

LIGHTS, CAMERA, ACTION: THE AGE OF BODY CAMERAS IN LAW ENFORCEMENT AND THE EFFECTS OF IMPLEMENTING BODY CAMERA PROGRAMS IN RURAL COMMUNITIES

ABSTRACT

There can be little doubt of the rise of civil unrest over the past ten years between law enforcement and the general public. The evening news is consumed by story after story of the tension, whether by covering every angle of Michael Brown's shooting in Ferguson, Missouri, or by covering the movement of "Black Lives Matter" throughout the nation. One effect of all of this unrest is a push to implement body camera programs for all law enforcement departments. The hope of such programs is that the cameras will be able to both accurately capture police and civilian interactions as well as decrease police brutality by keeping an eye on law enforcement. In December of 2014, President Obama supported the body camera movement by asking Congress to allocate \$75 million towards outfitting and training law enforcement officers with body cameras. This Note will look at the benefits and consequences of implementing mandatory body cameras on law enforcement officers and specifically how such a program could be accomplished in North Dakota.

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I. INTRODUCTION

It’s a cool October night. The wind is softly knocking the leaves off of the trees. A cry breaks through the silence. 911 is dispatched to the location. On arrival officers are met with a domestic violence situation. The husband comes busting out of the front door, irate and fuming. He storms around, arms flailing and yelling at his wife, claiming that she cheated on him with his best friend. The wife is crying. The husband claims he doesn’t know how he can live like this, and announces that the world would be better if they were both dead. He reaches into his pocket.

An officer raises his weapon. The husband starts taking an object out of his pocket and a shot rings out through the night. The officer has discharged his weapon and shot the husband. Paramedics arrive at the scene and pronounce the husband deceased. The officer takes the item which the defendant had in his pocket out. It's a folded up picture of his wedding day, not a weapon.

As soon as the officer discharged his weapon, his choice in doing so will be questioned. Did he make the right call? Did the circumstances warrant the use of force? Internal affairs, and eventually the prosecution, will go over all of the statements from the witnesses present and try and piece together exactly what happened on that cool October night. As time goes on, witness's memories will fade and the picture of what happened will become less clear. However, if the officer had been wearing a body camera, the series of the exact events would have been capture in their entirety. No passage of time would deteriorate the quality of the video.

It is situations like the one discussed above that have citizens questioning whether law enforcement departments should be outfitting their officers with body worn cameras. This Note takes a look at this concept and discusses the benefits and consequences of taking such action.

A. HISTORY OF POLICING

Policing, as we know it today, has existed since 1838.¹ Prior to that time, policing was done by night-time volunteers and constables operating on a fee-per-warrant basis.² For just under 200 years, law enforcement has continuously evolved and adapted with the presence of new equipment and techniques.³ In the beginning, policing was mainly done retroactively; officers were not able to respond to crimes until after the crime had been completed.⁴ But with the invention of two-way radios and telephones, policing became reactive; for the first time, police were able to respond to crimes actively occurring.⁵ In the 1930s law enforcement's standard procedure again changed when the use of automobiles became standard across the nation, replacing the officers on horseback and on foot.⁶ Policing

1. Gary Potter, *The History of Policing in the United States, Part I*, EASTERN KENTUCKY U.: POLICE STUDIES ONLINE (June 25, 2013), <http://plsonline.eku.edu/insidelook/history-policing-united-states-part-1>; see also Elizabeth Hall, *Police Technology: A History, Past, Present, and Future*, CRIMINOLOGY & JUST. (Sept. 29, 2012, 12:53 AM), http://criminologyjust.blogspot.com/2012/09/police-technology-history-past-present.html#.VsIoT_IrLWJ.

2. Potter, *supra* note 1.

3. CAROL A. ARCHBOLD, POLICING: A TEXT/READER 8-11 (Jerry Westby et al. eds., 2013).

4. Potter, *supra* note 1.

5. Hall, *supra* note 1.

6. *Id.*

has continued to adapt by implementing new technology throughout the years, including computers, polygraphs, and DNA analysis.⁷

From the very beginning of organized policing, law enforcement has struggled to effectively uphold the laws while maintaining the public's confidence in the justice system.⁸ Early on, self-dealing and corruption ran rampant throughout law enforcement agencies.⁹ It was not uncommon for police to take bribes or hush money during the course of their employment; specifically, in such areas of gambling and prostitution.¹⁰ To try and facilitate a reform, and improve the public's perception of law enforcement, law enforcement agencies implemented tighter internal regulations, equality in the enforcement of laws, and adopted nation-wide policies.¹¹ However, whenever one group has power over another, like law enforcement has over the general public, there is bound to be a certain level of distrust.¹² Because of this, law enforcement agencies continue to try to balance the agency's interest in facilitating justice with the public's interest in transparency.¹³

B. BODY CAMERAS

Law enforcement agencies are constantly testing new forms of technology.¹⁴ For example, drones, gunshot location systems, GPS vehicle pursuit darts, and body-worn video (i.e. body cameras) are currently being tested to determine whether they have a permanent, wide-spread place in law enforcement.¹⁵ Both civilians and law enforcement agencies began discussing the need for body-worn cameras after two major events: the shooting of Michael Brown and the strangulation of Eric Garner.¹⁶ In both

7. *Id.*

8. *Id.*

9. *Id.*

10. *Id.*

11. Hall, *supra* note 1.

12. There have been ample psychological studies showing the abuse of power, most notably the Stanford Prison Experiment performed by Phillip Zimbardo. STAN. PRISON EXPERIMENT, <http://www.prisonexp.org> (last visited Mar. 17, 2016).

13. U.S. DEP'T OF JUST. COMMUNITY ORIENTED POLICING SERV., IMPLEMENTING A BODY-WORN CAMERA PROGRAM: RECOMMENDATIONS AND LESSONS LEARNED 5 (2014), <http://www.justice.gov/iso/opa/resources/472014912134715246869.pdf>.

14. NAT'L INST. OF JUST., LAW ENFORCEMENT EQUIPMENT AND TECHNOLOGY <http://www.nij.gov/topics/law-enforcement/technology/pages/welcome.aspx> (last visited Mar. 17, 2016).

