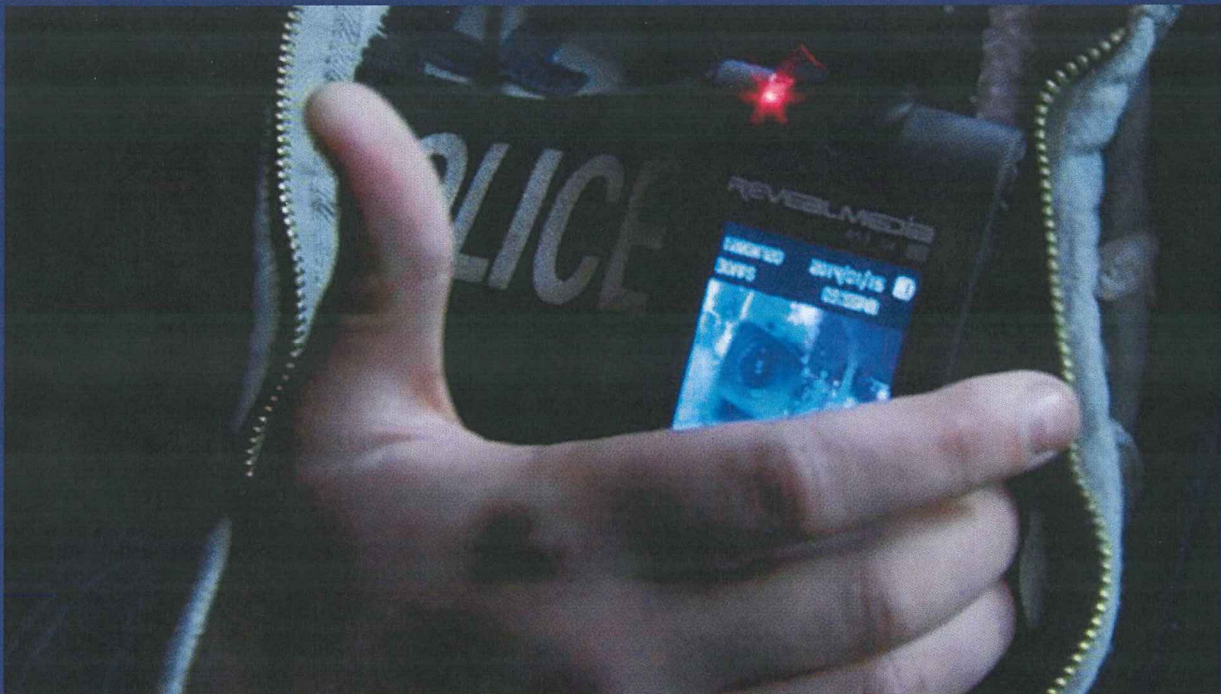


MADISON POLICE DEPARTMENT

Body-Worn Video

Considerations for Program Implementation

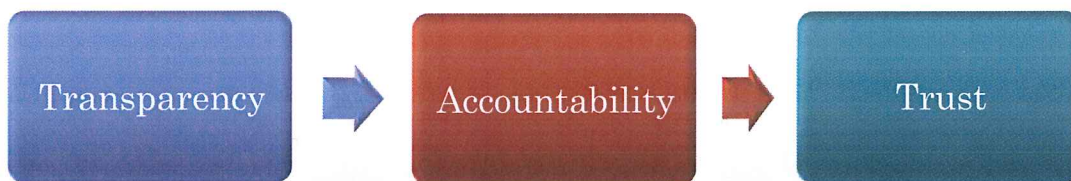


Report to the City of Madison Common Council

Prepared by
Captain Kristen Roman

Introduction

In recent years, the emergence of body-worn video cameras in police agencies across the country has garnered national attention, sparked community dialogue, and illuminated both real and perceived benefits regarding their use. While the many conversations taking place on this issue in communities such as ours throughout the country will no doubt yield various tailored program policies and practices, a common thread that weaves its way through all these discussions is the shared hope and in some cases firm belief that the use of officer-worn video cameras leads to increased transparency, accountability and trust.



It is important to understand from the outset that these three concepts or objectives are not one-sided. While there are clearly benefits to the community to have in place systems that provide greater transparency, accountability, and therefore increased trust in their police department, officer actions are only a fraction of what will be captured by body-worn video cameras. As crime scenes, witness statements, evidence, and civilians in both public and private settings are recorded, the community as a whole will be subject to greater levels of transparency and accountability. And matters of trust that emerge out of the increased visibility that such technology creates will impact not only police/citizen relations, but a number of community relationships in various contexts. The Madison Police Department (MPD) takes pride in its commitment to promote transparency, ensure accountability, and cultivate community trust. To this end, we welcome the opportunity to enter into thoughtful conversation with community stakeholders regarding the use of body-worn video (BWV) by MPD officers. This report will highlight key considerations for program development such as, the benefits and potential drawbacks of body-worn video cameras, privacy concerns, open records implications, and financial costs, all of which impact the community. Following a discussion of these considerations, this report will identify next steps toward BWV implementation.

Potential Benefits and Drawbacks

In much of the current literature that exists regarding the use of BWV by police, the overriding sentiment is that BWV benefits citizens and officers alike. Even so, guidelines published by the Police Executive Research Forum (PERF) as well as the Office of Community Oriented Policing Services (COPS) caution police departments and the communities they serve to carefully consider the impact of implementing BWV, “Although body-worn cameras can offer many benefits, they also raise serious questions about how technology is changing the relationship between police and the community. Body-worn cameras not only create concerns about the public’s privacy rights but also can affect how officers relate to people in the community, the community’s perception of the police, and expectations about how police agencies should share information with the public” (PERF, 2014, p. vii).

Police leaders who have deployed body-worn cameras point to many benefits related to their use. The benefits most commonly cited include:

- Complaint Reduction and Resolution
- Transparency and Accountability
- Improved Public Trust
- Evidence Documentation
- Training
- Identifying Systemic Problems

Complaint Reduction and Resolution

As outlined in a recent PERF survey, agencies utilizing body-worn videos report a reduction in citizen complaints against officers. The Rialto (CA) Police Department cited a 60 percent reduction in officer use of force incidents following camera deployment and an 88 percent reduction in the number of citizen complaints between the year prior to and following camera deployment. Police in Mesa, AZ reported 40 percent fewer total complaints against officers during a one-year pilot program and 75 percent fewer use of force complaints for officers with cameras during this same pilot. While it is true that cameras can lead to improved professionalism among officers wearing them, many agencies have found that having video footage of an encounter also discourages people from filing unfounded or false complaints against officers. As we have seen in the use of in-car video systems, incidents captured on video often lead to quicker resolutions when questions or complaints arise.

