



Toi Hutchinson
State Senator
Illinois
President, NCSL

Jon Heining
General Counsel
Legislative Council
Texas
Staff Chair, NCSL

William Pound
Executive Director

To: Senator Patick Testin, Chair
Representative Chris Taylor, Vice-Chair
Members of the Joint Legislative Council Study Committee on the Use
of Police Body Cameras

From: Amanda Essex

Date: September 10, 2018

Subject: Police Body Camera Follow-Up Information

Mr. Chairman, Madam Vice-Chair, and Members of the Committee,

Thank you for providing NCSL the opportunity to present to you regarding state policy addressing police body cameras. The following information is provided in response to your questions following my presentation.

1. Do states provide a system for the **storage** of recordings to be used by law enforcement agencies? Do they utilize cloud storage?
 - a. I have not located examples of states that provide the storage systems used for body camera data. The following are a few examples of systems used by specific agencies:
 - i. [Seattle Police Department](#) uses a cloud-based storage platform.
 - ii. The Police Executive Research Forum's (PERF) April 2018 report, [Cost and Benefits of Body-Worn Camera Deployments](#), includes a section on video storage.
 1. "The PERF/COPS report also recommends storing camera footage securely, using either a cloud-based model or internal agency servers. News media accounts often note that cloud-based storage systems provided by the largest camera manufacturers are popular with police agencies, because this relieves them of much of the burden of managing and storing large numbers of video files. However, our survey results in Table 6 show that this emphasis in the news media does not reflect the experience of small agencies, where only 14.6 percent of the responding agencies use cloud-based servers. In large agencies, however, two thirds of responding agencies use cloud-based servers."

Table 6: Storage Strategies for BWC Video Footage

Storage Strategy	All Agencies		Small Agencies (less than 250 sworn)		Large Agencies (250+ sworn)	
	Count of Agencies	Percent of Agencies**	Count of Agencies	Percent of Agencies	Count of Agencies	Percent of Agencies
Cloud (Web-based storage maintained by the BWC vendor or other third party)	72	27.3	28	14.1	44	66.7
Internal Server (Centralized storage system owned by the police dept.)	157	59.5	139	70.2	18	27.3
Other (Individual computers, flash drives, DVDs, etc.)	46	17.4	38	19.2	8	12.1

Note: Totals may not sum to 100% due to some agencies using multiple methods.

2. What are the **costs** associated with the storage of body camera data?

- a. [Idaho](#) - \$1,000 per employee per year
- b. [Arizona](#)
 - i. 2015 sample costs from Phoenix Police Department (pg. 37 of PDF)

Sample Costs

- Approximately \$900/camera
 - Full Patrol deployment: 1,400 x \$900 = **\$1,260,000**
- Dedicated storage
 - 200TB (effective storage): **\$1,196,000**
- Recurring Personnel Costs
 - PD Admin Aides (1 / 100 cameras) **\$35,000/yr.**
 - Legal Assistant (1 / 100 cameras) **\$71,000/yr.**
 - \$2,562,000**

- c. Kansas City Police Department [estimates](#) \$3.2 million for a five year contract for on-site storage.
- d. South Carolina HB 47 (2015) [fiscal note](#)
 - i. Department of Public Safety – approx. \$2.22 million for cameras, license fees, and data storage in first year, \$1.48 million for each year thereafter
 - ii. State Law Enforcement Division - \$1.06 million recurring basis for equipment, training, maintenance, storage, data retrieval, and FOIA costs
- e. [PERF Report](#) estimates
 - i. New Orleans Police Department - \$1.2 million over years, “the bulk of which will go to data storage”
 - ii. Other unnamed departments
 - 1. \$2 million per year, mostly toward data storage
 - 2. \$111,000 to store on cloud for 2 years
- f. PERF [April 2018 Report](#)

3. How do agencies determine when a recording may be considered “**non-evidentiary**,” thereby allowing earlier deletion?

- a. California’s legislation (AB 69 (2015)) provides the following definitions:

(c) (1) For purposes of this section, "evidentiary data" refers to data of an incident or encounter that could prove useful for investigative purposes, including, but not limited to, a crime, an arrest or citation, a search, a use of force incident, or a confrontational encounter with a member of the public. The retention period for evidentiary data are subject to state evidentiary laws.

(2) For purposes of this section, "nonevidentiary data" refers to data that does not necessarily have value to aid in an investigation or prosecution, such as data of an incident or encounter that does not lead to an arrest or citation, or data of general activities the officer might perform while on duty.

- b. The COPS and PERF resource [“Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned”](#) provides the following information regarding evidentiary and non-evidentiary video:
 - i. “Evidentiary video involves footage of an incident or encounter that could prove useful for investigative purposes, such as a crime, an arrest or citation, a search, a use of force incident, or a confrontational encounter with a member of the public. Evidentiary footage is usually further categorized by specific incident type, and the retention period is governed by state evidentiary rules for that incident. For example, many state laws require that footage involving a homicide be retained indefinitely, but video of a traffic citation must be kept for only a matter of months. Departments often purge evidentiary videos at the conclusion of the investigation, court proceeding, or administrative hearing for which they were used.

Non-evidentiary video involves footage that does not necessarily have value to aid in an investigation or prosecution, such as footage of an incident or encounter that does not lead to an arrest or citation or of general activities that an officer might perform while on duty (e.g., assisting a motorist or clearing a roadway). Agencies often have more leeway in setting retention times for non-evidentiary videos, which are generally not subject to state evidentiary laws.”

