



Via email

December 15, 2015

Mayor Eric Garcetti
200 N. Spring St.
Los Angeles, CA 90012

Councilmember Gilbert Cedillo
Councilmember Paul Krekorian
Councilmember Bob Blumenfield
Councilmember David E. Ryu
Councilmember Paul Koretz
Councilmember Nury Martinez
Councilmember Felipe Fuentes
Councilmember Marqueece Harris-Dawson
Councilmember Curren D. Price, Jr.
Councilmember Herb J. Wesson, Jr.
Councilmember Mike Bonin
Councilmember Mitchell Englander
Councilmember Mitch O'Farrell
Councilmember Jose Huizar
Councilmember Joe Buscaino
Los Angeles City Council
200 N. Spring St.
Los Angeles, CA 90012

Dear Mayor Garcetti and City Council Members:

I write regarding the Los Angeles Police Department's ("LAPD") policy, approved by the Los Angeles Board of Police Commissioners ("Police Commission"), for its body-worn camera program, which is scheduled for consideration by the City Council tomorrow, December 16, 2015. The ACLU of Southern California has deep reservations about the policy under which LAPD uses body cameras, and urges this Council not to appropriate requested funding until the policy has been modified to promote transparency, accountability and public trust.

In endorsing body-worn cameras in principle, members of City Council and other city leaders touted benefits of transparency, accountability, and improved public trust. As Councilmember Price put it, "Our community, and in particular communities of color, have asked for transparency in all levels of government, and that includes policing efforts... This city-wide body camera program will help us answer that call, increasing public trust in our police department in our communities that need it

most.”¹ Councilmember Englander explained the funding as “a bold step that we took as a City to bring greater transparency to the Los Angeles Police Department.”² The Mayor also vowed that “cameras will help law enforcement and the public alike find the truth—and truth is essential to the trust between the LAPD and the community.”³ The ACLU of Southern California has similarly supported body-worn cameras in principle for similar reasons. But body-worn cameras are only tools. Depending on the policies that govern their use, they can be effective or ineffective—and can even undercut the very values the Mayor and City Council Members intend them to promote. LAPD now requests \$31.2 million dollars for the purchase and video storage for 6,140 body cameras. But the way LAPD currently uses body-worn cameras, as set forth in the body camera policy,⁴ does not promote—and in fact undermines—the goals of transparency, accountability and creation of public trust that body-worn cameras are meant to serve. Given the critical importance of strong policies to the success of the City’s investment in LAPD’s body-worn camera program, we respectfully request that the City Council take jurisdiction over the policy and revise it to better align with the public’s interests in body-worn cameras. At a minimum, we request that the Council postpone approval of the funding request until it can hold a full hearing on the proposed policies and uses.

Our concerns, which are discussed in greater depth below, can be summarized as follows:

- **Transparency and Public Trust Are Not Among the Stated Purposes of LAPD’s Body Camera Program.** The objectives stated in LAPD’s body-worn camera policy do not even mention transparency or building community trust. To the extent they mention the public at all, they focus only on “deter[ring] criminal activity and uncooperative behavior during police-public interactions,” and assisting in the resolution of complaints “including false allegations by members of the public.” Transparency and building public trust should be key objectives of any body-worn camera program.
- **No Public Access to Body Camera Video.** The policy completely fails to provide for any public access to body camera video, and LAPD has made clear that it will not release the videos unless required to do so in court—or unless the chief, in his discretion, believes it would be “beneficial.” But the Department has publicly said that they will not release in most cases of shootings or alleged misconduct, and in fact has refused to produce body camera footage in more than one high-profile shootings. When there is a serious use of force or an allegation of police misconduct, the public deserves to see what happened. Body cameras cannot further transparency if the public never gets to see the footage.
- **Policy Requiring Officers to Review Video Before Providing A Statement Taints Evidence and Provides One-sided Credibility Advantage to Officers.** LAPD’s policy not only permits but requires officers to review body-worn camera footage before providing even an initial statement to investigators when they are involved in critical uses of force or accused of grave misconduct. As many other agencies and law enforcement professionals

¹ Press Release, Los Angeles Mayor’s Office, *Mayor Garcetti Announces Nation-Leading Body Camera Plan For LAPD* (Dec. 16, 2014), available at

http://www.lamayor.org/mayor_garcetti_announces_nation_leading_body_camera_plan_for_lapd.

