



Communities United Against Police Brutality™

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ANALYSIS OF HENNEPIN COUNTY BODY WORN CAMERA DRAFT POLICY

The Hennepin County Sheriff's Office has released a draft policy for their pilot program to test the use of body worn cameras (BWC, or "portable recording systems" as they call them). The Sheriff's Office is soliciting public input on the policy until Wednesday, September 13, including a public hearing at the Hennepin County Board meeting on September 12 at 1:30pm in Room A-2400 of the Hennepin County Government Center.

Under state law, departments wishing to adopt BWC are required to hold a public hearing and to accept input into the draft policy. An initial public hearing was held by the Hennepin County Board in August 2017 but the policy was unavailable to the public and copies were not made available at that public hearing. As a result, this second public meeting is being held. Now that the policy is finally available, Communities United Against Police Brutality provides this analysis.

During the pilot program, BWC will only be worn by ESU (Emergency Service Unit) officers, more commonly referred to as SWAT teams. Because this policy is only for a test period, some aspects of the policy are clearly different than what the final policy will be once the cameras are fully implemented. For instance, the restriction on off-duty use will probably change. Nevertheless, it is important to provide public input on the draft policy because the final policy will probably closely follow its provisions.

The draft policy as it stands is sadly defective in assuring any positive outcomes for the community.

Key Issue 1: Purpose of Body Worn Cameras

In the draft policy, the first purpose listed is "Enhance **accountability** and public trust by preserving evidence of deputy interaction with citizens." However, the draft policy makes it clear that these devices **cannot fulfill this promise**. The policy gives no guarantee that evidence will even be gathered during most interactions with the public. There is no requirement for periodic monitoring of the footage, making the device nearly useless as an accountability tool. There must be periodic monitoring of the footage to ensure that policy is being followed. The International Association of Chiefs of Police (IACP) considers periodic monitoring a best practice and includes it in their model policy.

Key Issue 2: Activation and Deactivation

Deputies are given too much discretion in activation of the camera. Except for specific instances of SWAT type events, the officer has discretion in "general citizen contacts where the ESU deputy **feels** that recording is appropriate." In other words, the deputy can cherry pick what he wants recorded, and what he doesn't want the public or his supervisor to see. Body cameras should be activated during ALL encounters with members of the community, unless the individual is in a private area and requests the camera to be deactivated. It is also problematic that the camera may be deactivated when discussing the incident with a supervisor or other deputy.

The policy contains no requirement that the BWC be activated during routine warrant service, traffic stops, searches, pursuits, or transport of prisoners.

In the definitions, the policy states that activation will be done manually. This may be appropriate for the pilot program, but must be changed upon full implementation, because it would prohibit the use of currently available devices to turn on a BWC automatically when lights and sirens are on, or when squad car doors are open, or when a Taser is removed from its holster.

Key Issue 3: Notification and Consent

The policy does not require consent or even notification that a recording is being made in a private residence or other location where people have the expectation of privacy. Instead, officers are encouraged to inform people that they are being recorded. We believe strongly that individuals should have right to decide if they want to have a camera recording them in private locations and should have the right to ask that the recording stop, except under very narrow circumstances.

Key Issue 4: Use in Surveillance of First Amendment Protected Activities

The draft policy states, “The BWC shall not be activated solely for the purpose of surveillance of or identification of individuals engaged in constitutionally protected activities conducted in a lawful manner.” This provision is appropriate and should be adopted in the final policy.

Key Issue 5: Review of Footage Prior to Writing Reports

The draft policy allows viewing of footage prior to writing police reports. This provision is highly problematic for a number of reasons. Police reports should reflect the probable cause and other information known to the officer at the time the officer made decisions related to stops, detentions, arrests or other encounters with community members. Further, both the police report and the BWC recording should have separate evidentiary value, which will no longer be possible if the police officer views the recording before completing the police report. Sam Walker, emeritus professor of criminal justice at the University of Nebraska, Omaha, notes in an article “if an officer is planning to lie, video is a good guide to what kind of lie he can get away with.”

Key Issue 6: Off Duty Use

The draft policy prohibits use of BWC during off duty work. The County is liable for off-duty actions of its deputies, and many lawsuits stem from off-duty misconduct. This provision is appropriate for the pilot program, but should not be adopted in the final policy.

Key Issue 7: Discipline

Procedures to ensure compliance and address violations of the policy do not meet even the minimal requirements of the state BWC statute. There is no requirement for supervisory or internal audits and reviews, as the state mandates. Even “accessing or releasing recordings without authorization MAY be subject to discipline” – or maybe not. Without enforcement of the policy, it is nearly useless, and it will be violated routinely, as has happened in Minneapolis.

Key Issue 8: Right of Public to Document Police Conduct

The policy should prohibit the use of BWC “for the purpose of intimidating or discouraging an individual from observing police activity” as the Minneapolis policy does. In addition, the Hennepin County Sheriff’s Office should have a policy protecting the right of the community to film the deputies. The US Department of Justice requires all police departments to have an explicit policy regarding the rights of people to film police.

HENNEPIN COUNTY SHOULD NOT PURCHASE OR USE BODY WORN CAMERAS!

Given the current circumstances, it is the position of CUAPB that body cameras in the hands of the Hennepin County Sheriff’s deputies will do more harm than good for the community. The state has already made most footage private, severely limiting its value for accountability. Hennepin County has a bad record of making even public data difficult for the public to obtain. Most video will never even be captured because deputies have no requirement or incentive to turn on their cameras during most of their workday. Based on past history, there is little reason to expect the Sheriff’s Office to enforce even the lax standards in this draft policy.

Body cameras are not neutral – they capture the action from the deputy’s point of view. Most accountability has resulted from the public filming the police, not the other way around. Body camera footage is controlled by the Sheriff. Sheriff Stanek is well known for embracing high-tech surveillance methods such as facial recognition, which can easily be applied to BWC video. It is dangerous to put all this data under his control. We encourage the public to film the police!