Attorney General's Office

Benefit-Cost Analysis for the Rules and Regulations Establishing a Statewide Policy for the Use and Operation of Body-worn Cameras

110-RICR-10-00-02

I. Background on the Statewide Body-worn Camera Program

Body-worn cameras are becoming indispensable tools for modern law enforcement. They are an unbiased witness to law enforcement actions, promoting accountability and building community trust while providing prosecutors with critical evidence. Moreover, recent research has shown they are effective: reducing the use of force by police by about 10% and complaints against police officers by 17%.[1] But, Rhode Island police departments have struggled to identify resources to purchase the cameras and fund the additional administrative burdens and long-term data storage expenses associated with them, resulting in only two of the state's 39 municipal police agencies— Providence and Newport— equipping a significant number of their officers.

Recognizing the evidentiary value of body-worn cameras to Rhode Island's criminal justice system and the promise they offer to rebuild the public's trust in law enforcement, the Rhode Island General Assembly created the Statewide Body-Worn Camera Program (the "Program") and directed the Attorney General and the Department of Public Safety ("DPS"), in consultation with the Rhode Island Police Chiefs' Association ("RIPCA"), to promulgate rules and regulations to "create a policy for the use and operation of body-worn cameras" that ensures the consistent and effective use and operation of body-worn cameras by Rhode Island police departments under the Program.[2] Further, the General Assembly directed that such a policy must address key body-worn camera areas including: the proper use of equipment, data and equipment security, activation and deactivation of cameras, notification to the public of recording, records retention procedures and timelines, access to data by law enforcement and the public, privacy protections, and compliance monitoring by supervisors. Finally, the Program's enabling legislation conditioned DPS's distribution of up to $15 million in funding appropriated for the Program on the adoption of the policy by Rhode Island police departments receiving grant awards.

II. Description of the Policy Established by the Rule

The Statewide Policy for the Use and Operation of Body-Worn Cameras (the "Policy") is included in the proposed rule by the Attorney General and DPS (the "Proposed Rule"). As its title suggests, the Policy is intended to govern Rhode Island police departments using and operating body-worn cameras in connection with the Program. Following the framework established in the enabling legislation, the Policy applies to and must be adopted by any Rhode Island police departments receiving grant funds through the Program. By statute, and reiterated in the Policy, these agencies must certify that they have adopted the Policy before any Program funds will be disbursed by DPS. Importantly, as stated in the Policy, the Policy establishes a floor, not a ceiling with respect to body-worn camera policies and procedures; agencies are permitted to adopt adjustments to the Policy, provided that any such adjustments do not contravene the provisions of the Policy.

---

[1] Williams, Morgan C., Nathan Weil, Elizabeth Rasich, Jens Ludwig, Hye Chang and Sophia Egrari. 2021. "Body-Worn Cameras in Policing: Benefits and Costs." University of Chicago Crime Lab.

[2] Rhode Island Statewide Body-Worn Camera Program. R.I. Gen. Laws 42-161-4.

As directed by the enabling statute, the Attorney General and DPS, in consultation with the Rhode Island Police Chiefs' Association, developed the Policy. The Policy's sections are summarized as follows:

Purpose

Section explains the purpose of the Policy, that police departments must adopt it as a condition of receiving funds through the Program, that adopting departments may add provisions to their local policies to meet local needs, and that the Policy must be made accessible to the public and posted on a police department's website.

Policy

Section explains the promulgating agencies' views on the uses of body-worn cameras and the approach of the promulgating agencies in drafting the Policy and balancing competing interests and goals.

Definitions

Section explains the defined terms used in the Policy.

BWC Officer Responsibilities

Section explains the responsibilities of a "BWC Officer."

BWC Supervisor and System Administrator Responsibilities

Section explains the responsibilities of a "BWC Supervisor" and of an administrator of a police department's "BWC System."

BWC Activation and Deactivation

Section explains the manner in which an officer should activate and deactivate their camera, consistent with the other sections of the Policy.

Notice of Recording

Section explains that officers are encouraged to inform individuals that they are being recorded, as soon as it is practicable, and discusses relevant considerations for when such a notification may not be appropriate.

Activation Required

Section explains the circumstances in which an officer must activate their camera.

Automatic Activation

Section explains the use of automatic activation features and requires the features to be enabled if they have been procured by a police department.

Standards Governing Deactivation in Limited Circumstances

Section explains the circumstances in which an officer should consider deactivating their camera due to an individual's reasonable expectation of privacy in a specific location or the otherwise sensitive nature of a location.

Activation Prohibited

Section explains the circumstances in which an officer may not activate their camera.