15. *Id.*

16. Gabe Gutierrez, *Ferguson Cops Get Body Cameras After Michael Brown Shooting*, NBC NEWS (Sept. 1, 2014, 10:43 AM), <http://www.nbcnews.com/storyline/michael-brown-shooting/ferguson-cops-get-body-cameras-after-michael-brown-shooting-n193196>; Elliot C.

instances, police discretion on the use of force was critiqued—did officers make the right call in that situation?¹⁷

Body cameras are small recording devices that are positioned either on the front of an officer's uniform or headgear, which record the officer's actions and conversations with members of the public.¹⁸ Due to the vast amount of data that would be collected, and consequently stored, if the video cameras were constantly running, most camera models require the officer to turn the camera on before the camera starts recording.¹⁹ The cameras are on a closed-circuit network, which allows the recorded data to be sent to a specific location, such as a police department, rather than a more general area, like a radio transmissions.²⁰ The data is then stored for a set amount of time, either internally, at the police department, or externally, on the "cloud."²¹

II. THE AFFECT OF BODY CAMERAS

The need for all law enforcement officers to wear body cameras is a contested issue. As such, there are numerous benefits and consequences to each argument. Proponents of the technology claim that benefits of body cameras include the ability to record all interactions and conversations between police and citizens' and the ability to keep law enforcement officers accountable for the amount of force they use during altercations.²² Another benefit claimed by body camera proponents is the ability to use the camera footage to help train officers in handling future interactions with citizens.²³

Those against the implementation of body cameras argue three points. First, the total cost of body cameras, including the physical camera, training

McLaughlin, *After Eric Garner: What's point of police body cameras?*, CNN (Dec. 8, 2014, 7:41 PM), <http://www.cnn.com/2014/12/04/us/eric-garner-ferguson-body-cameras-debate/>.

17. Gutierrez, *supra* note 16; McLaughlin, *supra* note 16.

18. BODYCAM BY PRO-VISION, <http://www.bodycameras.com> (last visited Mar. 17, 2016).

19. AXON AXON BODY 2: UNLIMITED HD, NO DISTRACTIONS, <http://www.axon.io/products/body2> (last visited June 15, 2016).

20. Uri Friedman, *Do Police Body Cameras Actually Work?*, THE ATLANTIC (Dec. 3, 2014), <http://www.theatlantic.com/international/archive/2014/12/do-police-body-cameras-work-ferguson/383323/>.

21. Brian Bakst & Ryan J. Foley, *For police body cameras, big costs loom in storage*, POLICEONE.COM (Feb. 6, 2015) <https://www.policeone.com/police-products/body-cameras/articles/8243271-For-police-body-cameras-big-costs-loom-in-storage/>.

22. Jay Stanley, *Police Body-Mounted Cameras: With Right Policies in Place, A Win for All*, AM. C.L. UNION 1, 2 (2015) https://www.aclu.org/sites/default/files/assets/police_body-mounted_cameras-v2.pdf.

23. Lindsay Miller and Jessica Toliver, *Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned*, COMMUNITY POLICING DISPATCH, (Oct. 2014) http://cops.usdoj.gov/html/dispatch/10-2014/body_worn_camera_program.asp.

and outfitting entire departments with the technology needed to operate and store recorded data,²⁴ and the time and man-power needed to redact video footage before it can be used in discovery or as a court exhibit, is too costly.²⁵ Second, the cameras' limitations are problematic. Instead of analyzing the real-time, split-second decisions made by officers, over-analysis of the data occurs after the fact.²⁶ In addition, the quality and positioning of the cameras' lens is a lesser quality than an officer's eyes.²⁷ Finally, there are legal effects of body cameras. For example, in two-party consent states, an officer must obtain a citizen's permission before recording any action or statement.²⁸ Officers must determine whether their state has a right of publicity law pertaining to video footage.²⁹ Officers must also determine if the video footage is exempt from the state's open records laws as to be kept private, or if the footage would be available to the public.³⁰

A. BENEFITS OF BODY CAMERAS

1. *Increasing the Public's Perception of Law Enforcement*

The public's perception of law enforcement has undoubtedly taken a hit in the past couple of years with the media portraying events of the Ferguson riots and the Black Lives Matter movement.³¹ One of the driving factors behind outfitting all law enforcement officers with body cameras is to increase each officer's accountability.³² It is believed that if, at all times, an officer is required to wear a camera, that records every movement and word, the officer will be more cognizant of his or her actions, and thus will use less force.³³ Because the idea of outfitting officers with body cameras

24. Bakst, *supra* note 21.

25. *Id.*

26. *10 limitations of body cams you need to know for your protection: A special report from the Force Science Institute*, POLICEONE.COM (Sept. 23, 2014) <https://www.policeone.com/police-products/body-cameras/articles/7580663-10-limitations-of-body-cams-you-need-to-know-for-your-protection/>.

27. *Id.*

28. *A Primer on Body-Worn Cameras for Law Enforcement*, NATIONAL INSTITUTE OF JUSTICE, 8 (Sept. 2012) <https://www.justnet.org/pdf/00-Body-Worn-Cameras-508.pdf>.

29. *Access to Police Body-Worn Camera Video*, REP. COMMITTEE FOR FREEDOM OF THE PRESS, <http://www.rcfp.org/bodycams>.

30. *Id.*

31. Gutierrez, *supra* note 16; Khury Petersen-Smith, *Black Lives Matter: A new movement takes shape*, 96 INT'L SOCIALIST REV., (2015), <http://isreview.org/issue/96/black-lives-matter>.

32. Stanley, *supra* note 22.

33. *Id.*

is a relatively new idea, there have been very few studies looking at the effect cameras have on officers' behavior.³⁴

In 2014, the first study was completed in the United States, which analyzed whether body-worn cameras reduced the prevalence of use-of-force and/or citizen's complaints against police officers.³⁵ This California study, randomly assigned one police department's officers into two categories: requiring the officers to wear body cameras during their shift, or not requiring the officers to do so.³⁶ Use-of-force and citizen complaints for each officer were then compared between the two categories. The researchers discovered that the officers without cameras engaged in twice as many use-of-force acts than those with the cameras.³⁷ Additionally, the number of citizen complaints against officers wearing cameras were only ten percent of the number of complaints filed against officers who were not wearing cameras.³⁸

Although these findings seem to indicate a positive effect on officers' conduct when wearing body cameras, some individuals are still hesitant to call the study a success.³⁹ The main criticism of the study points out that the sample size of the officers was relatively small; the study only used one department to compile its data.⁴⁰ It is hard to show causation when there have been so few scientific studies analyzing the impact of body-worn cameras on law enforcement.⁴¹ But with the issuance of officer-worn cameras gaining momentum, it is likely that more studies, spanning a wider demographic, will be completed in the near future.⁴²

34. Eugene P. Ramirez, *A Report on Body Worn Cameras*, 1, 6 (Sept. 8, 2014) https://www.bja.gov/bwc/pdfs/14-005_Report_BODY_WORN_CAMERAS.pdf.

