officer
2 performance by using the footage for training and
3 monitoring; and, improving evidence documentation for
4 investigations and prosecutions.

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

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

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

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

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

22 So, again, these are just a couple of our 33
23 recommendations, which also cover data storage and
24 management, training and evaluation. We also provide
25 useful strategies for how police leaders can engage

1 officers, policymakers and the public.

2 And again, when implemented correctly, body cameras
3 can provide real benefits both for police and the
4 community. However, it is critical that agencies slow
5 down, think about all of these issues, and take an
6 incremental approach to camera deployment. And above
7 all, police agencies must always remember that the
8 ultimate purpose of body cameras is to help officers
9 protect and serve the people within their communities.

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

12 [The prepared testimony of Ms. Miller appears in the
13 appendix.]

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1 TESTIMONY OF MR. JARROD M. BRUDER, EXECUTIVE DIRECTOR,
2 SOUTH CAROLINA SHERIFF'S ASSOCIATION, COLUMBIA, SOUTH
3 CAROLINA

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5 Mr. Bruder. Chairman Graham, distinguished members
6 of the Committee, my name is Jarrod Bruder and I am the
7 Executive Director of the South Carolina Sheriff's
8 Association. It is truly an honor to appear before you
9 today.

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

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

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

25 These agencies have found this technology provides a

1 significant benefit to their department and individual
2 officers. Not only do these cameras provide valuable
3 training opportunities, but they also help to resolve
4 officer-involved conflicts.

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

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

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

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

25 At a time when many law enforcement agencies in South

1 Carolina are struggling to find sufficient funds to
2 protect their officers and the public, a legislative
3 mandate to implement body-worn cameras seems like a
4 nightmare to many.

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

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

22 In my humble opinion, these cameras are not intended
23 to be the source of embarrassment or humiliation. Law
24 enforcement officers often encounter citizens at their
25 lowest moments in life. Data from these cameras should

1 be used as evidence to enhance our pursuit of justice,
2 not to humiliate or entertain our neighbors.

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

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

20 In conclusion, I would like to answer the question
21 that has brought us here today. Yes. When used
22 properly, technology and, more specifically, body-worn
23 cameras can increase protection for law enforcement
24 officers and the public. We should be careful, though,
25 not to put too much trust in this technology. Body-worn

1 cameras can aid in transparency, but they will not mend
2 community relations alone. Neither will they address the
3 root causes that have led to so many tragic incidents.

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

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

15 Advanced training, not just basic training, is
16 absolutely critical in our efforts to provide public
17 safety. If we truly want to increase protection for law
18 enforcement officers and the public, then we need to
19 provide our law enforcement agencies with the funds
20 necessary to attract, recruit and retain the best and
21 brightest officers.

22 Those officers should be psychologically tested and
23 equipped with the best training available to ensure they
24 serve and protect our communities with equality, fairness
25 and justice.

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

3 [The prepared testimony of Mr. Bruder appears in the
4 appendix.]

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1 TESTIMONY OF MR. PETER WEIR, DISTRICT ATTORNEY, FIRST
2 JUDICIAL DISTRICT, STATE OF COLORADO, GOLDEN, COLORADO

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4 Mr. Weir. Chairman Graham, Ranking Member
5 Whitehouse and members of the Subcommittee, my name is
6 Peter Weir. I am an elected District Attorney from the
7 First Judicial District in Colorado. That is located in
8 Golden, Colorado, just to the west of Denver.

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

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

19 When we talk of data that is generated by body-worn
20 cameras, we need to keep in mind that that data is
21 actually evidence. So we are talking about the
22 generation of evidence. There are many, many uses for
23 the recordings generated by body-worn cameras. And as
24 has already been alluded to and as it goes to the issue
25 of trust, accountability and transparency are critical

1 functions of that.

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

7 Clearly, from a prosecutor's perspective, this
8 evidence can be very, very important. When you present a
9 case to a jury, certainly they would benefit from being
10 able to see the place and the circumstances immediately
11 after the commission of a crime. Jurors would benefit
12 from being able to evaluate credibility and demeanor of
13 the witnesses that are recorded contemporaneously with
14 the crime.