Internal Access to BWC Recordings and Data

Section explains the procedure for accessing camera recordings and data by other police department personnel.

Public Access to BWC Recordings

Section explains the procedure for accessing camera recordings by the public.

Records Retention

Section explains records retention for camera recordings.

Violations

Section explains procedures for addressing violations of the Policy.

III. Assessment of the Proposed Rule's Benefits and Costs to the State of Rhode Island

A. Benefits to the State of Rhode Island

The Policy at the heart of the Proposed Rule is anticipated to generate significant, long-term public health, safety, welfare, and economic benefits for the State of Rhode Island and its residents. In order to realize these benefits, the State must achieve widespread body-worn camera adoption by Rhode Island police departments and, while Program grant funding strongly incentivizes adoption, police leaders have made clear that they will be unable to support and champion camera adoption in their jurisdictions if the Policy does not sufficiently address a wide range of camera use and operations issues. Through months of dedicated engagement, the Attorney General, DPS, and RIPCA have ensured the Policy sufficiently addresses those issues, paving the way for Rhode Island to reap the many benefits of broad-based and effective body-worn camera adoption.

Additionally, the process leading to the development of the Proposed Rule was designed, by the General Assembly and the promulgating agencies, to deliver a range of further benefits to Rhode Islanders by promoting transparent policymaking and strengthening trust in government. The process sought and resulted in public input at multiple stages, beginning with an Advance Notice of Proposed Rulemaking published in fall 2021 that was followed by an initial public hearing soliciting views on the development of body-worn camera polices, and by extensive dialogue between the Attorney General's Office and DPS with a wide range of stakeholders. These members of the public and nonprofit and advocacy organizations submitted a significant number of comments on issues like: the public's access to recordings, the release of recordings of use-of-force incidents, the situations in which a camera should be activated and recording, the redaction or non-release of recordings to protect privacy interests, and the appropriate discipline for policy violations. The Policy included in

the Proposed Rule incorporates and addresses, in one manner or another, all of these issues raised through the public comment process and many of them are discussed below.

Body-worn Camera Benefits

As introduced above, recent research has shown that body-worn cameras are effective at reducing the use of force by police: wearing one can reduce the use of force by police by about 10% and complaints against police officers by 17%.[3] Importantly, this growing body of research shows that the benefit-cost ratio of body-worn cameras may be as high as 5:1 (in dollars), with as much as one quarter of the estimated benefits accruing to government budgets directly through averted uses of force, reduced litigation costs, and other attendant benefits.

The monetary benefits derived from body-worn camera adoption by state and local law enforcement are traceable to averted fatal police uses of force, averted non-fatal uses of force, and a reduction in citizen complaints to the police. Williams et al. value a statistical life at $10.6 million, not significantly different from the State of Rhode Island's $9.1 million measure, and also value the fiscal harm from a non-fatal use-of-force incident at $109,000.[4] Because the Williams research demonstrates that the use and operation of the cameras results in a reduction in the use of fatal and non-fatal force by police, it follows that there is a positive economic benefit attributable to the use of the cameras and thus to the program and regulation that enable their purchase. It is, however, more difficult to quantify the specific Rhode Island benefits because of the elective nature of the grant program. All, some, or none of Rhode Island's eligible state and local law enforcement agencies may choose to seek grant funding and procure body-worn cameras. That being said, the Williams study finds the benefits of adopting body-worn cameras per 100,000 residents in a jurisdiction equal to approximately $1.9 million.[5]

Researchers have also shown that officers with body-worn cameras had fewer complaints lodged against them relative to officers without body-worn cameras and had a higher number of citizen complaints resolved in their favor.[6] A 2017 study funded by the U.S. Department of Justice analyzed body-worn camera adoption by the Las Vegas Metropolitan Police Department and estimated, for instance, a decrease of 25 complaints per 100 body-worn camera users as well as a reduced cost to investigate each complaint (because of the available body-worn camera evidence), and a reduced amount of time to resolve a complaint when video evidence is available.[7] This study found that, notwithstanding body-worn camera costs for the Las Vegas Metropolitan Police Department of between $828 and $1,097 per user per year, the cameras generated net annual savings of between $2,909 and $3,178 per user.[8] These savings are largely attributable to the significantly faster investigation and resolution of complaints.

---

[3] Williams et al. at 3.

[4] *Id.* at 17.

[5] *Id.*

[6] Katz, Charles, David Choate, Justin Ready, and Lidia Nuno. 2015. "Evaluating the Impact of Officer Worn Body Cameras in the Phoenix Police Department" (Arizona State University).

