



Visibility is a Trap: The Ethics of Police Body-Worn Cameras and Control

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The growing use of body-worn cameras (BWCs) in law enforcement poses ethical and privacy threats to be considered by policy makers. Law enforcement adoption of surveillance technology often outpaces the laws and regulations that would ensure their appropriate use, and the negative consequences are rarely anticipated, particularly as they relate to privacy concerns. To date, the BWC policy narrative in the United States frames the technology as a method to increase transparency in police–community interactions and build legitimacy. However, irrespective of how noble the original intent, technologies tend to morph from beneficence to overt control in the absence of countervailing friction. This article critiques the increased transparency brought about by BWCs to broadly explore the impact of increased exposure on victims, and concludes by proposing ethical policy principles to limit the harms the new technology could pose to vulnerable victims of domestic and sexual violence.

They are like so many cages, so many small theatres, in which each actor is alone, perfectly individualized and constantly visible. ... Visibility is a trap. (Foucault, 1979, p. 253)

Human adaptation via technological means is risky business, and often has unintended, unpredicted consequences (Adams, 1996; Tenner, 1997). These consequences are not necessarily *unpredictable*, but rather, *unpredicted*, and “might have been foreseen and addressed had we bothered to investigate them” (Allhoff, Lin, Moor, & Weckert, 2009, p. 6). This article explores some ethical dimensions of police body-worn cameras (BWCs) on vulnerable victims. Body-worn cameras are a technological adaptation by law enforcement: a small camera worn by police officers to record their interactions with citizens while on duty. In their current iteration, BWCs are worn on the head, shoulder, or chest of the police officer and store video footage of the recorded interactions on a small local hard drive, which is then uploaded to a centralized database, where it is stored for varying amounts of time, generally dictated by a mixture of law, policy, and subjective sense of the importance of the video. The BWC hardware varies considerably in capability, depending on manufacturer, and many agencies are actively testing various offerings. For the most part, the storage demands of BWC footage are such that police agencies do not store the video themselves, but instead use cloud-based storage offered by either the BWC manufacturer or other third-party service. Questions as to who has a proprietary right to the third-party stored footage are very much an open question without a clear answer.

Law enforcement adoption of surveillance technology often outpaces the laws and regulations that would ensure its appropriate use, and negative consequences—particularly those related to privacy—are rarely anticipated (Coudert, Butin, & Le Métayer, 2015; Lanier & Cooper, 2016) because no one bothered to investigate them. Moments of social crisis produce fluid environments where new policy shifts power dynamics (Newswander, 2012). New technologies are hastily adopted, often in the aftermath of tragedy and major public events, leading to further erosion of privacy rights as policymakers fail to consider the long-term interests of society at large (Bannister, 2005). For instance, BWCs have been adopted by police departments across the United States and worldwide, yet “little is known about the long-term impact of body worn cameras” and there remains a pressing need for evaluations of their effectiveness and broader impacts (Mateescu, Rosenblat, & Boyd, 2015, p. 2). While the BWC narrative has largely focused on the proposed benefits of the technology for transparency within policing, there are ethical implications of the technology that disrupt that narrative. Donald Menzel characterizes the ethical implications of communications and information technology in government as “one sketchily researched area” (2015, p. 364) deserving more attention and research.

In using a Foucauldian critique of BWCs, we force an analysis of one consequence of greater transparency in policing: increased exposure of those whom police encounter. As articulated by Bang (2014, p. 176), a Foucauldian critique demands that we “pursue politics as an ethics, asking questions that are not determined by a pre-established outlook and do not tend toward the realization of some definite political or ideological project.” BWCs have been adopted as a technological solution to significant political problems, with the stated goal of reducing tension between government and citizens. From this perspective, complicating the prevailing view of BWCs through a theoretical critique of the *surveillant* technology, and the field of research surrounding it, is necessary.

The state’s adoption of surveillant technology certainly qualifies as a modern problem, as it tends to creep from its original intent toward greater societal control (Zuboff, 2013), and because historically, law enforcement adoption of technology has posed particular threats to privacy (Taylor, Lips, & Organ, 2008). Because reporting of sexual assaults is significantly impacted by societal perceptions (Clay-Warner & Burt, 2005), it is reasonable to ask how BWCs may impact reporting of sexual assaults by victims, as well as affect victims themselves. We close with proposed policy guidelines for BWCs that give primary weight to protection of certain vulnerable victim classes in an effort to prevent overexposure. Policy ought to prevent BWCs from recording in circumstances that expose victims of sexual and domestic violence to revictimization.

