

## **BJA Body Worn Camera Training & Technical Assistance Mr. Nicholas Mitchell, Denver Independent Monitor BWC Study Podcast**

(Lauren Gonzalez): Hello, I'm (Lauren Gonzalez) from the Bureau of Justice Assistance Body Worn Camera Team. Today I'm speaking with Nicholas Mitchell as part our podcast series. Mr. Mitchell is the Independent Monitor of the Denver Police and Sheriff Departments, providing independent civilian oversight of all investigations into the approximately 2,300 sworn police officers and sheriff deputies in the city and county of Denver. He is also on the Board of Director of the National Association for Civilian Oversight of Law Enforcement.

In 2015 the Denver Police Department conducted a six month body worn camera pilot project and in March of that year Mr. Mitchell released a data driven report analyzing the policy trends and outcomes of this program. He developed nine recommendations for changes for the Denver Police Department's policies and practices related to their body worn cameras, a number of which have been incorporated in their final policy.

Mr. Mitchell, thank you for speaking with me today.

To begin with, can you explain the Independent Monitor's role in the body worn camera implementation program?

Nicholas Mitchell: Yes, sure, and thank you for having me with you today. So, if I can step back for a minute, and talk just a little bit about civilian oversight and why we got involved in looking at the body camera program, I'm sure many of your listeners know what civilian oversight is.

In Denver, you know, I'm the Independent Monitor appointed by the mayor. And my role is to work with the Police Department and the sheriff department on all complaints and investigations that are being conducted by internal affairs. And to be an extra pair of eyes in the investigative and disciplinary process to really help the departments to, you know, police themselves effectively, and make sure that investigations are fair, and thorough, and unbiased.

One of – another very important component in my role is to assess Police Department policy and training and Police Department practices. And so the Denver Police Department as you mentioned in your introduction, have began to look into acquiring body cameras and deploying them. And last year initiated a pilot project in one of our police districts, district six, which covers downtown Denver.

And it was really frankly it was a great pilot program, I think body cameras are, you know, a promising new technology and I was very excited by the, you know, the possibilities of how they could help to, you know, perhaps

improve relationships between police and community in Denver. And certainly help to make investigations into complaints more efficient and hopefully more authoritative if you will when we arrive at an outcome in any investigation.

But I also wanted to look at sort of there are lots of promises made about how body cameras would change policing. And I wanted to actually look at the data, sort of to go beyond some of the those promises that, you know, we heard about how body cameras are going to do all these great stuff. And actually asses how they worked when they were in the field in one police district in Denver for a six-month period. And so one of the principal issues that I wanted to focus on was assessing whether or not they were being turned on for, you know, controversial incidents and in particular uses of force between police officers or by police officers, you know, with the public.

And so we launched an evaluation of the pilot program, we talked to officers, we talked to citizens, we looked at every use of force that occurred within this particular police district or involved officers working in the police district during the pilot project. And sort of assess how often the cameras were being turned on for those incidents, you know, whether the cameras had any impact on complaints, and complaint reporting, or on uses of force. And at the end of our evaluation, you know, we talked a lot with the chief of police and other officials, and ultimately release the report as you indicated in your introduction where we shared our findings with the Police Department and with public officials in Denver and with the public.

And we made a series of policy recommendation, I think nine in total. Again it was a great project and the Denver Police Department had a very strong policy in place but we saw some areas where we saw the policy could improve for, you know, whatever the cameras were deployed department wide. And so we made those recommendations to the department. Many of which have been implemented, not all, but many of them have been implemented. And so, you know, we're very pleased with some of the changes that we've seen as the cameras are now actually being deployed to the entire Police Department in Denver.

(Lauren Gonzalez): Absolutely. So, what were some of those recommendations or suggestions that you made for the pilot project?

Nicholas Mitchell: Yes. So, one of the things that we saw as we look at the uses of force that occurred during the pilot, was that a majority of the uses of force within this police district or, you know, involving officers working in the district weren't recorded by a body cameras during a pilot. And of course, you know, one of the principal reasons why we're all sort of excited about body cameras is to record uses of force, right, to help to clear up some of the ambiguity that sometime exist in use of force incidents.

