

Body Cameras: A Cop's View

Chief Deputy Klint Anderson
Weber County Sheriff's Office

ACLU BWC Model Legislation

(n) No law enforcement officer shall review or receive an accounting of any body camera video footage that is subject to a minimum three (3) year retention period pursuant to subsection (j)(1) prior to completing any required initial reports, statements and interviews regarding the recorded event.

ACLU BWC Model Legislation

(r) Should any law enforcement officer, employee or agent fail to adhere to the recording or retention requirements contained in this chapter,...

(1) Discipline for violations

(2) Rebuttable presumption in favor of defendant

(3) Rebuttable presumption in favor of plaintiff

Typical Police Policy

1. States that ALL recordings made in connection to official activities are the property of the agency.
2. Defines when a body camera should be activated.
3. Requires the use of a camera during the execution of a search warrant absent any exigency.
4. Respect and consideration for privacy of others.
5. Prohibits some uses of a recording device.

Typical Police Policy

6. Admonishes continuous recording of an event once started with some allowable exceptions.
7. Prohibits use of a BWC recording device when conducting formal interviews of child victims.
8. Establishes a classification system that designates the retention time of the various types of recordings.
9. BWC policies are similar to policies of other types of police cameras including dash-cams.

Two Main Police Perspectives:

1. Law Enforcement Administration view
2. Line-level (street) view

Disclaimer: There is only a very general consensus on this issue even among cops!

Administration's Perspective

1. Costs
2. Application and Use
3. Records and Evidence Management



Pleasant Grove police turn off their body cameras

By Pat Reavy | Posted Oct 12th, 2016 @ 7:08pm

Costs of BWC (55 Cameras)

➤ Camera (\$900 ea. Amortized over 3 yrs.)	\$16,500
➤ Annual storage costs	24,750
➤ Staffing	50,000
➤ Video mgt. software and licenses annual	2,700+
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TOTAL Annual Expense	\$93,950

Application and Use

1. Who decides when to record and when not to?
2. Evidence v. Records
 - a) Criminal case
 - b) Civil case
 - c) Administrative
3. Dynamic situations that evolve, even weeks later.

Records and Evidence Management

- There is a difference between records security and video evidence:
 - Integrity/chain of custody/tampering
 - Storage location
 - Personnel access
 - Distribution
 - Audits and verifications
 - Backups

Questions:

1. Are Body-worn-camera (BWC) videos evidence?
2. Are they records?
3. Can a BWC recording be both?
4. Can a BWC video change from one to the other?

Public Information v. Discovery

Recently, at a GRAMA focus group, the issue of discovery and GRAMA regarding the same records was address. Specifically, the case of *Phillips v. West Jordan*, Case No. 14-04 was cited. Conclusions:

1. GRAMA and Discovery are two separate and unrelated processes.
2. Records requested, including audio and video recordings, were part of the initial report that is typically public record.
3. West Jordan failed to exempt the records under one of the accepted GRAMA classifications - implying that had they done so, the GRAMA Committee may have ruled otherwise.

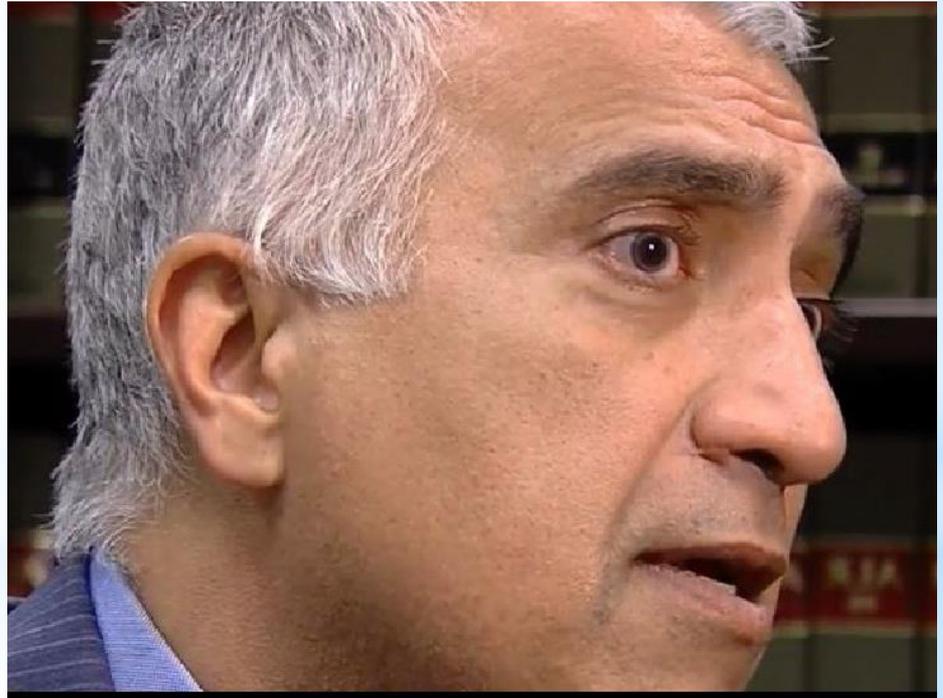
A Cop's Perspective

Types of Liability

- Criminal
- Civil
- Reputation / Professional
- Personal

SL County DA: *I won't prosecute cases where body cam footage is released early*

KUTV2



DA Sim Gill

10 Limitations of a BWC

1. The BWC doesn't follow your eyes or see as you see.
2. Camera speeds differ from human speed.
3. A camera may see better in low light than you.
4. Your body or your cover may block the camera's view.
5. Some important cues can't be seen on a recording.

Threat or not?



10 Limitations of a BWC

(continued)

6. A camera is monocular (2-D), we see in stereo (3-D)
7. Cameras record in real time and recordings are typically time stamped. We are not very good at judging time.
8. One camera may not be enough. Two cameras at different perspectives can each depict the event differently than the other.
9. A camera tempts an observer to second guess the officer's actions, motives. *Graham v. Connor*
10. A camera recording should not supplant a thorough investigation

Keith Scott Shooting



The Human Element

Behavioral changes that are associated with high levels of stress include;

- 1) Narrowing of attention span and range of perceived alternatives,
- 2) Reduction in problem-solving capabilities,
- 3) Difficulty in seeing the long-term consequences,
- 4) Inefficiency in information search strategies,
- 5) Difficulties in maintaining attention to fine detail discrimination, and
- 6) With intense fear, there is also temporary loss of fine visual-motor (e.g. eye-hand) coordination.

The Human Element

1. Tunnel Vision
2. Auditory Exclusion
3. Time Distortion
4. Gaps in recollection
5. These gaps can sometimes fill in later when stress subsides and the subject is rested.

If there are perceived differences from the officer's account and what is seen on the video, what happens next? Who or what carries weight?

Giglio/Brady?

Freddie Gray case: Charges dropped against remaining officers

By Carolyn Sung and [Catherine E. Shoichet](#), CNN

Updated 5:52 PM ET, Wed July 27, 2016

In Closing:

- Public expects immediate disclosures.
- GRAMA may argue for early release of videos. Will this interfere with a prosecution?
- Prosecutors should be familiar with their law enforcement agency policies regarding BWC and other video records.
- Prosecutors should help in the development of law enforcement BWC/video policies.