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**BODY-WORN CAMERAS: THE IMPLEMENTATION OF
BOTH THE POLICE DEPARTMENT’S ROLLOUT OF
CAMERAS AND THE STATE’S ATTORNEY’S OFFICE’S
PROCESSING OF DATA FOR DISCOVERY**

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For a topic that contains a hotbed of deep-seated constitutional issues, there are, of date, very few judicial opinions dealing with Body-Worn Cameras (BWCs). In a civil case decided in the Northern District of California, the plaintiffs alleged that the policy of a town’s police department not to wear or equip body-worn cameras amounted to “deliberate indifference to the constitutional rights” of the plaintiffs.² Specifically, the plaintiffs argued that the lack of police policy to require the wearing of body cameras “fail[ed] to adequately discourage constitutional violations by its police officers” and resulted in the use of unnecessary force in the case.³ The court was not persuaded by the posited argument that situations of police misconduct in the defendant city had become so frequent as to be predictable.⁴ Instead, the court found that “requiring officers to wear body cameras may be a commendable goal for a police department to strive for, should they have the necessary resources.”⁵

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1. In large part, the author is one of the sole authorities for information regarding the Baltimore County Police Department Body-Worn Camera Program. The Body-Worn Camera protocol was created by Scott Shellenberger, State’s Attorney for Baltimore County, Robin Coffin, Deputy State’s Attorney for Baltimore County, and John Cox, Deputy State’s Attorney for Baltimore County. Much of the information in Parts III and IV stem from their experience and memory during its creation and implementation.
2. Baldwin v. Colley, No. 15-cv-02762-KAW, 2015 WL 5836923, at *4 (N.D. Cal. Oct. 7, 2015).
3. *Id.* at *3.
4. *Id.* at *4.
5. *Id.* (internal quotation marks omitted); *see also* Howard M. Wasserman, *Moral Panics and Body Cameras*, 92 WASH. U. L. REV. 831, 833 (2015) (noting that police

With the rise of body-worn camera programs, there has been an increase of notes and articles published on the subject.⁶ These articles mainly focus on the understood desired benefits of body-worn camera programs and the potential impact on privacy.⁷ The purpose of this article is to go beyond the academic discussion and impart the real world issues of such an all-encompassing law enforcement program.

Part I of this article describes the genesis of the BWC movement.⁸ Part II briefly discusses BWC limitations.⁹ Part III describes the process of BWC implementation in Baltimore County, Maryland.¹⁰ Part IV specifically discusses the Baltimore County State's Attorney's Office's approach to handling BWCs.¹¹ To conclude, I summarize the importance of BWCs and their practical implications based upon my experience as chief of the Baltimore County State's Attorney's Office's BWC Unit.¹²

I. THE GENESIS OF BWC

The *Washington Post* began keeping a database of police-involved fatalities beginning in 2015.¹³ This was in response to the rising number of high profile encounters that inflamed communities across the country.¹⁴ Examples of these high profile encounters include in Ferguson, Missouri, where an officer struggled with, shot, and killed

departments should be encouraged to use body cameras, but that they are not “a magic bullet”).

6. See generally, e.g., Richard Lin, *Police Body Worn Cameras and Privacy: Retaining Benefits While Reducing Public Concerns*, 14 DUKE L. & TECH. REV. 346 (2016); Karson Kampfe, Note, *Police-Worn Body Cameras: Balancing Privacy and Accountability Through State and Police Department Action*, 76 OHIO ST. L.J. 1153 (2015); Kyle J. Maury, Note, *Police Body-Worn Camera Policy: Balancing the Tension Between Privacy and Public Access in State Laws*, 92 NOTRE DAME L. REV. 479 (2016).
7. See generally, e.g., sources cited *supra* note 6.
8. See *infra* Part I.
9. See *infra* Part II.
10. See *infra* Part III.
11. See *infra* Part IV.
12. See *infra* Part V.
13. Kimberly Kindy et al., *A Year of Reckoning: Police Fatally Shoot Nearly 1,000*, WASH. POST (Dec. 26, 2015), <https://www.washingtonpost.com/sf/investigative/2015/12/26/a-year-of-reckoning-police-fatally-shoot-nearly-1000/>; *995 People Shot Dead by Police in 2015*, WASH. POST, https://www.washingtonpost.com/graphics/national/police-shootings/?tid=a_inl (last visited Apr. 20, 2018).
14. See Kindy et al., *supra* note 13.

