

Policing Law Enforcement: The Value of Body-Cams

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History of Personal Surveillance Devices in Law Enforcement.

In 2014, a police shooting occurred in Ferguson, Missouri that was mired in allegations of excessive force and systemic racism. The strong public response to the killing of Michael Brown by Officer Darren Wilson resulted in the widespread deployment of personal surveillance equipment (aka “body cams”) among law enforcement. On December 2, 2014, President Barack Obama instituted a program wherein the federal government would reimburse state and local law enforcement for half the cost of any purchase of body-cam equipment. And on September 21, 2015, Attorney General Loretta Lynch announced that the Department of justice would disburse \$23.2 million in grants “to expand the use of body-worn cameras and explore the impact.” A nationwide proliferation of body-cams among law enforcement followed soon thereafter.

By 2016, nearly half (47%) of all state and local police agencies were utilizing body-cams, and today more than 60% of agencies utilize body-cams. However, technical oversight is expensive, and some smaller police departments still struggle to utilize body-cams due to financial constraints. Notwithstanding, the general trend is moving towards a universal use of these devices. And it seems, at least for the moment, that body-cams are going to be more or less a ubiquitous facet of the American justice system. Consequently, it is beneficial for a savvy citizen to understand the consequences and questions that body-cams precipitate.

The Double Edge of Evidence and Accountability

Almost every police encounter is now evidenced by video footage. This can be a huge boon for prosecutors and defendants alike. Often, the video footage can provide damningly conclusive evidence of criminal conduct. However, the footage can also provide strong factual evidence that can provide a basis for suppressing evidence or even dismissing a case. Moreover, if an officer does not conduct themselves within the reasonable scope allowed by law, the body-cam footage can provide strong evidence of an actionable civil rights claim. The equipment is neutral and serves only the pursuit of truth. The oversight can be burdensome, but the accountability it provides is unparalleled.

Video footage of an event is some of the most compelling evidence that can be presented in court. The video will not lie or forget—like a witness. Consequently, the footage provides a neutral perspective of events that have not been tainted by perspective or psychological factors. This kind of neutrality is highly valued in our Aristotelian society that is so utterly fixated on objectivity. While footage often fails to capture the whole truth, our judicial system regards this kind of neutral evidence with a sort of sacred weight. Truly, it is near impossible to argue against clear video footage. Consequently, it will often make or break a case.

Although the evidentiary weight of video footage cannot be understated, the use of body-cams is not uniformly bad for defendants. The increased oversight means that there is conclusive evidence if an officer acts improperly. A misstep by law enforcement can result in the suppression of evidence or even the dismissal of the case. If an officer fails to act properly within the scope of their duty, any evidence that is gained from that improper conduct will be excluded from the trial. In other words, an attorney can suppress any evidence gained illegally!

If an officer's conduct is sufficiently egregious, it may even give rise to a civil rights claim. Prior to the proliferation of body-cams, defendants were constrained to pursuing civil rights claims largely based on testimonial evidence. Unfortunately, courts tend to be unresponsive to the complaints of those who have been violated by law enforcement. This cultural bias is due to the social sanctity we bestow upon law enforcement, and the cultural derisions we impose upon those who have been targeted by law enforcement. In a battle of testimony—typically courts believe the officer over the person charged with or convicted of a crime. However, nowadays we can overcome social stigma with the conclusivity provided by video footage. Whether the court actually empathizes with a plaintiff or the circumstance of the case is no longer as pertinent to success. Today, litigators can utilize video footage to objectively demonstrate the misconduct of law enforcement!

Section 1983 Claims

Plaintiffs can sue the police for misconduct—but it is not easy! Law enforcement departments have been historically reluctant to internally rectify systemic misconduct, and the courts have been notoriously unresponsive to claims of excessive force by

police. Too often, police misconduct goes unrecognized and unpunished. Society generally must convince itself that our government agents act uprightly within the law. And most Americans would be exceedingly troubled to realize that law enforcement does not always conduct their affairs within the scope authorized by law. To overcome the well-founded yet often dubious presumption of police beneficence, a plaintiff must demonstrate “clear and convincing evidence” to support their claim. The widespread use of body-cams enables plaintiffs to overcome the stigmatic burden associated with filing suit against the police and to demonstrate, with certainty, the basis of their claim.

Officers have broad discretion to exercise their duty. However, the Constitution and other laws place limits upon law enforcement. When an officer exceeds the immunity granted by their duty, civil rights law permits to the injured party to pursue compensatory and punitive damages. A federal statute known as Section 1983 makes it unlawful for anyone acting under state law to deprive another person of his or her rights under the Constitution or federal law. Among the claims available to Section 1983 claimants are: false arrest, malicious prosecution, and excessive force.

In order to prevail in a civil rights claim, a plaintiff must be able to demonstrate that the officer’s misconduct exceeded reasonable bounds, infringed upon a constitutional right, and produced some injury or damage to the victim. It is not easy to prevail against the government, but civil rights claims are an extremely important part of our legal system. If you or someone you love has had their rights violated, call **Wasatch Defense Lawyers!** Our experienced Criminal Defenders understand the intricacies of suppressing improperly acquired evidence and know-how to preserve any civil rights claim that may exist.