35. Barak Ariel et al., *The Effect of Police Body-Worn Cameras on Use of Force and Citizens' Complaints Against the Police: A Randomized Controlled Trial*, 31 J. OF QUANTITATIVE CRIMINOLOGY 509 (2014) <http://link.springer.com/article/10.1007%2Fs10940-014-9236-3#page-1>.

36. *Id.*

37. Lucas Mearian, *As police move to adopt body cams, storage costs set to skyrocket*, COMPUTERWORLD, (Sept. 3, 2015, 2:45 AM), <http://www.computerworld.com/article/2979627/cloud-storage/as-police-move-to-adopt-body-cams-storage-costs-set-to-skyrocket.html>.

38. *Id.*

39. Ariel, *supra* note 35.

40. *Id.*

41. Although there have been few scientific studies concerning the effects of body cameras on law enforcement officers and their interactions with citizens, there have been a number of reports from individual law enforcement agencies mirroring the data shown in the California study. The San Diego Police Department saw a decrease of 40.5% and 46.5% in their citizen complaints and use of force, respectively. Tony Perry, *San Diego police body camera report: Fewer complaints, less use of force*, L.A. TIMES, (Mar 18, 2015, 10:21 AM) <http://www.latimes.com/local/lanow/la-me-ln-body-cameras-20150318-story.html>.

42. Dana Liebelson & Nick Wing, *Most Major Cities Still Don't Have Body Cameras for Cops: And those that have cameras don't always turn them on*, HUFFINGTON POST (Aug. 17, 2015

2. *Training Officers*

The possibility of departments being able to use footage to train officers regarding the proper response in a given situation is an additional benefit to issuing body cameras to officers.⁴³ Using one officer's experience to educate others allows for second-hand learning. There is no need for officers to make costly mistakes themselves; they can learn from the experiences and mistakes of the other officers. This process not only benefits the officers, but the public as well. Better trained and more aware officers make fewer mistakes and maintain safer streets. It will always benefit the public more for officers to pro-actively learn how to handle a situation as oppose to retroactively.

B. THE CONSEQUENCES OF BODY CAMERAS

Implementing a body camera policy for law enforcement does not only effect the public's perception and desire for accountability of law enforcement,⁴⁴ it also effects departments' budgets,⁴⁵ states' open records laws,⁴⁶ and states' laws on dual-party consent for recording.⁴⁷ Additionally, there is some hesitancy in making footage from body cameras the "gold standard" of evidence due to the camera's limitations.⁴⁸

1. *The Cost of Body Cameras*

At first glance, it may seem that the cost of outfitting law enforcement officers is simply the total of the equipment and training; however, the true cost lies in storing all of the collected data.⁴⁹ The average cost of a new, high-definition, body-worn camera is \$400-600.⁵⁰ The cost of storage varies, depending on the amount of storage needed.⁵¹ The required amount of storage depends on a number of factors, including: the number of

7:46 AM) <http://www.huffingtonpost.com/entry/police-body-camerasus55cbaac7e4b0f1c6bf1e740f9>.

43. Miller, *supra* note 23.

44. Ramirez, *supra* note 34.

45. Bakst, *supra* note 21; Mearian, *supra* note 37.

46. *Access to Police Body-Worn Camera Video*, *supra* note 29.

47. IMPLEMENTING A BODY-WORN CAMERA PROGRAM: RECOMMENDATIONS AND LESSONS LEARNED, *supra* note 13.

48. *10 limitations of body cams you need to know for your protection: A special report from the Force Science Institute*, *supra* note 26.

49. Bakst, *supra* note 21; Mearian, *supra* note 37.

50. See Mike Wehner, *Here's what it would cost to put a camera on every cop in Ferguson*, THE DAILY DOT (Nov. 26, 2014, 1:45 PM), <http://www.dailydot.com/technology/police-body-cam-ferguson/>.

51. Mearian, *supra* note 37.

cameras, the policy employed in retention of the data, and whether the department's policy calls for recording non-stop or only when officers are interacting with the public.⁵² With all of these factors in mind, the amount of data required to be stored compounds quickly, and so too does the cost of storing the data.⁵³

Most of the data collected from body cameras is stored in a cloud network, not directly in each individual department.⁵⁴ Therefore, departments are required to purchase data and storage plans from cloud providers, such as Taser.⁵⁵ For example, companies like Taser contract with police departments to store data for a certain duration of time, such as providing five terabytes of data for five years.⁵⁶ But, some departments are quickly discovering that the amount of data originally estimated as sufficient, falls significantly short of the storage amount actually required.⁵⁷

Pricing for cloud storage services can range from \$15 to \$79 per camera, per month.⁵⁸ Another option some departments are opting for is the Officer Safety Plan, offered by Taser. In the Officer Safety Plan, a camera comes with unlimited data storage and Taser automatically replaces old cameras after two-and-a-half years.⁵⁹ However, the cost of such a plan

52. Wehner, *supra* note 50; Mearian, *supra* note 37.

53. Mearian, *supra* note 37.

54. Although storing body camera data in the cloud is expensive, it is substantially cheaper than retaining all of the data in-house. *3 reasons why you should be using the cloud for body cam video storage: There are many misconceptions about cloud security for law enforcement; yet, the cloud is secure and ready to serve*, POLICEONE.COM (May 26, 2015), <https://www.policeone.com/police-products/body-cameras/articles/8556409-3-reasons-why-you-should-be-using-the-cloud-for-body-cam-video-storage/>. When data is stored by each individual department, the department is required to obtain the necessary equipment for storage, such as the computer systems and hard drives with sufficient capacities. But the largest cost comes from the man-hours required in maintaining such a system in-house. Someone in the department must be tasked with the upkeep and organization of all of the information, as well as keeping the data protected just like any other type of evidence. Because of these factors, out-sourcing the storage of data is the preferred method in most departments who are already using body cameras. *Id.*