Transparency, Accountability, and Trust

“Whenever you do a thing, act as if all the world were watching.”

- Thomas Jefferson

Proponents of police body-worn video argue that their use provides greater transparency, which in turn ensures accountability thus improving citizen views of police legitimacy. Yet as David White (2014), Professor of Criminology at Arizona State University noted in a recent report, “This claim has not been sufficiently tested. There have been virtually no studies of citizens’ views of the technology” (p.10). White (2014) further argued that perceived benefits of body-worn video are largely that – perceived – and that, “Researchers should examine all aspects of the implementation and impact of the technology – from its perceived civilizing effect, evidentiary benefits, and impact on citizen perceptions of police legitimacy to its consequences for privacy rights, the law enforcement agency and other outside stakeholders” (p.14).

Despite White’s cautionary position, police executives surveyed for the PERF report anecdotally advised that body-worn cameras have made their operations more transparent and strengthened accountability. Feedback that PERF received from 40 police executives who have implemented or are considering using body-worn cameras pointed to increased officer professionalism, an enhanced ability to identify and correct operational deficiencies, as well as improvements to officer performance, and interactions with the public as distinct benefits to the use of body-worn video cameras in their respective departments.

Fundamentally, the impetus for outfitting each and every patrol officer with a camera to record their actions and those of citizens with whom they interact is a matter of trust – or more accurately a lack of trust. As noted in the PERF (2014) report, “Trust builds through relationships, and body-worn cameras start from a position of mistrust” (p. 20). Given that a broader utilization of body-worn cameras in police agencies is a relatively new phenomenon, it is too soon to fully understand the impact that their use has or may have on the relationships between officers and members of the community. Does BWV actually improve trust or undermine it? Questions as to the ways in which BWV may hinder openness, or deter citizens from contacting police, making statements, or providing information pose serious concern and require full exploration and assessment given their potential chilling effect on police/community partnerships. These questions underscore White’s (2014) position that far more research is needed to understand the macro-level impact and to either validate or debunk the perceived benefits and drawbacks to the use of BWV. At a local level, community engagement and officer input regarding

potential impact, program parameters, expectations, and the development of outcome measures to address each identified area of concern will be essential to any BWV implementation process.

President of the Madison Professional Police Officer Association (MPPOA), Dan Frei, articulated additional concerns in his supplemental memo, which is attached to this report. Frei pointed to potentially unrealistic community expectations regarding BWV and the ways in which such expectations may undermine trust in the Department. Frei's insights illuminate intangibles not explored in depth in the PERF report such as the unintended consequence of an overreliance on video evidence leading to a devaluing of officer statements or incident accounts. This same overreliance and misunderstanding as to the true limitations of technology can result in untenable expectations that all incidents will be recorded and that such recordings will present a full and complete picture of all contributing factors leading to specific officer decisions or actions. Frei's commentary illustrates well the need for a comprehensive approach to BWV program development and subsequent community education regarding what such a program can realistically be expected to offer in the way of police transparency, officer accountability, and increased trust in the Department.

Evidence Documentation

Currently, MPD Investigators visually document crime scenes through still photos and handheld video cameras. Prior to the arrival of these forensic specialists at the scene, officers and supervisors work to secure a perimeter and preserve all known evidence. The use of body-worn cameras by officers first arriving at the scene can serve to enhance evidence documentation by capturing footage from the outset of a police response and recording information that may not initially be identified as evidentiary but is later determined to be so. In addition, BWV can provide a record of interrogations, arrests, and anything else that officers may witness at various crime scenes. According to Chief Jason Parker of Dalton PD in Georgia, "Unlike in-car cameras, body-worn cameras capture everything that happens as officers travel around the scene and interview multiple people. The body-worn cameras have been incredibly useful in accurately preserving information" (PERF, 2014, p. 9).

Officer Training

The use of video as a training tool has a long proven benefit. Athletes review game footage, artists critique recordings of their performances to make improvements, and recruits in the MPD Pre-Service Academy analyze videos of their scenario-based training to identify ways to better their approach and improve incident outcomes. In addition to pre-service use, BWV can provide a post-incident review to highlight both effective and ineffective actions, decision-making, and various environmental factors that contributed to the incident. PERF's survey found that 94 percent of respondents use body-worn camera footage to train officers and aid in administrative reviews. MPD's SWAT Entry Team members have used body-worn video cameras for both training and post-incident review as well as evidence documentation since 2012. This small-scale use has given us a sense of both the promise these cameras hold for training purposes and the significant amount of server space that is required to maintain video data.

Identifying Systemic Problems

Beyond the potential value of using BWV as a training aid for individual performance, BWV can also assist in identifying and addressing systemic problems within the Department. Reviewing BWV footage as the need arises will provide opportunities to recognize patterns that may emerge from individual incidences and officer actions pointing to more wide-reaching structural problems in need of correcting. Each year, we review our Standard Operating Procedures and make necessary adjustments. BWV can provide a tool in conducting these assessments and determining best practices.

Drawing largely from the PERF (2014) report released earlier this year, information as to the benefits and possible drawbacks to the use of BWV is mostly anecdotal. And from a review of the limited literature on the subject with respect to the efficacy of BWV programs, it is clear that more research is needed to conclude empirically what the advantages and disadvantages are to the full-scale use of BWV in police agencies. While the benefits and drawbacks already discussed in this report are those most commonly cited to date, matters of concern that could also be characterized as potential drawbacks such as privacy, open records, and financial costs, will be further explored in the following sections.

Privacy Concerns

Perhaps the most nuanced consideration in the discussion of police body-worn video is that of privacy. In Wisconsin, only one party needs to consent to either videotape or audio record an interaction. Body-worn cameras raise many privacy issues and given the relatively recent use of BWV in policing, the courts have not yet provided guidance on these issues. Yet it is these very issues that will define the parameters of any BWV program implemented in the Madison Police Department. BWV is more intrusive than a mounted in-car video system, which operates in the realm of public view. And when affixed to a police officer's lapel, BWV can capture and memorialize not only police actions but the varied and often sensitive and tragic circumstances the citizens we serve confront on a daily basis. Officers are frequently called into scenes fraught with emotional and physical discord, volatility, injury, confrontation, pain, and trauma. The very nature of our work means that we often see people on their worst days, entering into the privacy of their homes in an attempt to engender calm in the face of chaos. Serious questions arise when we consider introducing a video camera into these interactions. Suspects, witnesses, bystanders, and victims, are all subject to the scope of the camera lens, which is at once far-reaching and limited in its ability to accurately and adequately portray the human condition.

