

# City of Brisbane

## Agenda Report

TO: Honorable Mayor and City Council

FROM: Robert Meisner, Police Commander

SUBJECT: Purchase of Body-Worn Cameras

DATE: May 18, 2017

### **City Council Goals:**

- To provide public service that assures the safety of property and citizens residing, working or visiting in Brisbane.
- To provide for effective and efficient delivery of City services.

### **Purpose:**

The Brisbane Police Department has employed the use of an in-car video system in its patrol cars for several years which includes the capture of audio from a microphone worn by individual officers. New technology now allows for the addition of video cameras (body-worn cameras) to be worn by individual officers in the field.

### **Recommendation:**

The police department recommends that the council approve the expenditure of \$24,197.00 to purchase body worn cameras for the Police Department.

### **Background:**

Over the past several years, the use of in-car video systems and body worn cameras has proven to be an integral part of today's effort to promote accountability and transparency by law enforcement agencies across the nation.

The 2015-2016 San Mateo County Civil Grand Jury (Grand Jury) filed a report on May 24, 2016, which contained several findings and recommendations regarding the effectiveness and need to deploy body-worn cameras by law enforcement agencies in San Mateo County.

### **Discussion**

Although law enforcement and the general public appear to agree that there are advantages for police officers to wear body-worn cameras, there continues to be healthy debate over how they are deployed and managed by law enforcement. Common concerns include cost, policy development, privacy concerns and system management.

However, in addition to the use of video for evidence in criminal prosecutions, the use of body worn cameras have proven to have a positive impact on the ability to assess and resolve citizen complaints. More importantly, the use of body worn cameras increases transparency and accountability by the police department therefore improving the communities perception of law enforcement as a whole.

After careful consideration, we concur with the Grand Jury's conclusion that "body-worn cameras would be advantageous for all San Mateo County law enforcement agencies as well as the individuals they encounter."

**Fiscal Impact**

Purchase of WatchGuard Body Worn Cameras: \$18,965.00  
Labor for installation of additional hardware in vehicles: \$1,700.00  
Purchase and Installation of Back-up Solution: \$3532.00  
Total: **\$24,197.00**

**Attachments:**

Item A

Grand Jury Findings, Conclusions and Recommendations



Police Commander



City Manager

A copy of supporting materials provided to the City Manager and City Council for this agenda item is available for public inspection and copying at 50 Park Place, City of Brisbane Community Development Department, Brisbane, CA, 94005, Telephone: (415) 508-2120.



## BODY CAMERAS—THE REEL TRUTH

### ISSUE

What is the status of local law enforcement's use of officer body-worn cameras?

### SUMMARY

Recent officer-involved shootings around the country, including the 2014 shooting in Menlo Park,<sup>1</sup> have focused public attention on the use of body-worn cameras by law enforcement agencies. The 2015-2016 San Mateo County Civil Grand Jury investigated the use of body-worn cameras by local law enforcement and discovered the following:

- Sixteen independent police departments and the Sheriff's Office provide local law enforcement in San Mateo County. The Grand Jury surveyed all of these agencies regarding use of body-worn cameras.
- Five police departments are currently using body-worn cameras.
- The Grand Jury interviewed representatives from the Sheriff's Office and five of the 11 police departments not using body-worn cameras. All six of these agencies have considered or are considering the use of body-worn cameras.
- Among those agencies that have not currently deployed body-worn cameras, the Grand Jury discovered common concerns regarding the cost, policy development (including civil rights concerns), impact of future camera technology, and unknown future legal mandates.
- Each local law enforcement agency utilizing body-worn cameras weighed these concerns. Some found innovative cost-reduction strategies and all developed policies and practices for their use.

After reviewing the literature on the advantages and disadvantages of police use of body-worn cameras and conducting over 25 interviews with local law enforcement commanders, line officers, police union representatives, and other interested parties, the Grand Jury has concluded that there are several excellent reasons for law enforcement to employ body-worn cameras. The costs associated with the acquisition and operation of body-worn cameras have decreased over the past several years, making this technology much more affordable. Standardized policies for use have been developed by professional police organizations. These guidelines have been modified and adopted by the local police departments using body-worn cameras. These existing policies may well serve as templates for other local law enforcement agencies.

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<sup>1</sup> CBS SF Bay Area, *Menlo Park Police Shoot, Kill Armed Burglary Suspect; Officer Injured during Foot Chase*, November 11, 2014. <http://sanfrancisco.cbslocal.com/2014/11/11/menlo-park-police-shoot-officer-injured-during-foot-chase/>.

