

Recording Devices in Law Enforcement

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Introduction

There have been several advances throughout the history of law enforcement, particularly in the area of technology. One of the major focal points in recent years has been in regards to video recordings. Video recordings have been the focal point of several encounters involving police officers and citizens. One of the most notable incidents was an officer involved shooting that occurred on August 9th, 2014 in Ferguson Missouri. Ferguson Police Officer Darren Wilson fatally shot Michael Brown, an unarmed 18 year old black male, during an encounter. This incident sparked numerous protest and riots throughout the United States in regards to police brutality and racism. Garry Earls, the chief operating officer for the county told KMOV-TV that the aftermath of this shooting cost the county 4.2 million dollars. The majority of the expense (2.6 million dollars) was for officer overtime as well as \$170,000 was for damage to police vehicles caused by rioters. (“Riots in Ferguson, MO” 2014)

The shooting of Michael Brown sparked the debate about officers being equipped with recording devices. Throughout this paper, I will discuss the two main types of recording devices that are used by law enforcement. I will also discuss the various benefits and drawbacks of each device as well as various incidents that have involved recording devices.

What is a Recording Device?

Law Enforcement officers primarily use two types of recording devices. The first is a body worn camera. Body worn cameras are recording devices that are usually attached to an officer’s clothing, glasses, or helmet. The body camera can record incidents from the officer’s point of view. This includes traffic stops, foot pursuits, arrest, searches, interrogations, and critical incidents such as officer involved shootings. (Miller, Toliver & PERF, 2014 p1).

The second recording device used by Law Enforcement is an In-Car Camera System, also known as a mobile video recorder or dash cam. The Rogers Arkansas Police Department Policy #413.4, the “Mobile Video Recorder” stated that that an In-Car Camera System and Mobile Video Recorder terms are synonymous and defined as any recorded media regardless of format which captures and records audio and/or video signals.

Concerns

While recording devices have proven to be very beneficial to police agencies, they are not without their drawbacks. These drawbacks primary focus on cost of the recording devices, the tampering or removal of the recording device, the limits of the recording device, and privacy.

Cost

Cost is typically the first factor considered when it comes to implementing a video recording device system. The Rogers Arkansas Police Department does not currently use body worn cameras, but they do use the L3 in-car camera system. The department currently has about 70 patrol units that are equipped with in-car camera systems. Each in-car camera system cost the department about \$6,500. That means the cost to equip each patrol unit will cost the department about \$455,000. However, there are additional costs associated with the in-car camera systems. These cost include about \$1,000 a year on disc for video storage and has a \$5,000 annual cost for software maintenance. In addition to those cost, about every five years, the Rogers Police Department has to update its storage capacity. In 2017, the Rogers Police Department updated its storage from 4.8 TB to 36.4 TB. This cost the department \$20,000. (Captain J. Baker, personal communication, 10/09/2017).

The Lowell Arkansas Police Department obtained TASER AXON FLEX body cameras in March 2015 through a grant from J.B. Hunt. A total of 14 body cameras were purchased.