² *Id.*

³ *Id.*

⁴ A copy of LAPD’s Body Worn Video Policy is enclosed and is available online at http://www.lapdpolicy.com.lacity.org/042815/BPC_15-0115.pdf. The policy was submitted to the Police Commission on April 28, 2015, and was approved without amendment.



have recognized, giving officers a chance to tailor their story to the video evidence undermines their credibility even when they tell the truth—and the cognitive effects of reviewing video actually changes the memory officers are asked to recount. That inevitably hurts rather than helps accountability and public trust.

- **No Limits on Use for General Surveillance.** The policy provides no clear limits on LAPD using body-worn camera footage as general surveillance of the public or using analytical tools such as facial recognition technology on footage. Nor does it provide guidelines for use of the cameras during First Amendment-protected activity or for use of resulting footage capturing such activity. Body-worn cameras are supposed to help provide accountability and transparency for policing, not to expand surveillance of the public.
- **Flawed Process of Approving Body Camera Policy and Program.** The policy was adopted through a process that did not provide a meaningful opportunity for community groups, public interest organizations, or individual citizens to debate or provide feedback on the concrete terms of the proposed policy. City Council should hold hearings on the policy—and on whether body cameras should be used at all—that allow public input on body cameras as they will be used under the policy, before spending tens of millions of taxpayers' dollars on the devices.

Concerns Regarding LAPD Body-Worn Camera Policy

The Stated Purposes of LAPD's Policy Reflects Misplaced Objectives

The body-worn camera program implemented by LAPD's policy is very different from the kind of program contemplated by the Mayor and the City Council. The policy explicitly sets out a set of objectives which nowhere mention as goals increasing transparency and public trust. Section I of the policy, which lays out the objectives of the program, focuses explicitly on gathering evidence of crime, "deter[ring] criminal activity and uncooperative behavior during police-public interactions," assisting officers with completing reports, assisting in the resolution of complaints "including false allegations by members of the public" and providing other information for officer "evaluation training and improvement."⁵ While the objectives include accountability, it is telling that they do not mention trust or transparency, and mention the "public" only in connection with the public's uncooperative or criminal behavior and false allegations.⁶ This fundamentally divergent view of the primary goals for implementing a body-worn camera program is troubling in itself and is manifested in other specific provisions of the policy as well.

LAPD's Policy Provides No Transparency By Failing to Provide for Any Public Access to Video

LAPD's failure to gear its body-worn camera program towards transparency and building public trust is evident in the Department's approach to public access to video footage. The policy is silent on the issue of public release of video. The only provision relevant to release of videos, Section VII, characterizes the videos as confidential records, suggesting that the Department intends to release the videos not at all, or based on *ad hoc* decisions about when release would be suitable.⁷

⁵ See LAPD Body Worn Video Policy, *supra* note 4.

⁶ See *id.*

⁷ See *id.*



In public statements, however, both LAPD Chief Charlie Beck and high-ranking members of the Department have repeatedly said that the Department will treat body-worn camera videos as categorically exempt from disclosure under California’s public records law and will not release those videos unless required to do so in court proceedings.⁸ But the Department also “reserves discretion” to release videos when the Chief believes it would be “beneficial.”⁹ That does not mean in critical incidents—the Department has already refused to release body-worn camera footage in at least two controversial shootings, despite public calls to do so, even where it has given detailed explanations of bystander video and where Department officials have leaked characterizations of the contents of video footage.¹⁰

LAPD’s policy is at odds with the transparency body-worn camera programs are intended to promote, as well as recommendations by policing experts. The Police Executive Research Forum (“PERF”), in its report of recommendations for agencies implementing body-worn camera programs, explains:

A police department that deploys body-worn cameras is making a statement that it believes the actions of its officers are a matter of public record. By facing the challenges and expense of purchasing and implementing a body-worn camera system, developing policies, and training its officers in how to use the cameras, a department creates a reasonable expectation that members of the public and the news media will want to review the actions of officers. And **with certain limited exceptions ..., body-worn camera video footage should be made available to the public upon request—not only because the videos are public records but also because doing so enables police departments to demonstrate transparency and openness in their interactions with members of the community.**¹¹

⁸ Sid Garcia, *Activists want access to LAPD body-camera footage*, KABC (Aug. 25, 2015), available at <http://abc7.com/news/activists-want-access-to-lapd-body-camera-footage/957312/>; Kate Mather, *LAPD expects to start deploying body cameras this summer*, LOS ANGELES TIMES (March 31, 2015), available at <http://www.latimes.com/local/lanow/la-me-ln-lapd-body-cameras-20150331-story.html>; Kate Mather, *A fight over access to video from LAPD body cameras is shaping up*, LOS ANGELES TIMES (Feb. 5, 2015), available at <http://www.latimes.com/local/crime/la-me-lapd-cameras-20150205-story.html>.