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

21 So clearly the prosecution community supports the use
22 of body-worn cameras in appropriate circumstances with
23 appropriate safeguards and appropriate procedures
24 involved in the use of the body-worn cameras.

25 As has been mentioned already, there are some areas

1 of concern that are shared by prosecutors and I need to
2 stress that it is critically important as we go down this
3 path that the prosecution community be part of the
4 dialogue in creating policies and procedures not just at
5 the Federal level, but also at the state and local level,
6 to be able to engage with their local law enforcement
7 authorities to identify the issues that may be very
8 unique to each jurisdiction, because in this discussion,
9 one size does not fit all.

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

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

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

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

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

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

20 Thank you, Mr. Chairman.

21 [The prepared testimony of Mr. Weir appears in the
22 appendix.]

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1 TESTIMONY OF MR. WADE HENDERSON, PRESIDENT AND CEO, THE
2 LEADERSHIP CONFERENCE ON CIVIL AND HUMAN RIGHTS,
3 WASHINGTON, DC
4

5 Mr. Henderson. Good afternoon, Chairman Graham,
6 Ranking Member Whitehouse, and members of the
7 Subcommittee. I am Wade Henderson, President and CEO of
8 the Leadership Conference on Civil and Human Rights, a
9 coalition of more than 200 national organizations charged
10 with the promotion and protection of the rights of all
11 persons in the United States.

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

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

21 These practices, like discriminatory profiling,
22 excessive use of force, and both explicit and implicit
23 racial bias in law enforcement, have framed the national
24 debate around police reform and prompted a national
25 conversation on the use of technology, specifically,

1 body-worn cameras, as one possible means to enhance
2 accountability and transparency in policing.

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

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

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

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

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

23 There is a temptation to create a false prevalence
24 between these citizen-recorded videos and body-worn
25 cameras operated by law enforcement. I urge the

1 Committee not to give in to this temptation because body-
2 worn cameras will not be operated by concerned citizens
3 and will not be recording officers. The will instead be
4 directed at members of the community.

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

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

14 They point out that, quote, "Without carefully
15 crafted policy safeguards in place, there is a real risk
16 that these new devices could become instruments of
17 injustice rather than tools for accountability," unquote.

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

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

25 Facial recognition and other biometric technologies

1 must be carefully limited. If those technologies are
2 used together with body cameras, it will actually
3 intensify stark disparities in surveillance in more
4 heavily policed communities of color.

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

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

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

23 The Leadership Conference urges Federal, state and
24 local governments, as well as individual police
25 departments, to consider our principles as they develop

1 and implement body-worn camera policies and programs.

2

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

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

8 [The prepared testimony of Mr. Henderson appears in
9 the appendix.]

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

13 Senator Franken, would you like to go first?

14 Senator Franken. Thank you. I feel like we are in
15 the infancy of this technology and as now Ranking Member
16 on Privacy, Technology and the Law Subcommittee, I can
17 see -- Mr. Henderson raised facial recognition and the
18 use of that possibility. We know that technology is here
19 and this raises so many issues.

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

24 In these studies, Ms. Miller, is there any indication
25 of the benefits in terms of money? In other words, I

1 would imagine that reducing by 80 percent, 90 percent the
2 negative sort of interactions, that there may be an
3 actual financial benefit from that.

4 Ms. Miller. That is what we heard from the police
5 executives that we worked with. They said that this drop
6 in complaints, the drop of lawsuits has really helped
7 them on the back end save money.

8 There have not been a lot of studies, cost-benefit
9 analysis yet into the technology. My organization, PERF,
10 is actually starting one now. So we are going to be
11 working on that over the next year to kind of look at
12 that, to see what are the cost savings in terms of
13 lawsuits and investigations and do those help outweigh
14 some of these significant costs.

15 Anecdotally, we hear absolutely, they are worth it
16 100 percent, even though the costs are very steep.

17 Senator Franken. So there are benefits, but there
18 are also costs. I mean, there are dollar benefits versus
19 other benefits.

