

SUBJECT TO DEBATE

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PERF and COPS Office To Release Report On Body-Worn Cameras

IN A FEW WEEKS, PERF AND THE JUSTICE DEPARTMENT’S Office of Community Oriented Policing Services (COPS) will release *Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned*. This report summarizes a project in which PERF conducted research on the use of “body cams” in police departments, identified the key issues that have emerged, and developed policy recommendations for departments that are considering using this technology.

The research included a survey of 254 law enforcement agencies and interviews of more than 40 police executives who have experience with body-worn camera programs.

PERF also convened a conference in September 2013 in Washington, D.C., where more than 200 police chiefs, sheriffs, scholars, federal justice officials, and other experts discussed the benefits of body-worn cameras, the issues that must be decided, and the significant work and expense involved in launching and maintaining a body cam program.

This issue of *Subject to Debate* provides a brief overview of the report. PERF’s detailed recommendations are not included in this newsletter, but will be highlighted in the forthcoming report. PERF will send a special email to all members when the report is released online, as well as a printed copy in the mail.

PERF is grateful to the COPS Office for supporting this important research on a growing new technology in policing. And PERF Deputy Director of Technical Assistance Jessica



Charles Ramsey, Philadelphia Police Commissioner and PERF President

Toliver and Research Associate Lindsay Miller deserve credit for managing this project and writing the final report.

“Because technology is advancing faster than policy, it’s important that we keep having discussions about what these new tools mean for us. We have to ask ourselves the hard questions. What do these technologies mean for constitutional policing? If we embrace this new technology, we have to make sure that we are using it to help us do our jobs better.”

– Charles Ramsey, Philadelphia Police Commissioner and PERF President

PERCEIVED BENEFITS OF BODY-WORN CAMERAS

Among the police executives whose departments use body-worn cameras, there is an overall perception that the cameras are a useful tool. For these agencies, the perceived benefits that body-worn cameras offer—capturing a video recording of critical incidents and encounters with the public, strengthening police accountability, and providing a valuable new type of evidence—largely outweigh the potential drawbacks.

Reducing Complaints and Resolving Officer-Involved Incidents

In 2012, the police department in Rialto, Calif., in partnership with the University of Cambridge-Institute of Criminology (UK), examined whether body-worn cameras would have any impact on the number of complaints against officers or on officers’ use of force.

The study found that there was a 60-percent reduction in officer use-of-force incidents following camera deployment, and during the experiment, the shifts without cameras experienced

Note: Participants’ titles reflect their positions at the time of the PERF conference in September 2013.

twice as many use-of-force incidents as shifts with cameras. The study also found that there was an 88-percent reduction in the number of citizen complaints between the year prior to camera implementation and the year following deployment.

Chief William Farrar said, “Whether the reduced number of complaints was because of the officers behaving better or the citizens behaving better—well, it was probably a little bit of both.”

Many agencies have found that having video footage of an encounter also discourages people from filing unfounded complaints against officers. “We’ve actually had citizens come into the department to file a complaint, but after we show them the video, they literally turn and walk back out,” said Chief Ron Miller of Topeka.

“The use of body-worn video by frontline officers has real potential to reduce complaints of incivility and use of force by officers. The footage can also exonerate officers from vexatious and malicious complaints.”

– Detective Chief Superintendent Paul Rumney,
Greater Manchester (UK) Police

Several police departments, including those in Daytona Beach, Fla., and Greenville, N.C., are finding that officers with a history of complaints are now actively requesting to wear cameras. For officers who behave properly but generate complaints because they have high levels of activity or frequent contacts with criminal suspects, cameras can be seen as beneficial. “We all have our small percentage of officers with a history of complaints,” said Chief of Police Hassan Aden of Greenville. “Internal Affairs has told me that these officers have come in to request body-worn cameras so that they can be protected in the future.”

Identifying and Correcting Internal Agency Problems

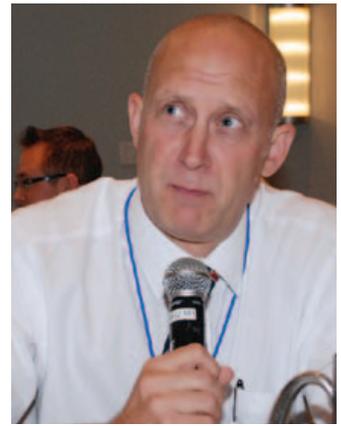
Another way that body-worn cameras have strengthened accountability and transparency, according to many police executives, is by helping agencies identify and correct problems within the department. In fact, PERF’s survey found that 94 percent of respondents use body-worn camera footage to train officers and aid in administrative reviews.

