



Item No. **9 (J)**

**REPORT TO THE CITY COUNCIL**

**DATE: AUGUST 9, 2016**

**TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL**

**FROM: ROBERT MASTERSON, CHIEF OF POLICE**

**BY: DARIUS ENGLES, POLICE CAPTAIN**

**RE: CONSIDERATION OF RESPONSE TO THE 2016 MONTEREY COUNTY CIVIL GRAND JURY REPORT**

**RECOMMENDATION:**

It is recommended that the City Council receive and approve the attached response regarding the 2016 Monterey County Civil Grand Jury Report, entitled "The Slowly Expanding Use of Body-Worn Video Cameras by Law Enforcement Agencies in Monterey County."

**BACKGROUND:**

The Monterey County Civil Grand Jury's authority is vested in the Constitution of the State of California and California Penal Code Section 904.7. The Civil Grand Jury investigates matters of public concern. The Civil Grand Jury does not have the power to indict and their power is limited to what some call a "watchdog" function.

On June 20, 2016, the 2015-2016 Monterey County Civil Grand Jury issued the Final Report entitled "The Slowly Expanding Use of Body-Worn Video Cameras by Law Enforcement agencies in Monterey County". Within the report, the Grand Jury requests the Police Chief and the City Council to respond to findings F5, F8, F9, F10, F18, F19, and F20 and recommendations R16, R17, R18, and R19 by September 18, 2016.

**DISCUSSION:**

The aforementioned report seeks to address community concerns of the emerging use of Body Worn Cameras (BWC's) by local law enforcement agencies.

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CONSIDERATION OF RESPONSE TO THE 2016 MONTEREY COUNTY CIVIL  
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The report states the newly enacted California Penal Code Section (PC§) 832.18 and its various subsections are compulsorily and "...must, at a minimum, be included in any state or local agency...(policy)" The report also states that compliance with the provisions of PC§ 832.18 is "required". While staff largely agrees with the provisions of PC§ 832.18, we disagree that its provisions are compulsory. As stated in the referenced section, it was the intent of the California Legislature to establish policies and procedures based on best practices. However, the code does not require the adoption of the section, nor compliance with the various subsection. it simply states: "...law enforcement agencies, departments, or entities shall consider the following best practices..." (emphasis added). Indeed, all of the code sections are legitimate and worth consideration, but not necessary in their exact enumeration.

King City Police Department subscribes to "Lexipol" which is a law enforcement policy manual provider and has adopted a policy regarding Body Worn Cameras (BWC's). The policy was crafted in response to PC§ 832.18 and refers to its content. Lexipol serves well over 570 law enforcement agencies in California. Their success has been achieved by monitoring the rapid and every evolving landscape of law enforcement. They monitor case law, statutory law, emerging trends and best practices in California law enforcement. The report refers to Lexipol as "...basic templates..." Staff believes this is an incorrect assessment of Lexipol and the policy they provide. In fact, the policies produced by Lexipol are substantive as to the aforementioned characteristics. Therefore, the City's adopted policy embraces the intent of the legislature as they sought to direct law enforcement agencies to consider best practices for the use of BWC's.

The Police Department respects the Monterey County Civil Grand Jury's report and their desire to have effective and proper policy for BWC's for the law enforcement agencies in Monterey County. The King City Police Department has the same desire to have an effective and best practice policy for the use of Body Worn Cameras. To that end, the Police Department substantially agrees with the stated intent of the 2016 Monterey County Civil Grand Jury Report.

**COST ANALYSIS:**

No additional cost to the police department in response to this report.

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**ALTERNATIVES:**

The following alternatives are provided for Council consideration:

1. Approve staff's recommendations;
2. If the City Council disagrees with the response, the City Council can direct staff to prepare a separate response to the Grand Jury; or
3. Provide staff other direction.

**Exhibits:**

1. Proposed Response to the Grand Jury
2. Grand Jury Report
3. Existing King City Policy and Background Information

Submitted by:

 for Robert Masterson  
Robert Masterson, Chief of Police

Approved by:

  
Steven Adams, City Manager



Exhibit No. 1

August 9, 2016

The Honorable Mark E. Hood  
Presiding Judge, Superior Court of California  
County of Monterey  
240 Church Street  
Salinas, CA 93901

Subject: The City of King Response to the 2016 Civil Grand Jury Report

Dear Judge Hood,

The following is the required response per California Penal Code Section 933.05 regarding the 2015-2016 Monterey County Civil Grand Jury Final Report entitled "The Slowly Expanding Use of Body-Worn Video Cameras by Law Enforcement agencies in Monterey County".

**Finding of the Grand Jury Investigation:**

F5. At a minimum in California, written department policies must comply with the requirements of Penal Code Section 832.18.

**Response:** The respondent partially disagrees with the finding. The report states the newly enacted California Penal Code Section (PC§) 832.18 and its various sections are compulsorily. The report states that the components of PC§ 832.18 "...must, at a minimum, be included in any state or local agency... (policy)." The report also states, throughout, that compliance with the provisions of PC§ 832.18 is "required". While we largely agree with the provisions of PC§ 832.18 we disagree that it is mandatory. As stated in PC§ 832.18 (a), it is the intent of the California Legislature to establish policies and procedures based on best practices. However, the code does not require the adoption of the section, nor compliance with the various subsection, it simply states, "...law enforcement agencies, departments, or entities shall ***consider*** the following best practices..." (emphasis added). Indeed, all of the code sections are legitimate and worth consideration, but not necessary in its exact enumeration.

**Finding of the Grand Jury Investigation:**

F8. The BODYCAM® BWC described in this report stores recording on a removable Micro-SD memory card.

**Response:** The respondent agrees.

**Finding of the Grand Jury Investigation:**

F9. The BODYCAM® BWC described in this report enables any user to delete one or all recorded videos unless those camera functions are disabled by an appropriately trained BODYCAM® administrator or a manufacturer's representative.

**Response:** The respondent agrees, however the King City Police Department is in the process of updating and transitioning to the implementation of new BWC's. The new BWC's are a product of a company called "Polytron". The camera's and retention system of Polytron can only be accessed by an authorized administrator, and not "any user." (We have attached some of the vendor's information regarding the new BWC's and retention system.)

**Finding of the Grand Jury Investigation:**

F10. Because the BODYCAM® BWC allows the Micro-SD card to be removed from the camera, it is possible for an officer to remove and read the card on an unauthorized computer and to delete or modify recorded data, contrary to the specific prohibitions of Penal Code section 832.18.

**Response:** The respondent agrees. However, the system that King City Police is currently migrating to (Polytron) the camera does not have a removable Micro-SD memory card and can only be accessed by an authorized administrator and is compliant with the best practices as stated in California Penal Code section 832.18.

**Finding of the Grand Jury Investigation:**

F18. The King City Police Department provides BWCs for its officers' use in accordance with a written department policy regarding their use.

**Response:** The respondent agrees. The King City Police Department uses the law enforcement policy provided, Lexipol. (See attached Policy.)

**Finding of the Grand Jury Investigation:**

F19. The King City Police Department's written BWC policy does not meet all of the requirements of Penal Code Section 832.18.

**Response:** The respondent disagrees wholly with the finding. As previously stated, there are no "requirements" of PC§ 832.18. The King City Police Department subscribes to "Lexipol" which is a policy manual provider and has adopted a policy regarding Body Worn Cameras (BWC's). The policy was crafted in response to PC§ 832.18 and refers to and incorporates the sections content. Lexipol serves well over 570 law enforcement agencies in California. Their success has been achieved by monitoring the rapid and ever evolving landscape of law enforcement. They monitor case law, statutory law, emerging trends and best practices in California law enforcement. The report refers to Lexipol as "...basic templates..." We believe this is an incorrect assessment of Lexipol and the policy they provide. In fact, the policies produced by Lexipol are substantive as to the aforementioned characteristics. We believe that our adopted policy embraces the intent of the legislature as they sought to direct law enforcement agencies to consider best practices for the use of BWC's.

**Finding of the Grand Jury Investigation:**

F20. The King City Police Department uses the BODYCAM® BWC.

**Response:** The respondent partially agrees. The King City Police Department is currently using BODYCAM® BWC but is also transitioning to a new BWC system called Polytron.

**Recommendation of the Grand Jury:**

R16. The chief of the King City Police Department shall meet with the department's legal counsel as soon as the meeting can be arranged to review the legal sufficiency of the department's existing body-worn camera policy and to revise the policy to include, at a minimum, the "best practices" set forth in California Penal Code 832.18.

**Response:** The respondent agrees. The chief of the King City Police shall meet with the City Attorney and review the legal sufficiency of the department's existing body-worn camera policy by September 15, 2016.

**Recommendation of the Grand Jury:**

R17. The chief of the King City Police Department shall meet with the department's legal counsel at least annually to review the then-current state law relating to the use of body-worn cameras and the storage of their recording, and to revise department policy if necessary to comply with such laws.

**Response:** The respondent agrees.

**Recommendation of the Grand Jury:**

R18. The chief of the King City Police Department shall take all steps necessary to ensure that each BODYCAM camera's settings are adjusted by an appropriately trained senior officer to prevent all officers using the BODYCAM cameras from deleting or in any way altering video recordings at any time before the recordings are downloaded to the system's secure server.

**Response:** The respondent agrees.

**Recommendation of the Grand Jury:**

R19. The chief of the King City Police Department shall take all steps necessary to ensure that the Department's written body-worn camera policy specially prohibits officer using the BODYCAM cameras from removing the flash memory card from the camera at any time before the recording are downloaded to the system's secure server.

**Response:** The respondent agrees.

The responses were prepared by the King City Chief of Police, Robert Masterson, and presented to the City of King City Council for their review and approval at the City Council Meeting on August 9, 2016.

Enclosures

# MONTEREY COUNTY CIVIL GRAND JURY



## 2015-2016 FINAL REPORT



JUNE 30, 2016

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**MONTEREY COUNTY  
CIVIL GRAND JURY**

**2015-2016  
FINAL REPORT**

**JUNE 30, 2016**

**Cover Background:**  
**'Mountain' by David Ligare, oil on canvas, 60" x 90", 2013**  
**Image Courtesy of Winfield Gallery**

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June 30, 2016

The Honorable Mark E. Hood  
Presiding Judge, Superior Court of California  
County of Monterey  
240 Church Street  
Salinas, CA 93901

Dear Judge Hood:

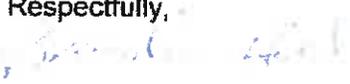
On behalf of the 2015-2016 Monterey County Civil Grand Jury, I am pleased to submit its Final Report. The Report reflects the efforts of dedicated Monterey County citizens. The Report is the result of many hours that included interviews, research, drafting and collaboration.

The 2015-2016 Monterey County Civil Grand Jury is hopeful that its efforts will benefit the citizens of Monterey County, as well as the public agencies which are the subject of its efforts. However, I would be remiss if I did not observe that much, if not most, of the benefit of the Jury's efforts came not from its formal Reports, but from the interaction between the Jury's investigative Committees and the public employees they interviewed. The showing of interest in a matter often led to changes and improvements in public entity matters not foreseen by the Jury nor reflected in Reports.

The ability of the 2015-2016 Monterey County Civil Grand Jury to accomplish its duties is in no small manner reflective of the support provided by Your Honor, Leslie Girard and Sandra Ontiveros of the Office of County Counsel. That support made all the difference.

Our service as Civil Grand Jurors has been rewarding and educational. It was absolutely worth the time and effort. We thank you for the opportunity to serve our fellow citizens.

Respectfully,

  
Brandon Hill  
Foreperson



## 2015-2016 MONTEREY COUNTY CIVIL GRAND JURY ROSTER

### OFFICERS

Foreperson	Brandon Hill
Foreperson Pro Tem	Jeanne Krener
Recording Secretary	Nancy Wilson-Jones
Corresponding Secretary	Joe Sanchez
Sargent-At-Arms	Craig Bramhall

### JURORS

Perla N. Bernardez	Salinas
James C. Bogan	Seaside
Craig A. Bramhall	Seaside
Carol Ann Corpus	Soledad
Susan C. Hoover	Salinas
Jeanne Reese Krener	Carmel
Tim S. Matalka	Salinas
Marilyn McLoughlin	Salinas
Linda M. McMenimon	Carmel Valley
Linda A. Nall	Salinas
Roger S. Powers	Salinas
James Riesenfeld	Carmel
Barbara J. Rodgers	Salinas
Joe Sanchez	Gonzales
Ronald F. Scholl	Carmel Valley
Lois J. Varner	Seaside
Nancy Wilson-Jones	Soledad

**2015-2016 MONTEREY COUNTY CIVIL GRAND JURY**



**Front Row, left to right:**  
Jeanne Krener, Judge Marla O. Anderson, Presiding Judge Mark E. Hood,  
Brandon Hill

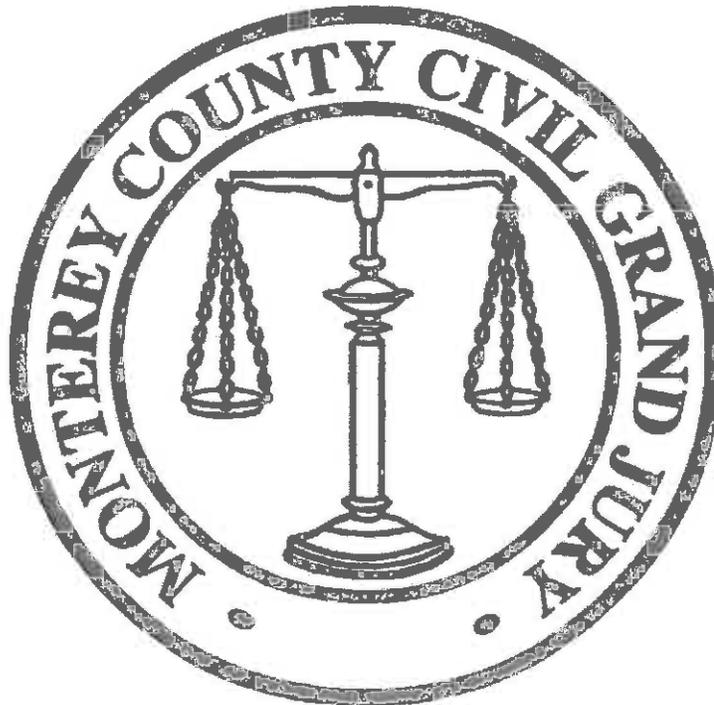
**Middle row, left to right:**  
Carol Corpus, James Bogan, Susan Hoover, Linda McMenimon, Lois Varner,  
Tim Matalka, James Riesenfeld, Craig Bramhall

**Back row, left to right:**  
Perla Bernardez, Nancy Wilson-Jones, Barbara Rodgers, Marilyn McLoughlin,  
Linda Nall, Ron Scholl, Roger Powers

**Not shown:**  
Joe Sanchez

## **2015-2016 Monterey County Civil Grand Jury Mission Statement**

The mission of the Monterey County Civil Grand Jury is to conduct independent inquiries and to respond to citizen complaints concerning any government agency, municipality, or special district within Monterey County. The reports of the Civil Grand Jury will provide a clear picture of the functioning of the organizations. Recommendations for improvement will be made, and commendations will be offered when effectiveness, efficiency, or excellence is found.



## **CIVIL GRAND JURY MISSION AND RESPONSE REQUIREMENTS**

The primary mission of a civil grand jury in the State of California is to examine county and city governments, as well as districts and other offices, in order to ensure that the responsibilities of these entities are conducted lawfully and efficiently. The civil grand jury is also responsible for recommending measures for improving the functioning and accountability of these organizations, which are intended to serve the public interest.

### **Jury Selection**

Each year, citizens of the county who apply for civil grand jury service are invited to an orientation session for an overview of the process. The court then interviews them, and approximately 40 names are forwarded for inclusion in the annual civil grand jury lottery. During the lottery, 19 panel members are selected, with the remaining to serve as alternates. Those selected to serve are sworn in and instructed to their charge by the presiding judge. Civil grand jurors take an oath of confidentiality regarding any civil grand jury matters for the rest of their lives.

### **Investigations**

Each civil grand jury sets its own rules of procedures and creates committees to investigate and create reports. California Penal Code section 925 states:

The grand jury shall investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county including those operations, accounts, and records of any special legislative district or other district in the county created pursuant to state law for which the officers of the county are serving ex-officio capacity as officers of the districts.

Additionally, Section 919 prescribes that:

The grand jury shall inquire into the condition and management of the public prisons within the county, including inquiring into willful or corrupt misconduct in office of public officers of every description within the county.

The public may submit directly to the Monterey County Civil Grand Jury complaints requesting that it investigate issues of concern regarding public agencies or official in Monterey County. The public may request complaint forms by contacting the office of the Monterey County Civil Grand Jury at (831) 883-7553 or through the Grand Jury's website address at [www.monterey.courts.ca.gov/grandjury](http://www.monterey.courts.ca.gov/grandjury) or <http://www.co.monterey.ca.us/government/participate-get-involved/civil-grand-jury>.

Grand juries conduct proceedings behind closed doors, as required by law, primarily for the protection of people who file complaints or who testify during investigations. All who appear as witnesses or communicate in writing with a grand jury are protected by strict rules of confidentiality, for which violators are subject to legal sanction.

### **Reports**

Section 933(a) of California Penal Code declares:

Each grand jury shall submit...a final report of its finding and recommendations that pertain to county government matters during the fiscal or calendar year.

The civil grand jury summarizes its findings and makes recommendations in a public report, completed at the end of its yearlong term. Each report is presented to the appropriate department or agency.

Section 933(b) declares:

One copy of each final report, together with the responses thereto, found to be in compliance with this title shall be placed on file with the clerk of the court and remain on file in the office of the clerk. The clerk shall immediately forward a true copy of the report and the responses to the State Archivist who shall retain that report and all responses in perpetuity.

Each report is distributed to public officials, libraries, the news media and any entity that is the subject of any of the reports. The public may also view each year's final report through the Monterey County Civil Grand Jury's website at <http://www.co.monterey.ca.us/government/participate-get-involved/civil-grand-jury> or [www.monterey.courts.ca.gov/grandjury](http://www.monterey.courts.ca.gov/grandjury).

### **Content of Responses**

Section 933.05 of the California Penal Code declares:

(a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

1. The respondent agrees with the finding.
2. The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

1. The recommendation has been implemented, with a summary regarding the implemented action.

2. The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
3. The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
4. The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

### **Timeline of Responses**

Section 933(c) states:

No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendation pertaining to matter under the control of that county officer or agency head any and agency or agencies which that officer or agency head supervises or controls...All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury.

### **Address for Delivery of Responses**

The Honorable Mark E. Hood  
Presiding Judge of the Superior Court  
County of Monterey  
240 Church Street  
Salinas, CA 93901

**THE SLOWLY EXPANDING USE OF BODY-WORN VIDEO CAMERAS  
BY LAW ENFORCEMENT AGENCIES IN MONTEREY COUNTY**



Photo courtesy of The Safariland Group.[www.viewu.com](http://www.viewu.com)



# THE SLOWLY EXPANDING USE OF BODY-WORN VIDEO CAMERAS BY LAW ENFORCEMENT AGENCIES IN MONTEREY COUNTY

## SUMMARY

Citizens often take cell phone video recordings of police officers who are involved in a public confrontation with one or more individuals. In response, many law enforcement agencies are using officer body-worn cameras (BWCs) in order to help explain activities from the officer's perspective. In adopting the use of BWCs, it's of critical importance that law enforcement agencies also adopt clearly stated written policies directing their officers on how to use their BWCs, how to download and store recorded videos, and how to maintain the integrity of all recorded information at all times. Many "best practice" models have been published for use in guiding the creation of agency policies, although there are significant differences among those models. The California legislature recently enacted a new Penal Code section, which outlines the types of provisions that must, at a minimum, be included in any state or local agency BWC policy.

This report begins with a brief introduction to BWC technology. While all BWCs perform the same basic function, there are important differences in performance features among available BWC models. There is also continuing debate regarding certain controversial policy issues, which we briefly discuss. We also discuss various police attitudes and cautionary considerations regarding BWC use. Finally, this report presents its findings and recommendations regarding the extent to which BWCs are currently in use by Monterey County law enforcement agencies, specifically identifying those agencies that use BWCs, those that do not, and those who plan to use them at some future date.

We found that six of the fifteen local law enforcement agencies surveyed have obtained and use BWCs on a daily basis. These six agencies have adopted written policies to guide their officers on appropriate BWC use. None of those written policies, however,

complies with the recently enacted California law pertaining to required BWC policy provisions.

Two local police departments are in the process of purchasing BWCs and implementing BWC programs for their departments. Seven law enforcement agencies are not using BWCs; however, six of them favor their use and plan to purchase and employ BWCs at some future date. Only one agency remains uncommitted to their eventual use.

## **BACKGROUND**

The widespread use of cell phones in the United States has made it possible for ordinary citizens to routinely video record police conduct. In recent years there has been widely publicized reporting of bystander recordings that depict, or appear to depict, improper or even criminal conduct by law enforcement personnel.

Citizen videos of questionable police activities have varying quality and evidentiary value. In some cases, the evidentiary value of the recording is high, leaving little if any doubt as to what actually occurred. In other cases the poor quality or other features of the recording result in significant uncertainty and dispute regarding the exact nature or significance of the disputed citizen-officer interaction.

In response to the above uncertainties and resulting concerns, there has been growing interest, both by the public and by law enforcement agencies, in making BWCs (cameras that record both video and audio information) available for use by all law enforcement field personnel on a mandatory basis. BWCs, when appropriately used, respond to public demands for greater law enforcement transparency. They also provide recordings that are of potentially different durations and scope when compared with citizen cell phone recording of the same event. In addition, they are taken from the visual perspective of the officer or officers whose conduct has been called into question. Requiring law enforcement officers to use BWCs also serves as a risk management tool by causing officers to be more conscious of their conduct. Both the American Civil

Liberties Union (ACLU) and law enforcement agencies have, in general, agreed that police use of BWCs, with appropriate safeguards, is a positive development.

The primary purpose of this investigation has been to explore the extent to which BWCs have been put into field use by each city and county law enforcement agency within Monterey County. We have also examined the extent to which each agency has adopted written policies and procedures to direct field officers in the appropriate use of their BWCs, including how to preserve and ensure the integrity of all BWC recordings. In addition, we have reviewed locally adopted policies and procedures in light of applicable California law and other “best practices” policy provisions suggested by various national organizations and by large law enforcement agencies elsewhere in our state.

## **METHODOLOGY**

We conducted sixteen interviews including one or more high-level officials of the Monterey County Sheriff's Department and of every city police department within the County. We reviewed department policy documents and correspondence, news articles, video transcripts, camera manufacturer literature, model policy documents, and topical publications from many sources. In addition, we studied independently published “white papers”, journal articles, and applicable California law.

## **DISCUSSION**

Before discussing the extent of local BWC use and related department policies, we first consider if and when it is lawful for a citizen to video police officers during law enforcement actions. Then, we discuss various BWC models, compare selected BWC features, and review policy considerations. Finally, we present local department use decisions and practices.