After weighing the advantages and disadvantages of body-worn cameras, the Grand Jury recommends that:

- All law enforcement agencies in San Mateo County adopt body-worn cameras.
- The Board of Police Commissioners of the Broadmoor Police Protection District and the city councils of those communities that have not adopted body-worn cameras review use with their respective chief of police to determine an appropriate body-worn camera implementation plan and advise the public of their plan by November 30, 2016.
- All law enforcement agencies in the County implement body-worn camera systems with the assistance of city/county administration by October 31, 2017.

## BACKGROUND

According to the American Civil Liberties Union (ACLU), “the August 2014 shooting of Michael Brown in Ferguson, Missouri, and the subsequent protests and civil unrest focused new public attention on the problem of alleged police violence—and on the possibility that body-worn cameras might be part of the solution.”<sup>2</sup>

The above incident, as well as other recent officer-involved shootings in the news, has created a lack of confidence in law enforcement by some of the public. The *perception* that law enforcement is not accountable to citizens for its actions is a dangerous development and is troublesome for police professionals and concerned citizens alike. The existence and media replays of bystander videos and police car dashboard and body-worn cameras have contributed to a heightened awareness regarding the use of force by members of law enforcement.

Through interviews of local law enforcement, the Grand Jury learned of incidents where the use of video evidence by law enforcement was of significant assistance in determining whether allegations of excessive use of force or improper behavior by police officers were valid. In such cases, video evidence may be beneficial, but in addition, it can also be valuable in cases where complaints against a police officer for being rude or unprofessional need to be resolved. In one example, a city police chief recounted to the Grand Jury a story of a young man's father calling to complain about the treatment his son received from a police officer when issuing a traffic citation. When invited in to review the video, both father and son saw that the officer acted appropriately. The Grand Jury's investigation further revealed that this is not an isolated case. Several law enforcement officials interviewed by the Grand Jury recounted situations where filmed encounters with police officers reviewed with complainants resulted in formal complaints being withdrawn or not pursued in addition to rare cases that resulted in officers being disciplined.<sup>3</sup>

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<sup>2</sup> Jay Stanley, *Police Body-Mounted Cameras: With Right Policies in Place, a Win for All v.2*, American Civil Liberties Union, March 2015. <https://www.aclu.org/police-body-mounted-cameras-right-policies-place-win-all>.

<sup>3</sup> Local law enforcement: multiple interviews by the Grand Jury.

According to a 2012 nationwide survey conducted by Taser,<sup>4</sup> a majority of police officers believe that there is a need for body-worn cameras.<sup>5</sup> The survey included 785 federal, state, and local law enforcement professionals. According to Doug Wyllie, PoliceOne Editor in Chief, “perhaps the most important single piece of data was that more than 85% of respondents believe that body-worn cameras reduce false claims of police misconduct, and reduce the likelihood of litigation against the agency.”<sup>6</sup> A surprising statistic in the survey relates to the perceived effectiveness of body-worn cameras versus in-car systems, with 77% of officers saying they think the body-worn solution is more effective.<sup>7</sup> A 2015 study conducted by the University of South Florida with the Orlando Police Department reported that “most officers felt that their agency should adopt body-worn cameras for all front-line officers and reported that they would feel comfortable wearing a body-worn camera.”<sup>8</sup>

A commonly cited indicator of body cameras’ potential to reduce instances of officer-civilian conflict is the “Rialto Study.” In Rialto, a small city outside of Los Angeles, the police department outfitted all 70 of their uniformed officers with body-worn cameras, theorizing that use of the cameras would reduce complaints and lawsuits, and accordingly also reduce expensive litigation costs, as well as settlements and payouts.<sup>9</sup>

The introduction of body-worn cameras in Rialto as standard equipment in 2012 led to an 88% reduction in public complaints against officers, and a 60% decline in officers’ use of force. This dramatic reduction in the use of force indicates that body-worn cameras may have had a moderating effect on officers’ behavior, as the presence of a camera appeared to drastically lower the frequency with which officers “resorted to the use of physical force—including the use of OC spray (‘pepper spray’), batons, Tasers, firearms, or canine bites.”<sup>10</sup>

Showing citizen interactions from the officer’s perspective to the community at large has resulted in a reduced rate of public complaints.<sup>11</sup> Based on its investigation, including its

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<sup>4</sup> Taser is a manufacturer of body-worn cameras and related law enforcement equipment. See <https://www.taser.com/>.