Michael Brown on August 9, 2014,¹⁵ and here in Baltimore, Maryland, where Freddie Gray died a week after sustaining spinal injuries while in police custody on April 12, 2015.¹⁶ These and other incidents and the impact they had on their communities gave impetus to a number of changes in police procedures and equipment.¹⁷

While cameras cannot record everything officers and witnesses may see, the footage can be beneficial in deciding whether officers acted appropriately and whether the use of force was necessary. For example, prosecutors in Salt Lake City, Utah, cleared the officers involved in a fatal police shooting that began as a stop because the suspect did not display a red light on the rear of his bicycle.¹⁸ Sim Gill, the District Attorney for Salt Lake County, repeatedly cited both videos and still photographs captured by body-worn cameras in a letter explaining the decision not to prosecute the officers involved.¹⁹

Most body-worn camera programs are only a few years old. Quantifying the impact of the programs after such a short amount of time seems premature, but David Yokum, Anita Ravishankar, and Alexander Coppock published a working paper concluding that body-worn cameras neither influence the behavior of officers nor decrease the number of use of force complaints.²⁰

II. BWC LIMITATIONS

There are, of course, limitations to body-worn cameras.²¹ While they are helpful tools in providing insight about police interactions,

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15. Larry Buchanan et al., *What Happened in Ferguson?*, N.Y. TIMES (Aug. 10, 2015), <https://www.nytimes.com/interactive/2014/08/13/us/ferguson-missouri-town-under-siege-after-police-shooting.html>.
 16. *Freddie Gray's Death in Police Custody - What We Know*, BBC (May 23, 2016), <http://www.bbc.com/news/world-us-canada-32400497>.
 17. THE LEADERSHIP CONFERENCE & UPTURN, POLICE BODY WORN CAMERAS: A POLICY SCORECARD (2017), <https://www.bwscorecard.org/static/pdfs/LCCHR%20and%20Upturn%20-%20BWC%20Scorecard%20v.3.04.pdf>.
 18. Eli Rosenberg, *Police Bodycam Shows Officer Fatally Shoot a Man Who Ran. Prosecutors Say It Was Justified.*, WASH. POST (Oct. 7, 2017), https://www.washingtonpost.com/news/post-nation/wp/2017/10/07/police-bodycam-shows-officer-fatally-shoot-a-man-who-ran-prosecutors-say-it-was-justified/?utm_term=.1a76a703e696.
 19. Letter from Sim Gill, Dist. Attorney, Salt Lake Cty., to Rosie Rivera, Sheriff, Unified Police Dep't, & Mike Brown, Chief, Salt Lake City Police Dep't 11, 13–14, 15–18 (Oct. 4, 2017), [https://slco.org/uploadedFiles/depot/fDistrictAttorney/press_release/L-Rivera,%20Brown%20\(SLCPD%20OICI\)%2017-1004.pdf](https://slco.org/uploadedFiles/depot/fDistrictAttorney/press_release/L-Rivera,%20Brown%20(SLCPD%20OICI)%2017-1004.pdf).
 20. David Yokum et al., *Evaluating the Effects of Police Body-Worn Cameras: A Randomized Controlled Trial 22* (Oct. 20, 2017) (working paper), http://bwc.thelab.dc.gov/TheLabDC_MPD_BWC_Working_Paper_10.20.17.pdf.
 21. *Body-Worn Camera Program*, BALT. COUNTY GOV'T, <https://www.baltimorecountymd.gov>.

no camera can capture every detail of an investigation.²² Nor can body-worn camera data be the sole source of information to evaluate and make a fair and impartial judgment of police action.²³ The footage is essentially a single report of a fixed period of time.²⁴ It should be noted that the footage the camera captures does not necessarily reveal what the officer observed or perceived.²⁵ The camera is equipped with audio and mounted to the officer's uniform; however, it does not track the eyes or ears of the officer wearing it.²⁶ Nor does the camera record the officer's trained recognition of a whole host of suspicious factors or what the officer may believe upon seeing such factors.²⁷ There are also technical differences between the camera and the officer's eyes.²⁸ The camera "sees" more clearly in low light than the typical police officer.²⁹ The camera also records two-dimensionally.³⁰ But distances are not as easily assessed when reviewing captured data as when seen with the human eye.³¹