- 4. For states like Minnesota that require biennial **audits**, what do these audits look like? Who completes the audit?
 - a. The language of the Minnesota legislation reads:
 - Subd. 9. Biennial audit. (a) A law enforcement agency must maintain records showing the date and time portable recording system data were collected and the applicable classification of the data. The law enforcement agency shall arrange for an independent, biennial audit of the data to determine whether data are appropriately classified according to this section, how the data are used, and whether the data are destroyed as required under this section, and to verify compliance with subdivisions 7 and 8. If the governing body with jurisdiction over the budget of the agency determines that the agency is not complying with this section or other applicable law, the governing body may order additional independent audits. Data in the records required under this paragraph are classified as provided in subdivision 2.
 - (b) The results of the audit are public, except for data that are otherwise classified under law. The governing body with jurisdiction over the budget of the law enforcement agency shall review the results of the audit. If the governing body determines that there is a pattern of substantial noncompliance with this section, the governing body must order that operation of all portable recording systems be suspended until the governing body has authorized the agency to reinstate their use. An order of suspension under this paragraph may only be made following review of the results of the audit and review of the applicable provisions of this chapter, and after providing the agency and members of the public a reasonable opportunity to respond to the audit's findings in a public meeting.
 - (c) A report summarizing the results of each audit must be provided to the governing body with jurisdiction over the budget of the law enforcement agency and to the Legislative Commission on Data Practices and Personal Data Privacy no later than 60 days following completion of the audit.
 - b. The following includes an example of one of these independent audits, as well as a couple of examples of internal audits.

- i. [Independent Biennial Audit of the Minneapolis Police Department Body Worn Camera Program- Audit Summary Report](#) (November 2017)
 - ii. [Minneapolis Police Department Mobile and Body Worn Video Recording Equipment Program Audit](#) (September 2017)
 - iii. [St. Paul Police Department Body Worn Camera Report, Q1 2018](#)
5. How have states regulated how and **when cameras must be turned on or off**?
- a. In general, states that have addressed when cameras are to be utilized have done so by specifying that agencies using body cameras must include utilization requirements in their policy. States have not generally specifically addressed when cameras are to be turned on or off.
 - b. Maryland’s legislation required the Police Training Commission to develop a policy addressing when recording is mandatory, prohibited and discretionary. That [policy is available online](#).
 - c. Minnesota’s legislation requires that each agency establish policies including “circumstances under which recording is mandatory, prohibited, or at the discretion of the officer using the system.”
 - i. The [policy of the Minneapolis Police Department](#) includes the following information regarding activation and deactivation:
 - 6. Activation
 - a. Officers shall activate their BWC for the following circumstances:
 - i. When dispatched or assigned to a call, activation shall occur at least two city blocks away from the call for service location. If dispatched or assigned to a call less than two city blocks away, activation shall occur immediately. This includes assisting squads.
 - ii. When self-initiating a call, as soon as possible and prior to contacting a person or exiting a squad.
 - iii. Prior to taking any law enforcement action.
 - iv. Prior to making an investigatory contact.
 - v. When any situation becomes adversarial.
 - vi. Prior to assisting a citizen during in-person encounters, other than when providing basic verbal assistance (such as giving directions).
 - vii. When directed to activate the BWC by a supervisor....
 - 7. Deactivation
 - a. Once activated, the BWC shall be left in the record mode until the conclusion of the event. The conclusion of the event occurs when either the officer or citizen(s) has left the scene or a detention or transport has concluded.
 - i. If a transport involves a transfer of custody, the event is not concluded until the transfer is complete.
 - ii. When transporting arrestees to the Hennepin County Jail the transfer may be considered complete at the intake door from the secure garage (threshold of the person sally port) unless custody has been transferred prior to that point, and the BWC may be deactivated in line with Jail policy. It should remain activated within the garage while MPD retains custody and should be reactivated at the intake door if custody is returned to the MPD.
 - iii. The BWC may be deactivated if an event has otherwise concluded but the officer remains at the scene to prepare reports or for another similar reason not involving a situation requiring activation.
 - ii. Here are the policies for [St. Paul](#) (including a section on Mandatory, Discretionary, and Prohibited Recording – page 9) and [Maplewood](#) (including a section on General Guidelines for Recording – page 3).

iii. The [April 2018 PERF Report](#) also includes a section on activation policies.

Table 5: Survey Respondents' Policies Regarding Whether Officers Are Required to Record, Are Given Discretion, or Are Prohibited from Recording Under Various Circumstances

Situation	Required to Record (%)	Discretion to Record (%)	Prohibited from Recording (%)	N/A (%)
1. Statements made by crime victims (any type of crime)	58.9	36.0	0.8	4.3
2. Statements made by victims of sensitive crimes (E.g., domestic violence, abuse, sex offenses)	47.3	43.8	3.5	5.4
3. Statements made by crime witnesses/people coming forward to report crimes	53.5	41.1	1.6	3.9
4. When a subject requests that the officer not record (including people other than victims/witnesses, such as suspects)	35.8	51.0	5.8	7.4
5. Conversations with confidential informants	5.5	52.0	27.0	15.6
6. When sensitive information is being discussed among officers	3.9	34.4	40.2	21.5
7. When the subject is nude (e.g., during strip searches)	11.3	21.5	39.1	28.1
8. Officer is involved in personal activities while on duty (e.g., eating, taking a break)	0.0	30.7	36.2	33.1

Note: Cells highlighted in yellow reflect policy recommended in PERF/COPS report.

If you have any further questions, or if you would like additional information, please feel free to contact me at amanda.essex@ncsl.org.

Sincerely,

Amanda Essex
 Senior Policy Specialist
 Criminal Justice Program
 National Conference of State Legislatures
amanda.essex@ncsl.org
 303-856-1369