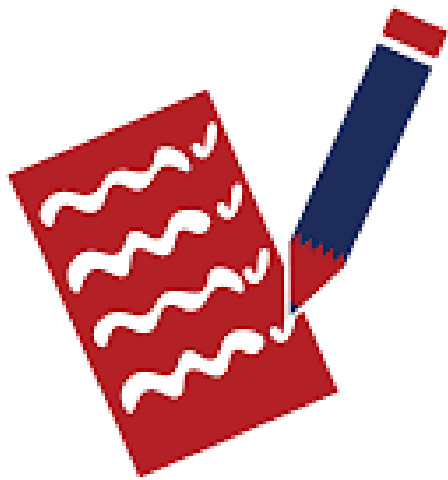




**THE COMPLEX  
BODY-CAMERA POLICY  
ENVIRONMENT**

**Lessons Learned  
from the Land of Lincoln**

**SEARCH symposium 2021  
St Louis, MO  
July 14, 2021**



# Agenda

# AGENDA

---

- Presenters
- Significant Developments in Body Worn Cameras (National /Illinois)
- Land of Lincoln Approach
- Evaluation of Body Cameras
- Future of Body Cameras and Wearable Sensors
- Conclusions

# AGENDA

---

- Presenters
- Significant Developments in Body Worn Cameras (National /Illinois)
- Land of Lincoln Approach
- Evaluation of Body Cameras
- Future of Body Cameras and Wearable Sensors
- Conclusions

# PRESENTERS

Craig Allen

Lieutenant Colonel, Illinois State Police (ret.)

[iacp.craig.allen@gmail.com](mailto:iacp.craig.allen@gmail.com)

Kristin Ziman

Chief, Aurora Police Department, Aurora, IL

[zimank@aurora.il.us](mailto:zimank@aurora.il.us)

Donald R. Zoufal J.D., C.P.P

President, CrowZ Nest Consulting Inc.

[don@CrowZnestConsulting.com](mailto:don@CrowZnestConsulting.com)



Significant Developments  
in Body Camera Use  
National /Illinois

# NATIONAL CONTEXT 2015

## Body-Worn Camera (BWC) Technology Adoption Nationwide

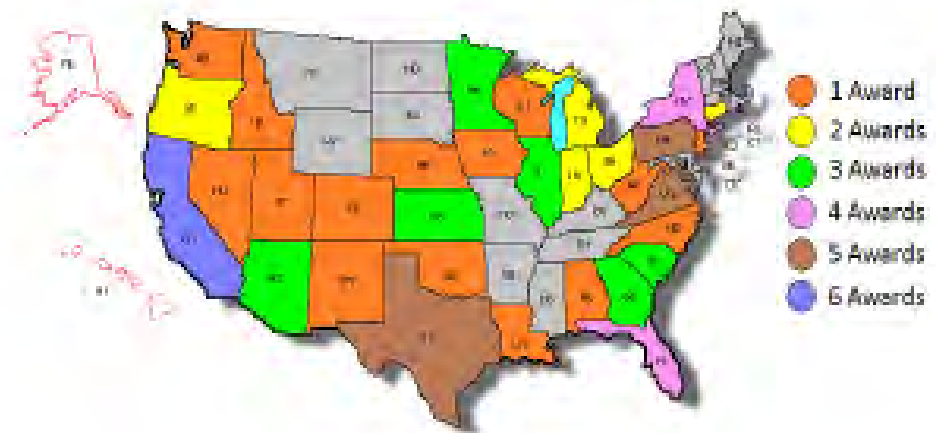
- Federally Funded Pilot Programs.
- Available funding cannot be used for data storage costs (generally recognized as the most significant cost of the program)
- Significant State and Local action with respect to BWC program development
- Camera programs vary greatly on storage and operational issues

