

## Recording inside private homes

Another privacy question is whether and under what conditions officers should be allowed to record while inside a person's home. Many law enforcement agencies have taken the position that officers have the right to record inside a private home as long as they have a legal right to be there. According to this approach, if an officer enters a home in response to a call for service, pursuant to a valid search warrant, or with consent of the resident, officers can record what they find inside.

There is a concern that footage taken inside a private home may be subject to public disclosure. Deputy Chief of Police William Roseman of Albuquerque described how this can be particularly problematic in states with broad public disclosure laws. "Here in Albuquerque, everything is open to public record unless it is part of an ongoing investigation. So if police come into your house and it is captured on video, and if the video isn't being used in an investigation, your neighbor can request the footage under the open records act, and we must give it to them." Scott Greenwood of the ACLU has expressed similar concerns:

An officer might be allowed to go into the residence and record, but that does not mean that everything inside ought to be public record. The warrant is an exception to the Fourth Amendment, not a waiver. We do not want this to show up on YouTube. My next-door neighbor should never be able to view something that happened inside my house without my permission.

*"One of the things we are forgetting is that we already send officers into people's homes and have them document all these bits of information that we're worried about recording. If an officer enters someone's home, they document the condition of the home, especially if it's a case about a child or involves domestic violence or physical injury. So videos are just a technologically advanced type of police report that should be treated no differently from an initial contact form that we currently fill out every day. The advantage of a camera is now you have a factual representation as opposed to an interpretation by an officer."*

– Chris Burbank, Chief of Police,  
Salt Lake City (Utah) Police Department

## Data storage, retention, and disclosure

Decisions about where to store video footage and how long to keep it can have a far-reaching effect on privacy. Many police executives believe that privacy concerns can be addressed through data storage, retention, and disclosure policies. However, when developing these policies, agency leaders must balance privacy considerations with other factors, such as state law requirements, transparency, and data storage capacity and cost.

### Data storage policies

Among police executives interviewed by PERF, security, reliability, cost, and technical capacity were the primary factors cited for choosing a particular method for storing video files from body-worn cameras. Among the more than 40 departments that PERF consulted, all stored body-worn camera video on an in-house server (managed internally) or an online cloud database (managed by a third-party vendor).<sup>9</sup>

Police executives noted a number of strategies that can help agencies protect the integrity and privacy of their recorded data, regardless of which storage method is used. These lessons learned regarding data storage include the following:

- *Consult with prosecutors and legal advisors:* Legal experts can advise whether data storage policies and practices are in compliance with all relevant laws and adequately preserve evidentiary chain of custody.

9. Cloud storage is a method for storing and backing up electronic data. The data is maintained and managed remotely, generally by a third party, and made available to users over a network, or "cloud."

- *Explicitly prohibit data tampering, editing, and copying.*
- *Include protections against tampering with the data prior to downloading:* This helps to mitigate concerns that officers will be able to alter or delete recordings prior to downloading them. Some body-worn camera systems are sold with technological safeguards that make it impossible for an officer to access the data prior to downloading.
- *Create an auditing system:* It is important to have a record of who accesses video data, when, and for what purpose. Some storage systems include a built-in audit trail.
- *Explicitly state who will be authorized to access data:* Many written policies outline who will have access to the data (e.g., supervisors, Internal Affairs, certain other officers and department personnel, and prosecutors) and for what purpose (e.g., administrative review, training, and investigations).

*"Whether you store video internally or externally, protecting the data and preserving the chain of custody should always be a concern. Either way, you need something built into the system so that you know that video has not been altered."*

– Ken Miller, Chief of Police,  
Greensboro (North Carolina) Police Department

- *Ensure there is a reliable back-up system:* Some systems have a built-in backup system that preserves recorded data, and some departments copy recordings to disc and store them as evidence.
- *Specify when videos will be downloaded from the camera to the storage system and who will download them:* The majority of existing policies require the camera operator to download the footage by the end of each shift. In the case of an officer-involved shooting or other serious incident, some policies require supervisors to step in and physically take possession of the camera and assume downloading responsibilities.