REVIEW OF THE LITERATURE ON BWCS

Uptake of BWCs among American law enforcement agencies has increased rapidly since 2014 (Wasserman, 2014), but little academic research into the technology has been done (Drover & Ariel, 2015; White, 2014), and much of the research suffers from weak methodology (Cubitt, Lesic, Myers, & Corry, 2016). The need for research is even more crucial now, with over one third of police departments in the United States equipped with BWCs (Ariel et al.,

2016b) and adoption of the technology continuing apace. Like other police technology, much of the research into BWCs occurs in a *post hoc* manner, such that research, policy, and practice surrounding the technology develop only after implementation has taken place (Phillips, 2016b).

The initial assumption of the impact of BWCs was unequivocally positive, and to some degree that optimism has continued to frame research into the technology. However, with the actual impact of BWCs unclear (White, Gaub, & Todak, 2017), and a growing understanding of the substantial financial cost, a fuller accounting of the technology and its effects is all the more imperative. At present, evidence of BWC effectiveness is mixed. While some studies have demonstrated decreased use of force (Ariel, Farrar, & Sutherland, 2015), others by the same researcher suggest that BWCs have no effect on use of force (Ariel, 2016), and in fact may increase assaults on officers (Ariel et al., 2016a), or even increase police use of force (Ariel et al., 2016b). One survey of the literature reveals twelve published studies and approximately thirty more papers and reports worldwide looking at various effects of BWCs (Lum et al., 2015). Two of the leading empirical researchers into effects of BWCs in policing summarize the state of BWC research with the observation that the primary question facing research into BWCs is not whether they should be used, but “Is there evidence about *how* they should be used?” (Sutherland & Ariel, 2017, p. 1).

Studies of BWCs often use dash-mounted cameras (“dash cams”) as a point of reference. However, this comparison is imperfect and incomplete, as dash cams capture officers as actors in frame during routine traffic stops, and capture the interaction between officers and citizens within a static frame. BWCs, on the other hand, capture the objective viewpoint of the officer, though not necessarily the subjective perspective of the officer. The viewpoint captured by a BWC tempts the viewer into assuming it is the “true” version of what was seen by the police officer, but in fact an officer in a stressful situation is subject to perceptual distortions not captured by the camera (Phillips, 2016a).

BWC implementation throughout the United States and worldwide has generated increased research interest, concentrating generally on the claims that BWCs increase trust in police departments by reducing police use of force (Lum et al., 2015; Stewart, Henning, & Renauer, 2012). Both claims—a reduction in use of force and a resultant increase in public trust—are predicted by Foucault’s (1979) panoptic effects. Aware they are being recorded, officers will avoid behavior that could lead to them being sanctioned. Problematically, victims may also change their behavior, as determining who is the subject and who the object of surveillance is difficult. The subject of BWC surveillance is purportedly the police officer, and that officer’s actions. However, cameras point outward, recording the community and its residents, all of whom are beyond the intended subject.

Scholars have long recognized that use of force outcomes are rare events in terms of both frequency and rate (Adams, 1995; Alpert & Dunham, 2004; Croft & Austin, 1987; Friedrich, 1980; Lersch & Mieczkowski, 2005; White et al., 2017). Despite the low rate, potential for impact is high, especially for illegitimate use of force, which can result in increased community strain and distrust of police (King & Waddington, 2004), as well as loss of employment, civil lawsuits, and criminal charges against the officer. Due to the low rate/high impact schema, BWC scholars have turned to deterrence theory, as they theorize that both the severity of sanction and the certainty of being caught are high. Deterrence theory suggests that people are more likely to follow rules and engage in socially acceptable behavior when they know they are being

observed (Klepper & Nagin, 1989; Nagin, 2013). Deterrence theory predicts that people are less likely to engage in bad behavior when the possibility of getting caught—and thus sanctioned—is high, and has been studied in relation to closed circuit television (CCTV) in public places. Deterrence theory is inextricably rooted in panoptic philosophy, as it relies on the same inconstant, unverifiable nature of surveillance to change the behavior of those surveilled. As Foucault (1979, p. 257) writes: “the Panopticon was also a laboratory; it could be used as a machine to carry out experiments, to alter behavior, to train or correct individuals.”

