



THE COMPLEX BODY-CAMERA POLICY ENVIRONMENT

Lessons Learned
from the Land of Lincoln

International Association of Chiefs of Police
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NATIONAL DEVELOPMENTS

Body-Worn Camera (BWC) Technology Adoption Nationwide

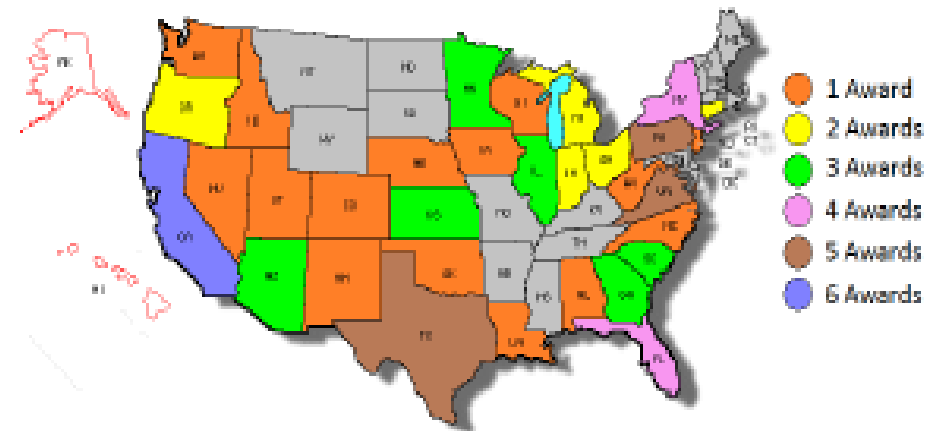
- Federally Funded Pilot Programs.
- Available funding cannot be used for data storage costs (generally recognized as the most significant cost of the program)
- Significant State and Local action with respect to BWC program development
- Camera programs vary greatly on storage and operational issues

NATIONAL DEVELOPMENTS

FEDERAL FUNDING FOR BODY-CAMERA PROGRAMS

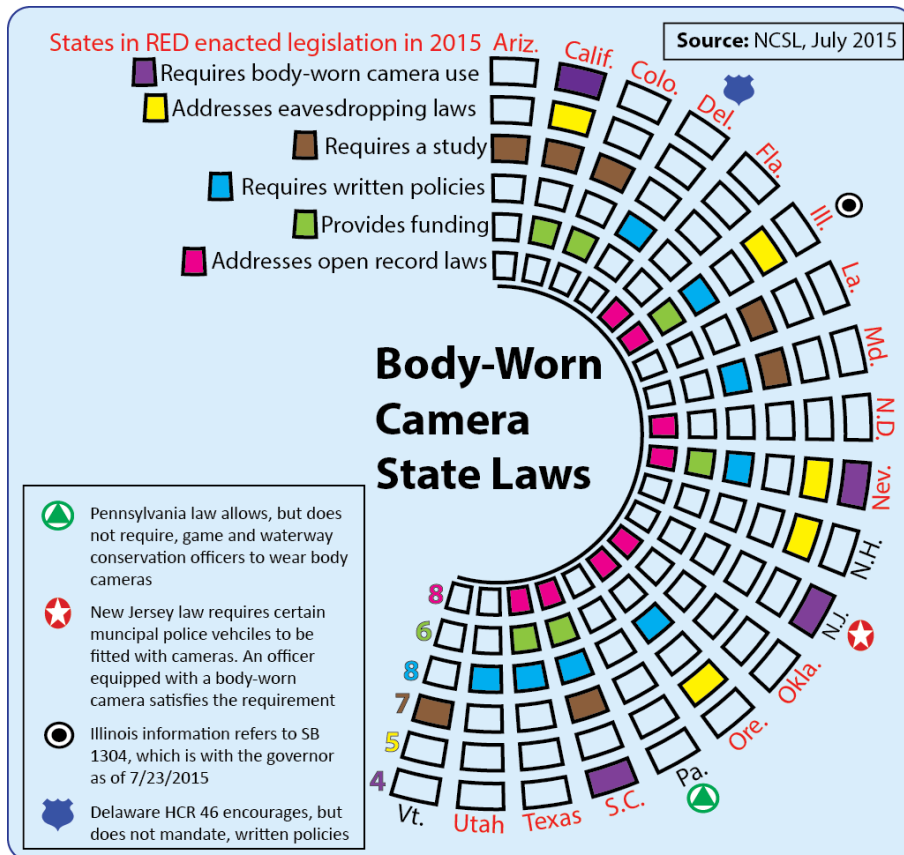
- Body-Worn Camera (BWC) Pilot Implementation Program (\$20M) plus another (\$2.5M) OJP Funds
 - 285 Applicants
 - 73 Awardees
 - 42 States
- Three Illinois Awardees
 - Chicago (\$1M)
 - Elgin (\$250K)
 - Lake County Sheriff (\$73K)

BWC Policy Implementation Program
2015 Awards Map



NATIONAL DEVELOPMENTS

STATE LEGISLATION (JUL 2015) STATE LEGISLATION (JUL 2016)



- BWC Required-Five States
- BWC Funding—12 States
- BWC & Open Records Law—18 States
- BWC & Eavesdropping Laws—Six States
- BWC & Written Polices—17 States
- BWC Studies—Nine States

ILLINOIS DEVELOPMENTS

Law Enforcement Officer-Worn Camera Act

- Part of the Police and Community Relations Improvement Act (Amendment 1 to SB 1304)-approved by House 28 MAY 2015 and Senate on 30 MAY 2015
- Not mandatory but significant regulation of a range of issues
- Signed by Governor on August 12, 2015 as PA 099-0352--most provisions effective January 1, 2016
- Specified equipment requirements--effective as of July 1, 2015
- Requires implementing regulation by Illinois Law Enforcement Training and Standards Board (ILETSB)