20 Ms. Miller. Sure. Yes.

21 Senator Franken. So the dollar benefits may not
22 equal the costs, the dollar costs. Some of the issues
23 that are being raised are, obviously, when does the
24 officer turn it on, when does he turn it off. I think
25 all of us can sort of, in our minds, see *60 Minutes*

1 stories of a miscarriage of justice because of editing of
2 footage. That is not very hard to do.

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

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

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

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

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

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

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

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

24 Senator Franken. Thank you. I know that all of you
25 have the same kind of questions that I wanted to be

1 asking.

2 Mr. Weir talked about storage, archiving, retrieving
3 and disclosure, essentially, as all policies and before
4 storage, I guess, is what do you shoot and when.

5 Mr. Henderson, you talked about a carefully crafted
6 policy. So I think those are all things that we need to
7 keep in mind as we go through this technology and this
8 new world.

9 Chairman Graham. Senator Cornyn?

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

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

23 So I would be interested, Ms. Miller -- maybe we can
24 go down the line here and I would just like to get your
25 comment on how do we be able to make sure that we protect

1 the victims of crime.

2 Ms. Miller. Thank you for the question. Our
3 report, we recommend that officers be required to obtain
4 consent prior to filming conversations with crime
5 victims. So that puts the -- it gives the crime victim
6 the dignity and the privacy to be able to determine
7 whether he or she wants to be filmed. And then on the
8 back end, of course, there is the issue of public
9 disclosure, which is another privacy issue when it comes
10 to victims, and we recommend that agencies really
11 consider the privacy -- as I said in my testimony, you do
12 not want to see people that are most vulnerable show up
13 on You Tube.

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

18 Senator Cornyn. Mr. Bruder?

19 Mr. Bruder. In South Carolina, we are currently
20 working through state legislation to implement body-worn
21 cameras. One of the moves that we have done there is to
22 basically make body-worn camera footage exempt or
23 actually not even subject to the Freedom of Information
24 Act. It is not considered a public document. So in
25 doing that, we make sure that the individual victims of

1 those crimes, they are not -- their identity is not
2 shared, their incident is not shared. Those types of
3 things can only be achieved through the discovery process
4 in court and that is one of the biggest concerns we had
5 there, as well as making sure that people were not
6 victimized for long-term periods based on that.

7 Senator Cornyn. Mr. Weir?

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

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

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

18 But there are also circumstances where it would be
19 absolutely inappropriate, the victim of a sex assault or
20 a child victim subject to abuse.

21 I think the clarity of the policies within an agency
22 becomes critical at that point, because what you are left
23 with in a courtroom setting is video for a number of
24 purposes and then it is remarkable in its absence when
25 perhaps the most important individual in a proceeding is

1 not on video and being able to explain that to a jury and
2 perhaps have it in appropriate jury instructions to
3 explain that to a jury I think would be very, very
4 important.

5 Senator Cornyn. Mr. Henderson?

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

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

18 So that when officers fail to record incidents that
19 should be recorded, there should be consequences for
20 that. Now, obviously, there has to be adequate training,
21 there has to be reinforcement, and has to be a sense that
22 these officers are, in fact, being helped as much by the
23 existence of these cameras as the public they serve. And
24 when those things work in conjunction with one another,
25 we think they produce positive results.

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

8 So as we said earlier, this is not perhaps quite as
9 simple as it appears.

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

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

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

23 Senator Cornyn. Thank you. Thank you, Mr.
24 Chairman.

25 Chairman Graham. Senator Whitehouse?

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

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

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

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

23 Sheriff Bruder, you said there are 46 different
24 sheriffs in your home state.

25 Mr. Bruder. Yes, sir.

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

4 Mr. Bruder. Yes, sir.

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

7 Mr. Bruder. A handful. Obviously, a lot of them
8 have to comply with CGIS requirements from the FBI. So
9 they have got some IT, advanced IT stuff there, but only
10 a handful have the ability to go back and do those
11 things.