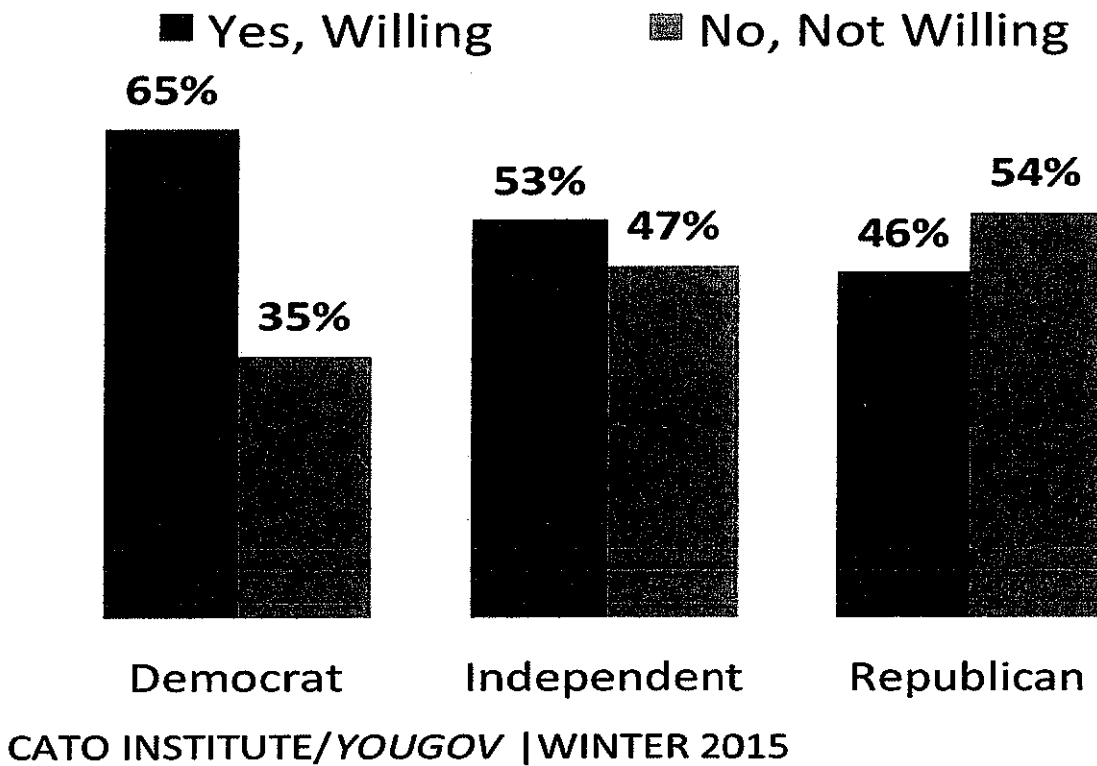
Each camera cost \$599 for a total cost of \$8,386. In addition to the body worn cameras, a single docking station was purchased for \$1,495 and the licenses and storage fees were \$3,345. The overcall cost, including the shipping and handling, for the body cameras and required necessities was \$12,354.45. (Chief R. Harvey, personal communication, 10/24/2017)

Due to the high cost of recording devices, some agencies have elected not to have them and others have discontinued using them. The Clarksville Indiana Police Department, who employs 50 officers and has 25 reserve officers, began using body cameras in 2012. Clarksville Police Chief Mark Palmer ended the program after a new law passed in Indiana that required agencies using cameras to store the video for at least 190 days. Chief Palmer stated that they originally kept the video for 30 days and it cost the department \$15,000 a year. Under the new law, it was going to increase their cost to \$150,000. The department also would have to purchase new servers and may have to buy new cameras, software, and train someone to use it. The Jeffersonville Indiana Police Department, who had 70 body cameras, also ended their body camera program for the same reason. Oakland County Sheriff Michael Bouchard's department covers Detroit's northern suburb stated they will not use body cameras due to the cost. Sheriff Bouchard, whose agency has 900 officers, stated that the startup cost and the video storage for only 30 days would cost the agency for than \$1 million dollars a year. Sheriff Bouchard stated "For body cams it's a deal breaker. I won't implement them". ("Two US police departments" 2016)

Even though Democrats were the highest percentage that believed officers should be equipped with body worn cameras, a poll conducted by the CATO Institute showed that only 65% would be willing to pay higher taxes. Only 53% of Independents and 46% of Republicans were willing to pay higher taxes as well.

Democrats and Independents Willing to Pay Higher Taxes for Police Body Cameras

Would you be willing to pay higher taxes in order to outfit your local police department with body cameras, or not?



Cameras Knocked Off/Removed/Tampered With

A second concern regarding body worn cameras is that they can be knocked off, removed, or deactivated at will. An example of a body worn camera reportedly being knocked off occurred on occurred on July 5, 2016. Baton Rouge Police Officers Howie Lake II and Blane

Salamoni fatally shot Alton Sterling, a 37 year old black male. An anonymous caller called the department and reported that a male, who matched Sterling's description, had threatened him with a gun outside of a convenience store. Officers made contact with Sterling and during the incident, Sterling was tased by the officers for resisting arrest before they forced him onto the hood of a vehicle and then onto the ground. During this time, one of the officers yelled that Sterling had a gun and Sterling was fatally shot a short time later. A .38 caliber revolver was located in Sterling's pants pocket. The owner of the convenience store, Abdullah Muflahi, told NBC news that Sterling never wielded the gun or threatened the officers. The officers reported that their body worn cameras fell off during the struggle with Sterling. Some have claimed this was a convenient excuse, but the department had prior documentation that officers were having issues with the body cameras staying attached to their uniforms.