[7] Anthony Braga, James Coldren, William Sousa, Denise Rodriguez, and Omer Alper. 2017 "The Benefits of Body-Worn Cameras: New Findings from a Randomized Controlled Trial at the Las Vegas Metropolitan Police Department" (CNA).

[8] *Id.* at 10.

There is also mounting evidence that the use of body-worn cameras can positively impact officer behavior and community perceptions of police. In addition to decreasing the likelihood for use of force, studies have shown that officers wearing body-worn cameras are less likely to have higher numbers of self-initiated contacts with community residents.[9] Research has also demonstrated that body-worn cameras can improve community perceptions of police.[10] These perception benefits, while often difficult to quantify, are important and only further cement the net benefit of body-worn cameras when combined with the monetary benefits associated with averting uses of force and complaints.

Statewide Policy Benefits

There are many substantive benefits for Rhode Islanders and the State stemming from the Policy itself. These benefits include: creating consistency in public safety policy and setting public expectations for police, advancing the protection of important constitutional rights, ensuring important interactions between law enforcement and members of the public are documented, and building critical public trust in government. Below, these benefits are discussed in more detail.

Creates consistency in public safety policy and sets public expectations for police

While a small state, Rhode Island has nearly 50 state and local law enforcement agencies, all with their own operational approaches and internal policies. Through the Program, and particularly the Policy, the State can incentivize many police departments across the state to adopt the same standards and procedures relating to body-worn cameras. Achieving this consistency will result in several benefits for Rhode Islanders and their government. Members of the public, for example, will benefit from learning and understanding one common policy framework for the use and operation of body-worn cameras, as opposed to a patchwork of different rules and regulations, and will be able to accurately and efficiently set their expectations for police departments.

Additionally, police departments, which often collaborate across jurisdictional lines to render "mutual aid" and other forms of assistance to their law enforcement partners, will benefit from the Policy. The consistency promoted by the Policy will ensure that most, if not all, officers responding to law enforcement incidents and scenes are utilizing the same body-worn camera policies and procedures. Police officers on a scene, their supervisors, and members of the public that may seek access to body-worn camera recordings will benefit from the efficiency and consistency created by the Policy.

A consistent, widely-adopted Policy will also contribute to the more efficient and fair prosecution of criminal offenses in Rhode Island by the Attorney General. Unlike in almost every other state, the Attorney General handles all felony prosecutions in Rhode Island courts of general jurisdiction, meaning that a statewide body-worn camera Policy will aid prosecutors in the efficient administration of criminal justice. Likewise, Rhode Island's judicial system and the courts'

---

[9] Barak Ariel, William A. Farrar, and Alex Sutherland. 2015. "The Effect of Police Body-Worn Cameras on Use of Force and Citizens' Complaints against the Police: A Randomized Controlled Trial," *Journal of Quantitative Criminology* 31 no. 3: 509-535

[10] Justin T. Ready and Jacob T.N. Young. 2015. "The Impact of On-Officer Video Cameras on Police-Citizen Contacts," *Journal of Experimental Criminology* 11 no. 3: 445-458

administration of justice in the state will benefit from the consistent approach to body-worn camera use.

Advances the protection of important constitutional rights

Another significant benefit of the Policy is that it advances the protection of Rhode Islanders' important constitutional rights such as First Amendment protections for speech, assembly, and religious practice, the Fourteenth Amendment's guarantee of due process of law, and commonly understood principles like the right to privacy that are rooted in the Constitution and exist in various forms throughout the U.S. and Rhode Island legal systems. With respect to First Amendment protections, the Policy guards against the use of body-worn cameras to gather intelligence information based on First Amendment protected speech, associations, or religious practices. Likewise, the Policy prohibits the recording of protected constitutional activities that are unrelated to a response to a call for service or a law enforcement or investigative encounter between an officer and a member of the public.

By ensuring that important interactions between law enforcement and members of the public are documented, the Policy also advances key constitutional due process interests for Rhode Islanders. Searches, for instance, will largely be recorded as will car stops, Miranda warnings, interviews, and custodial interrogations. It is in these circumstances that, sometimes, due process violations may occur. The Policy's provisions requiring these situations to be recorded will better safeguard Rhode Islanders' Fourth, Fifth, and Sixth Amendment rights.

Finally, the Policy's explicit recognition of a privacy interest will benefit Rhode Islanders. At the outset, the Policy explains its approach to balancing "the need to promote accountability and transparency on the one hand, against the privacy interests of members of the public on the other hand." This approach results in a detailed set of provisions governing when camera deactivation may be appropriate because individuals may possess a reasonable expectation of privacy in their homes, places of worship, medical facilities, schools, and other potentially sensitive locations. The Policy also directs police departments to consider redacting recordings before public release, if such a release could reasonably be expected to constitute an unwarranted invasion of personal privacy.

