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Chief Executive Officer

June 12, 2019

To: Supervisor Janice Hahn, Chair
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From: Sachi A. Hamai
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INDEPENDENT EVALUATION OF THE SHERIFF'S BODY-WORN CAMERA PROPOSAL (ITEM NO. 2, AGENDA OF AUGUST 7, 2018)

On August 7, 2018, the Board of Supervisors (Board) directed the Chief Executive Officer (CEO) in consultation with the Sheriff, County Counsel, Office of Inspector General (OIG), and the Sheriff's Civilian Oversight Commission (COC) to engage a consultant to review and assess previous County reports on body-worn cameras and evaluate the Sheriff's proposed policies, procedures, deployment plan, staffing and corresponding operational impact on the Sheriff's Department and the community. The CEO was also directed to provide a detailed cost analysis of the implementation and operation of a Sheriff Body-Worn Camera Program.

Consultant Scope of Work

The International Association of Chiefs of Police (IACP) was hired following consultation with the Sheriff, County Counsel, OIG, and COC. The scope of work encompassed:

1. Stakeholder Interviews – Review and incorporation of prior County body-worn camera reports and conducting in-person interviews with executives and personnel from the Board, Sheriff, OIG, COC, District Attorney, Public Defender, Alternate Public Defender, Chief Information Office, and community stakeholders as identified by the Board.

2. Best Practices – Identify national best practices on the implementation of body-worn cameras, including a legal analysis of California’s recently enacted law enforcement transparency legislation. IACP also contacted five comparable agencies who have implemented body-worn cameras to identify how policies and procedures translated into real-world operations and “lessons learned.”
3. Policies and Procedures Recommendations – Based on the aforementioned interviews and analysis, provide recommendations for body-worn camera policies and procedures (Policy) that include, but are not limited to:
 - Camera activation
 - Critical incident footage review
 - Public release of footage
 - Quality assurance and training
 - Applicable state laws and privacy laws
 - Metrics for the ongoing evaluation of body-worn cameras
4. Staffing and Budget Analysis – Evaluate the current Sheriff’s body-worn camera budget, staffing, and implementation proposal, including a comparison to the prior administration’s proposal.

Consultant Report

IACP has submitted a detailed report, *County of Los Angeles: Independent Evaluation of the Sheriff’s Body-worn Camera Proposal*, see Attachment I. The following summarizes the key highlights of the report:

- Deputy Review of Footage – The policy should direct when deputies activate their body-worn cameras and procedures for deactivation. For routine calls for services, deputies should be allowed to access footage to assist in writing their reports.

For critical incidents, such as an officer involved shooting, IACP notes this is the most sensitive body-worn camera policy topic. The prevalent law enforcement practice is to establish procedures for a deputy to review footage, including waiting for investigators to authorize the viewing, prior to providing a statement. It is IACP’s understanding the Sheriff’s Department’s policy will follow this prevalent practice. In contrast, both the OIG and COC recommend not allowing deputies to review critical incident footage until they have written a preliminary report or given a statement. OIG notes that while it is the prevalent practice for law enforcement to allow officers to review footage prior to giving statements, law enforcement does not follow this practice in other investigations.

- IACP does not take a definitive stance given the lack of consistent research identifying a best practice and the controversy surrounding this topic. The report does provide additional discussion on the pros and cons of deputy review of critical incident footage.
- Public Release of Footage – In general, body-worn camera footage should be considered investigative records and not subject to release, unless required by law or court order. Based on best practice and newly enacted law enforcement transparency legislation, IACP’s recommendation is to release critical incident footage within 10 days following a written Public Records Act request, unless it would interfere with an active criminal or administrative investigation.
 - Staffing and Budget – IACP considers the proposed \$34.4 million Body-Worn Camera Program with 33 new full-time staff is reasonable given the scale of the Sheriff’s patrol operations. The budget is comprised of \$20.2 million one-time costs related to the purchase of equipment, infrastructure upgrades, and patrol personnel training and \$14.2 million in ongoing costs for staffing and software licenses, internet, and cellular and cloud services. In addition, IACP recommends setting aside a \$3.0 million contingency reserve should unanticipated costs arise during implementation.
 - Justice System Capacity – Resources should be provided to the District Attorney, Public Defender, and Alternate Public Defender to ensure each will have the capacity to manage body-worn camera evidence as the Sheriff’s Department and other local law enforcement agencies begin utilizing the devices and submitting footage as part of their case files.
 - Quality Assurance – An internal Sheriff user’s group and an external advisory committee, comprised of affected County departments and oversight agencies, should be established to monitor and provide feedback on body-worn camera implementation and make recommendations to adjust policies and procedures as experience is gained.
 - Stakeholder Education – Community stakeholders should be educated about the purpose of the Body-Worn Camera Program, how the devices are used, what their limitations are, and their value in advancing transparency, accountability, and the administration of justice.
 - Program Evaluation – Planning should begin for an independent evaluation of the implementation and ongoing operation of the Body-Worn Camera Program, including establishing key performance indicators and defining program success targets.

The OIG and COC concur with the findings and recommendations of the IACP report, except as noted above, and strongly support implementation of a Sheriff Body-Worn Camera Program.

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CEO Next Steps

By July 19, 2019, the CEO will submit a detailed body-worn camera budget and staffing analysis report. This will include a review of the Sheriff's implementation plan and how it incorporates recommendations from the IACP, OIG, and COC reports.

Should you have any questions, please contact Rene Phillips at (213) 974-1478 or at rphillips@ceo.lacounty.gov, or contact David Turla at (213) 974-1178 or at dturla@ceo.lacounty.gov.

SAH:FAD:MM:SW
RCP:DT:cc

Attachment

c: Executive Office, Board of Supervisors
County Counsel
District Attorney
Sheriff
Alternate Public Defender
Civilian Oversight Commission
Office of Inspector General
Public Defender



County of Los Angeles:

Independent Evaluation of the
Sheriff's Body-worn Camera Proposal

JUNE 5, 2019

A Study for the Chief Executive Office, County of Los Angeles, California

International Association of Chiefs of Police

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Abbreviations and Terms Used in this Report

Throughout this report several abbreviations and terms are used. They are defined here.

| | |
|-------------------------|---|
| ALADS | Association of Los Angeles Deputy Sheriffs |
| APD | Alternate Public Defender's Office |
| BOS | Board of Supervisors |
| BWC or BWCs | Body-Worn Camera(s) |
| CEO | Chief Executive Office |
| COC | LA County Sheriff Civilian Oversight Commission |
| Community member | Individuals who are not members of LASD or Co. Govt |
| DA | District Attorney's Office |
| IACP | International Association of Chiefs of Police |
| LA County or the County | County of Los Angeles |
| LAPD | Los Angeles Police Department |
| LASD | Los Angeles County Sheriff's Department |
| OIG | LA County Office of the Inspector General |
| PD | Public Defender's Office |
| Police | All entities within state and local/county policing |
| Policing | A generic reference to all types of police agencies |
| Police officer | All peace officers, including sheriff's deputies |
| PPOA | Professional Peace Officers Association |
| PRA/PRAs | Public Record Act/Requests pursuant to the PRA |
| Sheriff | Los Angeles County Sheriff Alex Villanueva |

EXECUTIVE SUMMARY

In January 2019, the County of Los Angeles (the County or LA County) contracted with the International Association of Chiefs of Police (IACP) to conduct a review of the body-worn camera (BWC) program as proposed by the Los Angeles County Sheriff's Department (LASD). Specifically, the County asked IACP to:

- validate LASD's proposed BWC policies and procedures;
- reflect on organizational capabilities, national best practices, lessons learned by other agencies, and community and stakeholder input; and,
- include metrics to quantify the impact of BWCs on operations, workload, budget, civil claims, and the community.

In late January, the IACP team began its work by reviewing LA County BWC-related documents, pertinent BWC literature, and interviewing multiple stakeholders and other police agencies that had successfully implemented BWC programs. Important to this review were the September 2015 report by the LA County Office of Inspector General (*Body-Worn Cameras: Policy Recommendations and Review of LASD's Pilot Program*) and the July 2018 report by the LA County Sheriff Civilian Oversight Commission (*Revised Report of the Ad Hoc Committee of the Civilian Oversight Commission Regarding Body Worn Cameras and Proposed Recommendations of the Sheriff Civilian Oversight Commission*). Both of these entities conducted extensive research into the scientific findings, lessons learned, and policies and practices of BWCs and made important recommendations relative to the LASD's use of BWCs. In addition, the Commission articulated several important findings regarding the value of BWCs and conducted a survey of the public's opinion of the LASD's use of BWCs. The majority of the recommendations made in this report are in agreement with, or complementary to, those recommendations made by the OIG and the COC.

As of the time this report was submitted, the LASD BWC Program plan, its budget, project management plan, and BWC policy were not yet finalized and available for the IACP team to review. Accordingly, the team spent a considerable amount of time with LASD project personnel to gain an in-depth understanding of what will be proposed in the department's final plan and policy. Finally, the IACP team conducted a legal analysis of current California BWC-related legislation to identify key components that should be included in the final LASD BWC policy, and a budget analysis to offer an opinion as to the adequacy of the proposed LASD BWC budget.

This report's literature review, summary of BWC best practices, legal analysis, and BWC program recommendations are made with an understanding of the eventual LASD BWC-related

operations and policy. If substantial changes are made in the final plan or policy, then this report's recommendations should be viewed accordingly.

Policy Recommendations

The key prevalent practices (considered by many to be the "best practices"), utilized by most policing organizations which employ BWCs, indicate that these agencies:

- direct officers to activate BWCs at the outset of all enforcement activities;
- allow officers some discretion in de-activating BWCs and require some form of documentation describing the need to do so;
- identify the places in where BWC usage is generally;
- consider most BWC footage investigative records, and, therefore, do not release it other than in exceptional cases, or when required by law or court order; and,
- allow officers to view BWC footage prior to writing their reports and/or providing statements.

IACP's legal analysis resulted in several recommendations to comply with the recently enacted "transparency" statutes passed by the California Legislature affecting the use of law enforcement BWCs. SB1421 (effective 1-1-19) amends the State Penal Code to remove previous confidentiality protections for four types of peace officer personnel records: sustained allegations of dishonesty or sexual battery, officer-involved shootings, and uses of force involving great bodily injury. AB721 (effective 7-1-19) amends the Government Code to provide specific guidelines for the disclosure of audio/video (BWC) recordings of all "critical incidents"; as defined by statute, incidents like deputy-involved shootings. The text of the legislation is included in Appendices IV (SB1421) and V (AB748) of this report.

The analysis recommends that the LASD BWC policy:

- maintain that the LASD should retain the sole discretion to publicly release any portion of BWC footage except in those cases where disclosure is required by law;
- should, in response to any written request under the Public Records Act (PRA), require the release of LASD BWC video and audio recordings of any critical incident within ten (10) days unless certain conditions apply (in these cases the release can be delayed up to a year providing certain steps are taken);
- should allow deputies a certain amount of discretion in their use of BWCs; and,
- should allow deputies to review BWC footage prior to writing their reports and/or providing statements.

Implementation Recommendations

As the LASD BWC Program plan is understood through interviews and the review of pertinent documents, IACP makes the following key implementation recommendations (other recommendations are found in the *Discussion of Recommendations* section of this report):

1. The anticipated LASD BWC Plan should be considered adequate with a funding level of \$20,221,762 onetime costs and \$14,169,223 ongoing (not adjusted for future increases in salary and benefit costs). This represents 33 new full-time employees, overtime, training costs, adequate technology upgrades, and requisite hardware purchases. An adequate financial reserve (\$2-3 million) should be considered essential in FY2019-20 to address unforeseeable legislative, judicial, operational, and societal impacts. A similar reserve will be important in each subsequent fiscal year until it is clear the program has stabilized and the state legislative intention in this area of policing is clear.
2. The staffing and adequate resourcing of the other County entities affected by the LASD BWC Program should be considered essential to the success of the program. This will ensure that the impacts of the BWC program are mitigated and its benefits are optimized county-wide. This should include personnel, technology, infrastructure, and equipment. Consideration should also be given to the unique requirements the justice agencies have for evidence retention, such as BWC footage would have to be preserved for the life of the defendant/client.
3. LASD should form an internal users' group representing affected department personnel, and an external advisory committee representing affected County departments and oversight bodies, to adjust policy and practice as operational experience is gained from the use of BWCs.
4. Planning should begin as soon as possible for an evaluation(s) of the BWC program. As part of this planning process, an agreement should be reached among the key stakeholders regarding what metrics will be used to measure program performance. The evaluation(s) will be driven by how stakeholders define the program's success. The *Sample Indicators of Success* included in this report's Appendix I can serve as a starting point for planning and discussions.
5. Appropriate BWC training should be developed and conducted for all affected personnel in the LASD, DA, PD, APD, and any other County department offices, commissions or advisory bodies affected by the implementation of BWCs.

In addition, some form of public education about the BWC program should be developed to facilitate the public's understanding of the purpose of the program, how BWCs are used, what their limitations are, and their value in advancing transparency, accountability, and the administration of justice.

6. LASD should take proactive steps through appropriate department messaging, clear policy development, leadership accountability, and program oversight to ensure that the department does not unintentionally allow some supervisors to use BWC footage to target employees for minor policy violations. The LASD should address when supervisors will be allowed to view BWC footage and any related limitations.¹

¹ For additional discussion, see the IACP Policy Center documents on Body-Worn Cameras.

INTRODUCTION

The President's Task Force on 21st Century Policing created a framework for policing called "21st Century Policing," which is generally defined as a philosophical orientation to policing that focuses on effective crime reduction while simultaneously building public trust. One area of focus for the Task Force was the use of BWCs in policing. The Task Force's report led the way for federal urging and assistance to implement BWCs nationwide. Congress appropriated funds to assist agencies in acquiring BWC systems, and various agencies within the United States Department of Justice (USDOJ) developed BWC funding and technical assistance programs.

Today, thousands of policing organizations now deploy BWCs. In addition, the private sector has taken note of the dramatic increase in policing's interest in BWCs, in terms of product offerings, technology advances, and training. There are now multiple vendors for BWCs, and many private training opportunities to learn about best BWC practices.

A national coherence around BWCs is slowly developing. At the outset, there was a wide variance in BWC policies and practices around the country. As more and more agencies have implemented BWCs, identifiable promising practices have emerged. This report, and those previously produced by LASD project staff, the Office of Inspector General, and the Civilian Oversight Commission, capture the key practices on BWCs.

Policing does not exist in a vacuum, it is connected to other parts of the criminal justice system, to local government, and to communities. When something as potentially impactful as BWCs is introduced to a policing agency, it will affect other parts of the justice system, government, and communities. As such, consideration must be given to ensuring that, in trying to advance and reform one part of the ecosystem, unintentional harm is not done to another. Therefore, adequate personnel and resources, shared stakeholder knowledge, collaboration, transparency, and accountability are all critical pieces of an effective BWC implementation.

Fortunately, LASD and the County have the ability to ensure that the LASD program under consideration is implemented and operated in a manner that balances a multitude of interests and leverages the taxpayer investment in public safety.

IACP'S SCOPE OF WORK

In January 2019, the County of Los Angeles contracted with the International Association of Chiefs of Police (IACP) to conduct a review of the body-worn camera (BWC) program as proposed by the Los Angeles County Sheriff's Department (LASD). Specifically, the County asked IACP to:

- validate LASD's proposed BWC policies and procedures;
- reflect on organizational capabilities, national promising practices, lessons learned by other agencies, and community and stakeholder input; and
- include metrics to quantify the impact of BWCs on operations, workload, budget, civil claims, and the community.

In late January, the IACP team began its work by reviewing LA County BWC-related documents and pertinent BWC literature, and interviewing multiple stakeholders and other police agencies that had successfully implemented BWC programs. The stakeholders interviewed included Sheriff Villanueva and representatives of the Board of Supervisors (BOS), Chief Executive Office, County Counsel, LASD Executive staff, District Attorney (DA), Public Defender (PD), Alternate Public Defender (APD), Association of Los Angeles Deputy Sheriffs (ALADS), Professional Peace Officer Association (PPOA), Office of the Inspector General (OIG), and the Civilian Oversight Commission (COC). Community representatives as identified by the BOS were also interviewed.

The team also spent a considerable amount of time with LASD project personnel to gain an in-depth understanding of what will be proposed in the final LASD plan and BWC policy.

Finally, the IACP team conducted a legal analysis on current California BWC-related legislation to identify key components that the final LASD BWC policy should include and an examination of proposed LASD plans to offer an opinion about the proposed BWC budget.

The IACP team was not able to review the final LASD BWC policy, implementation plan, budget or project management plan as they are still being finalized. Through interviews and review of the previously BWC plan and policies LASD leadership deem relevant, the IACP team was able to make assumptions about critical aspects of the final implementation plan and policy. These assumptions are reflected in the findings and recommendations articulated in this report.

This report's literature review, summary of BWC promising practices, legal analysis, and BWC program recommendations are all made with an understanding of eventual BWC-related LASD operations and policy. If substantial changes are made in the final plan or policy, then this report's recommendations should be viewed accordingly.

Review of Pertinent Literature, Promising Practices, and Lessons Learned

IACP conducted an extensive review of the literature pertinent to BWC research and identifying best or most prevalent practices in the use of law enforcement body-worn cameras. In addition, five policing agencies currently using BWCs were contacted to determine if there were lessons learned that were not reflected in published literature.

Review of Pertinent Literature

Numerous research studies have been conducted on law enforcement use of BWCs. These research efforts on the impact of BWCs vary as to scientific rigor and identification of confounding effects that may have impacted the causal relationships between BWCs and observed outcomes. The conclusions of these studies are not always clear and/or consistent regarding potential benefits of BWCs. In addition, there remains a wide range of BWC variables yet to be studied. A wide breadth of potential unintended consequences, operational impacts on officer time, indirect costs associated with BWCs, the impact on the job satisfaction of policing's workforce, and a better understanding of preventable error are all examples of potential research topics BWCs may facilitate.²

Survey of Law Enforcement Agencies

It is challenging to directly compare the operations of other policing agencies to those of the LASD in an attempt to draw conclusions about what LASD "should do" relative to BWCs. The scope of LASD operations includes policing in urban, suburban, and rural environments. It includes policing an island and in hospitals, parks, and transportation systems. The LASD operates the largest county-level correctional system in the country. And it employs more sworn, civilian, and volunteer members than any other sheriff's department in America.

In their research into BWCs, the OIG analyzed the BWC policies of the Philadelphia SEPTA Transit Police Department, the Delaware County Sheriff's Office (OH), and the police departments in Los Angeles, Seattle, Las Vegas and Denver. The COC interviewed representatives from the Los Angeles, Spokane (WA) and Wichita (KS) police department's regarding the BWC experiences of those agencies. The COC also interviewed two researchers and a policy expert regarding their knowledge of scientific outcomes and best practices for BWCs. This important information was reviewed and considered by the IACP team.

During its review of promising practices and lessons learned, the IACP team contacted BWC program experts in the following law enforcement agencies:

1. The Los Angeles, California, Police Department
2. The Seattle, Washington, Police Department

² For a comprehensive review of existing BWC research, please see Cynthia Lum et al., "The Research on Body-Worn Cameras: What We Know, What We Need to Know," *Criminology and Public Policy* (forthcoming, 2019).

3. The Arlington, Texas, Police Department
4. The Ventura, California, Police Department
5. The Ventura County, California, Sheriff's Office

During its interviews with the department representatives, the IACP team discerned multiple commonalities in the methodologies the agencies used to research and develop their BWC programs, the identification of what they considered best practices, and the lessons they learned. Their information is synthesized in the following section. In every instance, their observations were consistent with the lessons identified in IACP's literature review and its own experience. This is not surprising given the significant level of policing interest in BWCs, the volume of BWC publications that have been produced, the number of BWC seminars that have been held in recent years, and the manner in which American law enforcement shares its most important lessons regarding critical issues like BWCs. Finally, none of the experts indicated they needed to return to their governing bodies for additional funds to implement their programs.

Any attempt to use another policing agency as an example of how LASD "should" do a particular task should be limited to those operational and policy promising practices that can be generalized to large policing organizations. A strong emphasis should be placed on specific, measurable outcomes which LA County policymakers, the Sheriff, members of LASD, and the people of Los Angeles County desire from LASD's implementation of its BWC program.

What constitutes a "best practice" relative to BWCs is a subjective term. For example, both *allowing* and *prohibiting* officers from viewing BWC footage, prior to providing statements, are deemed by policy organizations with different political leanings as "best" practice. Because of this subjectivity, perhaps what the majority of policing organizations do in this regard should be referred to as "most prevalent" rather than "best" as a descriptor relating to BWC policy and practice.

Key Promising Practices, Lessons Learned, and Policy Recommendations suggested by the Surveyed Law Enforcement Agencies

The following "lessons" were articulated by each of the surveyed agencies:

1. Implementation planning should incorporate an adequate number of fulltime personnel and should be conducted with substantial input, review of other BWC implementation experiences, and significant input from key stakeholders.
2. Staffing models should have flexibility in personnel classification to assist the agency in a smooth implementation of the BWC program. This is a vitally important issue when implementing complicated technology projects like BWCs. Consistently, agencies found unexpected issues arose during the implementation and early phases of the projects that necessitated a degree of flexibility in the classification of staff positions they needed to ensure an effective implementation.

3. Policy should be developed with significant input from key stakeholders, written in a clear manner, and provide adequate direction to officers.
4. BWC implementations should be accompanied by a comprehensive communications plan. In addition to internal employee-oriented communication and training (further discussed in the LASD's BWC Training Plan section), there should also be an external public-oriented component.

The underlying purpose of the BWC program is transparency; therefore, the BWC policy itself should be made available to the public, as was also recommended by the COC. This will increase public understanding of BWCs, reduce frustrated community expectations, and help policymakers better gauge support for the program. Posting the policy on the agency website may be the easiest, most effective way to do so. The outreach should describe the purpose, goals, and broad operational guidelines of the department's BWC program. It is important that the community members understand what BWCs are, what they do, their limitations, and if and how footage captured by the LASD can be accessed by the public.