<sup>5</sup> Doug Wyllie, *Survey: Police Officers Want Body-Worn Cameras*, October 23, 2012, PoliceOne. <http://www.policeone.com/police-products/body-cameras/articles/6017774-Survey-Police-officers-want-body-worn-cameras/>.

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.*

<sup>8</sup> Evaluating the Impact of Police Officer Body-Worn Cameras (BWCs): The Orlando Police Department (OPD) Experience. <http://media.cmgdigital.com/shared/news/documents/2015/10/09/OPD-Final-Report-Executive-Summary-10-6-15.pdf>.

<sup>9</sup> The Effect of Police Body-Worn Cameras on Use of Force and Citizens’ Complaints against the Police: A Randomized Controlled Trial Original Paper, *Journal of Quantitative Criminology*, September 2015, Volume 31, Issue 3, pp. 509-535.

<sup>10</sup> PoliceOne Staff, *5 Ways Body-Worn Cameras Have Helped Police Officers: How Video from the Officer’s Perspective Is Making Their Jobs Easier*, September 30, 2014, PoliceOne. <https://www.policeone.com/police-products/body-cameras/articles/7522310-5-ways-body-worn-cameras-have-helped-police-officers>.

<sup>11</sup> “Considering Police Body Cameras,” *Harvard Law Review* 128.6 (April 10, 2015): 1794-802. <http://harvardlawreview.org/2015/04/considering-police-body-cameras/>.

interviews with law enforcement personnel, the Grand Jury concludes that body-worn cameras are a net positive in law enforcement.

Local law enforcement officials informed the Grand Jury of the following perceived advantages and disadvantages to the utilization of body-worn cameras by their officers:

#### **Advantages of Body-Worn Cameras<sup>12</sup>**

- Reducing complaints:
  - Police behavior is improved and the use of force is reduced.
  - Resident behavior is improved.
- Providing unedited video evidence of decisions made by officers in high-intensity situations
- Increasing transparency and accountability of police officers' activities and improving community perception of law enforcement
- Providing valuable evidence in court proceedings and/or in obtaining witness and victim statements

#### **Disadvantages of Body-Worn Cameras<sup>13</sup>**

- Officers must manually activate/deactivate the camera in most systems in use today.
- Policy development has potential for risk (e.g., privacy issues, chain of custody, and officer activation of camera) due to lack of clarity as to applicable federal and/or state law.
- Technology is changing rapidly, which may limit product support after a few years' use. Replacement equipment may be costly. Future local, state, and/or federal legal and policy mandates could add to overall costs.
- Increased Public Records Act requests could add to administrative costs such as locating a video segment, redacting or blurring images of individuals not relevant to the incident, documenting changes, and copying the specific video segment.

The San Mateo County Sheriff's Office and other local law enforcement agencies use many forms of modern technology including audio recorders worn on police officers, automobile dashboard cameras ("dash cams"), and gunshot detection systems,<sup>14</sup> as well as surveillance technologies such as license plate readers and closed-circuit TV. All of these technologies have

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<sup>12</sup> Officials from San Mateo County law enforcement: interviews by the Grand Jury. Adapted from Atherton Police Department document.

<sup>13</sup> Ibid.

<sup>14</sup> A gunfire locator, or gunshot detection system, is a system that detects and conveys the location of gunfire or other weapon fire using acoustic, optical, potentially other types of sensors, as well as a combination of such sensors.

advantages and disadvantages. Police command staff, elected officials and city administrators, as well as concerned and informed citizens must determine which of today's technologies and those in development are appropriate to ensure their community's safety and security. Equally important is the concern for the civil rights and privacy of citizens and police officers.

## DISCUSSION

Body-worn cameras are in limited use today among the County's 15 independent city/town police departments, the Broadmoor Police Protection District, and the Sheriff's Office (whose jurisdiction includes unincorporated areas of the County and the communities of Half Moon Bay, Millbrae, Portola Valley, San Carlos, and Woodside).

The Grand Jury found that five local police departments are currently using body-worn cameras. They are:

- Atherton PD                    deployed in 2006
- Belmont PD                    deployed in 2014
- Foster City PD                deployed in 2012
- Hillsborough PD              deployed in 2014
- Menlo Park PD                deployed in 2013

The Grand Jury interviewed representatives from five of the remaining 11 police departments. All five indicated varying levels of interest in adopting body-worn cameras but have decided to wait. These departments are:

- Daly City PD
- East Palo Alto PD
- Redwood City PD
- San Mateo PD
- South San Francisco PD

The Grand Jury interviewed representatives from the San Mateo County Sheriff's Office, which has also considered use of body-worn cameras and has decided to wait.