⁹ Tami Abdollah, *LAPD board OKs body camera policy despite opposition*, LOS ANGELES DAILY NEWS (April 28, 2015), available at <http://www.dailynews.com/government-and-politics/20150428/lapd-board-oks-body-camera-policy-despite-opposition>. See also Kate Mather, *Divided Police Commission approves rules for LAPD body cameras*, LOS ANGELES TIMES (April 28, 2015), available at <http://www.latimes.com/local/lanow/la-me-ln-lapd-body-cameras-rules-20150427-story.html>.

¹⁰ See Kate Mather and Richard Winton, *Sources: LAPD body cameras show struggle with homeless man*, LOS ANGELES TIMES (March 2, 2015), available at <http://www.latimes.com/local/lanow/la-me-ln-lapd-body-cameras-skid-row-struggle-20150302-story.html>; Jeff Sharlet, *The Invisible Man: The End of A Black Life That Mattered*, GQ MAGAZINE (July 7, 2015), available at <http://www.gq.com/story/skid-row-police-shooting-charly-keunang>.

¹¹ Police Executive Research Forum, *Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned* (emphasis added) [hereafter “PERF Report”], v (2014), available at <http://www.justice.gov/iso/opa/resources/472014912134715246869.pdf>.



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PERF's recommendations further urge that, although state public records laws may include exceptions that would cover body-worn camera video in certain circumstances, such as when release could jeopardize an ongoing criminal investigation or there are countervailing privacy concerns,

[B]y policy and practice, law enforcement agencies should apply these exceptions judiciously to avoid any suspicion by community members that police are withholding video footage to hide officer misconduct or mistakes. In launching body-worn camera programs, law enforcement agencies should convey that their goal is to foster transparency and accountability while protecting civil liberties and privacy interests. When an agency decides whether to release or withhold body-worn camera footage of a particular incident, the agency should articulate its reasons for doing so.¹²

The Office of Justice Programs Diagnostic Center report—another source of guidance for policy development, highlighted in the Department of Justice's Body-Worn Camera Toolkit—likewise instructs departments, “Transparency, or willingness by a police department to open itself up to outside scrutiny, is an important perceived benefit of officer body-worn cameras.”¹³

LAPD's stated intention to withhold all body-worn camera footage absent a court order utterly fails to promote transparency. Body-worn cameras cannot further transparency and public trust if the video is never released to the public. Setting the right balance between privacy concerns and the public's interest in transparency is tricky, but some situations are clear:

- First, in the context of critical incidents such as officer-involved shootings, the public interest in law enforcement accountability and transparency outweigh the privacy interests of the individual subjects of the video. The public gives few government officials as much authority as the power we give to police to take human life based on split-second judgments. The public has a correspondingly strong interest in understanding how the police exercise that authority. When body camera video displays the exercise of that ultimate authority, the use of deadly force, the video evidence of officers' actions should be public.
- Second, when the subject of a police encounter makes a complaint alleging official misconduct, the same strong public interest arises in identifying police misconduct, poor policies, or poor oversight. Where there is a complaint or other evidence of police misconduct—absent a request by the complainant, and strong reasons, for confidentiality—those interests overcome the individual's privacy interests and justify public disclosure.
- Third, when the subject of the video seeks its release, there are no privacy concerns with disclosure.

LAPD's refusal to set forth clear policies on the public release of video also creates the impression it may release video that exonerates officers but not video that shows misconduct. That approach will undermine rather than advance public trust in police. Finally, while the policy bars unauthorized

¹² *Id.* at 18.

¹³ Michael D. White, Office of Justice Programs Diagnostic Center, *Police Officer Body-Worn Cameras: Assessing the Evidence* 19 (2014), available at <https://www.ojpdagnosticcenter.org/sites/default/files/spotlight/download/Police%20Officer%20Body-Worn%20Cameras.pdf>.



release of video by officers, its failure to set any rules for release through authorized channels threatens privacy by potentially allowing release of sensitive or embarrassing footage where there is no clear public interest in disclosure.