- *Consider third-party vendors carefully:* Overwhelmingly, the police executives whom PERF interviewed reported that their legal advisors and prosecutors were comfortable using a third-party vendor to manage the storage system. When deciding whether to use a third-party vendor, departments consider the vendor's technical assistance capabilities and whether the system includes protections such as an audit trail, backup system, etc. Police executives stressed the importance of entering into a legal contract with the vendor that protects the agency's data.

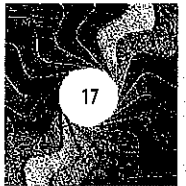
These strategies are important not only for protecting the privacy rights of the people recorded but also for preserving evidence and resolving allegations of data tampering.

### Data retention policies

The length of time that departments retain body-worn camera footage plays a key role for privacy. The longer that recorded videos are retained, the longer they are subject to public disclosure, which can be problematic if the video contains footage associated with privacy concerns. And community members' concerns about police departments collecting data about them in the first place are lessened if the videos are not retained for long periods of time.

The retention times are generally dictated by the type of encounter or incident that the footage captures. Although protocols vary by department, footage is typically categorized as either "evidentiary" or "non-evidentiary."

Evidentiary video involves footage of an incident or encounter that could prove useful for investigative purposes, such as a crime, an arrest or citation, a search, a use of force incident, or a confrontational encounter with a member of the public. Evidentiary footage is usually further categorized by specific incident type, and the retention period is governed by state evidentiary rules for that incident. For example, many state laws require that footage involving a homicide



be retained indefinitely, but video of a traffic citation must be kept for only a matter of months. Departments often purge evidentiary videos at the conclusion of the investigation, court proceeding, or administrative hearing for which they were used.

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

Of the departments that PERF consulted, the most common retention time for non-evidentiary video was between 60 and 90 days. Some departments retain non-evidentiary video for an even shorter period. Fort Collins, Colorado, for example, discards footage after seven days if there is no citizen contact recorded and after 30 days if contact is made but no enforcement action is taken. On the other end of the spectrum, some departments, such as Albuquerque, retain non-evidentiary video for a full year.

Many police executives express a preference for shorter retention times for non-evidentiary video. Shorter retention periods not only address privacy concerns but also reduce the costs associated with data storage. On the other hand, police executives noted that they must keep videos long enough to demonstrate transparency and to have footage of an encounter in case a complaint arises about an officer's actions. For example, departments in Rialto, Fort Collins, Albuquerque, Daytona Beach, and Toronto base retention times in part on how long it generally takes for complaints to be filed.

### Public disclosure policies

State public disclosure laws, often known as freedom of information laws, govern when footage from body-worn cameras is subject to public release. However, most of these laws were written long before law enforcement agencies began deploying body-worn cameras, so the laws do not necessarily account for all of the considerations that must be made when police departments undertake a body-worn camera program.

Although broad disclosure policies can promote police agency transparency and accountability, some videos—especially recordings of victims or from inside people's homes—will raise privacy concerns if they are released to the public or the news media. When determining how to approach public disclosure issues, law enforcement agencies must balance the legitimate interest of openness with protecting privacy rights.<sup>10</sup>

In most state public disclosure laws, exceptions are outlined that may exempt body-worn camera footage from public release. For example, even the broadest disclosure laws typically contain an exception for video that contains evidence or is part of an ongoing investigation. Some state disclosure laws, such as those in North Carolina, also exempt personnel records from public release. Body-worn camera videos used to monitor officer performance may fall under this type of exception.

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*"It is important to have retention policies that are directly linked to the purposes of having the video, whether that purpose is to have evidence of a crime or to hold officers and the public accountable. Agencies should not retain every video indefinitely, or else those videos could be used down the road for all sorts of inappropriate reasons."*

– Lorie Fridell, Associate Professor,  
University of South Florida

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10. Scott Greenwood of the ACLU recommends that police executives work with the ACLU to ensure that state disclosure laws contain adequate privacy protections for body-worn camera videos. "If interpreted too broadly, open records laws can undermine the accountability of law enforcement agencies," said Greenwood. "You want to make sure that the video is not subject to arbitrary disclosure. It deserves the highest level of protection."