12 Senator Whitehouse. We have police departments that
13 have been hit by CryptoLocker and shut down.

14 Mr. Bruder. Right.

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

23 I do not know how -- I appreciate, Mr. Henderson,
24 your desire that there be a clear, bright line, but at
25 this point, I do not see a clear, bright line if you are

1 a police officer who has to make an on/off decision about
2 when you turn it on. Do you know when you are going to
3 be using force in advance? Probably not.

4 Does that mean that any encounter, you should turn it
5 on sort of just in case and then maybe erase it after?
6 This is really complicated. What are the best policies
7 out there right now? Are there a couple that we could
8 look at where you think people have really got this right
9 in the public records law, in terms of something that a
10 patrol officer who already has 5,000 other things to
11 remember can implement in a sensible way and in a way
12 that is protective of the myriad of privacy rights that
13 surround this?

14 Ms. Miller?

15 Ms. Miller. Well, I think that when we --

16 Senator Whitehouse. PERF is terrific, by the way.
17 So thank you for your work and thank you for your
18 organization's great work.

19 Ms. Miller. Thank you. I appreciate that. And
20 thank you for the question.

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

1 I think that for one thing, every state law is
2 different when it comes to disclosure and evidence. So
3 they are all going to be a little different. But what we
4 did was we gathered all of those policies, we spoke with
5 all of the people who have experience in this, law
6 enforcement officials and civil rights groups and unions
7 and different folks and we kind of came up with what we
8 found were, at that phase, some of the best practices and
9 the best policies.

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

17 Then also during all --

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

24 Ms. Miller. Well, it depends on the jurisdiction.
25 We would recommend that the officer continue recording,

1 unless this is a victim who is saying that they do not
2 want their face on the camera. But at that point, we say
3 continue recording because most of the agencies we worked
4 with said as long as the officer has a legal right to be
5 in the home, which he would as responding to a call for
6 service, then that is when they should be recording,
7 because you do not want some incident to occur then and
8 not have the footage of that incident. So there is an
9 accountability piece there, as well as the privacy piece.

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

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

18 Chairman Graham. Thank you. Senator Coons?
19 Senator Klobuchar? You all decide among yourselves.

20 Senator Coons. Thank you, Chairman Graham and
21 Senator Klobuchar and Senator Scott, for calling this
22 hearing, Ranking Member Whitehouse.

23 This is an important time and an important issue. The
24 American public, as we all know, is searching for answers
25 on how to effectively heal the divisions we have seen

1 play out between law enforcement and the communities they
2 serve.

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

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

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

23 Like many of my colleagues, I believe that body-worn
24 cameras have tremendous potential if implemented
25 correctly and thoughtfully to increase accountability, to

1 settle conflicting witness accounts, to contribute to
2 officer safety and to transparency, and to heal some of
3 these deep divides. But there are very important
4 concerns that you, as witnesses, have raised so far today
5 and I think meeting those concerns will be absolutely
6 essential to ensuring that cameras become properly
7 deployed tools of accountability rather than means of
8 furthering division.

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

12 Now, when designing and implementing rules for the
13 use of body-worn cameras, who should be at the table?
14 And how can communities ensure that the rules around use
15 of cameras and access to video footage are properly
16 followed once in place?

17 If you would, please, Ms. Miller.

18 Ms. Miller. Thank you for the question. The first
19 part, we recommend that police agencies engage with
20 pretty much any stakeholder who is going to be affected
21 by the cameras. So community organizations, line
22 officers, unions, prosecutors, local policymakers,
23 courts. All of these people need to be included at the
24 table when it comes to policy develop and engaged and
25 their voices heard.

1 And when it comes to the second part of your question
2 and kind of the accountability portion, we recommend that
3 agencies share their policies online, on their Websites
4 with the public, that they share their retention
5 schedules for data with the public, and we recommend that
6 they regularly collect statistical information about the
7 usage of cameras and make that public, as well, so that
8 the public can see how the cameras are being used, what
9 is being released, things like that.

