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**A Step in the Right Direction:
Body-Worn Cameras and Police Performance**

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ABSTRACT

In society today, cameras are everywhere. Police officers are regularly finding themselves the subject of citizen videos and photographs, often used to portray them in a negative light. Eroding public confidence in government and the police profession further fuels this trend. Police departments nationwide must not ignore the danger in allowing individuals to direct the narrative of police behavior in this country. The widespread adaptation of body-worn cameras would protect the vast majority of officers who are honorably and responsibly doing their jobs, from false and unfounded allegations.

It would further promote police legitimacy in two ways. First, it would allow police administrators to redirect the narrative; citizens are provided a new level of transparency to policing. Police administrators will have the ability show the positive actions of the majority of officers, while reinforcing in the public's mind, the danger officers face every day. Secondly, officers would be subject to a built in system of accountability. Unacceptable behavior would be quickly identified and corrected. Further, officers would self police their actions, knowing that all interactions are subject to review and evaluation. Ensuring that police in this country are perceived as fair, consistent, and honorable is far too important to leave to chance. Police administrators must embrace this tool, provide appropriate training, and continue the process to make sure public confidence in policing returns to the high level it deserves in society.

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INTRODUCTION

Everyday technology advances are changing the way we live. These advances affect all aspects of daily life from education to medicine. Technology advancement in the capabilities of video and photo has made documenting every day life an emerging pastime. Social media, reality news, and television have created an entirely new platform. The very public role of law enforcement has encouraged regular posting of officers and has often highlighted them as the subject of these videos and photos. This can be problematic because technology can be manipulated to promote any position, positive or negative. Departments that do not respond to this reality are faced with the prospect of allowing someone else to tell their story.

The idea of using cameras to combat unfounded allegations and/or to show appropriate police behavior is not new. In the late 1990's, many police agencies began using video from in-car cameras to dispute claims of racial profiling (International Association of Chiefs of Police, 2004, p.5). Racial profiling was such a concern the Federal Government had begun to mandate that all traffic stops be documented. In-car cameras became the tool of choice for many agencies that wished to maintain video documentation of appropriate police behavior.

In addition to using cameras to combat unfounded complaints, they also proved invaluable in assisting with prosecution of DUI's, consent to searches, and drug arrests (IACP, 2004, p.5). The successes of in-car cameras have led companies to develop cameras that can be worn on the officer's body, providing another layer of coverage. Officers should not fear this technology advancement. Statistically, the majority of law enforcement officers conduct themselves honorably and meet the requirements of

legitimacy by providing fair and consistent application of the law. Officers should view the camera as protection they would never leave home without, just like their duty weapon or their body armour. As the vest protects their body, the camera protects their integrity. As Scullin (2013) stated, “video is a fact of life, and the every day photojournalist won’t think twice before recording an officer at work” (Scullin, 2013)

In the City of Rialto, California, body cameras have proven a valuable ally to officers. Although numerous agencies around the country have begun using body worn cameras, Rialto can point to statistical data to show the dramatic potential of this emerging technology. In February of 2012, cameras were introduced and, in one-year, there were 88% fewer citizen complaints alleging officer misconduct. Another unforeseen result of the cameras was a decrease in officer use of force. During the same twelve-month period in which the cameras were introduced, Rialto officers used force 60% less (Lovett, 2013). Officers and citizens behave better when they know a camera is present. In terms of police legitimacy, few tools could prove more valuable.

Police agencies must continue to understand the importance of hiring and training. It is necessary to hire officers with the maturity and self-awareness to value fairness and integrity as cornerstones of their chosen profession. Next, agencies must reinforce these tenants through regular department mandated training. Finally, they must support the adoption of technology to allow officers to perform their duties with added confidence. Officers know that each day they serve the public is inherently dangerous and gladly accept this as part of their profession. Now they have another tool to protect them from unfounded complaints and/or hostile citizens. Police departments around the country should begin a widespread implementation of body worn cameras

as a tool to protect the vast majority of officers appropriately doing their jobs while at the same time holding officers accountable who are not.

POSITION

The honesty and integrity of police officers is being challenged everyday. These challenges are part of a continual erosion of the public trust. Many loudly complain that those in law enforcement are out of control, violating the constitutional rights of citizens. Whether it is stop-and-frisk or excessive use of force, an Internet search or daily review of city newspapers will yield dozens of stories with titles like, *Public Trust Broken*, or *Undermining Public Trust* (Burlew & Portman, 2013; Kimble, 2011). The public has shown it expects more from its police.

In this climate, law enforcement leaders must be willing to address such challenges head on. The idea of police legitimacy states the community will gladly obey officers when they believe the officers are fair and consistent in their enforcement and treatment. As recently as 2009, nearly 60% of Americans expressed confidence in the police (Tyler, 2010). For this confidence level to grow, law enforcement as a field, must combat the elements that erode trust. When a federal judge ruled the stop-and frisk program in New York City was unconstitutional, she suggested New York City Police consider body worn cameras (Dillon, 2013, para. 11). The assertion was if officers wore cameras, there would be documentation of their actions, limiting unfounded allegations of rights violation while preventing unacceptable police behavior.

