

DATE: March 1, 2021

TO: Chief Don Coryell

FROM: SLO Dikran Melkonian

SUBJECT: Use of Super Body Worn Cameras

The use of the Super Body Worn Camera's (SBWC) ability to extract DNA through both voice and breath, as well as Facial Recognition, and to store these material in the Department's database appears extremely superior and an overall benefit for public safety. However, the implementation of the SBWC's will threaten the privacy rights of our community, including the 4th amendment protections.

Privacy Rights Intrusion

“Governmental purpose to control or prevent activities constitutionally subject to state regulation may not be achieved by means which sweep unnecessarily broadly and thereby invade the area of protected freedoms” (Griswold v. Conn). In *Carpenter vs United States*, Chief Justice Roberts explained, “A person does not surrender all Fourth Amendment protection by venturing into the public sphere. To the contrary, what one seeks to preserve as private, even in an area accessible to the public, may be constitutionally protected. Individuals have a reasonable expectation of privacy in the whole of their physical movements” (Carpenter v US).

Therefore, random use of SBWC's violate the persons' 4th amendment protection of privacy by unreasonably capturing DNA. In *Coffey v Superior Court*, one of the conditions for expunging a DNA sample is due to the subjects' criminal “charges were either not filed or dismissed” (In re C.B). With SBWC's, the mere detention or consensual contact yields DNA samples. It's unreasonable to obtain this type of sensitive material from an individual and allow it to be analyzed and stored.

In California, under Assembly Bill 1215, “Police departments and law enforcement agencies have (seized) any existing use of face recognition on body-worn

cameras” (Guariglia). “This bill (prohibits) a law enforcement agency or law enforcement officer from installing, activating, or using any biometric surveillance system in connection with...or data collected by an officer camera” (A.B 1215).

Obtaining Consent

The utilization of the SBWC’s can only be allowed with the consent of the subject that officers are in direct contact with. “ACLU qualifies its endorsement with a caution that body camera implementation must be accompanied by the right policies, recognizing that, ‘body cameras have more of a potential to invade privacy than’ other camera systems used to ensure official accountability” (Thomas, P. 193).

“The Fourth and Fifth Amendments were described in *Boyd v. United States*... as protection against all governmental invasions ‘of the sanctity of a man's home and the privacies of life’” (Griswold v. Conn). We must respect our neighbors and their privacy in our communities from the intrusion of this highly sensitive data-capturing technology, without their verbal consent and a clear explanation of the items it is able to capture.

Constitutionally protected privacy rights of the members of our community shouldn’t be jeopardized by advancement of Biometric technology in public safety. Captain Jordan explains that leadership in law enforcement, “...Need to have the foresight... that's what we do really well in law enforcement. I think it's also what we do... to know where the challenges are coming and how to prepare for them” (Jordan).

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