

Wearing a Badge, And a Video Camera

Description

Over the past few weeks, we have fielded many requests from police departments on how best to integrate a body worn camera system into their department. Most agencies have met some level of initial resistance from their department members, who are concerned with the negative implications of wearing the camera — usually a “big brother is watching” concern. Over the past four years, I have observed and worked with police departments to successfully implement a body worn camera system. In each project the implementation was lengthy. Once the benefits of the camera were realized, however, the implementation was successful. Our hope was that as the technology improved, and more officers benefitted from the use of the camera, officer resistance to implementation would decrease. This has not been the case. This article will discuss the benefits of utilizing body worn cameras, and include a review of research conducted and information obtained over the years.

We are often asked why we support the body camera program, and my response is always the same. First, I am so fed up with everyone else’s video being used to measure the actions of the officer. If officers are going to be judged by a video, we would like it to be the one worn by the officer that shows the whole event from the perspective of the officer. Second, experience has shown that a majority of officers benefit from the video. Although, we must acknowledge that improper conduct does occur and will lead to disciplinary measure.

The introduction of video cameras into law enforcement operations has been around for many years. While the in-car video camera was not welcome into daily operations, it became a staple to protecting an officer and ensuring accountability. Fast forward to 2014, where today we are faced with the skeptics and critics associated with new technology. As law enforcement officers, you are obligated to enforce laws during the course of your duties. With the prevalence of mobile phones, and the speed at which social media disseminates citizen videos, actions and tactics of law enforcement are constantly criticized by the media and members of the public.

There is a strong need for the protection of officers to combat the cell phone videos that can be misleading based on the length of the recording, and location and perspective from the person taking the video. Over the past year there has been an increase in law enforcement agencies conducting pilot programs with body cameras. A federal judge ordered the NYPD to start a pilot program with cameras — to ensure there is an objective record of the interaction between the police and minorities. Cameras were donated to Ferguson Police Department to protect both the officer and the citizen.

Currently, police departments around the country are conducting experimental trials with body cameras. The use of body cameras provides a factual and objective account of how all parties behave during a police interaction with citizens. There is a remarkably large contingent of people who do not believe in the testimony of law enforcement officers regarding their interactions with the public. Without camera videos, the public, and juries, are left with conflicting accounts from the police and eyewitnesses. The sad state of affairs is that when the only video available is from a bystander, law enforcement may start in a defensive position when it comes to telling their side of the story.

Research

On September 12, 2014, PERF and the Justice Department's COPS Office released a study on the use of [body-worn cameras in policing](#). The research project consisted of three major components: an informal survey of 500 law enforcement agencies nationwide; interviews with police executives; and a conference in which police chiefs and other experts from across the country gathered to discuss the use of body-worn cameras. We will review the survey below but let's start by looking at the history that got us to this point.

The British police agencies were among the first to experiment with and test officer body-worn camera technology. Evidence from the [UK studies](#) indicates that the technology reduces officers' paperwork, enhances their ability to determine whether a crime occurred, and increases the likelihood that cases will end in a guilty plea rather than criminal trial.

Police Chief, William Farrar, of the Rialto California Police Department investigated whether officers' use of video cameras can bring measurable benefits to relations between the police and civilians. The [study](#) was a yearlong process in which patrol officers were assigned body cameras. The study revealed the department overall had an 88 percent decline in the number of complaints filed against officers, and the use of force dropped 60 percent. In some instances citizens decided not to file complaints after they were shown the video of their incident. Chief Farrar stated the study showed a change in behavior by the police and the public. He explained "I think it's a mixture: Officers become more professional, and citizens tend to behave better."

Mesa Arizona Police Department did a one-year pilot study on the usage of body cameras. During the study, fifty Mesa police officers wore the cameras for a year. Their data and opinions were compared to a group that did not wear them. Citizens' complaints declined by fifty percent (50%) among the officers wearing the cameras. Researchers found they were more likely to go by the book; they wrote about twenty percent more tickets, and became more cautious when making stop and frisk arrests and using force.

The International Association of Chiefs of Police (IACP) [surveyed](#) three thousand officers on the effectiveness of in-car cameras. The [data revealed](#) that officers accused of misconduct were exonerated 93% of the time when a dashboard camera recorded their interactions. A majority of agencies that used in-car cameras reported that officers were exonerated more frequently when there was video evidence.

Experiments in social psychology have shown that when people become aware they are being watched they often change their actions to socially desirable behavior. And when individuals become aware their actions are being recorded and aware their unacceptable behavior can lead to the certainty of being held accountable, their behavior changes.

The International Association of Chiefs of Police (IACP), in partnership with the National District Attorneys Association and the American Prosecutors Research Institute, conducted a survey in 2004 regarding the use of in-car police camera footage in criminal prosecutions. They reported that the presence of video evidence enhances their ability to obtain convictions and increases the number of guilty pleas prior to going to trial. Additionally, the prosecutors told the IACP that it assists officers with recollection of an event and verify the accuracy of reports and statements of an incident. Body camera video can have the same results in the criminal justice system as the in-car cameras.

