

**Body Camera Position Paper**  
March 1, 2017  
Communities United Against Police Brutality

**Position**

After thoughtful consideration, Communities United Against Police Brutality has taken the position that that purchasing body cameras for police departments is a costly measure that fails to legitimately hold officers accountable for their actions.

**Introduction**

CUAPB is an all-volunteer advocacy organization working to end the epidemic of police brutality that plagues communities across our nation. For 17 years, we have coordinated efforts around the Twin Cities to increase transparency and end abuse of authority within police departments, educate the public on their constitutionally-granted rights, and hold the powerful accountable for their choices. Ultimately, we aim to promote fair policing, which we believe can only be obtained through the pursuit of transparent policing. CUAPB has extensive experience with the issues surrounding filming law enforcement, both through our well-established copwatch program and our research on body camera implementation.

We recognize the appeal that body cameras have to cities struggling to find a solution to the cyclical headlines calling attention to police violence. After all, it seems intuitive - equip officers with a device that records their actions, and it should be easy to tell who is truly at fault when tragedy strikes. Body cameras are continually held up as a hallmark of progressive policing, a national view that was legitimized by President Obama's \$20 million grant to help fund the purchase of cameras in police departments around the country in 2015. Unfortunately, CUAPB has determined that this is (typically) not the case.

In the fall of 2015, we wrote a policy paper articulating our position against the implementation of body cameras within the Minneapolis Police Department, and urged the city to reconsider an expensive purchase that came at great cost to taxpayers while failing to provide real accountability. This position paper is intended to update our previous research. While Minneapolis decided to move forward with the purchase of body cameras, other cities around Minnesota are currently debating whether to follow their lead. After careful consideration of existing evidence for and against the utility of body cameras, along with the guidelines recently imposed by the Minnesota state legislature, we strongly advise these cities to reject body cameras and shift their focus to better solutions to police accountability.

We hold a wide range of concerns over the unintentional effects of equipping officers with cameras, particularly under the legislature's current policy standards. These include a lack of public access to data obtained from body cameras, potential

surveillance issues and privacy violations on the part of law enforcement, and the ability of officers to view recordings prior to writing an incident report.

### **Current State of BWC in Minnesota**

In 2010, Burnsville became the first Minnesota city to require uniformed officers to carry body cameras. As a national debate erupted over police brutality, others have followed Burnsville in purchasing cameras for their police departments. More recently, the Minneapolis City Council voted in favor of equipping the Minneapolis Police Department with body cameras, spending an initial \$4 million of taxpayer money. Councilmembers voted prior to seeing any sort of policy regarding how the MPD would implement body cameras. The MPD's delay in releasing substantive policies, and the Council's lack of interest in those policies, resulted in a shrouded political process that halted the chance for meaningful public input.

The Minnesota State Legislature amended the bill SF 498 in 2016 regarding the use of "portable recording systems" by law enforcement agencies. We recognize that law-making is a slow process and inherently involves compromise, but we find that their guidelines provide too much leeway for abuse of body cameras within police departments.

Under SF 498, public access to the footage obtained under the use of body cameras is extremely limited. Data is automatically considered private, unless one of the individuals filmed requests a copy (they can then proceed to distribute the video as they wish). There are, of course, substantial privacy concerns related to making all footage public (which we will describe in detail later in this paper); however, the statute ultimately fails to balance protection of privacy with established transparency standards. Currently, data obtained by an officer's body camera is only made automatically public if the officer files a gun or causes "substantial bodily harm." Other complaints about an officer's conduct do not automatically affect the video's status. This is a problem because civilians can suffer abuse at the hands of an officer in a number of ways that may not fall under the category of substantial bodily harm.

The amendments also leave the decision of whether to let officers review footage prior to writing an incident report in the hands of individual police departments. Originally, the bill was almost passed with language that explicitly allowed officers to access body camera data at any point in time, but after strong opposition from civil rights advocates such as the NAACP, ACLU, and our organization, Governor Mark Dayton signed a version of the bill that allowed departments to decide this policy for themselves. We are strongly against any policy that lets officers watch body camera footage before writing their reports. An incident report ought to contain all the information an officer knew at the time the incident occurred, giving the report and the BWC recording separate evidentiary value. An officer's story could change after viewing the video, even if he or she possess the best intentions.