And body cameras of course aren't – they're not a perfect record, you know, they are just one perspective on an incident than, you know, they often miss quite a bit in an incident that doesn't get captured. But they are one very, very important somewhat authoritative account of what transpires in the use of force incident, so it was troubling as we discovered that, you know, the majority of the use of force weren't recorded.

There were some reasons for that in our estimation, some things that can be – that could be corrected and some of the recommendations that we made to the department focused on how to address that problem and how to correct that problem. First, cameras weren't deployed to all of the officers who ended up actually in use of force incidents during the pilot project. So, the Denver police department has a very robust off duty employment program or secondary employment program for police officers. And so there are a lot of police officers in Denver who work, you know, off duty for private employers, bars, restaurants, sports stadiums, and other large events that are happening in public.

And when they're working in those positions, they are generally speaking in uniform more often than not, they're in uniform, sometimes they're not. But they, you know, have badges, they have guns, they have the power to make arrest, they have the power to use force. And actually we see quite a few use of force incidents involving officers in those secondary employment jobs, because they often as they mentioned, you know, bars and nightclubs places where alcohol maybe, you know, people are consuming alcohol and there's a certainly amount of volatility associated with that kind of work.

And so one of the first things that we observed and that we recommended to the department was that officers in those secondary employment roles should be wearing body cameras, they weren't during the pilot project, and there were quite a few uses of force that arose involving those officers. And so we were suggested that the department, you know, kind of close that gap when the cameras are deployed department wide.

Another issue that we saw was that sergeants also didn't have cameras on. And sergeants also were involved in a number of use of force incidents during the pilot. You know, sergeants, of course, are the first level field supervisors, they're directly involved in patrol operations, you know, they're out in the field. And so from our perspective it was very important that sergeants have cameras on and so we made that recommendation in the report to try and close that gap as I mentioned.

Another sort of key issue that we saw was that quite often officers would – actually let me step back for a second. Under the policy that existed during the pilot project, officers were required to activate the cameras pretty much for any kind of law enforcement contact that they were going to have with a

citizen. So, you know, traffic stops, other kinds of contacts on the street, the policy requires them to turn the cameras on.

And I think what we saw in a number of incidents was that officers would sometimes forget to activate the cameras before going up and approaching a citizen to have a law enforcement contact. And then of course law enforcement can be somewhat unpredictable, you know, one never knows what may be, you know, what may be coming, or how a contact can change from, you know, one that seems somewhat non-confrontational it can become confrontational.

And so what we saw in a number of the incidents that officers would forget to activate the cameras probably because they just weren't used the technology yet, and they may have assumed that the, you know, relatively low level contact that they were about to have would go down just fine. And then what would actually happen that the contact would quickly become confrontational and while the officer was in the middle of dealing with that confrontation, here she didn't have the time and the ability to activate the cameras, his or her hands, you know, were actually dealing with the situation.

And so what we saw and quite a number of incidents was that officers in their use of force reporting would say, you know, I got involved in a situation and it turned into a use of force too quickly to allow me to activate the cameras. And so one of the things that we recommended that the Police Department do was really emphasize in the training how important it is for those cameras to be turned on before an officer ever initiates the contact. So, we don't, you know, we don't even create that opportunity for a situation to go south so quickly that an officer wouldn't be able to turn on the camera. Turn it on before you approach the citizen and really stress that in the training to try and deal with that issue.

Another thing that we saw where we thought the policy really needed to be clarified was on some of the privacy issues that exist around this technology. You know, cameras, body worn cameras as I mentioned an exciting technology, they show a lot of promise. But they also will record lots and lots of behaviors that citizens may feel as private that, you know, police officers may feel as private. They're going to be entering a hospital, you know, patient care areas, and houses of worship, and we thought it was very important for the Police Department to provide some clear guidance in policy and training to officers about when, you know, when they're dealing with those kind of sticky situations where there are real privacy concerns.