However, deterrence theory does not discriminate between those who are meant to change their behavior—bad actors and deterrence of specific unwanted behavior—and the general deterrence of a sanction or intervention. The potential effect on victims and others caught in the camera’s frame is integral to understanding the impact of BWCs, and mirrors Bunzel’s (2001, p. 374) difficulty in identifying who is the subject and who is in control: “With subject and object repeatedly swapping places, it is difficult identifying who is in control; who is gazing on whom.” BWCs, originating as a tool of *sousveillance*, are in fact turned back on the public, with the state inserting police into the electronic panopticon as a mobile camera, able to cross into our most private spaces.

COMPLICATING THE NARRATIVE: OBJECTS AND SUBJECTS OF SURVEILLANCE

The Crime Victims Act (2004, p. 782) states that victims have “the right to be treated with fairness and with respect for the victim’s dignity and privacy”. This article adopts the normative view that policy surrounding BWCs ought to comply with these standards, and recording policies should respect the privacy and legal interests of victims (Maury, 2016). The impact BWCs might have on victims, and particularly on the reporting of sexual assault, is currently undertheorized and entirely unexamined, but there are both common sense and theoretical bases for understanding how it might occur. Victims, already feeling “violated, exposed, and vulnerable” (Kampfe, 2015, p. 1170) may find their distress exacerbated by the presence of police officers recording them in an already distressed state. Other classes of victims may experience further traumatization from the presence of cameras, including children, individuals living in the country without documentation, probationers and parolees, and even the families of those killed during police-involved shootings (Wagner, 2015).

Early policy debates around BWCs paid little or no attention to the needs of victims, and the scant attention they have received is only in passing: “Such references carry the connotation of being afterthoughts, tagged on to a larger argument or recommendation as a means of further support” (2015, p. 2). The tendency to push the needs of sex offense victims aside is concerning, as the extralegal factors known to impact the underreporting of sex offenses may be exacerbated by the presence of BWCs. Victims of sex crimes report dissatisfaction and a lack of trust in law enforcement and courts (Clay-Warner & Burt, 2005). Herman (2003, p. 159) summarized well the impact of revictimization via the justice system when she noted, “if one set out intentionally to design a system for provoking symptoms of posttraumatic stress disorder, it might look very much like a court of law.” Secondary victimization is associated with a host of negative outcomes, including post-traumatic stress disorders, poor health, and high-risk sexual behaviors (Campbell & Raja, 2005). Murphy (2015, pp. 7–8) provides a nonexhaustive list of possible

scenarios where BWC footage could be used to revictimize victims of sexual and domestic violence:

- footage shared with child protective agencies in order to discredit the victim;
- footage shared with victim's employer, and/or probation and parole officers, particularly if it depicts illegal or embarrassing images (i.e., drug & alcohol abuse), which could cause job loss or probation/parole violations; and
- embarrassing victim by sharing footage on social media accounts in order to influence victim's support networks.

Visibility's Trap: Vulnerable Victims

Research over several decades has found consistently low reporting rates by sex offense survivors to law enforcement. Both legal and extralegal factors contribute to this problem. Multiple extralegal factors relate to how societal views impact the willingness of victims to report rapes and other sexual assaults. (Wolitzky-Taylor et al., 2011). Myths surrounding rape impact the rate of reporting. Stereotypes of so-called "legitimate rape" and "real victims" are pervasive, and directly impact the willingness of a sexual assault survivor to report the crime to law enforcement. Survivors themselves unwittingly perpetuate these myths by only reporting sexual assaults when the circumstances of the crime closely match the societal myths of rape: where the rape occurs outdoors, by a stranger, and the victim is sober (Du Mont, Miller & Myhr, 2003). Perceptions of both victims and society at large impact report rates: "Changes in reporting are contingent upon changes in societal perceptions—either about rape itself or about the way in which the crime of rape is treated in the criminal justice system" (Clay-Warner & Burt, 2005, p. 158).