Agencies currently using BWV acknowledge that privacy is a concern though to date there seems no clear measure of the impact that BWV has on the experience of citizens engaging with officers outfitted with a video camera. As mentioned earlier in this report, most of the information that exists in this particular area is speculative and not articulated from the point of view of citizens whose circumstances, statements, actions, and home settings, are being recorded and placed into public record. To this point, determining when to record presents considerable challenge and any resulting decision carries with it the potential to impact the police/citizen dynamic and perceptions of trust more than any other aspect of a BWV program. As noted in White's (2014) assessment, "These concerns highlight the importance of developing detailed policies governing when the body-worn cameras should be turned on and off... Detailed policies and careful officer training can assuage some citizens' objections to body-worn cameras" (p. 28). Police executives from the PERF (2014) survey cite the potential negative impact on community relationships as a reason to not record every encounter. Whether or not and to what extent BWV causes a chilling effect on citizens' willingness to contact police in a variety of contexts will need to be continuously evaluated by any agency using these cameras and should be fully vetted through community discussions prior to any program implementation.

Open Records Implications

Questions that have emerged from communities whose police departments employ BWV reveal the underlying privacy concerns and an apprehension shared by many fearing disclosure of specific recorded data, most notably footage from inside private dwellings, or footage that is sensitive in nature. In preparing this report to the Council, MPD consulted with the City Attorney's Office to receive guidance regarding any open records implications that a BWV program may create. Preliminary discussions with the City Attorney's office noted that records created through BWV cameras will be subject to the same balancing test that all MPD records are currently. As such, BWV records requests will be assessed on a case-by-case basis taking into consideration the unique attributes of each record requested and applying existing standards as to their release in either full or redacted form. However, unlike written records, video records require a more labor-intensive and specialized process to retrieve and review for the purposes of an open records request. As our experience with in-car video records has shown, there are an ever-increasing number of public requests for video records. The addition of BWV – which will likely capture far greater amounts of video than in-car systems – will not only create the need for significantly greater server/data storage capacities, but will also require additional staff to process open records requests for these videos. All of which translate into increased financial costs to implement a BWV program.

Some agencies that were quick to implement a BWV program, did not adequately anticipate the volume of open records requests that followed soon after. A recent news story out of Washington reported that agencies there using BWV have been slammed by massive public records requests that for one agency could take up to three years to fulfill and have caused other agencies to halt their BWV program pending legislation that places reasonable restrictions on blanket records requests. As stated in one article covering this story, "Some familiar with the bulk public disclosure requests for video, suspect that people are trying to obtain the footage to turn it into for-profit television or Internet programming" (Lucia, 2014).

Aside from these legal, logistical, and financial considerations pertaining to open records implications for BWV, the overriding open records concern as it relates to BWV takes us back to the issue of privacy and whether or not it serves the best interest of the public to create a record and make available upon request video footage recorded during a police contact that occurred inside the privacy of one's living room.

Financial Costs

While body-worn video cameras can provide potential benefits, the question in any cost-benefit analysis is whether or not what we gain from implementing a BWV program as a department and a community is worth the extraordinary financial cost of doing so. In this analysis the relationship and trust level that exists between the community and the police is of paramount importance. For communities with police agencies under consent decree to utilize BWV based on clearly identified service and/or trust gaps, the financial cost of these programs is outweighed by the benefits resulting from increased transparency and the added assurances of accountability that BWV can provide. The question soon before the Madison community will be whether or not as a whole it sees a clear need to increase assurances and potential accountability measures in *this* police department through a BWV program despite its drawbacks, one of which is its exorbitant financial cost.

The tables below outline estimated costs of implementing BWV in the Madison Police Department. Estimated costs for body worn video are based upon relating known usage, video quality and retention policies from the existing In Car Video system.

- Calculations were additionally extrapolated through the assessment of officer call volumes.
- Specialty units were also assessed to include the impacts of video from special events, Freakfest and Mifflin Street, (SET and Mounted Patrol) as well as SWAT responses.

The combination of these factors resulted in the estimated video storage requirements, and related costs, to cover daily, 120-day retention, and perpetual evidence storage.

Other financial considerations not included in this cost matrix are both operational and capital budget items. Annually, an operational budget item would be required to provide for maintenance, equipment repair and replacement. Additionally, the growing need for evidentiary storage would likely require capital funding to periodically expand the overall video storage, upgrade/replacement of servers, and provide for future upgrades to the body-worn video hardware and related software.

<u>Body Worn Video Estimated Costs</u>					
	<u>Officers Assigned</u>	<u>Body Worn Cameras (\$1,500 per unit)</u>	<u>Estimated Daily Video</u>	<u>Estimated 120 Day Retention</u>	<u>Estimated Evidence Per Year</u>
			<u>(in Terabytes)</u>		
<u>Patrol Districts</u>					
Central					
Patrol Officers	39	\$58,500.00	0.078	9.360	2.847
Sergeants	6	\$9,000.00	0.003	0.360	0.110
Community Policing Team	6	\$9,000.00	0.018	2.160	0.657
Education Resource Officer	0	-	0.000	0.000	0.000
Neighborhood Officers	3	\$4,500.00	0.014	1.620	0.493
Spare	1	\$1,500.00	0.000	0.000	0.000
Central Totals	55	\$82,500.00	0.113	13.500	4.106
East					
Patrol Officers	41	\$61,500.00	0.082	9.840	2.993
Sergeants	6	\$9,000.00	0.003	0.360	0.110
Community Policing Team	6	\$9,000.00	0.018	2.160	0.657
Education Resource Officer	1	\$1,500.00	0.005	0.540	0.164
Neighborhood Officers	2	\$3,000.00	0.009	1.080	0.329
Spare	1	\$1,500.00	0.000	0.000	0.000
East Totals	57	\$85,500.00	0.117	13.980	4.252

Body-Worn Video

North					
Patrol Officers	33	\$49,500.00	0.066	7.920	2.409
Sergeants	5	\$7,500.00	0.003	0.300	0.091
Community Policing Team	6	\$9,000.00	0.018	2.160	0.657
Education Resource Officer	1	\$1,500.00	0.005	0.540	0.164
Neighborhood Officers	3	\$4,500.00	0.014	1.620	0.493
Spare	1	\$1,500.00	0.000	0.000	0.000
North Totals	49	\$73,500.00	0.105	12.540	3.814
South					
Patrol Officers	32	\$48,000.00	0.064	7.680	2.336
Sergeants	5	\$7,500.00	0.003	0.300	0.091
Community Policing Team	6	\$9,000.00	0.018	2.160	0.657
Education Resource Officer	1	\$1,500.00	0.005	0.540	0.164
Neighborhood Officers	4	\$6,000.00	0.018	2.160	0.657
Spare	1	\$1,500.00	0.000	0.000	0.000
South Totals	49	\$73,500.00	0.107	12.840	3.906
West					
Patrol Officers	51	\$76,500.00	0.102	12.240	3.723
Sergeants	7	\$10,500.00	0.004	0.420	0.128
Community Policing Team	8	\$12,000.00	0.024	2.880	0.876
Education Resource Officer	1	\$1,500.00	0.005	0.540	0.164