When should they turn on the cameras, are there times when they should leave the cameras off to avoid, you know, taping for an example in a patient care area of a hospital where patients who aren't involved in a particular, you know, law enforcement matter or investigation maybe receiving treatment. And so we recommended that the department really clarify that policy to give

officers the information they need. And so that they're not out in the field frankly having to figure that stuff out on their own but they should have some real guidance on that – on that issue. So, those are some of the most important concerns and issues that we look at during the pilot.

(Lauren Gonzalez): Absolutely. You mentioned privacy as an important policy consideration, from your perspective what are some other topics that need to be covered in a policy that features body worn cameras?

Nicholas Mitchell: You know, so, you know, I think one of the most important things that really needs to be covered in a body cam policy is that when should a camera be activated and, you know, this gets back to some of the things we've been talking about already. But the policy needs to be very clear on that subject and I would argue that the activation requirement should be pretty broad, you know, again because of the somewhat unpredictable nature of policing.

You know, I think it's important that any kind of law enforcement contact be recorded, and that the policy is very clear on the department's expectations. I think one of the things that, you know, we're starting to see is that the public has an expectation now, you know, because of how much body cameras have been talked about nationwide including by the President and others. The public is developing an expectation rightly or wrongly that law enforcement contacts are going to be video recorded. And in some ways it remind me a little bit of when, you know, CSI, that television program became, you know, popular and people really started to focus on forensic evidence.

And, you know, any time you would take a case to a jury there would be this expectation that there would be, you know, crime scene evidence. You know, even for crimes where, you know, no Police Department in America would send crime scene investigators to the scene of. But the public developed this expectation that that evidence was going to be there. And I think we're sort of seeing the same thing or I expect that we're starting to see the same thing with body camera footage.

And so when incidents do go south if you will or become confrontational, or turn into uses of force, I think in many places the public will have an expectation that those things are recorded. And they may, you know, fairly or not draw a sort negative inference if they're not recorded. You know they may think, you know, again that there's some, you know, inappropriate reason why those kind of incidents or a particular incident wasn't recorded, and I'm not saying that's fair or that's accurate but I think it may begin to happen. So, I really encourage departments to have great clear policy that has a pretty broad activation requirement for any kind of law enforcement contact between an officer and a citizen.

I also think it's important that some of the discipline and accountability issues be addressed in the body cam policy. And I say that with full recognition of

the fact that officers really need to get comfortable with this, you know, we're sort of asking them to develop a whole new set of muscle memories if you will, around hitting a button and turning on a camera. And it takes a really I think a good while to get accustomed to that new pattern of behavior that we're asking officers to get into.

But I think once people are in that pattern, you know, everyone may inadvertently fail to report something occasionally, it happens, we're all human, and we all make mistakes. But if the department has an expectation that certain kinds of incidents will be recorded, and they come across someone who's simply isn't doing that, who isn't living up to that expectation and develop a pattern of failing to report important incidents like uses of force. I think it's very important that Police Department say in their policy what the consequences can be.

One of the recommendations that I made in that report that we've been talking about to the Denver Police Department was that they say very clearly in policy, you know, what kinds of consequences could potentially befall an officer if he or she develops a pattern of failing to record when they should record. And the Police Department current policy has some pretty clear guidance that, you know, notes for a certain number of unrecorded incidents, you know, there's a sort of an escalating series of possible penalties that could be imposed on an officer.

Again, you know, with all recognition that lots of people makes mistakes and the intent isn't to catch people who make good faith mistakes. But I think it could be a model that other departments could take a look at in terms of some clarity, and really providing fair notice to officers. Because officers, you know, deserve to know if there is the possibility of discipline or punishment, they really should know, you know, what that might look like. And so I encourage departments to include some language on that within their policy.

(Lauren Gonzalez): Absolutely.

