

LUCY LANG
Inspector General

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February 27, 2025

Rossana Rosado
Commissioner
New York State Division of Criminal Justice Services
Alfred E. Smith State Office Building
80 South Swan Street
Albany, New York 12210

Re: NYSIG 0659-090-2025

Dear Commissioner Rosado:

On December 10, 2024, 43-year-old Robert Brooks died at Wynn Hospital in Utica after being beaten by New York State Department of Corrections and Community Supervision (DOCCS) officers while incarcerated at Marcy Correctional Facility. The Onondaga County Medical Examiner subsequently ruled his death a homicide. Body-worn cameras on DOCCS staff captured the murder, and portions of the footage were made public by the New York State Attorney General during an ensuing investigation. This investigation was subsequently transferred to the Onondaga County District Attorney's Office, and, on February 20, 2025, a Grand Jury indictment was unsealed against nine officers for charges related to the murder.

As you are aware, body-worn cameras like those that captured Mr. Brooks' murder are increasingly being used by state and local law enforcement agencies across New York and nationally. A range of vendors offer such devices and related support services. DOCCS and other New York State agencies contract with Axon, a New York State Office of General Services (OGS) approved vendor, which has provided more than 5,000 body-worn cameras for use in New York State prisons over the past four years as DOCCS works towards the goal of universal use of body-worn cameras by on-duty correction officers.

The contracts for these cameras offer a range of recording and preservation options, some of which are selected by the purchasing agency during the contracting process. These options – including the extent of and length of preservation time for recorded video and audio – have also changed in recent years due to the evolving nature of the technology and increased capacity for cloud-based storage.

The agencies that employ body-worn cameras have promulgated a variety of policies related to when cameras are activated based on the unique law enforcement needs of each agency. As you know, in 2015, DCJS promulgated a model policy¹ to guide agencies in drafting

¹ <https://www.criminaljustice.ny.gov/crimnet/ojsa/standards/MPTC%20Model%20Policy-Body%20Worn%20Cameras%20September%202015.pdf>

their own tailored policies. This letter seeks to illuminate, for all interested parties, certain capabilities of the cameras that were highlighted by the investigations into Mr. Brooks' murder. These capabilities warrant updates to the DCJS model policy, ongoing analysis by law enforcement agencies using body-worn cameras (regardless of vendor), and the awareness of all prosecutorial partners who review and rely on body-worn camera footage for investigative purposes.

The relevant facts are as follows: Immediately following Mr. Brooks' murder, investigators sought video evidence documenting Mr. Brooks' interactions with DOCCS staff prior to his death. The facility's infirmary where the beating occurred contained no fixed cameras, and, despite many of the correction officers present in the infirmary being outfitted with body-worn cameras, none had activated them to record,² in violation of DOCCS policy.

It quickly came to light that the Axon Body 3 (AB3) body-worn cameras used at Marcy Correctional Facility have an optional "Video Recall" feature whereby once a camera is powered on, regardless of whether it is activated to record, it records up to 18 hours of video in a continuously overwriting loop. As a result, because some of the officers present in the infirmary had at some point prior to the incident powered on their cameras, this feature was engaged during the assault of Mr. Brooks, even though officers did not affirmatively activate them to record at that time. Consequently, investigators recovered video footage from the body-worn cameras of four correction officers who were present for various periods during the assault on Mr. Brooks and had their camera devices powered on but not activated. These videos provided crucial evidence in the investigations that ultimately led to the recent indictment of the officers charged with various offenses related to Mr. Brooks' murder.

The existence of Axon's Video Recall feature led my office to undertake the inquiry that forms the basis for this letter. As part of this inquiry, we met with representatives from DOCCS and Axon, and reviewed technical documentation related to the different Axon camera systems. Our inquiry led to an understanding of the functionality and features of existing body-worn camera technology that requires additional policy analysis by all agencies using them or relying on their footage. Given that these capabilities may vary by vendor and product, this letter offers details related to Axon's body-worn cameras: the AB3 and Axon Body 4 (AB4) camera systems for illustrative purposes.

By way of example, any agency using Axon AB3 and AB4 systems has the option to engage or disengage the Video Recall feature. An Axon representative stated that this feature is explained to the agency at the time the system is set up, and it is the individual agency's decision whether to engage the feature or not. After setup, the agency is free to engage or disengage the feature at any time through the administrative settings dashboard provided as part of the Axon body-worn camera software. With this basic feature engaged, all body-worn cameras in the agency's systems will record 18 hours (AB3) or 24 hours (AB4) of video any time that the camera system is powered on. This video is recorded at a lower resolution and without audio, although the AB4 system is capable of recording recalled video with audio if that option is

² Standard modes for Axon body worn cameras are: (1) Buffering – the camera is turned on but not *actively* recording, typically indicated by a green light on the front of the camera; (2) Event – the camera is turned on and is actively recording, typically indicated by a red light on the front of the camera; and (3) Powered Off – the camera is not turned on, is not recording in any manner, and displays no illuminated light. Cameras can be activated from Buffering to Event mode by depressing the Event button on the front of the camera.

selected. As a default, this recalled video is stored locally on the body-worn camera, and any videos must be manually extracted from the device before they are overwritten. Thus, in order to preserve recalled video, the power on a camera must be turned off to prevent it from continuing to record and thereby overwriting anything older than 18 or 24 hours, respectively.

The Inspector General also learned that after Mr. Brooks' murder, DOCCS began using a feature Axon refers to as "Automatic Video Recall" at an additional cost.³ This feature allows recalled video to be automatically uploaded to the cloud for storage, as opposed to only being stored locally on the camera. This video is then saved for a retention period set by the user agency. Though the standard Video Recall feature can be turned on or off by the user agency, Automatic Recall Video must be turned on by Axon, as it can result in significantly higher storage demands based on the settings and retention period chosen by the user agency.

While there can be little doubt as to the tremendous impact of the existence of recalled video in the investigation of Mr. Brooks' murder and prosecution of those involved, the public policy analysis of individual agencies' determinations about whether to engage Video Recall or to contract for Automatic Video Recall is beyond the scope of this letter. There are many significant cost and privacy concerns—for both the wearer and members of the public—to be weighed against the utility of retaining constantly recording footage, and these factors will vary by agency. That said, as Inspector General, I recommend that DCJS incorporate awareness of these features into their model policy, that the relevant agencies address these features in their body-worn camera use policies, and that investigators and prosecutors familiarize themselves with such features in all investigations that rely on body-worn camera evidence.

Thank you for your prompt attention to this important matter of public safety, accountability, and transparency. If you require further information, please contact Attorney-in-Charge of DOCCS Matters Jonathan Schultz at [REDACTED].

Sincerely,



Lucy Lang
Inspector General

cc: Colleen M. Glavin, Counsel and Deputy Commissioner
NYS Division of Criminal Justice Services

Hon. Letitia James, Attorney General
Office of the New York State Attorney General

Kathryn Garcia, Director of State Operations and Infrastructure
NYS Executive Chamber

Darrin Derosia, Acting Deputy Commissioner and Counsel
NYS Office of General Service

³ The "Automatic Video Recall" feature did not exist at the time DOCCS began using its body-worn camera program in 2021, having first become available in Summer 2024.