

SUBJECT TO DEBATE

A NEWSLETTER OF THE POLICE EXECUTIVE RESEARCH FORUM



Middle East Police Leaders Hold Unprecedented Joint Meetings

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Police Leaders Explore Growing Use of Body Cameras At PERF Town Hall Meeting in Philadelphia

ONE OF THE MOST IMPORTANT ISSUES IN POLICING today is the growing use of body-worn cameras by police officers. Because the technology is relatively new, there is little guidance in the field regarding the policy issues that arise when police officers make video recordings of members of the public. With support from the Justice Department's Office of Community Oriented Policing Services, PERF is developing guidelines on this technology. As part of that project, more than 250 agencies from across the country participated in a PERF conference on body cameras in September.

Body-worn cameras also prompted a lively discussion by a standing-room-only crowd at PERF's Town Hall Meeting, held on October 20 in Philadelphia. Following are excerpts from that discussion:

LAS VEGAS SHERIFF DOUGLAS GILLESPIE:

*People Stop Acting Badly
When You Tell Them They Are Being Recorded*

My union sees the benefits of cameras, but they want to claim that it is an issue for collective bargaining, so they want something in exchange for deploying cameras. I don't see it as a collective bargaining issue, but I don't want this to get bogged down in the courts, so we are moving forward on a voluntary basis.

We've done a number of pilots with cameras, and we're about to put out an RFP. We're not going to go department-wide on it; we're going to implement it in two of our eight area commands.

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Chuck Wexler: Why would the union see this as a bargaining issue? Don't they see it as a benefit that can help officers protect themselves against false complaints?

Sheriff Gillespie: Yes, the union has received some push-back from their membership, particularly after the test cases that we had. In the testing we did, we had a number of tenured officers who wanted to wear the cameras and try them out, and their feedback was very positive.

They said things like, "You'll be amazed at how people stop acting badly when you say, 'This is a camera,' even if they're intoxicated."

And we also know that the overwhelming majority of our officers are out there doing a very good job, and the cameras will show just that, when officers are challenged about how they do their job.

The challenge today is developing policy and procedures on a lot of issues, like how long you retain the video files.



COPS OFFICE ACTING DIRECTOR JOSH EDERHEIMER: *We Need Policy Guidelines on Body Cameras*

When the COPS Office did its recent study in Las Vegas and we talked to the community, community members wanted body cameras. But DOJ did not want to take a position saying the department should have body cameras, because we're not sure yet how they should be used. There are privacy issues that need to be considered.

DOJ wanted to have policy guidelines first, and that's why we're funding PERF to create guidelines on this.



PHILADELPHIA COMMISSIONER AND PERF PRESIDENT CHUCK RAMSEY: *Officers May Buy Cameras on Their Own, So All Departments Need to Set a Policy*



We're not using cameras yet in Philadelphia, although eventually I believe we will do so.

But it's important to have a policy in place whether you are deploying cameras or not, because some police departments are finding that officers are buying cameras on their own and wearing them, in order to protect themselves. And you don't have any control over that unless you have policies in place.

If you don't have a policy, eventually you're going to have a problem.

NEW ORLEANS SUPERINTENDENT RON SERPAS: *Cameras Can Help Us Restore Our Reputation*



The body camera issue in New Orleans has become a big positive for us. New Orleans is a city that has been in a lot of trouble for a long time. Our police labor associations both embraced body cameras when we brought it up a few months ago, because I think they have come to realize that the biggest issue holding the New Orleans Police back is the *perception* of New Orleans Police. In three and a half years,

we've arrested 52 cops and we'll likely arrest more soon, and people see that in the newspaper every day. But every time someone has come in and looked at us in the last few years, they have left with a much better impression of the New Orleans Police Department.

Israeli Police Commissioner Yohanan Danino Addresses PERF Town Hall Meeting

A SPECIAL GUEST AT THE PERF TOWN HALL MEETING in Philadelphia October 20 was Yohanan Danino, Israel's Commissioner of Police.