An example of a body camera being removed occurred on 10/09/17 when Texas Tech Officer Floyd East JR. was shot and killed by a 19 year old Texas Tech student named Hollis Daniels while in police custody. Ofc. East had arrested Daniels for Possession of a Controlled Substance and had transported him to the department for booking. While in the booking area, Officer East was shot and killed by Daniels. Hollis then took Officer East's body worn camera and fled the scene. He was located a short time later with the murder weapon and Ofc. East's body worn camera in the area. This is concern because if this camera was not located, the evidence would have been lost.

Regarding the ability of being able to turn the body worn camera off at will, an example of this occurred in the Daytona Beach Police Department. Chief Chitwood requested officers with a history of complaints be the first to be outfitted with body cameras. While the majority of the recordings showed no issues, it did provide the department with an ability to address

discipline problems. Chief Chitwood gave an example of an officer who had several “questionable” incidents in his past. After being outfitted with a body worn camera, it was discovered that he was disabling the body worn camera during his encounters. This occurred multiple times; so a forensic review was done of the body worn camera and it was determined that the officer had intentionally hit the power button right before the camera shut off, which was a violation of their policy. The officer resigned the next day. (Miller, Toliver & PERF, 2014. P.8)

Limits of a Recording Device

While many believe a recording device will always show what happened, that is not correct. An example of this occurred on 04/04/2015 in North Charleston, South Carolina. Officer Michael Slager conducted a traffic stop on a subject named Walter Scott for a traffic violation. By the end of the confrontation, Scott was fatally shot in the back by Ofc. Slager. Ofc. Slager did not have a body worn camera, but his patrol unit was equipped with an in car camera system. After Ofc. Slager had contacted Scott and returned to his patrol unit, Scott exited his vehicle and fled and Slager pursued him. When Slager caught Scott, a physical altercation occurred before Scott fled again. It was at this point, Ofc. Slager shot Scott in the back as he fled. After the shooting, Ofc. Slager notified his dispatch center that shots had been fired and that the suspect had grabbed his taser. Ofc. Slager also stated that he feared for his life and that is why he shot Scott.

After this incident occurred, and after Ofc. Slager made his statement on the incident, a video that was recorded on a cell phone was released by an eye witness. In an interview with MSNBC, the eyewitness, Feidin Santana said, "I felt that my life, with this information, might be in danger. I thought about erasing the video and just getting out of the community, you know Charleston, and living some place else". The video also shows Ofc. Slager pick something up

from the area of the initial struggle and then drop it next to Scott's body. It is believed this was Ofc. Slager's taser. Ofc. Slager was later fired by his department and was indicted by the grand jury. Ofc. Slager was put on trial for the incident, but a mistrial occurred when the jury became deadlocked at 11-1, in favor of a conviction. The state charge was later dropped as Ofc. Slager pled guilty to a federal crime in regards to this incident.

