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New Jersey's New Law Mandates Video Cameras in Police Vehicles: When it Comes to Law Enforcement Encounters, a Video is Worth a Thousand Words

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These days, cameras seem to be everywhere. From shameless “selfies” to stealthy surveillance videos, our every move seems to be memorialized in some way, like it or not. While some may long for more private times when many things were left to our memories and imaginations, there can be no doubt that, in the field of criminal law and law enforcement, the impact of a picture or video can be seismic. Many of us old enough to remember the Rodney King case still have those images seared in our memories – our first real glimpse into the elusive concept of “excessive force” and the power of a video recording.

Indeed, criminal charges and police brutality and excessive force claims can rise and fall on the photographic or video images capturing the reality of what occurred. For police and citizens alike, there can be no greater protection than a reliable recording of an encounter with law enforcement. For that reason, New Jersey's passage of legislation this month requiring that all newly-acquired or leased police vehicles must be equipped with video cameras will serve to better safeguard both the public and the police during any traffic stop.

The new law, scheduled to take effect early next year, requires that “any new or used municipal police vehicle purchased, leased, or otherwise acquired” that is “primarily used for traffic stops shall be equipped with a mobile recording system.” A mobile recording system is defined as “a device or system installed or used in a police vehicle or worn or otherwise used by an officer that electronically records visual images depicting activities that take place during a motor vehicle stop or other law enforcement action.” The measure allows for body recorders in lieu of car-mounted cameras, but gives no further guidance on the type of device or circumstances during which those cameras must be or should not be activated.

Many municipalities initially opposed the legislation calling it costly and vague in failing to define precisely what is required of the police. Most, however, applaud the effort, as it encourages the objective memorialization of critical and often emotionally-charged and dangerous events that might be otherwise distorted by the faulty or deliberately deceptive accounts of the parties and witnesses to them.

New Jersey's attention to the issue of recordings of police encounters is particularly timely in the wake of recent high-profile incidents, including the fatal police shooting of unarmed teenager Michael Brown, in Ferguson, Missouri and the death of Eric Garner due to a choke-hold restraint during his arrest in New York City this summer. Citizens and police officers alike have found that vindication often turns on whether a video or photograph exists to corroborate or refute an allegation of misconduct. So intent are New Jersey legislators to seize the current momentum that additional legislation was introduced several days ago calling for body recorders on all New Jersey police officers to be worn in all citizen encounters.

Experienced criminal practitioners and civil rights litigators understand the power of pictures when it comes to litigation arising out of police encounters, and most welcome mandatory recording requirements if constitutionally implemented. To practice in this field is to understand the fear of a law-abiding citizen falsely accused of a crime or unjustly harmed by use of excessive force by law enforcement and to likewise appreciate the frustration of a dedicated police officer facing fabricated charges of misconduct. New Jersey's new wave of legislation in this area of video recordings, if tempered with the necessary regulations, protocols,

and privacy protections, can provide vital safeguards for law enforcement officers and for individual rights. Reliable recordings can further equip skilled practitioners with an invaluable tool that can change the course of both criminal and civil cases arising out of police encounters.

Practice

- Criminal Defense