Ensures important interactions between law enforcement and members of the public are documented and reasonably retained

Technology innovations like body-worn cameras are only as effective as the policies that govern their use. The Program recognizes the importance of body-camera polices in guaranteeing that cameras are used effectively and meet community expectations— and a key focus of the Policy is ensuring that important interactions between law enforcement and members of the public are documented. Through these Policy provisions, most interactions between a police officer and a member of the public will be recorded including: responses to calls for service or self-initiated calls for service, investigative or enforcement activities involving members of the public, and pursuit or emergency driving situations. The Policy further enables officers to activate their cameras when they believe an encounter with a member of the public has escalated and become confrontational, or during any other contact with a member of the public or performance of their official duties where the officer reasonably believes that recording will enhance police transparency, increase public trust, or preserve factual representations of the interaction.

Once recordings are made by police, the Policy requires that they must be retained in accordance with existing records retention policies, which will benefit Rhode Islanders. Specifically, the Policy ensures all participating departments will follow Rhode Island Records Retention Schedule LG6.3.6 "Body Camera and Dash Camera Recordings," [11] which effectively addresses the various retention requirements for recordings. Non-evidentiary recordings, for instance, are to be retained for 60 days while evidentiary recordings are to be retained until the resolution of a matter (including appeals) and requests for deletion of records—whether approved or denied—are to be retained for three years.

Builds critical public trust in government

Trust is the foundation upon which the legitimacy of public institutions, like law enforcement agencies, and our well-functioning democratic systems rest. Without trust in government, it is challenging to maintain and provide public safety which, in large part, depends on the public's compliance with laws and regulations. In recent years, public trust in law enforcement agencies has waned with Americans' confidence in police falling below 50% in 2020 for the first time in 27 years in a long-running Gallup poll. [12]

For these reasons, the statewide nature of this Policy and its promulgation by Rhode Island's leading law enforcement agencies—the Attorney General's Office and DPS—through a transparent process that seeks public input at multiple stages will build and restore important public trust in Rhode Island government. Once promulgated, the Policy will be the result of a nearly year-long process that began with an Advance Notice of Proposed Rulemaking in fall 2021. This notice was followed by an initial public hearing soliciting views on the development of body-worn camera policies, and by extensive dialogue between the Attorney General's Office and DPS with a wide range of stakeholders and the submission of significant comments by members of the public and nonprofit and advocacy organizations. The Policy will again be the subject of formal notice and comment, as well as an additional public hearing that is required by the authorizing statute before taking effect. [13] By utilizing the formal rulemaking process to establish the Policy, the State is ensuring that, for police departments participating in the Program, the Policy will have the force of law *and* the public can place trust in the policy development process.

Furthermore, the Policy features several components that will contribute to the State's efforts to build public trust in government. To start, the Policy requires that police departments ensure that the Policy as adopted by a department is accessible to the public, including by posting it to the department's website. Also within the Policy are provisions requiring the chief of police, or a department's highest ranking police official, to assume responsibility for the oversight of a department's body-worn camera program including: regularly evaluating the body-worn camera system, ensuring training for all body-worn camera officers, ensuring that recordings are retained in accordance with the Policy, and ensuring that department supervisors are reviewing and auditing recordings to guarantee compliance with the Policy.

---

[11] Secretary of State. Rhode Island Records Retention Schedule LG6.3.6 "Body Camera and Dash Camera Recordings."

[12] Gallup. Aug. 2020. "Amid Pandemic, Confidence in Key U.S. Institutions Surges."

[13] Rhode Island Statewide Body-Worn Camera Program. R.I. Gen. Laws 42-161-4.

Additionally, the Policy requires that the chief of police or a designee shall, at least annually, review their department's body-worn camera program and the Policy and—in conjunction with these obligations—the Attorney General and DPS will solicit feedback annually on the Policy from participating departments and other key stakeholders. Finally, the Policy cements that recordings are to be treated as public records under the Access to Public Records Act,[14] facilitating public access, and, in the case of significant use of force incidents,[15] effectively requiring a recording to be released in response to a public records request, as detailed in the following section.

B. Costs to the State of Rhode Island

Costs to Local Governments

Local police departments electing to participate in the Program will incur a variety of expenses associated with creating and operating a body-worn camera program. By design, the Program will make grants to cover these costs. According to separate Program rules and regulations already promulgated by DPS,[16] eligible law enforcement agencies may apply for grant funding based on the number of body-worn cameras an agency is seeking to procure and deploy. DPS will review applications and make grant awards, allotting Program funding based on a fixed dollar amount for each camera to be purchased. This dollar amount—$1,750 per camera per year—exceeds the projected cost of a camera and related hardware, software, and storage, and is also intended to account for a department's costs in operating body-worn cameras. The funding is to be used to procure, deploy, and operate body-worn cameras over a 60-month implementation period.

