

**The Bill Blackwood
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**Why Body Worn Cameras Should Be Utilized
by Law Enforcement Officers**

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ABSTRACT

Throughout the nation, some communities have a distrust of police officers based on a previous personal experience or due to a police use of force situation that gained nationwide media attention. It is important to understand that some of these allegations of blatant misconduct have been substantiated, but the majority of the criticism against officers are based on the public's perception of how they felt the officer should have handled a situation. With only the suspect and a biased witness to the incident, a police action that results in death or serious injury could result in public outrage.

With the current climate of how some citizens view police officers and the increased scrutiny of police department administrations, the use of body worn cameras has now become a major topic for many police agencies. When a major incident occurs, one of the first requests made by the media is for a copy of the officer's video. If no video exists, the action taken by the officer or officers involved may immediately become suspect.

Some officers feel that wearing a body camera their entire shift is an invasion of privacy and could lead to discipline for a minor infraction, while others understand that having an incident recorded, even if scrutinized by the public and the media, may prove that their actions were within departmental policy and the law. Implementation of a body camera program could help significantly reduce false allegations against officers, help give an unbiased account of exactly what action was taken, and aid in ensuring that an officer is held accountable for misconduct that occurs. This proactive approach by law enforcement will help restore and maintain public trust and transparency with their agency

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INTRODUCTION

Law enforcement officers across the nation are increasingly being scrutinized by citizens concerning their professional conduct. This often leads to a formal complaint being filed by citizens which can result in a formal investigation of the officer for alleged misconduct. When deadly force is used by an officer, even if justified, the officer as well as the department and the jurisdiction in which they work can come under enormous scrutiny.

Because of the media attention that is given to a deadly force situation involving an unarmed suspect, a rush to judgement usually occurs with the citizens of the community as well as the suspect's family. As a result of the death of an unarmed suspect, there is often a call for immediate action by the administration even before the criminal and internal investigations have begun. At the conclusion of the investigation, if there is no physical evidence or credible witnesses to determine if the incident occurred, the investigation is usually closed as unfounded, meaning there is not enough evidence to prove or disprove the allegation of misconduct.

If an allegation is unfounded, some citizens perceive that the police department did not do enough to ensure the public was protected from a potential bad officer in the department or, even worse, they are part of a cover up. Even if the case rises to the level where it is also reviewed by a prosecutor's office or a grand jury, without sufficient evidence to prove the incident occurred, the case could be considered closed. As a result of the findings, public outrage and demonstrations against a specific agency or the criminal justice system in general can occur, dividing the citizens against the law enforcement officers of their community.

In an effort to have a more accurate account of law enforcement officer's contacts with citizens, body cameras should be utilized by law enforcement agencies to ensure the integrity of the agency and provide transparency of the officer's actions to the citizens of the community. With the implementation of body cameras, it will be imperative that law enforcement agencies have a strong policy detailing specifically how the cameras are to be used, the manner in which the video is stored, how long the video is to be stored, and the consequences of potential misuse of the video by departmental personnel. There should also be clear consequences for officers who deliberately chose not to use the cameras during their shift. When utilized consistently and correctly by officers, body worn cameras provide a valuable tool for officers during citizen contacts. Body cameras offer not only a level of protection from false allegations filed against officers, but the recorded incident could assist in the prosecution of and or plea bargain of a criminal case.

POSITION

Law enforcement agencies that make the decision to utilize body cameras for their officers will have the ability to hold officers more accountable for their actions and also protect them from allegations of misconduct that that never occurred. Unless the officer/citizen contact occurs in a location where unbiased witnesses are present, what actually occurs during the contact is the officer's word against the citizen's. In a letter from Police Executive Research Forum (PERF) (2013), Executive Director Chuck Wexler stated, "A police department that deploys body-worn cameras is making a statement that it believes the actions of its officers are a matter of public record, and the news media will want to review the actions of officers" (p. 7).

When body cameras are utilized correctly, the officer's viewpoint of exactly what happened during the contact that can be used during an internal or criminal investigation of the officer or citizen. In addition, when multiple officers are utilizing their body cameras during a single incident, it allows the agency as well as the public to view an incident from various angles that a single camera may not have been able to capture. Depending on what type of body worn camera system a department decides to use, some systems record five full seconds before the officer activates the camera giving an ever better account of an incident (Miller, 2014). Most of the controversial videos seen today are recorded by witnesses who are usually using a cell phone camera. The issue with this type of recording is that it often does not include the actions that lead to the level of force used by the officer.

In an article by Ly (2014) of CNN, she wrote, "The ACLU says that photographing things that are plainly visible from public spaces is a constitutional right and that this includes federal buildings, transportation facilities, and police and other government officials carrying out their duties" (p.1). With this in mind, it is becoming crucial that law enforcement agencies have the ability to record a full accurate account of a police incident. New York Police Commissioner Bill Bratton, in response to recent high profile incidents involving alleged officer misconduct, is testing two different types of body worn cameras, and the New York Police Department (NYPD) has the intention to expand the program if it shows to be effective (Ly, 2014).

