

Police Technology and Civil Rights Roundtable

May 19, 2015 · New America Foundation · Washington, DC

Overview

On May 19, 2015 a group of about 20 individuals gathered at New America in Washington, DC for a discussion co-hosted by The Leadership Conference on Civil and Human Rights, Data & Society Research Institute, Upturn, and New America's Open Technology Institute. The group was composed of technologists, researchers, civil rights advocates, and law enforcement representatives with the goal to broaden the discussion surrounding police worn body cameras within their respective fields and to understand the various communities' interests and concerns. The series of discussions focused on what the technology behind police cameras consists of, how the cameras can be implemented to protect civil rights and public safety, and what the consequences of implementation might be.

To ground the conversation, attendees were given the following advanced reading materials:

- [Police Body-Worn Cameras](#) (a research-based primer on the topic)
- [Civil Rights Principles on Body Worn Cameras](#) (recently released principles)
- [It's Not Too Late to Get Body Cameras Right](#) (an essay on possible challenges)
- [The Minutes of Marshall Jones](#) (a provocative speculative fiction story)

The conversation was run under Chatham House rules and this write-up is intended to document the issues raised during the conversation. We did not seek to achieve consensus and many of the issues raised in this report do not reflect the views of all attendees.

Discussion Topics

Body Cams, Public Safety, Civil Rights

With various organizations, entities, and communities having a stake in the success and implementation of body worn cameras, the definition of what having them “work” looks like is fluid. The first discussion centered on the question, “How can law enforcement and communities use body cameras to protect civil rights?” Representatives from both the civil rights community and law enforcement discussed their various positions and concerns, focusing on the practical

implementation issues surrounding body worn cams.

A major concern posed was the privacy implications of body cameras. At issue was the privacy of those being recorded as well as the officers doing the recording. It was cautioned that body worn cameras would potentially be creating another system of surveillance to be used on communities of color, which tend to be hyper-surveilled. Additional concerns were raised about the recording of vulnerable individuals (such as victims of domestic violence or sexual assault situations, homeless individuals, children, and those of potential witnesses to crimes and informants). Attendees also raised concerns about the constant recording of police activity and the officer's own privacy. This could potentially create a record used to break unions, document the intimate details of officers, and capture moments when officers are off duty or on a break.

Tied into the issue of privacy was a discussion of when cameras should be turned on and when they should be turned off, as well as the structural requirements to do so- should this be mandatory or discretionary? The use of mandatory recording requirements on the part of the officer was cautioned and analogized to Rockefeller drug laws in which judges lost discretionary power to view the totality of the circumstances when making sentencing decisions; this is viewed as one factor in the rise of mass incarceration.

Several attendees offered their views for when police should record. Some suggested that officers should be required to record only when responding to calls or engaging in heated interactions, such officers should be required to offer a written reason why a camera was turned off. Others suggested that there should be a reasonableness standard that asks whether the officer has a reasonable expectation of privacy under the circumstances in which to turn the camera off. Another approach offered was to allow full discretion to officers on when to turn the camera on and off.

Also raised was the way in which the data collected from cameras would be stored, accessed, used, monitored, paid for, and managed. The policies and best practices surrounding these areas remain undetermined. The length of retention of footage will most likely be mandated for evidentiary purposes, with the standard typically being 60-90 days.

Access to footage by the public and by the officer also remains unknowns. Questions arise whether the footage will be public data that can be accessed by FOIA request, or if it will not be in the public domain. There is also a question whether officers will be able to access the footage and issues of changing or tampering with the data.

Management of data also raises a variety of issues. The storage and maintenance of footage is a costly feat and it is not clear who will bear the burden of this expense. In addition, there is not cohesion among the agencies a jurisdiction is required to use to store data. This raises

questions of compatibility and differences in storage and saving that can trickle into the discovery process if the footage is used in court proceedings.

How that data captured is used was also brought into question. It was suggested that the footage could be used to show lapses in training and implicit biases that can be remedied within the police force. The footage could also be used to promote transparency in policing and see what is actually happening on the ground.

The potential cost of body worn cameras on the relationship between the community and police was also raised. Some questioned whether the introduction of cameras would make individuals more or less comfortable in interactions and speaking with the police. The need for communities to be involved in the process was also addressed- the opinions and thoughts of people should be surveyed before cameras are pushed on their neighborhoods. There was also a distinction made between illuminating police interaction with their communities and accountability between the police and their communities.

