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How Has the Implementation of Body Worn Cameras Affected Law Enforcement in Texas?

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Abstract

Since 2011, when the first body worn camera program for police officers in the United States was introduced in Rialto, California, researchers have been interested in how such programs might influence U.S. law enforcement. Studies in the past several years have examined various aspects of the effects of body worn cameras, including their impact on public relations, police morale, and law enforcement budgets. Also of note is the importance of police compliance with the Freedom of Information Act (FOIA), and the unique challenges presented by body worn camera records with regard to FOIA. This article seeks to determine the effect of body worn camera programs on law enforcement, focusing on the programs' effects on Texas law enforcement specifically.

The author consulted the findings of government officials as well as those of professionals within the fields of justice and law enforcement. Each law enforcement agency is unique and must individually weigh the costs and benefits of body worn camera programs. Although several concerns are reported to have arisen within the law enforcement ranks of those affected by the cameras, such as additional supervisor and program costs, for example, the overall results of body worn camera implementation have been positive. In the face of the recently strained relationship between the public and law enforcement, utilizing technological innovations such as body worn cameras could restore a sense of accountability, trust, and peace of mind to both the citizens of the United States and those charged with their protection.

Introduction

Many advances in technology have impacted law enforcement in the past several decades, from improved soft body armor to high tech, less lethal weapons such as tasers. However, the introduction of body worn cameras on officers conducting day-to-day police functions is having a significant impact in many ways. The effects are not just within the individual agencies who now use body worn cameras. Rather, the effects extend to the communities these agencies serve, the state prosecutors' offices, judges, and the juries who are involved in the prosecution of crimes. Several issues are relatively common among law enforcement agencies that have implemented body worn camera programs. These issues include the benefits to the department, including building community trust. There are also issues with the start-up costs and long-term costs of maintaining the program. Other issues confronted by administrators with body worn camera programs are discussed in this article.

The History of Body Worn Camera Usage by Texas Law Enforcement

The first modern body worn cameras were introduced to law enforcement in the United Kingdom in 2005. The first body worn camera program in the US was introduced in Rialto, California in 2011. Many agencies consider body worn cameras as a possible means of reducing citizen's complaints. In the case of Rialto, California, a study determined that "citizen complaints were reduced 88% from 2013 to 2014,"¹ after implementation of a body worn camera program. According to a Police Executive Research Forum (PERF) survey of 500 police agencies, wherein 254 responded, "75 percent of the respondents reported that they did not use body worn cameras as of July 2013."²

According to Lakeway Police Department (Texas) Chief Todd Radford, Lakeway PD was the first police agency in Texas to implement body worn cameras, in 2012. The purpose of implementing the cameras was in line with many police departments' motives for beginning a body worn camera program: accountability and transparency.³ Soon after the police involved use of force in Ferguson, Missouri, where Michael Brown was shot and killed by Officer Darren Wilson while resisting arrest on August 9, 2014, and in New York City, NY, where Eric Garner died while resisting arrest on July 17, 2014, many agencies began a concerted effort to determine if they needed to start a body worn camera program in their respective departments. Currently, many agencies have begun using body worn cameras in many areas of police work including criminal investigations, SWAT, and K-9 in addition to patrol investigations.

There are many ongoing studies to explore the effects of having cameras on police during their day-to-day interactions with the public. From studies conducted by government researchers to those conducted by civil justice groups, the results vary somewhat. However, most of the research tends to indicate the effects of the introduction of body worn cameras have been positive.

Factors Affecting the Implementation of BWC In Texas

There are several factors that law enforcement organizations in Texas should take into consideration before implementing body worn cameras.

Public Perception and Transparency

Many police agencies began researching the use of body worn cameras soon after the aforementioned high-profile police use of force cases in Ferguson, Missouri and New York City. A significant number of agencies had been using in-car video systems for quite some time at that point. However, with advances in technology including cellphones, tablets, and other compact recording devices, departments needed to increase their use of technology to better serve their citizens and line officers. Recordings from body cameras offered a Point of View (POV) perspective which helped viewers see and hear what the officers saw and heard. The use of body cameras also allowed a more diverse method of recording an event from a better vantage point. With the advent of social media, the public, more times than not, were shown edited versions or partial videos of a police-involved incident. The videos were from poor angles, with poor lighting and/or audio, and usually captured grainy images on cell phones. Many agencies found it very difficult to get ahead of a situation when the public was already exposed to one-sided

versions of an event, especially in jurisdictions where public trust in the police department was strained. Police administrators needed to show the citizens of their community that the department welcomed scrutiny from the community.