LAPD's Requirement that Officers Review Video before Making Statements in Critical Incidents Undermines the Reliability and Credibility of Its Investigations

LAPD's policy not only permits but *requires* officers to review body-worn camera footage—not only from their own body-worn camera but potentially from other officers' cameras—before providing even an initial statement to investigators when they are involved in critical uses of force or accused of grave misconduct.¹⁴ But allowing officers to review footage before making an initial statement threatens to taint investigations, undermines the use of body-worn cameras as a tool for accountability, and hurts the public trust that body-worn cameras should be building.

Body-worn cameras hold the potential to address one of the most significant trust gaps around police use of force: the concern, particularly in communities most affected by police violence, that officers who have used serious or deadly force will simply lie about what happened to avoid discipline or prosecution. By providing an objective record of an incident, body-worn cameras can lessen an investigation's dependence on the officer's account and the officer's credibility, helping restore confidence in the investigative process even for those that may not trust individual officers to be fully truthful. But allowing officers under investigation to view video before making a statement about a critical incident undermines this effort by providing officers who are inclined to lie the opportunity to do so in a manner consistent with the video evidence. Body-worn camera video, while helpful, will not capture everything from every angle. If an officer watches the video and discovers that certain elements that put them in a poor light happened not to have been captured—or that some moments when the subject is blocked, blurred or out of the frame provide an opportunity for the officer to say something happened—then the officer will feel at liberty to shade and color their account of events, if not to lie outright.

Police departments know that showing video to witnesses threatens to taint their testimony, because they do not do so in any other situations, including with other witnesses to police shootings. In the recent, controversial shooting of Ezell Ford, LAPD withheld public release of autopsy results because, as a senior LAPD commander explained:

“We don’t want the witnesses’ testimony to be tainted,”
[Commander] Smith said. Detectives want to obtain “clean
interviews” from people, rather than a repetition of what they may
have seen in media reports about [the subject’s] death, he added.
“They could use information from the autopsy to give credibility to
their story,” Smith said.¹⁵

¹⁴ See LAPD Body Worn Video Policy, *supra* note 4, at 4-5.

¹⁵ Frank Stoltze, *Ezell Ford shooting: LAPD places 'security hold' on autopsy report*, KPCC (Aug. 18, 2014), available at <http://www.scpr.org/news/2014/08/18/46063/ezell-ford-lapd-places-security-hold-on-autopsy-fo/>; see also *Tensions High As South LA Residents Meet With LAPD Over Ezell Ford Shooting Death*, CBS Los Angeles (Aug. 20, 2014) (quoting LAPD Police Chief Beck as saying, “We don’t want to release the autopsy report too early so that we taint people coming forward.”)



Providing officers an advantage other witnesses are not afforded and an opportunity to make their first statement completely consistent with video testimony affects the credibility of officer statements and the integrity of investigations whether the officers actually lie or not. LAPD openly admits that they want their officers' first statements to be consistent with video evidence. But that approach is an obvious attempt to improperly boost officer credibility.

Where officers are allowed to review video, even their initial accounts and written reports will align closely with and contain corroborating details from video evidence—much more so than the statements of civilian witnesses that have not had the chance to review video. To jurors and others, such consistency may suggest that the officer perceived the incident more clearly, remembers it better, or is otherwise more reliable than other witnesses, rather than simply indicating that he alone had the benefit of reviewing the video. But precisely because allowing officers to review video makes their accounts seem more credibly consistent, LAPD's policy of allowing officers to review video will create an appearance of bias—that LAPD will use body-worn camera video to “protect its own” and help its officers create testimony more credible than their actual memories—and will undercut public trust in the integrity of the investigative process.

Even where officers attempt to tell the full truth, as we hope and expect the vast majority will, cognitive science demonstrates that, because human memory is malleable, viewing the video—especially viewing multiple videos, multiple times—will confuse the officer's original, percipient memories of the incident. A wealth of studies show the ways in which suggestion and the presentation of information that is new or different¹⁶ from an individual's percipient memory will actually alter the memory held by that person.¹⁷ Exposure to information that is not captured in the original memory does not supplement that memory; rather, it causes the entire memory to be reintegrated—to the point that the original memory is effectively lost.¹⁸ Allowing an officer to review his or her body-worn camera video of an incident, therefore, cannot help but change that officer's

available at <http://losangeles.cbslocal.com/2014/08/20/tensions-high-as-south-la-residents-meet-with-lapd-over-ezell-ford-shooting-death/>.