### **A. CITIZEN'S RIGHT TO VIDEO POLICE AND LEGALLY PROHIBITED POLICE RESPONSES**

Several federal appellate courts have ruled that “Recording governmental officers engaged in public duties is a form of speech through which private individuals may gather and disseminate information of public concern, including the conduct of law

enforcement officers.”<sup>1</sup> Furthermore, section 148 of the California Penal Code provides in pertinent part that:<sup>2</sup>

148. (a)(1) Every person who willfully resists, delays, or obstructs any public officer, peace officer, or an emergency medical technician, as defined in Division 2.5 (commencing with Section 1797) of the Health and Safety Code, in the discharge or attempt to discharge any duty of his or her office or employment, when no other punishment is prescribed, shall be punished by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment.

(g) The fact that a person takes a photograph or makes an audio or video recording of a public officer or peace officer, while the officer is in a public place or the person taking the photograph or making the recording is in a place he or she has the right to be, does not constitute, in and of itself, a violation of subdivision (a), nor does it constitute reasonable suspicion to detain the person or probable cause to arrest the person.

Thus, California citizens have the right to video record police conduct, subject to Penal Code 148 (a) limitations and the usual “reasonable time, place, and manner” restrictions that are placed on acts protected by the First Amendment to the U.S. Constitution. For example, you cannot record police officers if you are knowingly trespassing on private property (as opposed to recording police in a public place); and you must comply with a police order to step back or record from a reasonable distance under circumstances where a suspect might have a gun or dangerous weapon; and you can’t impede police officers in the performance of their duties. Police officers violate the due process clause

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<sup>1</sup> Gilk v. Cunniffe, 655 F.3d 78, 82 (1st Cir. 2011).

<sup>2</sup> California Penal Code, section 148.

of the Fourteenth Amendment when they deprive individuals of their device and its recordings without first providing notice and an opportunity to object.<sup>3</sup>

In accordance with the law, many law enforcement agencies have adopted written policies that advise their officers that citizens have the right to video record police activity subject to the allowed limitations on that right.

#### **B. THE BASICS OF BODY-WORN VIDEO CAMERAS**

BWCs are small lightweight video cameras that law enforcement officers attach to their uniform in order to record their enforcement activities. The BWCs recording function must first be turned on before any event can be recorded. In most cases, once a recording is made, it cannot be edited or deleted in the field by the officer. At the end of an officer's shift, the camera's recordings are downloaded to a computer, a server, or the "cloud" and preserved for later viewing. There are over a dozen BWC manufacturers. Their cameras have many common features and performance functions; however, there are also a number of differences.

#### **C. MANUFACTURE MAKES AND MODELS: THEY'RE NOT ALL THE SAME**

Law enforcement agencies in Monterey County that currently provide BWCs for their officers use one of three BWC models, each manufactured by a different company.<sup>4</sup>

1. The "AXON" camera, manufactured by TASAR International, Inc.
2. The "LE3" camera, manufactured by VIEVU, LLC.
3. The "BODYCAM" camera, manufactured by Pro-Vision Systems.

Since each camera performs the same basic functions of video and audio recording, we compare only a few of the more interesting features as shown in **FIGURE 1**.

<sup>3</sup> In Riley v. California, 134 S. Ct. 2473, 189 L. Ed. 2d 430 (2014) the United States Supreme Court held that an arresting police officer may not conduct a warrantless search of an arrestee's cell phone contents. Doing so constitutes a violation of the Fourth Amendment to the U.S. Constitution.

<sup>4</sup> Two departments report that they are in the process of purchasing WatchGuard BWCs for future use.

**FIGURE 1  
BODY-WORN CAMERA MODEL COMPARISON**

Feature	Axon <sup>a</sup>	LE3 <sup>b</sup>	BodyCam <sup>c</sup>
			
Weight	3.5 oz.	2.8 oz.	1.6 oz.
Dimensions	2.6x3.3x0.8 in	3x2.1x0.85 in.	2.5x2x1 in.
Field of View	130 degrees	68 deg.	170 deg.
Pre-record buffering	Max 30 sec.	No	No
Charging Time	6 hrs.	3 hrs.	3 hrs.
Recording Time with Normal Use	6-12 hrs.	6-12 hrs.	3-18 hrs.
Low Light Recording	Yes	Yes	Yes
Proprietary Mgmt. Software	Yes, optional	Yes, required	Yes, optional
Still Photos	No	No	Yes
Display Screen	No	No	Yes
Field Access to delete?	No	No	Yes, unless configured to prevent. Also, memory card is removable
BWC Cost ( excluding storage)	\$400.00	\$1,000.00	\$580.00

<sup>a</sup> AXON body™ Camera Specifications, 10/7/13

<sup>b</sup> LE3 Detailed Specification Sheet

<sup>c</sup> BODYCAM, HD Body Camera User Guide, undated.

**D. LAW ENFORCEMENT BWC POLICIES AND PROCEDURES**

There is widespread agreement among state and federal law enforcement agencies that to ensure transparency and increase public trust, it is critically important to have specific

BWC policies and procedures in place with strict enforcement by each agency. These policies must clearly spell out the specific circumstances under which a BWC recording should be made, necessary methods for video data storage for legally required periods of time, and procedures for maintaining data integrity at all times. However, the specific methods by which these goals can be achieved are in certain respects debated and remain unsettled. A few of these key issues are briefly identified in this report, but an in-depth discussion of competing opinions can be found in the list of recommended further reading set forth on **APPENDIX 1**.

### **1. California's Legislated Policy Requirements**

In 2015, the California legislature enacted Assembly Bill 69, which added Section 832.18 to the Penal Code. The terms of that section require law enforcement agencies to implement various "best practices" when establishing policies and procedures for the use of body-worn cameras, including the downloading and storage of BWC video and audio recordings. The required policies and procedures must also prohibit the unauthorized use, duplication, or distribution of the recordings, and establish storage periods for downloaded evidentiary and non-evidentiary recorded data, as explained in the section.

Specifically, there is a listing of eight requirements to be addressed:

1) Identifying the person (or persons) who will be responsible for taking custody of and downloading the recorded data, 2) establishing when data should be downloaded and the cameras maintained for ongoing use and the tagging and categorizing of the downloaded data, 3) establishing specific measures to prevent tampering, deleting, and copying, including prohibiting unauthorized use, copying or distribution of any data, 4) categorizing and tagging the downloaded data according to the type of event recorded, 5) stating the length of time the data is to be stored, 6) stating where the recorded data is to be stored, 7) specifying requirements and safeguards if a 3<sup>rd</sup> party vendor will be managing the data storage system, and 8) requiring that recorded data be the property of the recording enforcement agency and shall not be accessed or released for any unauthorized purposes.

Section 832.18 (5) distinguishes between the storage of evidentiary and non-evidentiary content. Section 832.18 (c)(1) defines "evidentiary data" as recorded content of an incident or encounter that could prove useful for investigative purposes of a crime, arrest, detention, search, use of force, or a confrontational encounter with a member of the public. By contrast, Section 832.18 (c)(2) defines "non-evidentiary data" as recorded content without value to aid in an investigation such as the recording of an incident or encounter that does not lead to an arrest or citation, or of general activities that the officer might perform while on duty.

Subparagraph (b)(5)(A) in 832.18 requires that non-evidentiary recordings should be held for a minimum of 60 days, while subparagraph (B) requires that evidentiary recordings be stored for a minimum of 2 years if the recorded incident involves the use of force, involves an officer shooting, leads to the detention or arrest of an individual, or relates to a citizen complaint. If relevant to a criminal prosecution, in addition to the 2-year period, subparagraphs (b)(5)(C) and (b)(5)(D) require that the recording be retained for the same time as required by law for other evidence relevant to a criminal prosecution. There is a further requirement that each enforcement agency work with its legal counsel to ensure that storage policies and practices comply with all laws and preserve the evidentiary chain-of-custody. Subparagraph (b)(5)(E) requires that records or logs of any access to or deletion of recordings be retained permanently. Lastly, Section 832.18 (d) states that nothing in section 832.18 shall be interpreted to limit the public's right to access cell phone or other electronically recorded information under the California Public Records Act.<sup>5</sup>

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<sup>5</sup> California Public Records Act. Gov. Code, § 6250 et seq.

## 2. Controversial BWC Issues

While Penal Code Section 832.18 may at first glance seem comprehensive, there are ongoing debates regarding a variety of issues. Three frequently publicized examples are summarized below. One key debate concerns whether or not an officer on duty should have his or her BWC continuously recording throughout the officer's shift, recording both evidentiary and non-evidentiary events alike.

In 2013, the ACLU, the leading group supporting civil liberties in the U.S., advocated that BWCs be turned on during an officer's entire shift. That policy would guarantee that an officer could not evade detection while engaging in abuse. Subsequently, a number of objections were raised by groups like the Police Executive Research Forum (PERF), which argue that there are certain situations, in which not recording is a reasonable decision. An agency's body-worn camera policy should expressly describe these situations and provide solid guidance for officers when they exercise discretion not to record.

For example, officer discretion is needed in sensitive situations, such as encounters with crime victims or witnesses who are concerned about retaliation if they are seen as cooperating with the police. In other cases, officer discretion is needed for routine or casual situations—such as officers on foot or bike patrol who wish to chat with neighborhood residents—and turning on a video camera could make the encounter disquieting and seems officious.

Many law enforcement agencies give officers discretion regarding whether to record interviews with victims of rape, abuse, or other sensitive crimes. Some departments also extend this discretion to recording victims of other crimes.

Influenced by these objections, the ACLU modified its position on this issue in 2015. The new policy recommends that BWC policies require an officer to activate his or her camera when responding to a call for service or at the initiation of any other law enforcement or investigative encounter between a police officer and a member of the

public. That would include stops, frisks, searches, arrests, consensual interviews and searches, enforcement actions of all kinds, and any encounter that becomes in any way hostile or confrontational.

A second debate concerns whether or not an officer who records an event should be able to review the contents of the recording before writing his or her report of the event. Some civil libertarian groups contend that reviewing the recording before writing a report prevents the public from testing the credibility of the officer's written report (and the officer). For example, when an Oakland Police officer's BWC videoed a fatal shooting, trial attorneys and the ACLU questioned the policy stating that officers who shoot suspects should have access to such a video because that would give the officer "an opportunity to change [his] report to match the video."

On the other hand, law enforcement agencies argue that officers should be permitted to review video footage of an incident in which they were involved, prior to making a statement about the incident since "reviewing footage will help officers remember the incident more clearly, which leads to more accurate documentation of events. The goal is to find the truth, which is facilitated by letting officers have all possible evidence of the event."

Lastly, a third debate concerns the degree to which the public should have access to BWC recordings. Some agencies argue that a recording is akin to an officer's written notes and, as such, should not be available to members of the public not involved in a related criminal prosecution. On the opposite extreme, it is argued that such BWC recordings should always be available to the public at large as a matter of transparency.

According to news reports, these and other subjects were deliberately not addressed in Section 832.18 in order to reach a compromise on the legislation.

#### **E. MODEL "BEST PRACTICES" POLICIES AND PROCEDURES**

Apart from the California legislature's listing of minimum "best practices", several organizations have published their own, more comprehensive, "best practices" model

policies that in comparison reveal significant differences in policy perspectives. Such publications are too many and too lengthy to summarize in this report, but a representative few are briefly mentioned below. References for further reading on these and related BWC subjects are listed in **APPENDIX 1**.

#### 1. Office of Community Oriented Policing Services (COPS)

COPS describes itself as the component of the U.S. Department of Justice “responsible for advancing the practice of community policing by the nation’s state, local, territorial, and tribal law agencies through information and grant resources.”<sup>6</sup> It publishes materials for law enforcement and community stakeholders to use in collaboratively addressing crime. Its free publications are intended to provide those agencies “with best practice approaches” and “access to collective knowledge from the field.”<sup>7</sup> In 2014, COPS published a report entitled “Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned”.<sup>8</sup> Appendix A of that report contains a matrix summary of the COPS policy recommendations. Among many other provisions, the template contains the following recommendations:

- The policy should specifically define the circumstances when a user should record an event and when the user has the discretion to record or not to record.
- The camera should be switched on when a recording might support professional observations or would corroborate what would be written in a pocket book.
- The decision to record or not record any incident remains with the user.
- Users should not indiscriminately record entire duties or patrols.
- Any recorded image must not be deleted by the user and must be retained as required by the procedures. Any breach of the procedures may render the user liable to disciplinary action or adverse comment in criminal proceedings.
- Officers should be permitted to review video footage of an incident in which they were involved, prior to making a statement about the incident.

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<sup>6</sup> <http://www.cops.usdoj.gov/about>

<sup>7</sup> <http://www.cops.usdoj.gov/COPSpublications>

<sup>8</sup> Miller, Lindsay, Jessica Toliver, and Police Executive Research Forum. 2014. “Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned”. Washington, DC: Office of Community Oriented Policing Services (COPS). ISBN: 978-1-934485-26-2, n.d.

- Written policies should clearly describe the circumstances in which supervisors will be authorized to review an officer's BWC footage.
- Agencies should have clear and consistent protocols for releasing BWC recordings to the public and the news media (a.k.a. public disclosure policies). Each agency's policy must comply with the agency's state public disclosure laws (often known as public records acts).
- Agencies should conduct periodic reviews of their BWC policies and protocols.

## **2. American Civil Liberties Union**

The ACLU believes that cameras have the potential to be a win-win, helping protect the public against police misconduct, and at the same time helping protect police against false accusations of abuse. As mentioned above, the ACLU also agrees that because of privacy concerns, BWC policies should only require an officer to activate the BWC when responding to a call for service or at the initiation of any other law enforcement or investigative encounter between a police officer and a member of the public. However, in those situations, recording should not be discretionary; it should be required in order to "preserve the core purpose of detecting police misconduct."

In addition to officer privacy concerns expressed by the ACLU, there are potential problems raised by recording activities protected by the First Amendment, by mass surveillance in crowded cities, and by facial recognition efforts. In addition, people recorded by BWCs should have access to, and the right to make copies of, those recordings, for however long the government maintains copies of them. That should also apply to disclosure to a third party if the subject consents, or to criminal defense lawyers seeking relevant evidence. In summary:

- For the ACLU, the challenge of a BWC is the tension between their potential to invade privacy and their strong benefit in promoting police accountability.
- It is vital that any deployment of these cameras be accompanied by good privacy policies, so that the benefits of the technology are not outweighed by invasions of privacy.

### 3. Lexipol

Lexipol is a commercial subscription service intended for use by law enforcement agencies. It describes itself as a “provider of risk management policies and resources,”<sup>9</sup> including state-specific policy manuals and police updates based on federal and state statutes, case law, regulations and best practices. Several local law enforcement agencies rely on the Lexipol service for the creation of their written policies and policy-driven procedures. The Lexipol policies are basic templates, which can be edited and supplemented by the subscribing local agency to reflect local decision-making. Since the Civil Grand Jury is not a Lexipol subscriber, we can only examine those Lexipol publications that have been adopted by several local agencies as part of their policies and procedures manuals. These will be examined in detail later in this report for Lexipol’s position on key issues. An example of a Lexipol BWC policy is found in **APPENDIX 2.**

### 4. Conflicting California Agency Provisions

To illustrate the lack of policy uniformity among specific law enforcement agencies within the state, consider the following examples:

- Los Angeles Police Department’s Policy. L.A.’s officers are required to review BWC recordings on their assigned device or authorized computer prior to documenting an incident, arrest, search, interview, use of force, or other enforcement or investigative activity to ensure that their reports, statements, and documentation are accurate and complete.
- Santa Clara Police Department’s Policy. In the case of an officer involved shooting or serious use-of-force incident, an involved officer will be required to give an initial account of events before being permitted to view the BWC video and give additional statements.<sup>10</sup>

### F. CAUTIONARY FACTORS TO CONSIDER WHEN INTERPRETING BWC RECORDINGS

PoliceOne.com is an online resource for law enforcement. Its stated mission is “to provide officers with information and resources that make them better able to protect

<sup>9</sup> <http://www.lexipol.com>

<sup>10</sup> “Santa Clara Outfits Officers With Body-Worn Cameras”, *San Jose Mercury News*, 11/25/2015, <http://www.mercurynews.com>

their communities and stay safer on the streets.” In September 2014, *Police One* published an article by The Force Science Institute entitled “10 Limitations of Body Cams You Need to Know for Your Protection”.<sup>11</sup> The suggested limitations are presented here in brief, without the explanations that accompanied each point.

1. A camera doesn't follow your eyes or see what or how they see.
2. Some important danger cues can't be recorded. For example, a suspect suddenly tenses while an officer holds the suspect's arm.
3. Camera speed differs from the speed of life.
4. A camera may see better than you do in low light.
5. Depending on location and angle, a picture may be blocked by your own body parts, from your nose to your hands.
6. A camera only records in 2-D.
7. The absence of time-stamping in seconds or fractions of seconds may prove critical.
8. One camera may not be enough to eliminate uncertainties.
9. A camera encourages second-guessing by the public.
10. A camera can never replace a thorough investigation.

#### **G. POLICE OFFICER POINTS OF VIEW**

In November 2014, PoliceOne polled 1500 police officers to explore officer experiences, thoughts and concerns regarding body cameras.<sup>12</sup> Some results were:

- Only 21.9 percent did not have body cameras or did not anticipate getting them in the near future.
- 33.7 percent said their biggest concern was “A lack of privacy of officers wearing them”.
- 28.7 percent said their biggest concern was that cameras could “pose a physical liability”.

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<sup>11</sup> Institute, Force Science. “10 Limitations of Body Cams You Need to Know for Your Protection”. *PoliceOne*, September 2014.

<sup>12</sup> Staff Writers. “Poll Results: Cops Speak Out About Body Cameras.” *PoliceOne*. November 12, 2014. <http://www.PoliceOne.com>.

- An unspecified percentage was concerned about an invasion of privacy for people who call the police to their home.
- A second unspecified percentage was concerned about the “ability for public to ‘arm-chair quarterback’ decisions officers have to make in the heat of the moment.”
- A third unspecified percentage worried about becoming too concerned with camera activation, taking away from officer safety.
- A fourth unspecified percentage pointed out that what a camera records does not equate to the totality of what an officer perceives.
- Others, however, felt that such recordings made their department more transparent and would eliminate 90% of unfounded citizen complaints. Stated differently by some: “Video footage is much more likely to get a cop out of trouble than in trouble.”
- In addition, of those who had misgivings, 67.7 percent would want their department equipped with BWCs despite their concerns.

## **THE USE OF BODY-WORN CAMERAS BY MONTEREY COUNTY LAW ENFORCEMENT AGENCIES**

The following are necessarily brief summaries regarding each of the fifteen law enforcement agencies in Monterey County.

### **A. CALIFORNIA HIGHWAY PATROL**

The California Highway Patrol (CHP) does not currently employ BWCs. However, in June of 2015, Governor Brown signed Senate Bill 85, Section 1 of which requires the CHP to develop a plan for implementing a BWC pilot program on or before January 1, 2016. The budget to develop the pilot program is \$1 million. The implementation plan must include, among other things, the minimum specifications for BWCs to be used in a BWC program; the “best practices” for officer review of BWC recordings; and “best practices” for sharing BWC recordings internally and externally. A plan has been drafted and is currently awaiting final approval.

**B. CARMEL-BY-THE-SEA POLICE DEPARTMENT**

The Carmel-by-the-Sea (Carmel) Police Department does not provide BWCs for its officers, even though the Department's position is that such cameras are a "great tool" and that there is a very positive attitude regarding their use. It is the department's position, however, that the department's purchase and use of BWCs at this time would be premature. Management wants to see how available cameras perform in the field, and whether conflicting views relating to BWC policies and procedures become settled among police forces. Management also expects Lexipol to develop standardized policies and procedures as part of its subscription service. Management believes that its preconditions to BWC use will be resolved in the next 1-2 years. At that time, the department will purchase 15 cameras (Carmel has 15 sworn officers) with associated data management software and any additional storage capability that may be needed.

**C. DEL REY OAKS POLICE DEPARTMENT**

The Del Rey Oaks Police Department does not yet use BWCs, but is in the process of ordering six of them. The specific camera chosen is the Vista camera manufactured by WatchGuard. That selection was based on the reputation of the manufacturer. Five full-time officers plus the chief (total 6 officers) will be assigned the new cameras. BWCs will not be provided to the department's 18 reserve officers. The department does not yet have any written policy or procedures for using the cameras. After the BWCs have been delivered, the department will review policies published by others and adopt a policy for the department.

**D. GONZALES POLICE DEPARTMENT**

The Gonzales Police Department began using BWCs in August 2015. The camera selected is the BODYCAM by Pro-Vision. Although the department consists of only nine police officers, an animal control officer and the chief, 25 cameras were purchased so that each patrol officer could have a backup camera and there would be additional cameras for personnel expansion. The department has adopted a written policy related to video recording. It is the Lexipol policy entitled "Portable Audio/ Visual Recorders", which the department has labeled as Policy 465 in its own policy manual. Policy 465 provides guidelines for the use of various types of recording devices, including BWCs.

**E. GREENFIELD POLICE DEPARTMENT**

The Greenfield Police Department provides BWCs for their officers. The Department currently has 15 BWCs, with five more expected as personnel is added to the force. The camera selected is the LE3 manufactured by VIEVU. Downloaded recordings are stored on a local server. Greenfield also adopted a Lexipol policy entitled "Portable Audio/Video Recorders", which provides guidelines for using portable audio/video recording devices, including BWCs, by members of the department while performing their duties. Greenfield's BWC policy indicates that it was adopted in November 2014 and has been internally numbered as Policy 450.

**F. KING CITY POLICE DEPARTMENT**

The department recently appointed an interim chief, but prior to his appointment; the department had already acquired 32 BWCs for use by its 16 officers (one to be assigned and one as a backup). All officers were trained and the BWCs were put into daily use in January 2016. The BWC selected by the department is the BODYCAM model manufactured by Pro-Vision, and the department officials are very impressed by its clear sound and images. The King City department has adopted a version of the Lexipol Policy entitled "Portable Audio/Video Recorders", which provides guidelines for the use of portable audio/video recording devices, specifically including BWCs.

**G. MARINA POLICE DEPARTMENT**

The Marina Police Department does not use BWCs, but the department intends to do so and has assigned a department commander to research available choices, their cost, their recording storage requirements, and whether or not they can be integrated with the department's currently used in-car dashboard camera system. The department's storage capacity will probably have to be increased, but the department plan is to have BWCs available for routine use by the end of July 2016, the end of its fiscal year. If the cost of the cameras and storage system is more than can be covered within the department's current budget, the department will seek the necessary funding from the city council. When funded, the department expects to purchase 24-26 LE3 cameras, which are made by the same manufacturer that makes the department's in-car camera system. No written policies or procedures have yet been developed for BWC use, but

when developed they will reflect “best practices” provisions. For example, they will contain a provision allowing officers to review their recordings before writing up an incident report and will allow public access in accordance with the California Public Records Act.

**H. CITY OF MONTEREY POLICE DEPARTMENT**

In May 2016 this department announced the planned purchase of WatchGuard BWCs for use by its police officers. The Watchguard BWCs are manufactured by the same company that manufactures the department’s in-car camera system, and the two systems will be closely integrated. The BWCs are expected to become available and ready to use in early 2017.

