



## FORT WORTH POLICE OFFICERS ASSOCIATION

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### The President's Task Force on 21<sup>st</sup> Century Policing

The law enforcement profession is rapidly changing and it is imperative that input be sought from all perspectives as decisions are made to formulate the road map that will lead us all into the future of 21<sup>st</sup> century policing. Specifically, if the boots on the ground do not have a voice in the implementation of policy, procedure and new technology there will be resistance to the implementation of the technology regardless of how beneficial it may be to the profession and the citizens being served. The end user of any tool must have confidence in the tool and the desired result of its use in order to willingly deploy the tool as intended.

The law enforcement profession is continuously evolving in an effort to deliver the services that citizens demand and deserve. Advances in technology are being developed at an astounding rate and it is incumbent on the leaders of our profession to analyze the various products while always keeping in mind the possible impact on the constitutional and due process rights of the public and the police. Body cameras are inevitable in our profession, thus it is necessary that all decision makers implement them with caution, making every effort to ensure they are only used as a tool to help bridge the gap between perception and reality in regards to officer interactions with the public.

It is a common belief in public safety labor that we represent the very finest that our society has to offer. Any individual that would willingly go into harm's way in the protection of others is truly a remarkable and selfless person. Many of us in the law enforcement community have been advocating for years for the ability to use body camera technology. We know, intuitively, that body cameras have positive effects on any situation that our officers find themselves in. In the end, everyone, citizen and officer, behave better when they know a camera is recording.

### **Body Cameras - Research and Legal Considerations**

Body cameras are a technology that has just recently become available to law enforcement. Currently, the Fort Worth Police Department (approximately 1500

officers serving just under 800,000 residents) is a national leader in the use of body cameras with 595 units already purchased, 488 currently deployed and a pending needs assessment for an additional 250. While, admittedly, our policy is a constant work in progress, it was developed in a collaborative effort between management and labor. During the policy development and implementation process we quickly realized that we were dealing with an emerging technology that would have vast implications that would have to be addressed to create a sustainable advancement in how we serve the public.

Recording of minors and the retention of those recordings is an identified issue that must be resolved. Officers interact with the public daily and in various environments. Many of those environments have minors present and while they may not be the focus of the interaction, their image is recorded because they are present. The majority of states, if not all states, closely regulate the recording, photographing and retention of data by law enforcement concerning minors.

The release of video under Open Records and the time consuming nature of redacting all recorded information from the video that is currently required to be released when properly requested is another issue. Redacting information from video is currently performed frame by frame making it extremely costly and time consuming.

These are just a couple of examples of unforeseen issues that must be resolved to create a sustainable policy for the use of body cameras. Through cooperative relationships between management and labor, a truly realistic body camera policy will be achieved in Fort Worth, Texas.

### **Body Cameras – Implementation**

The implementation of body cameras cannot be done in a vacuum. It is imperative that there be dialogue between all of the stakeholders and affected parties. Current knowledge of body camera technology and implementation that conforms to the various state and national statutes is merely the tip of the iceberg. It will take an ongoing effort by all to discover and properly address every issue that arises. There must be an acknowledgement by all involved in the implementation process that body cameras cannot be a Pandora's Box nor will they be a panacea. In order for successful implementation of body cameras, an understanding must be gained by all that a body camera is a tool with very specific limitations.

Pandora's Box – Law enforcement labor leaders are stringent advocates for officers' rights. The core function of a public safety labor union is the advocacy for pay, benefits, working conditions and due process rights while being true to the primary goal of all police officers which is honoring the oath of office we swore to put the safety of citizens above all else. The use of body cameras is a technology that will be able to document an incident from a single perspective. It must be used within the parameters for which it is intended. It cannot nor should it be allowed to be used to

micromanage an officers' daily activities for disciplinary purposes. Fishing expeditions by management will significantly erode the trust that is necessary for officers to record their interactions with the public.

Panacea – Organizations that are directly advocating for the use of body cameras from the sole stand point of police reform, transparency and accountability for police have to recognize that this technology is a tool with limited ability. Body cameras are not nor will they ever be the global eye in the sky that delivers an all knowing account for any and all police encounters. It is a two dimensional image from a specific point of view that will never capture the entire picture or even see everything that an officer will see. It will never tell the complete story of any event and due to these limitations it has to be viewed in the context of its limitations.