Body-Worn Video

Neighborhood Officers	5	\$7,500.00	0.023	2.700	0.821
Spare	1	\$1,500.00	0.000	0.000	0.000
West Totals	73	\$109,500.00	0.157	18.780	5.712
Midtown *					
Patrol Officers	0	-	0.000	0.000	0.000
Sergeants	0	-	0.000	0.000	0.000
Community Policing Team	0	-	0.000	0.000	0.000
Education Resource Officer	0	-	0.000	0.000	0.000
Neighborhood Officers	0	-	0.000	0.000	0.000
Spare	0	-	0.000	0.000	0.000
Midtown Totals	0	-	0.000	0.000	0.000
Patrol Totals	283	\$424,500.00	0.597	71.640	21.791
<u>Specialty Units</u>					
SET	79		0.948	113.760	11.376
SWAT	50		1.200		144.000
Mounted	3	\$4,500.00	0.036	4.320	0.432
K9	6	\$9,000.00	0.005	0.540	0.164
TEST Motor Officers	3	\$4,500.00	0.018	2.160	0.657
TEST Officers	6	\$9,000.00	0.036	4.320	1.314
Gang	6	\$9,000.00	0.027	3.240	0.986
Spare Units	5	\$7,500.00	0.000	0.000	0.000

Specialty Totals	29	\$43,500.00	2.270	128.340	158.929
Patrol and Specialty Grand Totals	312	\$468,000.00	2.867	199.980	180.719
<u>Server Infrastructure</u>					
Server Storage		\$130,143.00			
Upload Server Upgrades		\$500.00			
Body Worn Camera Application Software		\$15,600.00			
District Network Upgrades (10 Gigabyte Switches)		\$100,000.00			
Camera Mounts		\$1,000.00			
Server Infrastructure Totals		\$247,243.00			
<u>Positions (2014 Rates)</u>					
FSU Lab Technician Position		\$69,900.00			
Management Information Specialist 2		\$87,000.00			
Program Assistant 1 Position		\$66,200.00			
Positions Totals		\$223,100.00			
<u>Overtime (w/Benefits 2014 Rates)</u>					
FSU Lab Technician Position		\$5,954.00			
Management Information Specialist 2		\$6,416.80			
Program Assistant 1 Position		\$4,733.30			
Overtime Totals		\$17,104.10			

<u>Total</u>		
<u>Estimated</u>		
<u>Costs</u>		<u>\$955,447.10</u>

* The Midtown police district is not included within the overall cost estimates.

Next Steps

As of the date of this report’s submission to the Common Council, it has already been resolved to establish an ad hoc committee in 2015 to further explore the matter of body-worn video cameras for the Madison Police Department. Though the specific objectives and direction for the work of this committee will be determined collaboratively by those selected to participate, our preliminary research and assessment point to several potential strategies to facilitate this exploratory process. To begin, we have identified key internal stakeholders to lend their expertise and perspective to the ad hoc committee discussions. Issues in need of further inquiry and understanding include but are not limited to:

- Cost/benefit analysis
- Community impact
- Privacy considerations
- Policy and procedure
- Training
- Open records parameters
- Program measures to assess effectiveness/outcomes

Potential MPD strategies to address the above issues:

- Conduct community forums (with diverse representation from various communities)
- Educate the community regarding the benefits, drawbacks, and limitations of a BWV program
- Obtain legal consultation/input (HIPPA issues and other protected information considerations)
- Solicit organized labor feedback
- Coordinate discussions with victim rights advocates
- Coordinate discussions with mental health consumers and advocates
- Develop a long term financial feasibility plan

In conclusion, this report summarizes the many issues that must be carefully considered prior to choosing to establish a body-worn video program in the Madison Police Department. In short, it is a complex issue and there are no easy solutions or technological fixes to what, in the end, is a matter of trust.

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To: Captain Kristen Roman
From: Dan Frei, MPPOA President
Re: MPPOA input regarding body worn cameras

Capt. Roman, thank you for the opportunity to provide input into the question of the Madison Police Department implementing a body worn camera (BWC) program. In general we recognize that there are benefits, both in terms of public opinion and trust and also to officers, to a BWC program but there are also many issues that are raised that must be addressed prior to implementing a BWC program and that would continue to need to be addressed even after a BWC program was begun.

In preparing this memo we reviewed the report from the Police Executive Research Forum (PERF) and also a paper from The Force Science Institute both of which are attached as supporting documents. In addition we also surveyed the MPPOA board for thoughts and opinions. In general we tend to agree with both papers and the points they raise, so for the sake of brevity I will not try to re-address each and every point contained in the papers as they stand alone. I will address certain points that I believe need further comment and will also try to bring up issues that were not mentioned in these articles. I will not try to address specifics of budgetary or staffing implications as I believe that you and others are dealing with those, but those are obvious factors that need to be considered as well.

The paper from PERF titled "Implementing a body-worn camera program: Recommendations and lessons learned", does a good job of laying out the perceived benefits of BWC programs. According to the report, many police executives reported that BWC have made their departments more transparent and accountable to the public while also helping to resolve questions following an encounter between officers and members of the public. Many executives also reported that complaints against officers were reduced and that use of force by officers was also significantly reduced when officers were wearing cameras. One caution I would raise is that the two studies cited (Mesa Arizona PD and Rialto CA PD) raise more questions in my mind than they answer and I would be hesitant to rely on their data without an in depth examination of the methods used and of the department's themselves. Both studies report significant reductions in use of force for officers wearing cameras as compared to officers who were not. The questions that come to my mind are:

Do those departments have problems with use of force by their officers (officers using too much or unwarranted force)? On the shifts where officers didn't wear the cameras and use of force was higher, were these use of force incidents found to be excessive or out of policy? Did the addition of cameras **SUPPRESS** warranted, legitimate use of force (officers did not use force when they should have, creating dangerous situations and at times the potential to have to use even greater force as the incident continues)? Did they see a reduction in officer output as a result of officers wearing the cameras (officers were less proactive when wearing cameras thereby reducing the number of potential contacts)? I would be hesitant to apply the findings of these agencies to all agencies and specifically to the MPD without a greater understanding of these questions along with the dynamics of how

these departments operate versus how MPD operates. SO while we agree with some of the perceived benefits cited we would caution trying to apply all of these to every department and especially to MPD.