III. BWC COMES TO THE BALTIMORE COUNTY POLICE DEPARTMENT

On January 9, 2017, Chief James Johnson of the Baltimore County Police Department (Department) issued a special order in regard to its body-worn camera program.³² This order established the procedure by which the Department would adopt and implement a BWC system.³³ The special order provided Chief Johnson's justifications and rationale in its implementation.³⁴ For example, Chief Johnson stated:

Information captured by the BWCs can be used in multiple ways to benefit the Department, its members, and the

d.gov/Agencies/police/bodycameras/index.html (last updated June 21, 2017).

22. *Id.*

23. *Id.*

24. *See id.*

25. *Id.*

26. *Id.*

27. *See id.*

28. *See id.*

29. *Id.*

30. *Id.*

31. *Id.*

32. Special Order #2016-03 from James W. Johnson, Chief of Police, Balt. Cty. Police Dep't (Jan. 9, 2017), <https://www.bwcorescorecard.org/static/policies/2017-01-09%20Baltimore%20County%20BWC%20Policy.pdf> [hereinafter Special Order].

33. *Id.* at 2.

34. *Id.* at 1–2.

community. Recorded materials can be used as evidence in court proceedings, as training materials for law enforcement officers, to improve complaint resolution, and it may be released to the community to enhance public trust in police activities.³⁵

The order was made effective immediately.³⁶ The Department anticipated the following immediate benefits: improving public safety by enhancing transparency, accountability, and trust, and reducing complaints against officers by making prosecutions more efficient and effective.³⁷

By October 2017, over 1,400 Baltimore County police officers were trained on and equipped with body-worn cameras.³⁸ The County partnered with Taser International (now AXON Enterprise, Inc.) for an eight-year, \$12.5 million contract.³⁹ The contract covered the purchase of Axon Flex body cameras.⁴⁰ The chosen model is capable of being worn on the glasses, hat, or officer's shoulder.⁴¹ The contract also detailed maintenance, data storage, licenses, and other related expenses.⁴² The Department increased its overtime budget to compensate for the additional training officers received specific to the use of body-worn cameras.⁴³ The estimated annual

35. *Id.* at 1.

36. *Id.*

37. *See id.* at 2; *see also* Yokum et al., *supra* note 20, at 2 (footnotes omitted) (“[C]ameras are expected to encourage officer adherence to departmental protocols and deter police from engaging in unprofessional behavior or misconduct, especially unjustified use of force. . . . [T]he cameras are also expected to have evidentiary value, both for internal affairs and criminal investigations. Camera footage could help resolve cases in a more timely, judicious manner that makes more efficient use of investigative resources.”).

38. Pamela Wood, *Baltimore County Finishes Outfitting 1,400 Police Officers with Body Cameras*, BALTIMORE SUN (Oct. 3, 2017, 4:10 PM), <http://www.baltimoresun.com/news/maryland/baltimore-county/bs-md-co-body-camera-update-20171003-story.html>.

39. Tomi Kilgore, *Taser Changes Name to Axon Enterprise; Ticker Symbol Will Be 'AAXN' on Thursday*, MARKETWATCH (Apr. 5, 2017, 12:46 PM), <https://www.marketwatch.com/story/taser-changes-name-to-axon-enterprise-ticker-symbol-will-be-aaxn-on-thursday-2017-04-05>; Lowell Melser, *Baltimore County Police Ready to Roll Out Body-Worn Cameras*, WBALTV (June 30, 2016, 6:23 PM), <http://www.wbalte.com/article/baltimore-county-police-ready-to-roll-out-body-worn-cameras/7101498>.

40. Melser, *supra* note 39.

41. *Id.*; Tim Dees, *TASER Axon Flex: The Next Generation of Body Camera*, POLICEONE.COM (Mar. 22, 2012), <https://www.policeone.com/police-products/body-cameras/articles/5272310-TASER-Axon-Flex-The-next-generation-of-body-camera/>.