55. Mearian, *supra* note 37; Taser uses Amazon's cloud based system. *Id.*

56. *Id.*

57. One department that has seen the true cost of body cameras is the Birmingham, Alabama Police Department. The department spent approximately \$889,000 to outfit its 319 officers with body cameras and store the data collected from those cameras, of which \$180,000 was spent on the cameras and the remaining for data storage and camera maintenance. Birmingham's contract with Taser called for five terabytes of storage for five years. However, Birmingham quickly realized that this amount of storage was insufficient; in the first two months of using body cameras, it had obtained over 1.5 terabytes of data, therefore projecting to exceed its limit of 5 TB within the first six months. *Id.*

58. Mearian, *supra* note 37.

59. *Evidence.com: Digital Evidence Management, Simplified*, AXON, <http://www.axon.io/products/evidence> (last visited June 15, 2016); Mearian, *supra* note 37.

is significantly more expensive; the cost of the Officer Safety Plan is \$99 per unit, per month.⁶⁰

Even though, at first glance, the price of outfitting officers with body cameras appears to be a one-time fixed-cost of the camera equipment, the above data shows that the true cost of body cameras lies in the storage and management of the collected data. And the storage providers know this; Taser's gross profit margins on the actual camera equipment were 15.6 percent, while the gross profit margins for its video storage was 51 percent for 2014.⁶¹ Even for small departments, these monthly costs for equipment management and storage can have a huge impact on the department's operating budget.

Although it appears that body cameras are nothing but bottomless money pits, they do have some monetary benefits, specifically in terms of lawsuits against law enforcement agencies. Every year, hundreds of complaints are filed against departments, claiming either discrimination or excessive, non-justified, use of force.⁶² As discussed above, not only have body cameras cut down on the number of use of force occurrences between officers and citizens, but they have also reduced the number of complaints filed against departments.⁶³

Departments have found that since implementing the body camera programs claims against their departments and ultimately the number of complainant settlements has significantly decreased.⁶⁴ These results can be attributed to officers toning down their conduct on account of being filmed or because departments are able to conclusively point to videotaped evidence that the officer's conduct was appropriate, and thus, dismiss the complaint.⁶⁵ The causation, however, does not matter because the results are the same; departments are spending less on settling complaints and citizens are complaining less. Thus, even if departments must pay a large amount of money to outfit their officers with equipment and pay for cost of storing the acquired data, departments can recoup some of these costs by not having to pay large sums of money in settlements.

60. *Id.*

61. Mearian, *supra* note 37.

62. See Bryant Jackson-Green, *Body Cameras for Police a Win for Citizens, Officers and Taxpayers*, ILL. POL'Y (Sept. 23, 2014), <https://www.illinoispolicy.org/body-cameras-for-police-a-win-for-citizens-officers-and-taxpayers/>.

63. *Id.*

64. *Id.*; see Perry, *supra* note 41.

65. *Id.*

2. *Open Records Laws and Body Cameras*

As previously discussed, the idea of body cameras on law enforcement officers is a relatively new idea. There has been a large growth in camera numbers in the past five years.⁶⁶ As such, state laws pertaining to body cameras have been irregular among the states. Roughly 25% of states have enacted legislation to regulate the public's access to body cameras' videos and an additional 40% of states have proposed legislation.⁶⁷ This leaves approximately 35%, or 17 states, without any body camera legislation.⁶⁸ Without any laws directly pertaining to law enforcement's use of body cameras, the footage obtained by officers is subject to the state's open records laws and the Freedom of Information Act (FOIA).⁶⁹

Even without specific body camera laws protecting the videos, other exceptions to the open records laws and FOIA still apply. Such exceptions include the privacy exception⁷⁰ and the on-going investigation exception.⁷¹ But even with those exceptions, some information can still slip through the cracks, unless proper body camera laws are put in place to protect private individuals. Video footage, such as distraught family members grieving over a lost loved one, individuals suffering from mental illness, or citizens participating in civil rights movements through the exercise of their right to free speech or assembly, would not be shielded from public access.⁷² It is

66. Eric Markowitz, *The LAPD Plans to Buy 7,000 Police Body Cameras, But Administrators Balk Over Price and Critics Cry Foul*, IBT (Jan. 15, 2016), <http://www.ibtimes.com/lapd-plans-buy-7000-police-body-cameras-administrators-balk-over-price-critics-cry-2265613>.

67. *Access to Police Body-Worn Camera Video*, *supra* note 29.

68. *Id.* However, some states have introduced or passed bills regarding the implementation of body cameras which do not directly address the question of the public's access. *Id.*

69. See Kelly Swanson, *Advocates push back against FOIA exemptions for bodycam footage*, REP. COMMITTEE FOR FREEDOM OF THE PRESS (June 9, 2015), <http://www.rcfp.org/browse-media-law-resources/news/advocates-push-back-against-foia-exemptions-bodycam-footage>; Adam Marshall, *Police bodycam videos: The Wild West of open records requests*, REP. COMMITTEE FOR FREEDOM OF THE PRESS, <http://www.rcfp.org/bodycam-video-access>.

70. If the video records images that are of underage individuals, victims of crimes, or of a place that an individual would have a reasonable expectation of privacy, that part of the recording is protected against disclosure to the general public. Swanson, *supra* note 69; Marshall, *supra* note 69.

71. Law enforcement agencies are not required to disclose video footage of active, on-going cases and investigations. However, unlike the privacy exception, the on-going investigation exception typically has a time limit; law enforcement agencies cannot label something as an "on-going investigation" purely to keep the video out of the reach of the public. Swanson, *supra* note 69; Marshall, *supra* note 69.

72. Eileen Sullivan, *Police body cameras show more than just the facts*, THE BIG STORY, (Sept. 11, 2015, 8:25 PM), <http://bigstory.ap.org/article/55c385d6d6f1478ba6fece15a2db67df/police-body-cameras-may-solve-one-problem-create-others>.

possible that such footage can be broadcast over major media outlets without regard to the individual's grieving process or reputation.⁷³

Although complete dysregulation of body cameras can have severe effects on innocent parties, a total restriction on all body camera footage is equally disastrous.⁷⁴ As previously discussed, the main reason for implementing body camera requirements is to increase the transparency between officers and the general public through accountability.⁷⁵ If all of the footage acquired from law enforcement officers' cameras was not available to private individuals, body cameras could not be used to deter unacceptable police action.⁷⁶ The most powerful tool private citizens have to deter such behavior is to use the body camera footage to bring the unacceptable actions to the public's attention or to use the footage in a personal suit against the department.⁷⁷ By not granting the public access to the footage, body camera's benefit of keeping law enforcement accountable would be void.