# NATIONAL CONTEXT 2015/2016

## 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)

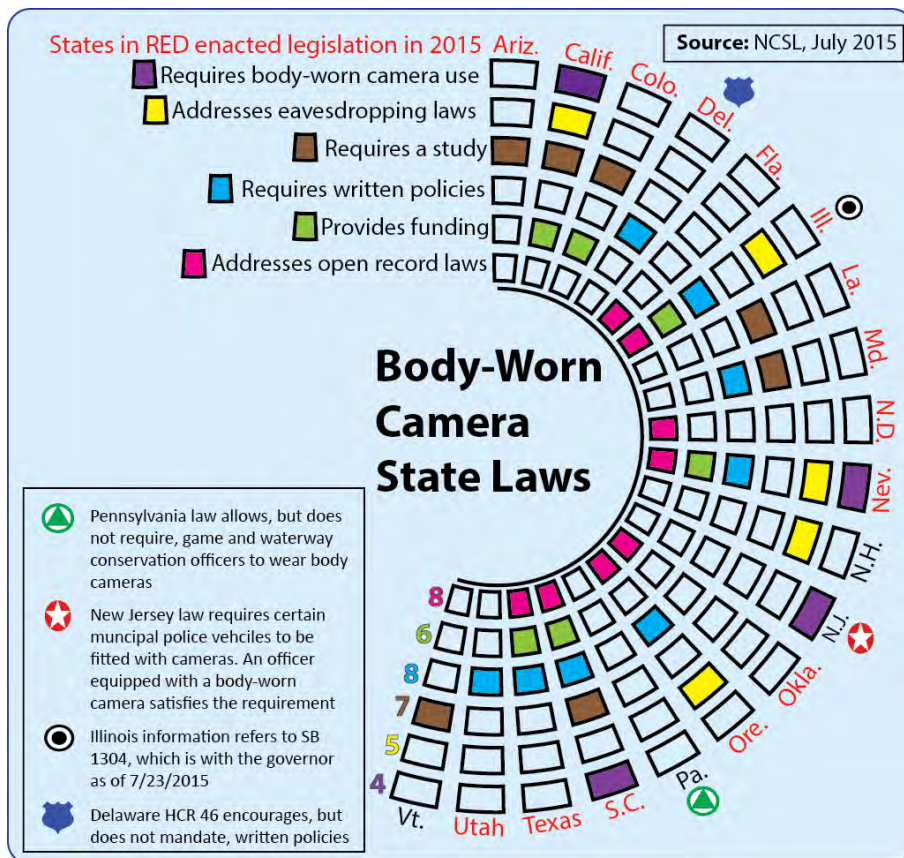
BWC Policy Implementation Program  
2015 Awards Map





# NATIONAL CONTEXT 2015/2016

## 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

# NATIONAL CONTEXT 2016

## Body-Worn Camera (BWC) Technology Adoption Nationwide

- 47% of the (15,328) general purpose law enforcement agencies in the US had acquired BWCs.
- 80% of the agencies adopting BWCs offered the following reasons:
  - Enhance officer safety
  - Increase evidence quality
  - Reduce complaints
  - Limit liability
- 80% of the 500 largest police department had acquired BWCs with 70% actually implementing them.

# Some Initial Illinois Programs & Pilots (2015)

## Large

- Chicago Police Department

## Medium

- Springfield Police Department
- Elgin Police Department

## Small

- Mendota Police Department

## Discontinued

- Minooka Police Department

# ILLINOIS DEVELOPMENTS (2015)

## Law Enforcement Officer-Worn Camera Act (LEOWCA)

- 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
- No mandate for body camera deployment but significant regulation of a range of issues for any agency using the body cameras.
- 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
- Required implementing regulation by Illinois Law Enforcement Training and Standards Board (ILETSB)

# Illinois BWC Post 2015 & Pre-2020

- Measured progress in adoption of BWC based on mandatory reports to the Illinois Law Enforcement Training and Standards Board (ILETSB)
  - As of 2016 - 18 Departments reported utilizing BWC
  - As of 2017 - 26 Departments reported utilizing BWC
  - As of 2018 - 63 Departments reported utilizing BWC
  - As of 2019 - 75 Departments reported utilizing BWC
- As of 2019 (last numbers reported to ILETSB) less than 10% of Illinois' 877 law enforcement agencies had adopted the use of body cameras.

# NATIONAL CONTEXT 2020/2021

## Body-Worn Camera (BWC) Technology Adoption Nationwide

- Seven States now have laws requiring law enforcement body worn cameras (CO, CT, IL, MD, NJ, NM, & SC)- These states time phased implementation (CO, CT, IL) or requirements for state funding of programs before implementation (SC, NJ) .
- 13 States (CA, CO, CT, FL, IL, KY, MA, NC, NJ, NV, PA, SC, TX) and DC have programs for funding departments with various aspects of body camera implementation-but generally not the complete cost. CA and NV have created programs for their highway patrols. Only SC requires full state funding of local programs)

# NATIONAL CONTEXT 2020/2021

## Body-Worn Camera (BWC) Technology Adoption Nationwide

- 19 States (CA, CT, DE, FL, IL, IN, KY, MI, MN, MD, NC, NH, NV, OR, PA, SC, TX, UT, & WA) and the DC now have laws requiring that law enforcement using or receiving funding for body worn cameras have written policies consistent with minimum standards set by legislation.
- 23 States (CA, CT, FL, GA, IL, IN, KS, LA, MI, MN, MO, NC, ND, NH,, NV, OK, OR, PA, SC, TN, TX, UT, & WA) and the DC have legislation concerning the release of body camera footage and the applicability of open records laws.