42. Melser, *supra* note 39.

43. *Body-Worn Camera Program*, *supra* note 21.

cost of the program, including nineteen additional full-time personnel, was \$1.6 million.⁴⁴ The Baltimore County speed camera program paid for the majority of this increased cost.⁴⁵

The BWCs that the County selected record footage similar to what is captured on a cell phone.⁴⁶ The cameras have a 640x480 video graphic resolution and a recording rate of thirty frames per second.⁴⁷ The field of view is either 75 degrees or 120 degrees, depending on model.⁴⁸ The cameras operate on battery power using rechargeable batteries with an estimated charge of twelve hours.⁴⁹ The components include the camera, a controller/battery pack, a connector cable, and a Bluetooth-enabled smart device that resembles a cell phone.⁵⁰ Body-worn camera equipped officers are able to play back, tag, and categorize the recordings using the mobile device.⁵¹

The Department's body-worn camera system operates in a pre-event buffering mode once the camera is powered on.⁵² In the pre-event buffering mode, a thirty second continuous loop of video-only recording is available.⁵³ Upon activating the camera, the most recent thirty seconds of video is retained as the initial portion of the captured footage.⁵⁴ The video and audio will continue to record until the camera is deactivated.⁵⁵ All recordings are uploaded to a cloud-based evidence management system.⁵⁶

The BWCs capture both video and audio.⁵⁷ In 2015, the Maryland General Assembly amended the Courts and Judicial Proceedings Article of the Maryland Code to exempt law enforcement use of body-worn cameras from the two-party consent requirement of Maryland's wiretap laws.⁵⁸ This allows officers to capture the audio portion of their investigations.⁵⁹

44. *Id.*

45. *Id.*

46. *Id.*

47. Special Order, *supra* note 32, at 1.

48. *Id.*

49. *Id.*

50. *Id.*

51. *Id.*

52. *Id.*

53. *Id.*

54. *Id.*

55. *Id.*

56. *Id.*

57. *Id.*

58. MD. CODE ANN., CTS. & JUD. PROC. § 10-402(c)(4)(i) (West 2018).

59. *See id.*

Baltimore County readily understood the public's desire for the captured footage.⁶⁰ The video is a public record and as such is subject to release under the Maryland Public Information Act (MPIA).⁶¹ Members of the media and private citizens can seek body-worn camera data that was collected from any police activity.⁶² Such requests are handled pursuant to the MPIA.⁶³ However, the Department may decline to release any footage if there is an ongoing investigation or a pending prosecution.⁶⁴ The Department has assigned officers to process body-worn camera footage in accordance with the MPIA and its agency's policies.⁶⁵ Certain information will not be released as part of the footage, including the identity of juvenile suspects, personal identifying information such as license plate numbers or driver's license numbers, and medical information.⁶⁶ Department policy prohibits the release of identification of sex crime victims.⁶⁷ The Department also reserves the right to withhold footage in order to protect the physical safety of victims and witnesses.⁶⁸ Additionally, the Department may not release data that is graphic in nature or content.⁶⁹

The Department, in cases of significant public interest or public safety, may post body-worn camera footage to its news blog and social media platforms.⁷⁰ The public may request footage by completing a form found on the County and Department websites.⁷¹ If the request is denied, there is an appeal process available.⁷² The public should note that the Department charges a fee that covers the research, processing, and production of requested data.⁷³ Such fees may be waived because of indigence if an Affidavit of Indigency is filed with the request.⁷⁴

60. See *Body-Worn Camera Program*, *supra* note 21.

61. *Id.*

62. *Id.*

63. *Id.*

64. *Id.*

65. *See id.*

66. *Id.*

67. *Id.*

68. *Id.*

69. *Id.*

70. *Id.*

71. *Id.*

72. *Id.*

73. *Id.*

74. *Id.*

Guidelines for the Department's retention of body-worn camera data are still being developed by the County Interagency Workgroup.⁷⁵ Certain data will be retained longer depending on the type of crime, conduct, or incident involved.⁷⁶ In the period between the first camera activation in Baltimore County and the beginning of October 2017, the Department captured over 250,000 recordings, or approximately 45,000 hours of footage, and transferred 79,000 cases to the Baltimore County State's Attorney's Office.⁷⁷