5. Allowing officers to review BWC footage prior to writing a report or giving a statement is the most controversial aspect of BWC policy – especially after critical incidents. There are valid arguments for and against the practice. All of the surveyed agencies allowed officers to review BWC footage prior to writing their reports. Both the OIG and the COC recommended deputies not be allowed to review BWC footage prior to providing a statement after critical incidents.
6. Officers should be directed to activate BWCs at the outset, and stay activated for the entire duration of, all enforcement activities and other appropriate or required circumstances for activation. Officers should also be required to state on video and/or in their reports when they cease recording before the completion of the pertinent activities (this was recommended by both the OIG and COC reports). When agencies make clear when they expect their officers to activate BWCs, they have higher compliance rates. This clear direction should be accompanied by accountability measures – that are enforced – to deal with intentional acts of non-compliance. Agencies that have allowances for unintentional non-activation, or accidental de-activation, enjoy higher levels of organizational legitimacy among their workforces.
7. Officers should be allowed some discretion in de-activating BWCs after their activation and be required to complete some form of documentation describing the need to do so (e.g. discussion of tactical or investigative strategies, interviews of confidential informants or reluctant citizens who request deactivation, and discussion of an employee's personal information).

BWC policy should articulate responsibilities in a way that allows employees to understand the parameters of their required actions in any situation within the context of organizational values, intent and practice, and the framework of law and legislative intent. Organizational policy cannot account for every unique set of circumstances police officers face in the course of carrying out their duties.

8. The places in which BWC usage is generally prohibited should be identified. Bathrooms, employee locker rooms, or locations where individuals have a reasonable expectation of privacy are typical examples.
9. Officers are prohibited from using their personally owned BWCs (this is also a policy recommendation of the COC).
10. The majority of police agencies consider most BWC footage investigative records and do not release it, except in exceptional cases or when required by law or court order. There is a balance that must be achieved between what is practical and affordable and the need for transparency in police operations.
11. To keep costs as low as possible, and officer availability as high as possible, BWC-equipped officers must have remote access to the BWC system to tag their footage after each incident in which the BWCs are activated. The technology most frequently used is smartphones, but in some cases, departments have BWCs that are integrated into their computer aided dispatch system (CAD), so they are able to use their in-car mobile data consoles (MDCs) to add the requisite metadata. Without some form of remote connectivity, officers are required to either return to the station after each call or spend time at the end of their shift to view footage and add the metadata. This latter circumstance can result in wasted productivity as officers wait for bandwidth and accrual of overtime pay that increases the cost of the BWC program.

Agencies that issued their officers smartphones also realized the added benefit of their connectivity to all of the data systems they need to access to do their job. Using smartphones, they can access those systems without having to return to the station. This keeps them in-the-field, visible to the public, and available for other calls. In the LAPD, the issuance of smartphones is part of their "Connected Officer Initiative" which is intended to connect them to the data systems used daily.

12. Agencies using BWCs should have a succession plan to disengage from the vendor supplying them with BWCs. Sometimes vendors go bankrupt, change their systems in unacceptable ways, or lose the confidence of the agency leadership. Planning for this possibility means the agency is provided with options relative to their BWC footage and data.

13. Sworn officers are usually the most expensive class of employees in a police organization. BWC-equipped departments can reduce their costs by using civilian employees in their BWC program wherever possible. Each agency is different and have varying degrees of acceptance for civilian employees used in this manner. Policing organizations implementing BWCs should consider employing civilians as often as possible, in whatever ways the organization considers appropriate.

DISCUSSION OF KEY ISSUES

Purpose of BWCs

During the IACP team interviews with the various identified stakeholders, it became clear that there are several views regarding the purpose of the LASD's BWC system. Among these were: increased deputy accountability, increased LASD transparency, enhanced relationships with the communities the police protect, a reduction in complaints and uses-of-force, increased exoneration of deputies, better evidence in criminal and civil cases, and reduction in settlement costs related to civil litigation. Some individuals expressed adamant opposition to the possibility of BWCs being used to increase surveillance of vulnerable communities.

Successful policing programs often address a multitude of issues, interests, and concerns held by a variety of stakeholders. This collective understanding of the program's rationale is fundamental to a future determination of whether it was successful. It is also directly connected to future policy development and technological purchase and implementation decisions.

Accordingly, it is important that department policy, training, internal messaging, and public messaging by the department and policymakers is clear and consistent. This requires an agreement among organizational leaders about why the BWC program is being pursued. In the case of LA County, this will require the Sheriff and BOS to publicly articulate the key points as to why BWCs are being implemented at LASD.

The Importance of BWC Policy

The importance of clear, competent policy in policing cannot be understated. It informs employees of procedures to be followed, what is mandated and prohibited, where they have discretion, and is directly connected to building trust and confidence in the police. BWC policy is especially important because of the wide range of public-interest issues it covers. Both the OIG and COC BWC reports highlight the importance of policy in a successful BWC program and made important contributions to this discussion.

The LASD BWC planning staff has done an excellent job of reviewing evolving policy, practice, lessons learned, and legislation in preparing its original plan and modifying its current efforts. It is now the responsibility of those involved in the final adoption of LASD BWC policy to ensure the department's policy reflects the efforts of its staff, public input, and the recommendations contained within this report.

Some of the more important issues BWC policy should address include:

- the purpose for which BWCs are being implemented;
- when BWCs should be activated and when employees are allowed discretion to activate/deactivate their cameras;

- where BWCs should be restricted or prohibited;
- under what circumstances the BWCs may be deactivated and what documentation of the deactivation must be completed;
- community member notification of recording/consent to record;
- officer/deputy review of BWC footage;
- supervisory review of BWC footage – when allowed and mandated;
- recording of interviews;
- guidelines for who can view footage;
- prohibitions against modifying footage;
- prohibitions against the use of personal body cameras;
- requirements for audits of BWC usage and policy compliance;
- release of BWC footage to the public; and,
- retention of footage.

OIG and COC Contributions to LASD BWC Policy Development

The OIG and the COC have expended considerable effort in researching policing's use of BWCs. Both conducted extensive research into the efficacy of BWCs and the experience of implementing them. The COC also conducted a valuable community survey which shed light on the public's opinion of LASD's use of BWCs. As a result, the OIG and the COC have developed several recommendations that the LASD would be well-served in considering as it finalizes its BWC policy. The COC also identified several findings that are themselves insightful and useful in finalizing LASD policy and procedures.

The key OIG policy recommendations are (summarized):

1. Deputies should activate their BWCs when engaged in law enforcement actions and other actions deputies deem appropriate;
2. Deputies should not be required to obtain consent from citizens when the deputy is entering a location for a legitimate of necessary law enforcement purpose;
3. Deputies should record all statements of witnesses or victims unless doing so would compromise the deputies' ability to perform their duties;
4. Deputies should have the discretion to record informants if they deem it necessary;
5. Deputies should record citizen encounters until their completion and should be required to articulate their reasoning in writing or on camera if they fail to record an activity as required by policy;
6. Deputies should be encouraged to notify civilians that encounters are being recorded when appropriate; and,

7. In use-of-force cases, deputies should be required to write their reports before viewing video footage.

The COC's key findings are (summarized):

1. BWCs will likely reduce all use-of-force by LASD deputies but especially "excessive and unnecessary" use-of-force;
2. BWCs will likely reduce, by a "substantial" amount, LA County expenditures in judgements and settlements relative to claims of LASD deputies' use-of-force;
3. BWCs will likely reduce the number of civilian complaints against deputies and the costs of resolving complaints;
4. The behavior of LASD deputies and civilians interacting with deputies will likely improve;
5. Actual and perceived degrees of social justice and the actual and perceived levels of respect and dignity deputies show civilians will likely improve;
6. Potential civil unrest may be avoided or reduced as a result of timely release of BWC footage in critical incidents involving LASD deputies; and,
7. The quality of evidence used in the criminal justice system will improve, leading to better prosecutorial decisions, increased reliability and better results achieved based on the facts.

The COC's key recommendations are (summarized):

1. The Sheriff should make his BWC policies accessible to the public;
2. Deputies should be required to activate their BWCs prior to all enforcement activity involving a member of the public with exceptions being limited and clearly defined;
3. Deputies should de-activate their BWCs only at the completion of the enforcement interaction;
4. Deputies should be prohibited from altering or editing BWC footage;
5. In cases involving LASD deputies use of deadly force, deputies should not be allowed to view BWC footage until after providing an initial statement;
6. All deputies issued BWCs should receive adequate training in the operation of the cameras and LASD BWC policy;
7. LASD should make clear to its workforce that violations of BWC policy are subject to disciplinary action;
8. Deputies should be prohibited from using privately owned BWCs on-duty;
9. The LASD should conduct regular internal audits to ensure compliance with BWC policy;
10. The Sheriff should release BWC video of deputy-involved-shootings and serious use of force within 30 days of the incident;

11. BWC footage not used for training purposes, ongoing investigations, court or disciplinary proceedings should not be retained for more than 6 months;
12. Facial recognition technology should not be used in conjunction with BWCs;
13. Deputies should be encouraged to notify persons that they are being recorded when safe and practical to do so; and,
14. The LASD should conduct a public education campaign designed to educate the public on the benefits and limitations of BWCs.

The results of the COC community survey of 2,324 LA County residents found that the majority of respondents:

1. Supported the use of LASD-issued BWCs by deputies;
2. Opposed giving deputies discretion when to record or not record;
3. Supported clear policies stating when to activate the cameras;
4. Supported deputy notification of civilians they encounter of BWC recordings; and,
5. Supported recordings being released to the public.

Transparency and Accountability of BWC Programs

In practically every case of BWC implementation, the issues of transparency and accountability arise. This is especially true as they relate to department policy and practice relating to camera activation and de-activation and the viewing, release, and retention of camera footage.

One of the pitfalls many policing agencies fall into is assuming that a community's sense of trust and confidence in the police, and all its many variables, are subject to technological solutions. While technology may play an important role in establishing community trust, policing is still an intensely interpersonal business. How communities feel about the police officers paid to protect them is the sum total of:

- thousands of interpersonal contacts between officers and citizens;
- how effective police-led crime control strategies prove themselves to be;
- the levels of police use-of-force;
- how the agency holds its members and itself accountable;
- how events involving the police are covered by the media; and,
- how these events are expressed and perpetuated through social media.

Police agencies must constantly work on maintaining or improving their relationship with the multitude of communities they serve. BWC programs that are effective at increasing public trust and confidence usually are implemented within the framework of a positive police-community relationship. If that does not exist, policing leaders must take proactive steps to address this at the same time they work to implement their BWC program.

A simple first step a BWC policing agency can take is making its BWC policy publicly available on its website. This was a recommendation of the COC (Recommendation 4). In addition, the inclusion of a brief explanation of the process by which the policy was developed adds transparency (i.e. stakeholder input was sought, promising practices were examined, legislation was considered).

Policing agencies can also publish reports on the status of the BWC program. Using collected data, agencies can help the public understand the scope of the program, the work involved to maintain it, and what benefit is being realized. In this manner, agencies can enhance their transparency and public understanding of the complicated nature of BWC programs.

Increasingly, policing organizations are creating public “critical incident briefings,” in which a critical incident, like an officer-involved shooting, is explained from the agency’s perspective. They are usually taped and put on the organization’s website or YouTube channel. They may be very informative, especially relative to the undisputed facts of the case, usually have a narrator, and frequently feature BWC footage that has been edited for brevity.

Today, these critical incident briefings are mainly produced by agencies with significant resources, and they have been met with both positive and negative reactions. Many people feel they are a significant step forward in terms of transparency. However, there are also some who feel that they are more about promoting the agency’s image and version of events rather than transparency. This is especially true if the agency edits the BWC footage and does not make the original, unedited version also available for people to judge for themselves if the editing was done for brevity or self-promotion. This sentiment may be exacerbated if only the legally “justified” incidents are briefed and those which are more problematic for the police are excluded.

Organizational accountability is demonstrated by competent policy that is enforced. In addition, routine, random supervisory audits of BWC footage may reveal alignment or deficiencies in workforce behavior and their training, organizational values, and leadership expectations. If deficiencies are noted, there is an opportunity for inward reflection, renewed messaging, policy revision, or remedial training.

Another step policing agencies can take to increase program transparency and accountability is related to releasing BWC footage to the public. While this may appear to be a rather straightforward issue, exposure to civil liability, the significant cost of current redaction methods, and determining how the public may view raw BWC footage without situational context make this a complicated issue. This is covered more thoroughly under the subsequent heading “Release of BWC Footage to the Public.”

There are undoubtedly many other strategies police agencies may use to increase transparency and accountability. LASD is encouraged to focus on these issues and develop as many strategies

as feasible to increase the public sense of legitimacy in its programs and with its own workforce.

Legal Analysis

As part of this consulting process, the IACP employed the services of one of California's leading police policy experts whose practice is focused on defending public policing entities in civil litigation. Accordingly, he is an expert at balancing a public entity's desire for transparency and accountability and protecting taxpayer interests in police-related lawsuits. IACP recommends LASD follow his BWC-related recommendations which are found in Appendix III of this report.

The legal analysis resulted in several recommendations to comply with the recently enacted "transparency" statutes passed by the California Legislature affecting the use of law enforcement BWCs. SB1421 (effective 1-1-19) amends the State Penal Code to remove previous confidentiality protections for four types of peace officer personnel records: sustained allegations of dishonesty or sexual battery, officer-involved shootings, and uses of force involving great bodily injury. AB721 (effective 7-1-19) amends the Government Code to provide specific guidelines for the disclosure of audio/video (BWC) recordings of all "critical incidents".

In the context of releasing BWC footage, critical incidents are defined as:

- Any incident involving the discharge of a firearm at a person by a deputy (or security officer).
- Any incident involving a strike with an impact weapon or projectile to the head or neck.
- Any incident in which the use of force by a deputy (or security officer) of a person by a deputy (or security officer) against a person results in death or serious bodily injury, including, but not limited to, loss of consciousness, concussion, bone fracture, protracted loss or impairment of function of any bodily member or organ, a wound requiring extensive suturing, and serious disfigurement.
- The death of any arrestee or detainee in custody.

The following summarizes the legal analysis into relevant recommendations that should be included in the LASD BWC policy to ensure compliance with pertinent state law:

1. The LASD should retain the sole discretion to publicly release any portion of BWC footage under any of the following conditions:
 - a. It is determined that the release of any portion of such BWC recordings may assist with the furtherance of an ongoing investigation. This allows the LASD to exercise its discretion in releasing BWC recordings and other materials in the interest of transparency and/or when such early releases may serve to dispel rumors and/or educate the public.

- b. It is determined that the release of any portion of such BWC recordings may serve to dispel erroneous or inaccurate information in the public domain or may otherwise serve to educate the public without interfering with any ongoing investigation.
- 2. In response to any written request under the PRA, LASD BWC video and audio recordings of any critical incident should be subject to release within ten (10) days. However, the following conditions are among a few limited exceptions:
 - a. If the facts and circumstances depicted in any recording would substantially interfere with any active criminal or administrative investigation, disclosure may be delayed for up to 45 calendar days. If, after 45 days, it is determined that the release of any recording would continue to substantially interfere with any active criminal or administrative investigation, disclosure may be further delayed up to one year with written notice to the requester of the specific basis for the further delay and an estimated date for disclosure.
 - b. The Department may or may not wish to include examples of circumstances which might trigger a reasonable expectation of privacy such as sexual assault victims, domestic violence victims, confidential informants, etc. If not set forth in policy, these examples should be addressed in training.

The analysis highlights the importance of providing deputies with a degree of discretion regarding their use of BWCs through its emphasis on the use of the word “should” (some discretion) vs “shall” (no discretion) in policing policy. In part, the analysis states:

While it might sometimes be necessary to mandate certain behavior, the unpredictable variables of law enforcement often box agencies into unrealistically mandated actions when appropriate exceptions may inevitably arise. In order to allow for such exceptions, it is recommended that limited discretion be permitted through the use of qualifying “should” language. Whether limited to this policy or on a broader scale, “should” is generally defined as conduct which is required unless the deputy is able to meet his/her burden of articulating reasonable justification for non-compliance. This permits the agency to enforce the policy while still allowing for inevitable exceptions.

The analysis also briefly examines the LAPD BWC policy and its potential for helping develop the LASD’s BWC policy. It examines the importance of the activation/deactivation issue, and, in part, states:

While LAPD does a reasonable job of addressing BWC activation and de-activation, care should be exercised to allow for exceptions and discretion in both instances. For example, while the LAPD policy essentially requires the BWC to remain activated until an incident ends, consideration should be given to

situations in which tactical circumstances may warrant temporary de-activation for officer safety, confidentiality, etc. If, of course, such exceptions are provided, the involved deputy(ies) should be required to announce the de-activation with a brief explanation.

The analysis also examines the issue of whether deputies should be allowed to review BWC footage prior to writing their reports or providing statements. It recommends that deputies be allowed to review the footage and cites the LAPD policy of allowing its officers to do so as a “best practice.” The analysis recommends this policy not only for critical incidents, but for all situations in which deputies provide a report or statement and BWC footage is available. In part, it states:

While deputies may attempt to quote a suspect or witness verbatim in a report, this should never be done without first confirming the exact language being quoted. Far too many deputies have been accused of perjury when their reports/statements fail to precisely conform to a recording. Simple solution: Take a few minutes to review all recordings before writing any report or providing a formal statement.

Although no deputy should attempt to conform his/her report or statement to what is depicted in a recording, it is essential that the deputy understand the “totality of the circumstances” (e.g. Graham v. Connor) before attempting to accurately recall an often stressful situation. This is far superior to allowing a deputy to “guess” what may have occurred, only later to have his/her credibility challenged when a recording suggests otherwise.

As the United States Supreme Court noted in Scott v. Harris, a video recording corroborating a deputy’s version of an incident may serve to completely discredit claims of anyone to the contrary. With the increasing prevalence of BWC video, many state and federal courts are now dismissing lawsuits without the need for costly trials in light of the undisputed facts depicted in these recordings.

Additional aspects of this issue are discussed in the Deputy Review of BWC Footage section of this report.

Deputy Discretion to Record

Police officers require a significant degree of discretion to act within the parameters of the law, department policy, and community expectations. Officers encounter so many variables in carrying out their duties that it is impossible to create policy to address every unique situation.

To address this challenge, policing agencies create policy and training that establish the parameters for procedure and conduct. These must be clear and concise enough to facilitate

compliance and provide sufficient guidance to officers for them to appropriately adapt to each unique situation in their ever-changing environment.

This is the case with officers' discretion regarding the activation of BWCs. Competent BWC policy gives officers clear direction as to when they are required to activate the BWC and when they have discretion. Generally, officers are directed to activate their cameras at the beginning of all enforcement situations and can de-activate them either when the event is substantially over or not until it is completely over. Both of these options have benefits and challenges associated with them. While there is a fairly clear coherence about when to activate BWCs (e.g. at the beginning of calls of enforcement actions), there is debate regarding when officers should be instructed to deactivate the BWC.

A policy that allows officer to terminate recording when situations are substantially complete, for example, may result in occasions where important events are missed. Conversely, capturing the entirety of all enforcement actions, or calls-for-service, will result in a phenomenal amount of captured footage, much of it having no real consequence. For every minute of BWC footage recorded, there is potentially an equivalent real-time review by investigators or others. As such, this policy has substantial costs associated with it.

When formulating BWC policy, LASD will need to make allowances for inadvertent failure to activate and for accidental activation. When a police officer is focused on a high stress, life-threatening incident, he or she might inadvertently forget to activate their BWC. Conversely, when BWCs are introduced, at least initially, there will be accidental activations. However, when a deputy demonstrates a pattern of failures to activate, or accidental activations, supervisory intervention is necessitated.

Eventually, technology will provide some assistance to these problems with BWC activations. Until then, policy, training and accountability measures will have to ensure BWCs are activated when appropriate. Examples of BWC system capabilities include, or will shortly include, the ability to automatically activate when:

- an officer's sidearm or electronic control device is drawn;
- gunshots are detected;
- designated calls-for-service are dispatched via the department's computer-aided dispatch system (CAD);
- remote intervention is directed by supervision;
- certain key words, with key inflections, are uttered (i.e. "put your hands up!"); and
- an officer is experiencing elevated biometric indications.

Regardless of the policy decision made about BWC activations, considerations about perceptions of transparency and accountability must be balanced with the affordability and practicality of data collection and storage.

Notification of Recording

It is commonly accepted that people behave better when they believe they are being watched. However, this only applies if people know they are being watched or recorded, and as a result, believe their behavior may be scrutinized. The most prevalent policing practice is to encourage officers to notify people when they are being recorded. However, there are situations when it is impractical, risky, or simply impossible to notify individuals when they are being recorded, and agency policy should take this into account.

Deputy Review of BWC Footage

There are few BWC issues as potentially contentious as the issue about whether police officers should be allowed to review their BWC footage prior to writing reports or providing statements. This is an extremely subjective issue. Where one stands on police reform, community-police relations, police use-of-force, and police legitimacy can affect how officer access to BWC footage before writing reports is viewed. Both the OIG and COC BWC reports recommend not allowing involved deputies to review BWC footage in critical incidents until they have written a preliminary report or given a statement.

Due to the lack of consistent research in this area and the controversy surrounding this aspect of BWC policy, the IACP does not take a definitive stance on this issue, but instead, recommends that the LASD consider input from all stakeholders in this area. It is the IACP team's understanding that the LASD's finalized BWC policy will allow deputies to review BWC footage prior to writing a report or providing a statement in the majority of cases.

Many of the stakeholders whom the IACP team interviewed, along with the documents the team reviewed, referenced the LAPD's BWC implementation and policies as examples of promising or best practices. To be clear, LAPD's policy mandates its officers are required to review BWC footage prior to making statements or writing reports (LAPD Special Order No. 12, 8-28-15). In the case of critical incidents like officer-involved-shootings, officers review BWC footage after gaining approval from designated investigators on the case.

Allowing Deputies to View Footage

The arguments for allowing police officers to review BWC footage generally emphasize the value of footage helping officers more clearly recall the incident, which in turn, leads to more accurate documentation of the incident. In addition, if a jury or administrative body detects a discrepancy between the officer's report and the BWC footage – that may be the result of a lack of recollection – inconsistencies might be perceived that could damage the case or unfairly imply the officer is being dishonest.

The IACP team believes strongly that if LASD deputies are not afforded an opportunity to review BWC footage, the long-standing practice of deputies providing voluntary statements to criminal

investigators, after they have been involved in a critical incident like a deputy-involved shooting will cease in many instances. The deputies' unions have expressed the belief that not allowing deputies to review the footage puts them unreasonably at-risk of criminal prosecutions if their recollection of events differs from what appears to be depicted in the BWC footage. An end to voluntary statements will create significant challenges for investigators and prosecutors alike. There will likely be damage to the public's trust and confidence in the department. And the costs of civil litigation may increase.

