

# **Testimony before the *President's Task Force on 21<sup>st</sup> Century Policing***

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## **What We Know, Do Not Know and Need to Know About Police Officer Body-Worn Cameras**

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My name is Michael D. White. I am a Professor of Criminology and Criminal Justice at Arizona State University. I am also a Senior Diagnostic Specialist for the Office of Justice Programs (OJP) Diagnostic Center, and a Senior Subject Matter Expert for the Bureau of Justice Assistance's Smart Policing Initiative. In August 2013, a year before Michael Brown's death in Ferguson, the OJP Diagnostic Center commissioned me to write a report on a new emerging technology, police officer body-worn cameras (BWCs).<sup>1</sup> The goals of that report, which was published in April 2014, were twofold. First, I sought to "lay out on the table" all of the claims that had been made about body-worn cameras, both by advocates and critics. Much like the edge pieces of a puzzle, the report was intended to provide a framework for the discussion surrounding this new technology. Second, I conducted an extensive review of available research and assessed the current state of knowledge for each of the identified claims.

Within a few months of this report becoming publicly available, the tragic deaths of Michael Brown in Ferguson and Eric Garner in New York, both at the hands of the police, sparked a national debate over police use of force against citizens, and the degree to which officers are held accountable for their actions when a citizen is killed. Much of the dialogue over how to increase accountability has focused on police officer BWCs. The discourse over police use of force, accountability, and the potential role of BWCs culminated in the creation of this Task Force by President Obama, as well as a proposed *Body Worn Camera Partnership Program* that would provide \$75 million to police departments across the country to buy BWCs.

There has been wide-ranging speculation over the potential impact of BWCs. Advocates claim that the technology can increase accountability and can even prevent officer killings of citizens. Critics have raised questions about the technology's impact on citizen and officer privacy, and the significant cost required to successfully manage a BWC program. Unfortunately, there have been few balanced discussions of BWCs, and as a result, there are many questions about what to expect when officers begin wearing cameras. Below is a brief overview of what we currently know and do not know about BWCs, along with some specific recommendations for this Task Force.

### What We Know

There are two things we know with certainty regarding this technology. First, BWCs, if used properly, provide a permanent video record of what transpires during a police-citizen encounter. For many police chiefs this benefit, by itself, is sufficient justification to adopt the technology. Consider the Michael Brown incident in Ferguson. Two vastly different accounts of what transpired during the encounter emerged based on the officer and eyewitness statements. If

Officer Wilson had been wearing a camera during the encounter, we would have been able to observe what happened during that tragic incident.

Second, the decision by a police department to start a BWC program represents an enormous investment of money, manpower and resources. There are, of course, up-front costs in terms of buying the hardware and training officers. The real costs, however, come on the back-end in terms of managing the vast amount of data that is generated by the cameras. Just last week, the acting Chief of the Phoenix Police Department announced that it would cost their department \$3.5 million to 1) outfit all of their officers with body cameras, and 2) successfully manage the body-worn camera program.<sup>2</sup> The video data must be stored securely, in some cases, for years. A BWC program impacts all units in the police department, as well as numerous outside stakeholders including prosecutors and defense attorneys. This is a fact, and any police chief who is contemplating the creation of a body-worn camera program should carefully consider the resource implications of such a program.

### What We Think We Know

A handful of research studies have provided some insights into several key questions surrounding BWCs. Much more research is needed, but there are several important themes that have emerged from the current small, but growing body of work.

First, several studies have linked BWCs to significant declines in officer use of force and citizen complaints against officers. Following the start of their body-worn camera program, the Rialto (CA) Police Department documented a near 90% drop in citizen complaints, and a 60% drop in officer use of force.<sup>3</sup> Those notable changes have continued during the second year of the Rialto study. Similar findings have emerged from studies of the Mesa (AZ) and Phoenix Police Departments (though the reductions in Mesa and Phoenix are not as large as the Rialto findings).<sup>4</sup> Three studies are not nearly enough to draw firm conclusions, but the consistency in findings across these studies is intriguing. More research is needed to determine whether the reductions in these two important outcomes persist in other jurisdictions.