IV. BWC COMES TO THE BALTIMORE COUNTY STATE'S ATTORNEY'S OFFICE

The State's Attorney's Office for Baltimore County (Office) employs eleven evidence technicians and one supervising attorney to process the body-worn camera footage related to its prosecutions.⁷⁸ This is an overwhelming job, and the Office is hoping to add more people to the Body-Worn Camera Unit.⁷⁹ With the full rollout of cameras in effect, the new rule of thumb for cases with Baltimore County officers' involvement is to assume that footage exists.⁸⁰ Prior to this, during the time of the rollout, the Office had to expend additional efforts to determine which cases had camera-equipped officers and whether those officers captured any footage.⁸¹ The Unit still reviews every statement of charges that enters the office for the presence of body-worn camera footage.⁸²

With that in mind, the Baltimore County Police Department and the State's Attorney's Office work closely to transfer the body-worn camera footage from the Department's secure cloud server to the

75. *Id.*

76. *Id.*

77. Adam May, *Police Body-Camera Program Fully Implemented in Baltimore County*, WBALTV (Oct. 4, 2017, 8:30 AM), <http://www.wbalte.com/article/police-body-camera-program-fully-implemented-in-baltimore-county/12778129>.

78. Lowell Melser, *Prosecutors Increase Staff to Process Police Body-Camera Video*, WBALTV (July 12, 2017, 6:13 PM), <http://www.wbalte.com/article/prosecutors-increase-staff-to-process-police-body-camera-video/10297649>.

79. *Id.*

80. *See supra* note 1; *see also* May, *supra* note 77 (discussing the rollout of the body camera program to more than 1,400 officers).

81. *See supra* note 1; *see also* Elizabeth Janney, *Police Body Camera Program in Full Effect in Baltimore County*, TOWSON PATCH (Oct. 4, 2017, 10:21 PM), <https://patch.com/maryland/towson/police-body-camera-program-full-effect-baltimore-county> (describing the additional efforts and training needed as the program unfolded).

82. BALT. CTY. STATE'S ATTORNEY'S OFFICE, BWC UNIT - SAO PROTOCOL 2 (2017) [hereinafter SAO PROTOCOL] (on file with author).

State's Attorneys'.⁸³ All cases categorized as crimes—felonies, misdemeanors, and traffic—are pushed over to the Body-Worn Camera Unit and assembled into individual cases.⁸⁴ These cases may include any number of videos, as well as photographs, captured by the officer's body-worn camera.⁸⁵ Once compiled, the cases are ready for assignment to an individual evidence technician and processed.⁸⁶

The processing is sometimes mistakenly referred to as redacting.⁸⁷ The Baltimore County State's Attorney's Office shields footage.⁸⁸ This is done by muting audio or blurring portions of the video.⁸⁹ The underlying meta-data is still present.⁹⁰ The muting silences all sound for a short period of time.⁹¹ The blurring can also be from the entire screen to a small specified area.⁹² A gold standard copy of the footage will remain in the Office's servers for a predetermined period of retention, and the County Police Department will retain copies pursuant to its retention policy.⁹³

The shielding process is handled pursuant to policies developed by the State's Attorney's Office, balancing the competing interests of transparency in prosecution and the public's desire to keep its private information private.⁹⁴ The shielding process also adheres to discovery guidelines in order to comply with Maryland's rules of procedure, which control the discovery process.⁹⁵ In addition to creating discovery copies for defendants and defense attorneys, the Unit creates a work product copy that includes time markers which note important moments within the footage.⁹⁶ These markers allow

83. *See id.* at 2–3.

84. *See id.* at 2.

85. *Id.* at 10–11.

86. *See* Special Order, *supra* note 32, at 8–9; *see also* Melser, *supra* note 78 (noting that evidence specialists review videos daily).

87. *See* SAO PROTOCOL, *supra* note 82, at 13–15 (detailing the redaction protocol).

88. *Id.*

89. *Id.* at 13–14.

90. *See id.*

91. *See id.* at 14.

92. *See id.*

93. *See* Special Order, *supra* note 32, at 5–6.

