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Body-worn cameras for police accountability: Opportunities and risks

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A B S T R A C T

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The use of body-worn cameras by police forces around the world is spreading quickly. The resulting mobile and ubiquitous surveillance is often marketed as an instrument for accountability and an effective way of reducing violence, discrimination or corruption. It also involves remarkable potential for intrusion into the privacy of both individuals and police agents. We analyse the deployment of police body-worn cameras in five countries, investigate their suitability as an accountability tool given the associated privacy threats, and discuss the societal impact of their deployment as well as the risk of function creep.

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1. Introduction: motivations for the use of police body cameras

During the summer of 2014, Ferguson (Missouri) was the scene of tragic events. An 18-year-old African American was shot by a police officer, during a routine control, in the middle of the day and outside the reach of video cameras. The police argued that the (six) shots were fired by the police officer in legitimate self-defence as the young man was attacking him. Witnesses related that, on the contrary, the adolescent was standing at a reasonable distance from the police officer, thereby not posing a threat. In such complex and sensitive cases, it is left up to the courts to assess the veracity of the different testimonies, cross-checking other sources of evidence (such as forensic expertise) whenever available. This process is however

dependent of highly subjective elements, often giving way to a feeling of injustice among the public, especially minorities, or police officers wrongly accused of misbehaviour. In the Ferguson case, the decision by the Grand Jury not to indict the police officer after reviewing all the evidence sparked another wave of riots fuelled by protesters' outrage.¹ By contrast, in Mexico, recurrent intent to bribe police officers was evidenced when a woman was filmed threatening the police officer who had arrested her for exceeding the speed limit.²

The police are also increasingly faced with recording made by citizens with their smartphones. Some of these videos challenge the accounts provided by police officers, undermining their credibility. As a way of example, in the UK, a few years ago, by-passers recorded the scene when the police shot a presumed criminal, Mark Duggan, during a pre-planned operation. The images showed that at the time of the shooting, Mark

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¹ Monica Davey and Julie Bosman, 'Protests Flare After Ferguson Police Officer Is not Indicted' (*The New York Times*, 24 November 2014) <<http://www.nytimes.com/2014/11/25/us/ferguson-darren-wilson-shooting-michael-brown-grand-jury.html>> [accessed 18 March 2015].

² Carrie Khan, 'Tijuana Cops Turn On Body Cameras and Hope to Turn Off Bribery' (NPR, 12 March 2015) <<http://www.npr.org/sections/parallels/2015/03/12/392553611/with-mixed-feelings-tijuana-police-turn-on-the-body-cameras>> [accessed 16 June 2015].

Duggan was unarmed. The family then accused the police of “executing” him and this sparked violent riots.³

In this context, body-worn cameras are increasingly put forward as a solution to control the use of force by the police. In some countries with corruption problems, they are also seen as a way to limit abuse and to restore the credibility of police officers.⁴ Body-worn cameras are wearable video cameras that police officers can wear alongside their badges, clipped to their uniforms or worn as a headset. They fulfil three main inter-related goals. First, they are anticipated to increase the transparency of police behaviour by documenting events, and as such to serve as a reliable source of evidence of interactions between the police and citizens. Then, by exposing bad and good behaviour, it is hoped that they will act as deterrent against the (mis)use of force and discrimination by police officers or violent behaviour of citizens against police. In that sense, several commentators have claimed that the events of Ferguson would not have happened, had the police used wearable cameras. The family of the victim called for police officers to wear body-worn cameras.⁵ Finally, because of this deterrent effect, body-worn cameras are expected to improve policing and restore the trust of communities in their police forces.

Yet, the impact of body-worn cameras on the privacy of both citizens and police officers calls for careful analysis before decision is made for their widespread deployment, particularly in terms of proportionality. Legal and technical considerations will influence the legitimacy of such use.

We start with an overview of the implementation of police body-worn cameras in five countries (the US, the UK, Spain, Belgium and France) and the choices made from technical and legal viewpoints (Section 2). We then turn to analyse the conditions in which such implementation is acceptable (Section 3). Finally, we review the societal impact such widespread deployment might have, especially the risks of function creep and contagion to other fields (Section 4).