Because of the dangers of the lack of open records laws and open records laws that are too restrictive, it is imperative that states enact legislation which allows for proper balancing of these two interests as quickly as possible. Body cameras are becoming more prevalent in law enforcement today and without proper legislation neither law enforcements' nor citizens' interests are properly served.

3. *Dual Consent Laws and Body Cameras*

When a body camera is turned on by a police officer, the camera makes both a visual and auditory recording of the events taking place.⁷⁸ As such, a state's recording consent laws govern the ability of law enforcement officers to record their interactions with members of the public.⁷⁹ In the majority of states, a valid recording of a private conversation requires the consent of only one party, which is usually the party with the recording device.⁸⁰ In those states, law enforcement officers would not be restricted

73. *Id.*

74. *Id.*

75. *Id.*

76. *Id.*

77. Sullivan, *supra* note 72.

78. Shirley Li, *The Big Picture: How Do Police Body Cameras Work?*, THE WIRE, (Aug. 25, 2014, 9:24 AM), <http://www.thewire.com/national/2014/08/how-do-police-body-camera-work/378940/>.

79. *Laws on Recording Conversation in All 50 States*, MATTHIESEN, WICKERT & LEHRER, S.C.: ATTORNEYS AT LAW, <https://www.mwl-law.com/wp-content/uploads/2013/03/LAWS-ON-RECORDING-CONVERSATIONS-CHART.pdf> (last updated Jan. 22, 2016).

80. *Id.*

by recording laws if they personally acquiesced to the recording because they would meet the minimum requirement of having one party's consent.⁸¹

However, the conversation becomes more interesting when considering the other twelve states that currently have dual-consent laws in place.⁸² In two-party consent states, all parties to the conversation must consent to the recording.⁸³ This requirement raises a number of challenges for officers attempting to use body cameras. The most obvious problem is that a large portion of the interactions that law enforcement has with private citizens is reactive and not planned, such as officers responding to a domestic violence call or arriving at a scene of a car accident. It would be too time consuming and impractical to ask each individual present if they would be willing to consent to being recorded by officers' body cameras; there may be dozens of people present at the scene of a car accident or an officer may need to administer immediate medical attention during a domestic dispute. The consequence, however, of not getting permission to videotape everyone involved is that the evidence becomes inadmissible in court because it was improperly obtained.⁸⁴

Before body cameras can be truly effective, states must have either one-party consent laws or exceptions to two-party consent laws. In some states with two-party consent requirements, legislation has responded to the prevalence of body cameras on law enforcement officers by enacting exceptions to the requirement of consent.⁸⁵ It is not necessary to amend all two-party consent laws to only require one-party consent, but creating an exception for body cameras is a solution. Creating such this exception does not necessarily mean that individual's privacy in two-party consent states decreases; legislatures can preserve citizen's privacy by allowing recording

81. *Id.*

82. The twelve states with dual-consent laws are: California, Connecticut, Florida, Illinois, Maryland, Massachusetts, Michigan, Montana, Nevada, New Hampshire, Pennsylvania, and Washington. *Id.*

83. There are a few exceptions, such as if the purpose of the conversation is to obtain evidence of a serious crime or the other parties have no reasonable expectation of privacy in when and where the conversation occurs. Christopher Beam, *Broken Record Laws: Why do 12 states still make it illegal to tape people without their knowledge?*, SLATE, (Mar. 10, 2011, 3:36 PM), http://www.slate.com/articles/news_and_politics/crime/2011/03/broken_record_laws.html.

84. Recording without full consent in two-party consent states is illegal per the state's statutes and violates an individual's right against unreasonable search and seizure under the Fourth Amendment to the Constitution, applied to the states through the Fourteenth. [Please provide an example and citation to a state statute for example.]

85. *Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned*, *supra* note 13 (citing *Police body cameras heading to Pennsylvania*, ABC 27 NEWS (Feb. 10, 2014), <http://www.abc27.com/story/24686416/police-body-cameras-heading-to-pennsylvania>); Rebecca Brown, *Nearly all states considered police body cameras in 2015, few enacted laws*, FISCALNOTE, (Aug. 6, 2015), <https://www.fiscalnote.com/2015/08/06/nearly-all-states-considered-police-body-cameras-in-2015-few-enacted-laws/>.

only when the individual does not have a reasonable expectation of privacy.⁸⁶ Thus, with some planning, citizen's privacy and the effectiveness of law enforcement body cameras can be preserved.

4. Reliability of Body Camera Footage

Prior to the implementation of body cameras, disagreements regarding events that transpired between officers and citizens became a battle of he said, she said. Body cameras offer parties the chance to get an unbiased look into exactly what occurred during a given interaction. Or do they? Law enforcement officers are hesitant to believe that body cameras are their saving grace for a number of reasons. The first reason is the difference between the body camera and the officer's eyes. A standard body camera lens has a field of view of approximately 130°;⁸⁷ while the average field of vision for a human is 200°.⁸⁸ Thus, even without taking into account an officer's ability to turn his or her head to the side, the human eye's capability to see information outside of the direct line of sight is substantially greater.⁸⁹

Although the human eye can observe greater angles than a body camera, the camera's lens does have the advantage of being able to detect more objects in lower light; however, this is not necessarily a good thing.⁹⁰ It would be unfair to hold an officer to the standard of a camera's lens, when the human eye could not by itself, detect such detail. This, however, is exactly what will occur if video recordings are admitted into evidence during trial; juries will see events through the lens of a body camera, not the eyes of an officer.

A second problem with body cameras is their inability to pick up on important danger cues, such as resistive tension.⁹¹ During resistive tension, an officer may be able to detect whether a suspect is likely to resist the

86. *Laws on Recording Conversation in All 50 States*, *supra* note 79.

87. AXON, http://www.axon.io/products/body2?utm_source=edc&utm_medium=banner&utm_content=nonpartner&utm_campaign=login-1.29, (last visited Feb. 15, 2016).

88. ROBERT H. SPECTOR, *CLINICAL METHODS: THE HISTORY, PHYSICAL, AND LABORATORY EXAMINATIONS* (3d ed. 1990), <http://www.ncbi.nlm.nih.gov/books/NBK220/>. Vision field is determined by taking the 100° lateral visual field for each eye (lateral means to the outside of the body) and adding them together, 100° for the left eye and 100° for the right eye. *Id.* The 100° is determined by the degree to which an eye is able to see to the side after moving from the center line of vision, staring straight ahead. *Id.*

89. This is assuming that the body camera is affixed to the front of the officer's uniform, not a camera attached to either glasses or a hat. Such cameras would be able to turn with the officer as his or her head turns, although the viewing angle would remain substantially similar.