Second, it is reasonable to assume that BWCs provide video evidence that can be used in criminal prosecutions, civil lawsuits and investigations of citizen complaints. There is some research in Great Britain to support this potential benefit, but research in the United States has not sufficiently investigated the evidentiary value of BWCs. As a result, the evidentiary value of BWCs, especially for prosecutors in criminal cases, is largely unknown.

Third, it also seems reasonable to assume that BWCs could serve as a valuable training tool. Police recruits could wear BWCs during scenario-based training exercises, and then instructors and recruits could review the video afterwards to evaluate performance. BWCs could also be used to monitor rookie officers on the street during field training. Very few police departments are using BWCs in training, however.

Fourth, BWCs also allow police to engage in a full review of encounters where force is used by an officer, including deadly force. Police-citizen encounters are transactional events, with each participant making decisions and responding to the decisions of the other participant. As a result,

use of force by a police officer is the culmination of a series of earlier actions and reactions. However, review of force incidents traditionally ignores earlier stages of an encounter and focuses entirely on the final-frame decision. James Fyfe called this the split-second syndrome, and he argued that this narrow focus excuses unnecessary violence resulting from improper training, incompetence and poor decision-making.<sup>5</sup> BWCs represent an opportunity to overcome the split-second syndrome because the technology can provide a permanent video record of the entire police-citizen encounter. BWCs allow for a full review of all decisions made by the officer during an encounter, from start to finish. Did the officer make decisions early on in the encounter that escalated the potential for violence? Did the officer miss opportunities to resolve the encounter peacefully? BWCs can facilitate a comprehensive review of forceful encounters to determine why they ended in violence; and to identify best practices for resolving encounters peacefully.

Last, BWCs may serve as a foundation for a sentinel events review process. Sentinel event review is a strategy developed in health care to fully investigate a negative event (death or injury) through a comprehensive, non-blaming review. In 2014, the National Institute of Justice began a Sentinel Events Initiative to explore the utility of the strategy in criminal justice.<sup>6</sup> BWCs provide a unique opportunity to explore the viability of sentinel event review in policing because the technology can capture the entirety of a critical incident. Such reviews would occur independently of internal and criminal investigations, and would focus on identifying ways to reduce the likelihood of future sentinel events.

### What We Do Not Know

There is much we do not know regarding the impact and consequences of BWCs. First, we do not fully understand the impact of BWCs on citizen privacy. There is potential for BWCs to violate a citizen's expectation of privacy. There are also questions about whether to record encounters with vulnerable populations. What if a sexual assault victim asks an officer to turn off the BWC? What if children are present during a domestic dispute? These privacy concerns are real, and officers will need guidance on how to deal with them. That guidance should come in the form of detailed administrative policy and training. When police departments develop their policy, they should engage with multiple stakeholders, including victim advocacy groups, to insure that they fully understand the important issues and concerns surrounding the impact of BWCs on victims, children and other vulnerable populations.

Second, there are also questions about the impact of BWCs on officer privacy. Police unions have opposed BWCs in a number of jurisdictions, arguing that adoption of the technology must be negotiated as part of the collective bargaining agreement.<sup>7</sup> Several unions have expressed concerns about BWCs because the technology gives supervisors the opportunity to go on "fishing expeditions" against officers in their command. Police chiefs need to gain buy-in from line officers and their unions at the beginning of the process.

Advocates argue that BWCs have a "civilizing effect." That is, the presence of the camera causes both the officer and the citizen to behave better. While the reductions in use of force and complaints described above are compelling, we have no idea what caused them. Do BWCs cause

the officer's behavior to change? The citizen's behavior to change? Both? We simply do not know. Some of the reductions in complaints may be caused by citizens being less likely to file frivolous complaints. A related question is whether BWCs can prevent tragic encounters like those that ended the lives of Michael Brown and Eric Garner. And the answer is again – we simply do not know.

### Recommendations

Based on the available research on BWCs, and the ongoing discourse surrounding the technology, there are a number of recommendations that this Task Force should consider when offering guidance on the technology.