10 So those are kind of our two recommendations.

11 Senator Coons. Thank you. Mr. Bruder?

12 Mr. Bruder. Again, in South Carolina, we are
13 looking at implementing statewide legislation to have
14 body-worn cameras. The legislature has kind of sent that
15 task over to the Law Enforcement Training Council, which
16 is made up of various law enforcement agency heads from
17 across the state.

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

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

1 Senator Coons. Thank you. Mr. Weir?

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

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

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

24 But we cannot lose sight of the fact that at the end
25 of the day, the collection of this data fundamentally is

1 for evidentiary purposes and how can we best preserve
2 that evidence.

3

4 Senator Coons. Thank you, Mr. Weir.

5 Mr. Henderson?

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

18 Now, having said that, again, body-worn cameras are
19 only one tool. They cannot accomplish the systemic
20 reform. So if, for example, we do not have a policy
21 addressing a ban on racial profiling, for example, and
22 that continues to be a factor in law enforcement in a
23 particular community, it will defeat the purpose of the
24 body-worn camera if that purpose is to help reiterate law
25 enforcement and the community together in a new approach

1 to law enforcement.

2 Senator Coons. I really appreciate all your answers
3 and I am, again, grateful to the Chairman for calling
4 this.

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

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

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

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

25 Chairman Graham. Without objection.

1 [The prepared statement of Senator Leahy follows:]

2 *****COMMITTEE INSERT*****

3

4

5 Chairman Graham. Senator Klobuchar?

6 Senator Klobuchar. Thank you very much, Mr.

7 Chairman and Senator Whitehouse. Thank you all for being
8 here.

9 This is an issue that is near and dear to my heart.

10 As many of you know, I used to be prosecutor and actually
11 Minnesota was one of the first states in the country that
12 videotaped interrogations both in squad cars and custody,
13 anything that was in custody.

14 It came about because of defense efforts, actually,
15 to prevent any kind of questions about bad activities,
16 but also to protect civil rights. But I made the
17 argument, and our police pretty much agreed, that it also
18 protected them. It made for a better process. It
19 allowed people to see videotape of someone when they were
20 being questioned so that jurors could judge for
21 themselves what they thought.

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

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

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

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

15 Mr. Weir. Thank you, Senator, for the question. As
16 you know, there are other recording devices that are more
17 widespread right now, such as dashboard cameras used by
18 law enforcement in stops. Those have proven to be very
19 effective law enforcement tools for many of the reasons
20 that you articulated.

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

1 Senator Klobuchar. It is also a good training
2 thing, actually, I think for officers. They are able to
3 watch each other and see what is good and what is bad and
4 make sure. It is really, I think, a very good way for
5 people to learn when they are able to watch each other.
6 But continue on.

7 Mr. Weir. I would certainly agree with that,
8 Senator. And I would also agree that we are all about
9 trying to improve our process. And from a law
10 enforcement and prosecutor perspective, our goal is to
11 pursue the truth. Our goal is to achieve justice and we
12 do not hide from the facts. And if, in fact, the video
13 recording helps establish those facts, then it is a tool
14 that should be used.

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

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

4 Senator Klobuchar. I think in our state, it was a
5 Supreme Court decision called the Scales decision, but I
6 will tell you our police have grown, for the most part,
7 to like it and we have not had issues of not being able
8 to get convictions or anything like that because of this
9 practice.

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

14 Mr. Bruder?

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

20 To kind of transition to a different point that you
21 were making and something that was a great fear of ours
22 when we were trying to support this legislation, we too
23 have dash cameras in our cars and we have seen a
24 tremendous problem where somebody's foot can go off the
25 scene of the video and then the cases being dismissed

1 because you do not see everything that is happening on
2 video.

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

7 Senator Klobuchar. I understand this. We used to
8 call it the CSI effect with juries because we would have
9 a case, and Mr. Henderson knows what I am talking about,
10 where there would be no possibility of DNA, but a defense
11 lawyer would say, well, if there is no DNA, and people
12 are used to seeing this on TV. So your point is well
13 taken, although I think some of this -- you would have to
14 explain to juries why something went bad, that it is not
15 necessary to have that for a case. But I think that is a
16 good point.