Accountability/Activity

Implementing a body worn camera program can be very beneficial. According to an *NIJ* [National Institute of Justice] *Journal* article by Brett Chapman, “Body-worn cameras may result in better transparency and accountability and thus may improve law enforcement legitimacy[...] Body-worn cameras may lead to a faster resolution of citizen complaints and lawsuits that allege excessive use of force and other forms of officer misconduct.”⁴

The presence of a camera often reduces the number of citizen complaints. When a camera is present, many citizens and officers are aware they are being recorded and tend to consider their actions more carefully.

Another potential benefit to body worn cameras is the fact that officers who utilize the body camera tend to be more active. According to a study conducted in 2014:

Researchers at Arizona State University (funded through the Bureau of Justice Assistance’s Smart Policing Initiative) found that officers with body-worn cameras were more productive in terms of making arrests, had fewer complaints lodged against them relative to officers without body-worn cameras, and had higher numbers of citizen complaints resolved in their favor.⁵

Building Trust

Many communities across the US, some in Texas, have experienced a reduced confidence in the abilities of their police departments to police fairly and in an unbiased manner. The responsibility for this reduction in trust can be shared by both the police and the public. Sometimes the public believes the police are stonewalling when being asked questions about their actions. Other times the police are trying to conduct internal investigation(s) before making a public release. According to Chapman’s research, “This lack of confidence is exacerbated by questions about encounters between officers and community members that often involve the use of deadly or less-lethal force. Video footage captured during these officer-community interactions might provide better documentation to help confirm the nature of events and support accounts articulated by officers and community residents.”⁶ From a prosecutorial standpoint, video captured during an investigation could impact the outcome of a trial. Video recordings have limitations. However, the video may contain exculpatory information that could exonerate a defendant. According to Brandi Grissom, Managing Editor for *The Texas Tribune*, although not explicitly determined to be evidence, all information that could be used by “prosecutors will be required to [be turned over] to defendants accused of crimes and [the prosecutor must] keep a record of the evidence they disclose.”⁷ The Michael Morton Act was signed into law by Texas Governor Rick Perry in 2013, requiring “disclosure of evidence regardless of its materiality to guilt or punishment. It is the first significant reform to Texas discovery laws since 1965.”⁸

Morale

Morale and camaraderie are very important in the police profession. Most police officers have a commitment to serve others and wish to be trusted by their supervisors and the public. The concept of having a camera attached to them during their daily performance of duties met with resistance from some. Other officers volunteered to wear the cameras. Thus far, most agencies have had positive results from the use of body cameras.

Big Brother

Some older officers are apprehensive about the introduction of new technology into police practices. These objections could include the belief that their supervisor or the administration does not trust them, or the belief that the *gadgets* cannot take the place of *real police work*. Also, many officers, young and old, may believe that the cameras are just tracking devices the administration uses to spy on them. The public may see the cameras as abused by the police to invade their privacy or catch them doing something wrong.

Police departments have made a concerted effort to educate officers and the community (citizens) about the body worn camera program. With cooperation from the community, the programs have been met with overall approval. This effort will likely pay off as public perception changes and the police appear more amenable to scrutiny and are more transparent.

Useful Tool or Trap

The use of body cameras has been beneficial as a method of collecting video and audio evidence that was previously not available. In a survey conducted at George Mason University, “a majority [of prosecutors surveyed] believed that BWC [body worn camera] evidence would increase both rates of conviction (58.3% agreement) and the frequency/likelihood of plea bargains (62.3% agreement).”⁹

Many officers remember when their testimony alone, under oath, was enough proof in a criminal proceeding. However, with the introduction of BWCs has come a more complex environment for officers as it relates to court proceedings. Some officers have had valid cases dismissed or refused prosecution by the prosecutor due to lack of a BWC or in-car recording of the event.