Foucault's conception of the panoptic is not limited to incarceration, "it is a pattern of attitudes summed up neatly in the phrase *J'accuse*, I accuse." (Fox, 2003, p. 67). In Fox's view, the police–citizen interaction is the paradigmatic case of the citizen–governance interface (2003, p. 71), and we argue that memorializing such interaction via BWCs risks much for certain vulnerable classes of victims. If a rape victim, already concerned whether the details of her assault fit the societal myth, believes footage of her distress will be available to the assailant, to family, friends, and associates, and to strangers across the world via YouTube or other social media, she may simply choose to avoid further distress and not report the assault at all. The picture is markedly worse for victims already under the purview of the courts, as a victim on probation or parole is unlikely to welcome police cameras into her home to capture potential evidence of alcohol or drug use, or other violations of her probation agreement. The cameras are not only a reminder to bad actors that "a record of bad behavior is available to the camera's operators" (Rosenblat, Kneese, & Boyd, 2014, p. 4)—as the surveillant apparatus of both the state and of society, BWCs do not discern between victim and perpetrator. Vulnerable victims may feel the pressure and control from surveillance as much, if not more, than any other group. A victim's concern with discrepancies between the rape myth and an actual rape may magnify as the societal gaze becomes more focused and literal.

Foucault's (1990) panopticon is useful for a critique of the systemic surveillant state, but his conception of the confessor, gathering power over the confessant through hearing her sins in secret, complicates the view of BWCs even further, particularly in the case of police

investigating sexual assaults. Here BWCs further disempower the victim, rendering her as confessant and officer as confessor, who will decide if her statement is truthful or deceptive, her demeanor convincing or contrived. BWCs reinforce the “Foucauldian gendering of medieval confession—speaking female disempowered, silent male in authority” (Gregory, 2012, p. 658). Yet whereas the medieval confessor was not to record the confessant, the modern confessor promises no such thing, producing a video record that may be released to the suspect who assaulted the victim during legal proceedings. BWCs offer no penance, only posterity.

Another Trap: The Reporting Process

BWCs pose a theoretical risk particularized to sexual assault victims, as the structure of the initial report threatens to revictimize as well. The tension between a rape survivor’s story and the societal myth of rape can be exploited if the conditions under which her interview is recorded are not structured appropriately. This risk has been ameliorated by decades of research into best practices, including use of a forensic or cognitive interview conducted by a trained investigator in a controlled environment. Unfortunately, patrol officers conducting the initial response to a rape complaint are at once most likely to be wearing a BWC and also least likely to be trained in appropriate victim-interviewing techniques. These initial patrol responses are also likely to be conducted in an unstructured or chaotic environment, unlike the controlled setting of a detective’s soft-interview room. Memorializing on video a victim’s first report under these circumstances is precisely the type of recorded interview that runs contrary to best practices and is most likely to produce video evidence that revictimizes her. Research into best practices for interviewing and recording the statements of rape complainants indicate that these factors are most likely to produce evidence that harms the complainant’s case (Westera, Kebbell, & Milne, 2016).

BWCs record victims in the exact circumstances that are most likely to produce evidence that could harm the victim’s interests, especially in court. Video evidence helps resolve rape complaints, but only under fairly specific conditions. Recorded interviews under less than ideal conditions do not “play well” in court. A significant disadvantage of video-recorded interviews of rape complainants includes the video not providing good evidence for juries, particularly if the victim acts contrary to juror expectations: “If the complainant has a difficult personality it can put the jury off him/her. Especially if the complainant is quite a strong and composed individual it can make them seem less credible as I believe juries expect victims of sexual assault to be quivering wrecks” (Westera et al., 2016, pp. 921–922).

When a rape report is made, an officer is dispatched to take the initial report. A written initial report is made, and then referred to the detective, who likely sees it only the next day. The patrol officer’s job is not to complete a full investigation, but to stabilize the scene, determine what evidence may need collecting, and ensure the short-term safety of the victim. The initial report is not a detailed investigative report, but collects the basic information necessary to allow for a follow-up investigation by the assigned detective, who has specialized training in the investigation of sexual crimes. The structured interview is then conducted by the detective in the appropriate setting and preferably using the cognitive interview. Westera et al. (2016, p. 4) identify factors that improve the quality of a recorded interview and a complainant’s ability to provide information in a sexual assault investigation: “The literature on interviewing

complainants indicates that a conducive interview environment, and using well-validated methodologies of questioning and interviewing, can dramatically improve the quality of information elicited from the complainant.”

While best practice policy is understood, in standard practice the BWC inescapably alters interactions, especially during the initial interview with patrol officers. It may be 2:00 a.m., in a hospital, or an apartment, or a parking lot, or wherever the victim is first encountered. BWCs now create a video record of that interview. During that initial report, a sexual assault victim can display extreme memory inconsistency, especially in the immediate wake of trauma. Recording her in that state is extremely risky. She will likely be experiencing perceptual distortions, and when a defense attorney plays that video and highlights any inconsistency between her initial report and the cognitive interview done a few days later by the detective, the victim will look like she’s lying. “Indeed, it seemed the use of the video interview as evidence-in-chief could render the complainant vulnerable to ‘rape myths’ concerning the ‘appropriate’ range and level of emotions that should be experienced and displayed by someone reporting a rape, and could lead to the video interview becoming a form of performance” (McMillan & Thomas, 2009, p. 265).