Daytona Beach Chief Michael Chitwood said:

We had an officer who had several questionable incidents in the past, so we outfitted him with a camera. Right in the middle of an encounter with a subject, the camera goes blank, and then it comes back on when the incident is over. He said that the camera malfunctioned, so we gave him another one. A week later he goes to arrest a woman, and again, the camera goes blank just before the encounter. He claimed again that the camera had malfunctioned. So we conducted a forensic review of the camera, which determined that the officer had intentionally hit the power button right before the camera shut off.

Our policy says that if you turn it off, you’re done. He resigned the next day.

Police agencies have also found that implementing a body-worn camera program can be useful when facing consent



TOP ROW (LEFT TO RIGHT): Rialto, Calif. Police Chief William Farrar and Detective Chief Superintendent Paul Rumney, Greater Manchester (UK) Police. BOTTOM ROW (LEFT TO RIGHT): Daytona Beach, Fla. Police Chief Michael Chitwood and Deputy Assistant Attorney General Roy Austin, Jr., Civil Rights Division, U.S. Department of Justice.

decrees and external investigations. Roy Austin, deputy assistant attorney general for the Civil Rights Division at the U.S. Department of Justice, said, “We want to get police departments out from under consent decrees as soon as possible. What is important is whether you can show that your officers are engaged in constitutional policing on a regular basis. Although it isn’t an official Department of Justice policy, the Civil Rights Division believes that body-worn cameras can be useful for doing that.”

Chief of Police Charlie Beck of Los Angeles, whose department is testing body-worn cameras, understands first-hand how video evidence can help in these situations. “We exited our consent decree last year, and one of the reasons that the federal judge signed off on us was that we had implemented in-car video,” said Beck. “Recordings can help improve public trust.”

Evidence Documentation

Chief of Police Jason Parker of Dalton, Georgia, described how body-worn cameras have helped officers to improve evidence collection at accident scenes.



LEFT TO RIGHT: Dalton, Ga. Police Chief Jason Parker and Albuquerque, N.M. Deputy Chief of Police William Roseman.

“It is always hard to gather evidence from accident scenes,” Chief Parker said. He explained that officers are often focused on securing the scene and performing life-saving measures, and that witnesses and victims may not always remember what they had told officers in the confusion. This can lead to conflicting reports when victims and witnesses are asked to repeat their accounts in later statements. “Unlike in-car cameras, body-worn cameras capture everything that happens as officers travel around the scene and interview multiple people. The body-worn cameras have been incredibly useful in accurately preserving information.”

Body-worn cameras also can be useful in recording victim statements in domestic violence cases, or recording the scene when officers respond to a call. Chief Ron Miller of Topeka said, “When we show suspects in domestic violence cases footage from the body-worn cameras, often they plead guilty without even having to go to trial.”

CONSIDERATIONS FOR IMPLEMENTATION

Body-worn cameras can have significant implications in terms of privacy, community relationships, and internal departmental affairs.

Privacy Considerations

As technology advances and expectations of privacy evolve, it is critical that law enforcement agencies carefully consider how the technology they use affects the public’s privacy rights, especially when courts have not yet provided guidance on these issues.

“In London we have CCTVs, which are quite extensive and becoming even more so, but the distinction is that those cameras don’t listen to your conversations. They observe behavior and see what people do and cover public space, so you can see if there is a crime being committed. But CCTVs don’t generally seek out individuals. So I think there is an important distinction there.”

– Sir Bernard Hogan-Howe, Commissioner, London Metropolitan Police Service

Determining when to record

The issue with perhaps the greatest privacy implications is deciding which types of encounters and activities officers should record.

One approach is to require officers to record *all* encounters with the public. This would require officers to activate their cameras not only during calls for service or other law enforcement-related encounters, but also during informal conversations with members of the public (e.g., a person asking an officer for directions, or an officer stopping into a store and engaging in casual conversation with the owner). This is the approach advocated by the American Civil Liberties Union.

