



BODY CAMERAS IN POLICING

In the wake of years of concerns about policing in America, many police departments and government officials are calling for the adoption of body cameras. In 2016, President Obama announced federal funding to help purchase 50,000 body cameras for police. Vermont law enforcement agencies across the state have been acquiring body cameras. To increase uniformity of policy and practice, the Vermont legislature required a report from the Law Enforcement Advisory Board on a potential statewide body camera policy.

Do body cameras work?

The evidence on body cameras is limited, but promising. One widely cited study of body cameras in Rialto, California, showed dramatic results — officers who wore them used force half as often as those who did not, and were nearly 90% less likely to receive citizen complaints. But success in one small, suburban department (where the police chief, one of the study's authors, clearly supported body cameras) does not assure similar results everywhere. The small handful of other studies do not show such clear results, although few police policies have been proven in controlled studies.

Some activists have expressed concern that body cameras won't help hold police accountable, citing high-profile incidents like the Eric Garner case, in which a grand jury declined to indict an officer despite graphic footage of the incident. By providing better evidence of what actually happened, video will hopefully help factfinders hold officers accountable for misconduct that would be harder to prove using witness accounts alone. But even if the video of Eric Garner's death did not lead to the indictment of the officer involved, its powerful images helped the public question whether systems to hold officers accountable might be broken, and — like that of the Rodney King video thirty years before — spurred a national outcry and calls for change.

Does the ACLU support body cameras?

The ACLU of Vermont supports police body cameras if they are used according to policies that assure accountability and adequately protect privacy and allow transparency. The ACLU of Vermont is cautiously optimistic that, used properly, body-worn video cameras can help deter police misconduct and uses of force, provide evidence to hold officers accountable when misconduct does occur and to exonerate wrongly accused officers, and help the public understand how police operate.

But body cameras are only tools — whether they are helpful or harmful depends on how they are used. Strong policies are crucial to ensure they further the goals of improved transparency and accountability, better policing, and greater trust in law enforcement.

However, body cameras aren't a panacea. Video does not always capture the full story, and having video will not resolve every question. Many issues in policing that need addressing — from racial profiling and implicit bias, training on interactions with people with mental illness, limitations on surveillance, the availability of data on police actions and uses of force, transparency in officer discipline, and strong oversight and accountability mechanisms — require looking beyond individual incidents to patterns and systems. Body cameras may help police accountability, but they're only a small part of the reforms we need.

Key Points for Body Camera Policies

For body cameras to promote trust between police and the community, police must use them in a way that carefully balances interests in police accountability, government transparency and privacy.

Rules to Promote Accountability

Clear Rules When to Record, with Minimal Officer Discretion —Body cameras don't advance accountability if police can turn them off when they don't want to be recorded. Officers should record all interactions with the public, and definitely all investigatory interactions (including consensual encounters). Very limited exceptions for sensitive situations (such as in instances of sexual assault or recording inside homes) should be permitted with clear, on-camera permission to stop recording.

Enforcing Compliance —Departments must enforce recording policies by auditing officers' compliance and imposing meaningful consequences for failure to activate cameras or tampering with equipment.

Randomized Audits —Body camera footage should be subject to regular, randomized review to identify problems with training or officer conduct before they result in complaints or incidents. But supervisors shouldn't target particular officers without complaints of misconduct for "fishing expeditions."

Officer Review of Footage —Officers involved in a critical incident like a shooting or facing charges of misconduct should not be permitted to view footage of the incident before making a statement or writing an initial report. Police do not show video evidence to other subjects or witnesses before taking their statements. Officers should watch the video after their initial statement and have the chance to offer more information and context. Officers may not remember a stressful incident perfectly, so omissions or inconsistencies in their initial account shouldn't be grounds for discipline without evidence they intended to mislead. This would provide the fullest picture of what happened without tainting officers' initial recollection or creating the perception that body cameras are being used to cover up misconduct, not hold officers accountable.

Video Integrity —The public can only trust video evidence if there is no doubt officers cannot alter or delete the video they record. The devices must allow no way for officers to edit or delete video during the shift or the upload process, or after being uploaded to a secure server, until the retention period has elapsed. Even after routine deletion, records of access and deletion should be retained.

Rules to Protect Privacy, Create Transparency and Allow Public Access

Notice to People Recorded —Recording someone secretly is more invasive than doing so openly. Whenever possible, officers should notify people that they are being recorded, either by telling them or by having cameras clearly marked with a notice that the encounter may be recorded.

No Use for Surveillance —Body cameras shouldn't be used for surveillance of the public, especially gathering of intelligence information based on First Amendment protected speech, associations, or religion. Departments should bar review of video unless there's specific reason to believe that it contains evidence of a crime or misconduct, or as part of a randomized audit, and should prohibit analysis of video with other surveillance tools, such as facial recognition technology.

Public Release —Setting the right balance between privacy and transparency in public access is tricky, but some situations are clear. Videos of public importance (such as those of a shooting or other serious use of force, or other potential misconduct) should to be made public. Those with highly private footage, such as inside a home, should remain private. Where possible, agencies should protect privacy by anonymizing civilians' features and voices through blurring and audio alteration, if doing so can still further transparency.

Civilian Access —Giving people video of their own encounters with law enforcement does not raise privacy concerns. Civilians recorded by body cameras should unquestionably have the right to obtain copies of those recordings for however long the government maintains them.

Transparent Process —As with any surveillance technology, department policies governing body cameras and the resulting video should be developed through an open process with public input. The process of developing and finalizing policies must be complete before the devices are deployed.