**I. MONTEREY COUNTY SHERIFF’S DEPARTMENT**

The Monterey County Sheriff’s Department does not provide BWCs for its deputies. The Department is considering future BWC use but is not currently committed to their use. Management would first need to find funding for the cameras and related storage capacity; go through the camera and vendor selection processes; develop a “best practices” policy; and work through the issues with the police union before that could happen. It’s estimated that the department might obtain BWCs within 2-5 years.

**J. MONTEREY REGIONAL AIRPORT POLICE DEPARTMENT**

In 2012, the Airport Police Department became the first law enforcement agency in Monterey County to put BWCs into daily use. Five officers currently use the VIEVU camera and, like several other law enforcement agencies, the department has adopted a version of Lexipol Policy 450 relating to the use of audio/video recorders.

**K. PACIFIC GROVE POLICE DEPARTMENT**

This department does not provide BWCs for its officers, although past and present department officials are in favor of BWC use by the department. Lack of funding prevents the implementation of a BWC program during the current fiscal year. Initial review of various BWC choices and storage options is now in progress.

**L. SALINAS POLICE DEPARTMENT**

In mid-2015, the Salinas Police Department adopted and put into daily use the most sophisticated BWC program in Monterey County. It employs the Axon camera manufactured by TASAR International, Inc. and proprietary software,<sup>13</sup> which enables the BWC to automatically download its recorded data to a third party cloud storage facility. The recordings are transferred at the same time that the camera is recharging in its charging station. The cameras are routinely worn by all patrol officers and sergeants, as well as supervisors when they are "on the street" in uniform. There are 110 BWCs, including those that are assigned to officers plus three extras. The cost of each camera was \$400, but averaging in monthly off-site video storage charges brings the monthly total cost of a camera and its storage charges to \$93.00.

As is commonly the case locally, the department has adopted a modified Lexipol policy, internally labeled as Policy 447 in the department's policy manual. As with many law enforcement agencies, the policy allows for officer review of a recording before writing the corresponding incident report, and the policy only requires event recording under specified circumstances rather than continuously. This department's BWC policy is more detailed than those of the other local departments' written policies.

**M. SAND CITY POLICE DEPARTMENT**

This department does not provide BWCs for its officers. Although the use of BWCs is favored, lack of funding has to date prevented the implementation of a BWC program.

**N. SEASIDE POLICE DEPARTMENT**

This department does not provide BWCs for its officers. Although the use of BWCs is favored, lack of funding has prevented the implementation of a BWC program to date.

**O. SOLEDAD POLICE DEPARTMENT**

The department purchased BODYCAM units for its officers in December 2014. However, the BWCs have not been put into daily use due to prolonged technical difficulties in obtaining and properly configuring the necessary video storage capability.

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<sup>13</sup> Evidence.com™

In February 2016, the department terminated its reliance on the previously-hired technical service company and hired another in anticipation of correcting the existing technical problems in the near future. As of late May 2016 the technical video storage issues had not yet been resolved.

**P. SUMMARY OF LOCAL LAW ENFORCEMENT'S BWC USE**

A comparative summary of BWC use by the fifteen local law enforcement agencies in Monterey County is shown in **FIGURE 2**, along with selected features of the BWCs in use. Six agencies have BWCs and have put them into daily use by their officers. Two other agencies (City of Monterey and Del Rey Oaks) are currently moving forward with planned BWC acquisition and use. Six of the seven remaining agencies favor their use but are not yet moving forward because of a lack of funding or other considerations. One agency is currently not committed to the future use of BWCs. All six agencies using BWCs have adopted Lexipol-based written BWC policies.

**LOCAL BWC POLICIES AND CALIFORNIA'S LEGAL REQUIREMENTS**

As demonstrated in **FIGURE 3**, none of the local BWC policies meets current California legal requirements. However, prior to the adoption of Penal Code Section 832.18 in October 2015, law enforcement agencies in California were without guidance as to what might eventually be legally required for BWC usage in California. Each department structured its policy based on varying degrees of policy research. In addition, since the new Penal Code provisions did not become effective until January 1, 2016, it is possible that local policy revisions are now being considered by those agencies using BWCs.

THE EXTENT TO WHICH BODY WORN CAMERAS ARE CURRENTLY IN USE BY MONTEREY COUNTY LAW ENFORCEMENT AGENCIES						
LAW ENFORCEMENT DEPARTMENT	BODY-WORN CAMERAS CURRENTLY USED?	DEPTS PLANNING FUTURE BWC PROGRAM	CAMERA MAKE & MODEL	WRITTEN POLICY CONCERNING BWC USE AND DATA STORAGE	DATA RETENTION PERIOD	EXTENT OF OFFICER ACCESS TO RECORDED DATA IN FIELD
CALIFORNIA HIGHWAY PATROL	NO	YES - PILOT PROGRAM TO START 01/2016	NONE SPECIFIED	Not Applicable (N/A)	N/A	N/A
CARMEL-BY-THE-SEA	NO	YES - 01/26 YEARS	NOT APPLICABLE	N/A	N/A	N/A
DEL REY OAKS	NO	YES - CAMERAS ON ORDER	"VISTA" BY WATCH GUARD	NO	UNSPECIFIED	NONE
GREENFIELD	YES	N/A	"LE5" BY VIEVU	YES	1-2 YRS	NONE
GONZALES	YES	N/A	"BODYCAM" BY PRO-VISION	YES	MINIMUM OF 160 DAYS	ABLE TO REVIEW CAN ALSO DELETE UNLESS CONFIGURED TO PREVENT
KING CITY	YES	IMPLEMENTED IN JANUARY 2016	"BODYCAM" BY PRO-VISION	YES	5 YEARS	ABLE TO REVIEW CAN ALSO DELETE UNLESS CONFIGURED TO PREVENT
MARINA	NO	YES - NEED TO SECURE FINANCING	N/A	N/A	N/A	N/A
MONTEREY (CITY)	NO	CURRENTLY PURCHASING BWC'S FOR OFFICER USE BEGINNING IN EARLY 2017	"VISTA HD W-FI" BY WATCHGUARD	N/A	N/A	NONE
MONTEREY (SHERIFF)	NO	INDEFINITELY CONSIDERING BUT NOT COMMITTED TO THEIR USE.	N/A	N/A	N/A	N/A
MO REGIONAL AIRPORT	YES	N/A	"LBS" BY VIEVU	YES	NO POLICY	NONE
PACIFIC GROVE	NO	YES - NEED TO SECURE FINANCING	N/A	N/A	N/A	N/A
SALINAS	YES	N/A	AXON BY TASAR	YES	UNTIL "MATTER RESOLVED" OR REQUIRED BY LAW	NONE
SAND CITY	NO	YES - NEED TO SECURE FINANCING	N/A	N/A	N/A	N/A
SEASIDE	NO	YES - NEED TO SECURE FINANCING	N/A	N/A	N/A	N/A
SOLEDAD	YES	N/A	"BODYCAM" BY PRO-VISION	YES	MINIMUM OF 160 DAYS	CAN REVIEW CAN ALSO DELETE UNLESS CONFIGURED TO PREVENT

FIGURE 2

Figure 3

Department Written Compliance with California Penal Code Section 832.18 "Best Practices" Policy Requirements

Item	Legal Requirements	Gonzales L450	Greenfield L450	King City L450	Monterey Airport L450	Salinas L447	Soledad L450
1	Designates a person for downloading	No	No	No	No		
2	Supervisor to take immediate custody & downloads if serious incident recorded	No	No		No	No	NO
3	Establishes timely data downloads; ensures proper maintenance, ready for next use, tagging and categorizing data	No	No	No	No		
4	Establishes measures to prevent data tampering, deleting, copying or unauthorized use and distribution	Partially	Partially	Partially	Partially	Partially	Partially
5	Downloaded recordings to categorized, tagged and classified by type at time of downloading	No	No	No	No	No	No
6	State specific times to store recordings. Store for a minimum of 90 days before delete, destroy or recycle	Partially	Partially	Partially	Partially	Partially	Partially
7	Store for 2 years if incident involves use of force, police shooting, detention, arrest of an individual, or relevant to citizen complaint plus any additional time required by law if relevant to a criminal proceeding.	No	No	No	No	Partially	No
8	Work with agency legal counsel to ensure storage times, policies and practices complies with all relevant laws and preserves evidence chain of custody	Not regarding current law					
9	Permanently retain all logs or records of access to and deletion of data	No	No	No	No	No	No
10	State specifically where data is to be stored, including, for example, if data to be stored on in-house server managed locally or on-line data base managed by third party vendor	No	No	No	No	Yes	No
11	If using a third party vendor, must consider listed factors to insure security and integrity of data	No vendor	No vendor	No vendor	No vendor	Yes	No vendor
12	Include sanctions for unauthorized access or release of recorded data	No	No	No	No	Partially	No
13	Explicitly prohibits agency personnel from accessing recorded data for personal use, including uploading onto public or social web sites.	Yes	Yes	Yes	Yes	Yes	Yes

## **FINDINGS**

- F1. The use of BWCs responds to public demands for greater law enforcement transparency.
- F2. BWCs, when recording lawful police conduct, provide positive risk management benefits.
- F3. BWC recordings can serve as a valuable officer training resource.
- F4. Law enforcement best practices now include law enforcement's use of BWCs when funds have been made available for their purchase and that of required data storage capacity.
- F5. At a minimum in California, written department policies must comply with the requirements of Penal Code Section 832.18. **(Appendix 3)**
- F6. In the absence of other sources of funding, each City Council must make sufficient funds available to its police department before the department can purchase BWCs for its officers and a secure storage system for resulting BWC recordings.
- F7. In the absence of other sources of funding, the county Board of Supervisors must make sufficient funds available to its Sheriff's department before the department can purchase BWCs for its deputies and a secure storage system for resulting BWC recordings.
- F8. The BODYCAM<sup>®</sup> BWC described in this report stores recordings on a removable Micro-SD memory card.
- F9. The BODYCAM<sup>®</sup> BWC described in this report enables any user to delete one or all recorded videos unless those camera functions are disabled by an appropriately trained BODYCAM<sup>®</sup> administrator or a manufacturer's representative.
- F10. Because the BODYCAM<sup>®</sup> BWC allows the Micro-SD card to be removed from the camera, it is possible for an officer to remove and read the card on an unauthorized computer and to delete or modify recorded data, contrary to the specific prohibitions of Penal Code section 832.18.

- F11. The Carmel Police Department does not provide BWCs for its officers' use although the department favors their use.
- F12. The Del Rey Oaks Police Department is in the process of ordering BWCs for its officers' use.
- F13. The Greenfield Police Department provides BWCs for its officers' use in accordance with a written department policy.
- F14. The Greenfield Police Department's written BWC policy does not meet all of the requirements of Penal Code Section 832.18.
- F15. The Gonzales Police Department provides BWCs for its officers' use in accordance with a written department policy regarding their use.
- F16. The Gonzales Police Department's written BWC policy does not meet all of the requirements of Penal Code Section 832.18.
- F17. The Gonzales Police Department uses the BODYCAM® BWC.
- F18. The King City Police Department provides BWCs for its officers' use in accordance with a written department policy regarding their use.
- F19. The King City Police Department's written BWC policy does not meet all of the requirements of Penal Code Section 832.18.
- F20. The King City Police Department uses the BODYCAM® BWC.
- F21. The Marina Police Department does not provide BWCs for its officers' use, but the department favors their use and plans to acquire them.
- F22. The City of Monterey Police Department is currently in the process of ordering BWCs for its officers' use.
- F23. The Monterey County Sheriff's Department does not provide BWCs for its deputies' use.
- F24. The Monterey Regional Airport Police Department provides BWCs for its officers' use in accordance with an official, but only oral, department policy regarding their use.
- F25. The Monterey Regional Airport Police Department's BWC policy does not meet all of the requirements of Penal Code Section 832.18.
- F26. The Pacific Grove Police Department does not provide BWCs for its officers' use.

- F27. The Salinas Police Department provides BWCs for its officers' use in accordance with a written department policy regarding their use.
- F28. The Salinas Police Department's written BWC policy does not meet all of the requirements of Penal Code Section 832.18.
- F29. The Sand City Police Department does not provide BWCs for its officers' use, although the department favors their use.
- F30. The Seaside Police Department does not provide BWCs for its officers' use, although the department favors their use.
- F31. The Soledad Police Department provides BWCs for its officers' use.
- F32. The Soledad Police Department's draft written BWC policy does not meet all of the requirements of Penal Code Section 832.18.
- F33. The Soledad Police Department uses the BODYCAM® BWC.

#### **RECOMMENDATIONS**

- R1. As part of the Carmel-by-the-Sea Police Department's next annual budget request (or before) the Department shall apply to the Carmel-by-the-Sea City Council for funds sufficient to purchase body-worn cameras of the department's choosing for each officer and for a secure data storage system with adequate capacity to store the data recorded by those cameras.
- R2. As part of the Carmel-by-the-Sea Police Department's next annual budget allocation (or before) the Carmel-By-The-Sea City Council shall provide funds sufficient to enable the Police Department to purchase body-worn cameras of the department's choosing for each officer and for a secure data storage system with adequate capacity to store the data recorded by those cameras.
- R3. The Carmel-by-the-Sea Police Department shall adopt a written body-worn camera policy, which at a minimum includes the "best practices" set forth in California Penal Code 832.18.
- R4. The chief of the Carmel-by-the-Sea Police Department shall meet with the department's legal counsel to review the legal sufficiency of the department's proposed body-worn camera policy before it is adopted by the department.

- R5. The chief of the Carmel-by-the-Sea Police Department shall meet with the department's legal counsel at least annually to review the then current state laws relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws.
- R6. The Del Rey Oaks Police Department shall provide body-worn cameras for each of its officers promptly after they receive the cameras they have ordered.
- R7. The Del Rey Oaks Police Department shall adopt a written body-worn camera policy, which at a minimum includes the "best practices" set forth in California Penal Code 832.18.
- R8. The chief of the Del Rey Oaks Police Department shall meet with the department's legal counsel to review the legal sufficiency of the department's proposed body-worn camera policy before it is adopted by the department.
- R9. The chief of the Del Rey Oaks Police Department shall meet with the department's legal counsel at least annually to review the then current state laws relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws.
- R10. The chief of the Greenfield Police Department shall meet with the department's legal counsel as soon as the meeting can be arranged to review the legal sufficiency of the department's existing body-worn camera policy and to revise the policy to include, at a minimum, the "best practices" set forth in California Penal Code 832.18.
- R11. The chief of the Greenfield Police Department shall meet with the department's legal counsel at least annually to review the then-current state law relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws.
- R12. The chief of the Gonzales Police Department shall meet with the department's legal counsel as soon as the meeting can be arranged to review the legal sufficiency of the department's existing body-worn camera policy and to revise the policy to include, at a minimum, the "best practices" set forth in California Penal Code 832.18.

- R13. The chief of the Gonzales Police Department shall meet with the department's legal counsel at least annually to review the then-current state law relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws.
- R14. The chief of the Gonzales Police Department shall take all steps necessary to ensure that each BODYCAM camera's settings are adjusted by an appropriately trained senior officer to prevent all officers using the BODYCAM® cameras from deleting or in any way altering the BWC video recordings at any time before the recordings are downloaded to the system's secure server.
- R15. The chief of the Gonzales Police Department shall take all steps necessary to ensure that the Department's written body-worn camera policy specifically prohibits officers using the BODYCAM cameras from removing the flash memory card from the camera at any time before the recordings are downloaded to the system's secure server.
- R16. The chief of the King City Police Department shall meet with the department's legal counsel as soon as the meeting can be arranged to review the legal sufficiency of the department's existing body-worn camera policy and to revise the policy to include, at a minimum, the "best practices" set forth in California Penal Code 832.18.
- R17. The chief of the King City Police Department shall meet with the department's legal counsel at least annually to review the then-current state law relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws.
- R18. The chief of the King City Police Department shall take all steps necessary to ensure that each BODYCAM camera's settings are adjusted by an appropriately trained senior officer to prevent all officers using the BODYCAM cameras from deleting or in any way altering video recordings at any time before the recordings are downloaded to the system's secure server.
- R19. The chief of the King City Police Department shall take all steps necessary to ensure that the Department's written body-worn camera policy specifically prohibits officers using the BODYCAM cameras from removing the flash memory

card from the camera at any time before the recordings are downloaded to the system's secure server.

- R20. As part of the Marina Police Department's next annual budget request (or before) the Department shall apply to the Marina City Council for funds sufficient to purchase body-worn cameras of the department's choosing for each officer and for a secure data storage system with adequate capacity to store the data recorded by those cameras.
- R21. As part of the Marina Police Department's next annual budget allocation (or before) the Marina City Council shall provide funds sufficient to enable the Police Department to purchase body-worn cameras of the department's choosing for each officer and for a secure data storage system with adequate capacity to store the data recorded by those cameras.
- R22. The Marina Police Department shall adopt a written body-worn camera policy, which at a minimum includes the "best practices" set forth in California Penal Code 832.18.
- R23. The chief of the Marina Police Department shall meet with the department's legal counsel to review the legal sufficiency of the department's proposed body-worn camera policy before it is adopted by the department.
- R24. The chief of the Marina Police Department shall meet with the department's legal counsel at least annually to review the then-current state laws relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws.
- R25. The City of Monterey Police Department shall adopt a written body-worn camera policy, which at a minimum includes the "best practices" set forth in California Penal Code 832.18.
- R26. The chief of the City of Monterey Police Department shall meet with the department's legal counsel to review the legal sufficiency of the department's proposed body-worn camera policy before it is adopted by the department.
- R27. The chief of the City of Monterey Police Department shall meet with the department's legal counsel at least annually to review the then-current state laws

- relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws.
- R28. As part of the Sheriff's Department's next annual budget request (or before) the Sheriff's Department shall apply to the County Board of Supervisors for funds sufficient to purchase body-worn cameras of the department's choosing for each officer and for a secure data storage system with adequate capacity to store the data recorded by those cameras.
- R29. As part of the Sheriff's next annual budget allocation (or before) the County Board of Supervisors shall provide funds sufficient to enable the Sheriff's Department to purchase body-worn cameras of the department's choosing for each officer and for a secure data storage system with adequate capacity to store the data recorded by those cameras.
- R30. The Sheriff's Department shall adopt a written body-worn camera policy, which at a minimum includes the "best practices" set forth in California Penal Code 832.18.
- R31. The Sheriff of Monterey County shall meet with the department's legal counsel to review the legal sufficiency of the department's proposed body-worn camera policy before it is adopted by the department.
- R32. The Sheriff shall meet with the department's legal counsel at least annually to review the then-current state laws relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws.
- R33. The chief of the Airport Police Department shall meet with the department's legal counsel as soon as the meeting can be arranged to review the legal sufficiency of the department's existing body-worn camera policy, to revise the policy to include, at a minimum, the "best practices" of set forth in California Penal Code 832.18, and to convert the policy to written form.
- R34. The chief of the Airport Police Department shall meet with the department's legal counsel at least annually to review the state law relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws.

- R35. As part of the Pacific Grove Police Department's next annual budget request (or before) the Department shall apply to the Pacific Grove City Council for funds sufficient to purchase body-worn cameras of the department's choosing for each officer and for a secure data storage system with adequate capacity to store the data recorded by those cameras.
- R36. As part of the Pacific Grove Police Department's next annual budget allocation (or before) the City Council shall provide funds sufficient to enable the Police Department to purchase body-worn cameras of the department's choosing for each officer and for a secure data storage system with adequate capacity to store the data recorded by those cameras.
- R37. The Pacific Grove Police Department shall adopt a written body-worn camera policy, which at a minimum includes the "best practices" set forth in California Penal Code 832.18.
- R38. The chief of the Pacific Grove Police Department shall meet with the department's legal counsel to review the legal sufficiency of the department's proposed body-worn camera policy before it is adopted by the department.
- R39. The chief of the Pacific Grove Police Department shall meet with the department's legal counsel at least annually to review the then-current state laws relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws.
- R40. The chief of the Salinas Police Department shall meet with the department's legal counsel as soon as the meeting can be arranged to review the legal sufficiency of the department's existing body-worn camera policy and to revise the policy to include, at a minimum, the "best practices" set forth in California Penal Code 832.18.
- R41. The chief of the Salinas Police Department shall meet with the department's legal counsel at least annually to review the then current state law relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws.
- R42. As part of the Sand City Police Department's next annual budget request (or before) the Department shall apply to the Sand City City Council for funds

- sufficient to purchase body-worn cameras of the department's choosing for each officer and for a secure data storage system with adequate capacity to store the data recorded by those cameras.
- R43. As part of the Sand City Police Department's next annual budget allocation (or before) the Sand City City Council shall provide funds sufficient to enable the Police Department to purchase body-worn cameras of the department's choosing for each officer and for a secure data storage system with adequate capacity to store the data recorded by those cameras.
- R44. The Sand City Police Department shall adopt a written body-worn camera policy, which at a minimum includes the "best practices" set forth in California Penal Code 832.18.
- R45. The chief of the Sand City Police Department shall meet with the department's legal counsel to review the legal sufficiency of the department's proposed body-worn camera policy before it is adopted by the department.
- R46. The chief of the Sand City Police Department shall meet with the department's legal counsel at least annually to review the then current state laws relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws.
- R47. As part of the Seaside Police Department's next annual budget request (or before) the Department shall apply to the Seaside City Council for funds sufficient to purchase body-worn cameras of the department's choosing for each officer and for a secure data storage system with adequate capacity to store the data recorded by those cameras.
- R48. As part of the Seaside Police Department's next annual budget allocation (or before) the Seaside City Council shall provide funds sufficient to enable the Police Department to purchase body-worn cameras of the department's choosing for each officer and for a secure data storage system with adequate capacity to store the data recorded by those cameras.
- R49. The Seaside Police Department shall adopt a written body-worn camera policy, which at a minimum includes the "best practices" set forth in California Penal Code 832.18.

- R50. The chief of the Seaside Police Department shall meet with the department's legal counsel to review the legal sufficiency of the department's proposed body-worn camera policy before it is adopted by the department.
- R51. The chief of the Seaside Police Department shall meet with the department's legal counsel at least annually to review the then-current state laws relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws.
- R52. The chief of the Soledad Police Department shall meet with the department's legal counsel as soon as the meeting can be arranged to review the legal sufficiency of the department's existing body-worn camera policy and to revise the policy to include, at a minimum, the "best practices" of set forth in California Penal Code 832.18.
- R53. The chief of the Soledad Police Department shall meet with the department's legal counsel at least annually to review the then-current state law relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws.
- R54. The chief of the Soledad Police Department shall take all steps necessary to ensure that each BODYCAM camera's settings are adjusted by an appropriately trained senior officer to prevent all officers using the BODYCAM cameras from deleting or in any way altering video recordings at any time before the recordings are downloaded to the system's secure server.
- R55. The chief of the Soledad Police Department shall takes all steps necessary to ensure that the Department's written body-worn camera policy specifically prohibits officers using the BODYCAM cameras from removing the flash memory card from the camera at any time before the recordings are downloaded to the system's secure server.
- R56. The chief of the Soledad police department, the Soledad City Council and the Soledad City Manager shall designate as a priority matter the proper completion of the BWC video storage system so that the existing BWCs can be put into daily use by the Soledad police officers on or before August 15, 2016.