We are writing this updated report with the intention of helping cities across Minnesota make an informed choice on whether police body cameras are a worthy investment. The St. Paul Police Department recently concluded a 60-day trial period, testing two brands of cameras for 30 days each. The City Council will soon make a decision on whether to purchase body cameras for all officers. If they rule in favor of the cameras, experts estimate that the costs could reach over \$700,000 annually<sup>1</sup>. Cities must ask themselves if the significant expense associated with body camera programs will eventually be paid off by a decrease in complaints against officers. While some studies of body camera programs have shown that the technology reduces costly critical incidents (such as the now-famous research coming out of Rialto, California), we do not believe this data to be applicable in the context of Minnesota. Due to the loose standards imposed by the legislature last year, body cameras carry too much potential for abuse to be authentically useful in providing police accountability.

### **Why We Disagree with the Use of Body Cameras**

While body cameras initially come across as a bipartisan solution to police brutality, at their core they are an ineffective tool that prioritizes the perspective of an officer over the civilian. Communities United Against Police Brutality has compiled our points of contention with the way body cameras have been implemented in the Minneapolis Police Department.

One of our organization's central qualms relates to a lack of useful guidelines describing when officers should be filming, and when they are allowed (and obligated) to turn off their cameras. Body cameras should be recording by default, since the escalation of a public interaction often happens abruptly and without notice. When interacting with a civilian, an officer should verbally notify them that they are on camera. In certain sensitive situations, officers must also be able to terminate a recording at the request of a civilian seeking to preserve their privacy. Without clear standards for when cameras can be turned on and off, officers are free to control the technology at their leisure and prioritize their own whims over a commitment to accountability. This can sometimes have deadly consequences. In 2014, an Albuquerque police officer failed to activate his body camera before fatally shooting 19-year-old Mary Hawkes. Since body cameras were implemented in Albuquerque in 2010, the number of police shootings has not decreased significantly.

In New Orleans, the Department of Justice discovered that body cameras (as well as dash cameras) were turned off for 60% of incidents involving a use of force<sup>2</sup>. Some officers go as far as to intentionally turn off audio or video prior to using force on a civilian. After Taser-ing a suspect in an Oklahoma Dollar General Store robbery, officers whispered to each other to turn off their cameras before stomping on the suspect's neck (after he had been subdued by multiple officers)<sup>3</sup>. Police are given massive leeway over the decision to turn their cameras off, which can easily be abused to escape the consequences of their actions. Currently, there are no statewide standards in Minnesota regulating when body cameras must be recording; instead, these policy choices are left

to the discretion of individual departments, which usually leads to relaxed guidelines that are susceptible to abuse and exploitation.

Departments also must be prepared to efficiently process requests for public footage under the Data Practices Act. A long and cumbersome wait time for civilians requesting footage infringes on the transparency required by the act. Currently, the MPD employs only four people to process public requests for data, which leads to inexcusable waits for the release of footage. Minneapolis has spent over \$4 million dollars on the acquisition of body cameras, yet has become too stingy to hire more workers and actually make the footage useful to the public.

Perhaps most significantly, there are concerns with how this technology might be used as a surveillance tool. Body cameras are supposed to monitor police activity, and hopefully dissuade them from using excessive force. Instead, they monitor civilians – this is an inherent flaw in their design, since officers simply can't be recorded by a device that faces out from their chest. These devices are inherently more intrusive than other cameras (such as those on squad car dashes), because they move with the officer in question. A body camera could capture the interior of a private dwelling without a civilian's knowledge, since officers are currently under no obligation by Minnesota law to seek consent prior to recording.

The possibility of surveillance stretches into the public sphere as well. Certain communities, specifically those that are majority black, Hispanic, and/or low-income, tend to be more heavily policed than their whiter, well-off counterparts. Equipping officers in those areas with recording devices encourages a mindset where every community member is a potential threat that needs to be monitored. This is not a perspective that is conducive to healthy relations between law enforcement and civilians, and would only lead to a further erosion of trust. CUAPB is also deeply concerned that the inevitable development of facial recognition software could lead to the unconstitutional tracking of people associated with protest movements. Our organization has worked with people who were harassed by law enforcement after speaking out against police violence; this harassment would only get worse if police were able to use their body cameras to determine someone's identity.

There is also a precedent in Minnesota for police officers abusing department technology. Squad cars currently use license plate readers, which automatically check vehicles against a database of wanted cars. While these devices are meant to track down stolen cars or vehicles used by known criminals, some officers have abused this technology to look up license plates to obtain personal information on the drivers. We are concerned about the consequences if officers suddenly have access to a civilian's entire identity, and not just their car.