Police departments must be completely comfortable recognizing the dual benefits of cameras; one being a method to hold officers accountable and the other recognizing the cameras as a channel of protection. If the goal is to improve relations with the

public, law enforcement cannot continue to ignore the fact that they are not in control of the public perception and opinion – perception is reality-and the reality for much of the public is law enforcement is corrupt, biased, and unfair. In order for the perception to change, it is essential for law enforcement to consider and adopt all measures that will contribute in maintaining and growing the publics' trust.

Police departments have already embraced the use of in-car recording devices. As cited by Draisin, according to IACP in 2004, over 72% of all the vehicles used by state police and highway patrol had some form of in-car camera (IACP, 2004, p.6) (Draisin, 2011). What began primarily as a tool to combat unfounded complainants has shown to be invaluable in numerous other ways. Capturing images of officers doing their jobs has proven to help improve officer behavior through accountability. Additionally, a study by The National Law Enforcement and Corrections Technology Center (NLECTC) found when cameras are used and video evidence is available officers are regularly cleared of reported abuse or wrongdoing, and only 5 percent of complaints against officers are found to be valid (IACP, 2004). Police officers and police departments are learning that cameras are an ingrained part of society. In a recent interview, Police Chief Eric Gieseke of Burnsville, Minnesota said, "The reality is, if we're not recording ourselves someone else is" (McKinney, 2013).

Another study by the International Associations of Chief of Police (IACP) was conducted to determine if attorneys used video evidence and if the presence of video evidence had an effect on the outcome of the court proceedings. The survey found that over 90% used video evidence from in-car cameras and the evidence proved

instrumental. Video evidence not only led to more convictions and guilty pleas, but also improved efficiencies as they spent less time in the courtroom (IACP, 2004).

The benefits already found with in-car camera will be enhanced with body worn camera. The area captured from the in-car camera provides a limited view. It is limited to recording what is directly in front of the officer's vehicle and the ability to record audio is limited by proximity. Once the officer leaves the front of the vehicle, the camera becomes useless and the audio quality is diminished.

Nationwide, there are documented examples of the protection value body worn cameras offer officers as well as the benefit of the video evidence as supported by prosecutors. In Escondido, CA, Sergeant Craig Carter was wearing a body worn camera when he stopped a driver he suspected of being intoxicated (Stockton, 1999, para. 2). The driver refused to take any field sobriety test or the blood alcohol test. In the past, this would be a difficult case for prosecutors, but the entire incident was captured on in-car video and a body worn camera with video and audio.

In 2009, officers in Kansas City Missouri were confronted by a man shooting at them who had been in a car accident. Officers were forced to respond with deadly force and the man was killed. Video from the scene captured not only the man's actions, but the officers as well. The actions were considered appropriate and the officers did not face additional scrutiny (Moore, 2013, para. 1). This type of video evidence places law enforcement agencies and officers in alignment with public expectations and garners citizen support for law enforcement and video/camera technology. According to Moore (2013), Police Chief Chris Burbank, Salt Lake City, told his citizens advisory board, "equipping officers with a camera on their uniforms would serve to document the

officers' actions in the field, allowing for more openness and transparency in the process" (para. 3). The advisory board decided to support his request and was excited the Salt Lake City Police Department was proactively taking steps to support officer accountability. Police departments must continue to encourage citizen review of its practices. The support of citizens for police initiatives like the implementation of body worn cameras, is initiated by a focus on policies and practices that directly affect the public's views about police transparency (Tyler, 2010).

COUNTER POSITION

A common refrain of opponents to this technology is that this initiative is too expensive. The position that many in law enforcement take when speaking against the widespread implementation of body-worn cameras is the following: the cost of this initiative is too high. Body-worn cameras can cost up to \$900 each (Lovett, 2013, p.2). What many agencies are realizing is the potential protection from settlements related to excessive use of force or civil rights violations could more than offset the cost of implementation. Almendrala (2013) reported that in 2011, the Los Angeles Police Department paid over \$24 million in settlements. For many agencies, this will be all the incentive they need. Departments of all sizes face million dollar lawsuits; video camera technology is a viable tool to combat those lawsuits. As law enforcement continues to evolve, the purchase of body-worn cameras will prove to a prudent financial investment. For large agencies with a history of multi-million dollar lawsuit settlements, the implementation of body-worn cameras could be considered a financial imperative. McKinney (2013) stated that if cameras continue to reduce citizen complaints as

documented in cities like Rialto or Escondido California and result in fewer lawsuits for cities faced with million dollar payouts, the cameras would pay for themselves.