BWCs can magnify the negative outcomes for victims associated with the patrol officer’s initial response to sexual crimes, and policy ought to minimize those potential harms by both allowing officers the discretion not to record their initial contact with a victim, and by mandating that victims be given the opportunity to request they not be recorded.

Surveillance: Control and Function Creep

Surveillance, whether active or implied, exists to modify and shape the behavior of the surveilled. Surveillance need not be constant to achieve this goal; the *belief* that one is being watched is enough to change behavior. Samuel Bentham, a naval engineer, first designed the Panopticon School of Arts in 1786, and understanding that perpetual surveillance being impossible (emphasis in original), “the next thing to be wished for is, that, at every instant, seeing reason to believe as much, and not being able to satisfy himself to the contrary, he should *conceive* himself to be so” (Bentham, 2003, p. 16). The goal, then, is not universal panoptic coverage, but convincing the surveilled that they *may* be watched at any time. From Foucault (1979, p. 200), we know this to be the overt goal of panopticon: “So to arrange things that the surveillance is permanent in its effects, even if it is discontinuous in its action ... power should be visible and unverifiable”. Surveillance becomes a tool of power, as it allows the state to increase the number of people being watched, while reducing the number of watchers. This gradual erosion of privacy in favor of ever greater transparency—and thus, exposure—is what Charles Fox convincingly argues is a shrinking “zone of privacy” (2003, p. 68) as the state works at the edges of problems by expanding its carceral reach in the name of greater societal good. The same greater-good thinking is found in debates surrounding the adoption of BWCs to reduce police use of force, and the costs levied on already vulnerable classes of people are left uncalculated and most often unconsidered. The carceral state grows every time we point to a problem and utter “the state should ...” and leave the foreseeable costs to liberty for others to be considered later. Surveillance scholars have sometimes termed the constant movement toward greater surveillance the “soft sister” approach (as opposed to “big brother”). These

arguments are invariably based in prevention-oriented “welfare state activities” (Wagenaar & Boersma, 2008, p. 184). By invoking the prevention of violations, by expanding the scope of prevention from individual bad actors to suspicion of categories of people, and by mandating that ever deeper and more detailed information be available, all in the name of greater protection of the citizenry, the state succeeds in fortifying the carceral society (Foucault, 1979; Marx, 1985).

Surveillance and regulation provide the foundation of Foucault’s “carceral society,” with the state’s power structured upon greater exposure of the citizenry to facilitate greater control (Farmer, 1995). The carceral system is not just the prison, but the complex physical and non-physical architecture sustaining the prison, and includes its physical presence, its staff, policy, and regulations, all reaching beyond the prison into the community. In a modern sense, this carceral system is not just BWCs, but the surveillant state, and the policy, practice, and regulations surrounding the surveillant technology, all pressing for maximum exposure. Proponents of BWCs tend to espouse the theoretical benefit of increasing surveillance. This theory predicts that as the tools of surveillance became widely available to the public, particularly in Western democracies, a balance would be struck. A society of *coveillance*, where “the actions of all may, in theory, be observable and accountable to all,” would be created, with everyone watching everyone (Mann, Nolan, & Wellman, 2003, p. 347). Coveillance allows citizens to surveil government, or groups to watch competing groups. This new balance of technological power moves surveillance “from being a one-way mirror to being a window” (Marx, 2002, p. 23).

Yet, while BWCs were developed as a tool to watch police (Ariel et al., 2016a; Coudert et al., 2015; Drover & Ariel, 2015; White, 2014), the officer wearing a body camera is not the focus of the frame. The officer is a tool of surveillance who reminds others that their actions are recorded by the state, a signal that “a record of bad behavior is available to the camera’s operators” (Rosenblat et al., 2014, p. 4). This visible and unverifiable reminder, some 230 years after the original panopticon, has the same effect of controlling behavior, whether the watcher is looking or not.

