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*Body-Worn Cameras by Police Officers—A Prosecutor’s Perspective*

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Chairman Graham, Ranking Member Whitehouse, and members of the subcommittee, my name is Peter Weir. I am the elected district attorney for the First Judicial District of Colorado, located in Golden. My district comprises a suburban county of approximately 500,000 people and a much smaller mountain county. I am a member of the National District Attorneys Association which I am proud to represent today. Thank you for the opportunity to address you on this vitally important topic of body-worn cameras for police officers.

Trust in our law enforcement community and the criminal justice system is essential to an ordered democracy. Without it, confidence in the means of enforcing the criminal law dissolves, leaving all of us at risk. Any method of enhancing that trust, including advances in technology, serves to create an atmosphere of safety and security. Body-worn cameras constitute movement toward that goal.

Prosecutors are elected by the People to hold offenders accountable and protect the public safety of our communities. We work closely with our local law enforcement agencies, but act independently. Our only obligation is to seek justice, and in furtherance of that effort we use all tools at our command to search out the truth, wherever that leads. Prosecutors in America do not hesitate to file charges and take to trial anyone who violates our laws, including police officers. My office has prosecuted peace officers for violating the law, including cases of excessive force, sexual assaults while on duty, and interfering with ongoing investigations. Despite perceptions to the contrary, we have no reason to exonerate a police officer simply because we are both members of law enforcement.

Certainly the impetus for body worn cameras grows out of concerns about officer-involved shootings, but the cameras will provide solid evidence for all crimes investigated by the police. Because accurate and reliable evidence are the foundation for all prosecutions, the promise of body-worn cameras affords a tremendous opportunity for the resolution of cases without factual dispute. We welcome the advent of technological advances in this area just as we have embraced the use of DNA results which serve to both convict the guilty and exonerate the innocent.

Body cams can not only record the entire context of a police encounter, but are invaluable in assessing the demeanor of victims, witnesses, and suspects. For example, the drunk driver who is unable to exit his vehicle without falling down will be far less likely to convince a jury he was not drunk. Domestic violence victims can be recorded immediately after calling the police, allowing jurors to see the entire context of the report. We all know a picture is worth a thousand words of testimony, and a video is worth perhaps a thousand times more.

However, as with all new technologies, adjustments will need to be made to current law enforcement practices. The rollout of new technology fosters a level of confusion, apprehension, and concern. There are many ways to view implementation of body cams, but the concerns can be placed in at least five categories: costs, extent of recording, cataloging for use in criminal prosecution, release of video to the public, and the acceptance of limitations of body cams.

Costs for this technology are uncertain, but clearly significant. The cameras themselves do not come cheap, but the real costs lie in storage and accessibility for the recordings. Depending on a department's policy on when and what to record, an officer can be expected to generate hours of video on each shift. Multiply this by the number of officers who, of course, must cover their city every hour of every day, and it is easy to see how the amount of data, and its concomitant cost of storage, skyrockets. Police departments may need to devote a substantial portion of their budget to this effort.

Compounding that problem is the question of how long should video be saved. At what point do storage costs overwhelm budgets inhibiting the purchase of other law enforcement tools? And certainly, as with all technology, upgrades to both hardware and software will be necessary.

Perhaps the most difficult and pressing decision for law enforcement agencies is creation of policies on when not to record. Although for many the initial reaction is to write a policy with the single command of "record everything," the reality of such a policy gives

one pause. Privacy and other constitutional rights may prohibit the recording of every minute a police officer spends on shift.

Should every victim of every crime be compelled to agree to recording in order to make a complaint? Victims of sexual assault, especially child victims, may suffer from such a policy to the point where reporting of these offenses drops. If a department allows the officer to turn off the camera in accepting a reported sexual assault, what will that mean to a defendant who wants to examine the victim's demeanor at the time of the report?

Police officers regularly respond to places where people possess a reasonable expectation of privacy. For example, an officer walking through a hospital emergency room to contact a victim, witness, defendant, or medical professional would record many patients who might not like the world to know they sought medical care. It is this type of legal and practical tug-of-war between privacy and transparency police and prosecutors need to resolve when making the "when to record" decision.

As a prosecutor, I am subject to ethical and legal requirements to make police and other reports available to the defense in a timely manner. Failure to do so can result in serious consequences for the case and for the prosecutor personally. Every prosecutor's office has detailed policies and procedures to assure compliance with these obligations. The advent of digital cameras, computers, and voluminous record-keeping of things like cell phone calls and surveillance video have significantly increased our workload. Murder cases in my office routinely generate thousands of pages of reports and stacks of compact discs.

Additional hours of video recordings will create heavy demands on both police agencies and my staff. Recordings will have to be properly catalogued so they can accurately be placed with the proper case file. During a shift a police officer can expect to be involved with several different incidents. These are currently tracked by police report number. Officers will need to be diligent to assure every video is properly identified for cataloguing. Multiple defendants, multiple offenses, and crowd situations need to be dealt with to assure compliance with legal requirements while not infringing on privacy rights.

Inevitably recordings will be destroyed, lost, or technologically compromised presenting practical and legal problems.

The integration of police recordings into a prosecution can be a major concern. I work with 15 different police agencies in my jurisdiction. And while we work cooperatively, I do not control either their budgets or their policies. Some departments might choose to record all transactions, while others decide to be more limited. If there is not unanimity in selection of camera vendors and storage methods, my office will need to possess multiple means to get all required video into a form which comports with my ethical and legal responsibilities.

Release of information creates issues for release to criminal defendants, to the media and members of the public. Open records laws vary from state to state. As technology has improved we have applied these statutes to photos and video, but the flood of information contained in body cams presents an exponential increase in the application of these laws. Body cams will record information which those recorded may not want released. We have already referenced the sexual assault victim. For those who need to report a home burglary the officer will certainly want to document the layout of the home and the places where the victim suffered theft or damage. Should the public be allowed to access this video? People contacting the police often have to reveal their social security numbers or other personal information. Redaction of this information and irrelevant material will be time-consuming and labor-intensive.

Many police contacts have nothing to do with commission of crimes. Often it is a citizen assist of an inoperable vehicle, or standby while medical personnel attend to someone needing help. These need not be subject to release.

Finally, although body-worn cameras carry the potential to create conclusive records of police activity, they are not all-encompassing, nor are they a panacea. Cameras are worn on the chest, shoulder, or attached to glasses. Each perspective has benefits and limitations. For example, an officer who pulls his gun may need to place his hands exactly in front of the camera mounted on his chest. Even a camera on a pair of glasses cannot scan as the eyes do.

Cameras on the torso will not turn with the officer's head. They cannot completely record everything an officer experiences. These limitations are not reasons to delay or resist their use, but acceptance of camera limitations must be part of the discussion. Placing body cameras on police officers cannot completely resolve police-citizen tensions, but they can go a long way to reducing them. Departments using body cams have seen a reduction in citizen complaints of police misconduct. As with any tool, they give us access to more information, but they cannot completely replace human reporting.

Responses to many of these issues require resolution on a local level. Federal assistance is welcomed, but standardized solutions may not be applicable in every district nor possible to implement in every community. While all Americans have a vested interest in the implementation of tools to enhance confidence in the criminal justice system, each state and locality must evaluate their specific circumstances in deciding how to best incorporate this new technology into their community.

Thank you for the opportunity to discuss the potential, and challenges, of body-worn cameras. I welcome any questions.