These exceptions to public disclosure can help police departments to avoid being required to release videos if doing so could jeopardize a criminal prosecution. The exceptions can also help police to protect the privacy of crime victims and witnesses. However, by policy and practice, law enforcement

*“When developing body-worn camera policies, agencies have to consider how open the public disclosure laws are in their state. Are they going to have to give up all of their footage to any person that requests it? Or are there some protections? This is important to think about when it comes to privacy.”*

– Ron Miller, Chief of Police,  
Topeka (Kansas) Police Department

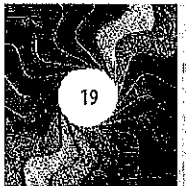
agencies should apply these exceptions judiciously to avoid any suspicion by community members that police are withholding video footage to hide officer misconduct or mistakes. In launching body-worn camera programs, law enforcement agencies should convey that their goal is to foster transparency and accountability while protecting civil liberties and privacy interests. When an agency decides whether to release or withhold body-worn camera footage of a particular incident, the agency should articulate its reasons for doing so.

In addition, some agencies have adopted recording and retention policies that help to avoid violations of privacy. For example, some agencies allow officers to deactivate their cameras during interviews with crime victims or witnesses. And short retention times for non-evidentiary video footage can reduce the window of opportunity for requests for release of video footage that would serve no legitimate purpose.

### *Lessons learned on privacy considerations*

In their conversations with PERF staff members, police executives and other experts revealed a number of lessons that they have learned regarding body-worn cameras and privacy rights:

- Body-worn cameras have significant implications for the public’s privacy rights, particularly when it comes to recording victim interviews, nudity, and other sensitive subjects and when recording inside people’s homes. Agencies must factor these privacy considerations into decisions about when to record, where and how long to store data, and how to respond to public requests for video footage.
- In terms of when officers should be required to activate their cameras, the most common approach is requiring officers to record all calls for service and law enforcement-related encounters and activities and to deactivate the camera only at the conclusion of the event or with supervisor approval.
- It is essential to clearly define what constitutes a law enforcement-related encounter or activity in the department’s written body-worn camera policy. It is also useful to provide a list of specific activities that are included, noting that the list is not necessarily all inclusive. Many agencies give a general recommendation to officers that when they are in doubt, they should record.
- To protect officer safety and acknowledge that recording may not be possible in every situation, it is helpful to state in policies that recording will not be required if it would be unsafe, impossible, or impractical.
- Significant privacy concerns can arise when interviewing crime victims, particularly in situations involving rape, abuse, or other sensitive matters. Some agencies prefer to give officers discretion regarding whether to record in these circumstances. In such cases, officers should take into account the evidentiary value of recording and the willingness of the victim to speak on camera. Some agencies go a step further and require officers to obtain the victim’s consent prior to recording the interview.
- To promote officer accountability, most policies require officers to document, on camera or in writing, the reasons why the officer deactivated the camera in situations that are otherwise required to be recorded.



- In one-party consent states, officers are not legally required to notify subjects when officers are recording. However, some agencies have found that announcing the camera is running promotes better behavior and defuses potentially confrontational encounters.
- When making decisions about where to store body-worn camera footage, how long to keep it, and how it should be disclosed to the public, it is advisable for agencies to consult with departmental legal counsel and prosecutors.
- Regardless of the chosen method for storing recorded data, agencies should take all possible steps to protect the integrity and security of the data. This includes explicitly stating who has access to the data and under what circumstances, creating an audit system for monitoring access, ensuring there is a reliable back-up system, specifying how data will be downloaded from the camera, and including protections against data tampering prior to downloading.
- It is important that videos be properly categorized according to the type of event contained in the footage. How the videos are categorized will determine how long they are retained, who has access, and whether they can be disclosed to the public.
- To help protect privacy rights, it is generally preferable to set shorter retention times for non-evidentiary data. The most common retention time for this video is between 60 and 90 days.
- When setting retention times, agencies should consider privacy concerns, the scope of the state's public disclosure laws, the amount of time the public needs to file complaints, and data storage capacity and costs.
- Evidentiary footage is generally exempt from public disclosure while it is part of an ongoing investigation or court proceeding. Deleting this video after it serves its evidentiary purpose can reduce the quantity of video stored and protect it from unauthorized access or release. It is important to always check whether deletion is in compliance with laws governing evidence retention.
- Informing the public about how long video will be retained can help promote agency transparency and accountability. Some agencies have found it useful to post retention times on the department's website.
- It is important for the agency to communicate its public disclosure policy to the community when the body-worn camera program is deployed to develop public understanding of the technology and the reasons for adopting it.