Commissioner Danino made headlines in August when he announced, in a joint press conference with Palestinian Civil Police Major General Hazem Atallah, Jordanian Public Security Director General Tawfiq Tawalbeh, and others, that top police officials in the Middle East had been meeting for 18 months in an effort to build a working relationship as police professionals. (See top corner of page 1 for photograph of the press conference in Jericho.)

The immediate purpose of the meetings was to bring together the top Israeli, Palestinian, and Jordanian police leaders, much in the same way that American police chiefs come together at PERF meetings, to discuss issues in policing and work together on joint projects. At the same time, the underlying goal was to help lay a foundation for peace efforts by deescalating tensions and building relationships at the ground level. Commissioner Danino and Major General Atallah had never met each other before the meetings held in this project.

A number of PERF members played roles in facilitating the meetings, including Chief Terry Gainer, U.S. Senate Sergeant at Arms, PERF President Chuck Ramsey, Boston Police Commissioner Ed Davis, Las Vegas Sheriff Doug Gillespie, and former Minneapolis Chief Tim Dolan, along with New York City Police Commissioner Ray Kelly.

Chief Gainer worked with King Abdullah of Jordan and PERF Executive Director Chuck Wexler to get the project off the ground in early 2012.

So my suspicion is the labor groups figured, "Why not?" And they've gone on record saying they support body cameras. We're buying several hundred of them. We're going to be all in. We've been looking at police departments around the world for model policies. We think it will help to turn the tide on perceptions, and will also give the officers something to be proud about, as examples of their excellent work will be evident.

Chuck Wexler: But Ron, what are we coming to if every time police have an encounter with a member of the public, they say, "Oh by the way, we're recording you," and the citizen says, "Oh yeah, well, I'm recording you too." Or what about a domestic violence situation? Or someone tells police about criminal activity in their neighborhood and they don't want it to be known that they were the ones who talked to the police?

Superintendent Serpas: Yes, there are a lot of issues and we don't have all the answers yet, but we think on balance that



"I want to thank PERF and Chuck Wexler and Terry Gainer and Chuck Ramsey and all the friends who helped us," Commissioner Danino said at the PERF Town Hall Meeting. "They came with the idea that sometimes, to speak with your neighbor, you need someone to come from very far away to make you talk to each other. And I think that the minute we did it, we started to build the trust between us. It works. And I am very happy to say that I have a good relationship now with my colleagues, the Palestinian police commissioner and my colleague in Jordan."

in our situation, in our department, at this time, it's the best thing to do.



**TUCSON CHIEF
ROBERTO VILLASEÑOR:**
*The Public Expects
Us to Have New
Technologies*

We're jumping in pretty hard with body cameras, and right now we're putting out an RFP because I want to see the actual costs. I want to know what it's going to cost for the equipment, what

it's going to cost for the storage. I want to start talking about whether we go with server-based storage of the video files, or cloud-based storage. And there's the issue of redaction when we start getting FOIAs for videos.

I also want to talk about how this will meld with future technological issues, because I really believe that this is the wave of the future for most police agencies. In Tucson, we're not under a consent decree; we're not having problems like that. But I think this technology is driving the expectations of the public. They see this out there, and they see other agencies that have it, and their question is, "Why don't you have it?" Video recording is out there, and everyone is doing it but us. That makes no sense to me.

But we don't want to go into it blind; we want to answer these questions. We're going to put together a committee that will delve into these issues.

ACLU ATTORNEY SCOTT GREENWOOD:

If a Department Uses Body Cameras, All Interactions with the Public Should Be Recorded

Note: On October 9, 2013, the ACLU issued a report titled "Police Body-Mounted Cameras: With Right Policies in Place, a Win for All."¹ Following are several excerpts from that report:

"Although we generally take a dim view of the proliferation of surveillance cameras in American life, police on-body cameras are different because of their potential to serve as a check against the abuse of power by police officers."

"Cameras have the potential to be a win-win, helping protect the public against police misconduct, and at the same time helping protect police against false accusations of abuse."

"Perhaps most importantly, policies and technology must be designed to ensure 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 shrink and they will no longer become a net benefit."