The paper from PERF also does a good job of laying out concerns related to data storage, records retention, and disclosure of records. Clearly there is significant cost to data storage along with security concerns. Recently we have seen data breaches to what were believed to be very secure systems (including threats and breaches to banks and high security Govt. institutions) and I would propose that there is no reason to believe that we would be able to have a data storage system that is any more secure than those we have already seen compromised. I will leave it to others to calculate the additional costs for data storage, security, along with the manpower issues that go along with increased open records requests.

Two areas of concern that are raised by the PERF report that we feel are worth greater elaboration are the areas of privacy concerns and the impacts on community relationships and information gathering. We, at the MPD take great pride in our relationships with the community. We feel that one of the reasons why Madison has such a low crime rate compared to other cities of our size or even smaller cities geographically close to Madison are the relationships we have built and maintained with our community. While there are some in our community who likely feel that BWC are needed and would possibly increase their relationship with their police department, there are others who I am sure would feel that BWC present a barrier to their ability to interact with their officers. The PERF report quotes Det. Bob Cherry from the Baltimore PD Fraternal Order of Police "trust builds through relationships and body worn cameras start from a position of mistrust". While no single piece of technology can either establish or completely remove trust, it does beg the question of if body worn cameras are seen as necessary by your community to establish trust then aren't there other areas that need to be worked on and might there be better uses of limited budgets (greater emphasis on community policing efforts versus technology)?

There are also impacts on the ability to gather information that must be considered. Many of the people that we deal with daily and especially at crime scenes are hesitant at times to be seen talking and providing information to police. The addition of having these encounters videotaped would certainly have a chilling effect on many of these interviews. Some of these concerns can be addressed through sound policy, giving officers the ability to use discretion as to when they can stop or not record. Of course the more discretion that officers are given the more questions that can be brought up by critics and begins to lesson the initial reasoning for implementing a BWC program in the first place.

One of the greatest areas of concern, both in the PERF report and by our board was in the area of privacy. It is a large leap when you go from recording interactions that occur in public (either through fixed position security cameras, squad video, or BWC) to recording inside people's homes and recording close up video of every encounter with citizens. We respond daily to calls to assist the fire department on medical calls or other calls where people might be in various stages of undress or distress. It is not infrequent to hear citizens, when calling 911, to ask that police and fire response be "quiet" (no lights or sirens). They do this because

they fear embarrassment from the attention that an emergency response draws. What effect will there be if they are also thinking that they will be filmed in these moments? We frequently come into contact with people in extremely vulnerable situations, people who have been victimized, who will now have to also worry about their situation being videotaped. We also deal with recent immigrants to this country who fear interacting with the police for reasons ranging from concerns about their immigration status to their experiences with law enforcement in their home country. The addition of BWC could present one more barrier that we have to overcome when trying to establish trusting relationships with these communities. Some of these situations can be addressed through sound policy, but again there will be the same associated questions and issues whenever specific encounters are not filmed. There will also be some legislative issues that will need to be addressed in the area of open records laws. No one wants their neighbors or others to see every detail of an interaction with the police especially in non-criminal situations. There will have to be a balance between privacy concerns and the public's "need" and right to know.

An area that the PERF report briefly comments on but we believe will need to be examined further is the area of officer efficiency and how videos from each call will be used. The PERF report addresses whether officers should be allowed to view videos prior to giving a statement in situations like officer involved shootings but doesn't address "everyday" calls. Should officers go back and review videos from each call to make sure that their memory and notes don't conflict with the exact details that will be shown on the video? Should officers review videos to make sure that things they saw and perceived during an encounter were captured in the video or do they need to document what was seen and perceived by them and why it wasn't captured on video? Will the video ever **BE** the report? All these, and more, questions will have to be addressed and each has an impact on officer efficiency. You can essentially double the time for each call if officers go back and watch the tape from each call prior to completing their report.

An intangible that the PERF report touches on very briefly but is an important consideration for officers is how the word of an officer is being de-valued by technology. The public and even DA's staff have come to expect and overly rely on video evidence, not taking into account the limitations of this and any technology. We have seen cases dropped because there was not video evidence even though the case was strong otherwise. We have also heard from the DA's office that juries now have expectations, based on what they see on TV shows such as CSI, that are completely unrealistic as far as what technology is in the hands of law enforcement and what it can and should do.

PERF as an organization naturally has a focus on the perspective of a police executive, but doesn't always fully take into account how a particular policy, program, or piece of technology is viewed by those most directly impacted by it. The PERF report raises very good questions and concerns in the areas of policy, procedure, financial considerations, and generally how the technology would be used, but doesn't speak to the limitations of the technology itself very well. The paper from the Force Science Institute does address some of these limitations and possible implications that rise from these limitations. The Force Science Institute is

a group of scientists that have chosen to examine human behavior in high stress and deadly force encounters. They have conducted groundbreaking scientific studies on perception, action/reaction parameters, attention and memory, and judgment of officers in force encounters.

I will not take the time to list each of the limitations listed by the Force Science Institute as their paper is attached but I will highlight two of their points. A camera can't feel, it doesn't possess the ability to attend to multiple cues at the same time as well as a human, it doesn't have a database of memory and training to access, in short not everything an officer sees, feels, and perceives can or will be recorded but people viewing the incident in the calm light of the day will very likely give more weight to what they see on the video than to what additional factors an officer might be able to add. From the Force Science paper ""according to the U.S. Supreme Court in *Graham V. Connor*, an officer's decisions in tense, uncertain, and rapidly evolving situations are not to be judged with the '20/20 vision of hindsight,' Lewinski notes. "But in the real-world aftermath of a shooting, camera footage provides an almost irresistible temptation for reviewers to play the coulda-shoulda game. Under calm and comfortable conditions, they can infinitely replay the action, scrutinize it for hard-to-see detail, slow it down, freeze it. The officer had to assess what he was experiencing while it was happening and under the stress of his life potentially being on the line. That disparity can lead to far different conclusions."