Not Allowing Deputies to View Footage

Among the key points of the opposition to officers viewing BWC footage prior to providing a statement are that viewing the footage (see OIG and COC BWC reports for additional discussion of this issue):

- does not improve the officer's recollection of the incident;
- may contaminate the officer's memory;
- may result in the loss of important observations made by the officer that are not captured on the BWC;
- provides the means for the officer's report to conform to what the footage shows; and,
- may facilitate an officer's justification for misconduct captured by the BWC.

Release of BWC Footage to the Public

The transparency of BWC programs can manifest in several ways. One option to promote transparency is to release all BWC footage a law enforcement agency collects. At LASD, however, current technological constraints necessitate huge investments in personnel to ensure proper redaction of sensitive identifying information. The state of BWC footage redaction today is extremely labor intensive, requiring staff to go "frame-by-frame" to ensure required privacy and confidentiality are maintained.

If the LASD were to release all of its BWC footage, the personnel requirements would increase exponentially from what is currently being proposed. All released footage must first be reviewed and aspects of it redacted if necessary. For all of the LASD BWC footage that will be captured to be reviewed and redacted, the County could be required to add in excess of 100 new employees to the department. As it is, once the impact of California's recently enacted police transparency laws is realized, LASD may be required to add some additional employees. LAPD, for instance, is adding 40 new employees over the next two fiscal years just to address the added workload as the result of the new California laws. It is IACP's understanding that LASD is already adding staff to its "Discovery Unit" in the Risk Management Bureau that may be sufficient to cover the added burden of recently enacted legislation.

In addition, it is the IACP team's understanding that LASD, like LAPD and most other California policing agencies using BWCs, will consider BWC footage investigative material and therefore

excluded from release pursuant to the California Public Record Act (PRA) except as now required by SB1421 and AB748. Policymakers must balance the need for transparency of the LASD BWC program with the affordability and practicality of releasing BWC footage; protecting the privacy of victims, witnesses, and other recorded individuals; and building and maintaining the trust of the community. Compliance with the newly enacted state law and the balance between transparency and affordability/practicality should be achieved by adoption of the aforementioned recommended conditions for release of BWC footage.

In its BWC report, the COC recommended the release of BWC footage in critical incidents within 30 days of the incident. Current state law (AB748 effective 7-1-19) outlines the release requirements for this footage. While the time requirements may not be the 30 days recommended by the COC, the timely release required by the law is consistent with the spirit of the COC recommendations. Time will tell if current law is effective at achieving its intended transparency and accountable goals.

NOTE: Many of the stakeholders the IACP team interviewed and the documents the team reviewed made reference to LAPD's BWC implementation and policies as examples of promising practice. To be clear, under its current policy, the LAPD considers its BWC footage investigative material and not subject to release under California law – with the exceptions pursuant to discovery and under the new guidelines of recently enacted SB1421 and AB748 legislation.

Facial Detection vs Facial Recognition

In the discussion of BWCs, it is important to distinguish between facial *detection* and facial *recognition*. Facial detection is the process by which a form of artificial intelligence is used to detect if human faces are present in an image or video. This is not facial recognition. Facial recognition uses biometric technology to try and identify whose face it is that has been detected. The confusion surrounding the use of these terms is understandable as facial recognition can be broadly considered a subset of facial detection (in order for an algorithm to “identify/recognize” an individual via his or her face it must first “detect” his or her face in the image). It is crucial that the differences between these two concepts be acknowledged because of the useful and appropriate impact facial *detection* has on the BWC footage redaction/public release process.

A primary focus of many BWC companies is on automating their redaction process through the detection of faces (not identification of individuals), license plates, and mobile data computer screens. This has the potential for dramatically reducing the workload of BWC program personnel (by perhaps as much as 80%). It will be important as LA County moves forward with the LASD BWC program that automated redaction through facial detection is emphasized as a purchasing requirement.

Body worn camera technology that employs some form of facial recognition capability represents clear privacy concerns. Studies have shown significant challenges with current facial recognition technology in terms of accuracy and bias. In its report on the previous LASD BWC program, the COC commented on this and recommended against the use of facial recognition in the LASD BWCs. As this technology advances to a point where it may be offered by the BWC vendor the County selects, further consideration about the appropriate use of facial recognition by LASD should be conducted. If the LASD considers facial recognition in its BWC sometime in the future, it will be important for it to consult with the COC and obtain input for the community about its sentiment regarding the use of the technology.

LASD IMPLEMENTATION PLAN

Comparison of the Previous and Current BWC Plans

One of the central questions about the LASD BWC Program is the inevitable comparison between the one submitted to the County under the previous LASD administration and the staffing and budgetary requirements tentatively proposed by the current LASD administration. The significant difference between the two plans turns on three key policy decisions that have driven the planning for the current approach:

1. The deployment of BWC personnel in a centralized model;
2. A policy decision to allow investigators the discretion to decide what BWC footage they review that is connected to the cases they are assigned; and,
3. A policy decision to release only the BWC footage that is required by law.

The current plan, as understood through discussions with LASD staff and review of relevant documents, places the staff responsible for coordinating the department's BWC policy and practice in just two locations: at yet-to-be-determined sites in the LA Basin and in the Antelope Valley (the latter is due to the significant distance from the department's main facilities). This has the advantages of consistency in application of policy and practice, requiring fewer personnel and is significantly less expensive than deploying personnel to each station. The previous plan had BWC staff at each patrol station.

In addition, the current plan gives investigators the discretion in deciding what BWC footage they must review. This reflects the most prevalent, and fiscally responsible, practice in policing agencies using BWCs. The previous plan mandated investigators review a portion of all BWC footage associated with the cases they were assigned. This would have resulted in a substantial addition to their workload and required either the addition of more investigators to handle the same number of cases or a reduction in the cases they could be assigned.

And finally, the current plan incorporates a policy of only releasing the BWC footage that is required under law and in response to PRA requests. There may also be occasions where the department determines it is in the public interest to release footage to quell rumors or a lack of clarity about a controversial or newsworthy incident. This practice also reflects the most prevalent practice in policing.

The basic differences between the two plans are illustrated by the following chart.

| Current Plan | Previous Plan |
|--|--|
| Centralized | De-centralized |
| Redaction done in just two locations (sites in the LA Basin and Antelope Valley) | BWC personnel assigned to each of the department's stations |
| Policy/practices coordinated via central unit | Policy/practices coordinated at each station |
| Requires 33 new positions | Required 243 new positions |
| Investigators' Discretion When to View | No Investigator Discretion When to View |
| Investigators have the discretion as to what footage they need to review based on case specifics | Investigators would have been required to view a portion of all footage for each case they were assigned |
| Plan does not envision the requirement for any additional investigators | Required 140 more investigators, or substantial reduction in investigative case loads |
| Restricted Release of Footage | Broad Release of Footage |
| Only public release per legal PRA requirements | Plan put LASD on a path for release of most video |
| Significantly less footage to redact, thereby requiring fewer positions | Massive amount of video required significant personnel to redact |

Current LASD BWC Implementation Plan

Since the beginning of this project, the IACP team has been in discussions with key LASD staff relative to the appropriate staffing levels to implement the BWC program. The IACP team has been consistently impressed with the LASD staff's interest in controlling the costs of the program wherever possible.

Staffing & Budget

The IACP team has expressed concern that the number of personnel originally envisioned in this latest BWC Plan (24) was at the lower range of staffing requirements and thereby more susceptible to unexpected events or factors. This concern notwithstanding, the IACP team is confident the key LASD BWC planning staff is extremely knowledgeable about the LASD organizational culture, its capabilities, and limitations. They have studied BWCs for several years, with an eye toward eventual implementation and have an excellent grasp on what is needed to successfully implement the program. What is unclear is the legislative, judicial, technological, and societal uncertainties that may affect the department's use of BWCs. It is in this area of uncertainty that the IACP team struggled with the proposed addition of 24 new employees in the BWC Unit.

As a result of repeated reviews of the department's staffing needs and several attempts to forecast the number of critical incidents the department might experience, the number of related Public Record Act requests (PRAs), and the overall anticipated impact of recently enacted state legislation (SB1421 and AB748), the number of anticipated fulltime personnel has

been increased to 33. The total startup funds needed has been determined to be \$20,221,762. The on-going cost is estimated to be \$14,169,223 (this has not been adjusted for future increases in salary and benefit costs). The FY2019-20 amount might be reduced due to previous FY 2018-19 investments in technology infrastructure upgrades in five stations.

As a result of interviews and the review of pertinent documents, the IACP team understands the budget will be allocated in the following broad categories:

| Category | One-time Start-up | On-going |
|--------------------------|-------------------|--------------|
| Services and Supplies | \$12,767,262 | \$8,428,223 |
| Capital Assets/Equipment | \$7,139,500 | \$0 |
| Personnel | \$315,000 | \$5,741,000 |
| Totals | \$20,221,762 | \$14,169,223 |

Note: these figures have not yet been memorialized in a final LASD BWC Program plan

The IACP team agrees with the proposed staffing model and the projected first year program cost as long as an adequate contingency fund is maintained to address unforeseen circumstances. The factors affecting a project as significant as this are numerous. The factors most likely to necessitate accessing a contingency fund are:

- unforeseen facility infrastructure challenges;
- the number of critical incidents subject to recently enacted legislation (deputy-involved shootings, serious use-of-force);
- the number of PRA requests related to critical incidents and the amount of BWC-related footage; and,
- new, unanticipated legislation or court decisions.

Organizational Structure & Responsibilities

The anticipated LASD BWC Plan, as understood through discussions with LASD staff and the review of relevant documents, incorporates the addition of 13 sworn and 20 civilian employees. These new positions will comprise the "Body Camera Unit." This unit will be under the command of a lieutenant and will be part of a yet-to-be-determined existing Bureau. LASD Bureaus are commanded by a Captain and part of a larger Division commanded by a Chief.

The IACP team believes that the most appropriate organizational assignment for the BWC Unit is within the Detective Division (two of the Unit's Deputies are intended to be assigned to the Fraud and Cyber Crime Bureau within the Detective Division). Clearly, the BWC Unit will have a strong emphasis on technology – but only as a means for collecting and preserving what will be considered evidence (BWC footage) in administrative, civil, or criminal proceedings. These

actions incorporate multiple investigative concepts and practices and are directly connected to the public's trust and confidence in the department.

In a deputy-involved shooting (DIS), for instance, BWC footage captured by a deputy's BWC will be considered evidence in any criminal action arising from the incident. It should be collected and maintained as any other form of evidence is collected in criminal investigations. And now that AB748 requires BWC video in DIS's where a deputy shoots at a person to be released, the public's interest, understanding and judgement about DIS investigations and the veracity of BWC footage will certainly be elevated. It simply makes sense that the time-tested investigative methods and organizational structure used by the department in serious criminal investigations be applied to BWC footage in critical incident investigations.

Positioning the BWC Unit as an evidence collection entity should enhance the public's trust and confidence in the department. Accordingly, the most appropriate assignment for this unit would be in the Division charged with the department's primary investigative responsibilities (the Detective Division). The IACP team finds any other assignment of the BWC Unit to be potentially problematic and worrisome.

The following are examples of the anticipated duties of the BWC Unit:

- managing the deployment of the BWCs;
- overall management and system maintenance of the BWC Program;
- conducting department-wide training in the policy and practice of the LASD BWC program;
- conducting audits for policy compliance;
- evaluating the performance of the BWCs;
- monitoring the BWC Program's progress toward achieving organizational goals;
- recording relevant BWC statistics;
- redacting BWC footage in response to PRAs or other appropriate uses;
- assisting in the production of community briefings relating to critical incidents in which BWC footage is important;
- conducting forensic examinations and analysis of BWC footage;
- responding to critical incidents to collect BWC evidence;
- conducting public education in BWCs; and,
- researching advances in BWC technologies and uses.

The BWC Unit will be divided into four sections that can be thought of as "command," "operations," "administration," and "technical support. Two additional members of the BWC Unit - Deputy Investigators referred to as Bonus II Deputies – will be assigned to the existing

Fraud and Cyber Crime Bureau within the Detective Division to assist with BWC forensics and investigations. The proposed staffing of the BWC unit is as follows:

Command

- (1) Lieutenant acting as Unit Commander and Project Manager

Operations

- (4) Sergeants, one each for the North, South, East, and Central Patrol Divisions (the North sergeant will be stationed in the Antelope Valley)
- (1) Operations Assistant III (OAIll) to supervise the Video Forensic Technician OAI's in Headquarters, serve as budget and grant manager
- (1) Operations Assistant III to supervise the Video Forensic Technician OAI's assigned to the Antelope Valley
- (12) Video Forensic Technician Operations Assistant II's (OAI) to conduct compliance audits, footage review, and redaction (two will be stationed in the Antelope Valley)

Administration

- (1) Sergeant serving as Assistant Project Manager and supervisor for BWC issues for the Court Services Division (CSD)
- (1) Sergeant overseeing BWC issues for the Specialized Operations Division (SOD) - transit deputies - and the County-Wide Services Division (CWS) parks, hospitals, other county facilities
- (4) Deputy Generalists for operations support and training
- (1) Senior Typist Clerk (STC)
- (2) Law Enforcement Technicians (LET) for maintenance, equipment deliveries, etc.

Technical Support

- (1) Principle Information Systems Analyst (PISA)
- (1) Senior Information Systems Analyst (SISA)
- (1) Network Security Analyst

Criminal Investigation and Technical Analysis (assigned to Fraud and Cyber Crimes Bureau)

- (2) Deputy Investigators (Bonus II Deputies) to assist with BWC footage collection and forensic analysis in DIS's or other critical incidents with criminal implications.

The BWC Unit will be centralized in two locations – at yet-to-be-determined sites in the LA Basin and the Antelope Valley. It is important that adequate funds are made available to lease space if existing space in another secure LASD facility is not available.

A final issue in the department's implementation plan is overtime for the BWC Unit. The finalized LASD BWC Program plan will include a budgetary request for overtime. This is an important part of the implementation strategy. The overtime will allow the Unit personnel to:

- respond after hours and on weekends to critical incidents such as deputy-involved shootings to collect and conduct preliminary forensic analysis of BWC footage from involved deputies;
- assist the Discovery Unit in meeting legislative time requirements for PRAs;
- conduct BWC program public education and training session; and,
- attend to a multitude of miscellaneous time sensitive duties that will inevitably arise in the first year or two of the BWC implementation.

Factors Affecting Implementation

Implementing a project of the size and scope as the LASD BWC program is, in many ways, an exercise in systems thinking and organizational multi-tasking. When there is a significant action in one part of the organization, there will be an inevitable reaction in other parts. This is the case with the BWC program. There are multiple components of the program that have an interconnected relationship. For example, the cameras cannot be used at the station level until aged technology infrastructure is upgraded and available bandwidth increased. And certain policy and training decisions cannot be made until a procurement model is determined and a BWC vendor selected with the ability to supply almost 5,300 BWCs to the department.

The swift implementation of the LASD BWC program is contingent upon a variety of factors, but the key ones are staffing availability for the BWC Unit and the procurement of the BWCs. Re-assigning staff to the BWC Unit and backfilling the vacancies created by the transfers speeds the Unit's ability to engage in its tasks and responsibilities. Waiting until the backfill positions are filled will, in all likelihood, delay the BWC implementation. Of course, this model is not without consequences to other parts of the department. If the decision is made to quickly re-assign personnel to the BWC Unit, it will be the responsibility of the department's leaders to manage and mitigate the organizational impact of re-assigning personnel to the BWC Unit.

There are multiple, complicated issues involved in the procurement decision of the magnitude of this program. Clearly, the quickest way to operationalize the BWCs in the LASD is through a "sole source" or "bid waiver" process (such as the one utilized by Ventura County when purchasing BWCs for the Ventura County Sheriff). However, such a process may not be appropriate in LA County. The IACP team does not make a recommendation in this area. It is addressed here simply as a means of demonstrating the most significant factors affecting a timely implementation of BWCs in the LASD.

LASD's BWC Training Plan

The LASD BWC planning staff has put a great deal of thought into training the department in preparation for the implementation of BWCs. They have interviewed other agencies, researched best practices, and consulted internally with appropriate training experts and stakeholders. They are in the process of documenting the departmental training plan and

curriculum, but it has not yet been finalized. The IACP team's conclusions are based on its understanding of the training plan as described by the BWC planning staff.

The first phase of the department's training for BWCs will focus on the patrol personnel and station detectives who will eventually wear the cameras. Each patrol deputy and sergeant will receive eight hours of instruction. This will be accomplished by offering at least two training opportunities for each station on an overtime basis. Given the department's current staffing levels and service demands, this is the only realistic way to train the patrol personnel. It is anticipated that the department can effectively train one station per week. The training will be done just prior to the deployment of the cameras at each station.

The patrol-focused training will be comprised of three components:

1. Classroom instruction on the operation of the cameras and the digital management system used to download and store the camera footage;
2. A two-hour block on BWC policy (to include SB1421 and AB748); and,
3. Several hours of reality-based training where the deputies will go through simulations of situations in which they will be required to activate or not activate the cameras.

In addition, each deputy will be required to sign a document acknowledging their training and understanding of it.

There will also be appropriate training for non-station investigators and non-patrol supervisors sometime in the future. This training is intended to provide them with knowledge about the operation of the BWC system and the capabilities and limitations of the cameras, the digital management system used to store the footage, department policy, and pertinent state law regarding BWCs.

As a result of discussions with LASD staff, the IACP team believes the department's training plan and curriculum will be adequate to meet the needs of the department and follow best practices. The necessary components are going to be included, and the overtime training plan is reasonable. In addition, the IACP team believes the training plan will meet the training recommendation as outlined in the COC BWC report.

The Impact of Future PRAs and the Need for a BWC Contingency Fund

One of the current challenges in determining personnel needs for the BWC program is the uncertainty surrounding PRAs pursuant to SB1421 and AB748. Forecasting future personnel needs by reviewing the LASD's limited experience with SB1421-related PRAs is extremely speculative but represents the best available data (AB748 is effective 7-1-19 and deals with BWC footage that the department does not yet have).

In 2018, the LASD processed 767 PRAs. This represents a monthly average of approximately 64 PRAs. Through the end of April 2019, the department has processed 1,020 PRAs. This

represents a monthly average of 255 PRAs and is a 298% increase over last year. In 2018, only 17 of the PRAs would have been classified as SB1421-related. Through the end of April 2019, the department has processed 243 SB1421-related PRAs. The following chart illustrates these numbers.

| | 2018 | JAN-APR 2019 |
|-------------------------|------|--------------|
| PRA Totals | 767 | 1020 |
| Monthly Ave. | 64 | 255 |
| SB1421-related* | n/a | 243 |
| SB1421 Mo. Ave.* | n/a | 20.25 |

*SB1421 was signed by the Governor on 9-30-18 and became effective 1-1-19. AB748 was signed by the Governor on 9-30-18 and will become effective 7-1-19

Some of the 2019 PRA requests relate to older incidents because these are now releasable. This has created a backlog of PRA requests for records about deputy-involved shootings (DISs). Once this backlog is cleared, it is possible that the number of SB1421-related PRAs will level out.

In addition to the requirements for records under SB1421, AB748 mandates that the LASD will be required to comply with requests for BWC footage and audio recordings that it does not currently release. This will necessitate the review and redaction of BWC footage in DIS's (and other agencies' officer-involved-shootings that the LASD investigates on the behalf of those agencies) and incidents involving deputies' use-of-force (UoF) that result in death or great bodily injury. For just the DIS/OIS cases in 2018, there were 40 shootings that would have fallen under the purview of AB748 and therefore subject to release. There were many other cases of use-of-force that would have fallen under AB748. The numbers for 2019 YTD are on-pace to meet 2018's totals.

The LASD is in the process of reviewing and modifying its data collection systems within the framework established by SB1421 and AB748. Prior to the passage of this legislation, there was no requirement for the LASD to collect data in a manner to facilitate SB1421/AB748 year-to-year comparisons or the forecasting of future impacts. Therefore, it was not feasible to complete an in-depth impact analysis by this report's deadline. However, it is reasonable to assume, that with the public access to records and BWC footage made possible through SB1421 and AB748, there will be an increase in PRAs for records. The LASD has not previously used BWCs, nor been required to release other video footage or audio recordings it considered investigative material. It is reasonable to conclude that the new legislative mandates and the implementation of BWCs will add significantly to the workload of the department. The extent of the impact should be discernable within the first 12-18 months of the BWC implementation.

The purpose of a contingency fund is to provide resources to the department to address the technological, organizational, societal, and legal uncertainties whose impact is either underestimated or unforeseen. Any technology/societal/legal project of the size and scope as the LASD BWC project will almost certainly experience some unexpected challenges. The

planning and research of the LASD staff, the COC, the OIG, and the CEO ensures that the uncertainties will be kept to a minimum. This fact notwithstanding, the IACP team feels strongly that the County, and all pertinent stakeholders in the BWC issue, will be well-served by the creation of a BWC contingency fund as part of the BWC implementation. The previous discussion of PRAs is an example of the (legislative) uncertainty, and potential impact, surrounding the implementation of this project.

Implementation Milestones

It is the IACP team's belief that the LASD BWC planning staff has mapped-out all key steps and milestones using project management software. Milestones and project management software are important tools to ensure large projects are completed on-time and on-budget.

The IACP team agrees with the milestones it believes have been identified by the LASD planning staff. These include:

1. Finalize project plan and budget
2. Finalize BWC policy
3. Receive BOS approval
4. Finalize procurement methodology
5. Acquire BWCs and necessary equipment and services
6. Begin infrastructure upgrades in all LASD facilities
7. Train new BWC Unit personnel
8. Begin training all patrol and station investigative personnel (1-2 per week)
9. Rollout BWCs (one station per week, starting with the 5 identified 1st phase stations)
10. Monitor initial rollout sites
11. Continue rollout
12. Complete implementation
13. Evaluate implementation and address any issues in equipment, training, or policy

It was not possible at the time of this report's submission to determine exact dates or offer a more granulated perspective on the project management of the BWC Program because the planning and key decisions have not been finalized or made.