These participating police departments will also incur costs stemming from the adoption of the Policy. Specifically, the agencies are likely to incur administrative support costs for: (1) video review for auditing and compliance and (2) video review, redaction, and processing for public records requests and civil and criminal discovery. To quantify these costs, the Attorney General and DPS have researched and identified a number of metrics collected by police departments across the U.S. that have implemented body-worn camera programs. While these metrics do not allow for precise estimates of costs, they offer a window into how police departments with established programs have viewed these burdens. The measures include: the average length of a recording by a police agency, the average time required for auditing a recording, the average number of public records requests a police agency responds to, and the average time required for reviewing and redacting a recording.

Activity	Measure
Average body-worn camera video	• 13 minutes long *(survey of departments across U.S. by researchers working for Baltimore)*
Average time to review certain amount	• Delaware—50 minutes of review/30 minutes of

[14] Rhode Island Access to Public Records Act. R.I. Gen. Laws 38-2-1 et. seq.

[15] For use of force incidents covered by the Attorney General's Protocol Regarding the Review of Incidents Involving the Use of Deadly Force, Excessive Force, and Custodial Deaths, the Policy requires the release of recordings pursuant to a public records request notwithstanding provisions in the Access to Public Records Act that may enable a police department to withhold release.

[16] Department of Public Safety.

of camera video	video. *At this rate, it takes 22 minutes to review an average length recording.*
Video review for auditing and compliance	• Providence—2 videos per month/per camera • Las Vegas Metro—2 hours per week/sergeant • Atlanta—5 videos per week/per unit
Number of APRA/FOIA requests processed annually	• Providence—0.40 requests per camera per year • Mesa—0.85 requests per camera per year • Las Vegas Metro—0.16 requests per camera per year • Dallas—0.38 requests per camera per year
Average time to review and redact for APRA/FOIA requests certain amount of camera video	• 30 minutes of review and redaction time/10-minute video *(Providence)* • 1 hour of review and redaction time/13-minute video *(Baltimore study, Police1 Report)*

Using the measures above, it can be estimated that police departments might expect, for auditing and compliance purposes, to review at least 5 average-length videos (13 minutes), or at least 2 hours of video, per week per unit. This would also equal at least 19 hours per camera per year. Some police departments have found that an amount of the time spent auditing camera footage takes the place of some existing auditing and compliance mechanisms, like reviewing officer reports. But, if 50% of the work required in this area is new and does not replace existing work, that would equal at least 9.5 hours per camera per year.

Relatedly, data points from police departments across the country suggest that it could take at least 30 to 60 minutes to review and redact a 10-minute video recording. Other data points suggest that police departments could expect to receive and process at least 0.5 public records requests per camera per year, and, if combined with the minimum time it might take to review and redact average length videos, a police department deploying 50 cameras could expect to spend at least 25 hours of time annually to review and redact footage.

Again, while these metrics do not allow for precise estimates of costs, for the purpose of this analysis it is reasonable to conclude that participating departments could incur $500 of administrative costs per camera per year.

Per camera per year estimate (assuming $50/hour wage rate)		
Auditing and compliance	9.5 hours	$475
Receiving and processing APRA	0.5 hours	$25
Total	10.0 hours	$500

Because the Program will provide participating departments with up to $1,750 in grant funding per camera per year, and the Attorney General and DPS expect actual hardware, software, and storage costs to, at a maximum, equal $1,250 per year, the grant funding is expected to cover a participating department's projected administrative costs.

Costs to State Agencies

State law enforcement agencies adopting body-worn cameras through the Program will bear similar costs to those borne by local law enforcement agencies and discussed above.

Additionally, DPS and the Attorney General will bear some minimal costs associated with the annual Policy certification and Policy review processes. For the certification process, DPS will expend resources in confirming that grantee departments under the Program have, in fact, adopted the Policy and are eligible to receive their annual distribution of awarded grant funds. DPS and the Attorney General will also expend resources soliciting feedback on the Policy, as provided for in the Policy, and reviewing and analyzing this feedback. To the extent these activities generate costs, they can be funded through Program funds allocated for the administration of the Program. The Attorney General will also bear some costs associated with receiving, storing, and reviewing additional camera recordings as part of investigative records and disseminating those recordings to defense attorneys through discovery in criminal prosecutions.