90. *10 limitations of body cams you need to know for your protection: A special report from the Force Science Institute*, *supra* note 26.

91. *Id.*

officer's movements, such as putting on hand-cuffs, by feeling the suspect tense up when the officer initiates physical contact.⁹² Through this experience, the officer may be able to use preemptive measures to ensure his or her safety, which may seem excessive or unjustified in the recording because of the camera's lack of ability to sense touch.⁹³

Lastly, with the implementation of body cameras, officers fear that in tense situations, their split-second decisions will be picked apart using the benefit of hindsight.⁹⁴ In the heat of a tense situation, such as a domestic dispute with a combative suspect, an officer must make split-second decisions about the situations, such as whether the suspect is armed, whether he is dangerous, whether officers or citizens are at risk, how far away the suspect is from any officers or dangerous weapons, and whether the suspect has a history of violence. All of these factors must be processed by an officer in a matter of moments. With the presence of body cameras, juries have the ability to scrutinize an officer's decision like never before. A video recording can be paused, rewound, sped up, slowed down, and zoomed in. Officers fear that with these capabilities, their actions will be judged by what they should have done in the perfect situation.⁹⁵ The Supreme Court has stated that an officer's decision cannot be judged using the benefit of hindsight; however, this is difficult to manage when a video can be played before a jury multiple times and explained by multiple witnesses and experts.⁹⁶

In the end, it comes down to citizens, and ultimately jurors, knowing the limitations of videos; the camera's viewing angles are different, the camera is better able to work in low light situations, the camera is unable to record other senses, such as touch and smell, and there is a chance of evaluating the recording with a hindsight bias.⁹⁷

When implementing a body camera policy, all of these secondary effects must be taken into account, along with the benefits of lower rates of use of force by officers and transparency in policing. Choosing to outfit an entire police department with body cameras is not the only choice states and legislatures must make; legal questions regarding consent and open records laws must also be discussed before implementing body camera policies.

92. *Id.*

93. *Id.*

94. *Id.*

95. *10 limitations of body cams you need to know for your protection: A special report from the Force Science Institute, supra note 26.*

96. *Graham v. Connor*, 490 U.S. 386, 396 (1989).

97. *10 limitations of body cams you need to know for your protection: A special report from the Force Science Institute, supra note 26.*

The bottom line is that body cameras are good, because they help keep the public safe and officers accountable, but they come with a cost.

III. IMPLEMENTING BODY CAMERA PROGRAMS

There are a many factors departments consider when implementing body camera programs. Specifically, departments must analyze the current laws of their states concerning open records requests and party consent, as well as develop policies concerning the length of retention of collected data and how to secure the chain of custody for the video evidence. All of these moving pieces come into play when developing a body camera program. With the prevalence of body cameras increasing, states and police departments are addressing these issues which makes it easier for other departments to follow the policies they have set in place.

A. THE CURRENT STATE OF BODY CAMERAS

Since the shooting of Michael Brown, there has been a significant push throughout the United States to adopt body cameras for law enforcement agencies.⁹⁸ In 2014, President Obama proposed a three-year, \$263 million spending package to increase the use of body cameras, to train law enforcement officers to use them, and to aid in other types of police department reform.⁹⁹ Specifically, \$75 million of that amount would help pay for over 50,000 body cameras.¹⁰⁰ Although estimates differ, there are approximately 700,000 law enforcement officers in communities across the United States.¹⁰¹ Currently one third of all law enforcement agencies have some form of body camera program in use.¹⁰² Of the one hundred largest

98. Katie Delong, *One-third of United States police departments using body cameras: They're expensive, so are they worth it?*, FOX 6 NOW (Mar. 2, 2015, 10:32 PM), <http://fox6now.com/2015/03/02/one-third-of-united-states-police-departments-using-body-cameras-theyre-expensive-so-are-they-worth-it/>.

99. Nedra Pickler, *Obama wants more cops wearing body cams: Obama is proposing a three-year, \$263M spending package to increase use of body cams, expand police training and add more resources for department reform*, POLICEONE.COM, (Dec. 1, 2014), <https://www.policeone.com/police-products/body-cameras/articles/7910646-Obama-wants-more-cops-wearing-body-cams/>; *Justice Department Announces \$20 Million in Funding to Support Body-Worn Camera Pilot Program*, U.S. DEPT. OF JUST., May 1, 2015, <http://www.justice.gov/opa/pr/justice-department-announces-20-million-funding-support-body-worn-camera-pilot-program>.

100. State and local governments would have to pay for half of the cost of the device; the other half coming from the federal government. Pickler, *supra* note 99; *Justice Department Announces \$20 Million in Funding to Support Body-Worn Camera Pilot Program*, *supra* note 99.

101. Pickler, *supra* note 99; *Justice Department Announces \$20 Million in Funding to Support Body-Worn Camera Pilot Program*, *supra* note 99.

102. Delong, *supra* note 98. (This includes both use by the full department and use of cameras by only part of the department.).

cities in the United States, 66 percent of the cities have either implemented, or are considering implicating, a body camera program for their department.¹⁰³

As previously discussed, it is instrumental to have laws in place concerning open records requests and two-party consent exceptions for body cameras when implementing department and statewide body camera programs. Currently twelve states have a two-party consent requirement for both audio and visual recordings.¹⁰⁴ Of these twelve states, two have taken steps to grant an exception for officers wearing body cameras while on duty.¹⁰⁵ Additionally, thirty-three states have adopted or proposed legislation to regulate how body cameras fit into their open records laws.¹⁰⁶

B. A MODEL ACT

One of the most difficult aspects of implementing body cameras is writing the policy to regulate the use of body cameras. The American Civil Liberties Union put forth a “Model Act for Regulating the Use of Wearable Body Cameras by Law Enforcement” (“the Model Act”).¹⁰⁷ The Model Act serves as a good starting point for states trying to figure out which policies should be adopted before implementing a body camera program. Some of the major areas covered by The Model Act include when an officer must announce the presence of a body camera, the retention policy regarding how long footage must be maintained, and who has access to the information in the video after it is recorded.¹⁰⁸ As such, the Model Act addresses two of the key concerns previously discussed: requests for video footage and consent to record.¹⁰⁹

The Model Act requires law enforcement to “notify the subjects(s) of the recording that they are being recorded by a body camera as close to the inception of the encounter as is reasonably possible.”¹¹⁰ The Model Act articulates further instruction for special, more personal situations, such as when an officer is entering a home or coming into contact with a victim of a crime.¹¹¹ The Model Act attempts to alleviate the concern of two-party

103. *Id.*

104. *Laws on Recording Conversation in All 50 States*, *supra* note 79.