94. *See* SAO PROTOCOL, *supra* note 82, at 13–15; *see also* Janney, *supra* note 81 (“[T]hese cameras are such a valuable tool in strengthening the relationship of trust and understanding with the community By objectively capturing the actions of officers in the field, they improve transparency”).

95. SAO PROTOCOL, *supra* note 82, at 5–7; MD. R. 2-401 (governing circuit court discovery); MD. R. 3-401 (governing district court discovery).

96. *See* SAO PROTOCOL, *supra* note 82, at 4.

prosecutors assigned to the case to quickly move to significant portions of the footage during preparation for trial.⁹⁷ The markers also allow for prosecutors to reference back to portions of the footage that may be clipped out and produced as individual pieces of evidence at trial.⁹⁸ Body-worn camera footage has the same foundational requirements as photographs.⁹⁹ Essentially, the State inquires whether it truly and accurately depicts the scene as the officer observed it.¹⁰⁰

Markers are placed for significant events.¹⁰¹ These include the officer's advisement of the presence of the camera and that the individuals are being audio and visually recorded, any display of personal information to be shielded (including such things as the officer's notes, his on-board computer, states of undress during processing, etc.), events of evidentiary interest, confessions and denials, references to other criminal activity, witness statements (both supportive and contradictory), visible injuries, and the discovery of physical evidence.¹⁰² These event markers are available only in the prosecutor's work product copy of the footage.¹⁰³ Even markers placed for the purpose of identifying areas of the footage to be shielded do not appear in the discovery copies provided by the State's Attorney's Office.¹⁰⁴

In preparing to process the cases, the first steps include determining the length of video in minutes.¹⁰⁵ Video length is used in assigning individual technicians their cases.¹⁰⁶ All efforts are made to equitably share the workload.¹⁰⁷ Individual technicians are expected to process hundreds of minutes of footage each week.¹⁰⁸

Each case is then processed according to its trial date and the date of an attorney's entry of appearance.¹⁰⁹ The Body-Worn Camera Unit receives this information from separate divisions, units, and

97. *See id.*; *see also supra* note 1.

98. *See* SAO PROTOCOL, *supra* note 82, at 4; *see also supra* note 1.

99. *See* MD. R. 5-1002 (providing the "best evidence rule," which governs photographs).

100. *See supra* note 1.

101. SAO PROTOCOL, *supra* note 82, at 4.

102. *Id.* at 4–6.

103. *Id.* at 6.

104. *See supra* note 1.

105. *See supra* note 1.

106. *See supra* note 1.

107. *See supra* note 1.

108. *See supra* note 1; *see also* Melsner, *supra* note 78 (describing the heavy workload involved in processing body camera footage).

109. *See* SAO PROTOCOL, *supra* note 82, at 7; *see also supra* note 1.

individual prosecutors within the Office.¹¹⁰ It is roughly estimated that between fifty and one hundred requests for processing are made each day.¹¹¹

Discovery copies of body-worn camera footage must go through the aforementioned process of shielding.¹¹² The amount of shielding may be so minimal that it would appear that the footage is untouched.¹¹³ However, this is not the usual case.¹¹⁴ In almost every piece of video, there is some form of shielding necessary.¹¹⁵ Personal information needs to be shielded.¹¹⁶ This includes: addresses, dates of birth, phone numbers, social security numbers, employment information, driver's license and vehicle registration information, and any number of other unique personal data.¹¹⁷ Physical injuries will typically not be shielded, but the medical treatment of the injury and the related information captured in that treatment typically will be.¹¹⁸ Other instances of shielding that often require a supervisor's review may include undercover officers, information relayed over the police radio, visible court papers such as protective orders or summons, and instances when a subject being recorded claims to be a witness or informant for the police.¹¹⁹ Shielding becomes more time consuming when there are multiple defendants.¹²⁰ Separate shielded copies of videos need to be made for discovery purposes, as each defendant's personal information must be protected from release to his or her co-defendants.¹²¹ This is the same with cross complaints.¹²² Extra steps are constantly being developed to address new issues.¹²³ Accordingly, the Unit is continually trying to streamline its protocols to make for more efficient processing of camera footage.¹²⁴

110. *See supra* note 1.

111. *See supra* note 1.

112. SAO PROTOCOL, *supra* note 82, at 6.

113. *See id.* at 5–6.