In some cities, citizens are not waiting for the police to initiate the conversation about cameras. In Minneapolis, McKinney (2013) reported that city council members surprised Police Chief Janee Harteau by holding a press conference promoting body-worn cameras. During a meeting held by the Police Executive Research Forum (PERF, 2012) Indo, California, Chief Brad Ramos spoke about the pilot program his agency did to test body-worn cameras. He said that the camera technology along with proven risk management reduced his cities payouts due to use of force investigations and would be a worthwhile investment.

An additional concern with body-worn cameras is privacy. Officers and citizens want assurances that policies will be in place, and appropriate steps are taken to ensure privacy. Officers in various cities have expressed concern that if required to use body-worn cameras their entire shift would be subject to recording. Another privacy concern has been expressed about the use of video by the officer's department. In Seattle, Sergeant Rich O'Neill spoke with Martin Kaste (2011) and shared that he was troubled by policies in many departments that were early adaptors that did not allow officers the discretion to decide when to turn on or turn off the body-worn cameras. This position seems to align with some citizen organizations that advocate that officers should never turn off their cameras, as this would negate the cameras value as a tool of accountability.

Jay Stanley, of the American Civil Liberties Union (ACLU) (Stanley, 2013) states, "If officers can edit on the fly, that will destroy this technology's value as a police

accountability tool.” He acknowledged that keeping the camera on for an entire shift would be too oppressive and still wonders what the right balance is to ensure accurate police monitoring (Stanley, 2013).

Another unknown is how the courts will view video from these cameras in everyday use as it relates to fourth amendment protection from unreasonable searches and expectations of privacy. Federal and state case law exist that rules on the right of police to video in public areas where there is no expectation of privacy. In the United States v. Urbina, federal agents used surveillance equipment to record the traffic activity around a residence where they suspected illegal activity (Clark, 2009). When this surveillance was challenged, the U.S. magistrate judge determined that no Fourth Amendment concerns were violated as the defendant, “had no reasonable expectation of privacy in the end of his driveway” (Clark, 2009, p. 29).

Flatow (2012) discussed a December 2012 court decision that found that the videos taken by undercover officers who were invited into a home did not violate the Fourth Amendment as they were only recording things that they would be able to see even if they did not have a camera. Both officers and the ACLU agree that there is tremendous value in the use of body-worn cameras. The courts, police, and groups such as the ACLU take this issue very seriously; aware of the understandable trepidation the public has surrounding what may be considered further government oversight. As more agencies move to this technology, additional case law will follow.

For body worn camera technology to be widely accepted, very specific policies must be created by departments. One of the recommendations by Stanley (2013) is that officers give civilians the option of being recorded if it is not necessary as part of an

active required police action where police are responding to criminal activity. Both police and civilians can embrace this type of policy with additional input. Although some compromises must be made, this must be done without undermining police safety or public trust. This can be accomplished by police departments partnering with the community when developing these policies. These partnerships that encourage the input of civilian legal advisors and/or civilian advisory boards serve to further promote police legitimacy through transparency.

RECOMMENDATION

Police departments that implement the use of body-worn cameras will not only protect their officers from unfounded citizen complaints, but will also lead to greater police officer accountability. In the relatively short time that the technology has been available, departments that have implemented body-worn cameras are seeing measureable results. They are not only seeing lower number of citizen complaints being sustained, they are seeing fewer citizen complaints being filed. As seen in cities like Rialto, California, officer accountability is being impacted as use of force complaints decrease (Lovett, 2013).

Police departments should embrace the implementation of body-worn cameras as a chance to recommit to the community. Once officers understand this technology will protect them as they are doing their job, it will become a tool to promote self-accountability. In the past, officers have not had such an effective tool to defend themselves against attacks on their professionalism. Officers understand that even when taking appropriate police action, use of force questions still arise often. The

majority of officers will welcome this protection as a chance to show the community they are doing their job appropriately and to demonstrate the dangers they may encounter.

As to the question of cost, they are worth the cost and are a catalyst in forming the narrative used to discuss the future of legitimacy in policing. As stated by Almendrala (2013), the potential savings due to reduced law suit settlements for civil rights violations will more than cover the cost for most mid to large size agencies. In addition, the video evidence captured by body-worn cameras will likely be as valuable in court as in-car camera video which have been shown to lead to higher conviction rates, increased plea agreements from defendants and reduced court time for prosecutors.

As more police agencies implement body-worn cameras, a deliberate process of crafting appropriate policy will be paramount to the successful acceptance of this tool by law enforcement officers and the citizens they protect. Departments must respect the public's expectation of privacy when appropriate as determined by emerging case law. This must be balanced to ensure legitimate officer safety concerns are not created. With these final steps as an anchor, police departments will see and benefit from the implementation of body-worn cameras. Officers will be protected from unfounded and unscrupulous citizen complaints, held accountable for inappropriate behavior, and there will be an improvement in the public trust and confidence in law enforcement.

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