

NY
a

By Jay Stanley, ACLU Senior Policy Analyst
October, 2013

1
When a New York judge [found](#)

they protect the public without becoming yet another system for routine surveillance of the public, and maintain public confidence in the integrity of those privacy protections. Without such a framework, the accountability benefits would not exceed their privacy risks.

On-officer cameras are a significant technology that implicates important, if sometimes conflicting, values. We will have to watch carefully to see how they are deployed and what their effects are over time, but in this paper we outline our current thinking about and recommendations for the technology. These recommendations are subject to change.



Perhaps most importantly, policies and technology must be designed so that police cannot “edit on the fly”—i.e., choose which encounters to record with limitless discretion. If police are free to turn the cameras on and off as they please, the cameras’ role in providing a check and balance against police power will be lost and they will no longer become a net benefit.

The primary question is how that should be implemented.

Purely from an accountability perspective, the ideal policy for body cameras would be for continuous recording throughout a police officer’s shift, eliminating any possibility that an

- 1) Recording should be limited to uniformed officers and marked vehicles, so people know what to expect. An exception should be made for SWAT raids and similar planned uses of force when they involve non-uniformed officers.
- 2) Officers should be required, wherever practicable, to notify people that they are being recorded (similar to existing law for dashcams in some states such as Washington). One possibility departments might consider is for officers to wear an easily visible pin or sticker saying "lapel camera in operation" or words to that effect.
- 3) Although if the preceding policies are properly followed it should not be possible, it is especially important that the cameras not be used to surreptitiously gather intelligence information based on First Amendment protected speech, associations, or religion.

G

Because of the uniquely intrusive nature of police recordings made inside private homes, officers should be required to be especially sure to provide clear notice of a camera when entering a home, except in circumstances such as an emergency or a raid. Departments might also consider a policy under which officers ask residents whether they wish for a camera to be turned off before they enter a home in exigent circumstances. (Citizen requests for cameras to be turned off should themselves be recorded to document such requests.) Cameras should never be turned off in SWAT raids and similar police actions.

R

Data should be retained no longer than necessary for the purpose for which it was collected. For the vast majority of police encounters with the public, there is no reason to preserve video evidence, and those recordings therefore should be deleted relatively quickly.

- Retention periods should be

•

which ~~officers~~ were accused of beating a student disappeared (the incident was also filmed by a bystander). An officer or department that has engaged in abuse or other wrongdoing will have a strong incentive to destroy evidence of that wrongdoing, so technology systems should be designed to prevent any tampering with ~~such~~ video.

- In addition, all access to video records should be automatically recorded with immutable audit logs.
- Systems should ensure that data retention and destruction schedules are properly maintained.
- It is also important for systems be architected to ~~ensure~~ that video is only accessed when permitted according to the policies we've described above, and that rogue copies cannot be made. Officers should not be able to, for example, pass around video of a drunk city council member, or video generated by ~~an officer~~ responding to a call in a topless bar, or video of a citizen providing information on a local street gang.

It is vital that public confidence in the integrity of body camera privacy protections be maintained. We don't want crime victims to be afraid to call for help because of fears that video of their officer interactions will become public or reach the wrong party. Confidence can only be created if good policies are put in place and backed up by good technology.

As the devices are adopted by ~~police~~ forces around the nation, studies should be done to measure their impact. Only very limited ~~studies~~ have been done so far. Are domestic violence victims hesitating to call the police for help by the prospect of having a ~~camera~~ police officer in their home, or are they otherwise affected? Are privacy abuses of the technology happening, and if so what kind and how often?

Although fitting police forces with cameras will generate an enormous amount of video footage and raises many tricky issues, if the recording, retention, access, use, and technology policies that we outline above are followed, very little of that footage ~~will~~ ever be viewed or retained, and at the same time those cameras will provide an important protection against police abuse. We will be monitoring the impact of cameras closely, and if good policies and practices do not become standard, or the technology ~~has~~ negative side effects we have failed to anticipate, we will have to reevaluate our position on police body cameras.