

**KTJ**

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**LABOR AND EMPLOYMENT LAW ENOTE**

**BARGAINING OVER BODY  
CAMERAS**

In January 2018, an Administrative Law Judge (“ALJ”) for the Illinois Labor Relations Board determined that the City of Chicago, Department of Police (“City”) violated its collective bargaining agreement with the Fraternal Order of Police, Lodge 7 (“Union”) by not bargaining over the effects of an expansion of its Body-Worn Camera (“BWC”) Pilot Program. The BWC program was initiated in 2014 with a limited number of cameras. In 2017, the City expanded the program to six additional police districts. This expansion was part of the Department’s effort to ensure that every patrol officer on every watch in the City had a body camera by the end of 2017 – one full year earlier than originally planned.

The Union filed a charge with the Illinois Labor Relations Board’s Local Panel alleging that the City engaged in unfair labor practices within the meaning of Sections 10(a)(4) and (1) of the Illinois Public Labor Relations Act (Act), 5 ILCS 315 (2014), as amended. Specifically, the Union’s charge alleged that the City violated Sections 10(a)(4) and (1) of the Act when it breached the parties’ Letter of Understanding by (i) failing to provide proper notice and engage in discussions with the Union before announcing the City’s 2017 expansion of the BWC Pilot Program; (ii) failing to provide the Union with certain information during the term of the BWC Pilot Program; (iii) disciplining officers for losing or not properly caring for their BWCs; and (iv) failing to bargain over disciplinary measures related to employees’ participation in the BWC Pilot Program. The Union also alleged that the City violated Sections 10(a)(4) and (1) of the Act when it unilaterally implemented the expansion of the BWC Pilot Program and failed to bargain over the effects of that expansion on officer safety and discipline.

For any questions or comments you might have regarding this newsletter, please feel free to contact:

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As a threshold matter, the ALJ found that the BWC Pilot Program gave rise to bargainable effects. The ALJ ruled that the expansion of the BWC Pilot Program constituted a material change to the officers' terms and conditions of employment because (1) the program created greater opportunities for employee discipline by having the potential to record more of an employee's work time than under the current In-Car Camera Program; (2) the use of BWCs presented different safety-related concerns and (3) the use of BWCs raised potential privacy concerns due to the fact that officers were required to wear them at all times. As a result, the ALJ found that the City violated Section 10(a)(4) and (1) of the Act by failing to give the Union an adequate opportunity to bargain over the 2017 expansion's effects.

With that said, the ALJ determined that the Union's remedy was limited. Although the ALJ ordered the City to bargain over the safety and disciplinary effects of the BWCs that it had distributed and to rescind any discipline arising from an officer's misuse or loss of the BWC, the ALJ did not order the City to recall the BWCs it had distributed or to rescind any discipline based on BWC footage. The ALJ reasoned that the Illinois Law Enforcement Officer-Worn Body Camera Act ("WBC Act") granted the City the authority to discipline officer misconduct based on BWC footage. The WBC Act provides that BWC recordings can be used to discipline officers if (1) a misconduct complaint has been made; (2) a use-of-force incident has occurred; (3) the recorded encounter could result in an investigation under the Uniform Peace Disciplinary Act; or (4) the recording is used to corroborate existing evidence of misconduct. The ALJ found that the parties' interest were adequately balanced by requiring the City to rescind only the discipline arising from misuse of the BWC equipment or the loss of BWC equipment, but allowing the City to continue the limited disciplinary use of the footage while the parties' complete the effects bargaining.

**Key takeaway** – The ALJ took the position that unions are entitled to bargain for greater officer protections than those laid out in the WBC Act. Accordingly, if you are integrating body-worn cameras into your department, you should be prepared to discuss the effects of that integration.

The full opinion can be found via the following link:

[Administrative Law Judge's Recommended Decision and Order](#)