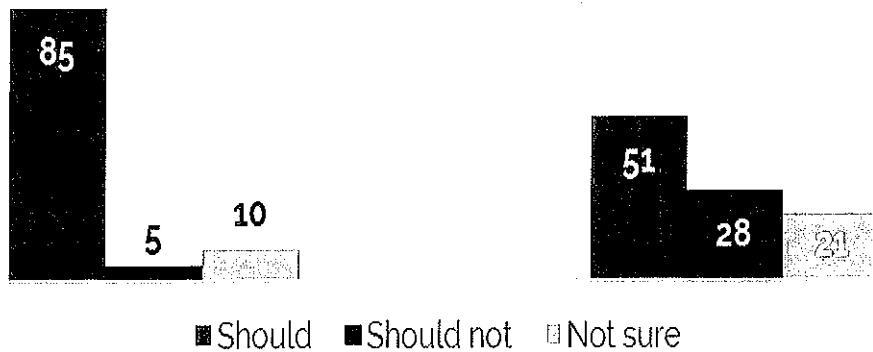
Privacy

Privacy is a major concern when it comes to wearing body worn cameras. This is because body worn cameras can be recording at all times and can record victims inside of their own residence and then this video could possibly be obtained through the Freedom of Information Act (FOI). This brings up the issue with who will see these videos and when can a police agency deny an FOI request. "Citizens may not wish to be recorded or for these recordings to be presented or shared with others" (Lum, C. 2015, p10). The privacy concern does not only extend to just citizens. The concern can also be shared by the officers wearing the body worn cameras. Ten officers with the Round Lake Park Police Department have filed a lawsuit against their department, as well as former Police Chief George Filenko, for \$100,000 each for their civil rights being violated and their privacy being invaded because of their body worn cameras. The officers are claiming "highly offensive and voyeuristic intrusion" because the body worn cameras were running "non-stop" and recorded images of the officers in the bathroom, as well as changing areas of the department. The lawsuit states that the recordings showed officers "engaged in private and personal acts" such as using the restroom and that their genitals may have been exposed. ("Round Lake Park" 2016).

Bodycam footage

Do you think that police departments in which officers are equipped with body cameras should or should not be required to share video footage relevant to a case with defense attorneys and prosecutors?

Do you think that police departments in which officers are equipped with body cameras should or should not make all video footage collected available to the general public?



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Support for Recording Devices

Support for body worn cameras has been overwhelming for several reasons. Support has come from police officers, politicians, prosecutors, defense attorneys and the public. After the fatal shooting of Michael Brown in 2014, President Barack Obama requested \$75 million to provide 50,000 body worn cameras to police departments nationwide.