### **Alternative Solutions for Real Police Accountability**

Having spent the last 17 years fighting to secure stronger and kinder policing policies, CUAPB is intimately acquainted with the range of potential solutions to bad policing. We

recognize that the existence of a video documenting the excessive use of force on the part of an officer by no means guarantees that justice will be served – this is the case with Eric Garner, whose killer faced no legal repercussions despite footage that showed an immediate and uncalled-for escalation of violence that resulted in Garner’s death.

Copwatching is the practice of community members filming interactions between law enforcement and civilians, generally through a mobile phone. The courts have ruled that copwatching is a First Amendment-protected right. We consider copwatching to be more effective than police-controlled body cameras for a number of reasons. First, the positioning of chest-mounted body cameras creates an unavoidable perspective bias on the part of whoever views the footage. In a study spearheaded by Ohio psychology professor G. Daniel Lassiter, researchers discovered that the camera angle of a filmed confession can deeply affect a jury’s final opinion. People are much more likely to believe that a confession was organic and uncoerced if the camera focused tightly on the suspect’s face, leaving the police officer and the interrogation room out of the picture. By taking the officer’s visual perspective, third parties tend to sympathize with their methods and view the subject with automatic suspicion.

A similar psychological phenomenon occurs with body cameras. The camera is typically angled up, making the civilian that the officer is interacting with appear larger and more menacing than in reality, which distorts the video’s accuracy. Footage obtained via body camera can never adequately capture the police officer’s actions; instead, only the reactions of the civilians are recorded. An officer could be acting unduly threatening, even holding a civilian at gunpoint, and it would never be seen by their body camera.

This is why CUAPB advocates for the continuous use of squad car dash cameras, which capture the entire scene without a prominent perspective bias. Videos that record an entire violent confrontation will inevitably create a narrative, ideally one that motivates the public to demand justice for the victims; a squad car video has been crucial for obtaining murder charges for the officers that killed Laquan McDonald of Chicago, for example. It is also why protecting civilian recording of police activities is so essential; as with dash cams, civilians who choose to film an incident on their mobile recording devices are able to record the actions of all parties, thus creating a more useful tool to determine fault in the aftermath of an encounter. The Department of Justice has recognized the importance of copwatching, and requires all police departments to implement policies protecting an individual’s right to film law enforcement activities under the 1st, 4th, and 14th amendments<sup>4</sup>.

Another solution to improve accountability relates to public access to footage obtained by body cameras. There are obvious privacy issues with unrestricted access, since police officers tend to see people on their worst days. Good policies will find a way to balance these legitimate privacy concerns with the need for transparency. One extremely promising solution was pioneered by the city of Seattle. In response to an overwhelming volume of data requests, SPD chief operating officer Mike Wagers teamed up with local hackers to “batch-blur” the body camera data, a technique which makes people unidentifiable by blurring their faces. After being blurred, the videos are

then posted to YouTube, where anyone can access them. A request can be filed through official channels if the viewer wishes to see the original, unblurred copy<sup>5</sup>.

This technique significantly reduces the manpower needed to respond to data requests, diminishing payroll expenses and speeding up a bureaucratic process that is often slow enough to violate the Data Practices Act. In Minneapolis, a single request for body camera footage could go unfulfilled for over a year, due to an immense backlog brought on by inadequate staffing. Batch-blurring also protects people from the privacy violations which would emerge from making the footage indiscriminately public.

## **Conclusion**

Body camera advocates often say that equipping the police with cameras will rebuild trust between law enforcement and the communities they patrol. In response, we would say that it is difficult to rebuild something that never existed in the first place. CUAPB cares deeply about promoting high standards for police officers and preventing future violence, but we cannot advocate for a band aid solution that in all likelihood harms communities more than it helps them.

As our country continues to confront the tragedy of police brutality, it is crucial to keep in mind that investing all our resources into one area is nothing but a cop-out. True solutions will be complex, and they will be designed to protect the lives of civilians over the whims of an officer. Body cameras might have been successful under very specific circumstances: if officers were never allowed to use the footage to write their reports; if the camera's perspective did not inevitably bias a jury; if strict and enforceable guidelines were in place that described when cameras had to be recording; if surveillance technology was out of the realm of possibility, and officers never abused their powers to target civilians. In an ideal world, body cameras could do a lot of good. However, the world we live in is far from ideal, and we must seek answers that work with our reality.

Overall, body cameras should be viewed for what they are: tools geared towards collecting evidence, not a fail-safe solution for holding police accountable.

## **Sources**

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