¹⁶ Although the scientific research uses the term “misinformation,” that term is meant to distinguish information that is not within the individual's original memory, rather than to indicate that the information is necessarily false.

¹⁷ See generally Morgan, Southwick, Steffian, Hazlett, Loftus, *Misinformation can influence memory for recently experienced, highly stressful events*, International Journal of Law and Psychiatry 36 (2013) 11–17, available at https://webfiles.uci.edu/eloftus/Morgan_Misinfo_IJLP2013.pdf?uniq=-5q3yfp; Jeffrey L. Foster, Thomas Huthwaite, Julia A. Yesberg, Maryanne Garry, Elizabeth F. Loftus, *Repetition, not number of sources, increases both susceptibility to misinformation and confidence in the accuracy of eyewitnesses*, Acta Psychologica 139 (2012) 320–326 (repeated viewing increases the chances that officers will remember video as their own perception), available at https://webfiles.uci.edu/eloftus/Foster_Repetition_ActaPsych2012.pdf?uniq=7a5h8l; Elizabeth F. Loftus, *Planting misinformation in the human mind: A 30-year investigation of the malleability of memory*, Learn. Mem. 2005 12: 361–366; <http://learnmem.cshlp.org/content/12/4/361.full>; Zaragoza, M. S., Belli, R. F., & Payment, K. E., *Misinformation effects and the suggestibility of eyewitness memory*, in DO JUSTICE AND LET THE SKY FALL: ELIZABETH F. LOFTUS AND HER CONTRIBUTIONS TO SCIENCE, LAW, AND ACADEMIC FREEDOM 35–63 (M. Garry and H. Hayne eds., 2007), available at <http://www.personal.kent.edu/~mzaragoz/publications/Zaragoza%20chapter%204%20Garry%20Hayne.pdf>. See also Kathy Pezdek, *Should Cops Get to Review the Video Before They Report?* THE MARSHALL PROJECT (Aug. 13, 2015), available at <https://www.themarshallproject.org/2015/08/13/should-cops-get-to-review-the-video-before-they-report>; Lara Boyle, *Malleable Memories: How Misinformation Alters Our Perception of the Past*, YALE SCIENTIFIC (April 1, 2013), available at <http://www.yalescientific.org/2013/04/5227/>.

¹⁸ See Loftus, *supra* note 17, at 363; Foster, et al, *supra* note 17.



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account of the incident, even for individuals who are trying their best to provide an honest account of their memory. Given that use of force investigations seek the reasons an officer acted, based on the officer's perception at the time of the incident, those investigations should attempt to capture the officer's subjective memories before they are tainted by viewing video evidence.

Several law enforcement agencies and prominent actors have adopted an approach that provides for officer review of video only after an initial statement has been made. The Los Angeles Sheriff's Department, for example, determined that officers in the county's jails should not view video before providing statements, based on "ample evidence that seeing additional information than what was experienced (such as seeing the action from a different angle) can alter the memory of an event."¹⁹ The Inspector General for the New York Police Department came to similar conclusions that concerns about the effect on officers' memories and the impacts on investigative integrity warranted requiring an initial statement or report before review of body-worn camera video.²⁰ Other California departments prohibit officers from reviewing video prior to making a statement in investigations arising from serious uses of force, including the Oakland Police Department (which has used body cameras since 2010, longer than any other California agency)²¹ the San Jose Police Department,²² and the San Francisco Police Department (except by intervention of the Chief of Police),²³ The Executive Director of PERF has publicly reversed course on this issue, citing cognitive science research and credibility concerns to urge that officers should not review the video before providing an initial statement.²⁴ LAPD's policy of allowing officer review gives a one-sided advantage to its own officers, creates the impression of bias, and undercuts the reliability of its own investigations.