Because this technology is fairly new, it is unknown if wearing the cameras actually has an effect on the officer or citizen's behavior. Some agencies have reported a reduction in citizen complaints and use of force reports from their officers wearing a

camera. Chief William Farrar of the Rialto Police Department began a study to see what effect the body cameras would have on the officers who wore them (Stross, 2013). With only 50% of his 54 officers using the cameras, there was an 88% drop in citizen complaints on the officers who wore them compared to the previous 12 months (Stross, 2013). In addition, force was used 60% less for those officers not wearing cameras (Stross, 2013). A Police Foundation study in the UK showed similar results in that the use of force complaints decreased by 50% from the officers wearing body cameras (Mar, 2014).

Whether the officer's behavior has changed because they know they are being recorded or the citizen is now more reluctant to do or say something because of the recording as well, from the study conducted in Rialto, CA and the Police Foundation study in the UK, it is clear that a dramatic change in behavior has occurred since the introduction of body worn cameras. Most police chiefs that agree with the use of body cameras support the theory that officers' and citizens' behavior changes when they know they are being recorded (Pearce, 2014). Because the technology is available, the public now has an expectation that police departments should do whatever is necessary to ensure transparency of their agency when an incident occurs.

In a study conducted by the International Association of Chiefs of Police (2002), as many as 93% of prosecutors questioned stated they were more likely to plea bargain a case or receive a conviction if video was captured during the incident (as cited in Miller, 2014). Currently, in Tarrant County, TX, any officer that response to an incident that is referred to the district attorney's office will be required to complete a statement advising if video of the incident exist or not to ensure compliance with the Michael

Morton Act. This practice clearly shows the public's expectation that video should be utilized by police when contact is made with citizens.

COUNTER POSITION

When using any device that records video and audio, the potential for possible misuse exists. There are privacy concerns that the video could be used not as evidence and would be used to embarrass the subject on the video by releasing it to a news agency or posting it to social media. The ACLU, which is generally opposed to any type of public audio or video surveillance, supports the use of body worn cameras as long as they are being used correctly. The ACLU's major concern is the officer having the ability to somehow edit or delete a recording where some type of officer misconduct has occurred. The other concern is that if the cameras do not run continuously, the officer would be able to make the decision when or when not to activate the body camera (ACLU, 2013).

Tarrant County College Police Department General Order 305.00 (2015) provides a specific policy on how the body worn digital recording system is to be used and when it should be activated. There are strict guidelines on when the cameras are to be used and who is authorized to download the video as evidence. The policy also restricts officers from using the video in anyway except as evidence a specifically prohibits the use of the video on social media. The system currently used by the Tarrant County College Police Department (2015) also requires each officer in the department to have a personal login ID, and the system administrator is able to track all videos loaded in the system by the officers, with the date and time they are transferred from the system to a thumb drive. Supervisors and the department's data base

administrator are the only personnel in the department who have the ability to delete a video taken in error, but can only do so after receiving permission from the office of the Chief of Police. The system is monitored daily to ensure proper use, and immediate action is taken if errors are observed (Tarrant County College District Police Department, 2015).

Another concern with is the cost purchase of the cameras with law enforcement agencies with limited budgets. There are numerous avenues that law enforcement agencies can pursue to raise funds to purchase body worn cameras. With the increased tension with some citizen groups and clergy over alleged officer misconduct, they could be willing to donate a portion if not the entire cost of the cost to purchase the cameras or assist with a community fundraiser. Other avenues include federal grants that may become available or partnering with a larger agency when a purchase is made to receive the cameras at a discounted price. The City of New Baltimore was able to make a recent purchase of body cameras using the department's drug forfeiture funds (Larese, 2015). With technology changing as quickly as it does, law enforcement agencies with a limited budget can seek donations of cameras from larger agencies for their older cameras when they upgrade to new technology.

Because of the public's increased criticism of law enforcement agencies, when an incident occurs, there will be an increase in open records request to receive a copy of a video when an incident occurs. The City of Seattle is in the process of testing several different styles of cameras, but even before their implementation, the city is already faced with a daily request from an anonymous citizen requesting all information on police activity including video captured from their patrol vehicle dash cameras. This

citizen has made it known that once the body cameras are utilized by the department, he would be requesting that information as well. The department's Chief Operating Officer Mark Wagner stated, "Dedicating employees to filling such broad request would delay responses to prosecutors and defense attorneys seeking information on criminal trials. It would also keep other citizens who want information from getting the documents they need" (Miletich & Sullivan, 2014). In an effort to avoid the financial strain this would add to the Seattle Police Department, and other area police agencies, the Washington Association of Sherriff's and Police Chiefs plan to ask the legislature make it more difficult for citizens to file continuous extensive open record requests due to the current law that allows them to charge for the actual material given and not for the personnel used to prepare the information for distribution (Miletich & Sullivan, 2014).