105. *Id.*

106. *Access to Police Body-Worn Camera Video*, *supra* note 29.

107. *A Model Act for Regulating the Use of Wearable Body Cameras by Law Enforcement*, AM. C.L. UNION, <https://www.aclu.org/model-act-regulating-use-wearable-body-cameras-law-enforcement>.

108. *Id.*

109. *Id.*

110. *Id.* § 1.c.

111. *Id.* § 1.d.1., 1.d.2.

consent states by always requiring officers to announce the presence of a body camera.¹¹² However, subsection (t) states: “[a]ny body camera footage recorded in contravention of this or any other applicable law shall be immediately destroyed and shall not be admissible as evidence in any criminal or civil legal or administrative proceeding.”¹¹³ By adding this section into The Model Act, instead of helping alleviate the restraints of two-party consent requirements, this section further restricts law enforcement’s ability to videotape. Now, even law enforcement officers in states with one-party consent laws are required to announce the presence of a body camera and ask for permission as soon as “reasonably possible” or the officers risk having all of the footage become inadmissible in any court or administrative proceeding.¹¹⁴ Thus, even The Model Act does not adequately address the problems created in two-party consent states.

The Model Act does a better job of addressing the issue regarding who may obtain copies of videos taken from officers’ body cameras, and specifically how that is possible under the open records laws of each state. The Model Act calls for all videos to be retained “for six (6) months from the date it was recorded, after which time such footage shall be permanently deleted.”¹¹⁵ It then proceeds to address a number of exceptions which outline a mandatory retention duration of at least three years.¹¹⁶ Such exceptions include when the video captures any use of force, a felony-level offense, or when there is a complaint filed against the officer or department.¹¹⁷ Subsection (k)(1) lays out which “video footage [is] exempt from the public inspection requirements” of each state.¹¹⁸ Footage will be exempt from a state’s open records laws and the Freedom of Information Act if it is (1) not subject to a minimum three-year retention period; (2) requested by the complainant to remain non-public; (3) part of an on-going investigation; or (4) if any subject of the video, parent or legal guardian, or deceased subject’s next of kin requests the footage remain non-public.¹¹⁹

112. *A Model Act for Regulating the Use of Wearable Body Cameras by Law Enforcement*, *supra* note 107, §.1.c. (“[A] law enforcement officer who is wearing a body camera shall notify the subject(s) of the recording that they are being recorded by a body camera as close to the inception of the encounter as is reasonably possible.”).

113. *Id.* § 1.t.

114. *A Model Act for Regulating the Use of Wearable Body Cameras by Law Enforcement*, *supra* note 107.

115. *Id.* § 1.i.

116. *Id.* § 1.j.1.

117. *Id.*

118. *Id.* § 1.k.1.

119. *Id.* § 1.j.

The Model Act's policy pertaining to public access of the video is a good balance between protecting the subject of the video's right to privacy, specifically victims and third parties, and the need to hold the officers accountable for their actions. As previously stated, whenever an officer has a complaint filed against him or her, The Model Act calls for the body camera video to automatically be retained for three years and thus, is subject to an open record's request, assuming the complainant does not object.¹²⁰ The victim and the public have the power to expose an officer's misconduct by allowing for transparency between law enforcement and the public, while still protecting the victim's rights.

The Model Act attempts to address the major issues facing the implementation of a body camera program, falling short in the area of party consent, while excelling in the area of the public's access to video footage. The Model Act serves as a strong template for states enacting body camera programs by allowing each state to recognize and understand many of the legal issues at play and how those issues interact with the laws already in place.

IV. BODY CAMERAS IN NORTH DAKOTA

A. THE LAWS OF NORTH DAKOTA

North Dakota is one of the few states that has addressed both legal issues pertaining to body cameras: open records requests and party consent. In the spring of 2015, the North Dakota Legislature passed House Bill No. 1264, which restricted public access to law enforcement's body camera footage, making North Dakota the first state in the country to do so.¹²¹ The Bill added "[a]n image taken by a law enforcement officer or a firefighter with a body camera or similar device and which is taken in a private place is an exempt record," to section 44-04-18.7 of the North Dakota Century Code.¹²²

In North Dakota, recording a conversation is not illegal if the person recording is a party to the conversation.¹²³ North Dakota is known as a one-party consent state.¹²⁴ Therefore, law enforcement officers would not be required to inform citizens that they are being recorded by the officer's body camera.

120. *A Model Act for Regulating the Use of Wearable Body Cameras by Law Enforcement*, *supra* note 107, § 1.j.1.C.

121. N.D. CENT. CODE § 44-04-18.7 (2015).

122. *Id.*

123. N.D. CENT. CODE § 12.1-15-02 (2015).

124. *Laws on Recording Conversation in All 50 States*, *supra* note 79.

The real benefit of North Dakota's one-party consent requirement is that during fast-paced situations, an officer will not be required to slow down to ask permission to record, nor try to identify all of the parties after an event to get their permission to keep the recording. This means that the evidence obtained from the video does not have to be excluded from civil or criminal cases that may arise from the altercation.¹²⁵

B. THE CURRENT STATE OF BODY CAMERAS IN NORTH DAKOTA

As of 2011, in North Dakota there were approximately 1,324 sworn law enforcement officers in 114 agencies.¹²⁶ The three largest cities in North Dakota, Fargo, Bismarck, and Grand Forks, account for over 48% of the total number of law enforcement personnel in the state.¹²⁷ Because of this, the remaining departments in the state have on average, only six to seven officers.¹²⁸ Even with the disparity in the number of officers in different sized towns, departments in both large and small cities have begun implementing body cameras.¹²⁹

Grand Forks is arguably the most progressive city in North Dakota when it comes to body cameras because 100 percent of the city's police officers wear body cameras and the city implemented a body camera use policy.¹³⁰ In the fall of 2015, Grand Forks took a big step and purchased fifty-two body cameras for its officers.¹³¹ The policy implemented by the Grand Forks Police Department outlines different procedures for officers, including when to activate or deactivate their camera, how to properly document the use of the camera, how to properly manage the contents of the videos, and how to maintain a proper chain of custody for the evidence.¹³²

125. See, *supra* note 84.

126. Brian A. Reaves, *Census of State and Local Law Enforcement Agencies, 2008*, U.S. DEPT. OF JUST., OFF. OF JUST. PROGRAMS, BUREAU OF JUST. STAT., 1, 15 (2011), <http://www.bjs.gov/content/pub/pdf/csllea08.pdf>.