The [American Civil Liberties Union](#) said last year that the cameras have the potential to be a win-win, helping protect the public against police misconduct, and at the same time helping protect police against false accusations of abuse.â•

The September 12, 2014 PERF survey revealed that the main reason police agencies choose to deploy body cameras is to provide a more accurate documentation of police encounters with the public. Among the police executives who have implemented the usage of body cameras, the belief is that cameras provide transparency of police actions, reduced complaints against officers, and significantly improve how officers capture information for evidence and court proceedings. Cameras sometimes uncover problems with an officers' training that can be remedied. Cameras can provide officers with protection against false complaints, or they can provide important evidence if an officer's actions are improper.

The recommendations of the study are to provide guidance that is based on current research and lessons learned from agencies that have implemented body cameras. The report recommends the following:

- Officers should be required to activate their body-worn cameras when responding to all calls for service and during all law enforcement-related encounters and activities that occur while the officer is on duty. In order to protect relationships between the police and the community, officers have discretion whether to record informal, non-law enforcement-related interactions with the public.
- Officers should be required to inform subjects when they are being recorded unless doing so would be unsafe, impractical, or impossible. Many police executives have found that officers can avoid adversarial situations if they inform people that they are being recorded.
- Officers should be required to obtain consent prior to recording interviews with crime victims. Requiring officers to obtain consent prior to recording interviews with victims is the best way to balance privacy concerns with the need to accurately document events.
- Officers should have the discretion to keep their cameras turned off during conversations with crime witnesses and members of the community who wish to report or discuss criminal activity in their neighborhood. If an officer turns the camera off prior to obtaining information, the officer should document on camera the reason for doing so.
- Policies should provide clear guidance regarding the circumstances under which officers will be allowed to exercise discretion to record.
- Policies should include specific measures to prevent data tampering, deleting, and copying. Agencies should make retention times public by posting them on their websites.
- Written policies should clearly describe the circumstances in which supervisors will be authorized to review an officer's body-worn camera footage.
- Agencies should have clear and consistent protocols for releasing recorded data externally to the public and the news media. Each agency's policy must be in compliance with the state's public disclosure laws. Policies should state who is allowed to authorize the release of videos.
- Body-worn camera training should be required for all agency personnel who may use or otherwise be involved with body-worn cameras. Before agency personnel are equipped with body-worn cameras, they must receive all mandated training.
- Agencies should require refresher courses on body-worn camera usage and protocols at least once per year.

According to police officials, it is critical for agencies to engage the community, policymakers, courts, oversight boards, unions, frontline officers, and other stakeholders with the department's body-worn camera program. Engaging the community prior to implementing a camera program can help secure support for the program and increase the perceived legitimacy of the program within the community.

PERF's recommendations call for a careful, thoughtful approach to body cameras, in which the community, your officers, and other stakeholders are consulted. Departments should consider piloting the program and evaluating the results before implementing it department-wide.

While we agree with a majority of the findings in this study, and have implemented them in department policies, we are not as quick to give officers full range of discretion when deciding to turn on and off the camera. We acknowledge that in certain situations the video may not be admissible in court, in either criminal or civil proceedings. The reality, however, is that we would rather have the video and argue about its admissibility rather than argue about the facts and circumstances surrounding the event.

Summary

Good police work will benefit from such recordings and improper police work will be discovered before it becomes a community-wide issue. The statistics on dash cameras in road stops has proven the efficacy of such transparency in law enforcement. The most obvious benefit for law enforcement agencies that use body cameras is that they will be seen as being more transparent and holding themselves out as more accountable. The body cameras can potentially help to foster a culture of more polite and respectful interactions between police and the public. The resulting videos will prove invaluable for both law enforcement and the local community. As with any change in techniques, the use of cameras will quickly become acceptable by law enforcement officers in the same way the use of mobile data terminals, Tasers, and in-car cameras have become routine.

It is recommended that when presenting officers with any new technology, program, or strategy, the best approach includes efforts by agency leaders to engage officers on the topic, explain the goals and benefits of the initiative, and address any concerns officers may have.

Law enforcement can address most of the concerns with a specific policy in place on the usage of body cameras, and ensure officers are in compliance with departmental standards. The training of officers on the use, operation, and legal implications of improper use is crucial for the programs to be beneficial to law enforcement agencies.

We strongly believe that recording the full encounter between the officer and the subject will have significant effect on the analysis, investigation, and litigation associated with citizen contacts and use of force incidents. Having an effective policy that limits discretion, conducting training on the benefits, legal standards and detriments allows the officers to process this new technology. We can assume that multiple State legislatures will take up the implementation of cameras over the next couple of years. Let's implement these technologies on our terms. It's time to start discussions today.

This publication is produced to provide general information on the topic presented. It is distributed with the understanding that the publisher (Daigle Law Group, LLC.) is not engaged in rendering legal or professional services. Although this publication is prepared by professionals, it should not be used as a substitute for professional services. If legal or other professional advice is required, the services of a professional should be sought.

Date Created

04/13/2020