## **REQUIRED RESPONSES**

Pursuant to Penal Code Section 933.05, the Civil Grand Jury requests a response as indicated below from the following law enforcement officials and governing bodies:

**[Note: Where a hyphen appears between two Findings (F) or two Recommendations (R) you are to respond to the complete indicated range of Findings or Recommendations.]**

1. Carmel-by-the-Sea Police Chief  
Findings: F1- F6, F11  
Recommendations: R1-R5
  
2. Carmel-by-the-Sea City Council  
Findings: F1- F6, F11  
Recommendations: R1-R5
  
3. Del Rey Oaks Police Chief  
Findings: F1 - F6, F12  
Recommendations: R6-R9
  
4. Del Rey Oaks City Council  
Findings: F1- F6, F12  
Recommendations: R6-R9
  
5. Greenfield Police Chief  
Findings: F5, F13, F14  
Recommendations: R10, R11
  
6. Greenfield City Council  
Findings: F5, F13, F14  
Recommendations: R10, R11

7. Gonzales Police Department  
Findings: F5, F8-F10, F15- F17  
Recommendations: R12-R15
8. Gonzales City Council  
Findings: F5, F8-F10, F15-F17  
Recommendations: R12-R15
9. King City Police Chief  
Findings: F5, F8-F10, F18-F20  
Recommendations: R16-R19
10. King City City Council  
Findings: F5, F8-F10, F18-R20,  
Recommendations: R16-R19
11. Marina Police Chief  
Findings: F1 - F6, F21  
Recommendations: R20-R24
12. Marina City Council  
Findings: F1 - F6, F21  
Recommendations: R20-R24
13. City of Monterey Police Chief  
Findings: F5, F22  
Recommendations: R25-R27
14. City of Monterey City Council  
Findings: F5, F22  
Recommendations: R25-R27

15. Sheriff of Monterey County  
Findings: F1 - F5, F7, F23  
Recommendations: R28–R32
16. Monterey County Board of Supervisors  
Findings: F1 – F5, F7, F23  
Recommendations: R28-R32
17. Monterey Regional Airport District Police Chief  
Findings: F5, F24-F25  
Recommendations: R33, R34
18. Monterey Regional Airport District  
Findings: F1 - F5, F24-F25  
Recommendations: R33, R34
19. Pacific Grove Police Chief  
Findings: F1 - F6, F26  
Recommendations: R35- R39
20. Pacific Grove City Council  
Findings: F1 - F6, F26  
Recommendations: R35-R39
21. Salinas Police Chief  
Findings: F1 - F5, F27, F28  
Recommendations: R40, R41
22. Salinas City Council  
Findings: F5, F27, F28  
Recommendations: R40, R41

23. Sand City Police Chief  
Findings: F1 - F6, F29  
Recommendations: R42-R46
  
24. Sand City City Council  
Findings: F1 - F6, F29  
Recommendations: R42-R46
  
25. Seaside Police Chief  
Findings: F1 - F6, F30  
Recommendations: R47-R51
  
26. Seaside City Council  
Findings: F1 - F6, F30  
Recommendations: R47-R51
  
27. Soledad Police Chief  
Findings: F5, F8-F10, F31-F33  
Recommendations: R52-R56
  
28. Soledad City Council  
Findings: F5, F8-F10, F31-F33  
Recommendations: R52-R56

## Portable Audio/Video/Body Worn Recorders

### 450.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio/video recording devices by members of this department while in the performance of their duties. Portable audio/video recording devices include all recording systems whether body-worn, hand held or integrated into portable equipment.

This policy does not apply to lawful surreptitious audio/video recording, interception of communications for authorized investigative purposes or to mobile audio/video recordings (see the Investigation and Prosecution and Mobile Audio/Video policies).

### 450.2 POLICY

The King City Police Department may provide members with access to body worn or other portable recorders, either audio or video or both, for use during the performance of their duties. The use of recorders is intended to enhance the mission of the Department by accurately capturing contacts between members of the Department and the public.

### 450.3 MEMBER PRIVACY EXPECTATION

All recordings made by members acting in their official capacity shall remain the property of the Department regardless of whether those recordings were made with department-issued or personally owned recorders. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

### 450.4 MEMBER RESPONSIBILITIES

Prior to going into service, each uniformed member will be responsible for making sure that he/she is equipped with a portable recorder issued by the Department, and that the recorder is in good working order. If the recorder is not in working order or malfunctions at any time, the member shall promptly report the failure to his/her supervisor and obtain a functioning device as soon as practicable. Uniformed members should wear the recorder in a conspicuous manner or otherwise notify persons that they are being recorded, whenever possible.

Any member assigned to a non-uniformed position may carry an approved portable recorder at any time the member believes that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members should wear the recorder in a conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever possible.

When using a portable recorder, the assigned member shall record his/her name, KCPD identification number and the current date and time at the beginning and the end of the shift or other period of use, regardless of whether any activity was recorded. This procedure is not required when the recording device and related software captures the user's unique identification and the date and time of each recording.

# King City Police Department

## Policy Manual

### Portable Audio/Video/Body Worn Recorders

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Members should document the existence of a recording in any report or other official record of the contact, including any instance where the recorder malfunctioned or the member deactivated the recording. Members should include the reason for deactivation.

#### **450.4.1 SUPERVISOR RESPONSIBILITIES**

Supervisors should take custody of a portable audio/video recording device as soon as practicable when the device may have captured an incident involving the use of force, an officer-involved shooting or death or other serious incident, and ensure the data is downloaded (Penal Code § 832.18).

#### **450.5 ACTIVATION OF THE PORTABLE RECORDER**

This policy is not intended to describe every possible situation in which the portable recorder should be used, although there are many situations where its use is appropriate. Members should activate the recorder any time the member believes it would be appropriate or valuable to record an incident.

The portable recorder should be activated in any of the following situations:

- (a) All enforcement and investigative contacts including stops and field interview (FI) situations
- (b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops
- (c) Self-initiated activity in which a member would normally notify the Communications Center
- (d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording

Members should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the member that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.

At no time is a member expected to jeopardize his/her safety in order to activate a portable recorder or change the recording media. However, the recorder should be activated in situations described above as soon as practicable.

#### **450.5.1 SURREPTITIOUS USE OF THE PORTABLE RECORDER**

Members of the Department may surreptitiously record any conversation during the course of a criminal investigation in which the member reasonably believes that such a recording will be lawful and beneficial to the investigation (Penal Code § 633).

Members shall not surreptitiously record another department member without a court order unless lawfully authorized by the Chief of Police or the authorized designee.

# King City Police Department

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### Portable Audio/Video/Body Worn Recorders

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#### **450.5.2 CESSATION OF RECORDING**

Once activated, the portable recorder should remain on continuously until the member's direct participation in the incident is complete or the situation no longer fits the criteria for activation. Recording may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident.

Members shall cease audio recording whenever necessary to ensure conversations are not recorded between a person in custody and the person's attorney, religious advisor or physician, unless there is explicit consent from all parties to the conversation (Penal Code § 636).

#### **450.5.3 EXPLOSIVE DEVICE**

Many portable recorders, including body-worn cameras and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

#### **450.6 PROHIBITED USE OF PORTABLE RECORDERS**

Members are prohibited from using department-issued portable recorders and recording media for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity.

Members are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with department-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate department business purposes. All such recordings shall be retained at the Department.

Members are prohibited from using personally owned recording devices while on-duty without the express consent of the Shift Sergeant. Any member who uses a personally owned recorder for department-related activities shall comply with the provisions of this policy, including retention and release requirements.

Recordings shall not be used by any member for the purpose of embarrassment, intimidation or ridicule.

#### **450.7 RETENTION OF RECORDINGS**

Any time a member records any portion of a contact that the member reasonably believes constitutes evidence in a criminal case, the member shall record the related case number and transfer the file in accordance with current procedure for storing digital files and document the existence of the recording in the related case report. Transfers should occur at the end of the member's shift, or any time the storage capacity is nearing its limit.

Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the member should promptly notify a supervisor of the existence of the recording.

# King City Police Department

## Policy Manual

### *Portable Audio/Video/Body Worn Recorders*

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#### **450.7.1 RETENTION REQUIREMENTS**

All recordings shall be retained for a period consistent with the requirements of the organization's records retention schedule but in no event for a period less than 180 days.

#### **450.8 RELEASE OF RECORDINGS**

Recordings made using portable recording devices pursuant to this policy are department records and may only be released as provided in the Release of Records and Information Policy or for other authorized legitimate department business purposes.

#### **450.9 REVIEW OF RECORDED MEDIA FILES**

When preparing written reports, members may review their recordings as a resource. However, members should not use the fact that a recording was made as a reason to write a less detailed report.

Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct, reports of meritorious conduct or whenever such recordings would be beneficial in reviewing the member's performance. The reviewing supervisor will note the reason for the review in the audit log, or in correspondence to the Chief of Police.

Recorded files may also be reviewed:

- (a) Upon approval by a supervisor, by any member of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.
- (b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (c) By media personnel with permission of the Chief of Police or the authorized designee.
- (d) In compliance with a public records request, if permitted, and in accordance with the Release of Records and Information Policy.

#### **450.10 COORDINATOR**

The Chief of Police or the authorized designee shall appoint a member of the Department to coordinate the use and maintenance of portable audio/video recording devices and the storage of recordings, including (Penal Code § 832.18):

- (a) Establishing a system for downloading, storing and security of recordings.
- (b) Designating persons responsible for downloading recorded data.
- (c) Establishing a maintenance system to ensure availability of operable portable audio/video recording devices.
- (d) Establishing a system for tagging and categorizing data according to the type of incident captured.

King City Police Department  
Policy Manual

*Portable Audio/Video/Body Worn Recorders*

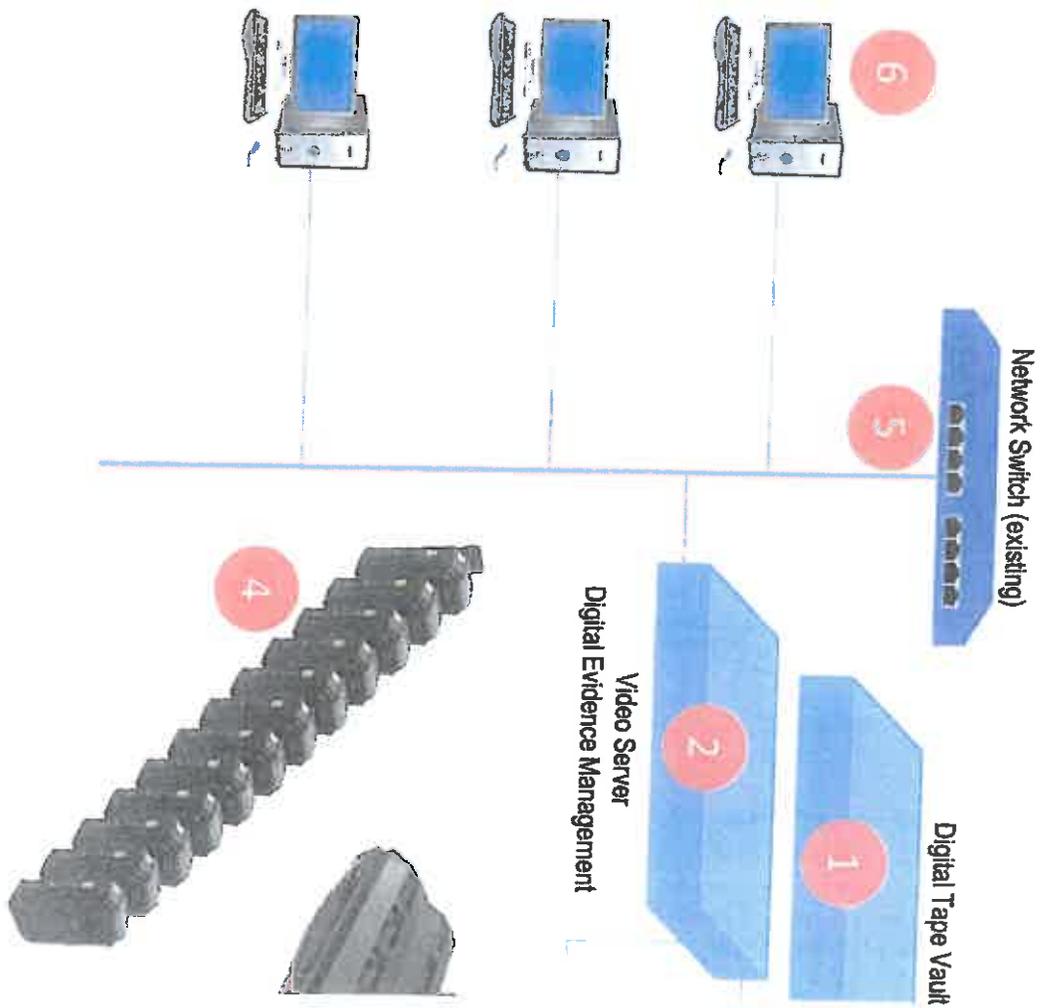
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- (e) Establishing a system to prevent tampering, deleting and copying recordings and ensure chain of custody integrity.
- (f) Working with counsel to ensure an appropriate retention schedule is being applied to recordings and associated documentation.
- (g) Maintaining logs of access and deletions of recordings.

# SYSTEM OVERVIEW

## BODY WORN CAMERA VIDEO STORAGE VAULT & DIGITAL EVIDENCE MANAGEMENT SOFTWARE SYSTEM

1	60TB Storage Vault; 24-slots, 2.5TB/ea Robotic Arm; Read/Write Tape Drive
2	6TB Server; Vault Connections; Network Connections; Digital Evidence Management
3	8-port body worn camera docking station; upload/charge cameras; USB 2.0/3.0
4	Body Worn Cameras; longer runtime (8-hrs), stores more video (32G), password protected
5	Network Switch (existing); connects all servers and workstations together
6	User workstations (existing) Digital Evidence Management: Query, Display, Share





# DEFENDERITE™ POLY-VAULT

## Features / Specifications

### POLY-VAULT

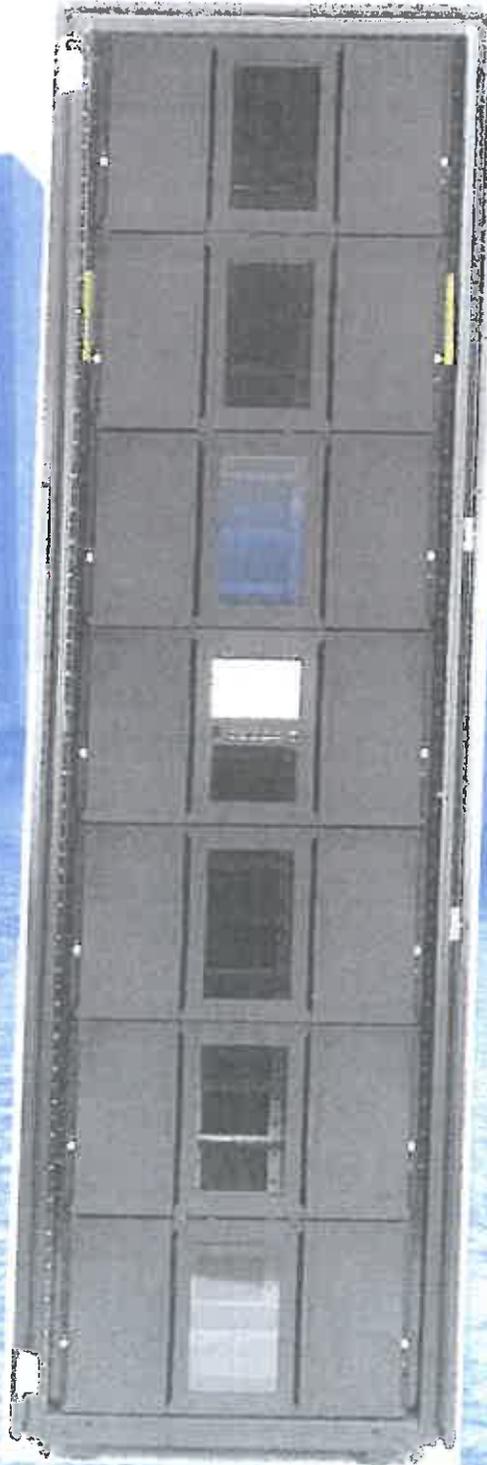
#### FEDERATED REPOSITORY

#### SERVER

- Manages Interface with Library (Read/Write)
- Digital Evidence Table of contents

#### LIBRARY

- Digital Evidence Archive
- Ultrium LTO Cartridges
- Capacity: 1,400 to 3,360 Terabytes per Stack
- No. of Stacks: Unlimited
- Ultrium Cartridge useful life: 30-50 years



**Contact:**  
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**cary@polytroncorp.com**



## DEFENDERITE™ POLY-VAULT

Poly-Vault is a game-changing Local Storage alternative to expensive Cloud Storage.

Where Cloud Storage is rented remote storage spread across multiple servers and often locations, Poly-Vault is user-owned Local Storage.

Benefits include over 90% storage cost savings when compared to the Cloud; lowest security risks since all evidence is local; network speed over 1,000 times faster, when compared to the Internet, for the quickest inquiry response and fastest upload speed; unlimited storage capacity; 30-day or less set-up time; and less than 24-month Return-on-Investment (ROI).

No upfront capital equipment costs. Poly-Vault costs may be financed to become part of the operating budget.



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Digital Evidence  
Management  
Software System



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## DEFENDERITE™ POLY-DEM

Poly-DEM: Digital Evidence Management:

- Complete System: Recording, Storage Management, Chain-of-Custody Compliant.
- Automatic ingestion and authentication of video uploads into Vaults. Digital fingerprinting.
- central management of all digital evidence.
- federated repository: multiple tiers, layered, across multiple platforms and media.
- Cameras: dash-cams, fixed surveillance cameras, non-proprietary body worn cameras.
- Ad Hoc searches: any field or combination of fields in database.
- User customizable metadata.
- All content, audio, video, digital evidence searchable by case#, officer name, other.
- Share content, export/import, search/playback/clip functionality.

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ISC West 2015  
Award Winner

*"Video Surveillance  
Management Systems"*



**Contact:**  
**Cary Vea**  
**408/893-4922**  
**cary@polytroncorp.com**

## **DEFENDERITE™**

### **POLY-DEM**

Law-enforcement applications require that digital video be stored and other pieces of digital evidence must be "attached" or "associated" with the video files. Examples of other digital evidence include mobile-phone pictures and video, electronic documents such as Word, PDF, XLS, timescene pictures, eyewitness testimony, interrogation room audio/video recordings emails, contents of hard disk drives found on a suspect's PC, Officer and Attorney notes, Case number Assignments, related unsolved cases, etc. All evidence is under centralized management for investigators and prosecutors to "build their case."

Poly-DEM provides unlimited tags for searching and reviewing as well as tools to provide files for public release and court presentation.

Mandate helps find the "Needle in the Haystack"



## DEFENDERITE™ POLY-CAM

### *Features / Specifications*

- 6-User Configurations:
  - 1-Button: Patrol; Covert
  - 1-Button: Patrol HD, Covert HD
  - Intermediate, Advanced
- 7-Selectable Resolutions: HD SD
- Still Photos; 6-Resolutions
- Record hours: 8/22 w/Battery Pack
- Standby Time; 72-hours
- Charging Time; 3-hours
- Onboard GPS, G-force
- Lens 140" Lens, zoom, 0.03 lux
- 32GB Internal Storage
- Ruggedized, Waterproof (IP65)
- Video Event Marker
- Pre-record; before start
- Delay-record; after stop
- Self-timer; start after delay
- Night Vision: Dual IR
- Weight: 5.64oz
- Dimensions: 3.7"H x 2.4"W x 1.25"D

**Contact:**  
**Cary Vea**  
**408/893-4922**  
**cary@polytroncorp.com**



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# DEFENDERITE™ POLY-CAM

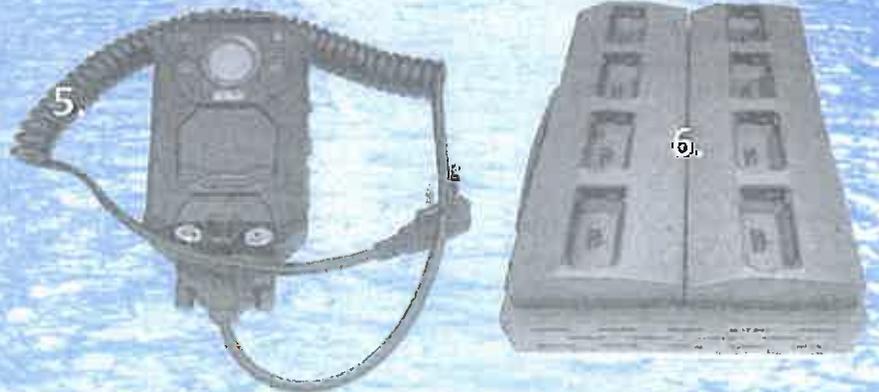
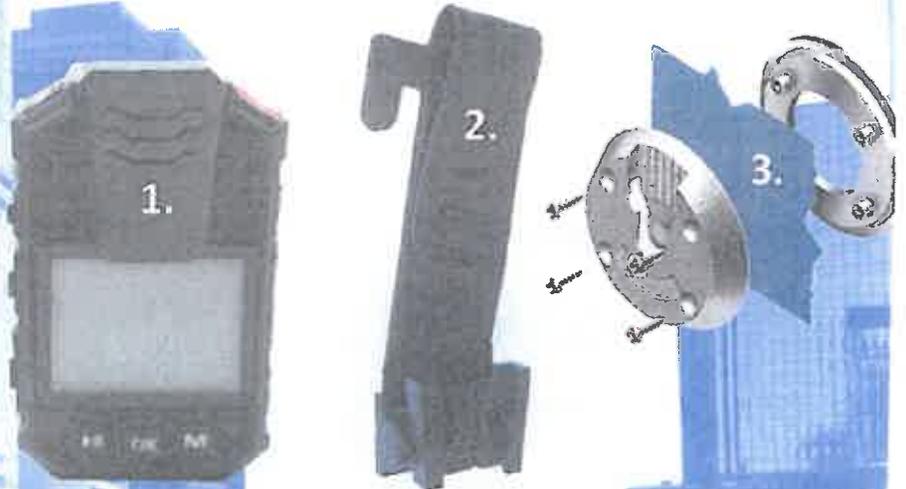
## Accessories

### Camera Mount Options

1. Steel Clip, 360° rotation (included)
2. Epaulet Shoulder Strap (included)

### Optional Accessories

3. Garment Dock
4. External Mini Camera Lens with mounting clip
5. Push To Talk (PTT) Adapter Cable
6. 8-Camera Docking Station



**Contact:**  
Cary Vea  
408/893-4922  
cary@polytroncorp.com

FOR IMMEDIATE RELEASE:

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Polytron Corporation

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Fax : 408.683.4374

E-mail: [Cary@polytroncorp.com](mailto:Cary@polytroncorp.com)

## Polytron Introduces A Complete Line of Local Storage, Digital Evidence Management and Body Worn Camera Solutions

*Polytron delivers law enforcement, DEFENDERITE™, a complete ecosystem of products and services to capture live video, economically store and retain massive amounts of digital evidence, and manage digital evidence across multiple tiers of storage.*

San Martin, California – October 25, 2015 – Polytron Corporation, a provider of innovative technology applications, announced today at the International Association of Chiefs of Police (IACP) 122<sup>nd</sup> annual Conference & Expo held in Chicago, **Poly-Vault**, a massive digital storage solution aimed at the growing need for economically storing extreme quantities of digital evidence, **Poly-DEM**, Digital Evidence Management software, **Poly-Cam**, an inexpensive, high-performance body worn Camera, and **Poly-Vest**, a powered, custom tactical Vest carrier.