LAPD's Policy Fails to Guard against Use of Video as Surveillance of the Public and of First Amendment-Protected Activity

The fast pace of technological advances, and specifically the use of new technology by law enforcement, has the potential to dramatically alter the nature of everyday interactions between officers and civilians. New tools, used well, can be a boon for police-community relations—indeed, that is the great hope for body-worn cameras. But if new technology is adopted without appropriate safeguards, it can quickly backfire. The prospect that facial recognition technology could be used in conjunction with body-worn camera video threatens to turn tools meant to promote police accountability into tools for mass surveillance.²⁵ PERF, in its report, recognized the possibility that

¹⁹ Los Angeles County Office of Independent Review, *Eleventh Annual Report*, 36 (Dec. 2013), available at http://shq.lasdnews.net/shq/LASD_Oversight/OIR-Eleventh-Annual-Report.pdf.

²⁰ New York City Department of Investigation, The Office of the Inspector General for the NYPD, *Body-Worn Cameras in NYC: An Assessment of NYPD's Pilot Program and Recommendations to Promote Accountability*, 26–29 (July 2015), available at <http://www.nyc.gov/html/oignypd/assets/downloads/pdf/nypd-body-camera-report.pdf>.

²¹ Departmental General Order I-15.1, "Portable Video Management System," Oakland Police Department, 4 (effective Mar. 5, 2014), available at https://www.aclu.org/sites/default/files/assets/mar_14_pdrd_policy.pdf.

²² San Jose Police Body Worn Camera Policy, San Jose Police Department, section 16 (effective date June 29, 2015), available at http://www.sjpd.org/InsideSJPD/BodyCameras/BWC_Policy.html.

²³ Body Worn Cameras Policies Recommended Draft, San Francisco Police Department (Dec. 2, 2015), available at <http://sanfranciscopolice.org/Modules/ShowDocument.aspx?documentID=27676>.

²⁴ See Kimberly Kindy, Julie Tate, *Police withhold videos despite vows of transparency - But officers investigated in fatal shootings are routinely given access to body camera footage*, WASHINGTON POST (Oct. 8, 2015), available at <http://www.washingtonpost.com/sf/national/2015/10/08/police-withhold-videos-despite-vows-of-transparency/>.

²⁵ See Michael De Yoanna, *Colorado Police Cautiously Eager About Body Cameras That Recognize Faces*, COLORADO PUBLIC RADIO (July 19, 2015), available at <http://www.cpr.org/news/story/colorado-police->



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body-worn cameras could be used in conjunction with other technology such as facial recognition programs, and highlighted the need for departments to carefully consider the privacy implications in how they use the resulting videos.²⁶ It also encouraged departments to communicate to the public their policies for how body-worn camera video would be used.²⁷ The President’s Task Force on 21st Century Policing made similar recommendations in its final report.²⁸

Contrary to these recommendations, LAPD’s policy provides no clear limitation against use of body-worn camera footage as general surveillance of the public, or regarding use of the cameras and resulting footage capturing First Amendment-protected activity, such as political demonstrations. The Department therefore remains free to retain and examine footage of law-abiding citizens without reason to believe it holds any evidentiary value and to use facial recognition technology and other invasive tools in conjunction with body-worn video.

The policy’s stated objective of using cameras to “[c]ollect evidence for use in criminal investigations and prosecutions,” without articulated limits, only exacerbates these concerns. Additionally, Section III of the policy expressly authorizes recording encounters “for later investigation,” strongly suggesting that it would be legitimate to use the cameras for intelligence gathering—such as during peaceful political protests.²⁹ This raises serious concerns about privacy, as highlighted by the reports mentioned above, as well as the real possibility that body-worn camera videos may be used in ways that chill First Amendment-protected activity.

Whatever the law enforcement advantages of new technological possibilities, it is vital for public trust and community-police relations that decisions regarding use of body-worn camera video be made pursuant to a clear and public policy, adopted with the benefit of public input.

The Process by which LAPD Developed and Adopted Its Policy Was Deeply Flawed

In addition its substantive flaws, LAPD’s policy was adopted through a process that unnecessarily limited meaningful public input and prevented members of the Police Commission from fully considering options other than the Department’s recommended policy.

