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Comment to the Legislative Commission on Data Practices on body cameras

[The promise of body cameras?](#)

There is a history of a dual standard of law enforcement using abrasive/abusive police practices in our country and communities. There has been report after report detailing the long history of police prejudice and bad behavior. Social research in the field has substantiated this behavior for decades. So what are law makers doing about it?

Out of the blue has come an idea which is advancing across the country: body cameras.

The idea is being pushed by law enforcement as a concept to bring accountability. But they also want to use it primarily as an investigative tool.

Many of the proponents echo what Mayor Hodges has stated in her public comments. Hodges has said: "I am proud to support body cameras for all officers: they are an essential tool for holding officers accountable for their behavior, making corrections when necessary, and building community trust, for police officers have the potential to increase public trust in law enforcement, reduce the risk that citizens will not be victims of excessive force and protect officers from unfounded accusations of abuse."

The mayor also stated that body cameras: "bring increased accountability and transparency for both the police officers and for the public."

But these goals - which the Mayor has announced and which many in law enforcement and in the political arena support - are being squelched by special interests or even by the same parties who say they support "transparency and accountability" at the Minnesota Legislature. The Senate proposal - which made its way to the floor as an amendment to the license plate reader bill and passed the Senate - is one which in broad terms does not allow public access to body camera videos. The legislation takes the current presumption of public access to police body camera video and turns it upside down. One criticism of the approach that the Minnesota Senate took is that there was not a collegial group discussion in the committee process about what privacy protections are already in current law.

[Senate File 498 \(the Senate body cam bill\)](#), says that data are not available to the public except in very limited situations. I take the position that in some cases the data will be secret. Privacy in some scenarios is another word for secrecy. Videos collected by police would not be available to the public except in very limited situations. For example, [take the recent incident of Jamar Clark's shooting](#). The standard in the current bill is if the incident involved a dangerous weapon, which was the case, and took place in a public place, which it did, the data would be public.....but if the incident happened in a house, it would not be available to the public.

If body cameras are to be a tool to persuade the public that law enforcement can be trusted, accountable, and transparent, the Senate approach is the inappropriate way. To make sure that law enforcement officers and police administrators are doing their job appropriately, public data

is needed. Proponents of the Senate bill say one just has to get consent of the individual to get access to the video. Many people are not going to give consent for a number of reasons. The court process laid out to gain access in the bill is just as high as the "blue wall" which many in the public perceive and believe there is.

There is power with the use of the body camera,. Who has that power - the guidelines and rules - is what the legislation is all about.

Many actions of law enforcement would be secret under the Senate proposal. For example, arrests, use of force, detainment, stop and frisk, and testimony. In those cases, body cameras would become worthless tools for public accountability.

When the [Duluth Police Department released body camera video of how a law enforcement officer saved an individual from suicide](#), I had this thought :if the Senate bill was law, there would be many videos released showing officers doing their duties well, but many others would be kept in the dark, when an officer's duties fall short.

There are issues to consider about public disclosure of body camera videos, but it is important to take the current law in consideration. Many private situations are already addressed. Specific concerns can be addressed, but the Senate bill did not take the made-to-measure approach. This is one significant reason among several why it is opposed by several organizations and advocates for transparency/accountability such as the The American Civil Liberties Union of Minnesota, the Minnesota Coalition on Government Information, and the Minnesota Newspaper Association.

[The Minnesota House did not move on a bill this past session.](#)

Significant large issues need legislative addressing and discussion:

- Fourth Amendment/First Amendment issues. (consent in home/surveillance)
- Role of contractors and vendors.
- Advancement and changing of technology with body cameras. (such as live stream, facial recognition, miniaturization)
- Use of body camera video for secondary purposes by law enforcement.
- Enforcement and compliance of policies. (such as same standards across he state or different for each agency)
- Retention. (how long should video be kept, ie)
- When body cameras are on and off.

The list is not final, and issues will arise as discussion, information, and knowledge is gained by

the public and policymakers.

It is my intent to make sure that if body cameras are to be used by Minnesota law enforcement, they are not a front for accountability which would create more distrust, and continue the legacy of decades of "tension and hostility" in the communities where law enforcement officers serve. There are grievances because of abrasive/abusive practices and behavior, "further aggravated by the lack of effective mechanism" to deal with complaints against law enforcement. Body cameras are being proposed to be an effective mechanism for oversight.

But oversight will be hollow and vacant if the laws that regulate the power of this law enforcement tool do not provide real transparency.