**Poly-Vault** is a game-changing Local Storage alternative to expensive Cloud Storage. Where Cloud Storage is rented remote storage, spread across multiple servers and often locations, **Poly-Vault is user-owned Local Storage**. Benefits include over 90% storage cost savings when compared to the Cloud; lowest security risks since all evidence is local; network speed over 1,000 times faster, when compared to the Internet, for the quickest inquiry response and fastest upload speed; unlimited storage capacity; 30-day or less set-up time; and less than 24-month Return-on-Investment (ROI). No upfront capital equipment costs. Costs may be financed and treated as an operating budget line item.

**Poly-DEM** is a set of Digital Evidence Management software applications that include automatic evidence ingestion into a federated repository of layered storage devices. Poly-DEM can manage videos from non-proprietary body-worn cameras, dash-cams, and typical surveillance cameras. Ad hoc searches make finding evidence instantaneous using any field or combination of fields in the database; user customizable metadata allows for agencies to configure the software in ways that match their workflow processes. All content can be searched including audio and video files and the digital evidence can be organized by case number, officer name, or other identifier.

**Poly-Cam** is a \$199.95 high-performance body worn camera. Features include onboard GPS, multiple HD video recording resolutions, and a 2" LCD display. Flexible configurations include (4) 1-button ON/OFF settings, intermediate, and advanced functions. Options include external mini-camera, service radio PTT cable interface, an 8-camera docking station that is used for uploading files and recharging cameras.

**Poly-Vest** is an external custom vest carrier shell that incorporates new or existing ballistic panels, a body worn camera mount, a thermal-imaging Smart-phone camera (FLIR ONE) camera, a USB-charged replacement battery for hand-held service radios, and up to 60 Watts of battery power to support any USB-powered device such as mobile phones or flashlights. This Tactical Vest Carrier is ergonomically designed to move heavy items normally carried on a service belt such as radios, ammo, collapsible batons, etc., to the vest carrier to help redistribute weight to ease pressure off the lower back thereby reducing the incidence of back injury. The vest appearance is that of a typical service uniform shirt, and is made of high quality water resistant Denier polyester.

"Law enforcement is facing overwhelming pressure to implement (body worn) video surveillance systems in response to public outcry and liability exposure. The most common mistake is to focus on (body worn) cameras, and not fully comprehend or consider the costs for long-term digital storage. Digital storage is by far the most costly part of the package. With over 10,000 Chiefs of Police in attendance from around the world, IACP 2015/Chicago was the perfect venue to introduce our products, and demonstrate how Cloud storage costs may be slashed by 90%," stated Cary Vea, President/CEO of Polytron Corporation. "Polytron's Defenderite™ products are unequalled, and are the most comprehensive long-term digital evidence retention and management solution available."

### **About Polytron Corporation**

Polytron is a leading provider of world-class Information Technology solutions for Enterprise and Government clients. With the increasing complexity of technology, more customers want complete solutions for their unique technology problems. Since 1985 Polytron has been providing complete solutions that seamlessly integrate into daily operations assuring that unique customer requirements are fully satisfied.

###



Item No. 9 (K)

**REPORT TO THE CITY COUNCIL**

**DATE: AUGUST 9, 2016**

**TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL**

**FROM: ROBERT MASTERSON, CHIEF OF POLICE**

**BY: INTERIM POLICE CAPTAIN, DARIUS ENGLS**

**RE: CONSIDERATION OF REPLACEMENT AND PURCHASE OF POLICE VEHICLES**

---

**RECOMMENDATION:**

It is recommended the City Council approve and authorize the City Manager to purchase three new police vehicles; one vehicle through a full purchase and two vehicles through a lease purchase.

**BACKGROUND:**

The Police Department maintains a fleet of patrol vehicles for routine patrol and emergency response. Most of the patrol vehicles are used daily. The typical life of a patrol vehicle may range from three to five years, depending on mileage and mechanical condition. As the vehicles age, they are often more expensive to repair than the value of the vehicle. It is important to have a vehicle replacement plan (or schedule) to maximize the value of the vehicle. The attached vehicle summary can be used as part of that plan.

It is also important to have a system of redundancy or backup emergency vehicles. Police vehicles are specialized and; therefore, not readily replaceable. It usually takes six months to order, receive and equip a new police vehicle.

In addition to patrol vehicles, the Department has several administrative vehicles. Typically, these vehicles are assigned to command staff or detectives. The administrative vehicles are used where high profile emergency response is not typical, but nevertheless, still an integral part of the fleet and an emergency response vehicle.

**CITY COUNCIL  
CONSIDERATION OF REPLACEMENT AND PURCHASE OF POLICE  
VEHICLES  
AUGUST 9, 2016  
PAGE 2 OF 4**

**DISCUSSION:**

Like many California cities, King City has endured difficult financial times during the first part of this decade. Because of tight finances, and other overshadowing issues with the Police Department, the Department has not implemented a vehicle replacement plan. As a result, the fleet of police vehicles is in need of additional upgrades.

The Police Department purchased three new vehicles in FY 15/16, (two patrol vehicles and one administrative vehicle). However, vehicles were not purchased in the preceding five years; therefore, leaving the fleet somewhat lopsided with older vehicles (see attached vehicle fleet summary). The purchase of new police vehicles is necessary in order to maintain a fleet that is reliable and sustainable.

Staff is recommending the purchase of the 2016 Dodge Charger Pursuit (V6). This vehicle has been selected by numerous police agencies in the State of California as their police vehicle. The California Highway Patrol (CHP) performs extensive testing on their vehicle selection, which includes safety, performance and functionality. Subsequent to testing, it was the recommendation of the CHP Emergency Vehicle Operations Course Unit to select this vehicle as their primary patrol car.

Staff is recommending the purchase of all three vehicles from Elk Grove Auto Group, Inc., who currently holds the State contract for 2016 Dodge Charger (State Contract 1-15-23-14A C.H.P. Sedans F.O.B. Sacramento). The quote from Elk Grove Auto represents best price for the vehicles, (see attached quote from Dwane Galatti, Fleets Sales Officer, Elk Grove Auto Group)

**COST ANALYSIS:**

The Police Department will have savings in the first part of FY 16/17 due to vacant police officer positions. Despite active and aggressive recruiting efforts, the Department currently has four vacant police officer positions. The Department is making progress and it is anticipated that the police officer positions will be filled by mid-fiscal year.

While efficiency, effectiveness, and overtime cost suffer during personnel shortages, there is a net dollars' savings. Staff anticipates the savings will be more than sufficient to purchase one new police administrative vehicle. It is hoped not to have this financial advantage in the future, but staff believes it is prudent to take advantage of it now (see attached Police Vacancy Salary Savings).

**CITY COUNCIL  
CONSIDERATION OF REPLACEMENT AND PURCHASE OF POLICE  
VEHICLES  
AUGUST 9, 2016  
PAGE 3 OF 3**

There are budgeted funds available for the lease payments in the FY 16/17 budget. Therefore the purchase of two new patrol vehicles was anticipated by staff and City Council. The lease payments as specified fall within current budget parameters (see attached lease agreement).

The vehicles will be outfitted with the appropriate police radios and emergency equipment. The cost to outfit and place graphics on each vehicle will be approximately \$9,000. The cost of the emergency equipment will be added to the cost of the vehicle and in the case of the patrol units, will be financed on the lease, (see attached Synopsis of Quote). Therefore, the total cost of the administrative vehicle purchase is approximately \$34,626.76 and the annual lease cost for the two patrol vehicles is approximately \$ 77,785.98 .

**ALTERNATIVES:**

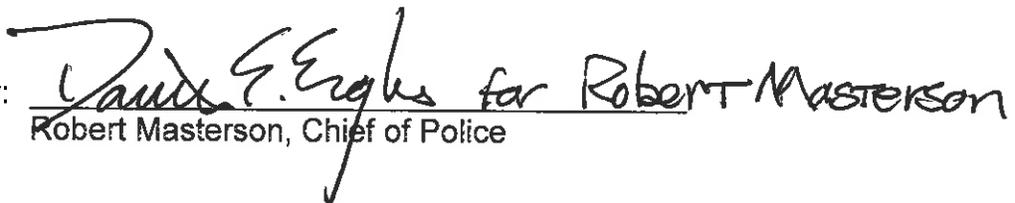
The following alternatives are provided for Council consideration:

1. Approve staff's recommendations;
2. Approve the proposed lease purchase using budgeted funds, but not the transfer of funds for the new administrative vehicle;
3. Do not approve the purchase of vehicles at this time; or
2. Provide staff other direction

**ATTACHMENTS:**

1. King City Police Vehicle Summary
2. Estimated Police Vacancy Salary Savings
3. Quote from Elk Grove Auto Group, Inc.
4. Quote from Pursuit North / emergency equipment, light, siren, etc.
5. Quote from Grafix Shoppe / Graphics for patrol vehicle
6. Quote from PNC Equipment Finance
7. Synopsis of Quotes and Payments

Submitted by:

  
Robert Masterson, Chief of Police

Approved by:

  
Steven Adams, City Manager

## King City Police Vehicle Summary

In the following, you will find a vehicle fleet summary. The summary lists the current police vehicles in service and highlights the approximate remaining life of the vehicle. The subsequent pages of the summary projects the fleet for the next two years, 2017 and 2018, anticipating liquidation of old vehicles and replacing them with new.

The summary is color coded. Green indicates the vehicle is serviceable for this year and likely several more years. Orange indicates that the vehicle is nearing the end of its usefulness and may not be serviceable if major repair is needed. Red indicates that the vehicle is at the end of its usefulness and will eventually be sold at auction to the highest bidder.

The PD will most likely always have some vehicles that will be coded "Red" however, the fewer vehicles in that category, the healthier the fleet.

<b>PD Vehicle Summary As of July 1, 2016</b>			
Unit	Year/Make/ Model	Mileage	Function
101	2016 Ford Explorer	12,000	Patrol
108	2016 Ford Explorer	11,000	Patrol
102	2009 Ford Crown Vic	88,000	Patrol
103	2009 Ford Crown Vic	81,000	Patrol
104	2010 Dodge Charger	43,000	Patrol
105	2010 Dodge Charger	42,000	Patrol
106	2010 Dodge Charger	74,000	Patrol
109	2010 Dodge Charger	56,000	Patrol
107	2005 Ford Expedition	85,000	Admin
115	2006 Ford P/U	43,000	Animal Control
111	2005 Ford Crown Vic	97,000	Admin
112	2005 Ford Crown Vic	176,000	Admin
N/A	2015 Ford Escape	40,000	Detectives

**PD Vehicle Summary  
July 1, 2017 Projection\***

Unit	Year/Make/ Model	Mileage	Function
101	2016 Ford Explorer	27,000	Patrol
108	2016 Ford Explorer	26,000	Patrol
102*	2017 Dodge Charger	15,000	Patrol
103*	2017 Dodge Charger	15,000	Patrol
104	2010 Dodge Charger	58,000	Patrol
105	2010 Dodge Charger	57,000	Patrol
106	2010 Dodge Charger	79,000	Patrol
109	2010 Dodge Charger	71,000	Patrol
107	2005 Ford Expedition	100,000	Admin
115	2006 Ford P/U	58,000	Animal Control
111	2005 Ford Crown Vic	103,000	Admin
112*	2016 Dodge Charger	15,000	Admin (Chief's Veh)
N/A	2015 Ford Escape	55,000	Detectives

\*Assumes new purchase replaces previous Unit 102 & 103

\* Assumes new purchase replaces previous unit 112

\* Assumes 15,000 added to each vehicle per year

<b>PD Vehicle Summary July 1, 2018 Projection*</b>			
<b>Unit</b>	<b>Year/Make/ Model</b>	<b>Mileage</b>	<b>Function</b>
101	2016 Ford Explorer	42,000	Patrol
108	2016 Ford Explorer	41,000	Patrol
102	2017 Dodge Charger	30,000	Patrol
103	2017 Dodge Charger	30,000	Patrol
104	2010 Dodge Charger	73,000	Patrol
105	2010 Dodge Charger	72,000	Patrol
106	2010 Dodge Charger	94,000	Patrol
109	2010 Dodge Charger	86,000	Patrol
107*	2018 Dodge Charger	10,000	Patrol
115	2006 Ford P/U	75,000	Animal Control
111	2005 Ford Crown Vic	125,000	Admin
112	2015 Dodge Charger	30,000	Admin (Chief's Veh)
N/A	2015 Ford Escape	70,000	Detectives

\* Assumes purchase of at least one new patrol vehicle, replaces unit 107

\* Assumes 15,000 added to each vehicle per year



## Estimated Police Vacancy Salary Savings

Month	Vacancies	Monthly Savings*	Per Month	Less OT*	Approx. Net
July	Four	4@ \$7,125	\$28,500	-\$5,500	23,000
Aug	Four	4@ \$7,125	\$28,500	-\$5,500	23,000
Sept	Three	3@ \$7,125	\$21,375	-\$5,000	16,375
Oct	Two	2@ \$7,125	\$14,250	-\$3,000	11,250
Nov	One	1@ \$7,125	\$7,125	-\$1,000	\$6,125
Dec	None	0	0	0	0
Approximate Salary Savings					\$79,750.00

\* Budgeted police officer position that is fully benefited is approximately \$85,500 annual (\$7,215per month).

\* Additional overtime above budget allocation. Approximate amount based on historical monthly overtime. (Approximately \$14,583 monthly budgeted for OT)



Prepared For:  
Chief Engles  
King City P.D.  
Phone: (831) 386-5946

Prepared By:  
Dwane Galatti  
Fleet Sales Officer  
Phone: (916) 429-4702

**2016 Dodge Charger**  
**LDDE48 4dr Sdn Police RWD**



Photo may not represent exact vehicle or selected equipment.

State Contract 1-15-23-14A C.H. P. Sedans F.O.B. Sacramento

\$23,695.00 Black & White  
210.00 (KNF)  
210.00 (LNA)  

---

\$24,115.00  
1,965.37 SALES TAX @ 8.1590  
8.75 TIRE FEE  
550.00 DELIVERY  

---

\$26,639.12  
x 2  

---

---

\$53,278.24

Prepared For:  
Chief Engles  
King City P.D.  
Phone: (831) 386-5946

Prepared By:  
Dwane Galatti  
Fleet Sales Officer  
Phone: (916) 429-4702

**2016 Dodge Charger**  
LDDE48 4dr Sdn Police RWD

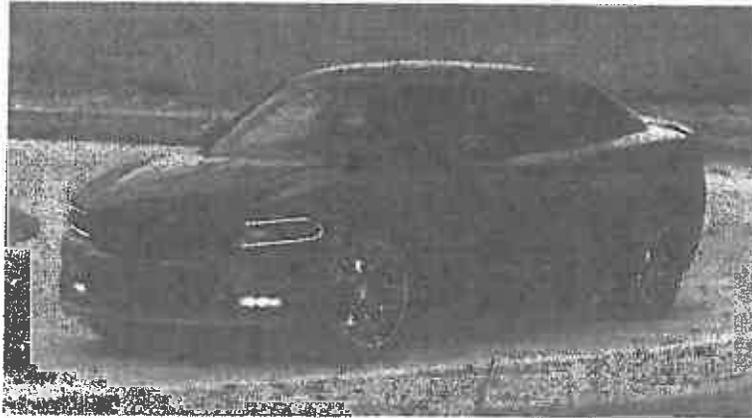


Photo may not represent exact vehicle or selected equipment.

State Contract 1-15-23-14A C.H. P. Sedans F.O.B. Sacramento

\$23,695.00

< 250.00 > Solid Paint

210.00 (LNF)

210.00 (LNA)

---

\$23,865.00

1,945.00 SALES TAX @ 8.15%

8.75 TIRE FEE

550.00 DELIVERY

---

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\$26,368.75

## **STANDARD EQUIPMENT**

### **STANDARD EQUIPMENT - 2016 Fleet/Non-Retail LDDE48 4dr Sdn Police RWD**

#### **ENTERTAINMENT**

- Radio: Uconnect 5.0
- AM/FM/Satellite-Prep w/Seek-Scan, MP3 Player, Clock, Speed Compensated Volume Control, Aux Audio Input Jack, Steering Wheel Controls and External Memory Control
- 6 Speakers
- Wireless Streaming
- Window Grid Antenna
- 2 LCD Monitors In The Front

#### **EXTERIOR**

- Wheels: 18" x 7.5" Steel
- Tires: P225/60R18 BSW Performance
- Goodyear Brand Tires
- Steel Spare Wheel
- Full-Size Spare Tire Mounted Inside Under Cargo
- Clearcoat Paint
- Body-Colored Front Bumper
- Body-Colored Rear Bumper
- Black Side Windows Trim
- Body-Colored Door Handles
- Power Side Mirrors w/Manual Folding
- Body Color Exterior Mirrors
- Fixed Rear Window w/Defroster
- Light Tinted Glass
- Speed Sensitive Variable Intermittent Wipers w/Heated Jets
- Galvanized Steel/Aluminum Panels
- Black Grille
- Trunk Rear Cargo Access
- Fully Automatic Projector Beam Halogen Daytime Running Headlamps w/Delay-Off
- Perimeter/Approach Lights
- LED Brakelights
- Laminated Glass
- High Speed Engine Controller

Report content is based on current data version referenced. Any performance-related calculations are offered solely as guidelines. Actual unit performance will depend on your operating conditions.

GM AutoBook, Data Version: 446.0, Data updated 7/5/2016  
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Customer File:

## **STANDARD EQUIPMENT**

### **STANDARD EQUIPMENT - 2016 Fleet/Non-Retail LDDE48 4dr Sdn Police RWD**

#### *INTERIOR*

- Power 6-Way Driver Seat
- 8-Way Driver Seat -inc: Manual Recline
- 4-Way Passenger Seat -inc: Manual Recline and Fore/Aft Movement
- Front Facing Rear Seat
- Manual Tilt/Telescoping Steering Column
- Gauges -inc: Speedometer, Odometer, Oil Pressure, Engine Coolant Temp, Tachometer, Oil Temperature, Transmission Fluid Temp, Engine Hour Meter, Trip Odometer and Trip Computer
- Power Rear Windows
- 5 Person Seating Capacity
- Leather/Metal-Look Steering Wheel
- Front Cupholder
- Rear Cupholder
- Compass
- Proximity Key For Doors And Push Button Start
- Valet Function
- Power Fuel Flap Locking Type
- Remote Keyless Entry w/Integrated Key Transmitter, 4 Door Curb/Courtesy, Illuminated Entry and Panic Button
- Remote Releases -inc: Power Cargo Access and Power Fuel
- Cruise Control w/Steering Wheel Controls
- Dual Zone Front Manual Air Conditioning
- HVAC -inc: Underseat Ducts
- Illuminated Locking Glove Box
- Driver Foot Rest
- Full Cloth Headliner
- Vinyl Door Trim Insert
- Interior Trim -inc: Chrome Interior Accents
- Urethane Gear Shift Knob
- Heavy Duty Cloth Bucket & Rear Bench Seats
- Day-Night Rearview Mirror
- Driver And Passenger Visor Vanity Mirrors w/Driver And Passenger Illumination, Driver And Passenger Auxiliary Mirror
- Partial Floor Console, Mini Overhead Console w/Storage and 1 12V DC Power Outlet
- Regular Dome Lighting
- Full Vinyl/Rubber Floor Covering
- Carpet Floor Trim
- Underhood And Cargo Space Lights

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Customer File:

## **STANDARD EQUIPMENT**

### **STANDARD EQUIPMENT - 2016 Fleet/Non-Retail LDDE48 4dr Sdn Police RWD**

- FOB Controls -inc: Trunk/Hatch/Tailgate
- Integrated Voice Command w/Bluetooth
- Instrument Panel Bin, Driver / Passenger And Rear Door Bins
- Power 1st Row Windows w/Driver And Passenger 1-Touch Up/Down
- Delayed Accessory Power
- Power Door Locks w/Autolock Feature
- Systems Monitor
- Redundant Digital Speedometer
- Trip Computer
- Outside Temp Gauge
- Digital/Analog Display
- Manual Anti-Whiplash Adjustable Front Head Restraints and Fixed Rear Head Restraints
- Sentry Key Engine Immobilizer
- Air Filtration
- 1 12V DC Power Outlet

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Customer File:

## **STANDARD EQUIPMENT**

### **STANDARD EQUIPMENT - 2016 Fleet/Non-Retail LDDE48 4dr Sdn Police RWD**

#### **MECHANICAL**

- Engine: 3.6L V6 24V VVT
- Transmission: 5-Speed Automatic (W5A580)
- 50 State Emissions
- Transmission w/AUTOSTICK Sequential Shift Control
- Rear-Wheel Drive
- 2.62 Axle Ratio
- Engine Oil Cooler
- 220 Amp Alternator
- 800CCA Maintenance-Free Battery w/Run Down Protection
- Police/Fire
- 5250# Gvwr
- Gas-Pressurized Front Shock Absorbers and Air Rear Shock Absorbers
- Rear Auto-Leveling Suspension
- Front Anti-Roll Bar and Rear HD Anti-Roll Bar
- HD Suspension
- Electric Power-Assist Steering
- 18.5 Gal. Fuel Tank
- Dual Stainless Steel Exhaust
- Short And Long Arm Front Suspension w/Coil Springs
- Multi-Link Rear Suspension w/Coil Springs
- 4-Wheel Disc Brakes w/4-Wheel ABS, Front And Rear Vented Discs, Brake Assist and Hill Hold Control

#### **SAFETY**

- Electronic Stability Control (ESC)
- ABS And Driveline Traction Control
- Side Impact Beams
- Dual Stage Driver And Passenger Seat-Mounted Side Airbags
- Tire Specific Low Tire Pressure Warning
- Dual Stage Driver And Passenger Front Airbags
- Curtain 1st And 2nd Row Airbags
- Airbag Occupancy Sensor
- Rear Child Safety Locks
- Outboard Front Lap And Shoulder Safety Belts -inc: Rear Center 3 Point, Height Adjusters and Pretensioners

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Customer File:

## SELECTED MODEL & OPTIONS

### SELECTED MODEL - 2016 Fleet/Non-Retail LDDE48 4dr Sdn Police RWD

<u>Code</u>	<u>Description</u>
LDDE48	2016 Dodge Charger 4dr Sdn Police RWD

### SELECTED VEHICLE COLORS - 2016 Fleet/Non-Retail LDDE48 4dr Sdn Police RWD

<u>Code</u>	<u>Description</u>
-	Interior: No color has been selected.
-	Exterior 1: No color has been selected.
-	Exterior 2: No color has been selected.