Police officers are also cognizant of the value of video and audio recordings when their actions come under scrutiny. Many officers are cleared of unsubstantiated complaints after their BWC footage is reviewed. The recordings have also been used to rebut video recordings of incidents that have been edited for effect on social media platforms. Most officers see the use of BWCs in the same light as any of the multitude of technological advances in law enforcement. When officers realize that the benefits of wearing a BWC far outweigh the negatives, they accept it as just another part of their uniform and patrol as before.

There are also many other factors to consider regarding body worn cameras. Dr. Bill Lewinski, Executive Director of Force Science Institute, constructed a list wherein he outlined issues that should be considered when an officer’s behavior is being assessed using BWC evidence. The list includes the following:

1. A camera doesn't follow your eyes or see as they see.
2. Some important danger cues can't be recorded.
3. Camera speed differs from the speed of life.
4. A camera may see better than you do in low light.
5. Your body may block the view.
6. A camera only records in 2-D.
7. The absence of sophisticated time-stamping may prove critical.
8. One camera may not be enough.
9. A camera encourages second-guessing.
10. A camera can never replace a thorough investigation.¹⁰

Based on the findings of Dr. Lewinski, it is apparent that, regardless of how sophisticated the body camera used, it is a tool, and all tools have limitations.

Financial Considerations

Prior to beginning a BWC program, the cost vs benefit aspect is a major issue to consider before allocating the funds. There are over 60 different body cameras on the market. The cost of a camera varies depending on number of units purchased, specifications of the camera, versatility, etc. Depending on the department budget and matching grants that are now available, the purchase of body cameras may be more or less feasible. According to a report by the Police Executive Research Forum (PERF):

Beyond the immediate up-front costs of purchasing cameras, there are the major back-end costs involved in operating and maintaining a BWC program over the long term... Finally, there are significant administrative costs associated with developing and managing BWC programs; procuring contacts, equipment, and personnel; developing policies; and maintaining oversight.¹¹

Hardware/Software

A PERF study was released in 2018 that indicated:

There is variation in how widely agencies have deploy[ed] BWCs within the department. More than 40 percent of agencies reported that they have given BWCs to *all* sworn officers, but some agencies have made only partial deployments. For example, three agencies that PERF studied more closely had only equipped a fraction of their police force with BWCs: 10 percent of officers in Phoenix; 30 percent of officers in Dallas; and 44 percent in Mesa, AZ.¹²

Within the PERF study, the costs of just the body camera ranged from \$150.00 – \$1,000.00 per unit. At the conclusion of the study, the total annual cost of deploying body cameras for Dallas PD was \$1,125.00 per unit, as compared to Mesa (CA) PD's \$2,198 and Phoenix (NV) PD's \$2,883.

With the requirement for storing of videos, many other concerns arise. One of the concerns is the protection of sensitive information contained in videos from hacking or some

other unauthorized access. According to a report sponsored by the National Institute of Justice (NIJ):

Encryption is one of the best protections against harm from hacking and cyber-attacks, particularly when applied to storing video footage for BWCs. Many federal agencies recommend the use of encryption: NIST [National Institute of Standards and Technology], FTC [Federal Trade Commission], FCC [Federal Communications Commission], etc.¹³

Training

Although body worn cameras are simply an audio/video recording device, the introduction of the program requires training. This training often includes instruction on how to operate the camera system, where to wear the device, how to download recordings, how to maintain the camera, and what department policies relate to its use. Also, depending on policies adopted by the agency, the officer will need to know when activation of the camera is required. Texas Occupations Code Sec. 1701.656 states, “Before a law enforcement agency may operate a body worn camera program, the agency must provide training to: (1) peace officers who will wear the body worn cameras; and (2) any other personnel who will come into contact with video and audio data obtained from the use of body worn cameras.”¹⁴ The Texas Occupations Code Sec. 1701.655 also mandates that departments who have received grants to fund the purchase of body worn cameras have a policy in place establishing guidelines.¹⁵