# NATIONAL CONTEXT 2020/2021

## Body-Worn Camera (BWC) Technology Adoption Federal Govt.

- As of May 2021, the DoJ had provided over \$115M in funding for state and local body camera program (\$102.5M in direct funding and \$12.5M in training assistance).
- As of May 2021, several federal agencies outside DoJ had adopted BWC technologies for their LEOs (e.g. National Park Service, Amtrak Police, DHS Custom and Border Protection)
- As of May 2021 the DoJ had no policies for body camera use.



# NATIONAL CONTEXT 2020/2021

## Body-Worn Camera (BWC) Technology Adoption Federal Govt.

- The George Floyd Justice in Police Act-introduced in 2020 and reintroduced in 2021-would require increased use of body cameras mandating use by federal law enforcement officer in certain circumstances and tying the use of body cameras by state and local agencies to federal grant funding.
- October 2020 DoJ promulgated guidelines for local officers whose departments required BWC to participate in Task Force operations.
- In June 2021 the DoJ announced that agencies under its purview would be required to develop policies for body camera use.

# ILLINOIS DEVELOPMENTS (2021)

## SAFE-T Act (2021) & Amending Trailer Bill (2021)

- Established a roll-out schedule for mandatory law enforcement body camera usage (SAFE-T Act)
- Initially, eliminated all ability for officers to review their own body camera images. (SAFE-T Act)
- Officer ability to review video restored except in incidents of use of deadly force or alleged misconduct.(Trailer Bill)
- Initially, imposed felony criminal penalties for officer violation of local Body worn Camera Polices (SAFE-T Act)
- Felony penalties for officer violation of the Law Enforcement Officer Worn Camera Act (as amended).(Trailer Bill)



## The Land of Lincoln Approach

# LEOWCA—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



# LEOWCA—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

# LEOWCA—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

# LEOWCA—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)

# SAFE-T ACT / TRAILER BILL BWC PROVISIONS

## Mandatory Body Camera Roll-Out:

- Municipalities and counties with a population of 500,000 or more, by January 1, 2022;
- Municipalities and counties with a population of 100,000 or more but under 500,00, by January 1, 2023;
- Municipalities and counties with a population of 50,000 or more but under 100,000, by January 1, 2024; and
- Municipalities and counties with a population under 50,000 by January 1, 2025.
- For all “other remaining law enforcement agencies” and state agencies with law enforcement officers, by January 1, 2025.



# SAFE-T ACT / TRAILER BILL BWC PROVISIONS

## Limitations on the Ability of Officer to Review BWC Footage:

- Initially the legislature in the SAFE-T Act precluded all officer review of BWC footage.
- The Trailer Bill restored some ability for officers to review their BWC footage except in instances where the officer was involved in or witnessed an
  - Office involve shooting
  - Use of deadly force
  - Use of force resulting in great bodily harm
  - Officer misconduct

# SAFE-T ACT / TRAILER BILL BWC PROVISIONS

## Establishment of Law Enforcement Misconduct Criminal Provisions Related to Officer Misuse of Body Cameras :

- Initially the legislature in the SAFE-T Act made a law enforcement officer's violations of local body camera policies punishable as a class 3 felony.
- The Trailer Bill added language limiting culpability to knowing and intentional violations of certain provisions of the LEOWCA. Those provisions include:
  - Officer conduct in activating the BWC when required.
  - Officer conduct in advising individuals of taping when there is a reasonable expectation of privacy
  - Officer conduct in reviewing, preserving, redacting or altering BWC images
  - Officer conduct in failing to retain BWC images.