*In launching body-worn camera programs, law enforcement agencies should convey that their goal is to foster transparency and accountability while protecting civil liberties and privacy interests.*

## Impact on community relationships

Building positive relationships with the community is a critical aspect of policing, and these relationships can exist only if police have earned the trust of the people they serve. Police rely on these community partnerships to help them address crime and disorder issues.

At the PERF conference, a number of participants expressed concern that excessive recording with body-worn cameras may damage the relationships officers have developed with the community and hinder the openness of their community policing interactions. Some police executives fear, for



## Financial considerations

While body-worn cameras can provide many potential benefits to law enforcement agencies, they come at a considerable financial cost. In addition to the initial purchasing cost, agencies must devote funding and staffing resources toward storing recorded data, managing videos, disclosing copies of videos to the public, providing training to officers, and administering the program.

For some agencies, these costs make it challenging to implement a body-worn camera program. PERF's survey revealed that 39 percent of the respondents that do not use body-worn cameras cited cost as a primary reason. Chief Villaseñor of Tucson said that cost was a major obstacle to getting cameras. "In recent years, we've faced serious budget cuts and have had to reduce staffing levels," he said. "It can be hard to justify spending money on cameras when officers are fighting for their jobs." However, Villaseñor has put together a review committee to evaluate costs and explore how to implement body-worn cameras in Tucson.

Police Commissioner Ramsey said that in departments the size of Philadelphia's, which has 6,500 sworn officers, the cost of implementing a body-worn camera program would be extraordinary. "We've considered using cameras in Philadelphia, and we see all of the benefits they can provide," he said. "Cost is the primary thing holding us back."

Some police executives, however, said that body-worn cameras can save departments money. They said that by improving officer professionalism, defusing potentially confrontational encounters, strengthening officer training, and documenting encounters with the public, body-worn cameras can help reduce spurious lawsuits and complaints against officers. They also said that these savings more than make up for the considerable financial cost of implementing a camera program.

"If there is a lawsuit against the department, the settlements come from the department's operational budget," said Chief Chitwood of Daytona Beach. "By preventing these suits, the department has more money to spend on cars, technology, and other things that benefit officers."<sup>12</sup>

The London Metropolitan Police Service, working together with the College of Policing, is planning to conduct a cost-benefit analysis in conjunction with its upcoming pilot program of 500 cameras. The analysis will measure whether the cameras contribute to cost savings in terms of promoting early guilty pleas in criminal cases and quicker resolution of complaints against officers. The study will also measure community and victim satisfaction with the cameras, as well as how the cameras impact the length of sentences that offenders receive.

*"I absolutely think that officers should be allowed to review camera footage from an incident in which they were involved, prior to speaking with internal investigators. With what we know of the effect of stressful incidents on the human mind, officers in most instances may not recall every aspect of the incident. Or they may recall events out of sequence or not remember everything until much later. For this reason alone, allowing an officer to review the video prior to making a statement seems prudent."*

– Michael Frazier, Chief of Police,  
Surprise (Arizona) Police Department

12. See "Perceived Benefits of Body-Worn Cameras" on page 5 for additional discussion of cost-benefit analysis.

### *Cost of implementation*

The price of body-worn cameras currently ranges from approximately \$120 to nearly \$2,000 for each device. Most of the agencies that PERF consulted spent between \$800 and \$1,200 for each camera. Prices vary depending on factors such as functionality, storage capacity, and battery life. Agencies must make this initial purchase up front, and sometimes they purchase cameras as part of a contract with the manufacturer for related services, such as data storage and technical assistance.

