



2016 Legislative Policy Data Practices Policy-9. Police-Worn Body Cameras

Issue: Police-worn body cameras have the potential to provide invaluable evidence when investigating crimes and prosecuting criminals, and to strengthen trust of citizens in law enforcement by increasing the accountability between peace officers and the public. The data collected in use-of-force incidents can help determine whether an officer used appropriate force and clarify conflicting accounts of events. The data from body cameras can also help protect peace officers who are falsely accused of wrongdoing.

Each community in Minnesota is unique, and the Legislature should allow each community and local law enforcement agency to determine whether to use policeworn body cameras. Due to the complexity of implementation, local communities should retain the authority to determine, in consultation with their citizens, how body cameras will be used by their officers.

Police-worn body cameras also raise unprecedented questions regarding the personal privacy of citizens who interact with peace officers. A peace officer can never know whether a routine interaction will become important or controversial, and in order to ensure that body cameras record important information they will be turned on for many interactions that take place outside of criminal investigations. The vast majority of peace officer interactions with the public do not involve criminal investigations, and individuals have legitimate concerns about whether these non-criminal interactions with the police should be made available to the general public. The Minnesota Government Data Practices Act (MGDPA) provides privacy protections for certain crime victims, witnesses, minors, and vulnerable adults, but the video data collected on the vast majority of crime victims and citizens would be public data and available to anyone who requested it. All individuals who ask peace officers for help should be protected by the MGDPA—making public a video of an officer giving advice to parents of a child experiencing emotional turmoil or trouble at school should not be a trade-off for the increased transparency that body cameras bring.

Similarly, an arrest report that is currently public data does not contain images of a person's home or family members that may appear in the background of a video taken by a body camera during an investigation or interview. There is no public policy reason to make this additional type of content public. Conversations between citizens and officers are the bedrock of community policing, and these routine interactions, even if held in public places, should not be classified as public data. If the privacy rights of citizens are not well-protected by the state citizens may be hesitant to call for help, allow peace officers to enter their homes, or even to engage in a conversation with an officer on the street. This threatens to erode the trust, and resulting cooperation, that body cameras are intended to strengthen.

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While privacy is important, the public should have access to certain types of police encounters, such as those involving the use of force by peace officers that results in at least demonstrable bodily harm, regardless of whether the subject of the data chooses to make the video public. Law enforcement agencies should have discretion to make public videos in order to dispel suspicion or unrest.

Finally, the massive amount of data that will be collected by police-worn body cameras make it extraordinarily difficult and prohibitively expensive to comply with all of the requirements to categorize, protect, and provide data, or respond to broad or standing requests for data. Law enforcement agencies cannot identify every individual who is a subject of video data, especially if the video is of a large crowd. Similarly, it is impossible for officers to know all of the information that impacts the classification of data. For example, it is certain that mandated reporters will be captured on video discussing a concern but not be identified by their protected classification. The fact that the individual is a mandated reporter who should receive privacy protection under the law may not become known until after the data is released. The cost and administrative burden of complying with the MGDPA will preclude some communities from outfitting their departments with body cameras, regardless of whether the community wants them.

The MGDPA classifies most government data as public unless otherwise classified by statute. This system does not work for body camera data, both because of the sensitive nature of much of the video and the sheer volume of inherently mixed data that will be collected. The default classification of body camera video data should be not public data. This will better protect the privacy of citizens and ensure the right of data subjects to access body camera video that is not part of an active criminal investigation or otherwise classified as confidential. Data subjects will still have the right to obtain and share videos with the public, while treating all victims the same, regardless of whether they are the victim of a sexual assault, a mugging, home invasion, or any other crime. It will also keep peace officer conduct subject to public review.

***Response:* Local law enforcement agencies should be allowed to decide whether to equip law enforcement officers with body cameras and be given the flexibility to decide how they are used in the field. In order to protect the privacy rights of citizens, to maintain trust between law enforcement and the public, and to protect all crime victims, the MGDPA should be amended to classify video data as private data on individuals or nonpublic data unless it is part of an active criminal investigation, in which case it should be classified as active criminal data. This classification balances the interests of transparency and privacy by allowing the subjects of data to access video and share it with the public if they desire.**

Video data involving the use of force by a peace officer that causes at least demonstrable bodily harm should be classified as public data to ensure public accountability by law enforcement. Law enforcement agencies should also have the discretion to make public data that would otherwise be classified as private data on individuals or nonpublic data when necessary to dispel suspicion or unrest.