*"If a police department is to place its cameras under officer control, then it must put in place tightly effective means of limiting officers' ability to choose which encounters to record. **That can only take the form of a department-wide policy that mandates that police turn on recording during every interaction with the public.**"*

ACLU Attorney Scott Greenwood, who helped to write the ACLU report, contributed to the discussion at PERF's Town Hall Meeting:

Scott Greenwood: I think that an on-body recording system ought to be on every officer who interacts with a member of the public, period. This is the single best tool that you can have in a law enforcement agency to enhance your

accountability, and to show what we know your officers are doing 99 percent of the time: the right thing.

As Superintendent Serpas said, sometimes the perception is worse than the reality. I certainly would tell any agency that is undergoing a review by DOJ or is in a consent decree, "Do you want to get out from underneath that cloud? This is a way to do it."

Wexler: You think that *every encounter an officer has with a member of the public should be taped.*

Greenwood: Yes. We would not favor the use of an on-body recording system if officers had the ability to use it only when they thought it would be beneficial to them.

Wexler: OK, someone calls the police and wants to report a neighbor next door who is selling drugs. They want to report it confidentially, but the camera is on, and the drug dealer then does a FOIA request and finds out what the neighbor said. Should that happen?

Greenwood: No, that shouldn't happen. The way you deal with that is on a policy level. You record every interaction, but in situations like this, you protect that evidence from disclosure through strong privacy protections and short retention periods built into an agency's policies. The example you mention is an investigatory record and it should be exempt from public disclosure.

And if it is not exempt under your statutes, we will work with you and your agencies to make sure that that privilege will apply.

Our paper makes clear that if an officer is inside somebody's home, that is where the

privacy protections are the most enhanced. If police are there pursuant to a search warrant or an arrest warrant, that doesn't mean that I, as a resident, consent to have everything that happens in my home revealed to the world or to the evening news. This is especially critical when you interact with people during some of their worst moments. My neighbor should not be able to file an open records request to see the police entry into my residence.

Saying "every interaction with the public" is strong, mandatory language. And that is so you can avoid situations where you have to bargain with your collective bargaining unit on the use of the equipment or on accountability. It shouldn't be bargained, and it shouldn't be subject to officer interpretation.

1. The report is available online at https://www.aclu.org/files/assets/police_body-mounted_cameras.pdf

You don't want to give officers a list and say, "Only record the following 10 types of situations." You want officers to record all the situations, so when a situation does go south, there's an unimpeachable record of it—good, bad, ugly, all of it. This is an optimal policy from a civil liberties perspective, and that mandatory recording is also what will protect an officer from allegations of discretionary recording or tampering.

Wexler: Should officers be required to tell someone they are recording them?

Greenwood: I think that the better practice in any agency is to inform a subject that they are being recorded.

Wexler: So a person calls the police, and the first thing the responding officer says is, "I am recording you." How does that affect the relationship between the officer and the public? What happens to this whole notion of community policing?

Greenwood: I think it fits completely consistently with community policing, because that person also has the ability to record the officer. We have fought very hard in a number of jurisdictions against statutory restrictions on recording police activity, because it's part of accountability. The reality today is that almost everyone is carrying a mobile recording device. The only place we don't see it is on an officer. And that is the place where it matters the most.

Question from the floor: What do you call for regarding a retention period?

Greenwood: We know from agencies that are doing this now that from 5 to 7 percent of the video that's recorded has evidentiary value or exculpatory value, and we think that those videos ought to be flagged and kept longer. Any use of force ought to be flagged so it's not deleted. We would call for routine data to be deleted relatively quickly, because there's a lot of it and we don't need to keep this forever. But I would tell any agency, "If you have any activity that could result in a complaint, or any use of force, you need to keep it at least as long as your statute of limitations."

SIR BERNARD HOGAN-HOWE, COMMISSIONER, METROPOLITAN POLICE, LONDON:

We See Body Cameras as the Right Thing to Do

Chuck Wexler: Sir Bernard, London was a pioneer in installing many thousands of closed-circuit video cameras, which have proved useful in identifying terrorists and criminals. Do you see body cameras as an extension of that network, or are body cameras an entirely different issue?