Nicholas Mitchell: Again, the privacy issues I think are very important and it's often a subject that's mentioned in a somewhat vague manner in body cam policy that I've seen. And I think that, you know, the community and policing if you will needs to work hard on that issue and on doing a better job of articulating in those policies exactly what the expectations are on when they should be turned on in those private areas.

And then of course the question of deployment and who is going to get a body camera. I encourage the Denver Police Department to deploy them to sergeants and officers working in an off duty capacity. There was a little bit of hesitation on those issues but ultimately the Police Department agreed to do that, I think it was great, I think it was necessary.

And I think other departments need to consider, you know, probably even by taking a look at some of their own data, some of their use of force data in assessing, you know, what ranks in our agency are involved in uses of force. What kind of special, you know, officers, and what kind of specialized assignments are involved in uses of force and figure out really where, you know, the action is if you will in order to determine who needs to get body cameras. I think they should be deployed as broadly as possible and I encourage departments to think about some of those issues when making those deployment decisions.

(Lauren Gonzalez): Absolutely. What else outcome would you like to see as a result from a body worn camera program?

Nicholas Mitchell: So, you know, I sort of briefly alluded to the fact that we heard lots of promises about what body cameras will do in American policing and whether those will be born out or not I think, you know, isn't yet clear. Some of the preliminary research on body cams, you know, suggest that we may see decreases in complaints, decreases in uses of force. And that's certainly would be, you know, very – both of those would be a very possible outcome.

Again, I think that research is pretty preliminary, and we haven't necessarily seen it, we've seen it in a few relatively small jurisdictions, we haven't really seen it reproduced on a large scale. And so I'm waiting to see as more of the studies begin to come out whether, you know, whether those trends in decreases and complaints and use of force are reproduced in other places. But certainly I'm hopeful that we will see that.

I think that there's a lot of – there's a lot of mystery about police work and law enforcement that lots of people in the public sort of live with. They see police officers on the street, you know, they're aware in a very general way of what police officers do. But I think as the public comes to see more of the day to day work of policing through these body cameras, I think we'll see some increase trust in law enforcing and increase understanding of the challenges of law enforcement by citizens who really don't get the opportunity to have that much contact with police officers, so I'm really hopeful that we'll see some increasing trust in law enforcement in the U.S..

And of course from my, you know, particular spot here I as I mentioned I review every internal affairs investigation that's conducted by these two agencies in Denver, the Denver Police Department and the Denver Sheriff Department. And I think that we'll see some greater efficiency in those investigations and in the process of resolving complaints of officer misconduct. So, you know, I think what I saw overall in the pilot was that video was often very helpful for officers who's been accused of misconduct. And certainly decreased the amount of times those investigations took to conduct.

And I think more efficient investigation really works to the benefit of citizen complainants, they get, you know, some resolution when they make a complaint they hear an outcome more quickly. And of course the officers who learned that a complaint has been filed against them. And that can often be a somewhat nerve racking experience, and if we can close these things down more quickly we can kind of get – we can give a little bit of relief to everyone who's involved. And I'm hopeful that we'll see – we'll see some efficiency gains in that process going forward.

(Lauren Gonzalez): Great, I hope so too. Well, thank you Mr. Mitchell, we are so grateful that you can speak with us today to share your knowledge on this important topic, I really appreciate it.

Nicholas Mitchell: Well, my pleasure, thanks for having me.

(Lauren Gonzalez): Absolutely.

Well, we encourage law enforcement justice and public safety leaders interested in learning more to visit the body worn camera toolkit at [www.bja.gov/bwc](http://www.bja.gov/bwc). This toolkit offers a variety of resources that agencies can use to help with adoption and use for community engagement, policy development, data collection, officer training and educational purposes. We also encourage our listeners to share and promote these resources with your colleagues and staff.

Lastly all of these resources and especially the body worn camera toolkit have been deigned as a national resource, your resource. Please submit your ideas for new content through the BWC support link at the button of the home page.

Once again this is (Lauren Gonzalez) of the Bureau of Justice Assistance body worn camera team signing off.

Thank you to our listeners for joining us today.

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