



## BODY CAMERAS IN POLICING

In the wake of months of concerns about policing in America, many police departments and government officials are calling for the adoption of body cameras. As of January 2015, at least 72 police departments in the United States have adopted body cameras or established pilot programs for their use. President Obama has announced federal funding to help purchase 50,000 body cameras for police.

### **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 California supports police body cameras if they are used according to policies that assure accountability and adequately protect privacy and allow transparency. The ACLU of California 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, and for good reason—cognitive science has demonstrated that watching video of an incident actually changes a person's memory. Officers should watch the video after their initial statement and have the chance to offer more information and context. Because they may not remember a stressful incident perfectly, 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.

*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.

### 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 or a corrective action plan for an officer, and should prohibit analysis of video with other surveillance tools, such as facial recognition technology.

*Release of video* —Body cameras don't provide transparency if the video is never released to the public. Setting the right balance between privacy and the public interest in transparency is tricky, but some situations are clear: when (1) the video captures a critical incident, such as a serious use of force; (2) there are allegations of misconduct regarding the interaction captured on video; or (3) the subject of the video requests it, body camera video should be released.

*Transparent Process* —As set forth in the ACLU of California's November 2014 report, [Making Smart Decisions About Surveillance](#), detailed policies governing the uses of and restrictions on any new surveillance technology should be developed in advance through an open process with public input. Body cameras are no exception. Departments should submit proposed policies for body cameras and use of, access to, and release of video to their governing bodies, and allow those bodies to decide on final policies—and whether to adopt body cameras at all—through an open, transparent process.