

Current Issues in Law Enforcement

Social Media, Body-Worn Cameras and Yes, Officer, they can video what you do!

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SOCIAL MEDIA

I. A useful tool for law enforcement

- A. Agencies are using social media to fight crime, recruit, improve and update image.
- B. Some agencies are using social media to reunite owners with their stolen property.
- C. It opens a dialogue with a large community that is more fluid and spontaneous than the “old-school” one-on-one format of the past.
- D. In critical events an agency can use social media as a key communication tool to keep the media and frightened citizens accurately informed about what is going on.

II. A problem for officers and employers when postings go awry

- A. Officers’ postings on social media can be grounds for discipline.
 - 1. First Amendment and government employees less than for private persons.
- B. An officer’s social media postings may find their way into hands of defense counsel and be used as impeachment material.
- C. Can create e-discovery issues
- D. Agencies need clear social media policies that prohibit personal posting or dissemination of official documents, evidence, photos, etc.

BODY-WORN CAMERAS

I. Benefits

- A. Accountability and transparency
 - 1. More transparent to public

2. Helps prevent problems from arising in the first place by increasing officer professionalism
3. Helps agencies evaluate and improve officer performance
4. Allows agencies to identify and correct larger structural problems within the department.
 - a. Having a video record of an encounter helps lead to a quicker resolution.
 - b. The #1 reason why agencies implement body worn cameras is to provide a more accurate documentation of police encounters with the public
5. Results in fewer complaints.
6. Officer involved shootings
 - a. Captures in real time the event from the perspective of the officer.

II. Identifying and Correcting Problems

- A. The video data from these camera can be used to spot internal agency problems
 1. Can be a useful training tool to help improve officer performance
 2. Can be useful in countering accusations of racial profiling and other unconstitutional conduct
 3. Can demonstrate improvements
 - a. Show the community that the department has risen above the scandals. In New Orleans, officers welcomed wearing body-worn cameras: “We want to show everyone that we aren’t like those who went astray during Hurricane Katrina.”
 4. Recordings can improve the public trust.

III. Evidence Documentation

- A. Videotape victim statements
 1. In domestic violence situations it increases rates of prosecution success because often suspects in DV who are shown the footage from the body-worn cameras plead guilty.
- B. Crime scene accuracy
 1. A body-worn camera can capture minute details of a crime scene that even the most conscientious officer may not remember to include in his or her report.

IV. Considerations for Implementation

- A. Privacy
 1. Is there such a thing?

2. Body-worn cameras give officers the ability to film inside private homes and film sensitive situations that might emerge during a call for service.
- B. Retention and GRAMA issues
1. Will video be handled like an initial contact report, similar to dash cam video?
 2. Private and protected classifications for:
 - a. clearly unwarranted invasion of personal privacy
 - b. medical conditions
 - c. juveniles
 - d. interference with ongoing investigation
 - e. could reveal a source (CI) not generally known outside of government
- C. Should officer be required to record every encounter or should some types of encounters be discretionary or even prohibited?
1. ACLU urges mandatory recording of everything – with exceptions.
 2. Agency must decide whether or not officer can review video in incidents he or she is involved in prior to making a statement.
- D. Cost
1. Body-worn cameras are expensive
 - a. Servers, storage, technology savvy staff are additional costs that must be factored into the equation.
- E. Community support – buy-in before can prevent griping later.
- V. Have a good policy
- A. Basic camera usage
1. Who will be assigned to wear the cameras?
 2. Where will the cameras be placed on the body?
 3. The rules for daily use.
- B. Maintenance
1. Identify the maintenance team.
 2. Outline the rules for charging, checking the operability, downloading
- C. Recording protocols
1. When to activate camera and when to turn it off
 2. What types of circumstances mandate recording
 3. In what circumstances is recording prohibited.

4. If you allow officer discretion regarding recording – specify the limits of that discretion!
- D. Downloading
 1. Set forth the process for downloading the data from the camera including who is responsible for downloading, where data will be stored, when data must be downloaded and safeguards against tampering and deletion.
- E. Method for documenting chain of custody
- F. Retention
- G. Process and guidelines for reviewing data
- H. Releasing recorded data
 1. Protocols for redactions
 2. The GRAMA process for body-worn camera recordings
- I. Retain control of the data
 1. Require any contracts with third-party cloud storage providers to explicitly state that videos are owned by police agency and use and access are governed by agency policy

YES, OFFICER, THEY CAN VIDEO WHAT YOU DO!

- I. Almost every citizen with a phone is a citizen with a camera.
 - A. Citizens video police interactions all the time.
 - B. If police are in public view, anyone who can see them can video or photograph them and what they are doing.
 1. Absent extraordinary circumstances, such as a citizen entering a crime scene or coming onto private property:
 - a. Police cannot order individuals to stop recording nor can they confiscate the person's phone.
 - b. A person who does not stop filming should not be arrested.
 2. Do not turn what is now a common-place occurrence into a Fourth Amendment violation!
 - C. Training
 1. First Amendment protections

2. HIPAA – please remind officers that they are not medical providers and HIPAA does not apply to prevent a citizen from filming an incident that shows someone’s medical condition.
3. Remind officers that they should assume that every encounter is being filmed and act professionally.

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RESOURCES

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