In the months during LAPD’s testing of body-worn cameras in its pilot program, members of the Department met with ACLU SoCal and asked our concerns about body-worn cameras in general terms. The Police Commission also held public meetings on the general topic of body-worn cameras

[cautiously-eager-about-body-cameras-recognize-faces](#); Shakeer Rahman, *Body cameras could transform policing – for the worse*, AL JAZEERA AMERICA (April 17, 2015), available at <http://america.aljazeera.com/opinions/2015/4/body-cameras-could-transform-policing--for-the-worse1.html>; Lauren C. Williams, *Why Body Cameras Alone Won’t Solve Our Police Abuse Problem*, THINKPROGRESS (Aug. 19, 2014), available at <http://thinkprogress.org/justice/2014/08/19/3471722/why-police-body-cams-wont-prevent-the-next-ferguson>. See also Michele Coppola, *The future of body worn cameras for law enforcement*, POLICEONE (Nov. 11, 2013), available at <http://www.policeone.com/police-products/body-cameras/articles/6583291-The-future-of-body-worn-cameras-for-law-enforcement/>.

²⁶ PERF Report, *supra* note 11, at 11.

²⁷ *Id.* at 16, 19.

²⁸ See President’s Task Force on 21st Century Policing, *Final Report* [hereafter “President’s Task Force Report”] 32 (May 1, 2015), available at http://www.cops.usdoj.gov/pdf/taskforce/TaskForce_FinalReport.pdf

²⁹ See LAPD Body Worn Video Policy, *supra* note 4, at 2.



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where Los Angeles residents could voice their opinion on the cameras, without reference to any particular policy. But after an eighteen-month-long process, LAPD released its proposed policy less than two business days before the meeting at which the Police Commission voted to approve it. This short time span did not provide a meaningful opportunity for community groups, public interest organizations, or individual citizens to debate or provide feedback on the concrete terms of LAPD's proposed policy. Nor, in our view, did the timing allow the Police Commission to carefully review and evaluate its terms, much less to solicit independent evaluation from experts or even the LAPD Inspector General's office—as one Commissioner publicly complained.³⁰

ACLU SoCal and others repeatedly requested that the Police Commission hold a meaningful hearing on the most important issues implicated by body-worn cameras, by directing its Inspector General to provide independent analysis of these controversial provisions and inviting community input on the proposed policy. We also urged the Police Commission to invite experts with different viewpoints to make presentations and hear from representatives of law enforcement agencies that have adopted different policies that address the above concerns, or take other steps to consider facts beyond those presented by LAPD in support of its own policy proposal. The Police Commission repeatedly declined to do so.

LAPD's process in adopting this policy should give the Mayor and City Council Members pause. One of the overarching themes in the recent report by the President's Task Force on 21st Century Policing held that openness and collaboration in developing policies is absolutely central to improving police-community relations and increasing public trust. One of that report's specific recommendations is that "[l]aw enforcement agencies should encourage public engagement and collaboration, including the use of community advisory bodies, when developing a policy for the use of a new technology."³¹ LAPD's process for rolling out body-worn cameras hardly reflects a collaborative relationship with the community.

This Council should do what the commission did not. It should hold Public hearings on the policy—and on whether body cameras should be used at all—that allow public input on body cameras as they will be used under the policy.

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Appropriate policies are vitally important for ensuring that body-worn camera programs serve their intended goals of improving transparency, accountability, and public trust in law enforcement, and do not do more harm than good. These are the purposes that the Mayor and City Council presented to the public when they committed public funds to LAPD's body-worn camera program. Because LAPD's program will hinder rather than further these goals under the current flawed policy, ACLU SoCal urges the City Council to take up the issue of the policy and bring it into line with the values that the public rightfully expects the cameras to promote.

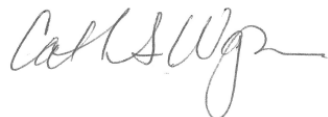
³⁰ Frank Stoltze, *Police Commission: LAPD Cops should be able to review body cam video before reports*, SOUTHERN CALIFORNIA PUBLIC RADIO (April 28, 2015), available at <http://www.scpr.org/news/2015/04/28/51310/police-commission-lapd-cops-should-be-able-to-revi/>; *LA Police Commission OKs Rules For Body Cameras*, ASSOCIATED PRESS/CBS LOS ANGELES (April 28, 2015), available at <http://losangeles.cbslocal.com/2015/04/28/la-police-commission-to-review-proposed-rules-for-body-cameras/>.

³¹ President's Task Force Report, *supra* note 28, at 35.



I would be happy to discuss our concerns and recommendations further.

Sincerely,



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LAPD Board of Police Commissioners

Encl.: LAPD Body Worn Video Policy
ACLU SoCal Letters of January 16, 2015; April 28, 2015; and August 24, 2015