The police departments using body-worn cameras describe their experience of deploying, maintaining, and managing body-worn cameras as ranging from "positive" to "extremely positive." Training for the use of these systems generally takes less than two hours. Department representatives also reported that the most difficult task involved in implementing a body-worn camera system is deciding which of the many available systems is the best fit for the agency's needs and budget. With a large and growing number of manufacturers, there is a wide variety of features and options available on individual cameras and systems including:

- Camera mounting options
- Selectable camera resolution
- Expanded field-of-view capability
- Zoom capability
- Enhanced low-light capabilities
- Improved image stabilization

- Expandable internal storage capacity
- Extended battery life
- Software management platform
- Software compatibility options
- Data storage medium
- Integration compatibility with other law enforcement tools (i.e., dash cams, on-board computers, light bar/siren activation, etc.)
- Available technical support

Three of the five local police departments using body-worn cameras (Atherton PD, Foster City PD, Menlo Park PD) have opted for cameras typically mounted on the officer's torso. They are approximately 2" x 3.25" x 0.75", clipped to the shirt/blouse, and are activated by a button on the front of the camera. A disadvantage of this camera style is that when mounted mid-chest on the officer, it does not automatically move in the same direction with the officer's head. In addition, the camera tends to be directly behind an officer's standard two-handed pistol grip stance, thus somewhat restricting the camera's view when confronting a suspect. However, this system is generally less expensive.

Both the Hillsborough and Belmont Police Departments have deployed a camera—the Taser Axon Flex—that is mountable on an officer's shoulder epaulette, collar, glasses, or helmet (see Figure 1). This camera, including its integrated storage module, is slightly larger than one AA battery and attached to its battery pack by a thin cable. It is also one of the more expensive cameras currently in use but it allows considerable mounting flexibility.



**Figure 1. Taser Axon Flex Mounted to an Officer's Glasses**  
Photo: TASER International<sup>15</sup>

Other options currently available on the Axon Flex include high-definition (HD) resolution, expanded on-camera storage capacity, image stabilization, and extended battery life. According to law enforcement commanders interviewed by the Grand Jury, a low-light camera is optimal as

<sup>15</sup> Source: <http://www.fastcompany.com/1817960/tasers-new-police-glasses-cam-lets-citizens-see-what-cops-see>.



long as it *only* mimics what the human eye can see. For example, an officer might see a weapon in low light, but it is revealed as a newspaper in enhanced light. This disparity could create evidentiary issues when used at trial.<sup>16</sup>

Experience among local law enforcement indicates body-worn cameras have had a beneficial effect on the police officers as well as the public they encounter. In interviews, local police department representatives described the reaction of officers to body-worn cameras as overwhelmingly positive.<sup>17</sup> Initial concerns on the part of a few officers about learning a new technology were overcome by training.<sup>18</sup> Interviewees also noted that the body-worn camera recordings have been valuable when training new recruits on proper procedures and operations. In addition, according to both command staff and line officers, law enforcement as well as the public seem to be on better behavior when they know they are being recorded. According to Sean Whent, Chief of Police, Oakland (CA) Police Department, “we have about 450 body-worn cameras actively deployed, and in the overwhelming majority of the cases, the footage demonstrates that the officer's actions were appropriate.”<sup>19</sup>

This anecdotal evidence from several local law enforcement personnel at command and patrol levels supports findings in a recent research report from the University of South Florida:

Following completion of the 12-month University of South Florida Orlando Police Department BWC Evaluation, which was based on a randomized experiment where 46 officers were randomly assigned to wear BMCs and 43 officers were randomly assigned not to wear BWCs, the results suggest that BWCs are an effective tool to reduce response-to-resistance (R2R) incidents and serious complaints. . . . Interestingly, although nearly all of the officers were skeptical about the (positive) impact that BWCs would have on their behavior . . . wearing a BWC did positively influence their behavior and lead to significant reductions in R2R and serious external complaints.

Finally, the majority of the officers want to keep their body-worn cameras, believe the agency should implement a full-scale adoption, and are willing to train their peers in BWC implementation and operation.<sup>20</sup>

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<sup>16</sup> Official from the Hillsborough Police Department: interview by the Grand Jury.