Data Storage

Data storage is the most expensive aspect of a body worn camera program. According to Wexler’s research:

Storing video data produced by BWCs may necessitate the purchase of new equipment or an annual subscription to a cloud-based database, typically provided by private vendors. Storage issues are cumulative, since retention laws require police departments to keep certain types of footage (for example, video associated with major crime investigations) for years or even indefinitely, which creates a core of videos requiring storage each year in addition to new footage. In addition to storage costs, maintaining and sharing video data may require hiring additional staff, for example, to review and tag footage, to categorize incidents appropriately and document their locations, and to fulfill information requests by media organizations and members of the public.¹⁶

According to the aforementioned NIJ study, “Data storage costs may be difficult to determine...The amount of data to be stored may need to be estimated.” The study also mentions other factors to be considered, such as “Cloud vs local storage,” “How to access data,” “How to limit data access to authorized individuals,” and “Whether the system will allow for growth when needed.”¹⁷

Freedom of Information Act (FOIA) Compliance

Compliance with the FOIA requests made by the public to law enforcement agencies has become very important. The recordings can often contain sensitive information pertaining to investigations and other unintended recordings of persons or other depictions which have become a deep concern for the law enforcement agencies.

Retention Concerns

Storage of videos is a major concern for departments using body worn and in-car video systems. Depending on the classification of the incident or case the video is connected to, the agency may have to store the video indefinitely. According to a PERF study, “Cloud storage and management of BWC footage can be easier for police agencies, particularly large agencies that could be overwhelmed by the volume of footage produced by numerous officers. However, cloud-based storage often is said to be more costly than internal storage.”¹⁸ Smaller agencies may not be plagued with this problem, due to the smaller number of videos produced in comparison to larger agencies, and their ability to store the data locally.

Redaction Capabilities

An issue many law enforcement agencies deal with frequently is the need for having the technology and training necessary to redact sensitive or irrelevant information from recordings prior to release. A second issue many agencies face about their body worn camera program has been the protection of the constitutional rights of the public. In regard to protecting the public’s civil liberties, an NIJ study conducted in November 2016 stated:

[The]1st Amendment – freedom of expression becomes particularly important when talking about controversial topics. One way to protect people’s political conduct and religious activity is to protect their ability to speak anonymously. Do recorded audio and video BWC footage undermine the freedom of expression of those who want to speak anonymously? There are no case studies yet, but it is a definite possibility. If recording of audio and video BWC footage reveal too much about the individual, then that may also reveal their Internet identity (e.g., medical websites info, sexual preference, etc.) There are no easy answers; courts are still grappling with these issues.¹⁹

However, most police agencies adhere to a policy of releasing video in response to FOIA requests whenever possible. Protecting the privacy of others who have been inadvertently depicted on a recording is a concern. With the increase in the number of requests for videos, the need for technology to perform redaction prior to release has become a concern. Agencies will need to continue to monitor advances in this form of technology.

Who Can File FOIA Requests?

Based on the current Texas Freedom of Information Act (FOIA), anyone can request information under FOIA. Texas Government Code Section 552.002(a) defines “public information” as:

Information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business: (1) by a governmental body; (2) for a governmental body and the governmental body: (A) owns the information; (B) has a right of access to the information; or (C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or (3) by an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business of the governmental body.²⁰

This includes written reports/notes, citations, affidavits, BWC, and in-car video. The person filing the request can even request personnel records, to a limited degree. The Texas FOIA outlines the requirements the requester must provide when requesting records like video footage.

According to the Public Information Act Handbook from the Office of the Attorney General of Texas, anyone who files a request has the responsibility to:

- Submit a written request according to a governmental body's reasonable procedures
- Include enough description and detail of the requested information so the governmental body can accurately identify and locate the requested items
- Cooperate with the governmental body's reasonable requests to clarify the type or amount of information requested
- Respond promptly in writing to all written communications from the governmental body (including any written estimate of charges)
- Make a timely payment for all valid charges
- Keep all appointments for inspection of records or for pick-up of copies.²¹

Conclusion

Body worn cameras have met with overall approval from the law enforcement community. The benefits of having an unbiased recording of an event have proven to be very valuable considering current national scrutiny of law enforcement practices. The ability to resolve complaints or investigations by law enforcement agencies expeditiously has also been a great benefit.