### SELECTED OPTIONS - 2016 Fleet/Non-Retail LDDE48 4dr Sdn Police RWD

#### CATEGORY

<u>Code</u>	<u>Description</u>
ENGINE	
ERB	ENGINE: 3.6L V6 24V VVT (FFV) (Requires XKN)
TRANSMISSION	
DGJ	TRANSMISSION: 5-SPEED AUTOMATIC (W5A580) (STD)
CPOS PKG	
27A	QUICK ORDER PACKAGE 27A -inc: Engine: 3.6L V6 24V VVT, Transmission: 5-Speed Automatic (W5A580)
TIRES	
TWW	TIRES: P225/60R18 BSW PERFORMANCE (STD)
PRIMARY PAINT	
PX8	PITCH BLACK CLEARCOAT
PAINT SCHEME	
---	STANDARD PAINT
SEAT TYPE	
C8X9	BLACK, HEAVY DUTY CLOTH BUCKET & REAR BENCH SEATS
ADDITIONAL EQUIPMENT	
AMV	FLEET PARK ASSIST GROUP -inc: ParkView Rear Back-Up Camera, ParkSense Rear Park Assist System
GUK	POWER HEATED MIRRORS W/MAN F/AWAY -inc: Exterior Mirrors w/Heating Element
LNF	BLACK LEFT SPOT LAMP
LNA	MATCHING RIGHT SPOT LAMP (Requires LNF)
XKN	FLEX FUEL VEHICLE (Requires ERB)
XDV	DRIVE SIDE BALLISTIC DOOR PANEL
XDG	PASSENGER SIDE BALLISTIC DOOR PANEL
CKD	FLOOR CARPET -inc: Front & Rear Floor Mats

Report content is based on current data version referenced. Any performance-related calculations are offered solely as guidelines. Actual unit performance will depend on your operating conditions.

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Customer File:

# PURSUIT NORTH

661 Garcia Avenue  
 Pittsburg, CA 94565  
 Phone: 925-370-2144  
 Fax: 925-370-2087

\*\* QUOTATION \*\*  
 \*\*\* DUPLICATE \*\*\*  
 Ord # 02 00954  
 P/O # 2 PATROL

NET 30 DAYS

INSTALLED

Br Acct  
 00 40490

S KING CITY POLICE DEPARTMENT  
 C 415 BASSETT STREET  
 D KINGS CITY CA 93930  
 T  
 O

S KING CITY POLICE DEPARTMENT  
 F 415 BASSETT STREET  
 I KINGS CITY CA 93930  
 P  
 -  
 O

MP HO  
 7/19/16  
 14:06:09  
 Expires  
 10/26/2016

Lin	Qty	Part Number	S Description	Wt.Each	Net	Value	
001	2	SE BK2007CGR15	P PB450L4 BUMPER		647.8700	1295.74	
002	2	SE GK11191B1SSSCA	F GUN RACK 1B1S		729.0000	1458.00	
003	2	SE WK0513CGR11	F WINDOW BARS		159.2000	318.40	
004	2	SE DK0100CGR11	F DOOR PANEL COVR		188.0000	376.00	
005	2	SE PK0418CGR11SCA	10S C RP COATED		546.7500	1093.50	
006	2	SE ST0380CGR11	P LEP CHGR		53.2500	106.50	
007	2	WH GB8DEDE	F LEGACY DUO COLO	2300.0000		4600.00	
008	2	WH STPKT82	F 2011 CHRGR STRAP				
009	2	WH SA315P	F SIREN SPEAKER		195.0000	390.00	
010	2	WH SAK37	F SPEAKER BRACKET		25.9000	51.80	
011	2	WH MBDC11RB	F MIRRORBEAMS CHG		265.0000	530.00	
012	2	GJ 7160-0327	F CHRGR CON 2011		387.9300	775.86	
		INCLUDES CUP HOLDER AND ARMREST					
013	2	GJ 7160-0523	F 3" FACE PLATE				
014	2	GJ 7160-0339	F 4" FP CENCOM				
015	2	GJ 14422	F 2" USB F/PLATE				
016	4	GJ 3130-0152	F 1/2" BLANK				
017	4	GJ 3130-0153	F 1" FILLER PANEL				
018	4	GJ 3130-0154	F 2" FILLER PANEL				
019	2	WH IONR	F ION LED RED		123.2000	246.40	
		DRIVER'S SIDE TRUNK LIGHT					
020	2	WH IONB	F ION LED BLUE		123.2000	246.40	
		PASSENGER'S SIDE TRUNK LIGHT					
021	2	WH CCSRNT36	F CENCOM W/TA MOD		625.0000	1250.00	
022	2	RD MB8U	F CABLE 17' RG58U		18.9900	37.98	
023	2	HS CTFD-CHGR-2	F TRUNK TRAY		393.7500	787.50	
024	2	LG DC9502	2011 CHGR SEAT		519.0000	1038.00	
025	2	MM MMSU-1	F MAGNETIC MIC KT		28.5000	57.00	
026	2	PP 02-0411	P CHARGER HARNESS		595.0000	1190.00	
027	2	MS INSTALL	INSTALL PKG		85.0000	170.00	
028	2	LA I	INSTALLATION		2400.0000	4800.00	
		LABOR TO INSTALL EMERGENCY VEHICLE EQUIPMENT. CUSTOMER SUPPLIED RADIO.					
029	2	HS C-STB-CHGR	TRNK, OPT, CHGR, 0		36.9600	73.92	

2017 DODGE CHARGER

TOTAL UNITS	64	PART TOTAL	20893.00	CORE TOTAL		FREIGHT	500.00	HANDLING		OTHER		TAX	1514.74
RCVD BY							PAY TO AMOUNT			\$	22907.74		

# PURSUIT NORTH

661 Garcia Avenue  
Pittsburg, CA 94565  
Phone 925-370-2144  
Fax 925-370-2087

\*\* QUOTATION \*\*  
\*\*\* DUPLICATE \*\*\*  
Ord # 02 00957  
P/O # SLICK TOP

NET 30 DAYS

INSTALLED

Br Acct  
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KING CITY POLICE DEPARTMENT  
415 BASSETT STREET  
KINGS CITY CA 93930

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KING CITY POLICE DEPARTMENT  
415 BASSETT STREET  
KINGS CITY CA 93930

MP HO  
7/19/16  
14:12:25  
Expires  
10/26/2016

Lin	Qty	Part Number	S Description	Wt. Each	Net	Value	
001	1	SE BK2007CGR15	F PB450L4 BUMPER		647.8700	647.87	
002	1	WH SA315P	F SIREN SPEAKER		195.0000	195.00	
003	1	WH SAK37	F SPEAKER BRACKET		25.9000	25.90	
004	1	WH MBDC11RB	F MIRRORBEAMS CHG		265.0000	265.00	
005	1	WH IX35UFZ	F INNER EDGE		694.1200	694.12	
006	1	WH ISTRAY10	INNER EDGE RTX		887.7500	887.75	
007	1	WH IE35LRZ	HOUSING IN/EDGE				
008	1	GJ 7160-0327	F CHR9 CON 2011		387.9300	387.93	
		INCLUDES CUP HOLDER AND ARMREST					
009	1	GJ 7160-0523	F 3" FACE PLATE				
010	1	GJ 14422	F 2" USB F/PLATE				
011	1	GJ 7160-0339	F 4" FP CENCOM				
012	2	GJ 3130-0152	F 1/2" BLANK				
013	2	GJ 3130-0153	F 1" FILLER PANEL				
014	2	GJ 3130-0154	F 2" FILLER PANEL				
015	1	WH IONR	F ION LED RED		123.2000	123.20	
		DRIVER'S SIDE TRUNK LIGHT					
016	1	WH IONB	F ION LED BLUE		123.2000	123.20	
		PASSENGER'S SIDE TRUNK LIGHT					
017	1	WH CCSRNT36	F CENCOM W/TA MOD		625.0000	625.00	
018	1	RD MB8U	F CABLE 17' RG58U		18.9900	18.99	
019	1	HS CTFD-CHGR-2	F TRUNK TRAY		393.7500	393.75	
020	1	HS C-STB-CHGR	TRNK, OPT, CHGR,		36.9600	36.96	
021	1	MM MMSU-1	F MAGNETIC MIC KT		28.5000	28.50	
022	1	PP 02-0411	F CHARGER HARNESS		595.0000	595.00	
023	1	MS INSTALL	INSTALL PKG		85.0000	85.00	
024	1	LA I	INSTALLATION		2175.0000	2175.00	

LABOR TO INSTALL EMERGENCY VEHICLE EQUIPMENT. CUSTOMER SUPPLIED RADIO.

2017 DODGE CHARGER

27	7308.17		150.00			529.84
TOTAL UNITS	PART TOTAL	CORE TOTAL	FREIGHT	HANDLING	OTHER	TAX
						\$ 7988.01



3240 Mike Collins Drive  
 Eagan, MN 55121  
 888-683-9665 Toll free  
 651-683-9740 Fax

# Quotation

Date	Estimate #
7/21/2016	02777

<b>Bill To</b>
King City Police Dept. Accts Payable 415 Bassett St. King City, CA 93930

<b>Ship To</b>
King City Police Dept. Capt. Engles 415 Bassett St. King City, CA 93930

Terms	Est. Delivery from art approval	Rep	Project Name	
Net 30		Paul		
Qty	Description	Price	Total	
2	Custom Nonreflective vehicle graphic kits for 2016 black and white (only the front doors of vehicle are white) Dodge Charger (unit # 102 and 103)  *Graphics kit to be same style graphics as on black and white 2016 Ford Explorers with only one white door (all lettering is straight)	324.00	648.00	
2	18 inch tall black nonreflective roof numbers 102 and 103 for white roof of 2016 Dodge Charger (one of each number)	60.00	120.00	
1	Shipping/Handling	30.00	30.00	

This estimate is based on plans and specifications provided at the time the estimate was given. Changes requested by the customer may cause a change in the quoted price. Freight will be added to the invoice unless other arrangements are made. This quote is valid for 30 days.

Authorization Signature and Date

X \_\_\_\_\_

<b>Subtotal</b>	\$798.00
<b>Sales Tax (0.00)</b>	\$0.00
<b>Total</b>	<b>\$798.00</b>



July 25, 2016

LESSEE: City of King
LESSOR: PNC Equipment Finance, LLC
EQUIPMENT COST/FINANCED AMOUNT: \$78,000.00

Table with 5 columns: Term, Lease Rate, Lease Factor, Payment Structure, Payment Amount. Row 1: 4 years, 2.612%, 0.26032577, Annual in Advance, \$20,305.41. Row 2: First payment due 30 days after lease commencement.

PNC Equipment Finance, LLC ("PNC"), for itself, its successors and assigns, is pleased to submit this tax-exempt Lease Purchase Agreement Proposal (the "Proposal") with the following terms and conditions

TYPE OF FINANCING: Tax-exempt Lease Purchase Agreement with a \$1.00 buy out option at end of lease term. Said agreement shall be a net lease arrangement whereby lessee is responsible for all costs of operation, maintenance, insurance, and taxes.

BANK QUALIFICATION: This Proposal assumes that the Lessee will be issuing less than \$10 million in tax-exempt debt during calendar year 2016. Furthermore, it is assumed that the Lessee will designate this issue as a qualified tax-exempt obligation pursuant to Section 265(b) 3 of the Internal Revenue Code of 1986, as amended (the "Code").

TYPE OF EQUIPMENT: Police Patrol Vehicles and Associated Equipment
All prices, terms, conditions and selection are solely by Lessee.

INSURANCE: The Lessee shall furnish confirmation of all risk physical damage insurance coverage for the full cost of the property. In addition, Lessee shall provide \$2 million combined single limit property damage and bodily injury insurance covering the property.

AUTHORIZED SIGNORS: The Lessee's governing board shall provide Lessor with its resolution or ordinance authorizing this Agreement and shall designate the individual(s) to execute the Agreement used therein.

ESCROW FUNDING OPTION: At lease closing, Lessor shall fund the entire Financed Amount into an escrow account from which disbursements will be made to the existing Lessor and to equipment provider(s) as directed.

LEGAL OPINION: The Lessee's counsel shall furnish Lessor with an opinion covering this Agreement. This opinion shall be in a form and substance satisfactory to Lessor.

LEGAL TITLE: Legal title to the equipment during the lease term shall vest in the Lessee, with Lessor perfecting a first security interest through uniform commercial code filing or any other such instruments as may be required by law.

DOCUMENTATION: Lessor shall provide the Agreement.

DOCUMENTATION FEE: \$350.00

PREPAYMENT OPTION: So long as Lessee is not in default of the Agreement, Lessee shall have the option of paying off this transaction before the maturity date by paying the outstanding principal balance at the time of payoff plus two percent of such amount.

This proposal will be valid for Thirty (30) days from the above date and is subject to final credit approval by PNC Equipment Finance and approval of the lease documents in PNC's sole discretion. To render a credit decision, lessee shall provide PNC with its most recent audited financial statements.

I trust that you will find the contents of this Proposal to your satisfaction. If you should have any questions please me at 614-463-6580 or toll free at 866-215-9619 ext. 2.

Accepted by:

Proposal submitted by:

Lessee

Date

Alan Zuelke, Business Development Officer

PNC Equipment Finance
155 E. Broad Street
Columbus, OH 43215
866-215-9619 ext. 2 // 800-678-0602 (fax)

## Amortization Schedule

Compound Period: Annual  
 Nominal Annual Rate: 2.612%

### AMORTIZATION SCHEDULE - Normal Amortization, 360 Day Year

	Date	Payment	Interest	Principal	Balance	Termination Value
Loan	8/14/2016				78,000.00	Non-Callable
1	9/14/2016	20,305.41	175.42	20,129.99	57,870.01	Non-Callable
2	9/14/2017	20,305.41	1,511.39	18,794.02	39,075.99	Non-Callable
3	9/14/2018	20,305.41	1,020.55	19,284.86	19,791.13	Non-Callable
4	9/14/2019	20,305.41	514.28	19,791.13	0.00	1.00
Grand Totals		81,221.64	3,221.64	78,000.00		

## Synopsys of Quote & Payments for Two Patrol Vehicles

Two (2) 2016 Police Dodge Chargers @ \$26,639.12 ea. = \$53,278.24

Two (2) Emergency Lights, Siren & Equipment outfit and installation @11,453.87 ea. = \$22,907.74

Two police graphic kits for patrol cars (approximately \$800.00 ea. = \$1,600.00

Total amount finance via lease (approximately) \$77,785.98

Four annual payments of (approximately) \$20,305.00 for the two vehicles

## Synopsys of Quote & Payment for One Admin Vehicle

One (1) 2016 Police Dodge Charger @ \$26,638.75 ea.

One (1) Emergency Lights, Siren & Equipment outfit and installation @ \$7,988.01

Total cost (approximately) \$34,626.76 (paid from police personnel savings).





Item No. **9 (L)**

**REPORT TO THE CITY COUNCIL**

**DATE: AUGUST 9, 2016**

**TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL**

**FROM: STEVEN ADAMS, CITY MANAGER**

**RE: CONSIDERATION OF CHANGE ORDER TO SEWER LINE PROJECT TO ADD PAVING OF SOUTH MILDRED AVENUE**

**RECOMMENDATION:**

It is recommended the City Council approve and authorize a change order to the Sewer Line Project in the amount of \$185,000 to repave Mildred Avenue from Broadway Street to Division Street.

**BACKGROUND:**

The City's sewer line project has required a significant amount of excavation in the streets to install the new line. The original project bids only require repaving the trench area. It does not include any repaving of the entire street even though it has resulted in damage to the pavement. While paving the entire project area would be preferable if funding were available, staff does not believe the work will have a significant impact on the life of the street surface even though it has a negative aesthetic impact. However, South Mildred Avenue is particularly impacted since the street was already in such poor condition. Staff is now recommending that section of the project be repaved.

**DISCUSSION:**

The proposed work includes paving of Mildred Avenue from Broadway Street to Division Street. It will include providing an 8 foot wedge grind along the edge of the gutter, installation of a 1 inch asphalt concrete leveling course to smooth the road surface, and then installation of a 2 inch overlay.

If the paving is done as part of the overall project, the City will experience a reduction in cost when compared to bidding the paving work separately at a later date. There is available funding in the approved project contingency budget.

**CITY COUNCIL  
CONSIDERATION OF CHANGE ORDER TO SEWER LINE PROJECT TO ADD  
PAVING OF SOUTH MILDRED AVENUE  
AUGUST 9, 2016  
PAGE 2 OF 2**

However, staff is bringing this item to Council for consideration and direction because it is a relatively significant change in the original scope of work. Therefore, while no additional appropriation is necessary at this time, it could result in a later cost overrun if other unanticipated items are experienced prior to completion of the project.

**COST ANALYSIS:**

The total budget for the project is \$5,500,000. Of that amount, \$900,000 was budgeted for contingencies. Thus far, \$616,020 of that has been expended, leaving \$283,980. The projected cost to pave Mildred Avenue from Broadway Street to Division Street is \$185,000. Therefore, this work will draw the contingency down to approximately \$33,000.

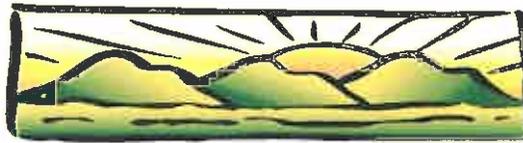
**ALTERNATIVES:**

The following alternatives are provided for City Council consideration:

1. Approve staff's recommendation;
2. Do not authorize the change order and bid the work separately at a later time;
3. Do not pave the street at this time; or
5. Provide staff other direction.

Prepared and Approved by:

  
\_\_\_\_\_  
Steven Adams, City Manager



**KING CITY**  
C A L I F O R N I A

Item No. **10 (A)**

**REPORT TO THE CITY COUNCIL**

**DATE:** AUGUST 9, 2016

**TO:** HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

**FROM:** STEVEN ADAMS, CITY MANAGER

**RE:** CONSIDERATION OF RESOLUTION PLACING ON THE NOVEMBER 8, 2016 ELECTION BALLOT AN ORDINANCE TO ADD AN ANNUAL COMMERCIAL CANNABIS TAX ON MEDICAL AND NON-MEDICAL MARIJUANA CULTIVATION, NURSERIES, MANUFACTURING AND TESTING

**RECOMMENDATION:**

It is recommended the City Council: 1) adopt a Resolution placing on the ballot of the election to be held on November 8, 2016 an Ordinance to add an annual commercial cannabis tax on medical and non-medical marijuana cultivation, nurseries, manufacturing and testing; 2) authorize the City Manager to make any immaterial changes to the ballot question language deemed necessary by the County Elections Office to comply with their election requirements; and 3) direct staff to distribute a public education mailer to each address in the City.

**BACKGROUND:**

At the January 26, 2016 meeting, the City Council adopted an ordinance allowing cultivation of medical marijuana in the M-1 and M-2 zoning districts and the East Ranch Business Park Specific Plan area. Staff is currently working on amendments to allow manufacturing, nurseries, and testing, as well as to address other issues that have been identified.

When the Council approved the Ordinance allowing medical marijuana cultivation, it was the intent to establish a tax to generate revenue from the medical marijuana businesses. It is recommended the tax measure be placed on the November 8, 2016 ballot, which will require a majority vote. At the March 22, 2016 meeting, the City Council approved a consultant services agreement with HdL Companies and appropriated \$20,000 for them to assist the City in drafting the tax measure.

**CITY COUNCIL  
CONSIDERATION OF RESOLUTION PLACING ON THE NOVEMBER 8, 2016  
ELECTION BALLOT AN ORDINANCE TO ADD AN ANNUAL COMMERCIAL  
CANNABIS TAX ON MEDICAL AND NON-MEDICAL MARIJUANA  
CULTIVATION, NURSERIES, MANUFACTURING AND TESTING  
AUGUST 9, 2016  
PAGE 2 OF 3**

At the April 26, 2016 meeting, the City Council received a presentation on alternatives from the consultant and provided initial direction. Draft ordinances were then presented to the City Council at the May 24, 2016 and June 28, 2016 meetings. The direction received was incorporated and the Council adopted a Resolution at the July 12, 2016 meeting, which approved placing the measure on the ballot on July 12, 2016.

However, following that meeting, the City Attorney's Office received notification that the State recently amended the Elections Code with a new requirement impacting the proposed ballot language. Section 13119 now sets forth that if a proposed ordinance imposes a tax or raises the rate of a tax, the ballot shall include an estimate of the revenues to be generated and the duration of the tax to be levied.

**DISCUSSION:**

Therefore, the recommended revised Resolution includes a modification to the ballot language to address this requirement. No other changes have been made to the Resolution or Ordinance. The County Elections Office has reviewed the proposed ballot language and responded that it meets their requirements and is within the allowed word count. However, it is exactly at the word count limit of 75 words under their criteria of how words are counted. Therefore, staff is recommending the Council authorize the City Manager to make any adjustments necessary if the County Elections Office determines any changes are needed when they perform their official review of the submitted Resolution.

The recommended Resolution and Ordinance includes a tax on cultivation of \$25 per square foot for the first 5,000 square feet and \$10 per square foot for the remaining amount. For a maximum 22,000 square foot facility, this would equate to \$13.41 per square foot. The proposed tax on nurseries is \$5 per square foot for the first 5,000 square feet and \$2.50 per square foot thereafter. Manufacturing and testing facilities remain a lump sum amount of \$30,000 annually per facility.

To help educate the public, it is recommended the City distribute an 8½" by 5½" post card with public information on the measure to each address in the City. It is not legal for the City to expend any public funds on advocating the measure, but it can provide public education. It is important for the public to be informed on what is being proposed. Therefore, staff recommends a small mailer be sent out with basic factual information regarding the proposed measure.

**CITY COUNCIL  
CONSIDERATION OF RESOLUTION PLACING ON THE NOVEMBER 8, 2016  
ELECTION BALLOT AN ORDINANCE TO ADD AN ANNUAL COMMERCIAL  
CANNABIS TAX ON MEDICAL AND NON-MEDICAL MARIJUANA  
CULTIVATION, NURSERIES, MANUFACTURING AND TESTING  
AUGUST 9, 2016  
PAGE 3 OF 3**

**COST ANALYSIS:**

Projected revenue from the tax will depend on the tax rate and the number of businesses that are licensed. Given that State regulations are still under development, the number of future businesses is difficult to anticipate. Based on the recommendations, a maximize size cultivation facility would generate \$295,000 in annual revenue. If it was accompanied by a manufacturing facility and nursery, the revenue would be \$355,000. Therefore, six such facilities would be needed to reach the established target in the Long-Range Financial Plan to generate at least \$2 million annually. Based on an analysis by both staff and the City's consultant, it is recommended to include an estimate in the ballot language of \$1 million to \$2 million.