Costs to Members of the Public, Non-Governmental Organizations, and Businesses

Because the Policy does not limit any rights of members of the public, non-governmental organizations, and business, but rather expands them with respect to certain aspects of law enforcement activities, there are minimal, if any, quantifiable costs associated with the promulgation of the Policy. Researchers have, however, described the potential for body-worn cameras to invade private and sensitive moments of Rhode Islanders' lives. One scholar has termed this effect "collateral visibility," and detailed how poorly regulated body-worn camera programs can make public the moments and information that members of the public would have preferred to keep private.[17] For these reasons, as detailed in the previous section, key sections of the Policy focus on the need to balance a recognized privacy interest with the benefits achieved by recording evidence that might help solve a crime, aid in the exoneration of an individual, or provide the public with important and transparent information about the nature of police interactions with members of the public.

C. Policy Choices

During the Policy development process, the Attorney General and DPS, in consultation with RIPCA, and informed by the public comment received by the promulgating agencies, made certain decisions that are expected to contribute to the success of the Program and benefit Rhode Islanders. Several of these are explained below:

Voluntary policy adoption incentivized through Program grants

The Policy governs the use and operation of body-worn cameras by those police departments that choose to participate in the Program and seek grant funding to cover their department's body-worn camera adoption costs. This incentive structure, as opposed to a mandate that all police departments statewide comply with such a Policy, is embedded within the Program's enabling legislation and was chosen to increase the likelihood of the Program's enactment and local

[17] Bryce Clayton Newell. 2021. Police Visibility: Privacy, Surveillance, and the False Promise of Body-Worn Cameras.

government participation in the Program. While this structure is not, in fact, a regulatory choice, it is noted here because it represents a key decision point in the formation of the Program.

Policy covers use of body-worn cameras by all officers except undercover officers

The Policy "establishes guidelines for the use of and operation of body-worn cameras ("BWCs" or a "BWC") by law enforcement officers, other than undercover officers." Because the focus of the Program is on equipping frontline police officers and supervisors with body-worn cameras, the Policy likewise is aimed at ensuring the effective use and operation of the cameras by those officers. The objectives of police undercover operations are, by their covert nature, contrary to several of the key transparency and trust-building goals the Policy establishes for body-worn cameras. There are important questions about officer safety involved in determining whether undercover officers should be equipped with recording devices and important elements of the Policy, such as the provision governing providing notice to individuals that they are being recorded, are inappropriate in the undercover context. For these reasons, the Policy exempts undercover officer use of body-worn cameras.

Consideration of Alternative Approach(es)

An alternative approach could involve not specifically exempting undercover officer use but instead relying on language such as "practicable and consistent with ensuring officer safety" for undercover officers to determine that notice of recording, for instance, should not be provided to the subjects of a surreptitious recording. Law enforcement agencies, however, contended that this framework would prove challenging to administer and expressed a well-reasoned preference for a bright line rule with respect to undercover operations.

Policy focuses on important body-worn camera and camera system capability requirements but does not prescribe specific information technology standards for body-worn cameras

The Policy sets high level requirements for the procurement and operation of a body-worn camera system: cameras must have audio and video recording capabilities; the system must allow for storage of recordings for months, if not years; the system must enable department officials to review and audit recordings for compliance with the Policy; and the system must have common security features that protect against unauthorized access and reasonably log user interactions with the system. In addressing specific system features, like automatic activation and pre-event buffering, that may create additional costs for adopting departments— and could disincentivize department participation in the Program— the Policy requires that they are enabled if they are procured by a department, but does not require their procurement. An overriding goal of the Program and Policy is also to incentivize the broad-based adoption of body-worn cameras by many different Rhode Island police departments— all with different existing information technology capabilities. For these reasons, the Policy does not prescribe specific information technology standards.

Consideration of Alternative Approach(es)

An alternative approach could involve detailing more specific standards in the Policy for video image quality, for instance, WIFI connectivity, or network security. Some body-worn camera policies in other jurisdictions include these types of information technology requirements. However, most of these policies apply to one police department, and was likely developed based upon the system procured by that department, as opposed to this Policy which could be adopted by as many as

50 different departments— all with different existing information technology capabilities and, arguably, local needs.

Policy requires supervisors to review and audit camera recordings to ensure compliance with Policy

The Policy requires supervisors of officers equipped with body-worn cameras to perform a documented review of at least one recording per body-worn camera equipped officer per month to ensure compliance with the Policy and to identify training issues and opportunities. The Attorney General and DPS view this requirement as striking the right balance between the compelling need for oversight of a police department's body-worn camera program and compliance with the Policy and the likely burdens created by such administrative requirements. This review and auditing requirement will result in, ideally, hundreds, if not thousands, of body-worn camera recordings being reviewed and audited every month in Rhode Island. For these reasons, the Policy requires supervisors to review and audit one recording per month of body-worn camera equipped officers under their supervision.