Sir Bernard Hogan-Howe: Yes, in London we have CCTVs which are quite extensive and becoming even more so, but the distinction is that those cameras don't listen to your conversation. They observe behavior and see what people do, and cover public space so you can see if there is a crime being committed. But CCTVs don't generally seek out individuals. So I think there is an important distinction there.



In the UK, many forces are piloting these body cameras. I think it's the right thing to do. However, you've got to work through the logistics and pragmatic issues that come with it—costs, making a disclosure that you're recording, editing, consent in the case of victims—these are things we must work our way through.

But I think the way we will approach it is that in principle, it's a good thing to do. And when almost everyone has video recording capabilities, it would seem odd for the police to exclude ourselves from it.

FRANKLIN, TN CHIEF DAVE RAHINSKY:

Right Now, There Are More Questions Than Answers



At this point I have more questions than answers about body cameras, including a few questions I haven't heard mentioned yet, such as: Should videos be prohibited outright in certain locations, such as houses of worship or private clubs? What about capturing images of juveniles without parental consent? And in Tennessee, we have some wide-open public information laws, and I'm concerned that in a lot of

police calls, medical information is discussed. Would that fall under HIPAA?

So we're going to hold off until PERC issues its guidelines.

SALT LAKE CITY CHIEF CHRIS BURBANK:

Videos Can Be Considered an Advanced Type of Record

One of the things we are forgetting is that we already send officers into people's homes, and have them document all these bits of information that we're worried about recording. If an officer enters someone's home, they document the condition of the home, especially if it's a case about a child or involves domestic violence or physical injury. If someone says, "Yes, I have



high blood pressure,” you don’t want that left out of the report.

So videos are just a technologically advanced type of police report, that should be treated no differently from an initial contact form that we currently fill out every day. The advantage of a camera is now you have a factual representation, as opposed to an interpretation by an officer.

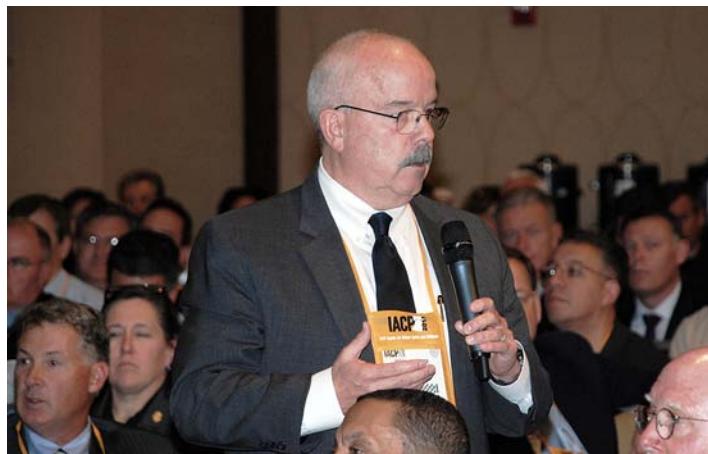
This is the kind of discussion we need to be having. Absolutely there is a need for policies, procedures, and practices, and they need to be consistent. If we get ahead of the curve on this and take a best practices approach, we can avoid potential negative outcomes.

Another consideration is that if your department has a civilian review board, the expectation now is that police should have cameras. If you don’t, they’ll ask, “Why doesn’t that officer have a camera?” If you’re in a jurisdiction that does not record, sitting next to a jurisdiction that does, they’ll ask why you don’t—or why you don’t have a full deployment.

CHIEF TERRY GAINER, U.S. SENATE SERGEANT AT ARMS:

Cameras Should Not Be Introduced Merely as a Check Against Police Abuse

When you look at the statement of the ACLU, that “although we generally take a dim view of the proliferation of surveillance



cameras in American life, police on-body cameras are different because of their potential to serve as a check against the abuse of power by police officers,” I think that’s the wrong way to approach it.

It’s going to be hard to encourage our officers to be the self-actualized professionals that we want them to be if we say, “Wear this, because we’re afraid you’re bad, and cameras will help you prove that you’re good.” Body cameras should be seen as a tool for creating evidence that will help ensure public safety.