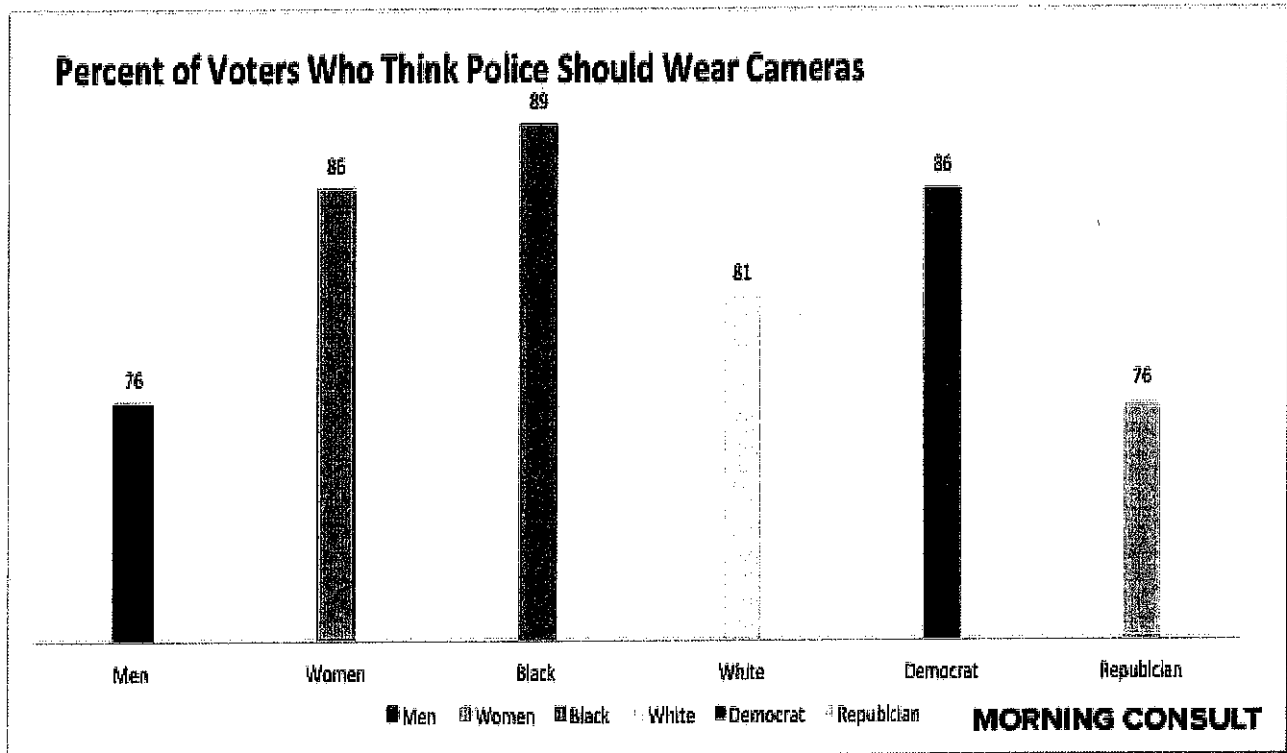
Officer and Citizen Accountability

As mentioned earlier in this paper, the fatal shooting of Michael Brown by Ofc. Darren Wilson led the way for the demand that officers be equipped with body worn cameras. While many believe this will hold police more accountable, it can also hold witnesses and suspects accountable for the statement they provide. During the investigation into the Michael Brown

shooting, over one hundred people were interviewed in this case. Many supported Ofc. Wilson's version of what occurred while others supported what Darion Johnson, the friend that was with Michael Brown during the shooting, version of what had occurred. There were also several incidents where, after witnesses were put on the stand for the grand jury, they changed their statement or stated they did not actually see what had happened. Other witnesses came forward after claiming that they saw people giving false statements about what had happened while others stated they did not come forward sooner due to the fear of the neighborhood backlash. This is the perfect example of how unreliable witnesses can be. Witnesses can use their personal beliefs and interpretation of how events occurred, or can say they saw something when in reality, they heard it from another person or on the news. This is why police separate witnesses when interviewing so they obtain the information that that witness saw. If Ofc. Wilson had a body worn camera, or an in car camera system, the exact events could be known today. Even though Ofc. Daren Wilson was cleared by the grand jury, many still believe the fatal shooting of Michael Brown was not justified.

Citizen and Political Support

A poll conducted of 1,385 registered voters nationwide by the Morning Consult showed overwhelming support for on-duty officers to wear body worn cameras. 82% of those polled supported police wearing body cameras. African-American's showed the highest support for body worn cameras at 89% while white's had an 81% support rate. Overall, only 76% of men polled voted in favor of on-duty officers wearing body worn cameras. Politically, Democrats had the highest approval at 86% while Republicans had the lowest approval at 76%. ("Voters Want Police" 2014).



One of the main reason body worn cameras are supported is because it holds the officers accountable for their actions and provides greater transparency in controversial situations, such as the fatal shooting of Michael Brown by Ofc. Darren Wilson. Chief Ron Miller of the Topeka Kansas Police Department stated “Everyone is on their best behavior when the cameras are running. The officers, the public-everyone”. (Miller, Toliver & PERF, 2014. P.5).

It is also believed that body worn cameras will help reduce complaints on officers. The Mesa Arizona Police Department reported that after eight months of using body worn cameras, the officers without body worn cameras had nearly three times more complaints than the officers who had body worn cameras. There were also 40% fewer total complaints for officers with body worn cameras as well as a 75% percent decrease in use of force complaints for officers with body worn cameras. (Miller, Toliver & PERF, 2014. P.6).

Many allegations filed against officers are minor complaints for circumstances such as the officer being unprofessional or driving inappropriately. Other complaints can be more

serious. These complaints can include racial profiling, excessive force, violating the fourth amendment, or committing a criminal act. This is where in car camera videos or body worn cameras can save an officer. Once an officer is accused of a crime, an investigation begins and the officer can be put on leave or reassigned until the investigation is complete. Two Detroit Police Officers responded to a disturbance call and located a pregnant woman who needed a ride. The officers let the woman sit in the back seat of their patrol unit and drove her eighteen miles. A short time later, the woman made allegations against these officers saying that they had raped her after dropping her off. The woman went to the hospital for a rape kit, but no evidence of rape was found. She also accused the officers of telling her “I am the police. I run this bitch. Ain’t nobody gonna believe you.”. An internal and criminal investigation began. The investigating detectives went back and reviewed the officer’s in car camera system, which was also equipped with a camera that recorded video and audio inside of the patrol unit. The video showed that the allegations never occurred and that there was never any sign of distress or any complaints by the woman and the officers were cleared. The Detroit Police Association President Mark Diaz noted that “These officers were facing losing their freedom-going to prison for 20 years at least”. Within twenty four hours of learning of the in car camera system, the women retracted her statement and stated that the incident did not occur. She went onto say that she was under the influence of alcohol and under medication for a serious mental condition. She also apologized for making up the story and potentially destroying these officer’s lives. (“Squad car video clears” 2016).