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

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

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

7 Having said that, I hope that states and localities
8 will not use that delay as a basis for not going forward,
9 particularly now that the Department of Justice is making
10 available grant funds to support some states in moving in
11 this area.

12 I think that should be encouraged. We support the
13 Administration's approach.

14 Senator Klobuchar. And that is why I led with this
15 interrogation issue because at first it was something
16 that our officers were concerned about and I think they
17 grew to think it was actually a pretty good policy over
18 time.

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

24 So that is why it is more complicated and we have to
25 consider that as we move forward.

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

3 Chairman Graham. Senator Scott?

4 Senator Scott. Thank you, Mr. Chairman. Thank you
5 once again holding this hearing.

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

10 Chairman Graham. Without objection.

11 [The information referred to follows:]

12 *****COMMITTEE INSERT*****

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4 Senator Scott. Thank you, sir.

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

9 Ms. Miller. That is a great question. It is one I
10 get asked a lot and it is one I do not know the answer
11 to. I do not think anyone knows the exact number. The
12 most recent estimate I have heard was between 3,500 and
13 4,000 agencies across the country, but, again, that is
14 just an estimate. I think it is not even the most
15 recent. I do not think it is necessarily current.

16 So that is something I think people are working on
17 trying to figure that out.

18 Senator Scott. The number is not nearly as
19 important as the level of activity around the country.

20 Ms. Miller. Yes.

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

25 But I do think it is important for us to point out

1 the fact that the American Laboratory is currently at
2 work looking for best practices and the best policies.
3 WE can look around the country and we will find the
4 weaving together of the best practices and policies
5 around the country.

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

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

18 Thoughts?

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

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

1 those issues.

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

14 Although you are generating significant evidence, you
15 also generate significant work. If you have nine
16 different cameras on in a single incident, that
17 exponentially increases the amount of review that you may
18 have, some of which may be extraordinarily relevant to
19 the issue, but some of it may not. But that still
20 translates into personnel and manpower costs.

21 So I think it is very, very important that it be done
22 on a local basis, perhaps with guidance from a Federal
23 level or state level or state level and, also, as we have
24 been discussing, I think, input with respect to involved
25 stakeholders from the community would also be an

1 important component.

2 Senator Scott. Thank you.

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

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

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

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

22 Mr. Henderson. Senator Scott, I will be very brief.
23 I think you have identified a new, but very complex
24 challenge that faces 12th century society. After all,
25 our Congress has just gone through a debate over the

1 collection of data by the National Security Agency, what
2 kind of information can be gathered in various forms.

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

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

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

17 Senator Scott. I know my time is up, Mr. Chairman.
18 Thank you very much.

19 Chairman Graham. Thank you, Senator Scott.

20 Senator Blumenthal?

21 Senator Blumenthal. Thanks, Mr. Chairman.

22 Chairman Graham. Mr. Bruder, would you like to make
23 a comment?

24 Mr. Bruder. I will be quick. One of things -- and
25 that exact conversation happened in the South Carolina

1 Senate Judiciary Committee and they have the exact same
2 conversations there. Ultimately, it came down to a
3 matter of what was subject to the Freedom of Information
4 Act and what was not. Again, it came down to a resource
5 issue and the fact that we have got very small police
6 departments that would ultimately have to create a FOIA
7 department to be able to maintain all of this data that
8 was coming in and out and all of the requests.

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

13 So that was our way of kind of narrowing it down so
14 that the public still does have input, the public still
15 does have knowledge, and, of course, the agency head, the
16 law enforcement agency head could still release it if it
17 benefitted the public, as well.

18 Senator Scott. Thank you very much.

19 Chairman Graham. Thank you, Senator Scott.

20 Senator Blumenthal?

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

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

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

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

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

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

25 I might just say one of the toughest cases I ever had

1 to try involved the use of video in a drug prosecution
2 where the video failed for a short period of time and the
3 defense was that the critical, in effect, exculpatory
4 support for the defendant occurred during that period
5 when the video failed and tried to create reasonable
6 doubt because of that malfunction.