However, PERF believes that requiring officers to record every encounter with the public would sometimes undermine community members’ privacy rights and damage important police-community relationships. There are certain situations, such as interviews with crime victims and witnesses and informal, non-law enforcement interactions with members of the community, that call for affording officers some measure of discretion in determining whether to activate their cameras.

Of the police departments that PERF consulted, very few have adopted the policy of recording all encounters with the public. The more common approach is to require officers to activate their cameras when responding to calls for service and during law enforcement-related encounters and activities, such as traffic stops, arrests, searches, interrogations, and pursuits. Many policies generally indicate that when in doubt, officers should record.

Most policies also give officers the discretion to not record when doing so would be unsafe, impossible, or impractical, but most require officers to articulate in writing their reasons for not activating the camera or to say on camera why they are turning the camera off.

Consent to record

In a handful of states, officers are legally required to inform subjects when they are recording and to obtain the person’s consent to record. This is known as a “two-party consent” law, and it can create challenges to implementing a body-worn camera program. In some cases, police have successfully worked with their state legislatures to have the consent requirement waived for body-worn police cameras.

However, some police executives believe that it is good practice for officers to inform people when they are recording, even if such disclosures are not required by law. In Greensboro, for example, officers are encouraged—but not required—to announce when they are recording. Chief Ken Miller of Greensboro said this policy is based on the belief that the knowledge that cameras are running can help defuse potentially confrontational situations and improve behavior from all parties.

Recording inside private homes

Another privacy question is whether and under what conditions officers should be allowed to record while inside a person’s home. Many law enforcement agencies have taken the position that officers have the right to record inside a private home as long as they have a legal right to be there. According to this

approach, if an officer enters a home in response to a call for service, pursuant to a valid search warrant, or with consent of the resident, officers can record what they find inside.

However, there is a concern that footage taken inside a private home may be subject to public disclosure. Deputy Chief of Police William Roseman of Albuquerque described how this can be particularly problematic in states with broad public disclosure laws. “Here in Albuquerque, everything is open to public record unless it is part of an ongoing investigation. So if police come into your house and it is captured on video, and if the video isn’t being used in an investigation, your neighbor can request the footage under the open records act, and we must give it to them.”

Data storage

“Whether you store video internally or externally, protecting the data and preserving the chain of custody should always be a concern. Either way, you need something built into the system so that you know that video has not been altered.”

— Greensboro, N.C. Chief Ken Miller

Lessons learned regarding data storage include the following:

- Consult with prosecutors and legal advisors.
- Explicitly prohibit data tampering, editing, and copying.
- Include protections against tampering with the data prior to downloading.
- Create an auditing system. It is important to have a record of who accesses video data, when, and for what purpose. Some storage systems include a built-in audit trail.
- Explicitly state who will be authorized to access data.
- Ensure there is a reliable back-up system.

Data retention policies

The length of time that departments retain body-worn camera footage plays a key role for privacy. The longer that recorded videos are retained, the longer they are subject to public disclosure, which can be problematic if the video contains footage associated with privacy concerns.

The retention times are generally dictated by the type of encounter or incident that the footage captures. Although protocols vary by department, footage is typically categorized as either “evidentiary” or “non-evidentiary.”

Evidentiary video involves footage of an incident or encounter that could prove useful for investigative purposes, such as a crime, an arrest or citation, a search, a use of force incident, or a confrontational encounter with a member of the public. Evidentiary footage is usually further categorized by specific incident type, and the retention period is governed by state evidentiary rules for that incident. For example, many state laws require that footage involving a homicide be retained indefinitely, but video of a traffic citation must be kept for only a matter of months.

Non-evidentiary video involves footage that does necessarily have value to aid in an investigation or prosecution, such as footage of an incident or encounter that does not lead to an arrest or citation or of general activities that an officer might



LEFT TO RIGHT: Greensboro, N.C. Police Chief Ken Miller and Detective Bob Cherry of the Baltimore Police Department and President of the Baltimore City Fraternal Order of Police.

perform while on duty (e.g., assisting a motorist or clearing a roadway).

Of the departments that PERF consulted, the most common retention time for non-evidentiary video was between 60 and 90 days. Shorter retention periods not only address privacy concerns but also reduce the costs associated with data storage. On the other hand, police executives noted that they must keep videos long enough to demonstrate transparency and to have footage of an encounter in case a complaint arises about an officer’s actions.