127. *How to Become a Police Officer in North Dakota*, HOW TO BECOME A POLICE OFFICER, <http://www.how-to-become-a-police-officer.com/states/north-dakota/> (last visited June 15, 2016). There are approximately 340 law enforcement officers in Fargo, 90 law enforcement officers in Bismarck, and 210 law enforcement officers in Grand Forks. *Id.*

128. *Id.*

129. Rose Rementer, *Grand Forks police are now wearing body cameras*, GRAND FORKS HERALD, (Sept. 17, 2015, 1:44 PM), <http://www.grandforksherald.com/news/crime-and-courts/3841307-grand-forks-police-are-now-wearing-body-cameras>; Sarah Volpenhein, *Cavalier police outfitted with body cameras*, GRAND FORKS HERALD, (Nov. 2, 2015, 10:00 PM), <http://www.grandforksherald.com/news/region/3874356-cavalier-police-outfitted-body-cameras>.

130. Rementer, *supra* note 129; *Grand Forks Police Department Directives: Body-Worn Camera Recording Equipment*, GRAND FORKS POLICE DEP'T (Nov. 26, 2014), https://rcfp.org/bodycam_policies/ND/Grand_Forks_BWC_Policy.pdf.

131. *Grand Forks Police Department Directives: Body-Worn Camera Recording Equipment*, *supra* note 130.

132. *Id.*

With only six months of body camera usage, it is too soon to determine whether the use of body cameras in Grand Forks affects the number of citizen complaints or use of force incidents in the department. However, other communities will be able to observe how the Grand Forks' program functions. Smaller departments will be able to look to the Grand Forks' policy and use its foundation to create programs and policies suited for their own needs.

C. OBSTACLES IN IMPLEMENTATION

The immediate obstacle for purchasing body cameras for law enforcement is the cost. Sometimes the cost of the cameras does not have to come out of the department's budget, but rather the cameras are purchased through grant programs.¹³³ But without some financial assistance, outfitting officers with equipment and providing storage for the data can quickly add up. With the average cost of a body camera at \$500, departments may be forced to increase their operational budget by 3.2-6.1 percent.¹³⁴ Adding in the cost of storing the camera's data increases the department's budget by 5.5-10.5 percent the first year and 2.3-4.4 percent in each subsequent year.¹³⁵ These figure can be alarming to communities that are already struggling to keep a balanced budget. City and county boards may be faced with deciding whether to cut other programs and equipment allotments to make room in the budget for body cameras. It is doubtless that with oil prices and budgets dropping across the state, boards' decisions to purchase and maintain body cameras will become even more difficult.

One major downfall in operating a body camera in North Dakota, which can be easily be overlooked, is a camera's inability to work properly below -4 degrees Fahrenheit.¹³⁶ This is particularly troublesome for law

133. Rementer, *supra* note 129.

134. Percentages calculated by taking the number of police officers from Valley City, ND and Fargo, ND, 10 and 165 respectfully, multiplying by \$500 and then dividing by the total amount of the department's operational budget for 2016 of \$156,500 and \$1,336,156, respectfully. $([10 \times 500] / 156,500 = .032; [165 \times 500] / 1,366,156 = .061)$. *2016 Mayor's Preliminary Budget*, CITY OF FARGO, N.D., (Aug. 31, 2015), <http://www.cityoffargo.com/attachments/3a815457-c3ac-45c3-928d-3c610c9d163d/2016%20Preliminary%20Budget%20-%20Updated%20Transit%20Sheets.pdf>; *Annual Budget for 2014*, CITY OF GRAND FORKS, N.D. (Jan. 1, 2014), <http://www.grandforksgov.com/home/showdocument?id=735>; Fargo Police Department, CITY OF FARGO, <http://www.cityoffargo.com/CityInfo/Departments/Police/AboutFargoPolice/> (last visited Feb. 15, 2016).

135. First year figures are obtained by assuming an average storage cost of \$30 per month per device and multiplying to the 10 and 165 officers in Valley City and Fargo. This number is then added to the cost of the device figure out in note 114 and finally divided by the total amount of the department's operational budget. Each subsequent year is merely the \$30 per month per device cost of storage times the number of officers.

136. AXON, *supra* note 87.

enforcement in North Dakota because temperatures routinely fall below zero, as is evident when Grand Forks experienced seventy days below zero between December 2013 and February 2014.¹³⁷ Therefore, departments will be faced with choosing not using the cameras in the winter or only trying to use the cameras in warm winter weather or inside. The former severely restricts the use of cameras to only nine months out of the year and the latter runs the risk of having to repair already expensive cameras. This challenge calls into question the practicality of implementing body camera programs in North Dakota.

As previously discussed, North Dakota has already implemented laws concerning consent and open records request issues that come with implementing body camera programs; however, the state has not addressed much else regarding body cameras. Currently each department is tasked with implementing its own policies regarding the retention length of data, when filming is inappropriate, and which members of the department are allowed to access the recordings. Allowing each department or county to set their own policies may cause evidentiary issues. If North Dakota were to enact additional regulations regarding body cameras, more law enforcement agencies would have a clear path towards body camera implementation.

V. CONCLUSION

Being able to implement a body camera program goes beyond simply buying the camera systems for law enforcement; it requires laws and policies put into place to adequately facilitate its operation as well as a budget to maintain the equipment and store the data. Even with all of these barriers, if requiring law enforcement to wear body cameras has even a small effect on improving relationships and creating safer interactions between officers and citizens, then it is worth considering implementation.

*Mindy Lawrence**

137. Chris Dolce, *Subzero Temperature Days Reach Record Levels in Midwest*, WUNDERBLOG, (Mar. 1, 2014), <http://www.wunderground.com/news/subzero-temperatures-duluth-minneapolis-green-bay-chicago-20140225>.

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