7 So we are not done with this topic simply by
8 requiring cameras to be worn by police. There are
9 significant issues to be overcome and I think you have
10 all highlighted them.

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

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

22 I think Oakland, California was one of the initial
23 adopters of body cameras. They have had them since 2009-
24 2010. So I have worked with their chief quite a bit.
25 Places like Daytona Beach, Florida, Greensboro, North

1 Carolina, Mesa, Arizona, they have all put a lot of
2 thought -- Rialto, California, which is where one of the
3 studies was done. These places have all done a lot of
4 work and I think those are all agencies that have really
5 done a good job of considering all of these issues and
6 are still engaged in trying to reform their policies as
7 they learn new things.

8 Senator Blumenthal. Mr. Bruder?

9 Mr. Bruder. Thank you for the question. Obviously,
10 it is very new technology, so there are only a few in
11 South Carolina that have done it and we have got probably
12 22 agencies out of the 316 in South Carolina that have
13 actually implemented body-worn cameras.

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

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

9 Of that 28 percent in Colorado, there is only one
10 department in excess of 50 officers that have used body
11 cameras and that has been on a pilot basis.

12 So I think in Colorado that it is still an open
13 question, although the response from the agencies, the
14 smaller agencies, has been very positive.

15 Senator Blumenthal. Mr. Henderson?

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

23 Senator Blumenthal. I would welcome that response
24 and any other written responses after this hearing from
25 any of you on any of these topics. I might just say with

1 all the questions that may be raised, body-worn cameras
2 are going to be a fact of life for better, not for worse,
3 better that the images should come from cameras worn by
4 police than cameras held by bystanders. And we know that
5 the images from those bystander-held cameras are going to
6 be a fact of life, whether we like it or not. Better
7 that they should be held or worn by police officers who
8 are sworn to tell the truth and enforce the law and seek
9 justice.

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

13 Thanks, Mr. Chairman.

14 Chairman Graham. Senator Durbin?

15 Senator Durbin. Thank you, Mr. Chairman. And thank
16 you for coming before us today to discuss this issue.

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

1 opinion."

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

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

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

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

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

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

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

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

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

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

24 Our bill in South Carolina still allows the public to
25 get that information whether that is through the

1 individual who is on the camera can request a copy of
2 that and he can obviously do what he would like to do
3 with that data then or the agency head, the law
4 enforcement agency head could still release that
5 information if he felt like it was in the best interest
6 of the public to go ahead and do that and we have seen
7 that time and time again where questionable uses of force
8 have been used and we have gone back to gone ahead
9 released the video.

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

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

20 Obviously, it is easy to redact a document or a piece
21 of paper where you have got a black Sharpie that we can
22 go out and do those things, but how do you redact a
23 video. And then furthermore, once we get into court,
24 will the question be raised, okay, it is obvious that you
25 have been able to redact and do this to some degree, how

1 do we know that what we are watching here in court today
2 is the actual true event of what took place that day.

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

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

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

15 Thank you very much. Thanks, Mr. Chairman.

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

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

21 Ms. Miller. Yes. I mean, I think that there has
22 been a lot of success with dash cams. I think it is a
23 good way for us to kind of look to body cameras and see
24 what they can do. I do think there are a lot of
25 differences and so it is hard to -- we always advice

1 agencies you can incorporate things from your cash cam
2 policy, but we would not recommend relying on it.

3 Chairman Graham. You have to go much further with
4 body cameras.

5 Ms. Miller. Exactly. But I do think they can be
6 instructive.

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

9 Ms. Miller. No. I have talked to places that --
10 actually, there was one agency that I can remember that
11 ended up getting rid of their cash cams because of the
12 expectations that the courts started having and it was
13 kind of the CSI effect that was discussed earlier.