FINDINGS

As the LASD BWC Program plan is understood through interviews and the review of pertinent documents, IACP makes the following key findings:

1. The LASD BWC plan has been thoroughly researched by LASD staff. They have engaged in high level planning for the eventual implementation of BWCs. This has included a deep understanding of BWC-related literature, attendance at multiple BWC conferences and workshops, interviews with many practitioners, and numerous discussions with various stakeholders.
2. The LASD BWC Program plan, with 33 new employees, is adequately staffed and more financially realistic, \$20,221,762 one-time startup costs and \$14,169,223 ongoing costs, than the department's previously submitted proposal. However, it is predicated on several assumptions whose realization, or lack thereof, likely will impact LASD operations, and ultimately, the cost to the County. These assumptions include centralizing the staff of the Body Worn Camera Unit, releasing only BWC footage that is required by state law (SB1421 and AB748); using a cloud-based (versus on-premises) storage solution; responding to a reasonable number of public record requests; and, the issuance of smartphones to deputies. Furthermore, while this current plan appears adequate, there is a need for a reserve contingency fund of at least \$2-3 million to address unanticipated factors that may impact the assumptions upon which the final plan will be based.
3. All stakeholder groups contacted by IACP are interested in LASD equipping its deputies with BWCs and have concerns about the impact of the cameras. Broadly, these concerns relate to trust, confidence, transparency, accountability, activation, potential abuse of the system, ease of use, storage of footage, release of footage, cost, adequate staffing and resources, system efficiency, system effectiveness, and the success of the program. LASD labor unions share several concerns about future LASD BWC policy and have valuable input that will benefit the policy development process. These concerns include BWC activation, microphone muting, workload impacts, and footage review. In addition, they expressed concern that the department might unintentionally allow some supervisors to use BWC footage to unfairly target individual deputies for minor policy violations.
4. There is a recognition that the County's justice components represent an ecosystem in terms of technological, budgetary, procedural, and policy interconnectedness that will be significantly affected by the introduction of more than 5,300 additional BWCs to be used by the LASD alone, and perhaps another thousand used by other county policing agencies. Implementing BWCs within the LASD will have significant impacts within the

organization and in other parts of the County's justice system. e.g. District Attorney, Public Defender, and Alternate Public Defender.

None of the County justice departments currently have sufficient staff and technical resources to successfully implement the envisioned BWC program. If the impacts on the affected County departments are not addressed with additional personnel and resources, several of them will risk being unable to fulfill basic aspects of their ethical and statutory obligations. This is especially true for the Public Defender and Alternate Public Defender

5. Many of the stakeholders whom the IACP team interviewed made reference to LAPD's BWC implementation and policies as examples of promising practice. It is noteworthy that LAPD currently considers its BWC footage investigative material and not subject to release under California law – with the exceptions of pursuant to discovery and under the new guidelines of recently enacted California law SB1421 and AB748. In addition, the LAPD policy requires officers to review BWC footage prior to writing their reports (see Appendix VI for copies of the pertinent LAPD policies).
6. A literature review regarding the policy issue of allowing peace officers to review BWC footage prior to writing their reports and/or providing statements reveals that this issue varies across jurisdictions with leadership sentiments and community expectations influencing this policy decision. As a result, the IACP does not take a definitive stance on this issue, but instead, recommends that the LASD consider input from all stakeholders in this area. The reports by the OIG and COC provide input on this issue.
7. There is a longstanding, cultural practice of deputies providing voluntary statements after critical incidents. When drafting its BWC policy, the LASD should consider the potential impact on these voluntary statements if deputies are not allowed, in many circumstances, to view their BWC footage prior to writing their reports and/or providing statements to investigators.
8. It is anticipated that LASD BWC policies, as determined through interviews, will follow state law.
9. County regulations that impact the retention of future LASD BWC footage need to be re-examined with privacy concerns and financial costs associated with lengthy retention in mind.
10. There is a wide diversity of thought – with some overlap –among stakeholders regarding the definition of success for the LASD BWC program. The OIG and COC reports provide insight into their perspectives on the purpose of BWCs and what variables of program success they consider important.
11. More deliberation needs to be conducted regarding the nature and scope of an evaluation of the LASD BWC program.

12. There is not a LA County-wide set of BWC standards regarding the use of BWCs by other policing agencies. Currently, County justice entities receive BWC footage in a variety of formats (i.e. thumb drives, DVD's, email, hand delivery). This increases the County's cost for using BWC footage. The entire county could benefit from a uniform set of policies and practices regarding the police use of BWCs. All LA County police agencies file their respective criminal cases with the DA. Accordingly, the DA is the organization best positioned to organize and lead the county-wide development of these standards.
13. Hacking and manipulations of digital footage is increasing at an exponential rate – in both scope and sophistication. The County justice agencies are not adequately resourced to keep abreast in these rapidly changing areas. Eventually, there will be serious consequences if the County's collective expertise in this area is not increased.

RECOMMENDATIONS

As the LASD BWC Program plan is understood through interviews and the review of pertinent documents, IACP makes the following key recommendations.

1. **The anticipated LASD BWC Plan should be considered adequate with a funding level of \$20,221,762 startup and \$14,169,223 ongoing (not adjusted for future increases in salary and benefit costs). This represents approximately 33 new full-time employees, overtime, training costs, adequate technology upgrades, and requisite hardware purchases. An adequate financial reserve (\$2-3 million) should be considered essential in FY2019-20 to address unforeseeable legislative, judicial, operational, and societal impacts. A similar reserve will be important in each subsequent fiscal year until it is clear the program has stabilized and the state legislative intention in this area of policing is clear.**

A significant amount of research and planning has been done by LASD and County staff relative to the efficacy of the BWC concept and implementing a BWC program at LASD. And the department has completed its pilot program to acquire real-life experience with using BWCs in the organization. In addition, both the OIG and COC have conducted research regarding the efficacy and value of the BWC program. Both entities are supportive of the LASD equipping its deputies with BWCs.

The IACP team finds no substantive flaws with LASD research efforts, planning/pilot process, or proposal for staffing its BWC program. The staff involved in this project are extremely knowledgeable about BWC technology, policy, and practice and conversant about where BWC technology and the industry are headed. Finally, they are experts in LASD. Based on decades of experience, they have intimate knowledge of the organization's functions, responsibilities, culture, and operational realities.

The LASD BWC plan, as understood through interviews and document reviews, clearly employs a minimal staffing strategy. The IACP team finds no substantive flaws with LASD staff's methodology regarding the calculation of time commitment and personnel requirements. However, the BWC staff's diligence in its attempt to minimize personnel costs also causes the IACP team to recommend the creation of a contingency fund.

Policymakers should be clear that LASD's personnel planning is predicated on certain assumptions, almost all of which relate to the understanding of the review/audit, redaction and release parameters of the department's eventually-adopted BWC policy. If the assumptions on which staff based their plans change, there could be inadequate personnel to carry out the department's BWC responsibilities without adversely affecting its ability to maintain its current level of service. This could also adversely affect the ability to audit BWC footage for compliance and training. With sufficient

personnel, the BWC program can also assume an inward-looking posture to advance training, policy, and cultural change.

The IACP team finds no flaws with LASD's proposal to create a new unit to implement and manage its BWC program. By assigning personnel in a centralized fashion the department is more likely to achieve organizational coherence of policy and practice, and accountability should be enhanced on an organization-wide basis.

The IACP team has heard repeatedly from stakeholder groups that it is time to implement the program. IACP agrees. If the political interest still exists to implement BWCs in LASD, then the amount LASD is requesting to implement the program should be allocated as soon as possible. This will facilitate a timely implementation of the program during FY2019-20.

The substantial LASD research and its BWC pilot program notwithstanding, unforeseen issues will inevitably arise during the early stages of the program implementation. Not the least among these is the impact of recently enacted state legislation that directly addresses policing and BWCs (e.g. SB1421, AB748). Accordingly, IACP recommends the County allocate and hold in reserve \$2-3 million that can be used to address unforeseen issues relative to legislation, judicial decisions, personnel, equipment, and technology. This will ensure the success of the program and give the County the means to be good stewards of the public's investment in the use of BWCs by the LASD.

2. **The staffing and adequate resourcing of the other County entities affected by the LASD BWC Program should be considered essential to the success of the program. This will ensure that the impacts of the BWC program are mitigated and its benefits are optimized County-wide. This should include personnel, technology, infrastructure, and equipment, including the unique requirements some of the justice agencies have to retain evidence. e.g. BWC footage would have to be retained for the life of the defendant/client.**

The other County departments affected by the LASD BWC program should be adequately staffed and resourced to mitigate the impact of the LASD BWC program. IACP estimates that when LASD completes its BWC implementation, the amount of BWC footage the DA, PD, and APD now receive from the LAPD and other BWC-enabled police agencies in LA County will essentially double. As other LA County police departments implement BWCs, this problem will be exacerbated.

While the IACP team did not conduct a comprehensive analysis of the impact BWCs have had on the DA, PD, and APD, it became apparent during its interviews with staff from those offices that they are barely managing the impacts of the BWC footage they are currently receiving. Adding LASD's footage to the system, without an adequate infusion of staff and resources, will in all likelihood, severely damage the ability of those

offices to fulfill their justice mission and the County's moral and legal responsibilities to the fair and equitable administration of justice.

3. **LASD should form an internal users' group representing affected department personnel, and an external advisory committee representing affected County departments and oversight bodies, to adjust policy and practice as operational experience is gained from the use of BWCs.**

The actual users of any technology like BWCs develop tremendous knowledge about how well the implemented solution is working. The deputies who will be using the department's BWCs will possess information vital to the efficient and effective operation of the overall program. The degree to which the deputies accept the technology will be a function of how much they trust the program and its technology. In turn, this trust is a function of how much input and involvement they believe they, or at least representatives of their peer group, have had in the deployment and on-going operation and evolution of the program. The extent to which the other affected County departments support the program will be a function of their opportunity to provide meaningful input into those aspects of the program that affect them.

Accordingly, the IACP team feels that a users' working group consisting of affected LASD personnel and an advisory committee made up of representatives from those County departments, offices, and commissions (e.g. DA, PD, APD, OIG, COC) affected by BWCs would greatly benefit the County and its BWC experience.

4. **Planning should begin as soon as possible for an evaluation(s) of the BWC program. As part of this planning process, an agreement should be reached among the key stakeholders regarding what metrics that will be used to measure program performance. The evaluation(s) will be driven by how stakeholders define the program's success. The sample *Indicators of Success* included in this report's Appendix I can serve as a starting point for planning and discussions.**

There is a wide diversity of thought – with some overlap – among stakeholders regarding the definition of success for the LASD BWC program. An example of BWC metrics, and their data indicators, are included in the Appendix I of this report (*Sample Indicators of Success*). Examples of some indicators of success as articulated to the IACP team include, but are not limited to:

- an increase in the public's trust and confidence in LASD;
- an increase in trust and confidence in LASD by its workforce;
- BWC footage is made available in a timely manner to relevant stakeholders;
- the BWC program is transparent;
- the BWC program helps LASD hold itself more accountable;

- a noticeable reduction in complaints against deputies and their use-of-force;
- a reduction in civil claims, lawsuits, and settlement costs;
- exoneration of deputies in complaints more often, and with more certainty;
- a positive impact on the prosecution of criminal cases in which BWC footage is available;
- the BWC program is cost-effective; and,
- the BWC program works operationally and does not add an unreasonable amount of effort to deputies' current workload.

A competent evaluation of the BWC program will determine what metrics are most important in the determination of the program's success. This is where key stakeholder input is crucial and why it will be important that entities like the OIG, COC, DA, PD and APD are included in the process. Once a common definition of success is determined, a scientifically rigorous methodology can be determined, and the evaluation conducted.

Evaluations of a program like this can vary in complexity and cost. The more rigorous the evaluation, the more expensive. Fortunately, there are several universities with researchers in the greater Los Angeles area that have the capability to conduct these evaluations. The IACP team encourages the County/LASD to contact these universities and gauge interest in participating in the program. In addition, there are existing data sets that provide low-cost access to indicators that the program is effective along stated dimensions.

The IACP team recommends that the County, not the LASD, contract for an evaluation(s). This is not recommended because the team believes LASD personnel will exert undue influence on the evaluator(s). In fact, the team feels quite the opposite. It is solely to maintain as much objectivity in the evaluation(s) as possible. If the LASD is not controlling the purse strings of an evaluation of its BWC program, it will be much easier for the public to accept the findings as scientifically objective and valid.

A note of caution is appropriate in this discussion of evaluations. Policymakers and community members must remember that correlation does not infer causation. Care must be exercised in concluding that certain BWC program observations (positive or negative) are the result of the program. They could be the result of confounding effects - factors or influences outside of the program that affect the perceived outcomes of the program. The total cost of the County's LASD-related settlements could increase after BWCs are introduced, for instance, not because they don't reduce the number of lawsuits but because one or two abnormally large settlements were paid that skewed the bottom-line amount.

Utilizing the services of competent researchers or research organizations will, in all likelihood, avoid the most common evaluation-related errors. In turn, this will provide both policymakers and the public with the information they need to determine if the LASD BWC program is effective. Additional discussion is provided in the Program Evaluation section of this report.

5. **Appropriate BWC training should be developed and conducted for all affected personnel in the LASD, DA, PD, APD, and any other County department offices, commissions, or advisory bodies affected by the implementation of BWCs.**

In addition, some form of public education about the BWC program should be developed to facilitate the public's understanding of the purpose of the program, how BWCs are used, what their limitations are, and their value in advancing transparency, accountability, and the administration of justice.

It is vitally important that all affected personnel in LASD, DA, PD, APD, and any other County departments affected by the implementation of BWCs by LASD receive adequate training in those aspects of BWCs that affect them.

LASD and the County should also offer orientation training in the BWC program to other entities like the OIG, the COC and appropriate community advisory groups. This helps ensure a comprehensive organizational alignment of understanding about what the BWC Program is, what it does, and the limitations of the technologies.

Failing to appropriately train all County personnel or volunteers impacted by the BWC program may lead to decreased efficiency and effectiveness or even an increase in County liability and reputational risk.

BWCs used by law enforcement organizations have taken a prominent place in the public dialogue relating to the public's trust and confidence in policing. However, many people simply do not understand how BWCs work, how they are used, what their value is, and what their limitations are. A very common misunderstanding is that if a BWC footage exists in a controversial incident, it will demonstrate the wrongfulness, or rightfulness, of the officers' actions. However, BWC footage is frequently hard to understand, may not capture important actions, and sometimes, generates more questions than answers.

Accordingly, IACP recommends that a public education course, like "BWCs 101," or some other public education mechanism be developed to help the public understand what BWCs are, the rationale for their use, their value and limitations, and what efforts will be taken to measure the effectiveness of the program. This may be accomplished through the development of public presentations, focused media/social media campaigns, or the production of a short training video that can be placed on LASD or LA

County websites. This recommendation is consistent with the recommendations made in the COC BWC report.

An additional BWC public awareness/training step the LASD should consider is the production of community critical incident briefings. Deputy-involved shootings or incidents of use-of-force resulting in serious bodily injury or death are of acute public interest and how the department responds to this interest is directly connected to community trust and confidence in the LASD. There are emerging models for conducting these briefings but there is insufficient experience to label them prevalent or best practices. However, their promising nature dictates the LASD at least consider producing them.

One thing seems to be clear about these briefings; they must be done in a timely manner. Waiting months after a critical incidence to release detailed information (and the BWC footage) seems to diminish the value to the community and its sense of trust and confidence in the police. In an information vacuum, people will typically fill the void with their own narrative based on their experiences, those of their friends and acquaintances or what they consume on social media. Once that mental model of the incident is formed, it is very hard for police agencies to change it. Timely release of BWC footage is an important recommendation of the COC in its BWC report.

6. **LASD should take proactive steps through appropriate department messaging, clear policy development, leadership accountability, and program oversight to ensure that the department does not unintentionally allow some supervisors to use BWC footage to target employees for minor policy violations. The LASD should address when supervisors will be allowed to view BWC footage and any related limitations.³**

BWC programs have *external effects* involving their impact on the public's trust and confidence in the department, and, *internal effects* resulting from the workforce perception of how the organization uses the technology in terms of accountability and discipline. The workforce's sense of trust and confidence in the organization – sometimes referred to as organizational legitimacy – is as real as the community's sense of police legitimacy regarding the department.

An issue LASD labor representatives expressed to the IACP team was their interest in the department not allowing supervisors to use the BWC footage to seek possible policy violations and target certain employees. Their belief is that “if you watch anybody with a body camera in their workplace long enough, you will eventually catch them violating, even unintentionally, some policy, somewhere” (this is a paraphrased quote). Overall,

³ For additional discussion, see the IACP Policy Center documents on Body-Worn Cameras.

the labor representatives were supportive of the BWC program. However, they did not want the department to allow supervisors to use the BWCs to target certain employees for personal reasons and believed that supervisors should be held accountable in this area.

This is another area where a BWC Users Group would be beneficial to the department. The group can provide valuable insight into the operational aspects of the program and help inform policy development that facilitates the cultural acceptances and sustainable success of the program. If labor representatives are included in the group, early indications that the BWCs are being misused may be articulated, and the issue addressed before it becomes problematic.

Labor representatives indicated to the IACP team that they were supportive of the BWCs being used for training purposes. If, as expected, periodic compliance audits are conducted that reveal episodic, minor policy or procedural violations, supervisors can provide deputies with corrective, non-punitive direction. It is important in these cases that disciplinary actions not follow these audits unless intentional and/or egregious policy violations or criminal acts are detected.

All of these issues can be addressed during the department's policy development process which should include input from the relevant labor organizations and legal advisors.

7. **A reasonable degree of flexibility regarding new BWC-related positions should be incorporated into the BWC implementation to allow for unforeseen developments, new understanding of operational responsibilities, technical requirements, and legislative impacts.**

As indicated in this report, there are multiple uncertainties that may affect the BWC program. One of those is the number and type of employee the BWC Unit will need to carry-out its responsibilities. For the first year of operation, the County can facilitate the success of the BWC program by allowing a reasonable degree of flexibility in the number and types of personnel the Unit leadership believes is necessary to make the program effective.

The LASD planning staff has proposed an organizational structure for the BWC Unit that makes sense and will probably not need to be substantively changed. But it may need slight modifications as operational realities become apparent or other factors change. This recommendation does not call for a carte blanche approach to personnel issues within the Unit, rather, a reasonable, flexible approach to staffing the unit its first year makes eminent sense.

8. The LASD BWC policy and LA County policy should, to the extent possible, follow the promising practices, lessons learned, legal analysis and recommendations in this report and those made by the OIG and COC.

The promising practices, lessons learned, and the legal analysis found in this report, represent the best available information as compiled by the IACP and LASD BWC Project staff. They also represent the experience of several police departments that have implemented BWCs and have extensive experience in this area.

Considering diverse perspectives on an issue as important as BWCs will undoubtedly result in better policy decisions. Accordingly, the IACP recommends that the work of the OIG and COC on the BWC issue be considered as the LASD BWC policy is finalized. The material presented by the OIG and COC BWC reports represents significant effort to examine the topic of BWCs and present the information from a perspective different from that of the IACP team. Their recommendations, while similar in many ways, also come from a very different perspective – both important to the formation of BWC policy. The COC report also reflects the best effort to determine what the people of LA County think about the LASD's use of BWCs. This community input is invaluable to the policy formation process.

IACP recommends that the LASD and the County use the practices, lessons learned, and recommendations presented in this report as a roadmap to success for this program.

As the LASD BWC policy develops, staff should ensure that it addresses the following issues (which reflect prevalent BWC practices and the recommendations provided by the OIG and COC in their BWC reports):

- the purpose for which BWCs are being implemented;
- organizational responsibilities and procedures for operating the BWC program;
- when BWCs should be activated (e.g. at the outset of all enforcement activities) and when employees are allowed discretion to activate/deactivate their cameras;
- where BWCs should be restricted or prohibited;
- under what circumstances the BWCs may be deactivated and what documentation of the deactivation must be completed;
- guidelines for recording victims, witnesses and informants;
- community member notification of recording/consent to record;
- deputy review of BWC footage;
- supervisory review of BWC footage – when allowed and mandated;
- recording of interviews;

- guidelines for who can view footage;
- guidelines for acceptable organizational uses of BWC footage (e.g. training, disciplinary proceedings, etc.)
- prohibitions against modifying footage;
- prohibitions against the use of personal body cameras;
- requirements for audits of BWC usage and policy compliance;
- guidelines for producing public BWC reports;
- release of BWC footage to the public; and,
- retention of footage.

As BWC technology advances, and state law evolves, the LASD BWC policy should be updated and discussions with the COC should be held. Involving the COC – as the public’s “representative” in LASD policing matters – is crucial to building public trust and confidence in the LASD that its BWC policies are up-to-date and reflect the public’s input and understanding of the technology and how it is being used. This will be extremely important as artificial intelligence (and facial recognition) becomes increasingly a part of BWC systems.

9. **The County should purchase the most secure BWC system it can reasonably afford. This system should utilize “cloud-based” storage versus “on-premises” storage of BWC footage.**

When the County authorizes the purchase of the LASD BWC system, it should ensure that it is highly secure. It should also consider whether it has the long-term capability to stay abreast of advances in very large digital storage systems and maintain its own on-premises solution that will be immune from local natural disasters or local facility issues. When “the cloud” is referenced in the context of computers and digital storage, this usually reflects facilities that are specially designed to house “server farms” with multiple layers of redundancy. This is because the companies that store incredibly large amounts of extremely valuable and sensitive data for all facets of our society understand the criticality of securing the data.

10. **To reduce the financial impact of using BWCs and increase deputy effectiveness in the field, LASD should issue deputies smartphones to facilitate the metadata tagging of BWC footage from the field. Strong consideration should be given to following emerging national promising practices and policy development regarding policing’s use of mobile devices and allow the deputies to utilize all capabilities of the phones (i.e. photography, video, audio recording, access to the Internet, internally developed LASD apps, phone calls, texting) consistent with agency policy.**

The issuance of smartphones and other mobile devices to police officers by their employing agency is rapidly becoming a prevalent practice in policing. These devices enable users in the field to capture photographs and video in unstable or deteriorating crime scenes; make audio recordings of critical statements; utilize the built-in flashlight, compass, and GPS functions; and access crucial criminal justice system databases and online sources for critical information, such as location data, hazardous material placards, and rapidly-changing weather conditions.⁴

The deployment of department-issued smartphones provides an employer-controlled device that replaces the personal smartphones that essentially every police officer in the country now carries if they are not issued one by their employer. Mobile device management software enables issuing agencies to control what apps are on their devices and provides a requisite level of accountability in terms of how the devices are used by employees. Issuing these devices to employees means that they are owned by the employer – not the employee – and makes the retrieval of pertinent information necessary to hold the employee accountable much easier if there is a suspicion of inappropriate employee behavior.