In her book *In the Age of the Smart Machine: The Future of Work and Power*, Shoshana Zuboff (1988) first articulates her analysis of information technology and workplace surveillance, which she continued to refine into the following three “laws” of information technology (2013, para. 7):

1. Everything that can be automated will be automated.
2. Everything that can be informed will be informed.
3. In the absence of countervailing restrictions and sanctions, every digital application that can be used for surveillance and control will be used for surveillance and control, irrespective of its originating intention.

In later research, Zuboff stresses the importance of the third law, and the “countervailing restrictions and sanctions,” which she terms as “friction” (Zuboff, 2013). The tendency for new technology to morph from its original intent into a technology of control has a substantial body of research (Botan, 1996; Wilson, 1988; Zuboff, 1988), and Zuboff’s original insight has been confirmed and reconfirmed in the thirty years since. The familiar path from good intent to overt societal control through function creep has been well documented in government adoption

of remote monitoring of offenders, automatic license plate readers, and e-benefits claims procedures, among others (Taylor et al., 2008).

Law enforcement officers, as part of society, have inevitably been both subject to the societal shift toward a surveillant society and active participants in driving the phenomenon. In a law-enforcement-specific context, Lanier and Cooper (2016) report that crime mapping, drones, red-light cameras, thermal imaging, social media Websites, facial recognition software, big data analytics, and universal surveillance, which combines elements of the preceding technologies, have all seen burgeoning use by law enforcement agencies, and have significant privacy implications. In fact, among agencies not using advanced technology, lack of financial resources to obtain the tools is the primary barrier, not a lack of interest (Custers & Vergouw, 2015).

Transforming police officers' bodies into mobile surveillance tools clearly represents another watchtower in an expanding Foucauldian framework of technology in law enforcement, reminiscent of Bentham's original conception of the panopticon, adding BWCs to the already expanding societal surveillance that includes facial recognition, automated license plate readers, crime-zone prediction algorithms, infrared scanning, CCTV, and more. These technologies do not discriminate between targets, and they are the unverifiable, inconstant surveillant apparatus of well-intentioned technological solutions creeping toward greater control. The data collected by this surveillance framework are all fed back into computers and database algorithms, constituting the "big data" (Jordan, 2014) of the modern police surveillant architecture. The officer simply becomes a mobile surveillance camera, another tool within the panoptic assembly, feeding information back into the central computers. Concerns that BWCs may be used for greater social control are not solely theoretical ones, as departments in Seattle, Chicago, and Leicestershire (UK) are reportedly already experimenting with combining BWCs and CCTV footage and automatic facial recognition software (BBC News, 2014; RT News, 2013; Sanburn & Sifferlin, 2014).

ETHICAL MODELS OF SURVEILLANCE

Foreseeing a growth in surveillance tactics and widening access to BWC technology, Gary Marx proposed an ethical framework to examine the "new surveillance" (Marx, 1985, 1998). His model comprises twenty-nine questions to determine the ethics of surveillance, grouped according to the means, collection context, and uses of the data. Distinction between the technology and how one uses the data generated by the technology is particularly important. Using this framework for examining BWCs, particularly their possible effects on victims of domestic and sexual violence, reveals several areas of deficit (Marx, 1998, Table 1, p. 174):

1. Negative effects on surveillants and third parties: Are there negative effects on those beyond the subject and, if so, can they be adequately mediated?
2. Beneficiary: Does application of the tactic serve broad community goals, the goals of the object of surveillance, or the personal goals of the data collector?

3. Proportionality: Is there an appropriate balance between the importance of the goal and the cost of the means?
4. Goodness of fit: Is there a clear link between the information collected and the goal sought?
5. Unfair disadvantage: Is the information used in such a way as to cause unwarranted harm or disadvantage to its subject?

Negative Effects on Surveillants and Third Parties

Ostensibly, officers are the subjects of surveillance, but in fact they are objects, as their cameras face outward. Use-of-force situations are the overwhelming *minority* of an officer's work, from fewer than 1 percent (Lersch & Mieczkowski, 2005) to 5 to 10 percent (Ariel et al., 2015), while responding to victims and generally those in need constitute the majority of calls. With respect to BWCs, the negative effects on third parties predicted here are concentrated among those least able to mediate the effects: vulnerable victims of sexual and domestic violence. As stated earlier, neither deterrence theory nor the panoptic apparatus discriminates in its effects, and, in fact, "the panoptic schema makes any apparatus of power more intense" (Foucault, 1979, p. 260). Ethical policy should therefore attempt to mitigate the negative effects to protect the especially vulnerable third parties to BWC technology in cases of domestic or sexual violence incidents.