Many of the concerns raised by the MPPOA board and MPD officers mirror those already addressed in the PERF and Force Science reports. Some concerns that we have that are more specific to Madison are reflected below. We are concerned that by adopting a BWC program that it creates a perception for the public that isn't always true. When the public hears that officers are wearing cameras they will then assume that every encounter will be available to be viewed. Technology is never perfect, it fails through no fault of anyone. It becomes outdated and starts to malfunction. The public bases much of their experience and expectations on what they see on television. While squad and BWC footage is being seen more frequently, the footage the public sees most often is from shows such as COPS. The public doesn't appreciate the difference in quality of camera technology and end product that a show like that (or Hollywood productions) produces versus what we see from body worn cameras. They don't appreciate the foreshortened and narrowed visual perspective that squad car and body worn cameras often produce (due to lens technology). While this concern might seem somewhat farfetched to some, you only need to see how many people feel that officers should shoot someone in the leg or arm in an armed encounter and think where that idea comes from to see our point. Very few people have any actual experience to draw from (other than television) where they would independently come up with the idea that officers should shoot someone in the arm intentionally.

One of the biggest concerns that we have and we feel **MUST CHANGE**, especially if civilian policy makers decide that MPD will undertake a BWC program, is the city budgeting process. Currently city agencies including MPD are forced to prioritize budget requests each year, pitting one need against another. This is done for good reason typically but if the MPD is directed to take on a BWC program the expense should not be "cost against" other department needs. This is an important

consideration not just for initial costs (cameras, data storage, and associated personnel increases that would be necessary) but for continuing costs. The continuing costs are at least as important if not more important. We have seen with our current squad cameras and microphones that as they aged the reliability went down. There came a time when microphones were no longer issued to new officers and the manufacturer of the cameras we use stopped making them. The cameras and microphones began to fail and currently many squads do not have properly functioning cameras or microphones even though our policy doesn't reflect this. Officers have been put in the position to have to defend and explain in court why there wasn't video or audio of a particular incident. This is due in great part to how the city budget process works. Our department is forced to prioritize the costs of replacing and updating equipment such as squad cameras against other needs. When our leaders have to choose between adding officers for community policing needs or spending that money on cameras, the technology often gets put off and correctly so. As stated above, technology is not the reason why the MPD has such a good relationship with the residents of Madison, our officers and the way we police are. This takes us back to public perception and expectations. The public will expect that the cameras are working and our officers should not have to explain that they aren't because the funds were not there in a particular year to maintain the cameras.

We would like to offer some recommendations that we would insist on to the degree that we are able:

- *If civilian policy makers determine that MPD must undertake a BWC program that there is a commitment to provide funding not just for initial costs but to maintain and update the technology. Funding that is independent of other departmental needs.

- *A statement by the Mayor and City Council openly acknowledging the limits of any type of camera technology, including the limitations listed by the Force Science Institute. This statement should also acknowledge that any video only captures one perspective of an incident, there might be other views that if available would give a different view and conclusion. There are currently videos from other departments that show the same incident from two or more different views that illustrate this point. One view shows what appears to be an unjustified use of force but when the other view is seen it shows why the use of force was justified. If only one view was available it could very well lead to an incorrect conclusion. Political leaders need to acknowledge this possibility. The statement should also acknowledge that there will not always be video, technology fails sometimes or there might be other reasons why an incident was not captured and this should be acknowledged prior to this occurring instead of in the aftermath.

In conclusion, we would urge policy makers to sincerely examine whether this technology, in this community, and with this police department, is the right way to go. The possible benefits should be weighed against the possible downsides and viewed through the prism of our community's dynamics and relationships. Thank you for the opportunity to provide our thoughts.



Massive public records requests cause police to hit pause on body cam programs

Requests for hundreds of hours of body camera video are creating major hurdles for police and raising new privacy concerns.

By Bill Lucia

November 10, 2014.

Steve Strachan is the chief of police in Bremerton, a city of about 39,000 located directly west of Seattle on the Kitsap Peninsula. A former King County sheriff with nearly 30 years of law enforcement experience, Strachan currently has around 60 officers in his department. About two months ago, several of those officers tested different models of the officer-worn body cameras that are becoming increasingly popular in police departments around the nation. The pilot program lasted about six weeks.

"The officers that had them said that the interactions they had markedly improved," Strachan said. "They didn't want to give them up. The officers said, "We like these."

But even though his officers embraced the new technology, and the department has the money set aside in its 2015 budget to roll out a permanent body camera program, Strachan is planning to hold off for now. The reason: At least two other Washington state police departments that use the cameras have received public disclosure requests for all video footage recorded by the devices. The requests threaten to create a crippling workload for agencies with limited staff and technology. Some police officials also worry about the privacy implications for their communities if the footage is made widely available.

The video files can amount to hundreds of hours of footage and often need to be redacted to blur faces and other sensitive information, or to mute audio. The police department in Poulsbo, a city about 15 miles north of Bremerton, has received a blanket body camera video request. The chief there said that, with his current staff, it could take up to three years to fulfill.

Some familiar with the bulk public disclosure requests for video, suspect that people are trying to obtain the footage to turn it into for-profit television or Internet programming.

Along with the work they create, the requests also raise privacy concerns. "Do you want video of the inside of people's homes that have been burglarized to be available to the public?" Strachan asked. "Or an interview with a domestic violence assault victim?"

"What it really comes down to is: How can you have transparency and privacy? And I don't know if you can have both in a way that satisfies everybody," he added.

If state lawmakers do not revise public records and privacy laws to account for the new technology, officials at departments already using the devices say they might hit the stop button on their body camera programs. Likewise, Strachan said his department would not purchase cameras for a permanent program if the laws were not changed.

Notably, the Seattle Police Department is moving ahead with long-postponed plans for a body camera pilot project despite the complications surrounding public disclosure requests. Already bogged down with massive requests for in-car video, the department is looking for ways it could post most of the body camera footage directly to the Internet, and for new software to index video and automate parts of the redaction process.

The American Civil Liberties Union of Washington has tracked the body camera issue closely and has offered input at the state level and to the Seattle Police Department. The organization's stance is that body camera footage should only be used for police accountability purposes. While this approach might eliminate some of the problems related to large public disclosure requests, it would require changes to state law, and it would likely encounter pushback from some law enforcement agencies and police unions.

Doug Klunder, an ACLU attorney specializing in privacy, explained that in the organization's view, only videos related to incidents involving use of force, complaints against officers, or possible misconduct should be stored by police departments. This video would potentially be subject to public disclosure. Any other video would be deleted within a relatively short timeframe, such as 60 days. During that time it would not be released.

"The vast majority of recordings should never be used, or accessible to anybody," Klunder said.

The concerns around public disclosure, he added, are part of the reason "why we think comprehensive legislation is needed."

The ACLU also believes that changes to state law are needed to align the use of the cameras with the Washington's Privacy Act, which prohibits the recording of private conversations without consent. The privacy law includes some exemptions for emergency responders and in-car police cameras, but does not offer guidelines for body cameras.

