

Federal Legislative Overview on Police Body-Worn Cameras

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The Police Creating Accountability
by Making Effective Recording
Available (“CAMERA”) Act

S.877 and H.R.1680

Police CAMERA Act of 2015

S.877

- Introduced March 26, 2015
- Brian Schatz, D-HI, Sponsor
- 5 cosponsors
- Total of 5 Democrats
- 1 Republican (Rand Paul)
- Referred to Senate Judiciary Committee on same day
- No other movement

H.R.1680

- Introduced March 16, 2015
- Corrine Brown, D-FL, Sponsor
- 28 cosponsors
- Total of 27 Democrats
- 2 Republicans (Mark Walker, NC; Robert Dold, IL)
- Referred to Subcommittee on Crime April 29, 2015

Police CAMERA Act of 2015

- Text of S.877 and H.R.1680 is identical
- Creates a matching grant program within DOJ/OJP
- State, local governments, and Indian tribes may apply
- Federal share generally may not exceed 75%
- Two year duration
- Total of \$10M allocated from OJP funding

Police CAMERA Act of 2015

- Funds to be used for purchase or lease of body-worn cameras for patrol officers
- Implementation, policy development, and data storage costs eligible for funding
- 50% of grant amount to be disbursed upon approval of application
- Remaining 50% to be disbursed upon completion of certain requirements

CAMERA Act of 2015 Policy Requirements for Recipients

- “Community Input” in policy development
- “Safe and effective use”
- Protection of privacy rights of individuals recorded
- Compliance with state open records laws
- Secure storage, handling and destruction of data

CAMERA Act of 2015 Data Collection and Retention Requirements

- Individual LEOs must “provide explanation” if an activity required to be recorded is not recorded (This implicates *Garrity* concerns)
- LEOs must obtain consent from victim or witness prior to being recorded (What about minors? Situations where it is unclear a crime has occurred? Unconscious or incompetent person?)

CAMERA Act of 2015 Data Collection and Retention Requirements, Cont'd

- The agency must “collect and report” (to whom?) “incidences of use of force, disaggregated by race, ethnicity, gender, and age of the victim”
- Number and disposition of complaints filed against LEOs
- Agency must allow individuals to file complaints relating to “improper use” of BWCs (not defined)

CAMERA Act of 2015 Data Use and Transfer Requirements

- Language of bills would apply to any BWC camera used by agency, not just those funded by the federal program
- Data may only be used by primary agency for investigations of LEOs, training, or if recording contains “evidence of a crime” (Could not be used to preserve description of lost child? Silver Alert victim?)

CAMERA Act of 2015 Data Use and Transfer Requirements, Cont'd

- Secondary agency may only receive data if it has “reasonable suspicion” the requested data contains evidence related to a crime being investigated
- Exception: Data may be transferred without “reasonable suspicion” requirement if it relates to “claims” of civil rights issues

CAMERA Act of 2015:

Goals of the Legislation

- “To deter excessive force”
- “To improve accountability and transparency of use of force by law enforcement officers”
- “To assist in responding to complaints against law enforcement officers”
- “To improve evidence collection”

CAMERA Act of 2015

Likelihood of Passage

- Passage not likely unless country experiences another controversial use of force event on the order of the Michael Brown shooting in Ferguson
- Pending legislation already being left behind by implementation of funding stream by U.S. DOJ, and at a higher dollar level

The Camera Accountability Maintenance and Transparency in Policing Act of 2015

H.R.1124

The “CAM TIP” Act

The CAM TIP Act of 2015

- Introduced February 26, 2015
- Al Green, D-TX, Sponsor
- 3 cosponsors, all Democrats
- Referred to Subcommittee on Crime on March 31, 2015
- No other action pending at this time

The CAM TIP Act of 2015

- Federal matching grant program administered through the DOJ/BJA
- In general, federal share cannot exceed 50%
- Grants to be distributed directly to States, local governments, and Indian tribes
- Preference for jurisdictions with fewer than 100,000 residents
- No specific funding amounts provided for program

The CAM TIP Act of 2015

- BWCs not necessarily restricted to patrol officers
- Discretion left to receiving agencies in developing policies and procedures regarding when LEOs should wear, activate and deactivate BWCs
- Calls for development of policies on storage and disclosure of data, as well as “protection of civil liberties” of “general public”

The CAM TIP Act of 2015, Cont'd

- Significant workplace considerations:
 - Calls for limiting the use of BWCs to monitor LEOs “outside of their interactions, in an official capacity, with members of the general public”
 - Calls for standards regarding effective placement on the body for BWCs
 - Calls for best practices for “receiving an accurate narrative from the recordings of body-worn cameras” (*Garrity* issue?)

The CAM TIP Act of 2015, Cont'd

Additional Provisions

- Would establish a federal task force within the DOJ to provide recommendations on community policing and accountability and transparency
- Members would include civil rights advocates as well as law enforcement personnel
- Bill also calls for GAO report on US DoD 1033 program

The CAM TIP Act of 2015

Likelihood of Passage

- Bill in current form unlikely to pass Congress
- CAMERA Act considered more comprehensive, has more cosponsors
- Proposed Task Force on Community Policing already supplanted by President's Task Force on 21st Century Policing
- DoD 1033 Program provision also already addressed by Executive Order

United States Department of Justice

BWC Funding

- US DOJ's Bureau of Justice Assistance has already announced first round of awards for its "Body-Worn Camera Pilot Implementation Program"
- Total of \$19.3M awarded to 73 agencies in 32 states plus the District of Columbia
- Highest amount was \$1M, awarded to 6 large agencies
- Lowest amount was \$9,523 to Wilkinson County, Georgia

United States Department of Justice BWC Funding, Cont'd

- Funding for 55,000 cameras was requested
- Awards for 21,000 cameras announced
- DOJ in a related study promulgated additional “lessons learned” regarding engaging both the community and LEOs on BWC issues
- DOJ also issued a lengthy list of policy, procedural, training and evaluation recommendations; of note, a significant degree of LEO discretion is called for

Takeaways

- Current pending federal legislation is unlikely to have a significant impact on state and local operations. Issue is too rapidly evolving to be addressed effectively by this Congress
- Federal administrative funding programs will have a greater impact
- Greatest influence will be political and operational direction/decisions and funding commitments at the state and local level

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