## **Recommendations**

Policy Development – While it is wise for model policy recommendations to be developed on a national level, it should only be developed as a rough template with the local control being given to the individual policing agencies entrusting them with the ability and discretion to customize the policy to fit within their unique departmental structure. No policing agency accomplishes their mission in the same fashion. Whether state to state or city to city all are governed and operate differently. Some agencies have labor contracts that have been negotiated over decades and others simply governed by civil service rules or a version of local charter governance. The individual agencies should be highly encouraged to seek input in the policy development process from their local labor leaders, citizens, local ACLU chapter, faith-based partners and local legal departments.

Funding – Nationwide, public safety budgets are stressed and continue to be diminished, this Task Force must be mindful to not create unfunded mandates. Body camera technology is expensive and the cost does not end with the purchase of the equipment alone. The greater on-going cost is encountered with the storage, maintenance and use of the data that must be preserved under stringent controls to comply with evidentiary protocols. Federal funding must be provided if the goal is to equip officers throughout the country with body cameras.

Open Records – Video recordings should not be subject to open records requests. The only time video from body cameras should be compelled to be released is when it is evidentiary in nature and then only after all judicial proceedings including appeals are concluded or a court orders the release of specific video. Critics will be swift to condemn this policy but when the totality of the circumstances are weighed, premature release of video evidence has the ability to rapidly taint the juror pool and negatively impact judicial proceedings denying individuals of their constitutional rights. Critical police incidents such as use of force situations should be allowed to be investigated fully prior to the compelled release of any video evidence that has the ability to potentially aggravate community/police tensions.

Privacy – Privacy concerns are fundamental in the implementation of body cameras. Not only are there legitimate privacy concerns for the public, the officers themselves have legitimate privacy concerns as well. Body cameras should not be on at all times. In fact, they should only be activated when necessary and in an interaction with the public. Since two-party consent is only mandated in select states, the issue of obtaining consent should be left to local control. However, if body cameras are to be used to record all interactions between police and the public as a form of monitoring behavior, then all interactions should be recorded regardless of consent. You cannot mandate that an officer record every public interaction without also mandating that the public allow every interaction to be recorded. Some privacy advocate groups would argue that there should be a presumption created against the officer for failing to record an interaction yet they also argue that the public has a right to deny consent to being recorded. This thought process is counter intuitive and will only lead to a further divide between police and the public. Regarding privacy, consistency is key.

Accountability – Accountability cuts both ways. Police officers are held accountable for their actions on a daily basis by their supervision and the policies agencies have enacted to allow for citizen complaints. Body cameras will disprove allegations against police officers in greater proportion than the technology will sustain allegations. Members of the public that provide false statements against police officers that are definitively disproven by video evidence should be held criminally accountable for their false allegations. For those that would argue that body cameras should solely be used for monitoring officer behavior, police reform, transparency and accountability, an argument can and should be made that the counter is true as well. Body camera video should be used as a tool for the truth to be recorded regardless of who is in the wrong and in the greatest majority of the instances the officer will be shown to have been acting in the right. Once again, if an individual makes a false complaint against a police officer and that complaint is proven to be false through the use of the officers' body camera, the individual must be held criminally accountable for their false allegations.

Advancing Technology – Much like the technology of in-car video cameras, it was discovered early on that humans, regardless of training, focus primarily on dangers and threats during high stress situations. Officers will frequently get distracted from activating their body camera during these high stress encounters. The solution to in-car video was to have mechanical triggers activate the camera such as the activation of emergency lights and sirens or the vehicle speed reaching a predetermined rate. Funding should be dedicated to advancing this technology if it is truly going to be a tool that improves policing in the end.

## **Conclusion**

If implemented with careful consideration of these issues, the use of body cameras and related technology has the potential to dramatically improve the service police

agencies provide to the public. However, the considerable danger of this powerful technology is the equal potential to destroy the sometimes fragile trust between the public and the police. It is through thoughtful dialogue that emerging technologies can be implemented in the best interest of the public and law enforcement professionals alike.