In many major U.S. cities, including New York, Los Angeles and Washington D.C., police departments are experimenting with the cameras as pressure grows to increase transparency and accountability in local police departments. Interest in the devices surged earlier this year after an officer in Ferguson, Mo. shot and killed an unarmed teenager, setting off clashes between protesters and police.

The cameras come in different models. Some are about the size of a deck of playing cards and fasten to an officer's uniform, typically on their chest. Other cigar-shaped units can be affixed to eyewear and hats.

There is evidence that the cameras can provide benefits. A study conducted between 2012 and 2013 in Rialto, Calif. found that police shifts when officers did not wear cameras had about twice as many use-of-force incidents compared to shifts when cameras were worn. Police officials here in Washington, and in other states, also point to instances where the video technology has cleared cops of spurious misconduct complaints, and suggest that suspects behave better when they know they are on camera.

"Everyone seems to behave differently when they know they're being recorded," said Mike Wagers, the Seattle Police Department's chief operating officer.

But without proper training and implementation, the cameras are far from a panacea.

Albuquerque began issuing officers body-worn cameras in 2010. Since then, the department has undergone an investigation by the U.S. Justice Department's Civil Rights Division, which found that the department engaged in a pattern or practice of excessive force, including deadly force. In a letter to Albuquerque's mayor earlier this year, outlining the findings of the investigation, the Justice Department specifically noted the body cameras and said that it did not appear that officers were properly using the devices and that the camera program "appeared directed only at placating public criticism."

As part of a pilot program now scheduled to begin this December, the Seattle Police Department plans to equip about one dozen patrol and bicycle officers with the cameras in the East Precinct, which includes Capitol Hill and the Central District. The department will test cameras from two manufacturers, Vievu and Taser, over a roughly six-month period. The footage recorded during the Taser trial will be stored remotely using cloud-based storage service provided by Evidence.com, a division of Taser.

According to chief operating officer Wagers, the department is not banking on any changes in state law. "We just assume that it's not going to change, and we have to figure out ways to deal with it as the world exists now," he said.

The department initially planned to start testing body cameras last fall, but decided to delay the program because of legal concerns about privacy. That decision was based on a recommendation from the city attorney's office, which advised waiting until the state attorney general's office issued an opinion that could answer unresolved legal questions related to the cameras. A state lawmaker requested that opinion in February. It has not been issued yet.

An important precedent for public access to police video was set in June, when the state Supreme Court ruled that the Seattle Police Department had wrongly withheld dashboard camera footage from a KOMO-TV news reporter. The reporter filed a request in 2010 for "any and all" in-car footage the department had tagged to keep since 2007.

The court decision said that, while some video, such as footage related to pending litigation, could be exempt from public disclosure, for the most part, the department was obligated to comply with the request.

As of Oct. 31, the police department had 310,000 hours of in-car camera footage and multiple public disclosure requests for any and all of that video, records manager Bonnie Voegele said in an email last week. Wagers said the department is anticipating similar requests for body camera video. "We know we're going to get a request for 'any and all,'" he said.

The department's public records division currently has one manager and five permanent employees. Two additional temporary workers were also recently hired to help with the video requests. Over the summer, a workgroup that included police officials and other city staff began meeting to discuss the department's in-car and body camera programs. According to notes from a July meeting, which Crosscut obtained through a public records request, the department estimated then that it would take 169 people a full year to view and redact the backlogged requests for in-car video.

Any requests for body camera footage would come on top of the ones for in-car video. So the department is looking for ways to fulfill its video public disclosure obligations more efficiently. "The question is, how do we handle the redaction?" Wagers said.

Based on preliminary estimates, Wagers said that 95 percent of the body camera video could be released without any redaction. Posting this un-redacted video to the Internet, so that it is accessible to anyone, is an option the department is considering. And according to the notes from the July workgroup meeting, there have even been discussions about recouping some costs by charging a fee for downloading the video files. Courts commonly use similar fee-based online systems to provide access to documents.

What would happen to the other five percent?

That footage might be related to pending litigation, or it could contain sensitive material, such as a domestic violence victim or a child. These videos would be set aside and reviewed by city staffers familiar with public disclosure laws, who would offer guidance about how the footage should be redacted, or whether it could be withheld.

While posting all of the material online could make some people uncomfortable from a privacy perspective, Wagers said it was beyond the department's purview to decide which videos should be public. "Unless there is a change in the law, we will adhere to what we have to disclose here in Washington," he said.

The department is also looking for ways to streamline the redaction process. While Evidence.com currently offers some point and click redaction tools, Wagers said in an August email to Seattle Chief Technology Officer, Michael Mattmiller, that the Taser affiliate was also working on new automated redaction tools and that they were "willing to work with Seattle as a test bed to perfect this, further driving down the cost."

Crosscut obtained that email and others about the department's body camera program through a recent public disclosure request.

The email correspondence shows that Mattmiller contacted the Department of Homeland Security and Microsoft Research seeking information about technology that could be used to automatically blur faces, or search video based on spoken words, or other attributes captured in the footage, such as the color of a person's clothing. His inquiry was pinged around to federal agencies including the Federal Bureau of Investigation and the Secret Service.

Nobody offered a complete solution.

An FBI photographic specialist said the agency had technology to locate recognizable faces in videos, but it did not include an automated blurring tool. An older face-blurring tool was said to be slow and required double-checking. The FBI official also mentioned technology under development at a Massachusetts Institute of Technology lab that could identify footage containing people with certain characteristics, such as dark hair, or a blue coat. But the official added that this tool was not automatic and "not very effective for real operations yet."

A Microsoft researcher said that while automated blurring technology exists, it is not 100 percent accurate and that it would require "a lot of computing infrastructure" to process large amounts of data in short periods of time.

In spite of the challenges, Wagers is optimistic. "We see a path forward," he said. "We want to conduct the pilot and make sure we get it right."

But for smaller departments already using the cameras, big public records requests can pose overwhelming challenges. "We're in the process of evaluating: Do we put this on the shelf?" said Lt. Mike Johnston of the Bellingham Police Department.

Johnston is in charge of the department's body camera program, which began earlier this year. Currently, between 22 and 23 officers are using the cameras.

"We think it's a valuable program," Johnston said. But the department recently received a records request for all of its body camera video. The roughly 600 video files the department has accumulated add up to about 900 hours of footage. A lawyer and one other department employee are currently chipping away at the request at a rate of about three to five videos per day. "We have nothing to hide," Johnston said. "It's just going to take a lot of staff time."