Consideration of Alternative Approach(es)

An alternative approach could involve requiring the review of more recordings per month or some alternative formulation of a review and audit requirement for supervisors. The Attorney General and DPS considered other potential requirements, based on the overall workload of a supervisor, as well as potential overtime considerations. As part of the promulgating agencies' determination, it was considered that BWC will also exercise additional supervisory responsibilities with respect to ensuring BWC officers are properly using BWCs during each shift. With the number of potential officers falling under a BWC supervisors command, it would be overburdensome to require a more frequent audit of BWC officers. As part of the analysis, DPS considered that the average OT hourly rate for a BWC officer in the Rhode Island State Police is $61.06 and a BWC supervisor hourly rate in the Rhode Island State Police is approximately $80. Requiring a more frequent review period could have incurred overtime costs at these hourly rates.

Policy encourages officers to inform individuals that they are being recorded

The Policy encourages officers to inform individuals that they are being recorded. This notification is encouraged to be given "as soon as practicable and consistent with ensuring officer safety or the safety of others." The Attorney General and DPS view this notification, generally, as resulting in a benefit for Rhode Islanders in that it builds community trust in law enforcement activities. For these reasons, the Policy contains an expressed preference towards notification of body-worn camera use.

Consideration of Alternative Approach(es)

An alternative approach could involve requiring officers to inform individuals that they are being recorded *or* not encouraging officers to provide such notice. Police department policies in other jurisdictions feature all three approaches and there is no consensus approach that has emerged.

Policy requires camera activation in circumstances where police are most likely to interact with members of the public while also providing discretion to officer operating camera

The Policy requires that most interactions between a police officer and a member of the public will be recorded including: responses to calls for service or self-initiated calls for service, investigative or enforcement activities involving members of the public, and pursuit or emergency driving situations. The Policy further enables officers to activate their cameras when they believe an encounter with a member of the public has escalated and become confrontational or during any other contact with a member of the public or performance of their official duties where the officer reasonably believes that recording will enhance police transparency, increase public trust, or preserve factual representations of the interaction.

Consideration of Alternative Approach(es)

An alternative approach could involve requiring officers to record *all* interactions with members of the public, or another similar formulation. Police departments view such a standard as difficult to administer. For instance, should a stop at a Dunkin' for coffee be recorded? It is an interaction with a member of the public that occurs while officer may be on patrol, but it is difficult to see how recording that interaction advances the public policy goals underlying the Program and the Policy. An approach that requires the recording of all such interactions could also chill opportunities for police-community engagement and trust building by police departments.

Policy permits officer review of video relating to certain use of force incidents after providing descriptive statement of their recollection and perception of the incident

The Policy allows an officer involved in incidents subject to the Attorney General's Protocol Regarding the Review of Incidents Involving the Use of Deadly Force, Excessive Force, and Custodial Deaths to view recordings associated with the incident *after* the officer has provided a descriptive statement from their recollection and perception of the incident— in either a recorded walk-through statement or another type of recorded statement. After viewing their own recording and data, the officer shall provide a continuation of their descriptive statement of the incident and the officer shall be permitted to note, address, and/or explain any discrepancies or differences between the officer's original statement and what is shown or heard on the BWC recording. This approach is designed to ensure the fairness and integrity of important use of force investigations. When an officer views a recording before providing such a statement, there is a possibility that the officer's recollection and perception of the incident may be tainted by information the officer learns from reviewing the recording. For these reasons, the Policy enshrines this procedure around review of body-worn camera recordings following these incidents.

Consideration of Alternative Approaches

An alternative approach could involve allowing the officer to review the recording before providing a statement about the incident *or* not allowing the officer to review the recording at all. In settling on the approach in the Policy, the Attorney General and DPS, alongside RIPCA, reviewed best practices in other jurisdictions and determined that permitting a review of the recording after an initial statement has been provided results in the greatest benefits to Rhode Islanders and the state's criminal justice system.