14 They found that their officers' credibility was being
15 kind of undermined.

16 Chairman Graham. That is just one.

17 Ms. Miller. Yes. Just one that I have ever talked
18 to.

19 Chairman Graham. Mr. Bruder, dash cams in South
20 Carolina, are they pretty common?

21 Mr. Bruder. They are common. They are mostly
22 required by law, but we are still having a problem
23 getting the funding for that.

24 Chairman Graham. Would you say 80 percent, 70
25 percent?

1 Mr. Bruder. Probably 70 to 80 percent of patrol
2 vehicles, not all law enforcement vehicles, but patrol
3 vehicles that do traffic enforcement.

4 Chairman Graham. How do they store the data or keep
5 the data?

6 Mr. Bruder. They have methods that they do that
7 within the local agency there. They can go back and they
8 can either download that through a cloud means or they
9 can go in and physically connect to a computer and
10 download it.

11 Chairman Graham. How much more expensive would it
12 be with body cameras? Would it be exponentially more
13 expensive?

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

20 Chairman Graham. \$100 per month per officer.

21 Mr. Bruder. Yes, sir.

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

25 Ms. Miller. To store the data?

1 Chairman Graham. Just to buy the cameras, store the
2 data, the whole package.

3 Ms. Miller. Gosh, I am terrible at math. So I hate
4 to even try. But I have talked to agencies that spend
5 millions per year on storage alone.

6 Chairman Graham. Can somebody try to find that
7 answer for us?

8 Ms. Miller. Yes. We can definitely look into that.

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

11 Ms. Miller. I heard that. I have heard \$800 per
12 officer per year. So it depends on the size of the
13 agency, how many videos they are shooting, that sort of
14 thing.

15 Chairman Graham. Mr. Weir, you talked about look at
16 this as an evidence device; is that correct?

17 Mr. Weir. Yes, sir.

18 Chairman Graham. So chain of custody all would be
19 very important.

20 Mr. Weir. Absolutely, Senator.

21 Chairman Graham. Have you had a problem use dash
22 camera evidence?

23 Mr. Weir. We have not. In Colorado, the dash
24 cameras are used routinely by the Colorado State Patrol
25 and then it is left up to individual police departments

1 as to whether or not they also want to use the dash
2 cameras.

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

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

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

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

13 Mr. Henderson. I do.

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

19 Mr. Henderson. You are absolutely right. It is
20 these private videos that have really motivated the
21 public debate. And as I said earlier, you deserve great
22 credit for convening this conversation.

23 Chairman Graham. On balance, if you could get the
24 right protocols to protect privacy and make sure the
25 officer is using the camera in an appropriate manner, do

1 you think it is best for the Nation to go down this road?

2 Mr. Henderson. Without question, I think it is
3 absolutely essential.

4 Chairman Graham. Does everybody agree with that?
5 If you do not, speak up.

6 Mr. Weir. Senator, I think going down --

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

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

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

16 Mr. Weir. I think potentially, yes.

17 Chairman Graham. So that is common ground for
18 everybody. The benefit is worth the cost if we can do it
19 right.

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

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

24 Chairman Graham. It seems to me that if we were
25 that concerned about it, as members of Congress, we would

1 look into that. So I intend to do that.

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

7 Mr. Henderson. I think that is also absolutely
8 essential.

9 Chairman Graham. Mr. Bruder, would that be okay
10 with you?

11 Mr. Bruder. Yes, sir. Absolutely. I would take
12 that opportunity just to point out that in the current
13 grant funding, I am not sure that data retention is
14 covered and obviously we have pointed out today that is
15 the most expensive part.

16 Chairman Graham. So you would not want to spend
17 money on a program that was not sound. So having
18 conditions on the grant makes sense.

19 Mr. Bruder. Yes, sir.

20 Chairman Graham. Does that make sense to you, Mr.
21 Weir?

22 Mr. Weir. It certainly does, Senator, yes.

23 Chairman Graham. Ms. Miller?

24 Ms. Miller. Yes.

25 Chairman Graham. So a block grant is probably not

1 the way to go here. Have some conditions attached to it.

2 Ms. Miller. Yes.

3 Chairman Graham. Thank you all very much. I have
4 learned a lot.

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

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

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