1. Police Departments should create an Advisory Group at the start of the BWC adoption process. The Advisory Group should include line officers, union representatives, and members from a host of other departmental units including research and planning, technology and internal affairs. The Advisory Group should also include external stakeholders such as representatives from the prosecutor's office, the defense bar, advocacy groups and citizens. This approach will give each group of stakeholders the opportunity, throughout the process, to ask questions, express their concerns and offer input on policy and training. The work done up front with the Advisory Group will greatly reduce the potential for resistance from those stakeholders later on after the technology is deployed in the field.
2. Emphasize the importance of research. Core questions remain unanswered. However, given the tremendous interest in the technology, there is potential to grow the body of scientific knowledge very quickly. But that can only happen if police departments engage with researchers as they implement their body-worn camera programs. As the technology diffuses widely, so too should research on the technology.
3. Create a repository of departmental policies governing BWCs. Though there is some guidance in terms of policy development (e.g., the IACP model policy), departments have few places to turn to get information regarding core areas of the technology and its implementation. The administrative policy repository would be a tremendous resource for police leaders who are at the initial stages of developing their body-worn camera programs. Moreover, the repository should include a detailed review of the core issues that must be covered in an administrative policy, as well as a discussion of the variation in those issues across the available policies. What do policies say about camera activation? What do they say about data storage and retention? A review of commonalities and differences across policies would allow police departments to make informed decisions about their own administrative policies.
4. Promote the potential for BWCs to be used as a training tool, both in the academy and during field training for rookie officers. The training benefits of body-worn cameras remain largely untapped.

5. BWCs hold tremendous promise as a violence reduction tool, and researchers and police leaders should explore this potential benefit. BWCs represent an opportunity to overcome the split-second syndrome because the technology can provide a permanent video record of the entire police-citizen encounter. BWCs can facilitate a comprehensive review of forceful encounters to determine why they ended in violence; and to identify best practices for resolving encounters peacefully. BWCs can also serve as the foundation for the development of a sentinel events review process after critical incidents.
6. Emphasize that expectations about the impact of BWCs must be reasonable. In cities like Ferguson, the relationship between police and the community is defined by long-standing anger and distrust. BWCs, on their own, cannot alter that relationship. But BWCs can represent a starting point for police to demonstrate transparency and a willingness to engage with citizens. This first step is especially important in cities like Ferguson where police officers are seen as enemies and threats, rather than public servants and problem solvers.

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<https://www.ojpdiaagnosticcenter.org/sites/default/files/spotlight/download/Police%20Officer%20Body-Worn%20Cameras.pdf>

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<sup>1</sup> White, Michael D. (2014). *Police officer body-worn cameras: Assessing the evidence*. Washington, DC: U.S. Department of Justice, Office of Justice Programs Diagnostic Center and the COPS Office.

<sup>2</sup> <http://www.azcentral.com/story/news/local/phoenix/2015/01/21/phoenix-police-body-cameras-beneficial-costly/22142475/>

<sup>3</sup> Ariel, Barak, Farrar, William A. & Sutherland, Alex. (In press). The effect if police body-worn cameras on use of force and citizens' complaints against the police: A randomized controlled trial. *Journal of Quantitative Criminology*, DOI 10.1007/s10940-014-9236-3.

<sup>4</sup> Mesa Police Department. (2013). *On-officer body camera system: Program evaluation and recommendations*. Mesa, AZ: Mesa Police Department.

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<sup>5</sup> Fyfe, J.J. (1986). The split-second syndrome and other determinants of police violence." In *Violent Transactions*. (eds.) Anne T. Campbell and John J. Gibbs. Oxford: Basil Blackwell.

<sup>6</sup> National Institute of Justice (September 2014). *Mending justice: Sentinel event reviews*. Washington, DC: US Department of Justice.

<sup>7</sup> Santora, M. (8/13/13). Order that police wear cameras stirs unexpected reactions. *New York Times*. Available at: <http://www.nytimes.com/2013/08/14/nyregion/order-that-police-wear-cameras-stirs-unexpected-reactions.html? r=0>.

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