



National Police Accountability Project

A Project of the National Lawyers Guild

FAVORABLE - HB 0707 – Public Safety – Law Enforcement – Use of Body-Worn Cameras
Written Testimony of National Lawyers Guild-National Police Accountability Project, Keisha James, Staff Attorney
Judiciary Committee – February 27, 2024

Dear Chair Clippinger, Vice Chair Bartlett, and Judiciary Committee Members,

Thank you for the opportunity to provide comment on this important issue. The National Lawyers Guild National Police Accountability Project (“NPAP”) is a nonprofit organization dedicated to holding law enforcement and corrections officers accountable to constitutional and professional standards. We urge a favorable report on HB 0707, a bill that will increase police transparency and accountability by requiring that all sworn law enforcement officers use body-worn cameras and all law enforcement agencies develop a policy on the use of body-worn cameras that does not exempt any officers due to rank.

Body-worn cameras (“BWCs” or “BWC”) provide civilians, police officers, and courts with objective records of events in dispute. Even when individual witnesses have no intent to deceive, their testimony is still subject to influences and distortions that do not affect video evidence. Memories fade or change, as do witnesses’ willingness and availability to testify. While video does not always tell the whole story, and may give rise to competing inferences, it is undoubtedly more probative, objective, and reliable than police officer or witness testimony. In fact, in many cases, the video footage released after an incident has contradicted initial police narratives.¹

Used properly in accordance with well-defined policies, BWCs have many benefits: strengthening police accountability while protecting against false

¹ See Eric Umansky, *How Police Have Undermined the Promise of Body Cameras*, ProPublica (Dec. 14, 2023), available at <https://www.propublica.org/article/how-police-undermined-promise-body-cameras> (“When full footage has been released, often by prosecutors or after public pressure, it often contradicts initial police accounts.”) (citing examples); see also *United States v. Slager*, No. 2:16-cr-00378-DCN, 2018 U.S. Dist. LEXIS 6382, at *13 (D. S.C. Jan. 16, 2018) (testimony of former Charleston Police Officer Michael Slager, who claimed he fatally shot Michael Scott after Scott stole Slager’s taser, was proven false by a bystander’s video); *United States v. Simpson*, No. 16-cr-00005-CRB-1, 2021 U.S. Dist. LEXIS 94449, at *7-8 (N.D. Cal. May 18, 2021) (surveillance footage “was unequivocal in rebutting everything that the police officer testified to—at least as to all pertinent details”); WCCO-TV Staff, *Original Police Statement Contradicts Video Footage in Chauvin Case*, CBS MINNESOTA (Apr. 2021) (bystander video contradicted the narrative initially released by the Minneapolis Police Department after former officer Derek Chauvin murdered George Floyd).



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accusations, increasing transparency, and documenting police-civilian encounters to later assist in civil, criminal, or internal affairs proceedings.² An officer's knowledge that they are being filmed can deter police misconduct if the officer believes the footage will be retained, reviewed, or released.³ But BWCs only work as a mechanism for holding police officers accountable for their misconduct if officers are (1) issued a camera, (2) wear the camera, (3) turn their camera on during encounters with the public, and (4) save the footage.⁴ If commanding officers are able to opt out of ever wearing or using a camera, BWCs cannot reliably serve as an accountability measure.

The current law in Maryland requires law enforcement officers who interact with the public to use a BWC. But, as testimony on HB 0707's companion bill, SB 661, on February 21, 2024 in a Senate Judicial Proceedings Committee hearing made clear, there are chiefs, sheriffs, and other command staff who do not wear a BWC because they have been exempted—or have exempted themselves—from the agency policy requiring officers to do so. Non-compliance with department BWC policies is not an issue unique to Maryland,⁵ but passing HB 0707 will mean that Maryland is taking the lead on ensuring that all officers comply with BWC laws and department policies. HB 0707 will require that *every* law enforcement officer

² Umansky, *supra* note 1 (“Access to body-camera footage roughly doubled the likelihood that agency investigators would be able to decide a case on its merits rather than dismiss it as inconclusive.”); see also ACLU of Massachusetts and University of California, Berkeley, School of Law’s Samuelson Law, Technology & Public Policy Clinic, *No Tape, No Testimony: How Courts Can Ensure the Responsible Use of Body Cameras* 5 (Nov. 29, 2016) (collecting cases where BWC footage exonerated officers accused of misconduct).

³ Umansky, *supra* note 1 (“The secrecy [surrounding the release of body-camera footage] undercuts the deterrent effect on officer behavior that many had presumed body cameras would produce.”).

⁴ See Barak Ariel, et al., *Report: increases in police use of force in the presence of body-worn cameras are driven by officer discretion: a protocol-based subgroup analysis of ten randomized experiments*, 12 J. EXP. CRIM. 453, 456 (May 2016), available at <https://link.springer.com/content/pdf/10.1007/s11292-016-9261-3.pdf> (“[T]he credible deterrent effect of BWCs may rest on four critical points: that the camera is (i) actually worn by the officer, (ii) turned on, and (iii) used during the police–public encounter.”).

⁵ See Charles M. Katz, et al., Ariz. Ctr. for Violence Prevention and Cmty. Safety, *Evaluating the Impact of Officer Worn Body Cameras in the Phoenix Police Department* 22 (2014) (2014 study finding that although the Phoenix Police Department required all officers to activate their BWCs for all traffic stops, only 6.5% of traffic stops were actually recorded); *Report on Non-Compliance with Body-Worn Camera Regulations*, Civilian Office of Police Accountability 2 (2021) (Chicago’s Civilian Office of Police Accountability found “a pattern of disregard for BWC regulations which manifests itself in the practice of non-use and improper use of BWC equipment”); *Street-Level Surveillance*, Electronic Frontier Foundation (Oct. 2017) (Albuquerque Civilian Police Oversight Agency “found that officers violated the department’s body-worn camera recording rules more than they violated any other policy”).



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be issued a BWC to wear while they are on-duty, in uniform, and conducting their law enforcement duties. The bill further requires law enforcement agencies to establish a policy on the use of BWCs that does not exclude any officers.

BWC policies should be consistent within agencies and, if possible, consistent across agencies within the state. The command ranks of an agency should be held to the same standards as rank-and-file officers. Yet, some chiefs are not even assigned a BWC, much less required to wear one under their department policy, while others are not only assigned a camera, but required to activate it whenever they are interacting with the public. HB 0707 will ensure that officers across the state are wearing and using their BWCs, regardless of their agency or rank.

We urge you to make a favorable report on HB 0707. Thank you, again, for the opportunity to provide comment on this important issue.

A handwritten signature in black ink, appearing to read 'Keisha James', with a long, sweeping horizontal line extending to the right.

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