Policy recognizes recordings as public records and requires their prompt release for certain use of force incidents

The Policy clearly recognizes that body-worn camera recordings are subject to the Rhode Island Access to Public Records Act ("APRA") and specifies that requests for access to recordings shall be handled in accordance with that law. While a recording must be released where disclosure is required under the APRA, the Policy is designed to further ensure and require the release of a recording in circumstances where withholding such footage would be permitted under the APRA. Specifically, the Policy requires that a recording of an incident involving police use of force that falls within the scope of the Attorney General's Protocol Regarding the Review of Incidents Involving the Use of Deadly Force, Excessive Force, and Custodial deaths, must be provided to the public (1) in response to a request made pursuant to APRA, (2) no later than upon the substantial completion of the investigation- which is expected to occur within 30 days, and (3) in accordance with the advisory opinion obtained from the Ethics Advisory Panel of the Supreme Court, upon the request of the Attorney General. The public's interest in transparency and accountability is significant for these incidents involving police use of force and, for these reasons, the Policy requires the prompt release of these recordings.

Consideration of Alternative Approaches

An alternative approach could involve not requiring release of such recordings, not tying the release to "substantial completion" of the investigation into the incident, or not explaining that "substantial completion" is expected to occur within 30 days. There is a trend, however, among police department policies in other jurisdictions to specify these types of provisions with respect to the release of recordings for police use of force incidents. The Policy adopts measures in line with those trends.

Policy holds that violations of Policy shall be subject to appropriate remedial or disciplinary action but does not specify those remedies

The Policy holds that violations of the Policy shall be subject to appropriate remedial or disciplinary action but does not specify those remedies. The model policy requires supervisors who are aware of violations to immediately address the violations either through remedial measures or formal discipline. Additionally, the model policy states that intentional failure to activate or the tampering of BWC warrants discipline up to and including termination. An example of a clear Policy violation is the intentional failure to activate a camera or tampering with a camera or recording.

It is important that those violating the Policy are held accountable and the Policy clearly provides that they must be by their employing law enforcement agencies. But, it is difficult for a statewide policy to detail disciplinary actions or sanctions that are appropriate for all of the different police jurisdictions that may adopt the Policy. Many of these jurisdictions and police departments have existing disciplinary matrices and other frameworks and it is not in Rhode Islanders' interest to create a policy that conflicts with those approaches. Furthermore, collective bargaining considerations and the Law Enforcement Officers' Bill of Rights ("LEOBOR") as set forth in R.I. Gen. Laws § 42-28.6-1 et seq may constrain the effectiveness of any attempts to detail specific discipline in the Policy. Under existing state law and general collective bargaining principles, progressive discipline is required when a property interest in employment exists. There may be instances where a first-time infraction may warrant termination. Generally, however, an officer's complete disciplinary history must be taken into account when issuing discipline. Also, certain disciplines are subject to the procedural and substantive due process protections in LEOBOR and result in recommendations for a review panel to consider. For these reasons, the Policy makes clear

that Policy violations must be subject to appropriate discipline or remedial action, but leaves the operationalization of this to specific departments.

Consideration of Alternative Approach(es)

An alternative approach could involve detailing more specific sanctions in the Policy for Policy violations. Some body-worn camera policies in other jurisdictions include these types of sanctions. However, most of these policies apply to one police department, as opposed to this Policy which could be adopted by as many as 50 different departments— all with different existing disciplinary frameworks.

IV. Conclusion: Benefits of the Proposed Rule Justify the Costs

The General Assembly created the Statewide Body-Worn Camera Program and directed the Attorney General and DPS, in consultation with RIPCA, to promulgate rules and regulations to "create a policy for the use and operation of body-worn cameras" that ensures the consistent and effective use and operation of body-worn cameras by Rhode Island police departments under the Program. Further, the General Assembly directed that such a policy must address key body-worn camera areas including: the proper use of equipment, data and equipment security, activation and deactivation of cameras, notification to the public of recording, records retention procedures and timelines, access to data by law enforcement and the public, privacy protections, and compliance monitoring by supervisors. Finally, the General Assembly made the distribution of the $15 million in funding appropriated to DPS for the Program conditioned on the adoption of this policy by Rhode Island police departments receiving grant awards.

The Attorney General and DPS, in consultation with RIPCA, have developed the Statewide Policy for the Use and Operation of Body-worn Cameras to achieve the maximum potential benefit to the State of Rhode Island through the Program and the funding appropriated for its use. The primary goals of the Program are to promote the widespread adoption of body-worn cameras— key accountability and law enforcement tools that are an unbiased witness to law enforcement actions and help build community trust while providing prosecutors with critical evidence— and ensuring the effective use and operation of the cameras. As drafted, the Attorney General and DPS believe the Policy will achieve these goals, providing long-term health, safety, welfare, and economic benefits to the State of Rhode Island.

The Attorney General and DPS have determined that the benefits of the Proposed Rule justify the costs of the Proposed Rule, and that the Proposed Rule will achieve the objectives of the authorizing legislation in a more cost-effective manner, or with greater net benefits, than other regulatory alternatives.