*"Once you put cameras in the field, you're going to amass a lot of data that needs to be stored. Chiefs need to go into this with their eyes wide open. They need to understand what storage is going to cost, what their storage capacities are, and the amount of time it takes to review videos for public release. It is a major challenge."*

—Kenton Rainey, Chief of Police,  
Bay Area Rapid Transit Police Department

Although the initial costs of purchasing the cameras can be steep, many police executives said that data storage is the most expensive aspect of a body-worn camera program. "Data storage costs can be crippling," said Chief Aden of Greenville. Captain Thomas Roberts of Las Vegas agreed. "Storing videos over the long term is an ongoing, extreme cost that agencies have to anticipate," said Roberts.

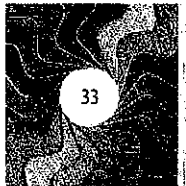
The cost of data storage will depend on how many videos are produced, how long videos are kept, and where the videos are stored. If the videos are stored on an online cloud database, the costs typically go toward paying a third-party vendor to manage the data and to provide other services, such as technical assistance and forensic auditing. If videos are stored on an in-house server, agencies must often purchase additional computer equipment and spend money on technical staff and systems to ensure the data are secure.

The New Orleans Police Department has launched a plan for deploying 350 body-worn cameras at an anticipated cost of \$1.2 million over five years—the bulk of which will go to data storage.<sup>13</sup> One department reported that it will pay \$2 million per year, mostly toward data storage, to outfit 900 officers with cameras. Another department spent \$67,500 to purchase 50 cameras and will spend approximately \$111,000 to store the video on a cloud for two years. In terms of storage, Chief Miller of Topeka said, "I've seen a formula that says that if you have 250 officers that have body-worn cameras, in three years you will produce 2.3 million videos. If the officer was required to run the camera continuously during his or her entire shift, it would produce even more. Managing and storing that data is usually more expensive than buying the cameras."

In addition to the cost of purchasing cameras and storing data, administering a body-worn camera program requires considerable ongoing financial and staffing commitments. Many agencies appoint at least one full-time officer to manage the camera program. Agencies must provide ongoing training programs, ensure that cameras are properly maintained, fix technical problems, and address any issues of officer noncompliance. Some agencies also devote resources toward public information campaigns aimed at educating the community about the program.

According to many police executives, one of the most significant administrative costs—at least in terms of staff resources—involves the process of reviewing and categorizing videos. Although the exact process varies depending on the camera system, officers must typically label, or "tag," videos as evidentiary or non-evidentiary. Evidentiary videos are further categorized according to the type of incident captured in the footage (e.g., homicide, robbery, or traffic citation). This tagging process is critical for determining how a video will be used and how long it will be retained. Most agencies that PERF consulted require officers to download and tag videos by the end of each shift.

13. "NOPD Wearable Cameras Expected to Cost \$1.2 Million," The Times-Picayune, September 30, 2013, [http://www.nola.com/crime/index.ssf/2013/09/post\\_346.html](http://www.nola.com/crime/index.ssf/2013/09/post_346.html). Since The Times-Picayune published this article, New Orleans has increased the number of body-worn cameras it expects to deploy from 350 to more than 400.



Some officers have expressed concern about this increase to their administrative workload. “One of the major complaints we heard from officers was that they were spending so much time, after their shifts were over, downloading and tagging their videos,” said Commander Tony Filler from Mesa. The department explored several solutions to this problem, ultimately creating an automated process that linked videos to the department’s records management system (RMS). The department also purchased from the camera manufacturer electronic tablets that allow officers to view and tag videos while they are in the field. “The tablets were an additional cost, but they were worth it because they save officers a lot of time,” said Filler.

Police executives said that there are also significant administrative costs involved with responding to requests from the public or the news media for body-worn camera videos. When an agency receives a disclosure request, often under the Freedom of Information Act, officers or other department personnel must spend time reviewing videos to find the relevant footage, determining whether an exception to the presumption of disclosure applies, identifying portions that by law must be redacted, and performing the redaction process.

### *Cost-saving strategies*

Police executives discussed several strategies that their agencies have employed to mitigate the considerable financial and staffing costs associated with body-worn cameras. These strategies focus primarily on managing the costs of data storage, which many police executives said represent the most expensive aspect of their programs.