<sup>17</sup> Officials from city police departments using body-worn cameras: interviews by the Grand Jury.

<sup>18</sup> According to law-enforcement officials interviewed, training patrol personnel on procedures and operational use of the body-worn camera system was typically a two-hour exercise.

<sup>19</sup> “Editorial: Sheriff’s Department to Further Test Body Cameras,” *The Press Enterprise*, November 7, 2014. <http://www.pe.com/articles/cameras-753724-body-police.html>.

<sup>20</sup> Wesley G. Jennings, Mathew D. Lynch, and Lorie A. Fridell, “Executive Summary—Evaluating the Impact of Police Officer Body-Worn Cameras (BWCS): The Orlando Police Department (OPD) Experience,” Tampa, FL: University of South Florida, 2015, p. 2.

## Reasons for County Law Enforcement Not Implementing Body-Worn Cameras

Even law enforcement leaders in San Mateo County whose agencies have *not* adopted body-worn cameras agree that body-worn cameras will likely be beneficial.<sup>21</sup> A representative from one local law enforcement agency commented, “Not only are they [body-worn cameras] expected, it's almost required by our citizens.”<sup>22</sup>

They also concede it is highly probable that body-worn cameras will be adopted either voluntarily or by statute. These agencies that have not implemented body-worn cameras, however, have cited similar reasons for waiting. These reasons include:

- Cost of system hardware
- Cost of data storage
- Development of standard use policies
- Limited case law affecting policies regarding the use of body-worn cameras such as data retention time and privacy and civil rights concerns among other issues
- Concern that technology developments will render existing equipment obsolete within a few years
- Concern that state or federal law may dictate use of body-worn cameras with specific features or technology

Each of the five law enforcement agencies in San Mateo County currently using body-worn cameras has addressed these six issues. While the Grand Jury acknowledges that there are several concerns raised by those agencies that have not yet adopted body-worn cameras, the critical question is whether these concerns are sufficient to delay implementing a body-worn camera system.

### Cost and Technology of Body-Worn Camera Systems

Five San Mateo County law enforcement agencies have deployed three different manufacturer's systems with varying features including mounting options. A commercially available off-the-shelf system used by one department is by far the most economical. The specified functionality of this camera system indicates it offers an exceptional value when compared to other brands and models.

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<sup>21</sup> Officials from local law enforcement agencies: interviews by the Grand Jury.

<sup>22</sup> Local city police chief: interview by the Grand Jury.



**Figure 2. Low-Cost, Off-the-Shelf Muvi™ HD Body-Worn Camera**  
Photo: Veho World<sup>23</sup>

The cost of data storage can vary widely as well. However, the Grand Jury found that the actual cost of implementing even the most expensive system is significantly less than the *perception* of the many agencies that have not adopted body-worn cameras.<sup>24</sup> Several police departments informed the Grand Jury that the cost of data storage is on a downward trajectory. These departments expect it will be a small percentage of the cost of the body-worn camera system over time.

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<sup>23</sup> Source: <http://www.veho-muvi.com/law-enforcement/>.

<sup>24</sup> Officials from local law enforcement agencies: interviews by the Grand Jury.

The following table summarizes the systems and some key features of the body-worn cameras adopted by local law enforcement:

**Table 1. Comparison of Body-Worn Camera Systems in Use in San Mateo County**

City	Atherton	Belmont	Foster City	Hillsborough	Menlo Park
<b>Manufacturer/Model</b>	VIEVU LE3 <sup>i</sup>	Taser Axon Flex <sup>ii</sup>	Veho <sup>iii</sup> MUVI <sup>TM</sup> HD (off-the-shelf) <sup>iii</sup>	Taser Axon Flex <sup>iv</sup>	VIEVU LE3 <sup>v</sup>
<b>Deployed</b>	2006	2014	2012	2014	2013
<b>Officers Equipped</b>	23	28	39	26	50
<b>Per-Unit Camera Cost</b>	\$1,200	\$900	\$115	\$614	\$900
<b>Data Software</b>	VIEVU Proprietary	Taser Proprietary	Non-proprietary	Taser Proprietary	VIEVU Proprietary
<b>Storage Site</b>	In-house	Cloud	In-house	Cloud	In-house
<b>Annual Storage Cost</b>	Minimal cost	~ \$20,000	~ \$1,000	~ \$4,400	~\$10,000 for initial 10 TB <sup>vi</sup>
<b>Annual Data Usage</b>	~1 TB	No Information	~535 GB	~2 TB	~6-7 TB <sup>vii</sup>
<b>Training</b>	No Information	Two hours	Two hours	Minimal training required	< One hour