2. Review of the use of police bodycams in five countries

The deployment of police body-worn cameras has so far mainly taken place in the US and in the UK. Other countries are still testing the technology. In the US, their deployment is driven by discriminatory behaviours from the police and recurrent violent encounters between the police and the citizens. In Europe, while the problem is not that acute in terms of violence,

body-worn cameras are seen as a way to restore trust in policing by promoting peaceful interactions between the police and citizens in more sensitive situations or neighbourhoods. Beyond that, in the five countries of study (the US, the UK, Spain, Belgium and France), their deployment seems to operate in a grey zone: while their use would most likely fit under the current legal frameworks, in particular the regulation of video surveillance, some issues (e.g. recording audio or in private dwellings) might form substantial obstacles and need to be dealt with more in detail. This section aims at presenting the different situations factually including contexts, motivations, legal frameworks and available information about the technical solutions. It does not seek to debate the arguments put forward for and against the use of body-worn cameras in each of these countries but rather to provide the raw material for the discussion developed in the rest of the paper.

2.1. Use of police bodycams in the United States

In the last few years, police body-worn cameras have gained increased support amongst police officers, the public and the courts. Research conducted by the US Department of Justice showed that 63 agencies had equipped their officers with body-worn cameras.⁶ US law enforcement agencies are adopting body-worn cameras for a number of purposes: to improve evidence collection, to strengthen officer performance and accountability, to enhance agency transparency, to document encounters between police and the public, and to investigate and resolve complaints and officer-involved incidents.⁷ A recent report from the US Department of Justice mentions the need to “help police departments ensure events are also captured from an officers’ perspective” in a “world in which anyone with a cell phone camera can record video footage of a police encounter”.⁸ As a way of example, police body-worn cameras were adopted in Rialto (California) to reduce the (mis-)use of force. In New York, their deployment was forced by a court decision in order to provide an objective record of “stop-and-frisks” and assess complaints of racial profiling.⁹ It was further argued that the recordings “would mitigate the impression of individuals that the authorities would be more likely to believe police officers when the only evidence is oral testimony”.¹⁰ The judge also claimed that the use of police body-worn cameras would encourage lawful and respectful interactions on the part of the police and the individual being stopped, by providing overt recording.

As for the technology used, little information is provided. Rialto police forces chose TASER Axon cameras coupled with

³ ‘Mark Duggan inquest: Family fury at lawful killing decision’ (BBC News, 8 January 2014) <<http://www.bbc.com/news/uk-england-25657949>> [accessed 18 March 2015].

⁴ Carrie Khan, 2015, op. cit. fn 5. In a similar line of action, the Bulgarian Interior Minister is planning to equip police cars with GPS, cameras and audio recording systems to combat corruption. ‘Bulgaria announces new steps to cut corruption at police roadside checks’ (The Sofia Globe, 25 November 2014) <<http://sofiaglobe.com/2014/11/25/bulgaria-announces-new-steps-to-cut-corruption-at-police-roadside-checks>> [accessed 16 June 2015].

⁵ Michael B. Marois, ‘Body-Worn Cameras for Police Get Renewed Focus After Ferguson’ (Bloomberg, 25 November 2014) <<http://www.bloomberg.com/news/articles/2014-11-25/body-worn-cameras-for-police-get-renewed-focus-after-ferguson>> [accessed 18 March 2015].

⁶ Ibid.

⁷ Community Oriented Policing Services (COPS), *Implementing a Body-Worn Camera Program, Recommendations and Lessons Learned* (2014), p. viii.

⁸ Ibid.

⁹ *Floyd v. City of New York* on August 12, 2013, <<http://www.nytimes.com/interactive/2013/08/12/nyregion/stop-and-frisk-decision.html>>.

¹⁰ Timothy Banks, ‘Body-worn camera systems: an update’ (The Privacy Advisor, 11 November 2014) <<https://privacyassociation.org/news/a/body-worn-camera-systems-an-update/>> <<https://privacyassociation.org/news/a/body-worn-camera-systems-an-update/>> [accessed 18 March 2015].

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