Although managing data storage costs is not the primary reason why many agencies have decided against recording non-law enforcement related encounters with the public, it can be a factor. “There is a huge difference in the amount of money it would take to record all encounters versus adopting a more restrictive recording policy,” said Chief Miller of Greensboro. “If you record everything, there are going to be astronomical data storage costs. With 500 officers using cameras, we have already produced over 40,000 videos in just seven months. And we would have a lot more if we didn’t use a more restrictive recording policy.”

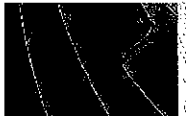
Some agencies, such as the police departments in Oakland and Daytona Beach, are working to adopt shorter data retention periods for non-evidentiary footage in an effort to keep data storage costs manageable. Although it is important to keep videos long enough to demonstrate transparency and preserve a record of an encounter, keeping these videos indefinitely would overwhelm an agency’s resources. Some agencies may even decide against adopting body-worn cameras due to the extraordinary costs of data storage.

“The two biggest challenges that we face in terms of cost are data storage and responding to records requests,” said Chief Chitwood of Daytona Beach. “We had to brainstorm about how to address those costs, and one way was through changing our retention times.”

As the public becomes more familiar with the existence of police body-worn camera programs, it is reasonable to expect that members of the public and the news media will increasingly want to obtain video recordings. Such public records requests will add to the workload of managing a camera program. Captain James Jones of the Houston Police Department said, “The cost of responding to

*“Responding to public disclosure requests is one of the biggest challenges that my department faces. When a request for a video comes in, an officer has to sit for at least two hours and review the videos to find the footage and identify which portions must by law be redacted. And the actual redactions can take over 10 hours to complete.”*

– Lieutenant Harold Rankin,  
Mesa (Arizona) Police Department





open records requests played a role when we were deciding how long to keep the video. To protect privacy, you have to go through every video and make sure that you're not disclosing something that you shouldn't. It takes a lot of time, and personnel, to review and redact every tape. If you keep video for five years, it is going to take even more."

Agencies have also explored cheaper storage methods for videos that by law must be retained long-term, such as those containing evidence regarding a homicide or other serious felony. For example, the Greensboro Police Department deletes videos requiring long-term storage from the online cloud after importing them into its RMS or Internal Affairs case management systems. This reduces overall consumption of expensive cloud storage for videos that are required for future court proceedings or long-term retention under state personnel laws. The Charlotte-Mecklenburg Police Department recently completed a body-worn camera trial program, and Major Willis said that the department is exploring alternative storage methods. "Long-term storage costs are definitely going to be a problem. We are looking at cold storage, offline storage, and shorter retention times as a way to keep those costs more manageable," he said.

Many police agencies have also found it useful to conduct a cost-benefit analysis when exploring whether to implement body-worn cameras. For example, agencies can conduct an audit of their claims, judgments, and settlements related to litigation and complaints against officers to determine what costs they may already be incurring. The costs associated with deploying body-worn cameras may be offset by reductions in litigation costs, and agencies should carefully assess their ongoing legal expenses to determine how they could be reduced through the use of body-worn cameras.

### *Lessons learned about financial considerations*

In interviews with PERF staff members, police executives and other experts revealed a number of lessons that they have learned about the financial costs of body-worn cameras:

- The financial and administrative costs associated with body-worn camera programs include costs of the equipment, storing and managing recorded data, and responding to public requests for disclosure.
- It is useful to compare the costs of the camera program with the financial benefits (e.g., fewer lawsuits and unwarranted complaints against officers, as well as more efficient evidence collection).
- Setting shorter retention times for non-evidentiary videos can help make the significant costs of data storage more manageable.
- Videos requiring long-term storage (e.g., those involving serious offenses) can be copied to a disc, attached to the case file, and deleted from the internal server or online cloud. This frees up expensive storage space for videos that are part of an ongoing investigation or that have shorter retention times.
- Linking recorded data to the agency's records management system or using electronic tablets, which officers can use in the field, can ease the administrative burden of tagging and categorizing videos.