Table Notes:

- i. VIEVU—<http://www.viewu.com/viewu-products/hardware>.
  - ii. Taser Axon Flex— [www.axon.io/products](http://www.axon.io/products).
  - iii. Veho<sup>TM</sup> MUVI— Veho-VCC-005-MUVI-HD10-Handsfree-Wireless Mounting.
  - iv. Taser Axon Flex—[www.axon.io/products/flex](http://www.axon.io/products/flex).
  - v. VIEVU— [www.viewu.com/viewu-products/hardware](http://www.viewu.com/viewu-products/hardware).
  - vi. In-house storage is shared by several City of Menlo Park departments.
  - vii. Annual usage is for all City of Menlo Park departments.
- N.B. The links above may not show the specific model used by the police departments.

The good news for law enforcement agencies is that strong competition between the two most prominent vendors of the devices—VIEVU LLC and Taser International—as well as additional prominent companies entering this market means lower cost and more feature-rich products will likely be available in the near future.<sup>25</sup>

<sup>25</sup> Christopher Mims, “Competing Body Cam Companies Drive Down Prices for Cops,” *Wall Street Journal*, August 25, 2014. <https://www.policeone.com/police-products/body-cameras/articles/7498274-Competing-body-cam-companies-drive-down-prices-for-cops/>.

## Policies for Body-Worn Camera Systems

Developing agency policies regarding body-worn camera use has not been a significant problem for local law enforcement agencies. Four of the five city police departments have developed written operational policies that average less than five pages and are similar in content. In all cases, the agencies used a standard policy version from Lexipol's Policy 450<sup>26</sup> and modified it for their agency's application. The fifth department, Hillsborough, is in the process of revising its existing policy, which it is also basing on modifications of Lexipol's Policy 450. Menlo Park Police Department's policy is available online and all others are available on request to the public from the police departments. These policies are included in Appendixes A through E.

Three commonly discussed operational policy issues have been addressed by these five agencies, including:

- When does activation of the camera occur?
- Can the officer review the video when writing his/her report?
- How long is data retained?

The following is a brief overview of the policies and practices adopted by the five local law enforcement agencies that are currently using body-worn cameras:

### Atherton

- Officer activated—turned on prior to actual contact or as soon as safely possible
- Officer may review video while writing his/her report
- Data is retained until the criminal proceeding, pending litigation, or personnel complaint is resolved and/or in accordance with the law

### Belmont

- Officer activated—whenever contacting a citizen in official capacity
- Officer may review video while writing his/her report
- Recordings shall be retained for a period consistent with the organization's records retention schedule

### Foster City

- Officer activated—required during traffic stops or whenever officer deems appropriate
- Officer may review video while writing his/her report
- Data retention is for a period consistent with the requirements of the organization's records retention schedule but in no event less than 180 days

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<sup>26</sup> Lexipol LLC is a private company providing state-specific policies and verifiable policy training for public safety organizations. Many local law enforcement agencies subscribe to this service.

#### Hillsborough<sup>27</sup>

- Officer activated whenever unit emergency lights are activated
- Officer may review video while writing his/her report subject to approval of Watch Commander
- Data retention is minimum of one year

#### Menlo Park

- Officer activated prior to arrival to any in-progress or serious or high-priority call for service
- Officer may review video while writing his/her report
- Data retention is 2.5 years for all citizen contacts. Recordings classified as evidence will be retained for a period of time determined by applicable laws and the City of Menlo Park's retention guidelines.

The command staff interviewed by the Grand Jury acknowledged that some policies may require modification as more experience with body-worn cameras is obtained, as case law on body-worn cameras develops, and as applicable state or federal law evolves.