ILACP POSITION

BWCs - ILACP's Top Legislative Priority in 2015

- Initial legislative proposals were much more onerous than the SB 1304
- Negotiations involved multiple interested parties (Chiefs, Sheriffs, Prosecutors, Manufacturers, and ACLU)
- Negotiations on SB 1304 were further complicated when the legislative sponsors decided to insert legislation on other police reforms into SB 1304
- ILACP sent the Governor a letter requesting a veto of certain portions of the SB 1304 but no changes were made

Illinois Programs & Pilots

Large

- Chicago Police Department

Medium

- Springfield Police Department

Small

- Mendota Police Department

Discontinued

- Minooka Police Department

PA 099-0352—KEY PROVISIONS ON BWCs

EQUIPMENT SPECIFICATIONS:

- 30 second pre-event recording
- 10 hour battery life

OPERATIONAL ISSUES:

- ILETSB to create regulations
- Generally camera must be on when performing law enforcement functions (exception for exigent circumstances victim/witness request, confidential information)
- Need not be on for a community caretaker function
- Need not be on in the patrol car (if the car is equipped with video)
- Officer needs to provide notice of recording
- Agency must have a regular maintenance program
- Annual reporting requirements are imposed



PA 099-0352—KEY PROVISIONS ON BWCs

RETENTION:

- Unflagged Data must be retained for 90 days then destroyed.
- Data can be “flagged” for:
 - Formal or informal complaint
 - Encounters involving use of force, weapons discharge or death or great bodily harm
 - Arrest or detention
 - Determination of evidentiary value in criminal prosecution (Supervisor Prosecutor or Court)
 - Internal investigation
 - Official request of officer
- Flagged Data is retained for two years.
- Data used in civil or criminal proceedings must be retained until after final disposition and order of court
- NO ALTERATION DURING THE RETENTION PERIOD

PA 099-0352—KEY PROVISIONS ON BWCs

DISSEMINATION/FOIA:

- Unflagged Data (or Flagged Data, which was not Flagged for the reasons below)—Not Subject FOIA except where the FOIA comes from the subject of the video, the officer, or their legal representatives
- Data Flagged for: complaint; use of force; firearms discharge; arrest or detention; or death and great bodily harm (where there is no expectation of privacy by the subject)--Subject to FOIA
- Data Flagged for: complaint; use of force; firearms discharge; arrest or detention; or death and great bodily harm (where there is an expectation of privacy by subject)--Subject to FOIA where subject is a [victim or witness] and the agency gets written permission
- No FOIA for data otherwise exempt from FOIA
- Agency is obligated to redact

PA 099-0352—KEY PROVISIONS ON BWCs

OTHER PROVISIONS:

- Must be disseminated consistent with evidentiary and Supreme Court Rules
- Can be used as evidence
- Can only be used for officer discipline in certain circumstances
- Adverse inference instruction required where there is a failure to record or improper alteration or destruction of data
- Written policy is required (ILETSB will provide Guidance)
- Officer Training is required (ILETSB will establish that training)

BWC COST CONSIDERATIONS

POSITIVE:

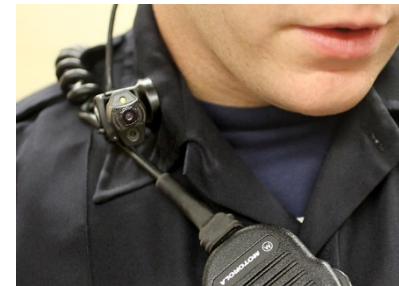
- PA 099-0352 creates a grant funding program for BWCs
- Potential liability and prosecution cost reductions

NEGATIVE:

- Grant funds (state and federal) can be used for purchase of body-worn cameras (state grant funds also for purchase—but not installation--of in-car cameras) and officer training
- Significant unfunded costs including:
 - Maintenance
 - Administration
 - Reproduction/Redaction
 - Storage
 - New reporting requirements
 - Integration with other image data systems and inputs
 - Labor cost camera issue and data download

OTHER BWC CONSIDERATIONS

- Enhancing community confidence through greater transparency and more complete narrative
- Potential of improved conduct and reduced violence from offenders
- Potential of improved conduct and reduced use of force from officers
- More certitude in disciplinary investigations
- Reduced citizen complaints



OTHER BWC CONSIDERATIONS

- Discipline for failure to follow policy
- Equipment concerns
 - Officer safety in camera positioning
 - Officer point of view versus data collection (enhanced optics and night vision)
 - Ease of use
 - Environmental considerations
 - Download process and location
 - Integration with other operating systems
- Coordination with external agencies (State's Attorneys and Courts)
- Complete solution for all digital evidence

UBIQUITOUS CAMERAS

“...the use of video recordings as evidence at trial has become a common practice to allow a defendant the opportunity to present an effective defense and to further the truth-seeking process. We recently reaffirmed the general admissibility of such evidence [citation omitted] and courts across the country are increasingly relying on video recordings to present an objective view of the facts in a case. [citation omitted]”

Illinois V. Kladis, 2011 IL 110920

UBIQUITOUS CAMERAS

“In sum, we conclude that the routine video recording of traffic stops has now become an integral part of those encounters, objectively documenting what takes place by capturing the conduct and the words of both parties. We therefore hold that this important and relevant evidence falls within the scope of materials held to be discoverable... [citation omitted].”

Illinois V. Kladis, 2011 IL 110920

RESOURCES



Department of Justice, Bureau of Justice Assistance
Body Worn Camera Toolkit

<https://www.bja.gov/bwc/>

QUESTIONS

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