Beneficiaries and Community Goals

While BWCs were sold by proponents as serving broad community goals, particularly reducing police use of force, the evidence of BWC effectiveness to reduce use of force is equivocal at best (Cubitt et al., 2016; White et al., 2017). What is more, community goals and victim goals may clash. Victims' goals of privacy, confidentiality, restricted distribution of footage, and avoiding revictimization have been generally ignored in the pursuit of community goals. The state, along with the BWC manufacturer, is the data collector, and its goals of panoptic surveillance and greater control are revealed when one places the BWC-equipped officer within a conceptualized electronic panopticon. Whereas Bentham's original panoptic structure had the watcher in the middle of a circular architecture, silently observing many subjects, the electronic panopticon turns the diagram inside-out, with the citizen in the center of a circle, and various items of surveillant apparatus surrounding her. The officer takes his place in the outer circle, which includes facial recognition, aerial surveillance, license plate readers, and surveillance cameras. Each of the other surveillance tools failed to see within the citizen's home or other private places, due either to technological or legal restrictions—in effect, the BWC is able to move from the outer circle even closer to the subject of surveillance. The unique contribution of BWCs is their ability to be carried along with the officer, into the most constitutionally protected places. All these systems place the citizen at the center of the surveillance architecture, different from but still akin to Bentham's original panopticon (Foucault, 1979, pp. 253–254): "He is seen, but does not see; he is the object of information, never a subject of communication ... And this invisibility is a guarantee of order."

Proportionality of Goals and Costs

The benefits of reducing the illegitimate use of force to the greatest extent possible are generally accepted by all, because unlawful force has the potential to cause great harm to both individuals and communities. BWCs were implemented to address this concern, but with the evidence unclear, costs must be addressed fully and rigorously. Costs of BWCs include both the costs of acquiring the technology and training to use it, and the overwhelming and generally unconsidered costs of storing, redacting, and distributing the data. There are human costs as well, with the costs to privacy borne by victims of sexual and domestic violence. Individual costs expand to society at large, for the already high rates of unreported violence toward women may increase further as victims avoid police contact in order to avoid revictimization.

There may be other human costs as well, particularly to the officers tasked with wearing BWCs, which the already scant BWC scholarship leaves nearly unaddressed. The sociomaterial analysis by Sesay, Ramirez, and On-Ook (2017, p. 1) finds there are both organizational and personnel impacts to implementing BWCs, where “rank-and-file patrol officers carry the burden upfront, while evidence technicians are burdened on the backend.” With both benefits and costs unclear and potentially high, on balance BWCs should be reconsidered under this ethical framework.

Goodness of Fit, Unfair Disadvantage, and Use of Data

Use of data generated by BWCs appears to be among the most vulnerable to ethical breaches. While still early in the technology’s adoption, departments are already experimenting with expanding use of the data through facial recognition technology, a postsurveillance technique that marches the technology further down the path toward greater societal control. Great concern should also be paid to how the footage is distributed. Footage of victims in their most vulnerable state, accessible by perpetrators through legal channels as well as by anonymous observers through social media, poses great risks of revictimization. BWCs may breach confidentiality, exposing victims’ legally protected conversations with their advocates and medical information to the perpetrator, and potentially violating the Health Insurance Portability and Accountability Act (HIPAA) as well. BWC footage, distributed through the legal discovery process, exposes the victim to a higher risk of retaliation, a risk already heightened by the victim’s report to police and their arrest of the perpetrator (Murphy, 2015). Access to, and misuse of, BWC footage by an offender increases the risk of coercion and intimidation of the victim. Allowing offenders access to a victim’s statements to police makes the victim more vulnerable to retaliation and revictimization. The motive any individual may have for accessing BWC footage does not matter, following Foucault: “It does not matter what motive animates him: the curiosity of the indiscreet, the malice of a child, the thirst for knowledge of a philosopher who wishes to visit this museum of human nature, or the perversity of those who take pleasure in spying and punishing” (Foucault, 1979, p. 255). BWC footage released prior to the end of legal proceedings and investigations “may likely become an additional tool of abuse”

(Murphy, 2015, p. 8). Policy exists to protect victims in the distribution of written reports, but has not evolved to fully consider BWCs.