#### **Privacy and Civil Rights Issues**

Not surprisingly, civil rights issues are of concern to local law enforcement agencies when generating policies regarding use of body-worn cameras. Protection of the privacy and civil rights of all individuals encountered by law enforcement is a topic of discussion throughout the country. In the case of body-worn cameras, privacy concerns apply to the public's right to privacy and the police officer's rights as well. According to several police chiefs interviewed by the Grand Jury, there are occasions when it is inadvisable or prohibited by written policy to turn on a body-worn camera. For example:

- Discussions among police officers not related to encounters with the public (i.e., administrative, procedural, tactical, and training)
- Officer personal time such as break time, private conversations with colleagues, or non-police-call related conversations among others
- During certain extremely sensitive investigations such as interviews with sexual assault victims and some family disputes especially when minors may be involved
- Officer interactions with confidential informants, undercover agents, federal agents, issuing K-9 commands to police dogs, or when discussing confidential tactical information such as SWAT team deployments
- When there are no encounters with the public or when writing shift reports

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<sup>27</sup> Until the Hillsborough Police Department completes its Body-Worn Camera Policy, it is using the policy written for Mobile Audio Video (i.e., dash cams) as modified by Chief's Departmental Directive 14-01, September 2, 2014.

The Menlo Park Chief of Police appointed a Citizens Advisory Committee to review and comment on proposed policies and procedures for use of body-worn cameras that met the department's needs but did not infringe on citizens' civil rights. This committee included an individual active in both the ACLU and the Electronic Frontier Foundation, two organizations active in protecting citizens' privacy and civil rights.<sup>28</sup> The committee recommended acceptance of the Menlo Park policy. (See Appendix E for *Body-Worn Camera Policy—Menlo Park Police Department* and Appendix F for *Body Cameras—Menlo Park Police Department Citizens Advisory Committee Report*.)

According to the ACLU, "the challenge of on-officer cameras is the tension between their potential to invade privacy and their strong benefit in promoting police accountability. Overall, we think they can be a win-win but only if they are deployed within a framework of strong policies to ensure they protect the public without becoming yet another system for routine surveillance of the public, and maintain public confidence in the integrity of those privacy protections. Without such a framework, their accountability benefits would not exceed their privacy risks."<sup>29</sup>

The Grand Jury acknowledges that further developments are likely, such as new statutes and court decisions interpreting existing privacy and other civil rights laws related to the use of body-worn cameras in the coming years. However, this process is not uncommon in the field of law enforcement generally and there was no indication to the Grand Jury that the evolution of policies regarding body-worn cameras cannot be effectively managed by the local law enforcement community. Further, the Grand Jury suggests that policies such as those developed by Atherton, Belmont, Foster City, Hillsborough, and Menlo Park can serve as templates for other law enforcement agencies.

### **Chain of Custody Concerns**

Local police policies and the inherent design of the body-worn camera hardware and software severely limit officers' access to body-camera footage so as to protect the chain of custody for its potential use in future legal proceedings. For example, officers have no capability to edit the video except to tag a segment with a case number or an arrest report number, or to assign a criticality status to it. Once the video has been stored, access is typically limited to a select few senior command personnel who are assigned special access codes. An electronic trail is created that tracks who, when, and what was done. Exceptions are typically only allowed when pre-determined non-critical data is scheduled to be purged from system storage after reaching the retention period defined in the department's policies. However, video data that involves legal proceedings, citizen complaints, or which is otherwise retained upon request are often stored indefinitely.

The district attorney's office, defense attorneys, and other law enforcement and criminal justice agencies often request copies, which are provided on a separate medium such as a CD-ROM.

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<sup>28</sup> Officials from the Menlo Park Police Department: interview by the Grand Jury. <http://www.menlopark.org/DocumentCenter/View/7240>.

<sup>29</sup> Jay Stanley, *Police Body-Mounted Cameras: With Right Policies in Place, a Win for All v.2*, American Civil Liberties Union, March 2015. <https://www.aclu.org/police-body-mounted-cameras-right-policies-place-win-all>.

## Limitations

Body-worn cameras are not a panacea for all disputed encounters between citizens and law enforcement. They occasionally malfunction, the batteries discharge, or the internal storage capacity limits recording an encounter. Chest-mounted camera views may be partially obscured by the standard two-handed pistol grip used by many police officers. Cameras can be dislodged in physical altercations or the attachment clip may slip, rendering the camera an audio device only. Video images may be confusing or inconclusive when the wearer is in a physical altercation or in pursuit of a suspect or when used in very low-light situations. The camera shows only what is within its viewing angle and does not turn with the officer's eyes unless mounted on an officer's hat, helmet, or glasses. It only captures two out of the five senses—sight and sound. For example, the smell of alcohol or gunpowder is not detected. Notwithstanding these limitations, the information provided to the Grand Jury confirms that body-worn cameras often provide far more evidence of an incident than an audio device and certainly more than no recording device at all.

## Conclusions

Based on its investigation, the Grand Jury concludes that body-worn cameras would be advantageous for all San Mateo County law enforcement agencies as well as the individuals they encounter.