Even with the use of body cameras, many argue that video recorded of an incident may still be open to interpretation depending on the angle. This has already occurred in several incidents nationwide where the 24-hour news cycle repeatedly plays a video of a police incident where various legal experts give their interpretation of what they think actually occurred. As with any other piece of equipment used by officers, this is just one tool that, when used in conjunction with other video from the officer's dash camera, surveillance video from private business, and the inevitable cell phone video, can help give a very accurate depiction of the entire incident.

RECOMMENDATION

With the increased scrutiny of law enforcement officers across the nation, law enforcement agencies should utilize body cameras which would help increase the transparency of officer's actions while providing an accurate account of what actually

occurred during the incident. In several of the most recent deadly force incidents involving law enforcement officers, there has been clear discrepancies between what witnesses reported and what was reported by officers. This in and of itself does not necessarily mean that the officer engaged in improper conduct, but there was not a witness present to advise of an unbiased account of the incident.

Law enforcement agencies that utilize body worn cameras would be able to immediately review deadly force incidents as well as any contact the officer has made with citizens. With the amount of video being recorded each day, it is imperative that supervisors periodically review officer video whether a complaint is received or not. Consistent review of all officer recorded video would give law enforcement administrators the ability to see patterns of behavior on the part of officers and take measures to re-train, discipline, or terminate officers who intentionally and knowingly continue to violate departmental policies and the law.

When any type of recording device, audio, or video is used, there will be privacy issues and the potential that the information may be misused; there could be video made during the discussion of a very private incident such as a sexual assault that could be subject to open records. The ACLU (2013) has stated that they are a proponent of the use of body cameras, but they have had concerns of the video taken to be misused (as cited in Stanley, 2013). The ACLU also had concerns that the officers would have the ability to delete or edit video from its original version (as cited in Stanley, 2013). With the implementation of the body cameras, agencies should have a strong policy concerning when the cameras should be used, and situations where it would be appropriate to not to record officer/citizen contact (Stanley, 2013).

When selecting the type of body camera to purchase, agencies should carefully examine the features of each brand available. Specifically, agencies should select a brand that will only allow the video to be downloaded by the officers and does not give them the ability to delete or download without supervisory approval. This type of system would also leave a permanent record of anyone making a copy of a video from the system and would help prevent its unauthorized use.

The cost of the cameras can be covered by the utilization of federal grants that are available as well as community partners that may be able to assist with the part or all of the purchase price. In addition, there are numerous agencies that have already implemented the body cameras in their departments. With technology changing as quickly as it does, there will be opportunities for smaller agencies with a limited budget to see donations of body cameras once they upgrade to the newest technology.

The policy governing the use of the body cameras should be the foundation of any law enforcement agency's administration before the decision is made on what type of camera to purchase. A strong policy in place that is strictly enforced is crucial to the goal of an agency that is trying to build trust between the law enforcement agency and the community. If the body cameras are not utilized correctly during an incident, the missed recording could enhance preexisting tensions between the citizens and a law enforcement agency. The policy should state that every officer in the department shall wear a body camera while on duty. A test video should be made at the beginning and end of the officer's shift to document that the equipment was functioning properly. Officers who fail to operate their cameras during a police contact as specified in policy

should be dealt with in a consistent manner according to department's discipline policy so the violation is not repeated.

When developing a body camera policy, each department should consult with the district attorney's office regarding specifics on how the video is to be stored as evidence and what format should be used to transfer the evidence to the to the district attorney's office for trial. The policy should also state the rare occasion when a camera should not be utilized, such as during an interview with a sexual assault victim. Once the policy is approved and vetted through the agencies legal counsel, the selection of the brand of camera should be based on which brand would ensure compliance with the approved departmental policy.

Through the proper utilization of body cameras, it would give citizens and law enforcement officers a clearer picture of an entire incident from the beginning which could be used to determine the next course of action that should be taken. Some officers will still be leery of wearing a body camera during their shift due to what they perceive as a violation of their privacy. For this reason, formal training before the camera program is implemented is imperative to alleviate any unnecessary fear the officers may be experiencing as a result of the cameras use.

Even with a strong policy in place for the use of body cameras, law enforcement agencies should be prepared to make changes to the policy when needed to ensure the agency is keeping up with the ever changing technology and changes in state and federal law. Depending on what features may be added in the future, more policy restrictions may be put in place for the protection of the officers as well as citizens. In addition to proper training before a body camera program is implemented, the police

administration should clearly explain to officers the importance of the program, and their expectations on results that they hope to achieve. When properly used, body cameras could help reduce false allegations against officers, help give an unbiased account of exactly what action was taken, and aid in ensuring transparency of law enforcement agencies for the citizens they serve.

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