

Police Body Cameras

March 9, 2016

The ACLU's Interest

- The ACLU-NC is a nonprofit, nonpartisan member-based organization dedicated to preserving the individual rights and liberties guaranteed by the U.S. and North Carolina Constitutions.
 - *This includes work to protect privacy rights in many different areas, as well as individual rights in police encounters.*
- Body cameras sit at the crossroads of privacy and police accountability
- We have consulted on several body camera policies around the state, working with law enforcement agencies to strike the right balance between protecting privacy and promoting accountability.



Body Cams Can Be a “Win-Win”

- Body cameras can be a “win-win” for police officers and the communities they serve
- To achieve this, must have a strong framework for body camera use in place that addresses:
 - *Body cam activation;*
 - *Retention of the data generated by body cams;*
 - *Discipline for misuse of body cams; and*
 - *Public access to the recordings*



Body Cam Activation

- Any policy governing body camera use should include specific requirements for activation/deactivation, to ensure:
 - *limited officer discretion*
 - *that cameras do not become tools of general surveillance*
 - *special privacy protections including when body cams are worn inside a private home, and when officers encounter and or interview crime victims or witnesses*
- Body cams should be worn only by officers with the authority to conduct searches and make arrests, to maximize their value and effect.
- Officers should be required to notify individuals that they are being recorded



Retention of Body Cam Recordings

- Data should be retained no longer than necessary
- For the vast majority of police encounters, there is no reason to preserve the data, and it should be quickly deleted (Standard 9 = 30 days).
- There should be a flagging process in place, and a longer retention period, for any incident:
 - *Involving use of force*
 - *That leads to detention or arrest*
 - *Where a complaint has been registered*



Discipline for Misuse of Body Cam Recordings

- Body cam policies should specify disciplinary consequences for officers who repeatedly misuse body cameras and improperly handle body camera recordings.
- We recommend a rebuttable presumption of officer misconduct when:
 - *a) there is an allegation of officer misconduct from a member of the public based on his or her interaction with the officer;*
 - *b) the interaction was supposed to be recorded by the officer pursuant to the BWC policy;*
 - *c) the interaction was not recorded; and*
 - *d) there was no exigent circumstance preventing recording nor any documented reason for failing to record the interaction.*



Access to Body Cam Recordings

- At the very least, any member of the public who is the subject of a body cam recording should be allowed to review it (BCSO, DPD, CMPD considering).
- When should the public have access?
 - *Careful balancing of need for government oversight/openness and privacy*
 - *Recordings that have low public value should not be released without the consent of the individuals portrayed.*
 - *In cases where public value is high (police misconduct, e.g.) recordings should be made public with redaction efforts in place to protect individual privacy, if possible.*



Current North Carolina Law Limits Access and Frustrates Purpose

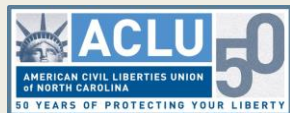
- The very purpose of body cameras is to inject transparency into interactions between police and the communities they serve.
- Currently, North Carolina law enforcement agencies are routinely exempting body camera recordings from public access under at least one of these statutes:
 - § 132-1.4. *Criminal investigations exception to public records law*
 - § 160A-168 and § 153A-98. *Privacy of employee personnel records*

Legislation needs to address when body cam footage can and should be made available to individuals who are recorded and, when the public value is high, to the general public.



Strike the Right Balance

- Establish clear directives for body camera activation and notification
- Set recording retention schedule that contemplates a short retention of unflagged recordings (everyday interactions) and a longer retention period for flagged recordings (use of force, detention/arrest, complaint)
- Lay out clear disciplinary consequences for officers who repeatedly misuse or abuse body cameras
- Adopt sensible public access policies that promote transparency and accountability.



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