A very notable incident where in an in car camera recording device kept an innocent man from going to prison while removing three officers from their position and charged criminally. Prosecutors were offering a five year prison sentence to Marcus Jeter following his arrest by

Bloomsburg Police Officers in 2012 for charges that included eluding police, resisting arrest, and assault. However, during the trial, in car camera footage from the second unit to arrive, which was not initially provided to the prosecutor's office, showed a different angle of what had happened and the charges against Jeter were dismissed. The officer's involved, Orlando Trinidad and Sean Courter, have since been indicted by the grand jury on various charges, including falsifying reports, conspiracy and official misconduct. Trinidad also has been charged with aggravated assault. A third officer involved has pled guilty to tampering charges. The in car camera footage showed that Jeter never assaulted any of the officers and that he never resisted arrested, but it did show officers punching him while he was on the ground and in custody. The footage also showed the second patrol unit to arrive actually struck Jeter's vehicle, which was never mentioned in the official police report. ("WATCH: Cops charged with" 2014).

Lawsuits

In the majority of lawsuits filed in officer involved shootings, the city will settle with the family of the person killed. This can cause an agency several millions of dollars. For example, the City of Ferguson settled their lawsuit over the fatal shooting of Michael Brown for \$1.5 million dollars even though Ofc. Wilson had been found to have acted lawfully by the grand jury and the Department of Justice.

North Charleston reached a \$6.5 million dollar settlement with the Walter Scott family over that officer involved shooting. (North Charleston reached \$6.5 million" (2015). Ofc. Slager has pled guilty in this shooting.

Keith Lamont Scott was shot and killed by officers in Charlotte, North Carolina. This shooting had both in car camera and body worn camera systems that recorded the incident and the officer was cleared of any wrong doing and shows that Scott had a firearm and did not drop it

after being told to do so on several occasions. Scott's family is currently suing the department for the wrongful death of Scott, but are approaching it from how the officers approached the incident from a tactical point of view.

These are all examples of how beneficial recording devices could be in these types of situations. In regards to the Michael Brown fatal shooting, several questions could have been answered and it could of possibly saved the department \$1.5 million.

Differences Between Body Worn Cameras and In Car Cameras

The body worn camera and the in car camera recording systems both have advantages and disadvantages associated with them. The body worn cameras offer a better view from the officer's perspective, which can assist the person reviewing the video in controversial situations and especially in an officer involved shootings. Unfortunately, as mentioned earlier in this paper, body worn cameras have had a history of being knocked off, tampered with, or stolen. Also, body worn cameras have a history of being shaky, as when officers are running or in a struggle with a suspect, and can only show one direction of view.

In car camera systems may not provide the officer's point of view, but it provides a wide view coming from the front of the officer's vehicle and it does not shake and there is no risk of the camera being removed. One of the main disadvantages of the in car camera recording system is the fact the audio has a limit. The L3 in car camera recording system only has about a 1,200 foot radius and it may not pick up the audio if the officer is in certain types of buildings, such as a hospital.

Conclusion

Throughout this paper, I have discussed the different type of recording devices and the advantages and disadvantages of each. I have also provided numerous examples of how each

recording device has been beneficial. The recording devices have provided clear evidence in major crimes, cleared officers on complaints and criminal accusations, cleared citizens who had been wrongfully arrested, and led to the arrest of officers who have abused their position. After reviewing both the in car camera system and the body worn camera system, there is no definite answer to which system is the best due to them both having the above mentioned advantages and disadvantages, but the importance of all law enforcement agencies to have at least one, if not both, form of recording device is apparent. The ideal situation would be for law enforcement agencies to have both types of recording device. As mentioned earlier in this paper, the in car camera can show a wide range of stable video while the body worn camera allows the video from officer's point of view and can be taken anywhere it needs to go. While the cost remains as one of the primary factors when it comes to implementing a recording device policy, there are grants available to assist with the startup cost, such as the one used by the Lowell Arkansas Police Department when they obtained their body worn cameras, and the money it can save a department from a lawsuit greatly outweighs the cost of implementing the system.

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