Many agencies have considered the cost versus benefit of acquiring body cameras and beginning a program. However, each agency (city, county) is different and the issue must be evaluated from many angles. For instance: Does the program meet community approval? Is there a need from a departmental standpoint to implement a body worn camera program? Lastly, will the program have the capability to grow or decrease over time? Most agency administrators will state that one of the "primary reason[s] for deploying BWCs [is] to promote accountability, transparency, and legitimacy. All of those goals have to do with increasing the public's trust in their departments."²²

Notes

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- ¹ “7 Findings from first ever study on body cameras,” Force Science Institute, 2015, <https://www.policeone.com/use-of-force/articles/8218374/>.
- ² Lindsay Miller et al., “Implementing a Body Worn Camera Program: Recommendations and Lessons Learned,” *Police Executive Research Forum*, 2014: 2, https://www.policeforum.org/assets/docs/Free_Online_Documents/Technology/implementing%20a%20body-worn%20camera%20program.pdf.
- ³ Trevor Mathis, interview by Robert Maxwell, KXAN, Austin, June 12, 2015, https://www.kxan.com/news/lakeway-police-first-to-use-automatic-body-cameras_20180316010251184/1049485762.
- ⁴ Brett Chapman, “Body-Worn Cameras: What the Evidence Tells Us,” *NIJ Journal* 280, (2018): 1-2, <https://www.nij.gov/journals/280/Pages/body-worn-cameras-what-evidence-tells-us.aspx>.
- ⁵ *Ibid.*, 2.
- ⁶ *Ibid.*, 1.
- ⁷ Brandi Grissom, “Perry Signs Michael Morton Act,” *The Texas Tribune*, May 16, 2013, <https://www.texastribune.org/2013/05/16/gov-rick-perry-signs-michael-morton-act/>.
- ⁸ *Ibid.*
- ⁹ Linda Merola, et al., “Body Worn Cameras and the Courts: A National Survey of State Prosecutors.” George Mason University, 2016: 36, <https://cebcp.org/wp-content/technology/BWCProsecutors.pdf>.
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- ¹¹ “Cost and Benefits Of Body-Worn Camera Deployments,” *Police Executive Research Forum*, 2018: 16, <https://www.policeforum.org/assets/BWCCostBenefit.pdf>.
- ¹² *Ibid.*, 2.
- ¹³ Vivian Hung Esq., Steven Babin, MD, PhD., and Jacqueline Coberly, PhD., “A Primer on Body Worn Camera Technologies,” *National Institute of Justice*, 2016: 4-15, <https://www.ncjrs.gov/pdffiles1/nij/grants/250382.pdf>.
- ¹⁴ Subchapter N. Body Worn Camera Program, Texas Occupations Code, Section 1, Chapter 1701.651 - 1701.656, 2015, <https://statutes.capitol.texas.gov/Docs/OC/htm/OC.1701.htm>.
- ¹⁵ *Ibid.*
- ¹⁶ “Cost and Benefits of Body-Worn Camera Deployments,” 16.
- ¹⁷ Hung, “Primer on Body Worn Camera Technologies,” 6-33-6-34.
- ¹⁸ “Cost and Benefits of Body-Worn Camera Deployments,” 25.
- ¹⁹ Hung, “Primer on Body Worn Camera Technologies,” 4-15.
- ²⁰ Subchapter A. General Provisions, Title 5. Open Government; Ethics, Chapter 552.002, Public Information, TX Government Code, 1993 & Suppl. 1995, 2013, <https://statutes.capitol.texas.gov/Docs/GV/htm/GV.552.htm>.
- ²¹ The Office of the Attorney General of Texas, *Public Information Act Handbook*, 2018: ii, https://www.texasattorneygeneral.gov/sites/default/files/2018-06/PIA_handbook_2018_0.pdf.
- ²² “Cost and Benefits of Body-Worn Camera Deployments,” 57.