Daily, deputies are required to phone their fellow deputies or supervisors multiple times to relay sensitive or confidential information. In agencies that have issued their officers smartphones, their experience is that officers also use almost all of the other capabilities of the devices many times a day. There is no reason to assume that LASD experience will be any different. The IACP team believes that if LASD deputies are issued smartphones, their efficiency, effectiveness, and digital accountability will increase significantly. A competent cost-benefit analysis would most likely reveal that the devices pay for themselves across multiple organizationally important metrics.

Finally, stories were relayed to the IACP team of LASD deputies unable to access the cellular system during the recent “Woolsey Fire” which devastated portions of northwest LA County and southwest Ventura County. They tried using their personal smartphones, but the publicly accessible cellular system was overloaded at times, and they were unable to make critical calls. The *FirstNet* public safety radio and cell system – which gives public safety frequency priority – can be accessed with department-issued devices to eliminate this critical problem in the future.

- 11. There should be a recognition among the significant stakeholders that the LASD BWC Program represents a new dimension to the existing County justice ecosystem with multiple cross-department connections and implications.**

⁴ See the IACP Policy Center documents on Mobile Communication Devices available at <https://www.theiacp.org/resources/policy-center-resource/mobile-communication-devices>.

This consulting experience has highlighted two critical realities that all of the stakeholders in this issue should recognize: 1) there is a definite LA County justice ecosystem with multiple interrelated parts that rely on each other for the fair and equitable administration of justice, and 2) the LASD BWC program represents a new dimension to that ecosystem which will have rippling effects across multiple County agencies.

BWC footage captured by LASD in criminal cases will need to be forwarded to the DA's Office. In cases where criminal charges are filed, the footage must be made available to the PD or APD or private defense counsel. BWC footage carries retention timeframes that may be as short as two years for routine, non-serious-crime footage and as long as the life of the defendant in some instances of defendants represented by the PD or APD.

Viewing the County justice system as a system, in that an action in one part frequently creates a reaction in another part of the system that needs to be addressed, will ensure that initiatives like the LASD BWC program do not adversely impact other County entities. Those other entities need adequate resources to address these impacts. Without them, the County's justice system, and its obligation to fair and equitable justice, is very likely to degrade over time.

- 12. Measures of transparency and accountability should be identified and agreed upon as soon as possible. The finalized LASD BWC policy should be available on its website, and reports on the progress of the BWC program should be made publicly available. This is consistent with the recommendations set forth by the COC BWC report.**

The IACP team repeatedly heard from internal and external stakeholders that transparency and accountability are significant concerns about the BWC program. How this is achieved, and to what degree these values are realized, will require balancing multiple, and sometimes, competing interests.

At a minimum, LASD can make its BWC-related policies and procedures available for public examination on its website. Recently enacted state law (SB1421, AB748) will compel the release of certain types of BWC footage. This will almost certainly increase police transparency and accountability. An adequately constructed footage distribution system will ensure that all interested parties in criminal actions are given appropriate access to relevant, discoverable material to ensure a fair and equitable system of justice.

The dissemination of BWC footage can be an arduous, expensive task. Ensuring that appropriate redaction is accomplished is not inexpensive. LAPD, for instance, currently employs two civilian reviewers of BWC footage in each of its 27 city-wide divisions – and that is before the impact of the recently passed legislation is considered. It is adding an additional 40 positions to this classification over the next two fiscal years to meet what it perceives as the demands of the legislation.

One reason LAPD's personnel requirement is higher than that of the LASD's proposed BWC program may be the result of LAPD's organizational interest in using BWC technology to verify policy compliance. In addition, the cultural differences between police and sheriff departments that relate to staffing philosophies almost certainly has an effect on the variance in BWC staffing decisions. Police departments almost always have a higher staffing bias than do sheriff's departments. This difference is historical and cultural in nature. Neither is better than the other – they are just different, and in many ways, reflect the differences between city and county governments and how their leaders see their responsibilities and available resources.

The "BWC Scorecard" in Appendix II of this report is illustrative of the kinds of transparency and accountability measures that can be implemented in a BWC program.

Appropriate policymakers ultimately must determine what is reasonable and able to be accomplished relative to program transparency and accountability given personnel, fiscal, and legal constraints.

- 13. County regulations impacting the retention of future LASD BWC footage should be re-examined with privacy concerns and financial costs associated with lengthy digital retention in mind.**

There are financial, legal, and privacy concerns involved in the retention of BWC footage. The County must follow the legal requirements for footage retention. While the cost of digital storage continues to drop, the amount of data the LASD BWC program will produce will be prodigious. Costs associated with the storage of the data should be considered after legal requirements are met.

- 14. The DA's Office, as the organization best positioned to lead the county-wide development of standards for the police use of BWCs, should try and create a county-wide working group to create standards for use of BWCs in criminal cases. Such standards should include, but not be limited to, use, technical specifications, security, and storage. The DA's Office should be adequately staffed with sufficient additional personnel to accomplish this.**

The DA's Office is where the majority of criminal cases are filed by LA County law enforcement agencies. As such, the IACP team believes the DA's Office is best positioned to serve as a champion for the county-wide policing organizations to adopt a common standard relative to BWCs. Such standards should include, but not be limited to, use, technical specifications, security, and storage. This will increase the efficiency and effectiveness of the BWC systems employed in LA County and can serve as an example for other jurisdictions.

The County should ensure that the DA's Office is adequately staffed with sufficient additional personnel to accomplish this goal, but consideration should be given to the possible impact on the DA's operations.

- 15. If the County issues a request for proposal (RFP) for the LASD BWC Program, it should be written in such a way as to allow other LA County police agencies to take advantage of and utilize on the County process. This will facilitate a county-wide common BWC standard.**

The IACP has not been charged with opining about the options of an RFP vs utilizing another entity's RFP for the acquisition of the LASD BWCs. However, if the County employs its own RFP, then it should be developed in such a way as to make it easy for other cities in LA County to join the County process. This should result in savings to the taxpayer, and importantly, help ensure some degree of uniformity and efficiencies among the BWC systems employed throughout LA County. Given the current state of BWC system technology, if there are multiple types of BWC systems developed by multiple vendors, used throughout LA County, the complications and attendant costs to the County criminal justice system components will be substantial.

Creating a county-wide standard for BWC systems that results in relative uniformity will ensure the technology is employed seamlessly, and that the involved entities remain good stewards of the taxpayer dollar.

- 16. The County's purchase of a BWC system should ensure seamless sharing of digital files/footage pursuant to evidentiary discovery and include licensing to make certain that the Offices of the Public Defender and Alternate Public Defender have the same, yet independent, access to BWC footage currently afforded the DA's Office.**

As part of its BWC purchase, the LAPD ensured that the DA's Office had system access to its BWC footage. This did not extend to the offices of the Public Defender or Alternate Public Defender. If LASD implements its BWC program at the scale envisioned, there will be a substantial impact on the other County criminal justice components. By providing adequate personnel, resources, and seamless access to the acquired system, the County's obligation to provide for a fair and just criminal justice system will be met.

Doubling the amount of BWC footage when LASD's program goes on-line will have significant impacts on all three county criminal justice legal offices (DA, PD, and APD), and they will require additional personnel and resources to stay abreast of their legal obligations that are impacted by BWC programs. They also must have access to the BWC system which will make both technological and operational sense.

The current method of hand carrying or emailing individual BWC files from LAPD and other LA County agencies is overly burdensome and inefficient. Doubling that impact

will likely have exponentially impactful, and substantially negative effects, on those departments.

The most effective solution to this dilemma is to provide the Public Defender and Alternate Public Defender with appropriate, similar access and resources currently in place with the DA's Office. This should be done as a function of the County's BWC purchasing process and will ultimately lower County costs over time and directly addresses the legitimacy of the County's justice system.

- 17. LASD should continue to access the LAPD's BWC experience in technology acquisition, policy development and implementation, and sustainability strategies to leverage the County's investment in its BWC program.**

One of the challenges of being an early adopter of innovative technology and practice is that organizations incur greater effort and cost than those that follow and take advantage of the lessons previously learned by the early adopters. Such is the case with LAPD and LASD. LASD is in the enviable position of being able to learn from LAPD's BWC experience, thereby reducing its staff commitment and implementation costs. This statement should in no way be construed to minimize the work of LASD staff in preparing the organization for implementing BWCs.

However, given LAPD's experience with BWCs within LA County, and its proximity to LASD, LASD should continue to pay close attention to the on-going lessons learned at LAPD and find ways to collaborate with LAPD personnel on the evolution of BWCs in LA County. The IACP team encourages the two departments to continue their collaborative BWC relationship. In addition, the LASD should strengthen its connections to the policing agencies the IACP team contacted for this report and whose input helped create the list of "lessons learned" as documented elsewhere in this report. They can, for example, create a "community of interest" aimed at increasing their collective knowledge of BWCs. This would benefit not only the agencies but the millions of people they collectively serve.

- 18. LASD should incorporate as much of this report's legal analysis as possible in its development of its BWC policy.**

As part of this consulting process, the IACP employed the services of one of California's leading police policy experts where his practice is focused on defending public policing entities in civil litigation. Accordingly, he is an expert at balancing a public entity's desire for transparency and accountability and protecting taxpayer interests in police-related lawsuits. IACP recommends LASD follow his BWC-related recommendations as articulated in this report.

- 19. LASD policy should prohibit the use of personally owned BWCs by on-duty personnel. This is consistent with the recommendation made by the COC in its BWC report.**

Personal BWCs are not built to the same standards as those sold to law enforcement. They are subject to failure and video corruption issues. Personal BWCs video, introduced as evidence in a criminal trial, may be subject to legitimate claims that it is not a reliable representation of a recorded incident. Due to a whole host of technical issues, they are considered unreliable image capturing technologies from an evidentiary perspective. This can cause serious credibility problems for LASD if deputies used them in the performance of their official duties.

In addition, the department does not have the same control over personal BWCs as with department-owned and controlled BWCs. It is difficult to keep personal BWC footage from being distributed in an inappropriate manner if the department does not have proprietary rights. Every agency whose policies the IACP team reviewed, and interviewed, prohibits the use of personal BWCs by their officers.

20. In the future, LASD and the County should consider implementing police vehicle dash cameras to augment the capabilities of the BWC program.

Every day in America, the police make tens of thousands of traffic and pedestrian enforcement stops. The majority of these interactions occur in close proximity to the officers' patrol cars. Imaging systems for field police officers are best employed in a holistic manner and capture as much of police-public enforcement interactions as possible. The most comprehensive systems employ both in-car cameras and BWCs. The most effective of these systems are integrated to ensure that footage of interactions is captured from different perspectives and can be blended into a single viewing experience. This enhances the clarity and understanding of the events captured on video.

In-car cameras provide valuable footage of an incident involving the police and a community member they have stopped. This frequently compliments footage from a BWC. BWCs can be dislodged from an officer's body during a struggle, for example, or the camera view blocked by the officer's arm. This does not generally happen to in-car cameras. And because so many officer-public confrontations during enforcement stops occur in front of the police car, the in-car footage is frequently invaluable to the determination of what occurred.

LASD does not currently deploy in-car camera systems in its patrol cars. It is recommended that the department consider doing so sometime in the future. In addition, serious consideration during a future in-car camera acquisition process should be given to the technical specification so that the BWCs and in-car cameras can be integrated.

LASD has almost 3,000 cars which would need in-car cameras. There are attendant costs for each car that is equipped with cameras – both in terms of technology and personnel.

Due to the significant workload and costs associated with adding cameras to police cars, it is recommended LASD in-car cameras not be implemented until: 1) the BWC program has been well established; and, 2) in-car technology advances to such a point that capabilities such as 360° image capture are possible.

Finally, it is recommended that if cameras are eventually added to LASD cars, they be considered an augmenting technology to the BWCs, not their replacement. While in-car cameras may be very stable, they are fixed, and unlike BWCs, cannot capture images when deputies are away from their cars. An effective, comprehensive imaging system for police officers entails *both* BWCs and in-car cameras.

PROGRAM EVALUATION

Given the substantial cost and widespread community interest in law enforcement BWCs, it is important to determine if they are effective in achieving desired outcomes. Simply put, do they work? This is a critical and complicated question. In answering this question, government must balance practical and fiscal realities.

The gold standard for scientific evaluations are randomized controlled trials (RCTs). This rigorous methodology is used in a wide breadth of scientific disciplines and is the preferred method of determining whether an intervention like BWCs has an impact on public safety, the administration of justice, and the public's sense of trust and confidence in the police.

While RCTs may be the preferred evaluation methodology, there are significant costs associated with them. A comprehensive, rigorous RCT of the LASD's BWC Program could easily cost as much as \$1 million. To determine the various methodologies available to evaluate the program, and the exact cost associated with each one, the County should begin its outreach as soon as possible with regional universities, research entities, or individual researchers.

In addition to determining effectiveness, the County should consider a cost-benefit analysis to ascertain whether the program offsets the substantial cost associated with BWC program. This can be done in conjunction with, or separate from, a program evaluation. Serious thought should be given, and guidance from experts should be sought about the type of data that will need to be captured and the systems that need to be established to facilitate data collection.

The following are examples of the kinds of metrics, evaluations, analyses the County should consider as it contemplates funding the LASD BWC program. Determining the exact metrics to be used, and what needs to be accomplished to capture the appropriate data, should be among the first responsibilities with which a BWC working group and an advisory committee should be charged.

BWC-related metrics

The following categories of metrics are examples of important indicators regarding the on-going organizational processes involved in implementing a BWC program. They do not necessarily indicate program effectiveness. e.g. The achievement of desired outcomes. There is a distinct difference between correlation and causation, which can only be determined after a rigorous evaluation. However, these indicators are crucial in the determination of organizational impacts, efficiency, and cost.

It is important to capture baseline readings to ensure that a before/after comparison can be created, and an on-going identification of organizational and fiscal impacts can be determined. Some of these suggested metrics are already in place, and some will need to be developed as soon as possible. Some are currently automated, and some will need to be captured manually.

In whatever state they exist, the importance of developing an adequate set of metrics cannot be overstated. The following are intended to be illustrative and are not a comprehensive list of potential metrics.

Organizational Impacts

- operational impacts tied to BWCs
- workload impacts tied to BWCs
- budget
- BWC-related deputy court time
- number of internal complaints or documented concerns
- incidence of use-of-force
- civil claims and lawsuits where BWCs were employed
- time to settle claims and lawsuits where BWCs were employed
- cost of claims and lawsuits where BWCs were employed

Program Metrics

- number of incidents captured on BWCs
- number of videos processed for release
- amount of time spent on redaction efforts
- time to settle criminal cases
- improved resolution of criminal cases
- number of requests for BWC footage

Community metrics

- number of complaints
- content analysis of media articles
- content analysis of social media posts
- community input at meetings
- community input to BOS
- number of BWC policy website hits

Operation and Policy BWC Scorecard

Enhancing community trust and confidence in the police, increasing organizational transparency and accountability both externally and internally, and competent operational

practices are all key goals in police BWC programs. A “BWC scorecard” is one way to gauge a program’s developmental progress and alignment with program goals and promising practices.

A sample BWC scorecard is included in Appendix II of this report. This tool blends both policy and operational aspects of the LASD BWC program. It incorporates elements of the BWC scorecards developed by the IACP team, The Leadership Conference on Civil and Human Rights, Upturn (an organization that encourages equity and justice in the design, governance, and use of digital technology), and the research organization CNA (under a contract with the US DOJ Bureau of Justice Assistance).

FUTURE CONCERNS

Sustainability

The County and LASD should begin the process of creating the organizational, community, and fiscal infrastructure that facilitates long-term sustainability of the BWC program. For example, a diverse working group, focusing on advances in technology, government, and society can help County, public safety, and community leaders better understand what policy guidelines need to be established for emerging, disruptive technologies like artificial intelligence or facial recognition. It can also increase the likelihood that the County will be able to forecast and avoid the unintended consequences of employing technology that is advancing much faster than community members and governmental or legislative bodies can appreciate.

Artificial Intelligence, Facial Recognition, and Predictive Analytics

There is a growing awareness of the presence, value, and risks in the rapidly advancing field of artificial intelligence (AI). From health, to transportation, to the environment, AI is yielding significant benefits in ways heretofore impossible to achieve. However, commentators with foresight, technology ethicists, and even those scientists and entrepreneurs responsible for advancing AI are all warning of the unintended consequences of this exponential, disruptive technology.

The County should establish an AI working group to help policymakers better comprehend the implications of AI technology that is rapidly outpacing legislative and policymaking understanding and action. This could be accomplished with one or more of the universities in the region. This group could help the County stay abreast of developments in AI and related issues and the implications for all County operations – especially those in the criminal justice arena.

Policing has already been influenced by AI. Predictive analytics software applications, for example, rely heavily on AI. Unintentional bias in software development can affect the manner in which police officers are deployed and ultimately how government polices communities. If the algorithms of predictive software are biased toward already vulnerable communities, police officers directing more of their attention to them than normal – because the software directed their attention there – will exacerbate the already tense relationship that exists between those communities and the police.

Facial recognition (FR) is another example of a rapidly advancing technology – and one that has direct application in BWCs. While this technology has public safety benefits, it also has significant implications for privacy and civil liberties. This technology is potentially very powerful, and without close monitoring, could exceed the parameters of privacy expectations.

In policing, the articulated benefits of FR generally fall into three categories: apprehending wanted individuals, officer safety, and protecting vulnerable people. For instance, through the use of FR tied to a BWC, a deputy may be able to identify a wanted individual who has provided a false name or identify individuals with disabilities, impairments, or injuries that preclude them from identifying themselves to others.

In the near future, BWC vendors will most likely be using facial *detection* (not recognition) to automate the very labor-intensive and costly process of redacting BWC video prior to its release. Currently, it takes a human being a significant amount of time to view BWC footage in its entirety, in real-time, and redact it appropriately (e.g. blurring faces of victims, juveniles, others not involved). This high cost is one of the reasons policing organizations have such opposition to releasing BWC footage to the public. If this process could be automated, and therefore become much cheaper, it is possible many police organizations would release much more of their BWC footage, thereby becoming more transparent.

Any consideration of FR must balance the benefits and costs of employing the technology. Policymakers must consider not only the value and risks of FR, but also how to create an oversight mechanism that facilitates increased public safety while not compromising privacy and personal freedoms. This is where the OIG and the COC can be extremely beneficial to the LASD. The OIG can provide an objective perspective on the policy issues regarding FR. The COC can provide invaluable input regarding public sentiment about FR and help the LASD negotiate the many privacy and civil liberties concerns associated with the technology. As BWC technology continues to evolve the LASD will be well-served by involving the COC in the discussion of its uses, limitations and community expectations.

As BWCs become increasingly ingrained in the culture and landscape of policing, expertise in forensic imaging will become more important. Police agencies will be required to prove their BWC footage has not been altered. This will necessitate that they develop in-house expertise on imaging systems and the forensic attributes of digital footage.

AI-powered “Deepfake” technology is used to digitally swap faces in video footage. One high-tech company heavily invested in AI has developed technology that is capable of creating AI-generated images of human faces which can be incorporated into video. These images are almost impossible to distinguish from real human faces.

The implications for image-generation technology are immense. There are instances in which hackers have targeted law enforcement organizations with a variety of motivations. Agencies should accept the reality that hackers will attempt to access to their BWC footage, and with the requisite skillset, can cause incalculable damage by altering this footage.

This discussion also serves to underscore the importance of buying the most secure BWC system that the County can afford. The security of LASD’s future BWC footage is directly

connected to the trust and credibility the public will place in the program. A compromised BWC system could cause irreparable damage to the County and LASD.

Other Related Technologies

The trade show floor of any large policing conference provides a tangible sense of the role technology will play in the future of policing. Many of the advancing technologies to which policing is being exposed can be integrated with BWCs. This will present an on-going challenge to policymakers and policing leaders alike. They will be offered the opportunity to utilize technology to increase police effectiveness. But they will also have to confront very real challenges to individual privacy. Balancing these interests will require new types of thinking, the sharing of information about the advantages and disadvantages of the technology, and the co-production of public safety/privacy decisions between government and community members.

The technological glue that binds many of these technologies to BWCs is AI. It is becoming increasingly pervasive in the technology the police use today or will very soon. Facial recognition, voice recognition, biometric analytics, license plate reader technology, computer aided dispatch/record management systems, and even drones have direct or potential connections to BWCs.

The argument for using these technologies is that they can make officers' work safer and more effective. Wanted individuals can be apprehended faster, so the public is safer. And as the cost of policing continues to escalate, these advances have the potential for helping control the cost of public safety. These are legitimate public interests that should not be ignored. However, many of them come with potential personal and societal costs. Many people consider facial recognition, for instance, to be a tremendous intrusion into individual privacy. And there is an argument to be made that, if a criminal justice system is currently biased against certain groups, these technologies simply make the biased system more efficient and effective in perpetuating the bias and further victimize vulnerable populations or communities.

Theoretically, technologies are neither good nor bad. They either work or they don't. It is the manner in which they are used that produced the benefit or harm. And it is people – legislators, policymakers, police leaders, and practitioners that make the decisions about how technology is used in policing. It is up to these same people, working in conjunction with the people they are paid to serve and protect, that will establish the guardrails that constrain the use of advanced technology, thereby maximizing benefit and minimizing harm.

It is beyond the scope of this report to examine the advancing technologies that will inevitably be linked to BWCs. However, in the very near future, governments like LA County will need to establish mechanisms for ensuring the police and other parts of the criminal justice system have access to the advancing technologies they need to do a better job. At the same time, these mechanisms must also ensure that whilst trying to do good, government (and especially the police) do not harm the very people they are trying to protect.

CONCLUSION

Adequate personnel and resources, shared stakeholder knowledge, collaboration, transparency, and accountability all are critical pieces of an effective BWC program. Fortunately, LASD and the County have the ability to ensure that the LASD program under consideration is implemented and operated in a manner that balances a multitude of interests and leverages the taxpayer investment in public safety.