## Evaluating the Use of Body Cameras

# BWC COST CONSIDERATIONS

## POSITIVE:

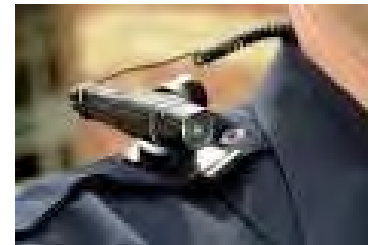
- LEOWCA creates a grant funding program for BWCs
- Potential liability and prosecution cost reductions

## 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 & prosecution for failure to follow specified provisions of the LEOECA
- 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]”

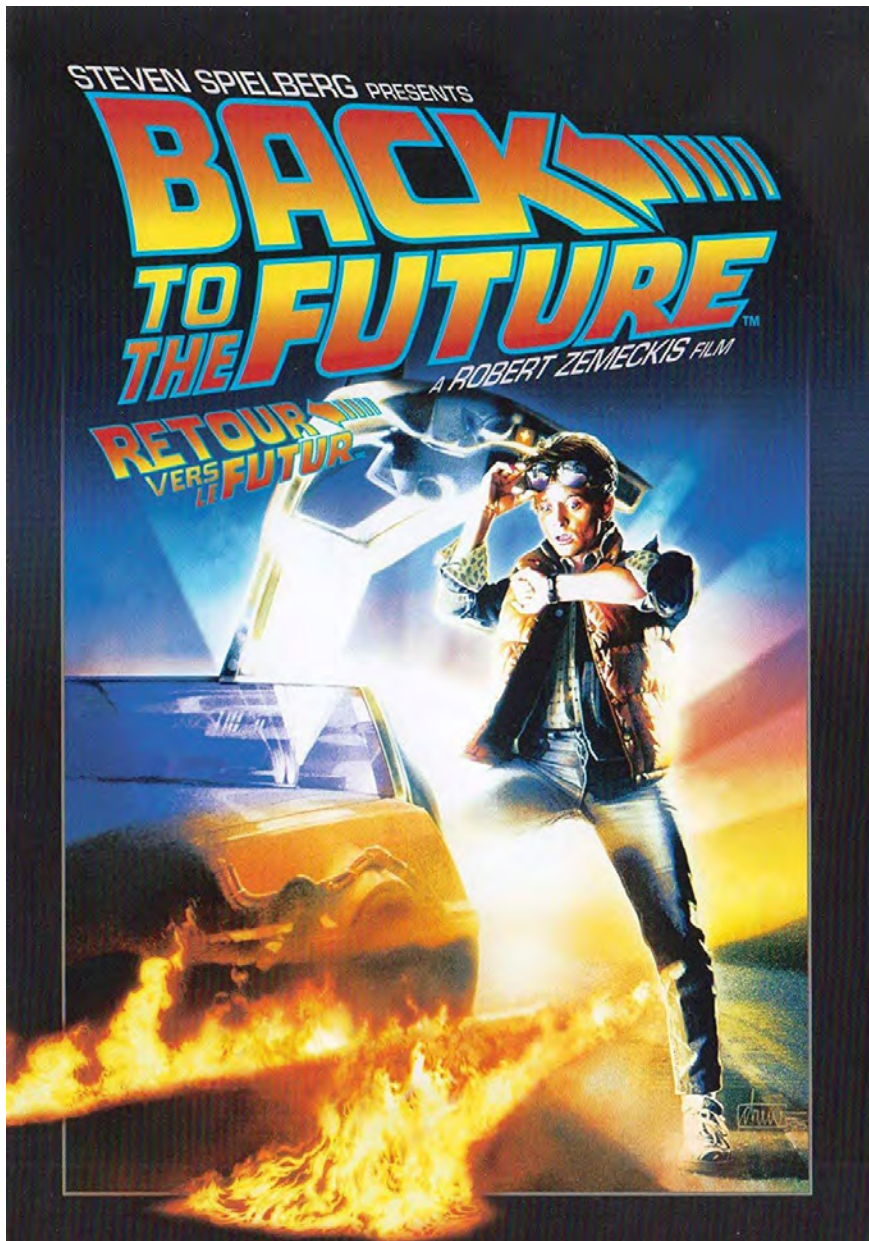
*Illinois V. Kladis*, 2011 IL 110920

# 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





# The Future of Body Cameras & Wearable Sensors



Conclusions

# CONCLUSIONS

- Illinois has arguably the most comprehensive BWC statute with directed policies on critical subject like camera activation, retention and dissemination
- The Illinois adoption rate for BWC has lagged behind national averages
- Many Illinois Chiefs have indicated a desire to adopt BWC but have concerns about complexity of requirements and cost.
- The State has moved forward strengthening BWC requirements and criminal penalty for violation of State BWC requirements.
- The effects of Illinois new approach tow BWC remains to be seen.

# CONCLUSIONS

- Tools for evaluating BWC efficacy and value have yet to be developed.
- Future developments in technology that enhance real-time use and interrelation with other sensors and systems need to be considered in policy development.

# RESOURCES



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

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



Thank You!!