

POLICE BODY CAMERAS

Curtis T. Howard
Sr. Legal Advisor
Plano Police Department

Outline

1. The historical perspective
2. The legislative fix
3. Benefits of a BWC program
4. Issues involving a BWC program

Senator Royce West

- In 2001, Sen. West introduced legislation which provided funding for 7,550 in-car video cameras for patrol cars throughout Texas



Michael Brown
August 9, 2014



Senator Royce West

- In December 2014, Sen. West announced SB 158 which would mandate police departments to apply for a grant to pay for a body camera program with the assistance of the federal government





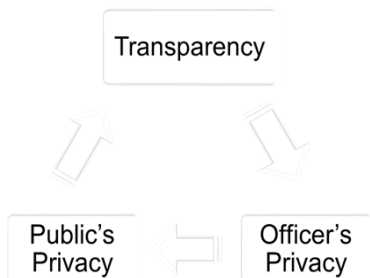
Walter Scott
April 4, 2015



Freddie Gray
April 12, 2015



Body Worn Camera Program



Body Cameras

(SB 158)

• **Definitions:**

- A BWC is a recording device capable of recording audio or video and worn on the person of a peace officer.
- "Private space" is a locations where a person has a reasonable expectation of privacy, including their home.



Body Cameras

(SB 158)

• **Grant funding available**

- Cities may apply for a grant to get body cameras for traffic/patrol officers
- They must match 25% of the grant money
- Report equipment and data storage costs annually

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Body Cameras

(SB 158)

• **Policy requirements**

- Camera can only be activated for a LE purpose only
- Guidelines considering privacy
- Retention (90 day min.), storage, backup, & security
- Guidelines for open records requests
- Provisions entitling officers access recordings before being required to make a statement
- Cannot require an officer to keep a camera activated during the entire shift

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Body Cameras
(SB 158)

- Training
 - All peace officer and other personnel who will come in contact with body camera video must receive training from the agency
 - TECOLE has developed a body camera training program

Body Cameras
(SB 158)

- Recording Interactions with the Public
 - officers can choose to activate or discontinue recording in a non-confrontational encounter (e.g. witness or victim)
 - officer who does not activate camera in response to a call for assistance must note the reason in the file
 - justification for failing to activate because its unsafe, unrealistic, or impracticable is based on the whether a reasonable officer would have made the same decision in the same circumstances.

Body Cameras
(SB 158)

- Use of Personal Equipment
 - Allowed in limited circumstances

Body Cameras (SB 158)

- Offense
 - It is a Class A misdemeanor for officer or employee to release a body camera recording without permission of the agency.



Body Cameras (SB 158)

- Recordings as Evidence
 - Body camera recordings that are related to a criminal or administrative investigation may not be deleted, destroyed, or released to the public until the criminal or administrative case has concluded
 - But, a law enforcement agency can release a recording to the public if it furthers a "law enforcement" purpose

Body Cameras

(SB 158)

- Release of Body Camera Video
 - An open records request must provide the following prior to release:
 1. The date and approximate time of the recording;
 2. The specific location of the recording; and
 3. The name of one or more persons known to be a subject of the recording.
 - An agency cannot release a recording made in a (1) "private space" or (2) of an investigation of a fine only offense that did not result in arrest *unless* they get written permission from the person who is the subject of the recording.

Body Cameras

(SB 158)



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Body Cameras

(SB 158)

- Release of Body Camera Video cont.
 - Departments can assert any exception to disclosure that exists in the PIA or other law
 - PIA request deadlines will be extended from 10 to 20 days when seeking an AG opinion
 - The AG set up a fee schedule (Nov 16):
 - \$10.00 per recording &
 - \$1.00 per minute if not been previously released

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Body Cameras (SB 158)

- Release of Body Camera Video cont.
- Deadlines for voluminous requests are also extended. A voluminous request is:
 - a request for recordings of more than 5 separate incidents;
 - more than 5 requests from the same person within 24 hours; or
 - a request or multiple requests that result in more than 5 hours of footage.

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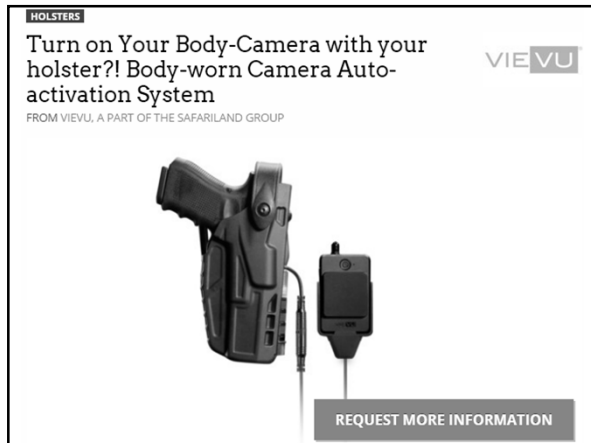
Benefits of a BWC Program

- Tentative research seems to show:
 - Reduction of complaints against police
 - Reduction in the use of force by officers
 - Improves evidence collection (e.g. DV cases)
 - Provides debriefing/training opportunities following an incident



Issues Involving a BWC Program

- Activation of the camera
 - How?
 - When?
 - Notification to the public?



Issues Involving a BWC Program

- Privacy concerns
 - Officer
 - Citizen
- Buffering capabilities

Issues Involving a BWC Program

- Cost & Storage Capabilities
 - Cloud based solution
 - In-house servers

Issues Involving a BWC Program

- Evidentiary requirements
 - District Attorney mandates
 - Additional video platforms

Issues Involving a BWC Program

- Perception issues

Brady/Morton Implications

- Art. 39.14 CCP – Discovery
 - The State must provide all non-privileged information that constitute or contain material evidence.

Issues Involving a BWC Program

- **Art. 2.139. Video Recordings of Arrests for Intoxication Offenses**
- A person stopped or arrested on suspicion of an intoxication offense is entitled ... [to] a copy of any video made by or at the direction of the officer that contains footage of:
 - (1) the stop;
 - (2) the arrest;
 - (3) the conduct of the person stopped during any interaction with the officer, including during the administration of a field sobriety test; or
 - (4) a procedure in which a specimen of the person's breath or blood is taken.

Issues Involving a BWC Program

- Article 2.139 has no information regarding whether the requested intoxication video is subject to the restrictions of a request for public information.
- The statute applies not only to arrests, but also investigatory stops; so even if a person is not arrested, he or she would be "entitled" to a copy of "any video" related to the stop – which would include in-car video, intoxilyzer room video, and body camera video.
- What if there is confidential information on the video, e.g. SSN's or DL's read aloud by the dispatcher or officer?
 - Confidential information should not be released;
 - The videos are frequently not subject to modification – part of the forensic safeguard discussed earlier.

Additional Information

- International Association of Chiefs of Police (IACP)
 - <http://www.iacp.org/MPBodyWornCameras>
- Texas Commission on Law Enforcement (TCOLE)
 - <https://www.tcole.texas.gov/content/body-worn-camera-policies>
- American for Effective Law Enforcement (AELE)
 - <http://www.aele.org/bwc-info.html>

The End

Curtis Howard
Office: 972 941-2423
Email: curtish@plano.gov