Public disclosure policies

State public disclosure laws, often called Freedom of Information Acts (FOIA), govern when footage from body-worn cameras is subject to public release. However, most of these laws were written long before law enforcement agencies began deploying body-worn cameras, so the laws do not necessarily account for all of the considerations that must be made when police departments undertake a body-worn camera program.

Although broad disclosure policies can promote police agency transparency and accountability, some videos—especially recordings of crime victims or from inside people’s homes—will raise privacy concerns if they are released to the public or the news media.

In most state public disclosure laws, exceptions are outlined that may exempt body-worn camera footage from public release. For example, even the broadest disclosure laws typically contain an exception for video that contains evidence or is part of an ongoing investigation. Some state disclosure laws, such as those in North Carolina, also exempt personnel records from public release. Body-worn camera videos used to monitor officer performance may fall under this type of exception.

These exceptions to public disclosure can help police departments to avoid being required to release videos if doing so could jeopardize a criminal prosecution. The exceptions can also help police to protect the privacy of crime victims and witnesses. **However, by policy and practice, law enforcement**



TOP ROW (LEFT TO RIGHT): Oakland, Calif. Police Chief Sean Whent and Charlotte-Mecklenburg, N.C. PD Major Stephen Willis. BOTTOM ROW (LEFT TO RIGHT): Fort Collins, Colo. Deputy Police Chief Cory Christensen and Greenville, N.C. Police Chief Hassan Aden.

agencies should apply these exceptions judiciously to avoid any suspicion by community members that police are withholding video footage to hide officer misconduct or mistakes. Law enforcement agencies should convey that their goal is to foster transparency and accountability while protecting civil liberties and privacy interests. When an agency decides whether to release or withhold body-worn camera footage of a particular incident, the agency should articulate its reasons for doing so.

Impact on Community Relationships

At the PERF conference, a number of participants expressed concern that excessive recording with body-worn cameras may damage the relationships officers have developed with the community and hinder the openness of their community policing interactions. Some police executives fear, for example, that people will be less likely to come forward to share information if they know their conversation is going to be recorded, particularly in high-crime neighborhoods where residents might be subject to retaliation if they are seen as cooperating with police.

Detective Bob Cherry of the Baltimore Police Department, who is also the President of the Baltimore City Fraternal

Order of Police, said, “Trust builds through relationships, and body-worn cameras start from a position of mistrust. The comments I hear from some officers are, ‘I’m worried that if I wear a camera, it is going to make it hard to continue the relationship I have with a business owner or the lady down the street. These are the people I’m working with now to clean up the neighborhood.’”

Some police executives reported that deploying body-worn cameras has in fact had a negative impact on their intelligence-gathering activities, **particularly when officers are not allowed the discretion to turn off the camera.** Chief Sean Whent of Oakland, California, explained, “Our policy is to film all detentions and to keep recording until the encounter is over. But let’s say an officer detains someone, and now that person wants to give up information. We are finding that people are not inclined to do so with the camera running. We are considering changing our policy to allow officers to turn off the camera in those situations.”

“We want our officers to go out, get out of their cars, and talk to the public about football or whatever it may be to establish an informal relationship. That’s how you build partnerships and persuade people to give you information about crime in their area. I think if we say that every single interaction is going to be recorded, the danger is that it will lead to a more officious relationship...and the informal relationships may be eroded.”

– Sir Peter Fahy, Chief Constable, Greater Manchester (UK) Police

The Mesa, Ariz. Police Department has also found that body-worn cameras can undermine information-gathering efforts. “We have definitely seen people being more reluctant to give information when they know that they are being videotaped,” said Lieutenant Harold Rankin.

However, other police executives said that these types of situations are rare and that body-worn cameras have not had a significant impact on their ability to gather information from the public. Major Stephen Willis of the Charlotte-Mecklenburg, N.C. Police Department said, “We have had in-car cameras for many years, and in most instances the public has an expectation that they will be recorded. We encountered very little resistance from the public when we piloted body-worn cameras.” Deputy Chief Cory Christensen of Fort Collins, Colo., said, “We are not seeing much pushback from the community. Often people do not even notice the presence of the cameras.”