Although some local law enforcement agencies have expressed various concerns regarding the utilization of such body-worn devices, five police departments within San Mateo County have implemented body-worn camera systems and their experience provides tangible evidence that:

- Costs are containable.
- Many hardware, software, and storage options are available to accommodate individual agency requirements.
- Workable operational policies are readily available and easily modifiable to accommodate specific agency requirements.
- Training needs are minimal.
- Patrol staff rapidly accepted body-worn cameras.
- The behavior of *both* residents and police officers improves when their actions are being recorded on video.

As with all new technology, best practices are in the process of being developed as each of these five departments gains experience with its body-worn camera system. These departments can serve as role models for other police agencies as they implement their own camera systems, which many acknowledge as inevitable.

Finally and most importantly, body-worn cameras clearly state to the public that its police force has nothing to hide, that their encounters with the public are transparent, and that these encounters are subject to internal and, when appropriate, external scrutiny.



## FINDINGS

- F1. The Atherton, Belmont, Foster City, Hillsborough, and Menlo Park Police Departments have deployed body-worn camera systems.
- F2. The Sheriff's Office and five of the city police departments that have not deployed body-worn cameras all expressed similar concerns regarding the implementation of these systems, the cost of equipment, the cost of data retention, and policy development.
- F3. The Atherton, Belmont, Foster City, Hillsborough, and Menlo Park Police Departments have budgeted sufficient funds to manage the cost of equipment, data retention, and training.
- F4. The Atherton, Belmont, Foster City, and Menlo Park Police Departments have developed written policies regarding the operation and data retention of body-worn camera systems as well as the protection of the rights of the community and police officers. Hillsborough is in the process of developing a similar policy.
- F5. Many local law enforcement agencies that currently do not employ body-worn cameras acknowledge that these systems are beneficial and will likely be implemented in the future either voluntarily or by mandate.

## RECOMMENDATIONS

- R1. The Grand Jury recommends that the councils of those cities/towns that have not adopted body-worn cameras direct their respective chiefs of police to develop an appropriate body-worn camera implementation plan and advise the public of their plan by November 30, 2016.
- R2. The Grand Jury recommends that the San Mateo County Sheriff develop a plan to implement body-worn cameras and advise the public of his plan by November 30, 2016.
- R3. The Grand Jury recommends that the police departments of those cities, towns, and the Broadmoor Police Protection District that have not adopted body-worn cameras implement a body-worn camera system as soon as practicable but, in any event, no later than October 31, 2017.
- R4. The Grand Jury recommends that the San Mateo County Sheriff's Office implement a body-worn camera system as soon as practicable but, in any event, no later than October 31, 2017.

## REQUEST FOR RESPONSES

Pursuant to Penal Code Section 933.05, the Grand Jury requests responses as follows from the following governing bodies:

- R1 and R3—The City Councils of the following 10 cities and towns:
  - Brisbane
  - Burlingame
  - Colma
  - Daly City
  - East Palo Alto
  - Pacifica
  - Redwood City
  - San Bruno
  - San Mateo
  - South San Francisco
  
- R1 and R3---The Board of Police Commissioners of the Broadmoor Police Protection District

Pursuant to Penal Code Section 933.05, the Grand Jury requests responses as follows from the following elected official:

- R2 and R4—San Mateo County Sheriff

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda, and open meeting requirements of the Brown Act.

## METHODOLOGY

### Interviews

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury.

The Grand Jury interviewed command staff at these law enforcement agencies:

- San Mateo County Sheriff's Office
- The Police Departments of:
  - Atherton
  - Belmont
  - Daly City
  - East Palo Alto
  - Foster City
  - Hillsborough
  - Menlo Park
  - Redwood City
  - San Mateo
  - South San Francisco

The Grand Jury interviewed representatives of the following local law enforcement associations:

- Hillsborough Police Officer Association
- Menlo Park Police Officers' Association
- San Mateo County Deputy Sheriff's Association
- San Mateo County Organization of Sheriff's Sergeants
- Redwood City Police Officers' Association
- Redwood City Police Sergeants' Association

The Grand Jury interviewed a senior official of Northern California Regional Intelligence Center (NCRIC).

The Grand Jury interviewed a member of the American Civil Liberties Union and Electronic Frontier who served on a citizens' committee to review and recommend body-worn camera use policies at the request of their city's police chief.

The Grand Jury interviewed senior members of the San Mateo County District Attorney's Office.

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