The cost of the mailer is estimated to be approximately \$1,000. It can be paid for from existing budgeted funds so no appropriation is necessary.

**ALTERNATIVES:**

The following alternatives are provided for City Council consideration:

1. Adopt the Resolution placing the proposed tax measure Ordinance on the November 8, 2016 ballot and approve the mailer;
2. Adopt the Resolution and Ordinance with an amendment to modify the tax rate, but this would be problematic since public information has already been distributed regarding the rate established in the prior Resolution;
3. Adopt the Resolution, but do not approve the mailer;
4. Make other changes and then adopt the Resolution; or
5. Provide staff other direction.

Prepared and Approved by:

  
\_\_\_\_\_  
Steven Adams, City Manager

KING CITY COUNCIL  
RESOLUTION NO. 2016-4531

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KING, CALIFORNIA SUBMITTING TO THE QUALIFIED ELECTORS OF THE CITY AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2016, A PROPOSED ORDINANCE MODIFYING THE BUSINESS LICENSE AND REGULATIONS, TITLE 5 OF THE KING CITY MUNICIPAL CODE TO CREATE CHAPTER 5.14 "COMMERCIAL CANNABIS TAX" TO IMPLEMENT AN ANNUAL TAX ON MEDICAL AND NONMEDICAL MARIJUANA CULTIVATION, NURSERIES, MANUFACTURING AND TESTING AS PERMISSIBLE BY STATE AND LOCAL LAW FOR THE PURPOSE OF RAISING REVENUE TO FUND GENERAL MUNICIPAL SERVICES SET AT AN INITIAL RATE OF TWENTY-FIVE DOLLARS (\$25) PER SQUARE FOOT FOR THE FIRST 5,000 SQUARE FEET OF CANOPY SPACE AND THEN TEN DOLLARS (\$10) PER SQUARE FOOT FOR THE REMAINING CANOPY SPACE AS CALCULATED BY THE MAXIMUM SPACE PERMITTED OR LICENSED FOR THE CULTIVATION OF MARIJUANA AND AN INITIAL RATE OF FIVE (\$5) DOLLARS PER SQUARE FOOT FOR THE FIRST 5,000 SQUARE FEET OF CANOPY SPACE AND THEN TWO DOLLARS AND FIFTY CENTS (\$2.50) PER SQUARE FOOT FOR THE REMAINING CANOPY SPACE AS CALCULATED BY THE MAXIMUM SPACE PERMITTED OR LICENSED FOR THE CULTIVATION OF MARIJUANA CONDUCTED ONLY AS A NURSERY (TYPE 4 PERMIT) AND AN INITIAL FLAT TAX RATE OF THIRTY THOUSAND DOLLARS (\$30,000) PER FACILITY IN CONNECTION WITH COMMERCIAL CANNABIS MANUFACTURING AND AN INITIAL FLAT TAX RATE OF THIRTY THOUSAND DOLLARS (\$30,000) PER FACILITY IN CONNECTION WITH COMMERCIAL CANNABIS TESTING AND A CONSUMER PRICE INDEX INCREASE MAY BE IMPOSED ANNUALLY ON ALL OF THE ABOVE TAXES IMPOSED UPON CANNABIS BUSINESSES IN THE CITY AFTER THREE YEARS AND PROVIDING STAFF WITH DIRECTION RELATED THERETO

**WHEREAS**, through the passage of Proposition 215, the voters of California authorized the use of cannabis for medical purpose in 1996; and

**WHEREAS**, the City Council of the City of King has adopted medical cannabis permitting regulations to prevent nuisance, provide for effective controls, enable medical cannabis patients to obtain cannabis from safe sources, and wish to provide appropriate licensing and revenue for the City in a manner consistent with state law; and

**WHEREAS**, every person engaged in business activity in the City of King is required to obtain a business tax certificate and to pay the City's business tax; and

**WHEREAS**, pursuant to Chapter 5.12 of the King City Municipal Code, Section 5.12 cannabis businesses are not currently taxed in a classification category; and

**WHEREAS**, accordingly, the City Council of the City of King desires to create Chapter 5.14 to create new rates for Cannabis businesses as follows: a) Medical Cannabis Cultivation b) Cultivation Nurseries c) Medical Cannabis Manufacturing, and d) “Non-Medical” cannabis businesses (whether cultivating or manufacturing other than medical cannabis) where permissible by state and local law; and

**WHEREAS**, the City of King seeks to appropriately regulate cannabis facilities and seeks adequate funding to provide essential public services and all revenues received from the tax will be deposited in the general fund of the City to be expended for general purposes; now, therefore, be it

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of King that:

**Section 1. Recitals and Findings.** All of the recitals set forth above are true and correct to the best of its knowledge and are hereby adopted as findings of the City Council.

**Section 2. Call for Consolidated Election.** As set forth in Resolution 2016-4525 adopted on June 28, 2016, the City Council of the City of King has ordered an election to be called and consolidated with any and all elections also called to be held on November 8, 2016, insofar as said elections are to be held in the same territory or in territory that is in part the same as the territory of the City of King, and has requested that the Board of Supervisors of the County of Monterey order such consolidation under Elections Code Sections 10401 and 10403. The City Council further requests the Board of Supervisors to permit the Monterey Elections Department to provide any and all services necessary for conducting the election and agrees to pay for said services under Elections Code Section 10002.

**Section 3. Placement of Measure on Ballot.** That the City Council, pursuant to its right and authority, does order submitted to the voters at the General Municipal Election the following question concerning an addition of a new “commercial cannabis tax” on medical and nonmedical marijuana cultivation, nursery, manufacturing and testing activities to Title 5 of the King City Municipal Code:

Shall a City of King Ordinance be adopted to tax lawful medical and nonmedical marijuana businesses at \$25.00 per square foot for the first 5,000 square feet and \$10.00 per square foot thereafter for cultivation; not to exceed \$5.00 per square foot for nurseries; \$30,000.00 each for manufacturing and testing facilities; and may be adjusted annually by CPI; which is estimated to generate \$1 million to \$2 million annually to fund City of King services with no termination date?	Yes
	No

**Section 4. Proposed Ordinance.** The ordinance establishing a commercial cannabis tax to be imposed on medical marijuana cultivation, nursery, manufacturing and testing activities to be approved by the voters pursuant to Section 3 is as set forth in Exhibit "A" hereto. The City Council hereby approves the ordinance, the form thereof, and its submission to the voters of the City at the November 8, 2016 election, as required by Revenue and Taxation Code Section 7285.9, subject to the approval of the majority of the voters voting on the measure at a combined General and Municipal election. The entire text of the ordinance attached hereto as Exhibit A shall be printed in the voter information portion of the sample ballot.

**Section 5. Impartial Analysis and Submission of Ballot Arguments.** The City Attorney is hereby authorized to prepare an impartial analysis of the proposed measure. The Attorney's impartial analysis of the ballot measure shall not exceed five hundred (500) words in length showing the effect of the measure on the existing laws and the operation of the measure. Written arguments in favor or opposed to the measure may be prepared by the City Council, any member or members of the City Council so authorized by Council action, any individual voter who is eligible to vote on the measure, and bona fide association of citizens, or any combination of voters and associations. All arguments must be submitted to the City Clerk by 5:00 p.m. on August 16, 2016. No argument may exceed three hundred (300) words in length. A ballot argument may not be accepted unless accompanied by the printed name and signature or printed names and signatures of the author or authors submitting it, or if submitted on behalf of an organization, the name of the organization and the printed name and signature of at least one of the principal officers who is the author of the argument. No more than five signatures shall appear on any argument. If more than one argument is submitted for or against a measure, the City Clerk shall select the argument for printing and distribution in accordance with the provisions of Elections Code Section 9287. Pursuant to Section 9285 of the California Elections Code, when the City Clerk has selected the argument for and against the measure, which will be printed and distributed to the voters, the City Clerk will send copies of the argument in favor of the measure to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. Rebuttal arguments may thereafter be prepared in a length not exceeding two hundred and fifty (250) words, and shall be filed with the City Clerk by no later than 5:00 p.m. on August 23, 2016. Rebuttal arguments shall be printed in the same manner as the direct arguments.

Each rebuttal argument shall immediately follow the direct argument, which it seeks to rebut.

**Section 6. CEQA.** The City Council finds that based on all available information as of July 12, 2016, that under California Environmental Quality Act (CEQA) Guidelines Section 15060(c)(2), subdivisions (2) and (4) of subdivision (b), the involved action does not constitute a project under CEQA and therefore review under CEQA is not required.

**Section 7. Publication of Measure.** In accordance with Section 12111 of the Elections Code and Section 6061 of the Government Code, the City Clerk is hereby authorized and directed to cause notice of the measure to be published once in a weekly newspaper of general circulation, printed, published and circulated in the City of King and hereby designated for the purpose by the City Council.

**Section 8. Canvass of Votes.** The City hereby requests the Registrar of Voters to conduct the official canvass, commencing no later than November 10, 2016, and to provide the City with an Official Canvass and Statement of Voters. The City Council shall meet on or before the next scheduled meeting following the certification of the election to approve the canvass.

**Section 9 Payment for Services.** The City Council authorizes and directs the City Manager to enter into the standard "Service Agreement for the Provision of Election Services" between the City of King and the Monterey County Registrar of Voters.

**Section 10. Effective Date.** This resolution shall become effective immediately upon its passage and forthwith entered upon the minutes of the Council and kept and maintained by the City Clerk of the City of King.

**Section 11. Certification and Administration.** The City Clerk is hereby authorized and directed to certify to the due adoption of this Resolution and to transmit a copy hereof so certified to the Board of Supervisors and the Registrar of Voters of Monterey County. The City Clerk is further hereby directed to obtain printing; supplies and services as required and directed to take any and all actions necessary under law to prepare for and conduct the General Election.

**Section 12. Prior Resolution.** This Resolution supersedes Resolution No. 2016-4529. Resolution No 2016-4529 is hereby rescinded in its entirety.

**PASSED AND ADOPTED** by the City Council of the City of King at a regular meeting duly held on the 9<sup>TH</sup> day of August 2016, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Robert Cullen, Mayor

ATTEST:

\_\_\_\_\_  
Steven Adams, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Martin Koczanowicz, City Attorney



## Chapter 5.14

### Commercial Cannabis Tax

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#### **5.14.010 Purpose of chapter.**

This chapter shall be entitled the "Commercial Cannabis Tax" and is enacted solely to raise revenue for the general governmental purposes for the City and not for purposes of regulation or of raising revenues for regulatory purposes. All of the proceeds from the tax imposed by this chapter shall be placed in the City's general fund and used for the purposes consistent with the general fund expenditures of the City.

#### **5.14.020 Tax imposed.**

There is established and imposed, a commercial cannabis tax at the rate set forth in this chapter.

#### **5.14.030 Definitions**

The definitions set forth in this part shall govern the application and interpretation of this chapter.

(A) "Business" shall include all activities engaged in or caused to be engaged in within the City, including any commercial or industrial enterprise, trade, profession, occupation, vocation, calling, or livelihood, whether or not carried on for gain or profit, but shall not include the services rendered by an employee to his or her employer.

(B) "Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin.

(C) "Cannabis business" or "medical marijuana business" or "non-medical marijuana business" means any commercial business activity not limited to, cultivation, testing, transporting, manufacturing, compounding, converting, processing, preparing, storing, packaging, wholesale, and/or retail sales of Cannabis and any ancillary products in the city, whether or not carried on for gain or profit which is permitted by both State and local law.

(D) "Commercial Cannabis tax", "Business tax" or "Cannabis tax" means the tax due for engaging in Commercial Cannabis business in the city.

(E) "Canopy" means all areas occupied by any portion of a cannabis plant, inclusive of all vertical planes, whether contiguous on any one site. The plant canopy does not need to be continuous on any premise in determining the total square footage which will be subject to tax.

(F) "Cultivation Facility" or "Grow Site" shall mean the square footage of any place or location where cannabis or any of its derivatives is cultivated, grown, harvested, packaged processed or stored.

(G) "Distributor" or "Distribution" or "Distribution Facility" shall mean a person or facility licensed by the State to engage in the business of purchasing medical cannabis from a licensed cultivator, or medical cannabis products from a licensed manufacturer, for sale to a licensed dispensary.

(H) "Employee" means each and every person engaged in the operation or conduct of any business, whether as owner, member of the owner's family, partner, associate, agent, manager or solicitor, and each and every other person employed or working in such business for a wage, salary, commission, barter or any other form of compensation.

(I) "Engaged in business" means the commencing, conducting, operating, managing or carrying on of a Cannabis business and the exercise of corporate or franchise powers, whether done as owner, or by means of an officer, agent, manager, employee, or otherwise, whether operating from a fixed location in the City or coming into the City from an outside location to engage in such activities. A person shall be deemed engaged in business within the City if:

(1) Such person or person's employee maintains a fixed place of business within the City for the benefit or partial benefit of such person;

(2) Such person or person's employee owns or leases real property within the City for business purposes;

(3) Such person or person's employee regularly maintains a stock of tangible personal property in the City for sale in the ordinary course of business;

(4) Such person or person's employee regularly conducts solicitation of business within the City;

(5) Such person or person's employee performs work or renders services in the City on a regular and continuous basis involving more than five working days per year;

(6) Such person or person's employee utilizes the streets within the City in connection with the operation of motor vehicles for business purposes. The foregoing specified activities shall not be a limitation on the meaning of "engaged in business."

(J) "Evidence of doing business" means whenever any person shall, by use of signs, circulars, cards or any other advertising media, including the use of internet or telephone solicitation, or represents to a government agency or to the public that such person is engaged in a Cannabis business in the City, then these facts may be used as evidence that such person is engaged in business in the City.

(K) "Gross Receipts" except as otherwise specifically provided, means the total amount actually received or receivable from all sales; the total amount or compensation actually received or receivable for the performance of any act or service, of whatever nature it may be, for which a charge is made or credit allowed, whether or not such act or service is done as a part of or in connection with the sale of materials, goods, wares or merchandise; discounts, rents, royalties, fees, commissions, dividends, and gains realized from trading in stocks or bonds, however designated. Included in "gross receipts" shall be all receipts, cash, credits and property of any kind or nature, without any deduction there from on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever, except that the following shall be excluded there from:

- (1) Cash discounts allowed and taken on sales;
- (2) Credit allowed on property accepted as part of the purchase price and which property may later be sold, at which time the sales price shall be included as gross receipts;
- (3) Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
- (4) Such part of the sale price of any property returned by purchasers to the seller as refunded by the seller by way of cash or credit allowances or return of refundable deposits previously included in gross receipts;
- (5) Receipts from investments where the holder of the investment receives only interest and/or dividends, royalties, annuities and gains from the sale or exchange of stock or securities solely for a person's own account, not derived in the ordinary course of a business; Receipts derived from the occasional sale of used, obsolete or surplus trade fixtures, machinery or other equipment used by the taxpayer in the regular course of the taxpayer's business;

(6) Cash value of sales, trades or transactions between departments or units of the same business;

(7) Whenever there are included within the gross receipts amounts which reflect sales for which credit is extended and such amount proved uncollectible in a subsequent year, those amounts may be excluded from the gross receipts in the year they prove to be uncollectible; provided, however, if the whole or portion of such amounts excluded as uncollectible are subsequently collected they shall be included in the amount of gross receipts for the period when they are recovered;

(8) Transactions between a partnership and its partners;

(a) Receipts from services or sales in transactions between affiliated corporations. An affiliated corporation is a corporation:

(b) The voting and non-voting stock of which is owned at least eighty percent by such other corporation with which such transaction is had; or;

(c) Which owns at least eighty percent of the voting and non-voting stock of such other corporation; or

(d) At least eighty percent of the voting and non-voting stock of which is owned by a common parent corporation which also has such ownership of the corporation with which such transaction is had;

(9) Transactions between a limited liability company and its member(s), provided the limited liability company has elected to file as a Subchapter K entity under the Internal Revenue Code and that such transaction(s) shall be treated the same as between a partnership and its partner(s) as specified in Subsection (9) above;

(10) Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded when in excess of one dollar;

(11) Amounts collected for others where the business is acting as an agent or trustee and to the extent that such amounts are paid to those for whom collected. These agents or trustees must provide the Finance Department with the names and the addresses of the others and the amounts paid to them. This exclusion shall not apply to any fees, percentages, or other payments retained by the agent or trustees.

(L) "Manufacturer" means a person that conducts the production, preparation, propagation, or compounding of manufactured medical cannabis, or medical cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis at a fixed location that packages or repackages medical cannabis or medical cannabis products or labels or relabels its container, that holds a valid state license and that holds a valid local license or permit.

- (M) "Person" means, without limitation, any natural individual, organization, firm, trust, common law trust, estate, partnership of any kind, association, syndicate, club, joint stock company, joint venture, limited liability company, corporation (including foreign, domestic, and nonprofit), cooperative, receiver, trustee, guardian, or other representative appointed by order of any court.
- (N) "Sale" means and includes any sale, exchange, or barter.
- (O) "Square Foot" or "Square Footage" shall mean the maximum canopy area allowed under permit classification by the local agency and/or licensed by the State and shall be the basis for the tax rate calculations for cultivation.
- (P) "Tax Administrator" or "administrator" means the Finance Director or such other designated by the City Manager to administer this chapter.
- (Q) "Testing" or "Testing Laboratory" shall mean a facility, entity, or site in the state and within City limits, that offers or performs tests of medical cannabis or medical cannabis products and is an accredited body by the state and is independent from all other persons involved in the medical cannabis industry.
- (R) "Transporter" means a person issued a state license and local license to transport medical or non-medical cannabis or medical non-medical cannabis products where permitted by both State and local law in an amount above the threshold determined by the state permitting agency between facilities that have been issued a state license.
- (S) "Transport" means the transfer of medical cannabis or medical cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purpose of conducting commercial cannabis activity authorized by the state.

#### **5.14.040 Other licenses, permits, taxes, fees or charges.**

Nothing contained in this Chapter 5.14 shall be deemed to repeal, amend, be in lieu of, replace or in any way affect any requirements for any license, land use entitlement or permit required by, under or by virtue of any provision of any other title or chapter of this code or any other ordinance or resolution of the city, nor be deemed to repeal, amend, be in lieu of, replace or in any way affect any tax, fee or other charge imposed, assessed or required by, under

or by virtue of any other title or chapter of this code or any other ordinance or resolution of the city. Any references made or contained in any other title or chapter of this code to any licenses, license taxes, fees or charges, or to any schedule of license fees, shall be deemed to refer to the licenses, license taxes, fees or charges, or schedule of license fees, provided for in other titles or chapters of this code.

**5.14.050 Payment of tax does not authorize unlawful business.**

(A) The payment of a cannabis tax required by this chapter, and its acceptance by the city, shall not entitle any person to carry on any Cannabis business unless the person has complied with all of the requirements of this code and all other applicable laws, nor to carry on any Cannabis business in any building or on any premises in the event that such building or premises are situated in a zone or locality in which the conduct of such Cannabis business is in violation of any law.

(B) No tax paid under the provisions of this chapter shall be construed as authorizing the conduct or continuance of any illegal or unlawful business, or any business in violation of any ordinance of the city.

**5.14.060 Payment - Location.**

The tax imposed under this chapter shall be paid to the administrator in the King City Finance Department on or before the prescribed date during regular city business hours.

**5.14.070 Amount of cannabis tax owed.**

(A) Every person whether it is a "not for profit", a "nonprofit" or a "Non-Profit Organization" as defined in this Section, or a for-profit entity who is engaged in a Commercial Cannabis Cultivation business in the city shall pay an annual cannabis tax on medical marijuana and non-medical marijuana where it is permissible by both state and local law. The initial tax shall be set at a rate of twenty-five dollars (\$25) per Square Foot of permitted or licensed canopy space for the first 5,000 square feet and then ten dollars (\$10) per square foot of canopy space for the remaining space licensed or permitted by the City or State for cultivation of marijuana. Beginning on January 1, 2020 and on January 1, of each succeeding year thereafter, the amount of tax imposed by this Section may be adjusted up to the equivalent to the most recent change in the annual average of the Consumer Price Index ("CPI") for all urban consumers in the San Francisco-Oakland-San Jose areas as published by the United States Government Bureau of Labor Statistics; if

the City Council by ordinance increases any such tax however related to the "CPI", no adjustment shall decrease any tax imposed by this Section. The taxable square footage shall be equal to the maximum square footage allowed by permit type issued by the City and/or State. In no case shall the canopy square footage not utilized for the permit type be deducted for the purpose of determining the tax.

(B) Every person whether it is a "not for profit", a "nonprofit" or a "Non-Profit Organization" as defined in this Section, or a for-profit entity who is engaged in the Manufacturing or Testing of Commercial Cannabis business in the city shall pay an annual cannabis tax on medical marijuana and non-medical marijuana where permissible by both state and local law. The initial annual tax shall be set at a flat rate of thirty thousand (\$30,000) dollars per facility for the first three (3) years. Beginning on January 1, 2020 and on January 1, of each succeeding year thereafter, the amount of each tax imposed by this Section may be adjusted up to the equivalent to the most recent change in the annual average of the Consumer Price Index ("CPI") for all urban consumers in the San Francisco-Oakland-San Jose areas as published by the United States Government Bureau of Labor Statistics; if the City Council by ordinance increases any such tax however related to the "CPI", no adjustment shall decrease any tax imposed by this Section.

(C) Every person whether it is a "not for profit", a "nonprofit" or a "Non-Profit Organization" as defined in this Section, or a for profit entity who is engaged in Commercial Cannabis Cultivation as a nursery (Type 4 permit) in the City shall pay an annual cannabis tax on medical and non-medical marijuana where it is permissible by both state and local law. The initial tax shall be set at five (\$5) dollars per square foot for the first five thousand (5,000) feet of canopy space licensed or permitted under State or local laws and two dollars and fifty cents (\$2.50) for the remaining canopy space licensed or permitted for the first three (3) years. Beginning on January 1, 2020 and on January 1, of each succeeding year thereafter, the amount of each tax imposed by this Section may be adjusted up to the equivalent to the most recent change in the annual average of the Consumer Price Index ("CPI") for all urban consumers in the San Francisco-Oakland-San Jose areas as published by the United States Government Bureau of Labor Statistics; if the City Council by ordinance increases any such tax however related to the "CPI", no adjustment shall decrease any tax imposed by this Section.

#### **5.14.080 Payment-Time limits.**

The cannabis tax imposed by this chapter shall be due and payable as follows:

(A) Each person owing a Commercial Cannabis Cultivation Tax under this chapter shall, on or before the last day of the month following the close of each calendar quarter, prepare a tax statement and remit to the administrator the tax due on the total square footage of canopy space subject to the tax. The square footage tax due shall be paid based on the type of cultivation permit issued by the state and/or the City and the maximum square footage so permitted or licensed. The tax will not be prorated or adjusted for reduction in the square footage not utilized by the business. Each business shall pay on or before the last day of the month following the close of each calendar quarter in four equal installments of the annual tax due. The City may at its discretion determine other methodologies in determining the payment of such tax in order to promulgate collection of said tax in order to reduce the burden of collection which may also include the form of payment in which the city may except for such tax.