Cameras have also helped assure the public that an agency is serious about transparency and officer accountability, according to several police executives. “We have found that body-worn cameras can actually help strengthen trust and police legitimacy within the community,” said Chief of Police Hassan Aden of Greenville, North Carolina. To illustrate this point, Aden shared the following story:

A local community group approached me with a genuine concern that certain officers were racially profiling subjects during traffic stops. We went back and looked at the footage from these officers’ body-worn cameras and found that there

was indeed a pattern of using flimsy probable cause when making stops. We determined that it was a training problem and immediately changed the relevant training protocols. The organization that had raised the complaint was happy with the outcome. They appreciated that we had the body-worn camera footage, that the officers' behavior was investigated, and that we used the video to help us improve.

A number of agencies also give officers the discretion to turn off their cameras when talking with a person who wants to share information about a crime. This situation can occur when a person approaches an officer with information or if an officer interviews witnesses at a crime scene. In either case, police executives said that officers must weigh the evidentiary value of recording the statement with the reality that some people who share information may not want to talk on camera.

"If officers encounter an informant or witness who isn't comfortable being recorded, they have to decide whether obtaining the information outweighs recording the statement," said Lieutenant Rankin of Mesa. "If so, our officers can either turn the camera off or position the camera so that they capture audio but not video. People usually feel more comfortable with just the audio."

Addressing Officer Concerns

For a body-worn camera program to be effective, it needs the support not only of the community but also of the frontline officers who will be wearing the cameras. Securing this support can help ensure the legitimacy of a camera program and make its implementation more successful.

One of the primary concerns for police executives is the fear that body-worn cameras will erode the trust between officers and the chief and top managers of the department. Some officers may view the cameras as a signal that their supervisors and managers do not trust them, and they worry that supervisors would use the cameras to track and scrutinize their every move.

Given these concerns, one of the most important decisions an agency must make is how it will use camera footage to monitor officer performance. Most agencies permit supervisors to review videos so they can investigate a specific incident or complaint, identify videos for training purposes, ensure the system is working, and monitor overall compliance with the camera program.

However, there is some debate over whether supervisors should also periodically and randomly review videos to monitor officer performance. Some agencies allow periodic monitoring to help proactively identify problems and hold officers accountable for their performance. Other agencies permit periodic monitoring only in certain circumstances, such as when an officer is still in a probationary period or after an officer has received a certain number of complaints. Some agencies prohibit random monitoring altogether because they believe doing so is unnecessary if supervisors conduct reviews when an incident occurs.

Police executives said it is important to emphasize to officers that body-worn cameras are useful tools that can help them



LEFT TO RIGHT: Aurora, Colo. Lieutenant Dan Mark and Topeka, Kan. Police Chief Ron Miller.

perform their duties. Chief Terry Gainer, U.S. Senate Sergeant at Arms, believes that framing body-worn cameras as a check on officer behavior is the wrong approach. "It's going to be hard to encourage our officers to be the self-actualized professionals that we want them to be if we say, 'Wear this because we're afraid you're bad, and cameras will help you prove that you're good,'" Gainer said. "Body cameras should be seen as a tool for creating evidence that will help ensure public safety."

"You have to ask yourself, what is the main reason you are implementing the program? Is it because you want to give officers a helpful tool, or because you do not trust them? The answer to that question—and how you convey it—will influence how officers receive the program."

— Vacaville, Calif. Lieutenant John Carli

Many agencies have found that officers embrace body-worn cameras when they see evidence of the cameras' benefits. "Our officers have been fairly enthusiastic about body-worn cameras because they have seen examples of how the cameras have cleared fellow officers of complaints," said Lieutenant Dan Mark of Aurora, Colo.

"In the beginning, some officers were opposed to the cameras. But as they began wearing them, they saw that there were more benefits than drawbacks. Some officers say that they would not go out on the street without a ballistic vest; now they say they will not go out without a camera."

— Mesa, Ariz. Lieutenant Harold Rankin

Managing Expectations

Police executives said that it has become increasingly common for courts, arbitrators, and civilian review boards to expect police departments to use body-worn cameras. "If your department has a civilian review board, the expectation now is that police should have cameras," said Chief Chris Burbank of Salt Lake City. "If you don't, they will ask, 'Why don't your officers



LEFT TO RIGHT: Prince George's County, Md. PD Major Mark Person and Chief Kenton Rainey of the Bay Area Rapid Transit Police Department.

have cameras? Why aren't your cameras fully deployed? Why does the next town over have cameras, but you don't?"

