

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

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

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

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

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

Drawing from our research, PERF and the COPS Office developed [Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned](#), a publication that was released in September 2014.<sup>1</sup> The report describes our research findings, explores the issues

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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