Policing does not exist in a vacuum. It is connected to other parts of the criminal justice system, to local government, and to communities. When something as potentially impactful as BWCs is introduced to a policing agency, it will affect other parts of the justice system, government, and communities. As such, significant consideration must be given to ensuring that, in trying to do good and reform one part of the ecosystem, unintentional harm is not done to its other parts. This is why, in the face of technological advances that are increasing at an exponential rate, constant monitoring of the impact – both positive and negative – that the LASD BWC program will produce is important. This monitoring should begin at the outset of the program and continue as it advances and evolves.

As with all technology, BWCs have the potential for creating great benefit or causing great harm. Therefore, people, such as policing leaders, policymakers, legislators, and community members, not machines, should determine how this technology is used to improve public safety. It is with their collective wisdom, collaboration, and balanced interests that communities will become safer and the police more trustworthy, credible, and legitimate in the eyes of the people they are sworn to protect.

**APPENDIX I:
SAMPLE INDICATORS OF SUCCESS**

Sample Indicators of Success
Body Worn Camera Implementation Project
 Los Angeles County Sheriff's Department

Stakeholder Sentiment and
Quantifiable Outcomes Regarding
 the
Implementation of Body Worn Cameras
(BWC's)

| Sentiment/Outcome | Metrics | How Measured |
|---|---|---|
| The BWC Program has increased trust and confidence in the LASD | Public opinion about: trust and confidence in the LASD overall | Focus Groups, Interviews, Surveys, Audits, Evaluation |
| | Deputies treatment of people (greater respect and dignity) | LASD data, Focus Groups, Surveys, Audits, Evaluation |
| | Public opinion re: confidence in the BWC program, its predictability and reliability | LASD data, Focus Groups, Surveys, Audits, Evaluation |
| | Stakeholder input about the BWC program | LASD data, Focus Groups, Surveys, Audits, Evaluation |
| | Number of formal complaints against deputies | LASD data, Focus Groups, Surveys, Audits, Evaluation |
| | Resolution of complaints, claims and lawsuits against LASD personnel | LASD data, Focus Groups, Surveys, Audits, Evaluation |
| | Incidence of deputy use-of-force | LASD data, Focus Groups, Surveys, Audits, Evaluation |
| | Resolution of use-of-force investigations involving LASD personnel | LASD data, Focus Groups, Surveys, Audits, Evaluation |
| | Quality of deputy training and operations | LASD data, Focus Groups, Surveys, Audits, Evaluation |
| | Clear and comprehensive LASD policies re: BWC's (use, prohibited use, de-activation, footage review, storage, etc.) | LASD data, LASD policies, Focus Groups, Surveys, Audits, Evaluation |
| | Policy compliance by deputies | LASD data, Focus Groups, Surveys, Audits, Evaluation |
| | Deputies' discretion re: activating BWC's | LASD data, Focus Groups, Surveys, Audits, Evaluation |
| | Outcomes in criminal prosecution | DA/Court data, Focus Groups, Surveys, Audits, Evaluation |

| Sentiment/Outcome | Metrics | How Measured |
|--|---|---|
| "The LASD is transparent in its use of BWC's" | Public accessibility of LASD BWC policy | Website, Focus Groups, Interviews, Surveys, Audits, Evaluation |
| | Individual awareness of deputies recording | LASD data, Focus Groups, Surveys, Audits, Evaluation |
| | Complainants access to BWC footage | LASD data, Focus Groups, Surveys, Audits, Evaluation |
| | Public accessibility of BWC audits | LASD website, Focus Groups, Surveys, Audits, Evaluation |
| | | |
| "The LASD is accountable in its use of BWC's" | BWC program management | LASD data, Focus Groups, Surveys, Audits, Evaluation |
| | Familiarity with current technological advances | LASD data, Focus Groups, Surveys, Audits, Evaluation |
| | Familiarity with current legislation and regulation | LASD data, Focus Groups, Surveys, Audits, Evaluation |
| | Organizational accountability | LASD data, Focus Groups, Surveys, Audits, Evaluation |
| | Compliance with policy, LA County regulations and state law | Legal Analysis, LASD data, LASD policies, Focus Groups, Surveys, Audits, Evaluation |
| | Deputy accountability | LASD data, Focus Groups, Surveys, Audits, Evaluation |
| | BWC Program audits | LASD data, Focus Groups, Surveys, Audits, Evaluation |
| | OIG and COC consultation about BWC Program | OIG/COC data, Focus Groups, Surveys, Audits, Evaluation |

| Sentiment/Outcome | Metrics | How Measured |
|---|--|---|
| “The LASD reasonably protects individual privacy in its use of BWC’s | Public opinion re: BWC program and individual privacy | Focus Groups, Interviews, Surveys, Audits, Evaluation |
| | LASD policy re: privacy | Legal Analysis, LASD data, Focus Groups, Surveys, Audits, Evaluation |
| | Individual notification of BWC usage | LASD policy, Focus Groups, Surveys, Audits, Evaluation |
| | Deactivation of BWC’s upon reasonable request | Focus Groups, Surveys, Audits, Evaluation |
| | Footage retention | Legal Analysis, LASD policy, Audits, Evaluation |
| | | |
| “The LASD BWC program is a reasonable expenditure of taxpayer resources” | Public opinion re: reasonableness of BWC expenditures | LASD data, Focus Groups, Surveys, Audits, Evaluation |
| | BWC program cost-effectiveness | Financial Analysis, LASD data, Focus Groups, Surveys, Audits, Evaluation |
| | Cost reductions (Use of Force investigations., complaints, claims, lawsuits, prosecutions) | Financial Analysis, Legal Analysis, LASD data, DA/Court data, Focus Groups, Surveys, Audits, Evaluation |
| | BWC-related budget expenditures | Financial Analysis, LASD budget, Audits, Evaluation |

**APPENDIX II:
BWC SCORECARD**

Sample LASD Body Worn Camera Planning/Policy Scorecard

| Policy Issue | Yes | No | Under Consideration |
|--|-----|----|------------------------|
| Planning | | | |
| Planning team included diverse interests within the department | | | |
| Planning team included community input | | | |
| Planning team reviewed "best practices" | | | |
| Planning team examined lessons learned from other agencies | | | |
| There is a organization-wide training plan | | | |
| There a plan for using BWC footage for training purposes | | | |
| There is a training plan for other affected County departments | | | |
| Department has planned for the creation of a Users Working Group | | | |
| Policy | | | |
| Policy was created after research into best practices, and lessons learned | | | |
| Policy was created with community and oversight input | | | |
| LASD BWC policy is publicly accessible | | | |
| Policy directs who wears BWC's | | | |
| Policy directs placement of BWC's | | | |
| Policy limits deputy discretion when to activate BWC's | | | |
| Policy directs deputies as to discontinued use of BWC (requires documentation) | | | |
| Policy allows deputy review prior to statement, with exceptions | | | |
| Policy mandates documentation of BWC footage | | | |
| Policy encourages deputies to notify persons of BWC usage | | | |
| Policy allows for discretionary deactivation upon citizen request | | | |
| Policy prohibits misuse of BWC footage | | | |
| Policy prohibits supervisory misuse of BWC footage | | | |
| Policy addresses wearing BWC's during off-duty assignments | | | |
| Policy prohibits personal BWC's | | | |
| Policy addresses public release of BWC footage | | | |
| Complainants have access to BWC footage | | | |
| Footage retained only as long as legally required or as an evidentiary necessity | | | |
| Policy mandates regular audits | | | |
| Policy mandates random supervisory review | | | |
| Policy includes annual security certification | | | |
| Policy complies with relevant state law | | | |
| Policy addresses retention of BWC footage | | | |
| Policy contains a statement about the importance of citizen privacy | | | |

**APPENDIX III:
LEGAL ANALYSIS**

**LAW OFFICES
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March 20, 2019

IACP - LASD Independent Body Worn Camera Project
By: Bruce D. Praet, Attorney at Law

While the primary focus of this aspect of the project will be the impact of California statutory provisions on Body Worn Camera (BWC) video, other policy considerations will be addressed based upon current litigation trends and risk management.

California Statutory Provisions

As of 2019, the California Legislature enacted several “transparency” statutes which now regulate the disclosure requirements for BWC videos. Effective January 1, 2019, SB1421 amended *Penal Code* § 832.7 to remove previous confidentiality protections for four identified types of peace officer personnel records (e.g. sustained allegations of dishonesty, sexual battery, officer-involved shootings and uses of force involving great bodily injury). Effective July 1, 2019, AB 748 amends *Government Code* § 6254(f)(4) as part of the California Public Records Act (PRA) to provide specific guidelines for the disclosure of audio/video recordings of all “critical incidents” (as defined by statute and below). Although these legislative amendments contain several ambiguous and potentially conflicting provisions which will inevitably be subject to ongoing judicial interpretations, the following language is recommended for inclusion in any BWC policy (subject to LASD-specific adjustments) with advisory comments in *italics*¹:

¹NOTE: California has not yet mandated specific retention periods for BWC video, but has set forth recommended guidelines in *Penal Code* § 832.18 establishing a minimum two (2) year retention for all BWC video involving (1) use of force/OIS, (2) detentions/arrests, and (3) formal complaints. While it is recommended that these identified categories be minimally retained for the recommended two (2) year period (i.e. the statute of limitations for any resulting civil action), 832.18 further recommends that all other BWC recordings be minimally retained for six (6) months. In any case resulting in criminal, civil or administrative proceedings, the associated BWC recordings should minimally be retained for the duration of the related proceedings (including any appeals). These statutory guidelines are not yet mandated and must be considered in conjunction with County retention schedules, storage costs, logistics and other factors.

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Legal Aspects - Bruce D. Praet

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POLICY _____ RELEASE OF BWC RECORDINGS

A. Notwithstanding any other statutory or policy provision, the Department shall retain the sole discretion to publicly release any portion of Body Worn Camera (BWC) recordings upon the recommendation of (*insert Command Staff member*) in consultation with (*insert appropriate designated investigative staff*) under any of the following conditions:

1. It is determined that the release of any portion of such BWC recordings may assist with the furtherance of an ongoing investigation,
2. It is determined that the release of any portion of such BWC recordings may serve to dispel erroneous or inaccurate information in the public domain or may otherwise serve to educate the public without interfering with any ongoing investigation,
3. Nothing in this section shall be considered a waiver of any statutory provisions or otherwise require the public release of any portion of any BWC recording or other materials not released under such terms.

[EDITOR NOTE: The above section A is recommended to permit the agency to exercise its discretion in releasing BWC recordings and other materials in the interest of transparency and/or when such early releases may serve to dispel rumors and/or educate the public. Agencies such as LAPD have recently experienced tremendous success with these early releases and it is anticipated that LASD will have similar production capabilities. While examples of LAPD productions of "Critical Incident Reviews" may be found on the internet, it is recommended that such productions be condensed to less than five minutes as the desired impact of many of the 10- 15 minute LAPD productions seems to be diminished by excessive length. If LASD elects to engage in such a recommended practice, these productions can serve to provide the public with a more accurate account of sometimes controversial or misunderstood critical incidents by putting the situation into the proper context (e.g. often including brief segments of underlying 911 calls, suspect background and officer perspective). Such carefully edited and controlled early releases may also serve to minimize any biased perceptions reflected in any subsequently edited versions of BWC recordings obtained under the PRA.]

B. In response to any written request under the Public Records Act [PRA], BWC video and audio recordings of any critical incident (defined below) shall be subject to release within ten (10) days unless any of the following conditions apply:

1. If the facts and circumstances depicted in any recording would substantially interfere with any active criminal or administrative investigation, disclosure may be delayed for up to forty-five calendar days. If such delay is asserted, the Department shall provide the requester with a written response specifying the basis for the delay and an estimated date for disclosure.

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2. If, after forty-five days, it is determined that the release of any recording would continue to substantially interfere with any active criminal or administrative investigation, disclosure may be further delayed up to one year with written notice to the requester of the specific basis for the further delay and an estimated date for disclosure.

3. Any delay beyond one year must be supported by clear and convincing evidence that disclosure would substantially interfere with an active investigation. The requester shall promptly be provided with a written response setting forth the specific basis for the determination that the interest in preventing interference with an active investigation outweighs the public's interest in disclosure and an estimated date for release. Such delays shall be reassessed every thirty days with ongoing written notice to the requester.

4. If, at any time, it is determined by the facts and circumstances depicted in any recording that the public's interest in withholding such recording outweighs the public's interest in disclosure due to a violation of a reasonable expectation of privacy of any subject depicted in the recording, the requester shall be promptly provided with written notice of the specific basis for non-disclosure.

[EDITOR NOTE: The Department may or may not wish to include examples of circumstances which might trigger a reasonable expectation of privacy such as sexual assault victims, domestic violence victims, confidential informants, etc. If not set forth in policy, these examples should be addressed in training.]

a. If non-disclosure is based on a reasonable expectation of privacy, the Department may use reduction technology to blur or distort images or audio to obscure those specific portions of the recording that protect that privacy interest.

b. If the reasonable expectation of privacy of any individual cannot be adequately protected through redaction, the recording (redacted or unredacted) shall nonetheless be disclosed (subject to any applicable delays), upon written request, to the following:

1. The subject of the recording whose privacy is to be protected or his or her authorized representative,
2. The parent or legal guardian of any minor whose privacy is to be protected.
3. The executor, administrator, heir, beneficiary, designated family member, authorized legal representative or guardian of the estate of any deceased person whose privacy is to be protected.

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C. For purposes of this policy, video and audio recordings of any critical incident shall include any of the following:

1. Any incident involving the discharge of a firearm at a person by a deputy.
2. Any incident involving a strike with an impact weapon or projectile to the head or neck of a person by a deputy or (correctional deputy).
3. Any incident in which the use of force by a deputy (or correctional deputy) against a person results in death or serious bodily injury, including, but not limited to loss of consciousness, concussion, bone fracture, protracted loss or impairment of function of any bodily member or organ, a wound requiring extensive suturing, and serious disfigurement.
4. The death of any arrestee or detainee in custody.

Other Points for Consideration

1. Adoption of LAPD Policy - while LASD may elect to use LAPD's policy as a foundation for developing its own BWC policy, it will obviously require modification to fit the structure of LASD (e.g. "deputy" vs. "officer", agency structural and command differences).

A. One of the unfortunate pitfalls of large agency policies is that they often become overly complicated and voluminous. Thus, it is recommended that LASD strive to develop a policy which is concise, easy to follow and containing as few conflicts/cross-references as possible.

B. It is also noted that the LAPD policy contains several mandatory provisions set forth with "shall" (e.g. LAPD section IV). While it might sometimes be necessary to mandate certain behavior, the unpredictable variables of law enforcement often box agencies into unrealistically mandated actions when appropriate exceptions may inevitably arise. In order to allow for such exceptions, it is recommended that limited discretion be permitted through the use of qualifying "should" language. Whether limited to this policy or on a broader scale, "should" is generally defined as conduct which is required unless the deputy is able to meet his/her burden of articulating reasonable justification for non-compliance. This permits the agency to enforce the policy while still allowing for inevitable exceptions.

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C. While LAPD does a reasonable job of addressing BWC activation and de-activation, care should be exercised to allow for exceptions and discretion in both instances. For example, while the LAPD policy essentially requires the BWC to remain activated until an incident ends, consideration should be given to situations in which tactical circumstances may warrant temporary de-activation for officer safety, confidentiality, etc. If, of course, such exceptions are provided, the involved deput(ies) should be required to announce the de-activation with a brief explanation.

2. Equipment Mounting - depending on the manufacturer and equipment configuration, placement of the camera continues to be subject to debate. Although many agencies have opted to mount the camera toward the center of the officer's chest, many officer- involved shootings and Taser deployments are unfortunately blocked when the officer instinctively assumes a so-called "Weaver stance" (i.e. the camera captures the butt of the officer's weapon and hands, but fails to capture critical actions of the suspect). Of course, alternate camera locations carry other issues such as the potential for eyeglass mounts to dislodge and no one has yet to come up with the perfect camera placement.

3. Deputy Review of BWC Recordings - although some critics oppose allowing deputies to review BWC and other recordings prior to completing reports or providing statements, experience dictates that LAPD's allowance for such review is the best practice.

A. This is true not only in critical incidents, but in virtually every situation in which a deputy provides a report or statement. While deputies may attempt to quote a suspect or witness verbatim in a report, this should never be done without first confirming the exact language being quoted. Far too many deputies have been accused of perjury when their reports/statements fail to precisely conform to a recording. Simple solution: Take a few minutes to review all recordings before writing any report or providing a formal statement.

B. Although no deputy should attempt to conform his/her report or statement to what is depicted in a recording, it is essential that the deputy understand the "totality of the circumstances" (e.g. *Graham v. Connor*) before attempting to accurately recall an often stressful situation. This is far superior to allowing a deputy to "guess" what may have occurred, only later to have his/her credibility challenged when a recording suggests otherwise.

C. As the United States Supreme Court noted in *Scott v. Harris*, a video recording corroborating a deputy's version of an incident may serve to completely discredit claims of anyone to the contrary. With the increasing prevalence of BWC video, many state and federal courts are now dismissing lawsuits without the need for costly trials in light of the undisputed facts depicted in these recordings.

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While it is hoped that this analysis of California's statutory provisions and other issues is sufficient to guide the development of LASD's BWC policy, please do not hesitate to call or request further guidance on these issues.

Respectfully Submitted:

By: /s/ Bruce D. Praet
Bruce D. Praet, Attorney at Law

**APPENDIX IV:
SB1421**



Senate Bill No. 1421

CHAPTER 988

An act to amend Sections 832.7 and 832.8 of the Penal Code, relating to peace officer records.

[Approved by Governor September 30, 2018. Filed with Secretary of State September 30, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1421. Skinner. Peace officers: release of records.

The California Public Records Act requires a state or local agency, as defined, to make public records available for inspection, subject to certain exceptions. Existing law requires any peace officer or custodial officer personnel records, as defined, and any records maintained by any state or local agency relating to complaints against peace officers and custodial officers, or any information obtained from these records, to be confidential and prohibits the disclosure of those records in any criminal or civil proceeding, except by discovery. Existing law describes exceptions to this requirement for investigations or proceedings concerning the conduct of peace officers or custodial officers, and for an agency or department that employs those officers, conducted by a grand jury, a district attorney's office, or the Attorney General's office.

This bill would require, notwithstanding any other law, certain peace officer or custodial officer personnel records and records relating to specified incidents, complaints, and investigations involving peace officers and custodial officers to be made available for public inspection pursuant to the California Public Records Act. The bill would define the scope of disclosable records. The bill would require records disclosed pursuant to this provision to be redacted only to remove personal data or information, such as a home address, telephone number, or identities of family members, other than the names and work-related information of peace officers and custodial officers, to preserve the anonymity of complainants and witnesses, or to protect confidential medical, financial, or other information in which disclosure would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about misconduct by peace officers and custodial officers, or where there is a specific, particularized reason to believe that disclosure would pose a significant danger to the physical safety of the peace officer, custodial officer, or others. Additionally the bill would authorize redaction where, on the facts of the particular case, the public interest served by nondisclosure clearly outweighs the public interest served by disclosure. The bill would allow the delay of disclosure, as specified, for records relating to an open investigation or court proceeding, subject to certain limitations.

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The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Peace officers help to provide one of our state's most fundamental government services. To empower peace officers to fulfill their mission, the people of California vest them with extraordinary authority — the powers to detain, search, arrest, and use deadly force. Our society depends on peace officers' faithful exercise of that authority. Misuse of that authority can lead to grave constitutional violations, harms to liberty and the inherent sanctity of human life, as well as significant public unrest.

(b) The public has a right to know all about serious police misconduct, as well as about officer-involved shootings and other serious uses of force. Concealing crucial public safety matters such as officer violations of civilians' rights, or inquiries into deadly use of force incidents, undercuts the public's faith in the legitimacy of law enforcement, makes it harder for tens of thousands of hardworking peace officers to do their jobs, and endangers public safety.

SEC. 2. Section 832.7 of the Penal Code is amended to read:

832.7. (a) Except as provided in subdivision (b), the personnel records of peace officers and custodial officers and records maintained by any state or local agency pursuant to Section 832.5, or information obtained from these records, are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code. This section shall not apply to investigations or proceedings concerning the conduct of peace officers or custodial officers, or an agency or department that employs those officers, conducted by a grand jury, a district attorney's office, or the Attorney General's office.

(b) (1) Notwithstanding subdivision (a), subdivision (f) of Section 6254 of the Government Code, or any other law, the following peace officer or custodial officer personnel records and records maintained by any state or local agency shall not be confidential and shall be made available for public inspection pursuant to the California Public Records Act (Chapter 3.5

(commencing with Section 6250) of Division 7 of Title 1 of the Government Code):

(A) A record relating to the report, investigation, or findings of any of the following:

(i) An incident involving the discharge of a firearm at a person by a peace officer or custodial officer.

(ii) An incident in which the use of force by a peace officer or custodial officer against a person resulted in death, or in great bodily injury.

(B) (i) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in sexual assault involving a member of the public.

(ii) As used in this subparagraph, "sexual assault" means the commission or attempted initiation of a sexual act with a member of the public by means of force, threat, coercion, extortion, offer of leniency or other official favor, or under the color of authority. For purposes of this definition, the propositioning for or commission of any sexual act while on duty is considered a sexual assault.

(iii) As used in this subparagraph, "member of the public" means any person not employed by the officer's employing agency and includes any participant in a cadet, explorer, or other youth program affiliated with the agency.

(C) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency of dishonesty by a peace officer or custodial officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer, including, but not limited to, any sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence.

(2) Records that shall be released pursuant to this subdivision include all investigative reports; photographic, audio, and video evidence; transcripts or recordings of interviews; autopsy reports; all materials compiled and presented for review to the district attorney or to any person or body charged with determining whether to file criminal charges against an officer in connection with an incident, or whether the officer's action was consistent with law and agency policy for purposes of discipline or administrative action, or what discipline to impose or corrective action to take; documents setting forth findings or recommended findings; and copies of disciplinary records relating to the incident, including any letters of intent to impose discipline, any documents reflecting modifications of discipline due to the Skelly or grievance process, and letters indicating final imposition of discipline or other documentation reflecting implementation of corrective action.

(3) A record from a separate and prior investigation or assessment of a separate incident shall not be released unless it is independently subject to disclosure pursuant to this subdivision.