The underlying discourse was that police body worn cameras are not a panacea or silver bullet to solve the issue of police violence. Policies must be carefully crafted to answer the various questions presented. In order to do such, one suggestion raised is that all parties involved in the process should be present at the table when these are constructed and caution be engaged in the roll out.

Implementations and Practical Consequences

Sound policy decisions concerning police worn body cameras are essential to their use and roll out. In order to do such, there needs to be a greater understanding of the technology itself as well as the research behind their use. The second session was centered around the questions “How do body cams work? And how are they best implemented?” Researchers and technologists who have been working with and studying police departments discussed their findings and observations, including unpublished work.

A major concern was the sequence of review of video in the writing of officer reports. There was an underlying fear that officers would be able to watch the video before creating a written report and that this would allow officers to muddy their report or change their story to be in line with the video portrayal of events.

Researchers studying the various pilot programs throughout the country have found that officers typically do not watch the videos recorded by their cameras for a variety of reasons including the amount of time required to watch the footage and allowing the footage to simply speak for itself. Other officers have also raised a concern about possible consequences from their

memory or recollection of events being slightly different than what appears on camera due to high stress situations.

One approach recommended to bridge this divide was a two-step process. First, the officer should write an initial report without watching the video footage. Second, the officer would be allowed to watch the video and subsequently amend the report with changes documented.

The issue of when cameras should be on and when they should be off was again raised. Researchers disclosed that in jurisdictions where policy or procedural language was lax or discretionary, the officers chose to not turn on their cameras more often than not. Officers were, however, open to the idea of automated camera initiation because they would no longer have to deal with physically turning the camera on or off or making discretionary calls that could be scrutinized later.

In the jurisdictions that currently have body worn camera programs, researchers made several interesting observations. For example, early findings suggest a small decline in “stop and frisk” stops but a much more significant increase in the number of ordinance violations written as officers are weary to not follow protocol while their actions are being recorded and easily reviewed.

Grounding the discussion of a theoretical widespread roll out of body worn cameras in what has actually be done created a new discourse. While some areas of concern have been studied, there are still a wide array of questions that remain. In addition, it is not known whether the jurisdictions being studied will provide a model for other locales. There also appears to be changes in practices over time, suggesting that short-term studies do not necessarily provide evidence for long-term roll-out. The need for additional technologic innovation and extended research into body worn cameras is necessary. Many in the room argued that all implementations should be assessed with all stakeholder concerns considered.

Unintended Consequences

The third session was prompted by a science fiction story “The minutes of Marshall Jones” written by Data & Society fellow Gideon Lichfield with the intent to spark conversation of what a futuristic world where body worn cameras are widespread would look like. It was centered around answering the questions, “What outcomes are missing from the current debate on body cams missing? And how do we best prepare for unintended consequences?”

The problematic aspects of footage from body worn cameras on the rules and role of evidence in the court system was brought up. Introducing this footage into court proceedings also

presents a large cost and it remains unknown who will pick up the tab. Concerns were raised about the financial incentives of different actors and the trade-offs of using significant amounts of taxpayer money for an untested solution to a serious problem.

The issue of who in the legal system is able to view the footage also raises additional privacy questions. The role of news, media, and public perception was also considered. While the individuals at the table all urged caution, the general public is not aware or not thinking of the various nuances of body camera. Rather, they are more concerned with their communities being plagued by violence and brutality and are being told that cameras are the answer to these problems.

The Civil Rights Principles for Body Worn Cameras were discussed as a stepping off point to pivot the conversation. It was also recommended to broaden the net of interested groups to include groups in the field representing communities potentially affected by cameras, and creating local involvement and education on the ground. Some raised the importance of remembering that video is, in effect, evidence and there should be deep consideration for the implications of collecting, processing, and using this material as evidence in both juried trials and plea bargains.

Also reiterated was the concern about privacy and additional surveillance that police worn cameras introduce. Some questioned how adding an additional level of surveillance on communities by police officers was expected to help the public and communities. It was also questioned whether we were inadvertently opening up a Pandora's box of surveillance and whether we are willing to accept such.

In totality, the round table discussion addressed questions presented and created additional questions to be answered. Many members around the table agreed that there was need for more caution on the cameras roll-out as there is still so much unknown. Additional research on the effectiveness of cameras was also determined to be a necessity. It was also widely agreed upon that body worn cameras are not and will not be the solution to the broader problems and issues in the criminal justice system. Rather, they are simply a tool that may be used productively or counter-productively depending on how they are deployed and how the footage is used.