While Johnston acknowledged that there are reasons that a journalist, a lawyer, or a person who has had a run-in with a cop might ask for a body camera video, he adds, "Because I want to sit home and be entertained isn't a good enough reason."

The Poulsbo Police Department, which began issuing the cameras about six months ago, also recently received a public disclosure request for any and all of the footage. About 14 patrol officers are currently using the cameras, according to Chief Al Townsend.

This does not sit right with Townsend. He worries about the privacy of city residents. "Let's say [someone has] a son that's having a mental breakdown," Townsend said. "It's good people on their worst day." As far as distributing video of that type of incident, he said, "I'm not sure that people want that, and I'm not sure that as the police chief of this community I want to produce those videos and then give them out to people."

The department has about 1,500 videos of various lengths. "I think we figured if our sergeant who manages the system spent an hour a day, it would take us until 2017 to produce the videos for this one request," the chief said.

"We're a small department," he added. "We can't afford to hire someone just to do public disclosure requests on body cameras."

The Washington Association of Sheriffs and Police Chiefs is currently working on recommendations for how the Legislature could change public records and privacy laws to account for the new video technology. James McMahan, the organization's policy director, declined to discuss those recommendations in detail, but said, "We've yet to find a good solution."

McMahan stressed that the association supports preserving access to public information, while also limiting the obstacles for departments equipping their officers with the cameras.

"We think actually letting people see what it is that we do could shed a lot of light on it and change people's opinions," he said. "When one public records request can flip that entire equation on its head, that's a problem."

It's a problem that Chief Townsend is now confronting in Poulsbo.

"We may end up scrapping the program," he said, "which is really unfortunate because the public loves them, we love them, it's just a great tool."

Asked if Washington is the only state that will have to grapple with the privacy and public disclosure conundrums that the cameras raise, ACLU privacy attorney Klunder said he did not think so. "I do think we're going to see this play out around the country," he said. "And people, so far, haven't thought it through."

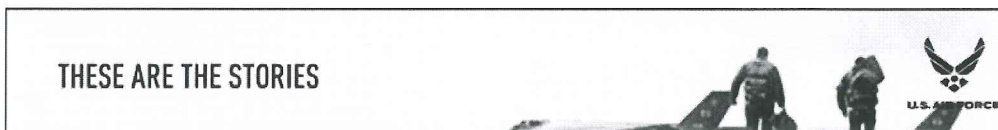
Bill Lucia writes about Seattle City Hall and politics for Crosscut. He can be reached at bill.lucia@crosscut.com and you can follow him on Twitter @bill_lucia.

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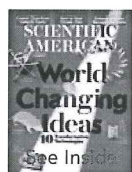
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Cities Want Cops to Wear Cameras, but Technology Could Heighten Distrust if Not Carefully Used

Wearing small recording devices could reduce violent confrontations, but without careful planning and better research, the attempt could backfire

Nov 18, 2014 | By The Editors |

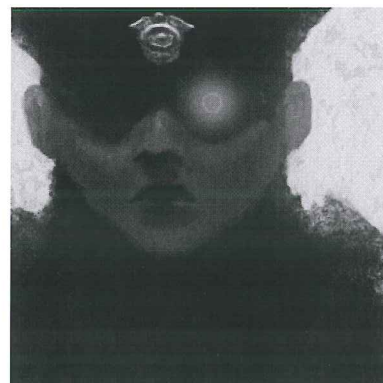
Less than a month after Michael Brown was shot and killed by a law-enforcement officer in Ferguson, Mo., the municipal police department issued 50 wearable video cameras to its officers so they could record encounters with the public. Since then, at least a dozen other U.S. cities—including Miami Beach, Fla., and Flagstaff, Ariz.—have announced similar plans. The response is commendable, but police chiefs should proceed cautiously.

Proponents argue that the small, tamper-proof cameras will lead to fewer violent encounters between police officers and citizens because everyone knows that their speech and actions can be retrieved later. The evidence supporting such a conclusion is preliminary, however. Blindly adopting the technology without a carefully thought out policy and without training on how and when cameras should be used could make matters worse.

“What if video doesn’t get recorded during a critical incident because officers are not trained, or they don’t understand how to maintain the equipment?” asks Michael D. White, a professor of criminology at Arizona State University, who recently assessed body-worn cameras for the U.S. Department of Justice. A community that has learned not to trust civic authorities might suspect a cover-up. And the chances of this kind of mistake are fairly high: in one survey, nearly one third of public safety agencies using body-worn cameras did not have a written policy governing when or under what circumstances they should be activated.

Even when video images are available, they are not always conclusive. For instance, after watching surveillance recordings of a 2012 arrest in Denver, in which the head of a handcuffed woman was slammed into a wall, the police chief concluded the use of force had been appropriate. But the city’s independent monitor found it excessive. Still, more evidence in most cases, even if it is not always conclusive, may turn out to be helpful.

Tantalizing hints that camera use could minimize clashes exist in the five small field trials that have been published so far. Although several of them were subject to biases because conditions were not well controlled, the tests nonetheless suggested that, overall, body-camera use decreased the number of times officers resorted to force, as well as the number of times citizens complained about police behavior.



Jeffrey Alan Love

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More rigorous study is needed. Patrol areas chosen to pilot the devices should be carefully compared with similar neighborhoods where officers do not wear cameras. These comparisons should be done before and after deployment to establish a proper baseline against which to measure the results. And video recording should be compared with other efforts, such as community outreach programs or officer training to de-escalate tense situations, to see which tactics prove more effective at reducing clashes.

Research should also address important civil-liberty questions. Could the images be used to monitor or otherwise entrap law-abiding citizens? Within police ranks, some officers worry that an unsympathetic supervisor might troll videos for minor infractions to torpedo an officer's career. Who has access to the videos? Will eyewitnesses be less willing to speak forthrightly if their conversations are recorded?

The National Institute of Justice, the research and development arm of the DOJ, is funding two larger camera studies in Las Vegas and Los Angeles that should explore a few of these issues. Results are expected starting in late 2015.

Chances are that the movement to adopt body-worn cameras is unstoppable. The American Civil Liberties Union, a traditional opponent of surveillance, has cautiously embraced the technology. This momentum makes the urgent need for clear rules and training guidelines all the more apparent. Towns and cities that are planning to use the cameras should ensure that the community has an ongoing say in those plans, as well as a mechanism to resolve disputes when videos are subject to contradictory interpretations.

Finally, the DOJ, which will probably end up subsidizing the purchase of many of these cameras, should buy devices only for police forces that participate in larger research efforts and share the results with the wider public. This way we can all see what is going on.

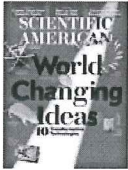
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