(4) If an investigation or incident involves multiple officers, information about allegations of misconduct by, or the analysis or disposition of an investigation of, an officer shall not be released pursuant to subparagraph (B) or (C) of paragraph (1), unless it relates to a sustained finding against that officer. However, factual information about that action of an officer during an incident, or the statements of an officer about an incident, shall be released if they are relevant to a sustained finding against another officer that is subject to release pursuant to subparagraph (B) or (C) of paragraph (1).

(5) An agency shall redact a record disclosed pursuant to this section only for any of the following purposes:

(A) To remove personal data or information, such as a home address, telephone number, or identities of family members, other than the names and work-related information of peace and custodial officers.

(B) To preserve the anonymity of complainants and witnesses.

(C) To protect confidential medical, financial, or other information of which disclosure is specifically prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about misconduct and serious use of force by peace officers and custodial officers.

(D) Where there is a specific, articulable, and particularized reason to believe that disclosure of the record would pose a significant danger to the physical safety of the peace officer, custodial officer, or another person.

(6) Notwithstanding paragraph (5), an agency may redact a record disclosed pursuant to this section, including personal identifying information, where, on the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosure of the information.

(7) An agency may withhold a record of an incident described in subparagraph (A) of paragraph (1) that is the subject of an active criminal or administrative investigation, in accordance with any of the following:

(A) (i) During an active criminal investigation, disclosure may be delayed for up to 60 days from the date the use of force occurred or until the district attorney determines whether to file criminal charges related to the use of force, whichever occurs sooner. If an agency delays disclosure pursuant to this clause, the agency shall provide, in writing, the specific basis for the agency's determination that the interest in delaying disclosure clearly outweighs the public interest in disclosure. This writing shall include the estimated date for disclosure of the withheld information.

(ii) After 60 days from the use of force, the agency may continue to delay the disclosure of records or information if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against an officer who used the force. If an agency delays disclosure pursuant to this clause, the agency shall, at 180-day intervals as necessary, provide, in writing, the specific basis for the agency's determination that disclosure could reasonably be expected to interfere with a criminal enforcement proceeding. The writing shall include the estimated date for the disclosure

of the withheld information. Information withheld by the agency shall be disclosed when the specific basis for withholding is resolved, when the investigation or proceeding is no longer active, or by no later than 18 months after the date of the incident, whichever occurs sooner.

(iii) After 60 days from the use of force, the agency may continue to delay the disclosure of records or information if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against someone other than the officer who used the force. If an agency delays disclosure under this clause, the agency shall, at 180-day intervals, provide, in writing, the specific basis why disclosure could reasonably be expected to interfere with a criminal enforcement proceeding, and shall provide an estimated date for the disclosure of the withheld information. Information withheld by the agency shall be disclosed when the specific basis for withholding is resolved, when the investigation or proceeding is no longer active, or by no later than 18 months after the date of the incident, whichever occurs sooner, unless extraordinary circumstances warrant continued delay due to the ongoing criminal investigation or proceeding. In that case, the agency must show by clear and convincing evidence that the interest in preventing prejudice to the active and ongoing criminal investigation or proceeding outweighs the public interest in prompt disclosure of records about use of serious force by peace officers and custodial officers. The agency shall release all information subject to disclosure that does not cause substantial prejudice, including any documents that have otherwise become available.

(iv) In an action to compel disclosure brought pursuant to Section 6258 of the Government Code, an agency may justify delay by filing an application to seal the basis for withholding, in accordance with Rule 2.550 of the California Rules of Court, or any successor rule thereto, if disclosure of the written basis itself would impact a privilege or compromise a pending investigation.

(B) If criminal charges are filed related to the incident in which force was used, the agency may delay the disclosure of records or information until a verdict on those charges is returned at trial or, if a plea of guilty or no contest is entered, the time to withdraw the plea pursuant to Section 1018.

(C) During an administrative investigation into an incident described in subparagraph (A) of paragraph (1), the agency may delay the disclosure of records or information until the investigating agency determines whether the use of force violated a law or agency policy, but no longer than 180 days after the date of the employing agency's discovery of the use of force, or allegation of use of force, by a person authorized to initiate an investigation, or 30 days after the close of any criminal investigation related to the peace officer or custodial officer's use of force, whichever is later.

(8) A record of a civilian complaint, or the investigations, findings, or dispositions of that complaint, shall not be released pursuant to this section if the complaint is frivolous, as defined in Section 128.5 of the Code of Civil Procedure, or if the complaint is unfounded.

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(c) Notwithstanding subdivisions (a) and (b), a department or agency shall release to the complaining party a copy of his or her own statements at the time the complaint is filed.

(d) Notwithstanding subdivisions (a) and (b), a department or agency that employs peace or custodial officers may disseminate data regarding the number, type, or disposition of complaints (sustained, not sustained, exonerated, or unfounded) made against its officers if that information is in a form which does not identify the individuals involved.

(e) Notwithstanding subdivisions (a) and (b), a department or agency that employs peace or custodial officers may release factual information concerning a disciplinary investigation if the officer who is the subject of the disciplinary investigation, or the officer's agent or representative, publicly makes a statement he or she knows to be false concerning the investigation or the imposition of disciplinary action. Information may not be disclosed by the peace or custodial officer's employer unless the false statement was published by an established medium of communication, such as television, radio, or a newspaper. Disclosure of factual information by the employing agency pursuant to this subdivision is limited to facts contained in the officer's personnel file concerning the disciplinary investigation or imposition of disciplinary action that specifically refute the false statements made public by the peace or custodial officer or his or her agent or representative.

(f) (1) The department or agency shall provide written notification to the complaining party of the disposition of the complaint within 30 days of the disposition.

(2) The notification described in this subdivision shall not be conclusive or binding or admissible as evidence in any separate or subsequent action or proceeding brought before an arbitrator, court, or judge of this state or the United States.

(g) This section does not affect the discovery or disclosure of information contained in a peace or custodial officer's personnel file pursuant to Section 1043 of the Evidence Code.

(h) This section does not supersede or affect the criminal discovery process outlined in Chapter 10 (commencing with Section 1054) of Title 6 of Part 2, or the admissibility of personnel records pursuant to subdivision (a), which codifies the court decision in *Pitchess v. Superior Court* (1974) 11 Cal.3d 531.

(i) Nothing in this chapter is intended to limit the public's right of access as provided for in *Long Beach Police Officers Association v. City of Long Beach* (2014) 59 Cal.4th 59.

SEC. 3. Section 832.8 of the Penal Code is amended to read:

832.8. As used in Section 832.7, the following words or phrases have the following meanings:

(a) "Personnel records" means any file maintained under that individual's name by his or her employing agency and containing records relating to any of the following:

(1) Personal data, including marital status, family members, educational and employment history, home addresses, or similar information.

(2) Medical history.

(3) Election of employee benefits.

(4) Employee advancement, appraisal, or discipline.

(5) Complaints, or investigations of complaints, concerning an event or transaction in which he or she participated, or which he or she perceived, and pertaining to the manner in which he or she performed his or her duties.

(6) Any other information the disclosure of which would constitute an unwarranted invasion of personal privacy.

(b) "Sustained" means a final determination by an investigating agency, commission, board, hearing officer, or arbitrator, as applicable, following an investigation and opportunity for an administrative appeal pursuant to Sections 3304 and 3304.5 of the Government Code, that the actions of the peace officer or custodial officer were found to violate law or department policy.

(c) "Unfounded" means that an investigation clearly establishes that the allegation is not true.

SEC. 4. The Legislature finds and declares that Section 2 of this act, which amends Section 832.7 of the Penal Code, furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

The public has a strong, compelling interest in law enforcement transparency because it is essential to having a just and democratic society.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district under this act would result from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution.

**APPENDIX V:
AB748**



Assembly Bill No. 748

CHAPTER 960

An act to amend Section 6254 of the Government Code, relating to peace officers.

[Approved by Governor September 30, 2018. Filed with Secretary of State September 30, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 748, Ting. Peace officers: video and audio recordings: disclosure.

Existing law, the California Public Records Act, requires that public records, as defined, be available to the public for inspection and made promptly available to any person. Existing law makes records of investigations conducted by any state or local police agency exempt from these requirements. Existing law requires specified information regarding the investigation of crimes to be disclosed to the public unless disclosure would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation.

This bill would, notwithstanding the above provisions, commencing July 1, 2019, allow a video or audio recording that relates to a critical incident, as defined, to be withheld for 45 calendar days if disclosure would substantially interfere with an active investigation, subject to extensions, as specified. The bill would allow the recording to be withheld if the public interest in withholding video or audio recording clearly outweighs the public interest in disclosure because the release of the recording would, based on the facts and circumstances depicted in the recording, violate the reasonable expectation of privacy of a subject depicted in the recording, in which case the bill would allow the recording to be redacted to protect that interest. If the agency demonstrates that the reasonable expectation of privacy of a subject depicted in the recording cannot adequately be protected through redaction, the bill would require that the recording be promptly disclosed to a subject of the recording, his or her parent, guardian, or representative, as applicable, or his or her heir, beneficiary, immediate family member, or authorized legal representative, if deceased.

By requiring local agencies to make these recordings available, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 6254 of the Government Code, as amended by Section 1 of Chapter 560 of the Statutes of 2017, is amended to read:

6254. Except as provided in Sections 6254.7 and 6254.13, this chapter does not require the disclosure of any of the following records:

(a) Preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business, if the public interest in withholding those records clearly outweighs the public interest in disclosure.

(b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810), until the pending litigation or claim has been finally adjudicated or otherwise settled.

(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(d) Records contained in or related to any of the following:

(1) Applications filed with any state agency responsible for the regulation or supervision of the issuance of securities or of financial institutions, including, but not limited to, banks, savings and loan associations, industrial loan companies, credit unions, and insurance companies.

(2) Examination, operating, or condition reports prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(3) Preliminary drafts, notes, or interagency or intra-agency communications prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(4) Information received in confidence by any state agency referred to in paragraph (1).

(e) Geological and geophysical data, plant production data, and similar information relating to utility systems development, or market or crop reports, that are obtained in confidence from any person.

(f) Records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, the Office of Emergency Services and any state or local police agency, or any investigatory or security files compiled by any other state or local police agency, or any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes. However, state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, carjacking, vandalism,

vehicle theft, or a crime as defined by subdivision (b) of Section 13951, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation. However, this subdivision does not require the disclosure of that portion of those investigative files that reflects the analysis or conclusions of the investigating officer.

Customer lists provided to a state or local police agency by an alarm or security company at the request of the agency shall be construed to be records subject to this subdivision.

Notwithstanding any other provision of this subdivision, state and local law enforcement agencies shall make public the following information, except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation:

(1) The full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.

(2) (A) Subject to the restrictions imposed by Section 841.5 of the Penal Code, the time, substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including, to the extent the information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date, and location of occurrence, the time and date of the report, the name and age of the victim, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property, or weapons involved. The name of a victim of any crime defined by Section 220, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3, 288.4, 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code may be withheld at the victim's request, or at the request of the victim's parent or guardian if the victim is a minor. When a person is the victim of more than one crime, information disclosing that the person is a victim of a crime defined in any of the sections of the Penal Code set forth in this subdivision may be deleted at the request of the victim, or the victim's parent or guardian if the victim is a minor, in making the report of the crime, or of any crime or incident accompanying the crime, available to the public in compliance with the requirements of this paragraph.

(B) Subject to the restrictions imposed by Section 841.5 of the Penal Code, the names and images of a victim of human trafficking, as defined in Section 236.1 of the Penal Code, and of that victim's immediate family,

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other than a family member who is charged with a criminal offense arising from the same incident, may be withheld at the victim's request until the investigation or any subsequent prosecution is complete. For purposes of this subdivision, "immediate family" shall have the same meaning as that provided in paragraph (3) of subdivision (b) of Section 422.4 of the Penal Code.

(3) Subject to the restrictions of Section 841.5 of the Penal Code and this subdivision, the current address of every individual arrested by the agency and the current address of the victim of a crime, if the requester declares under penalty of perjury that the request is made for a scholarly, journalistic, political, or governmental purpose, or that the request is made for investigation purposes by a licensed private investigator as described in Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code. However, the address of the victim of any crime defined by Section 220, 236.1, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3, 288.4, 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code shall remain confidential. Address information obtained pursuant to this paragraph shall not be used directly or indirectly, or furnished to another, to sell a product or service to any individual or group of individuals, and the requester shall execute a declaration to that effect under penalty of perjury. This paragraph shall not be construed to prohibit or limit a scholarly, journalistic, political, or government use of address information obtained pursuant to this paragraph.

(4) Notwithstanding any other provision of this subdivision, commencing July 1, 2019, a video or audio recording that relates to a critical incident, as defined in subparagraph (C), may be withheld only as follows:

(A) (i) During an active criminal or administrative investigation, disclosure of a recording related to a critical incident may be delayed for no longer than 45 calendar days after the date the agency knew or reasonably should have known about the incident, if, based on the facts and circumstances depicted in the recording, disclosure would substantially interfere with the investigation, such as by endangering the safety of a witness or a confidential source. If an agency delays disclosure pursuant to this paragraph, the agency shall provide in writing to the requester the specific basis for the agency's determination that disclosure would substantially interfere with the investigation and the estimated date for disclosure.

(ii) After 45 days from the date the agency knew or reasonably should have known about the incident, and up to one year from that date, the agency may continue to delay disclosure of a recording if the agency demonstrates that disclosure would substantially interfere with the investigation. After one year from the date the agency knew or reasonably should have known about the incident, the agency may continue to delay disclosure of a recording only if the agency demonstrates by clear and convincing evidence that disclosure would substantially interfere with the investigation. If an agency delays disclosure pursuant to this clause, the agency shall promptly

provide in writing to the requester the specific basis for the agency's determination that the interest in preventing interference with an active investigation outweighs the public interest in disclosure and provide the estimated date for the disclosure. The agency shall reassess withholding and notify the requester every 30 days. A recording withheld by the agency shall be disclosed promptly when the specific basis for withholding is resolved.

(B) (i) If the agency demonstrates, on the facts of the particular case, that the public interest in withholding a video or audio recording clearly outweighs the public interest in disclosure because the release of the recording would, based on the facts and circumstances depicted in the recording, violate the reasonable expectation of privacy of a subject depicted in the recording, the agency shall provide in writing to the requester the specific basis for the expectation of privacy and the public interest served by withholding the recording and may use redaction technology, including blurring or distorting images or audio, to obscure those specific portions of the recording that protect that interest. However, the redaction shall not interfere with the viewer's ability to fully, completely, and accurately comprehend the events captured in the recording and the recording shall not otherwise be edited or altered.

(ii) Except as provided in clause (iii), if the agency demonstrates that the reasonable expectation of privacy of a subject depicted in the recording cannot adequately be protected through redaction as described in clause (i) and that interest outweighs the public interest in disclosure, the agency may withhold the recording from the public, except that the recording, either redacted as provided in clause (i) or unredacted, shall be disclosed promptly, upon request, to any of the following:

(I) The subject of the recording whose privacy is to be protected, or his or her authorized representative.

(II) If the subject is a minor, the parent or legal guardian of the subject whose privacy is to be protected.

(III) If the subject whose privacy is to be protected is deceased, an heir, beneficiary, designated immediate family member, or authorized legal representative of the deceased subject whose privacy is to be protected.

(iii) If disclosure pursuant to clause (ii) would substantially interfere with an active criminal or administrative investigation, the agency shall provide in writing to the requester the specific basis for the agency's determination that disclosure would substantially interfere with the investigation, and provide the video or audio recording. Thereafter, the recording may be withheld by the agency for 45 calendar days, subject to extensions as set forth in clause (ii) of subparagraph (A).

(C) For purposes of this paragraph, a video or audio recording relates to a critical incident if it depicts any of the following incidents:

(i) An incident involving the discharge of a firearm at a person by a peace officer or custodial officer.

(ii) An incident in which the use of force by a peace officer or custodial officer against a person resulted in death or in great bodily injury.

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(D) An agency may provide greater public access to video or audio recordings than the minimum standards set forth in this paragraph.

(E) This paragraph does not alter, limit, or negate any other rights, remedies, or obligations with respect to public records regarding an incident other than a critical incident as described in subparagraph (C).

(F) For purposes of this paragraph, a peace officer does not include any peace officer employed by the Department of Corrections and Rehabilitation.

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except as provided for in Chapter 3 (commencing with Section 99150) of Part 65 of Division 14 of Title 3 of the Education Code.

(h) The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained. However, the law of eminent domain shall not be affected by this provision.

(i) Information required from any taxpayer in connection with the collection of local taxes that is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying the information.

(j) Library circulation records kept for the purpose of identifying the borrower of items available in libraries, and library and museum materials made or acquired and presented solely for reference or exhibition purposes. The exemption in this subdivision shall not apply to records of fines imposed on the borrowers.

(k) Records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

(l) Correspondence of and to the Governor or employees of the Governor's office or in the custody of or maintained by the Governor's Legal Affairs Secretary. However, public records shall not be transferred to the custody of the Governor's Legal Affairs Secretary to evade the disclosure provisions of this chapter.

(m) In the custody of or maintained by the Legislative Counsel, except those records in the public database maintained by the Legislative Counsel that are described in Section 10248.

(n) Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with the licensing agency to establish his or her personal qualification for the license, certificate, or permit applied for.

(o) Financial data contained in applications for financing under Division 27 (commencing with Section 44500) of the Health and Safety Code, if an authorized officer of the California Pollution Control Financing Authority determines that disclosure of the financial data would be competitively injurious to the applicant and the data is required in order to obtain

guarantees from the United States Small Business Administration. The California Pollution Control Financing Authority shall adopt rules for review of individual requests for confidentiality under this section and for making available to the public those portions of an application that are subject to disclosure under this chapter.

(p) (1) Records of state agencies related to activities governed by Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), and Chapter 12 (commencing with Section 3560) of Division 4, that reveal a state agency's deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or that provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under these chapters. This paragraph shall not be construed to limit the disclosure duties of a state agency with respect to any other records relating to the activities governed by the employee relations acts referred to in this paragraph.

(2) Records of local agencies related to activities governed by Chapter 10 (commencing with Section 3500) of Division 4, that reveal a local agency's deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or that provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under that chapter. This paragraph shall not be construed to limit the disclosure duties of a local agency with respect to any other records relating to the activities governed by the employee relations act referred to in this paragraph.

(q) (1) Records of state agencies related to activities governed by Article 2.6 (commencing with Section 14081), Article 2.8 (commencing with Section 14087.5), and Article 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, that reveal the special negotiator's deliberative processes, discussions, communications, or any other portion of the negotiations with providers of health care services, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy, or that provide instruction, advice, or training to employees.

(2) Except for the portion of a contract containing the rates of payment, contracts for inpatient services entered into pursuant to these articles, on or after April 1, 1984, shall be open to inspection one year after they are fully executed. If a contract for inpatient services that is entered into prior to April 1, 1984, is amended on or after April 1, 1984, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after it is fully executed. If the California Medical Assistance Commission enters into contracts with health care providers for other than inpatient hospital services, those contracts shall be open to inspection one year after they are fully executed.

(3) Three years after a contract or amendment is open to inspection under this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other law, the entire contract or amendment shall be open to inspection by the Joint Legislative Audit Committee and the Legislative Analyst's Office. The committee and that office shall maintain the confidentiality of the contracts and amendments until the time a contract or amendment is fully open to inspection by the public.

(r) Records of Native American graves, cemeteries, and sacred places and records of Native American places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code maintained by, or in the possession of, the Native American Heritage Commission, another state agency, or a local agency.

(s) A final accreditation report of the Joint Commission on Accreditation of Hospitals that has been transmitted to the State Department of Health Care Services pursuant to subdivision (b) of Section 1282 of the Health and Safety Code.

(t) Records of a local hospital district, formed pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code, or the records of a municipal hospital, formed pursuant to Article 7 (commencing with Section 37600) or Article 8 (commencing with Section 37650) of Chapter 5 of Part 2 of Division 3 of Title 4 of this code, that relate to any contract with an insurer or nonprofit hospital service plan for inpatient or outpatient services for alternative rates pursuant to Section 10133 of the Insurance Code. However, the record shall be open to inspection within one year after the contract is fully executed.

(u) (1) Information contained in applications for licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department that indicates when or where the applicant is vulnerable to attack or that concerns the applicant's medical or psychological history or that of members of his or her family.

(2) The home address and telephone number of prosecutors, public defenders, peace officers, judges, court commissioners, and magistrates that are set forth in applications for licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(3) The home address and telephone number of prosecutors, public defenders, peace officers, judges, court commissioners, and magistrates that are set forth in licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(v) (1) Records of the Managed Risk Medical Insurance Board and the State Department of Health Care Services related to activities governed by former Part 6.3 (commencing with Section 12695), former Part 6.5 (commencing with Section 12700), Part 6.6 (commencing with Section 12739.5), or Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code, or Chapter 2 (commencing with Section 15810) or Chapter 4 (commencing with Section 15870) of Part 3.3 of Division 9 of the Welfare and Institutions Code, and that reveal any of the following:

(A) The deliberative processes, discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the board or the department, entities with which the board or the department is considering a contract, or entities with which the board or department is considering or enters into any other arrangement under which the board or the department provides, receives, or arranges services or reimbursement.

(B) The impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff or the department or its staff, or records that provide instructions, advice, or training to their employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts entered into pursuant to former Part 6.3 (commencing with Section 12695), former Part 6.5 (commencing with Section 12700), Part 6.6 (commencing with Section 12739.5), or Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code, or Chapter 2 (commencing with Section 15810) or Chapter 4 (commencing with Section 15870) of Part 3.3 of Division 9 of the Welfare and Institutions Code, on or after July 1, 1991, shall be open to inspection one year after their effective dates.

(B) If a contract that is entered into prior to July 1, 1991, is amended on or after July 1, 1991, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after the effective date of the amendment.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto, until the contracts or amendments to the contracts are open to inspection pursuant to paragraph (3).

(w) (1) Records of the Managed Risk Medical Insurance Board related to activities governed by Chapter 8 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) Except for the portion of a contract that contains the rates of payment, contracts for health coverage entered into pursuant to Chapter 8 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, on or after January 1, 1993, shall be open to inspection one year after they have been fully executed.

(3) Notwithstanding any other law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit

Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto, until the contracts or amendments to the contracts are open to inspection pursuant to paragraph (2).