CONCLUSION AND RECOMMENDATIONS

The more numerous those anonymous and temporary observers are, the greater the risk for the inmate of being surprised and the greater his anxious awareness of being observed. (Foucault, 1979, p. 256)

Our critique is twofold: First, of BWCs as a piece of a larger surveillant apparatus, and second, of the surveillant apparatus as a whole. BWCs were not born as a new technology so much as they represent a streamlined, modern addition to the state's use of technology to enhance its surveillant capabilities, inserting the state into our most private spaces in our most vulnerable times. BWCs are just one piece of the state's surveillant technology, but pose particularized dangers to victims because of the boundaries they are able to cross. Whereas automatic plate readers may encroach on our freedom of travel, and facial recognition software may be too strong a gaze while we use public spaces, BWCs bring state surveillance into homes and private spaces, often during what is already the most horrific, vulnerable point in someone's life. Just a few years ago, Bryer & Zavattaro (2011, p. 335) asked, "Perhaps the notion of the panopticon needs to go digital?" Today, seeing the watchtowers laid out before us, and with BWCs quickly taking their place within the electronic panopticon, the pressing question now is: Who, what, and where should be protected from the state's gaze, and how should that be accomplished?

Despite her ominous warning that technology will inevitably turn into a tool of surveillance and control (1988), Shoshana Zuboff offers a countervailing prescription of "friction," to disrupt or deflect technology from the path of control, induced through "legislation, oversight, and regulation that enshrines our freedoms in terms relevant to our new age: transparency, voice, informed choice, respect for the individual" (2013, para. 25). Our recommendations offer that friction through respect for the privacy and dignity of individual victims, which to this point have largely been ignored. We should not be so comfortable about how our institutions affect others or "follow our inner fascist" (Eagan, 2007, p. 95):

Directing others' thoughts, language and behaviors too closely is potentially dangerous; one does not really know the good for others. Institutions are also worthy of attention. Looking out for institutional injustices that may come to our attention is important, but so is attempting to understand how everyone is affected and constituted in and through these institutions.

The analysis herein reveals two general themes to consider when making ethical policy recommendations for the use of BWCs and police surveillant technology. First, policy should give great discretion to officers to decide when scenes are recorded with BWCs. Officers, as the street-level implementers of BWC policy (Lipsky, 1968, 1980), are experienced with quickly determining whether a given situation is likely to contain vulnerable victims. This discretion should be paired with training and support to help the officer make those decisions, as well as mechanisms to address misuse of the discretion. Second, BWC policy should default

to protection of data and footage, with distribution limited to the legally mandated discovery process should criminal charges result. BWC footage should remain classified as investigative material, available only once the investigation or legal proceedings are complete, and then only by court order after review. Any request outside legal or investigative channels should be required to overcome the restrictions with proven, overwhelming need. By defaulting to greater discretion and heavily restricted distribution of BWC footage, policymakers send a clear message to crime victims that their needs are not only accounted for, but also made primary.

The dangers of indiscriminate distribution of BWC footage are clear. Allowing wide, anonymous access to BWC footage, with few barriers between the requester and the case at hand, risks much. Victims, aware that their respective police departments are equipped with BWCs, and with the knowledge that footage can be distributed nearly freely and posted to Internet video sites for worldwide consumption, may not call police at all in order to protect their privacy. Further, the near-prohibitive cost of BWCs and data demands for many jurisdictions, specifically through storage, redaction, open-records compliance, and distribution of footage, suggests legislators and administrators should construct policy that prioritizes efficient recording and limited distribution.

Given that extant research has so far failed to produce clear results to demonstrate reduced police use of force, good BWC policy should consider the likely impact the technology will have on crime victims, particularly the victims of sexual and domestic violence. Technology can, and often does, produce “unnecessary and dramatic disruptions [with] real human costs” (Allhoff et al., 2009, p. 6); public policymakers have a duty to investigate the consequences of technology, particularly the unforeseen consequences. In considering the impact BWCs might have on already vulnerable victims of sexual and domestic violence, policymakers have an ethical duty to move carefully, and construct policy solutions that value a wide range of voices and concerns.

These recommendations are obviously not exhaustive, and policy should demand both considerable officer discretion and the ability to hold officers accountable for misuse of discretion as counterbalance. Similarly, policy restricting dissemination of BWC footage to involved parties after the conclusion of legal proceedings should be paired with streamlined, inexpensive, and transparent procedures for releasing the footage when appropriate. Through this type of policy friction, communities can properly balance transparency and exposure: Victims can be assured that their heightened concerns regarding BWC surveillance are being attended to, and society at large can still be sure it is capturing the benefits to police transparency and legitimacy sought through BWCs.

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