In addition, people often expect that officers using body-worn cameras will record video of everything that happens while they are on duty. But most police departments do not require officers to record every encounter.

Police executives said that these expectations can undermine an officer's credibility if questions arise about an incident that was not captured on video. This is one reason why many agencies require officers to articulate, either on camera or in writing, their reasons for turning a camera off in the middle of an incident or for not turning it on in the first place. These issues of credibility are also why it is important to provide rigorous, ongoing officer training on body-worn camera policies and practices.

Some agencies have taken steps to inform judges, oversight bodies, and the public about the realities of using body-worn cameras.

"I tell the officers every day: You usually don't get hurt by the videos you have. What hurts you is when you are supposed to have a video but, for whatever reason, you don't."

— Topeka Chief Ron Miller

Officer Review of Video Prior to Making Statements

Given the impact that body-worn cameras can have in criminal and administrative proceedings, there is some question as to whether officers should be allowed to review camera footage prior to making a statement about an incident in which they were involved. According to many police executives, the primary benefit to officer review is that it allows officers to recall events more clearly, which helps get to the truth of what really happened. Some police executives, on the other hand, said that it is better for an officer's statement to reflect what he or she perceived during the event, rather than what the camera footage revealed.

The majority of police executives consulted by PERF are in favor of allowing officers to review body-worn camera footage prior to making a statement about an incident in which they were involved. They believe that this approach provides the best evidence of what actually took place. PERF agrees with this position.

"When you're involved in a tense situation, you don't necessarily see everything that is going on around you, and it can later be difficult to remember exactly what happened," said Police Commissioner Ramsey of Philadelphia. "So I wouldn't have a problem with allowing an officer to review a video prior to making a statement."

Chief Burbank of Salt Lake City agreed. "Officers should be able to review evidence that is gathered about an event, and that includes body-worn camera footage," he said. "Some of the most accurate reports are generated by officers who take a moment to go back and review the circumstances. For example, I was once involved in a pursuit that lasted 30 minutes. I went back and re-drove the route and documented every turn before filing my report. Otherwise, it would have been impossible to remember everything that happened."

Other police executives, however, said that the truth—and the officer's credibility—are better served if an officer is not permitted to review footage of an incident prior to making a statement. "In terms of the officer's statement, what matters is the officer's perspective at the time of the event, not what is in the video," said Major Mark Person of the Prince George's County, Md. Police Department. "That perspective is what they are going to have to testify to. If officers watch the video before making a statement, they might tailor the statement to what they see. It can cause them to second-guess themselves, which makes them seem less credible."

Cost of Implementation

The price of body-worn cameras currently ranges from approximately \$120 to nearly \$2,000 for each device. Most of the agencies that PERF consulted spent between \$800 and \$1,200 for each camera.

Many police executives said that data storage is the most expensive aspect of a body-worn camera program. "Data storage costs can be crippling," said Chief Aden of Greenville. The New Orleans Police Department has launched a plan for deploying 350 body-worn cameras at an anticipated cost of \$1.2 million over five years—the bulk of which will go to data storage. One department reported that it will pay \$2 million per year, mostly toward data storage, to outfit 900 officers with cameras.

"Once you put cameras in the field, you're going to amass a lot of data that needs to be stored. Chiefs need to go into this with their eyes wide open. They need to understand what storage is going to cost, what their storage capacities are, and the amount of time it takes to review videos for public release. It is a major challenge."

— Chief Kenton Rainey, Bay Area Rapid Transit Police Department





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Miami Beach Chief Dan Oates Elected to PERF Board

Congratulations to Miami Beach, Florida Chief of Police Daniel Oates, who has been elected by PERF General Members to serve as Member at Large on the PERF Board of Directors. Chief Oates' term will run through June 30, 2016. PERF is grateful to Chief Oates and to the four other candidates who ran for this position: Grand Junction, CO Chief John Camper; Richmond, CA Chief Chris Magnus; Everett, MA Chief Steven Mazzie; and Greensboro, NC Chief Ken Miller.

Montgomery County, MD Chief Tom Manger ran unopposed to continue as PERF Vice President, and Camden County, NJ Chief Scott Thomson ran unopposed to continue as PERF Secretary.



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