LOS ANGELES CHIEF CHARLIE BECK: Cameras Can Help Build Public Trust

We’ve raised about a million dollars to buy on-body cameras, and like everybody else, we’re starting to do the beta testing, and we’re working through what the policies will be.



the camera off.

Of course, the officers should be required to articulate why they’re not recording or why they’re shutting it off, but we have to give them that discretion.

I think this is not only the right thing to do, but it also builds acceptance of the program. We should recognize that this is a tool for us to use. In Los Angeles we will have a broad policy that causes officers to film all detentions, but not all victims. And there are a number of court decisions regarding who can go into a residence with the police and what kind of filming can occur there, and I think a lot of that is going to overlap on this.

Wexler: *Maybe one way out of this dilemma about recording citizens is to ask their permission.*

Beck: In a detention, when someone is not free to leave, when you are exercising police authority, then you don’t have to ask permission. Police have every right to film a detention. But when you’re talking to a victim in their own home, especially

on a sensitive issue, I can see why somebody wouldn't want to be filmed. And in California, it would be probably be illegal to film a juvenile victim of sexual abuse. That's an extreme example, but I think we need to figure all these issues into a policy.

Like a lot of departments, we're going to make it a voluntary program as we roll it out. We're going to work through these issues and work with the ACLU. I will say this: We exited our consent decree last year, and one of the reasons that the federal judge signed off on us was that we implemented in-car video. Recordings can help build public trust.

SIR PETER FAHY, CHIEF CONSTABLE, GREATER MANCHESTER POLICE, UK:

We Should Avoid Eroding Informal Relationships With Community Members

My concern about the ACLU advice is that it tries to boil down policing to the term "every interaction with the public." We want our officers to go out, get out of their cars, and talk to the public about football or whatever it may be, to establish an informal relationship. That's how you build partnerships and persuade people to give you information about crime in their area.

I think if we say that every single interaction is going to be recorded, the danger is that it will lead to a more officious relationship.

Maybe the public will get used to it, just as in our country, they've gotten used to cameras on the streets. But as we start off, I think there's a danger that every interaction will become a formal interaction, and the informal relationships may be eroded.

Wexler: *Is this a conversation that police departments should have with the public? And maybe it won't be exactly the same in*



every city. What role should the public have? Because they're the ones who are going to be recorded.

Sir Peter Fahy: I think it's absolutely critical that we talk to the public about it. We need to bring them on board and have them understand what this is about, and go through the advantages and disadvantages and the issues that we are talking about here today. I think body cameras are going to happen, and I would like to get to a situation in which the courts will accept recorded evidence from body cameras. But I think recording every interaction is going too far.

SIR HUGH ORDE, PRESIDENT, ASSOCIATION OF CHIEF POLICE OFFICERS, UK:

Recording Every Interaction Could Create Problems

Wexler: *Sir Hugh, you were Chief Constable in Northern Ireland for about seven years after the Good Friday Agreement, which was one of the most tense times for police there. And now you're head of ACPO, which is all the chief constables in the UK. How do you see this issue of body cameras?*

Sir Hugh Orde: Legitimacy in policing is built on trust. In my last operational role in Northern Ireland, for communities there the key issue was trust. And the notion of video-recording every interaction in a very tense situation would simply not be a practical operational way of delivering policing. In fact, it would exacerbate all sorts of problems. In the United Kingdom, we're also subject to human rights legislation, laws on right to privacy, right to family life, and I'm sure you have similar statutes.



It's far more complicated than a blanket policy of "every interaction is filmed." I think that's far too simplistic. We have to give our officers some discretion. We cannot have a policy that limits discretion of officers to a point where using these devices has a negative effect on community-police relations.

There are a number of forces currently piloting the use of body worn cameras in the UK, and many rank and file cops' instinctive attitude toward them is positive. But without proper policies and practices in place, we make ourselves hugely vulnerable. So overall, I think we should be careful in how we move forward. I'm with Charlie Beck's approach of taking it in stages.





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