(B) Each person owing a Commercial Manufacturing Cannabis Tax under this chapter shall prepare and submit a tax statement to the administrator with the amount of tax owed as determined by this Chapter or as adopted by ordinance by the City Council. Payment for such tax shall be made on or before January 1, of each year or it will be determined to be delinquent.

(C) All tax statements shall be completed on forms authorized by the administrator.

(D) Tax statements and payments for all outstanding taxes owed the city are immediately due to the administrator upon cessation of business for any reason.

**5.14.090 Payments and communications made by mail - Proof of timely submittal.**

Whenever any payment, statement, report, request or other communication received by the administrator is received after the time prescribed by this chapter for the receipt thereof, but there is an envelope bearing a postmark showing that it was mailed on or prior to the date prescribed in this chapter for the receipt thereof, or whenever the administrator is furnished substantial proof that the payment, statement, report, request or other communication was in fact deposited in the United States mail on or prior to the date prescribed for receipt thereof, the administrator may regard such payment, statement, report, request or other communication as having been timely received. If the due day falls on Saturday, Sunday or a holiday, the due day shall be the next regular business day on which the city is open to the public.

**5.14.100 Payment- When taxes deemed delinquent.**

Unless otherwise specifically provided under other provisions of this chapter, the taxes required to be paid pursuant to this chapter shall be deemed delinquent if not paid on or before the due date specified in Section 5.14.080.

**5.14.110 Notice not required by city.**

The administrator is not required to send a delinquency or other notice or bill to any person subject to the provisions of this chapter and failure to send such notice or bill shall not affect the validity of any tax or penalty due under the provisions of this chapter.

**5.14.120 Payment-Penalty for delinquency.**

(A) Any person who fails or refuses to pay any cannabis tax required to be paid pursuant to this chapter on or before the due date shall pay penalties and interest as follows:

(1) A penalty equal to twenty-five percent of the amount of the tax in addition to the amount of the tax, plus interest on the unpaid tax calculated from the due date of the tax at a rate established by resolution of the City Council; and

(2) An additional penalty equal to twenty-five percent of the amount of the tax if the tax remains unpaid for a period exceeding one calendar month beyond the due date, plus interest on the unpaid tax and on the unpaid penalties, calculated at the rate established by resolution of the City Council.

(3) Interest shall be applied at the monthly rate on the first day the first day of the month for the full month, and will continue to accrue monthly on the tax and penalty until the balance is paid in full.

(B) Whenever a check is submitted in payment of a cannabis tax and the check is subsequently returned unpaid by the bank upon which the check is drawn, and the check is not redeemed prior to the due date, the taxpayer will be liable for the tax amount due plus the return check fee; penalties and interest as provided for in this section; and any amount allowed under state law.

(C) The cannabis tax due shall be that amount due and payable from the first date on which the person was engaged in Cannabis business in the city, together with applicable penalties and interest calculated in accordance with Subsection(A) above.

**5.14.130 Waiver of penalties.**

The administrator may waive the first and second penalties of twenty-five percent each imposed upon any person if:

(A) The person provides evidence satisfactory to the administrator that failure to pay timely was due to circumstances beyond the control of the person and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, and the person paid the delinquent cannabis tax and accrued interest owed the city prior to applying to the administrator for a waiver.

(B) The waiver provisions specified in this subsection shall not apply to interest accrued on the delinquent tax and a waiver shall be granted only once during any twenty-four-month period.

**5.14.140 Refunds-Credits.**

(A) No refund shall be made of any tax collected pursuant to this chapter, except as provided in Section 5.14.150.

(B) No refund of any tax collected pursuant to this chapter shall be made because of the discontinuation, dissolution or other termination of a business.

(C) Any person entitled to a refund of taxes paid pursuant to this chapter may elect in writing to have such refund applied as a credit against such person's cannabis taxes for the next calendar quarter.

**5.14.150 Refunds and procedures.**

(A) Whenever the amount of any cannabis tax, penalty or interest has been overpaid, paid more than once, or has been erroneously or illegally collected or received by the city under this chapter, it may be refunded to the claimant who paid the tax provided that a written claim for refund is filed with the administrator within one year of the date the tax was originally due and payable, and the provisions of Chapter 2.50 are satisfied.

(B) The administrator or the administrator's authorized agent shall have the right to examine and audit all the books and business records of the claimant in order to determine the eligibility of the claimant to the claimed refund. No claim for refund shall be allowed if the claimant refuses to allow such examination of claimant's books and business records after request by the administrator to do so. In the event that the cannabis tax was erroneously paid and the error is attributable to the city, the city shall refund the amount of tax

erroneously paid up to one year from when the error was identified.

**5.14.160 Exemptions - Application - Issuance conditions.**

Any person desiring to claim exemption from the payment of the tax set forth in this chapter shall make application upon forms prescribed by the administrator and shall furnish such information and make such affidavits as may be required by the administrator.

**5.14.170 Exemptions - General.**

Except as may be otherwise specifically provided in this chapter, the terms hereof shall not be deemed or construed to apply to any person when imposition of the tax upon that person would violate the Constitution of the United States or that of the State of California or preemptive federal or state law.

**5.14.180 Exemptions - Occasional transactions.**

(A) The provisions of this chapter shall not apply to persons having no fixed place of business within the city who come into the city for the purpose of transacting a specific item of business at the request of a specific patient, client or customer, provided that such person does not come into the City for the purpose of transacting business on more than five days during any calendar year.

(B) For any person not having a fixed place of business within the city who comes into the city for the purpose of transacting business and who is not exempt as provided in Subsection (A) of this section, the cannabis tax payable by such person may be apportioned by the administrator in accordance with Section 5.14.210.

**5.14.190 Enforcement- Duties of tax administrator and police department.**

It shall be the duty of the administrator or his/her designee to enforce each and all of the provisions of this chapter, and the police department shall render such assistance in the enforcement of this chapter as may from time to time be required by the administrator.

**5.14.200 Rules and regulations.**

For purposes of apportionment as may be required by law and for purposes of administration and enforcement of this chapter generally, the administrator, with the concurrence of the city attorney, may from time to time promulgate administrative rules and regulations.

#### **5.14.210 Apportionment.**

(A) None of the tax provided for by this chapter shall be applied so as to occasion an undue burden upon interstate commerce or be in violation of the equal protection and due process clauses of the Constitutions of the United States or the State of California.

(B) If any case where a cannabis tax is believed by a taxpayer to place an undue burden upon interstate commerce or be in violation of such constitutional clauses, the taxpayer may apply to the administrator for an adjustment of the tax. It shall be the taxpayer's obligation to request in writing for an adjustment within one year after the date of payment of the tax. If the taxpayer does not request in writing within one year from the date of payment, then taxpayer shall be conclusively deemed to have waived any adjustment for that year and all prior years.

(C) The taxpayer shall, by sworn statement and supporting testimony, show the method of business and the gross volume of business and such other information as the administrator may deem necessary in order to determine the extent, if any, of such undue burden or violation. The administrator shall then conduct an investigation, and shall fix as the tax for the taxpayer an amount that is reasonable and nondiscriminatory, or if the tax has already been paid, shall order a refund of the amount over and above the tax so fixed. In fixing the tax to be charged, the administrator shall have the power to base the tax upon a percentage of gross receipts or any other measure which will assure that the tax assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the tax as prescribed by this chapter.

(D) Should the administrator determine that the gross receipt measure of tax to be the proper basis, the administrator may require the taxpayer to submit a sworn statement of the gross receipts and pay the amount of tax as determined by the administrator.

#### **5.14.220 Audit and examination of records and equipment.**

(A) The administrator, or its designee, shall have the power to audit and examine all books and records of persons engaged in Cannabis business including both state and federal income tax returns, California sales tax returns, or other evidence documenting the gross receipts of persons engaged in Cannabis business, and, where necessary, all equipment, of any person engaged in Cannabis business in the city, for the purpose of ascertaining the amount of cannabis tax, if any, required to be paid by the provisions hereof, and for the purpose of verifying any statements or any item thereof when filed by any person pursuant 5.14.250 through 5.14.270 of any taxes estimated to be due.

(B) It shall be the duty of every person liable for the collection and payment to the City of any tax imposed by this chapter to keep and preserve, for a period of at least three years, all records as may be necessary to determine the amount of such tax as he or she may have been liable for the collection of and payment to the City, which records the administrator shall have the right to inspect at all reasonable times.

#### **5.14.230 Tax deemed debt to city.**

The amount of any tax, penalties and interest imposed by the provisions of this chapter shall be deemed a debt to the city and any person carrying on any Cannabis business without first having paid such tax shall be liable in an action in the name of the city in any court of competent jurisdiction for the amount of the tax, and penalties and interest imposed on such business.

#### **5.14.240 Deficiency determinations.**

If the administrator is not satisfied that any statement filed as required under the provisions of this chapter is correct, or that the amount of tax is correctly computed, he or she may compute and determine the amount to be paid and make a deficiency determination upon the basis of the facts contained in the statement or upon the basis of any information in his or her possession or that may come into his or her possession within three years of the date the tax was originally due and payable. One or more deficiency determinations of the amount of tax due for a period or periods may be made. When a person discontinues engaging in a business, a deficiency determination may be made at any time within three years thereafter as to any liability arising from engaging in such business whether or not a deficiency determination is issued prior to the date the tax would otherwise be due. Whenever a deficiency determination is made, a notice shall be given to the person concerned in the same manner as notices of assessment are given under Sections 5.14.250 through 5.14.270.

#### **5.14.250 Tax assessment - Authorized when - Nonpayment - Fraud.**

(A) Under any of the following circumstances, the administrator may make and give notice of an assessment of the amount of tax owed by a person under this chapter at any time:

(1) If the person has not filed any statement required under the provisions of this chapter;

(2) If the person has not paid any tax due under the provisions of this chapter;

(3) If the person has not, after demand by the administrator, filed a corrected statement, or furnished to the administrator adequate substantiation of the information contained in a statement already filed, or paid any additional amount of tax due under the provisions of this chapter;

(4) If the administrator determines that the nonpayment of any business tax due under this chapter is due to fraud, a penalty of twenty-five percent of the amount of the tax shall be added thereto in addition to penalties and interest otherwise stated in this chapter.

(B) The notice of assessment shall separately set forth the amount of any tax known by the administrator to be due or estimated by the administrator, after consideration of all information within the administrator's knowledge concerning the business and activities of the person assessed, to be due under each applicable section of this chapter, and shall include the amount of any penalties or interest accrued on each amount to the date of the notice of assessment.

#### **5.14.260 Tax assessment - Notice requirements.**

The notice of assessment shall be served upon the person either by handing it to him or her personally, or by a deposit of the notice in the United States mail, postage prepaid thereon, addressed to the person at the address of the location of the business or to such other address as he or she shall register with the administrator for the purpose of receiving notices provided under this chapter; or, should the person have no address registered with the administrator for such purpose, then to such person's last known address. For the purposes of this section, a service by mail is complete at the time of deposit in the United States mail.

#### **5.14.270 Tax assessment - Hearing - Application and determination.**

Within ten days after the date of service the person may apply in writing to the administrator for a hearing on the assessment. If application for a hearing before the city is not made within the time herein prescribed, the tax assessed by the administrator shall become final and conclusive. Within thirty days of the receipt of any such application for hearing, the administrator shall cause the matter to be set for hearing before him or her not later than thirty-five days after the receipt of the application, unless a later date is agreed to by the administrator and the person requesting the hearing. Notice of such hearing shall be given by the administrator to the person requesting such hearing not later than five days prior to such hearing. At such hearing said applicant may appear and offer evidence why the assessment as made by the administrator should not be confirmed and fixed as the tax due. After such hearing the administrator shall

determine and reassess the proper tax to be charged and shall give written notice to the person in the manner prescribed in Section 5.14.260 for giving notice of assessment.

**5.14.280 Conviction for chapter violation -Taxes not waived.**

The conviction and punishment of any person for failure to pay the required tax shall not excuse or exempt such person from any civil action for the tax debt unpaid at the time of such conviction. No civil action shall prevent a criminal prosecution for any violation of the provisions of this chapter or of any state law requiring the payment of all taxes.

**5.14.290 Violation deemed misdemeanor - Penalty.**

Any person violating any of the provisions of this chapter or any regulation or rule passed in accordance herewith, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than five hundred (\$500) dollars or by imprisonment for a period of not more than six months, or by both such fine and imprisonment.

**5.14.300 Severability.**

Should any provision of this chapter, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this chapter or the application of this chapter to any other person or circumstance and, to that end, the provisions hereof are severable.

**5.14.310 Effect of state and federal reference/ authorization.**

(A) Unless specifically provided otherwise, any reference to a state or federal statute in this chapter shall mean such statute as it may be amended from time to time, provided that such reference to a statute herein shall not include any amendment thereto, or to any change of interpretation thereto by a state or federal agency or court of law with the duty to interpret such law, to the extent that such amendment or change of interpretation would, under California law, require voter approval of such amendment or interpretation, or to the extent that such change would result in a tax decrease. To the extent voter approval would otherwise be required or a tax decrease would result, the prior version of the statute (or interpretation) shall remain applicable; for any application or situation that would not require voter approval or result in a decrease of a tax, provisions of the amended statute (or new interpretation) shall be applicable to the maximum possible extent.

(B) To the extent that the city's authorization to collect or impose any tax imposed under this chapter is expanded as a result of changes in state or federal law, no amendment or modification of this chapter shall be required to conform the tax to those changes, and the tax shall be imposed and collected to the full extent of the authorization up to the full amount of the tax imposed under this chapter.

#### **5.14.320 Remedies cumulative.**

All remedies and penalties prescribed by this chapter or which are available under any other provision of law or equity, including but not limited to the California False Claims Act (Government Code Section 12650 et seq.) and the California Unfair Practices Act (Business and Professions Code Section 17070 et seq.), are cumulative. The use of one or more remedies by the city shall not bar the use of any other remedy for the purpose of enforcing the provisions of this chapter.

#### **5.14.330 Amendment or repeal.**

Chapter 5.14 of the King City Code may be repealed or amended by the City Council without a vote of the people. However, as required by Chapter XIIC of the California Constitution, voter approval is required for any amendment provision that would increase the rate of any tax levied pursuant to this chapter. The people of the City of King affirm that the following actions shall not constitute an increase of the rate of a tax:

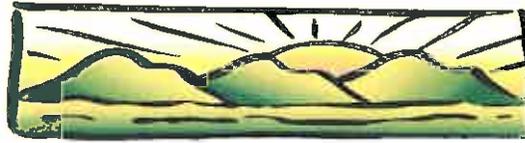
(A) The restoration of the rate of the tax to a rate that is no higher than that set by this chapter, if the City Council has acted to reduce the rate of the tax;

(B) An action that interprets or clarifies the methodology of the tax, or any definition applicable to the tax, so long as interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with the language of this chapter;

(C) The establishment of a class of person that is exempt or excepted from the tax or the discontinuation of any such exemption or exception (other than the discontinuation of an exemption or exception specifically set forth in this chapter); or

(D) The collection of the tax imposed by this chapter, even if the city had, for some period of time, failed to collect the tax.





**KING CITY**  
C A L I F O R N I A

Item No. **11 (A)**

**REPORT TO THE CITY COUNCIL**

**DATE: AUGUST 9, 2016**

**TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL**

**FROM: STEVEN ADAMS, CITY MANAGER**

**RE: CONSIDERATION OF RESOLUTION APPROVING THE BALLOT ARGUMENT IN FAVOR OF THE CANNABIS TAX MEASURE**

---

**RECOMMENDATION:**

It is recommended the City Council adopt a Resolution approving the ballot argument in favor of the cannabis tax measure.

**BACKGROUND:**

At the last meeting, the City Council approved placing on the November 8<sup>th</sup> ballot a measure creating a tax on marijuana cultivation, nurseries, manufacturing, and testing. Ballot arguments are due by August 19<sup>th</sup>. Staff recommends the City Council submit an argument in favor of the measure.

**DISCUSSION:**

Staff has drafted a ballot argument in favor of the measure for City Council consideration. Up to five names are allowed on the argument. It is recommended that all City Council names be included if there is unanimous approval.

The argument was drafted to emphasize the following key points:

- The tax measure simply places a tax on marijuana related business and does not have any impact on legalizing medical or non-medical marijuana businesses.
- All funds will go to the City to be used for City services and to pay off the debt.

**CITY COUNCIL  
CONSIDERATION OF RESOLUTION APPROVING THE BALLOT ARGUMENT  
IN FAVOR OF THE MEDICAL MARIJUANA TAX MEASURE  
AUGUST 9, 2016  
PAGE 2 OF 2**

- The tax rate was determined by setting it at an amount sufficient to generate significant revenues for the City, but not too high to be a deterrent to attracting businesses.
- The tax is beneficial because it will help pay for services without increasing fees and taxes on local residents.

**COST ANALYSIS:**

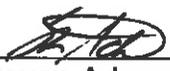
There is no additional cost to the City to submit the ballot argument.

**ALTERNATIVES:**

The following alternatives are provided for City Council consideration:

1. Adopt the Resolution approving the ballot argument;
2. Adopt the Resolution approving the ballot argument, but exclude names of Council Members that do not want their names included;
3. Make other changes to the ballot argument and then adopt the Resolution;  
or
4. Provide staff other direction.

Prepared and Approved by:

  
\_\_\_\_\_  
Steven Adams, City Manager

RESOLUTION NO. \_\_\_\_\_

**RESOLUTION APPROVING AN ARGUMENT IN FAVOR OF  
THE CITY OF KING BALLOT MEASURE CREATING AN ANNUAL COMMERCIAL  
CANNABIS TAX ON MEDICAL AND NON-MEDICAL MARIJUANA  
CULTIVATION, NURSERIES, MANUFACTURING AND TESTING**

**WHEREAS**, the City Council of the City King has adopted a Resolution placing on the November 8, 2016 election ballot an Ordinance to add an annual commercial cannabis tax on medical and non-medical marijuana cultivation, nurseries, manufacturing and testing; and

**WHEREAS**, the Resolution and County Elections Office sets forth criteria for submittal of ballot arguments to be included in the election materials; and

**WHEREAS**, the City Council has determined it is in the interest of the City to submit and argument in favor of the ballot measure.

**NOW, THEREFORE, BE IT HEREBY RESOLVED** that the City Council of the City of King hereby approves the ballot argument attached hereto as Exhibit A.

This resolution was passed and adopted this **9th** day of **August** by the following vote:

**AYES**, Council Members:

**NAYS**, Council Members:

**ABSENT**, Council Members:

**ABSTAIN**, Council Members:

**APPROVED:**

\_\_\_\_\_  
Robert Cullen, Mayor

**ATTEST:**

\_\_\_\_\_  
Steven Adams, City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Martin Koczanowicz, City Attorney

**ARGUMENT IN FAVOR OF MEASURE \_\_\_\_\_**

Your City Council urges you to vote YES on Measure \_\_\_\_\_. The measure will establish a local tax on any lawful marijuana related commercial activities, including cultivation, manufacturing, nurseries, and testing facilities. Approval of the tax measure will not legalize any products or businesses. It will simply create a tax on any marijuana businesses that are allowed in King City under State and local laws.

All funds from the tax will go to the City of King to be used to improve public safety, repair streets and sidewalks, beautify our downtown and neighborhoods, fund other essential City services, and help pay off City debt. The City has urgent needs and faces a serious financial situation as a result of decreased revenues and increased debt experienced over the past several years. This tax is part of an overall long-range plan the City has developed to improve the quality of life for our residents and establish financial stability.

The proposed amount of the tax is set at an equitable rate sufficient to generate significant revenue, and yet low enough when compared to other jurisdictions to attract businesses and jobs to King City. The tax will fund projects and services without increasing taxes and fees on our residents. Therefore, Measure \_\_\_\_\_ is good for King City and its citizens. Please help us make our community a better place for everyone by voting YES on Measure \_\_\_\_\_!

ROBERT CULLEN  
Mayor

KAREN JERNIGAN  
Mayor Pro Tem

BELINDA HENDRICKSON  
Council Member

MIKE LEBARRE  
Council Member

DARLENE ACOSTA  
Council Member



Item No. **11 (B)**

**REPORT TO THE CITY COUNCIL**

**DATE: AUGUST 9, 2016**

**TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL**

**FROM: STEVEN ADAMS, CITY MANAGER**

**RE: CONSIDERATION OF APPOINTMENTS TO THE COMMUNITY TASK FORCE TO END YOUTH VIOLENCE**

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**RECOMMENDATION:**

It is recommended the City Council: 1) approve the proposed list of appointments to the Community Task Force to End Youth Violence; and 2) appoint two representatives from the City Council to participate on the Task Force.

**BACKGROUND:**

King City has experienced a very high per capita rate of violence. As a result, increasing public safety has been identified as a top priority by both the City Council and the community survey. High crime and violence rates are a major factor in decreasing quality of life and a deterrent to economic development. Therefore, at the March 22<sup>nd</sup> meeting, the City Council approved staff's recommendations to form a community task force to develop a comprehensive plan to end youth violence in the community. At that meeting, the City Council approved the structure and makeup of the task force. Staff indicated that we would bring back the specific proposed individuals for formal City Council appointment.

**DISCUSSION:**

The Council will need to appoint two representatives. At the March 22<sup>nd</sup> meeting, it was indicated the most logical individuals would be the Mayor and the representative to 4C4P. The representation of the Task Force as approved by the City Council, along with the proposed name to fill each seat, is listed below:

- Two members of the City Council: To be determined by City Council
- City Manager: Steven Adams
- Police Chief: Robert Masterson

**CITY COUNCIL  
CONSIDERATION OF FORMATION OF COMMUNITY TASK FORCE TO END  
YOUTH VIOLENCE  
AUGUST 9, 2016  
PAGE 2 OF 2**

- Recreation Coordinator: Andrea Wasson
- Representative from the Chamber of Commerce: Brandi Schmidt-Garza
- Representative from the School District: Steve Burrell
- Representative from the High School District: Dr. Steven James
- Representative from the Hospital: Keith A. Bradkowski
- Representative from the County: Manual Gonzalez
- Representative from the Sheriff's Department: Keith Wingo
- Representative from City Manager's Latino Advisory Group: Carlos DeLeon
- Representative from a local non-profit: Gabriella Lopez/ Elizabeth Contreras, Alternate (Girls Inc.)
- Representative from a local service club: Shirley Hovis (Rotary)
- 5 at-large members, one recommended by each council member
  - Mayor Cullen: Carl Hansen
  - Mayor Pro Tem Jernigan: Janette Silva
  - Council Member Acosta: Minnie Sanchez
  - Council Member LeBarre: Domingo Botello
  - Council Member Hendrickson: Carlos Victoria

Once appointed, the City Manager will contact all members to schedule the first meeting, which is projected to take place in early September. The plan is intended to be completed prior to the end of the calendar year.

**COST ANALYSIS:**

There are no costs associated with the appointments.

**ALTERNATIVES:**

The following alternatives are provided for City Council consideration:

1. Approve staff's recommendation;
2. Modify the appointments and approve the item;
3. Modify the makeup of the task force; or
4. Provide staff other direction.

Prepared and Approved by:

  
\_\_\_\_\_  
Steven Adams, City Manager