

## **Testimony in Support of Senate Bill No. 770, An Act Creating a Pilot Program For Police Body Cameras**

Good afternoon Senator Larson, Representative Dargan and distinguished members of the Public Safety and Security Committee. My name is David McGuire. I am the Staff Attorney of the American Civil Liberties Union of Connecticut (ACLU-CT) and I'm here to testify in support of Senate Bill 770, An Act Creating a Pilot Program for Police Body Cameras. In Connecticut, we have enough experience with this technology to know that with appropriate standards and safeguards in place, body cameras serve as a powerful oversight mechanism for police. The ACLU-CT appreciates the caution and concern for privacy and safety that likely motivated this bill's one year pilot period. However, there is enough evidence confirming the effectiveness of body cameras and enough information about how to protect privacy and safety in their deployment. Therefore, we urge this committee to use what is already well-understood about body cameras now to develop state-wide standards that would govern when these cameras must be turned on and off, how long to keep the video footage and how to deal with the release of such footage under FOI laws.

With necessary and uniform standards in place state-wide, recording of police-civilian encounters will promote police accountability, deter officer and civilian misconduct, and provide objective evidence to help resolve civilian complaints against police without significantly infringing on officer and resident privacy. The following are critical standards that must be mandatory:

- All police officers must be required to activate their body cameras at the inception of every law enforcement encounter with a member of the public, and turn them off only at the conclusion of the entire encounter.
- All police officers who are wearing a body camera must notify video subjects that they are being recorded as close to the inception of the encounter as reasonably possible.
- Body cameras may only be used to capture specific police-citizen encounters and not generalized activity protected by the First Amendment (e.g., participation in protests, attending a specific religious institution).
- Reasonable video retention limits based on a well-defined system for "flagging" videos of value, both through an automatic process and in response to specific requests by police and video subjects.

Body camera policies should afford police officers no discretion over when a body camera is used, with a narrow exception for when the officer does not have time to activate the camera in situation where serious bodily harm is imminent. “No discretion” policies, those that do not allow an officer to turn the cameras off or on based on whim, protect the public from police abuse of authority, and protect police officers from false allegations of abuse.

Additionally, police should be required to provide notice of the use of the camera at the first reasonable opportunity to do so, except in special situations when immediate notice is required (non-emergency filming in private residences, when a person is seeking to anonymously report a crime or provide a crime tip, and when a person is claiming to be victim of a crime). Under these circumstances, the legislation must require officers to give immediate notice that a body camera is being used, offer the appropriate person the opportunity to request that the camera shut off.

In addition to protecting both the public and the police officers from misrepresentations about police encounters, mandatory guidelines must also protect the privacy of all those whose images are captured by the cameras. The best way for the legislature to minimize privacy invasions and maximize the benefits of body cameras is to develop a policy that police can use to identify and “flag” videos that have value and quickly delete those that do not. “Flagging” videos of value should be done through both through an automatic process and in response to specific requests by police and video subjects. Video should be automatically flagged and preserved where force was used, an arrest was made or when a person files a formal or informal complaint after an encounter with police. Longer data retention requirements should be applied to videos that have evidentiary value. Most police body camera recordings of routine encounters with the public will be of no public value and must be deleted within a month or two of the recording.

Body camera regulations should also address public disclosure of body camera footage in a manner that respects both the privacy of video subjects and the public interest in having access to government-created information with public value. Unflagged videos have little to no societal and news value and should not be released. On the other hand, flagged videos, with societal or news value, should be subject to disclosure under our state's FOI Act. Ideally video of subjects whose identity has no bearing on the societal or newsworthiness and video that shows a victim of a possible crime or violence should be obscured or blurred. The purpose of recording police body camera videos is to allow the public to better monitor police behavior, not to re-victimize those who have been subjected to violence or crime. The personal privacy of the public should be protected unless there is a compelling, publicly beneficial justification for lifting that protection.

We urge the committee to develop meaningful state-wide body camera guidelines, as outlined above. These rules will provide much needed guidance to police departments currently using body cameras, ensure police accountability and protect officer and civilian privacy.