114. *See id.*; *see also supra* note 1.

115. *See* SAO PROTOCOL, *supra* note 82, at 5–7.

116. *Id.* at 4–5.

117. *Id.* at 5.

118. *Id.* at 5, 8.

119. *Id.* at 5.

120. *See id.* at 6.

121. *Id.*

122. *Id.*

123. *See supra* note 1.

124. *See supra* note 1.

One such instance of change in protocol was the addition of mapping meta-data provided for each video by Evidence.com.¹²⁵ It is the policy of the State's Attorney's Office for Baltimore County to not provide any location information.¹²⁶ This is based on concerns for victim and witness safety.¹²⁷ Because the information is embedded in the captured footage, the evidence technicians have to take additional steps to remove the unwanted mapping data.¹²⁸

A separate protocol has been developed for footage captured at hospitals and in ambulances.¹²⁹ Because of privacy concerns, the State's Attorney's Office for Baltimore County takes additional steps to protect the personal information of individuals captured on body-worn cameras during medical attention.¹³⁰ As the footage may be protected by HIPAA, the attorney for the defendant will receive notice of the existence of footage and the ability to view the footage at the State's Attorney's Office.¹³¹ The hospital or ambulance footage will not be provided unless it (or some clipped portion of it) will be used in trial.¹³²

Discovery copies are provided as hard copies burned to disc or flash drive, or electronically through emailed links to Evidence.com.¹³³ This depends on if the case is in circuit or district court.¹³⁴ For cases in circuit court, once the discovery copies are produced by the individual evidence technician, he or she will notify the requesting secretary or assistant state's attorney.¹³⁵ The hard copy will then be produced and provided pursuant to normal discovery procedures.¹³⁶ For incarcerated *pro se* defendants, no discs are used.¹³⁷ Any discovery footage is placed on a flash drive at the

125. See generally SAO PROTOCOL, *supra* note 82 (providing the BWC Unit's processing protocol).

126. *Id.* at 5, 14, 16–17.

127. See *Body-Worn Camera Program*, *supra* note 21.

128. See SAO PROTOCOL, *supra* note 82, at 5, 15–17.

129. *Id.* at 8.

130. See *id.* at 5, 8.

131. *Id.* at 8–9.

132. See *id.*

133. *Id.* at 6–7.

134. *Id.*

135. See *supra* note 1.

136. See SAO PROTOCOL, *supra* note 82, at 6–7.

137. Cf. MD. DEP'T OF PUB. SAFETY & CORR. SERVS., EXECUTIVE DIRECTIVE NO. OPS.220.0004: INMATE PERSONAL PROPERTY app. 1 (2017), <http://itcd.dpscs.state.md.us/pia/ShowFile.aspx?fileID=664> (demonstrating that inmates are not permitted to possess DVD discs).

request of the County Detention Center, as discs can be broken into sharp shards.¹³⁸

For district court cases, once the footage has been processed, an email will be sent to the attorney representing the defendant.¹³⁹ For the Public Defender's Office, one of three email addresses that correspond to the district court locations will be used.¹⁴⁰ The body of the email will contain a link to the discovery video through Evidence.com.¹⁴¹ Defense attorneys must create a free account with Evidence.com to view the footage.¹⁴²

V. CONCLUSION

The implementation of a BWC program into a well-established State's Attorney's Office was a daunting task. Even beyond the obvious Fourth Amendment implications accompanying any kind of "recording" by a government entity, complications exist. The Baltimore County State's Attorney's Office and the Baltimore County Police Department have developed departmental protocol described in this article to handle the discovery and privacy issues that accompany a BWC program.¹⁴³ Although surely more bumps will be found on the road in the future, this article may serve as a guide to other jurisdictions on the successful implementation of a BWC program.

138. *Cf. id.* at 9 (defining "nuisance contraband" as "[a]ltered personal property"); *see also* SAO PROTOCOL, *supra* note 82, at 6 (listing flash drives as permissible vehicles for discovery materials).

139. SAO PROTOCOL, *supra* note 82, at 7.

140. *See supra* note 1.

141. SAO PROTOCOL, *supra* note 82, at 7.

142. *See id.*

143. *See supra* Parts III–IV.