(x) Financial data contained in applications for registration, or registration renewal, as a service contractor filed with the Director of Consumer Affairs pursuant to Chapter 20 (commencing with Section 9800) of Division 3 of the Business and Professions Code, for the purpose of establishing the service contractor's net worth, or financial data regarding the funded accounts held in escrow for service contracts held in force in this state by a service contractor.

(y) (1) Records of the Managed Risk Medical Insurance Board and the State Department of Health Care Services related to activities governed by Part 6.2 (commencing with Section 12693) or former Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code or Sections 14005.26 and 14005.27 of, or Chapter 3 (commencing with Section 15850) of Part 3.3 of Division 9 of, the Welfare and Institutions Code, if the records reveal any of the following:

(A) The deliberative processes, discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the board or the department, entities with which the board or department is considering a contract, or entities with which the board or department is considering or enters into any other arrangement under which the board or department provides, receives, or arranges services or reimbursement.

(B) The impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or the department or its staff, or records that provide instructions, advice, or training to employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts entered into pursuant to Part 6.2 (commencing with Section 12693) or former Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code, on or after January 1, 1998, or Sections 14005.26 and 14005.27 of, or Chapter 3 (commencing with Section 15850) of Part 3.3 of Division 9 of, the Welfare and Institutions Code shall be open to inspection one year after their effective dates.

(B) If a contract entered into pursuant to Part 6.2 (commencing with Section 12693) or former Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code or Sections 14005.26 and 14005.27 of, or Chapter 3 (commencing with Section 15850) of Part 3.3 of Division 9 of, the Welfare and Institutions Code, is amended, the amendment shall be open to inspection one year after the effective date of the amendment.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts

and amendments thereto until the contract or amendments to a contract are open to inspection pursuant to paragraph (2) or (3).

(5) The exemption from disclosure provided pursuant to this subdivision for the contracts, deliberative processes, discussions, communications, negotiations, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or the department or its staff, shall also apply to the contracts, deliberative processes, discussions, communications, negotiations, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of applicants pursuant to Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code or Chapter 3 (commencing with Section 15850) of Part 3.3 of Division 9 of the Welfare and Institutions Code.

(z) Records obtained pursuant to paragraph (2) of subdivision (f) of Section 2891.1 of the Public Utilities Code.

(aa) A document prepared by or for a state or local agency that assesses its vulnerability to terrorist attack or other criminal acts intended to disrupt the public agency's operations and that is for distribution or consideration in a closed session.

(ab) Critical infrastructure information, as defined in Section 131(3) of Title 6 of the United States Code, that is voluntarily submitted to the Office of Emergency Services for use by that office, including the identity of the person who or entity that voluntarily submitted the information. As used in this subdivision, "voluntarily submitted" means submitted in the absence of the office exercising any legal authority to compel access to or submission of critical infrastructure information. This subdivision shall not affect the status of information in the possession of any other state or local governmental agency.

(ac) All information provided to the Secretary of State by a person for the purpose of registration in the Advance Health Care Directive Registry, except that those records shall be released at the request of a health care provider, a public guardian, or the registrant's legal representative.

(ad) The following records of the State Compensation Insurance Fund:

(1) Records related to claims pursuant to Chapter 1 (commencing with Section 3200) of Division 4 of the Labor Code, to the extent that confidential medical information or other individually identifiable information would be disclosed.

(2) Records related to the discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the fund, and any related deliberations.

(3) Records related to the impressions, opinions, recommendations, meeting minutes of meetings or sessions that are lawfully closed to the public, research, work product, theories, or strategy of the fund or its staff, on the development of rates, contracting strategy, underwriting, or competitive strategy pursuant to the powers granted to the fund in Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code.

(4) Records obtained to provide workers' compensation insurance under Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code, including, but not limited to, any medical claims information, policyholder information provided that nothing in this paragraph shall be interpreted to prevent an insurance agent or broker from obtaining proprietary information or other information authorized by law to be obtained by the agent or broker, and information on rates, pricing, and claims handling received from brokers.

(5) (A) Records that are trade secrets pursuant to Section 6276.44, or Article 11 (commencing with Section 1060) of Chapter 4 of Division 8 of the Evidence Code, including, without limitation, instructions, advice, or training provided by the State Compensation Insurance Fund to its board members, officers, and employees regarding the fund's special investigation unit, internal audit unit, and informational security, marketing, rating, pricing, underwriting, claims handling, audits, and collections.

(B) Notwithstanding subparagraph (A), the portions of records containing trade secrets shall be available for review by the Joint Legislative Audit Committee, California State Auditor's Office, Division of Workers' Compensation, and the Department of Insurance to ensure compliance with applicable law.

(6) (A) Internal audits containing proprietary information and the following records that are related to an internal audit:

(i) Personal papers and correspondence of any person providing assistance to the fund when that person has requested in writing that his or her papers and correspondence be kept private and confidential. Those papers and correspondence shall become public records if the written request is withdrawn, or upon order of the fund.

(ii) Papers, correspondence, memoranda, or any substantive information pertaining to any audit not completed or an internal audit that contains proprietary information.

(B) Notwithstanding subparagraph (A), the portions of records containing proprietary information, or any information specified in subparagraph (A) shall be available for review by the Joint Legislative Audit Committee, California State Auditor's Office, Division of Workers' Compensation, and the Department of Insurance to ensure compliance with applicable law.

(7) (A) Except as provided in subparagraph (C), contracts entered into pursuant to Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code shall be open to inspection one year after the contract has been fully executed.

(B) If a contract entered into pursuant to Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code is amended, the amendment shall be open to inspection one year after the amendment has been fully executed.

(C) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(D) Notwithstanding any other law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto until the contract or amendments to a contract are open to inspection pursuant to this paragraph.

(E) This paragraph is not intended to apply to documents related to contracts with public entities that are not otherwise expressly confidential as to that public entity.

(F) For purposes of this paragraph, "fully executed" means the point in time when all of the necessary parties to the contract have signed the contract.

This section does not prevent any agency from opening its records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law.

This section does not prevent any health facility from disclosing to a certified bargaining agent relevant financing information pursuant to Section 8 of the National Labor Relations Act (29 U.S.C. Sec. 158).

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district under this act would result from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution.

**APPENDIX VI:
LAPD BWC POLICY DOCUMENTS**

OFFICE OF THE CHIEF OF POLICE

SPECIAL ORDER NO. 12

April 28, 2015

APPROVED BY THE BOARD OF POLICE COMMISSIONERS ON APRIL 28, 2015

SUBJECT: BODY WORN VIDEO PROCEDURES - ESTABLISHED

PURPOSE: The purpose of this Order is to inform Department personnel of the responsibilities and procedures for the use and deployment of Body Worn Video (BWV).

PROCEDURE: Department Manual Section 3/579.15, *Body Worn Video Procedures*, has been established.

- I. OBJECTIVES OF BODY WORN VIDEO.** The following provisions are intended to provide LAPD Officers with instructions on when and how to use BWV to ensure reliable recording of enforcement and investigative contacts with the public. "Officers," as referenced below, include all sworn personnel. The Department has adopted the use of BWV by uniformed personnel to:
- Collect evidence for use in criminal investigations and prosecutions;
 - Deter criminal activity and uncooperative behavior during police-public interactions;
 - Assist officers with completing reports and providing testimony in court;
 - Promote accountability;
 - Assist in resolving complaints against officers including false allegations by members of the public; and,
 - Provide additional information for officer evaluation, training, and continuous improvement.

Body Worn Video provides additional information regarding an investigative or enforcement contact with a member of the public. Body Worn Video recordings, however, provide a limited perspective of the encounter and must be considered with all other available evidence, such as witness statements, officer interviews, forensic analyses and documentary evidence, when evaluating the appropriateness of an officer's actions.

- II. BODY WORN VIDEO EQUIPMENT.** Body Worn Video equipment generally consists of a body-mounted camera with a built-in microphone and a handheld viewing device. The BWV camera is worn on the outside of an officer's uniform, facing forward to make video and audio recordings. The BWV video and audio recordings are stored digitally on the BWV camera and can be viewed on a handheld viewing device or an authorized computer. An officer cannot modify, alter, or delete video or audio once recorded by the BWV camera.

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- III. WHEN ACTIVATION OF BODY WORN VIDEO EQUIPMENT IS REQUIRED.** Officers shall activate their BWV devices prior to initiating any investigative or enforcement activity involving a member of the public, including all:
- Vehicle stops;
 - Pedestrian stops (including officer-initiated consensual encounters);
 - Calls for service;
 - Code 3 responses (including vehicle pursuits) regardless of whether the vehicle is equipped with In-Car Video equipment;
 - Foot pursuits;
 - Searches;
 - Arrests;
 - Uses of force;
 - In-custody transports;
 - Witness and victim interviews (except as specified below);
 - Crowd management and control involving enforcement or investigative contacts; and,
 - Other investigative or enforcement activities where, in the officer's judgment, a video recording would assist in the investigation or prosecution of a crime or when a recording of an encounter would assist in documenting the incident for later investigation or review.
- IV. INABILITY TO ACTIVATE PRIOR TO INITIATING ENFORCEMENT OR INVESTIGATIVE ACTIVITY.** If an officer is unable to activate his or her BWV prior to initiating any of these enforcement or investigative activities, the officer shall activate the device as soon as it is practical and safe to do so. As in all enforcement and investigative activities including vehicle and pedestrian stops, the safety of the officers and members of the public are the highest priorities.
- V. RECORDING OF THE ENTIRE CONTACT.** The BWV shall continue recording until the investigative or enforcement activity involving a member of the public has ended. If enforcement or investigative activity with a member of the public resumes, the officer shall activate the BWV device and continue recording.
- VI. DOCUMENTATION REQUIRED FOR FAILING TO ACTIVATE BODY WORN VIDEO OR RECORDING THE DURATION OF THE CONTACT.** If an officer is unable or fails to activate the BWV prior to initiating an enforcement or investigative contact, fails to record the entire contact, or interrupts the recording for any reason, the officer shall set forth the reasons why a recording was not made, was delayed, was interrupted, or was terminated in the comments field of the incident in the Computer Aided Dispatch (CAD) System, Daily Field Activity Report (DFAR), Form 15.52.00, Traffic Daily Field Activity Report, Form 15.52.01, Sergeant's Daily Report, Form 15.48.00, Metropolitan Division Officer's Log, Form 15.52.04 or Gang Enforcement Detail – Supervisor's Daily Report Form, 15.49.00.

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Exceptions: Officers are not required to activate and record investigative or enforcement encounters with the public when:

- A witness or victim refuses to provide a statement if recorded and the encounter is non-confrontational;
- In the officer's judgment, a recording would interfere with his or her ability to conduct an investigation, or may be inappropriate, because of the victim or witness's physical condition, emotional state, age, or other sensitive circumstances (e.g., a victim of rape, incest, or other form of sexual assault);
- Situations where recording would risk the safety of a confidential informant, citizen informant, or undercover officer; or
- In patient-care areas of a hospital, rape treatment center, or other healthcare facility unless an enforcement action is taken in these areas.

VII. CONFIDENTIAL NATURE OF RECORDINGS. Body Worn Video use is limited to enforcement and investigative activities involving members of the public. The BWV recordings will capture video and audio evidence for use in criminal investigations, administrative reviews, and other proceedings protected by confidentiality laws and Department policy. Officers shall comply with all applicable laws and policies regarding confidential information including Department Manual Section 3/405, *Confidential Nature of Department Records, Reports, and Information*. Unauthorized use or release of BWV recordings may compromise ongoing criminal and administrative investigations or violate the privacy rights of those recorded. Therefore, any unauthorized use or release of BWV or other violation of confidentiality laws and Department policies are considered serious misconduct and subject to disciplinary action.

VIII. PROHIBITION AGAINST MODIFICATION OF RECORDINGS. Officers shall not copy, edit, alter, erase, or otherwise modify in any manner BWV recordings except as authorized by law or Department policy. Any violation of this provision is considered serious misconduct and subject to disciplinary action.

IX. NOTICE TO MEMBERS OF THE PUBLIC OF RECORDING. Officers are encouraged to inform individuals that they are being recorded when feasible. Officers, however, are not required to obtain consent from members of the public when the officer is lawfully in the area where the recording takes place. For example, an officer who lawfully enters a business or residence shall record any enforcement or investigative activity, as set forth above, and is not required to obtain consent from members of the public who may also be present. In addition, officers are not required to play back BWV recordings to allow members of the public to review the video footage.

X. PROHIBITION AGAINST RECORDING PERSONNEL IN NON-ENFORCEMENT OR INVESTIGATIVE SITUATIONS. Body Worn Video equipment shall only be used in conjunction with official law enforcement and investigative activities involving members of the public. Body Worn Video

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shall not be used to record Department personnel during briefings, meetings, roll calls or while in private spaces such as locker rooms or restrooms.

- XI. DEPARTMENT-ISSUED EQUIPMENT ONLY.** Officers assigned BWV equipment shall not use any other non-Department issued video or audio equipment, such as personally owned video or audio recorders, to record enforcement or investigative activities involving members of the public unless expressly authorized by a supervisor. Uniformed supervisory personnel, however, may use digital recording devices other than a BWV to record interviews when conducting use of force or personnel complaint investigations. Nothing in this provision precludes personnel from utilizing authorized still photography equipment.
- XII. PROPERTY OF THE DEPARTMENT.** Body Worn Video equipment and all data, images, video, and metadata captured, recorded, or otherwise produced is the sole property of the Department and any unauthorized release is strictly prohibited.
- XIII. TRAINING REQUIRED.** Officers who are assigned a BWV must complete Department-approved training in the proper use and maintenance of the devices before deploying to the field.
- XIV. INSPECTION AND TESTING OF EQUIPMENT.** The BWV equipment is the responsibility of the assigned officer and will be used with reasonable care to ensure proper functioning and reliability. At the start of a field assignment, officers shall inspect and test their BWV and make sure it is undamaged and operating properly. Officers shall document the results of their inspection in the comments field of "Status Change - SW" entry within CAD, in the comments field of the DFAR or Traffic DFAR, the Sergeant's Daily Report, Gang Enforcement Detail - Supervisor's Daily Report, or Metropolitan Division Officer's Log.
- XV. DAMAGED, MALFUNCTIONING OR INOPERABLE EQUIPMENT.** If an officer's BWV malfunctions or is damaged, the officer shall notify an on-duty supervisor (who shall notify the watch commander) and complete an Employee's Report, Form 15.07.00. The officer is required to provide the malfunctioning or damaged equipment to the kit room officer and obtain a functional BWV before deploying to the field.
- XVI. IDENTIFYING RECORDINGS.** For each incident recorded on a BWV, officers shall identify the event type and other information using the BWV equipment and software that best describes the content of the video (i.e. arrest, traffic stop, report). Body Worn Video recordings, however, are not a replacement for written reports or other required documentation such as a CAD summary or DFAR.
- XVII. STORAGE OF RECORDINGS.** At the end of each shift, officers shall upload all BWV recordings to secure storage by docking the device at the station.
- XVIII. VIEWING OF BODY WORN VIDEO RECORDINGS BY OFFICERS.** The accuracy of police reports, officer statements, and other official documentation is essential for the proper administration of justice and complying with the

Department's obligation to maintain full and complete records of enforcement and investigative activities. Investigators, supervisors, prosecutors, and other officials rely on complete and accurate records to perform their essential duties and responsibilities. Officers are therefore required to review BWV recordings on their assigned device or authorized computer prior to documenting an incident, arrest, search, interview, use of force, or other enforcement or investigative activity to ensure that their reports, statements, and documentation are accurate and complete.

XIX. PROCEDURE FOR REVIEWING BODY WORN VIDEO RECORDINGS IN CATEGORICAL USE OF FORCE INCIDENTS. If an officer is involved in a Categorical Use of Force (CUOF), such as an officer-involved shooting, an officer shall not review his or her BWV until authorized by the assigned Force Investigation Division (FID) investigator. Once authorized, the officer shall review his or her BWV recording, and any other relevant BWV footage as deemed necessary and appropriate by the assigned FID supervisor, prior to being interviewed by investigators. An officer may have an employee representative present during the review of the BWV recordings without the FID investigator or supervisor present. The separating and monitoring of officers involved in a CUOF shall be maintained during the review of BWV recordings and a review shall not occur jointly among involved employees.

XX. DOCUMENTATION OF RECORDINGS. Officers are required to document any portion of an incident captured on the BWV system under the heading "Photos, Recordings, Video, DICV, BWV and Digital Imaging" on all administrative and investigative reports (e.g., "The suspect's spontaneous statements and actions were recorded via BWV"). If an employee is unable to review the BWV recording before submitting a report, the officer must document in this section the circumstances that prevented his or her review. If any portion of an incident resulting in an arrest was captured by BWV equipment, officers shall identify the existence of a BWV recording on all necessary forms including the City Attorney's Disclosure Statement.

XXI. SUPERVISOR'S RESPONSIBILITIES. Supervisors assigned to any unit with BWV-equipped officers shall:

- Ensure that officers assigned BWV equipment have completed Department-required training and are familiar with applicable policies and procedures;
- Conduct periodic inspections of officers assigned BWV equipment and ensure that the BWV cameras are properly affixed to the officers' uniforms and fully operable;
- Ensure officers upload all BWV recordings at the end of their shifts; and,
- Review relevant BWV recordings prior to submitting any administrative reports (e.g. non-categorical use of force investigations, pursuits, officer-involved traffic collisions).

After conducting an inspection of an officer's assigned BWV equipment, the supervisor shall document the inspection in his or her Sergeant's Daily Report. If

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any of the BWV equipment is found to be defective, the supervisor must ensure that the equipment is removed from service and immediately replaced. The supervisor must also complete an Employee's Report regarding the defective equipment and notify the system administrator at Information Technology Bureau via email at BWV@lapd.lacity.org. Watch commanders must document the supervisor's findings in their Watch Commander's Daily Report, Form 15.80.00, and take any appropriate action depending on the cause of the problem.

XXII. RECORDINGS IN NON-CATEGORICAL USE OF FORCE INCIDENTS - SUPERVISOR'S RESPONSIBILITIES. Supervisors investigating Non-Categorical Use of Force (NCUOF) incidents shall, when available, allow involved officers to review their BWV recordings and, if deemed necessary, review other BWV recordings to ensure complete and accurate reports and documentation of the incident.

XXIII. RECORDINGS IN CATEGORICAL USE OF FORCE INCIDENTS - SUPERVISOR'S RESPONSIBILITIES. Supervisors assigned to any unit with BWV-equipped officers must take possession of an officer's BWV equipment when the officer is involved in a Categorical Use of Force, ensure the recording has stopped, power off the camera, and maintain custody until transferred to FID personnel.

Note: Supervisors, however, shall not view the BWV recording without express authorization of FID.

Force Investigation Division investigators, upon arrival at the scene of a Categorical Use of Force incident, shall take possession of any involved officer's BWV camera and complete the upload process.

XXIV. WATCH COMMANDER'S RESPONSIBILITIES. Watch commanders assigned to any unit with BWV-equipped officers shall:

- Conduct roll call training on expectations, use, and maintenance of the BWV equipment and debrief BWV captured incidents of value;
- Review deviations from BWV policy and procedures and take appropriate action;
- Ensure all BWV anomalies identified by the Area training coordinator have been addressed and any appropriate documentation is returned to the Area training coordinator for commanding officer review;
- Review supervisor inspections regarding defective equipment, systems, and ensure necessary steps are taken to have them repaired;
- Review Sergeant's Daily Reports to ensure inspections of sworn personnel assigned BWV units are being conducted and documented. If field inspections are not properly documented, the watch commander must take appropriate action to correct the deficiency and appropriately document the findings (i.e., Employee Comment Sheet, Form 01.77.00, Supervisor Action Item, Notice to Correct Deficiencies, Form Gen. 78, or a Complaint Form, Form 01.28.00) and the

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corrective action taken. The corrective action must also be documented within the Learning Management System (LMS); and,

- Log the appropriate disposition on the Video Evidence Control Log, Form 10.11.05, which must be maintained in the analyzed evidence locker at the concerned Area.

XXV. KIT ROOM OFFICER'S RESPONSIBILITIES. Officers assigned to the kit room shall:

- Conduct daily inspections of all BWV docking equipment to ensure they are active;
- Inspect any BWV devices returned to the kit room as inoperative;
- Assign spare units to sworn personnel who returned their primary unit to the kit room; and,

Note: If found to be defective, the kit room officer must declare the item inoperable and verify that an Employee's Report has been completed. If it is discovered that no documentation exists declaring the item inoperable, the kit room officer must complete an Employee's Report and submit the Employee's Report to the watch commander accompanied with the equipment log at the completion of the officer's shift.

- Provide a copy of the Employee's Report documenting the inoperable equipment to the Area training coordinator along, with any of the inoperable equipment.

XXVI. TRAINING COORDINATOR'S RESPONSIBILITIES. Area training coordinators shall:

- Verify officers have been trained on the use and deployment of BWV;
- Document all employees who have been trained on the use of BWV into the LMS including all traffic officers and reserve officers eligible for field duty;
- Ensure all employees transferring into the Area receive proper training on the use and deployment of BWV;
- Review all Employee's Reports documenting inoperable equipment and facilitate the equipment's repair;
- Deliver all inoperable equipment to the Information Technology Bureau (ITB), Tactical Technology Section; and,
- Notify the watch commander or specialized unit officer in charge (OIC) in the event that it appears that BWV equipment has been tampered with.

XXVII. COMMANDING OFFICER'S RESPONSIBILITIES. Area commanding officers (Areas with BWV) are responsible for ensuring compliance with BWV training, policies, and procedures by regularly monitoring and inspecting BWV equipment within their command. Area commanding officers are also responsible for supervising the proper maintenance and disposition of division records, ensuring adherence to record retention protocols and properly filing all BWV documents for future reference.

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XXVIII. INFORMATION TECHNOLOGY BUREAU, TACTICAL TECHNOLOGY SECTION, RESPONSIBILITIES. The OIC of ITB, Tactical Technology Section, is responsible for:

- Coordinating warranty service and maintenance through Department-approved vendor(s);
- Providing technical assistance and subject matter experts related to investigations; and,
- Coordinating the replacement of inoperable, malfunctioning or damaged equipment and/or systems.

AMENDMENT: This Order adds Section 3/579.15 to the Department Manual.

AUDIT RESPONSIBILITY: The Commanding Officer, Audit Division, shall review this directive and determine whether an audit or inspection shall be conducted in accordance with Department Manual Section 0/080.30.



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Chief of Police

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