Introduction

Body-worn videos are the new cat videos.
—Jerome, police department IT director

The camera is not mine. It is not my choice to record, it is a choice the city—society—has made. I am not the one recording, the government is.
—Justin, patrol officer, SPD, 2018

The mass adoption by police of body-worn cameras is a specific manifestation of a larger phenomenon in which police departments are driving and shaping local criminal justice, surveillance, and information policies in the absence of much directly applicable legal regulation of police surveillance in the United States. However, unlike their response to many police surveillance technologies, national civil liberties organizations have also sometimes supported body-worn camera adoption as a means to protect communities from police misconduct—or at least to document aberrant police behavior. Thus, the media, the police, and civil society have helped construct an image of body cameras as something different than typical police surveillance technology—as something more desirable and empowering of democratic civilian oversight of the police.

This is a dangerous assumption. And in many cases it is wrong.

There are some similarities between police body-camera and bystander—or “citizen”—video practices, but there are also some major differences. The damning video recorded by seventeen-year-old Darnella Frazier depicting Minneapolis police officer Derek Chauvin kneeling on George Floyd’s neck, suffocating and ultimately killing Mr. Floyd, sparked international outrage and a series of anti-police, police-reform, and Black Lives Matter protests in 2020. Police body-camera video has
also sparked outrage and has led to some police accountability. However, who controls the camera makes a difference. Police have significant power in society. Body-worn cameras often increase that power, even when pitched to the public as serving community aims of transparency and police accountability. The introduction of body-worn cameras within the two police organizations studied here also highlights internal power struggles—power struggles that are largely due to concerns about who controls information. Analyzing police officers’ subjective concerns about these cameras reveals a sense of fragility or vulnerability that works to solidify destructive us/them mentalities and magnify the warrior mentality that has become infused in American policing. The introduction of body-worn cameras reveals and exacerbates underlying fissures in police-community relations and in the relationships between frontline patrol officers and their superiors, leading to further police-citizen divisions in society.

Many proponents of police adoption of body cameras have argued that the cameras will “oversee” the police, keeping them in line and civilizing their behavior, much like bystander recordings captured by smartphones. These pro-camera narratives surrounding body-worn camera adoption are often based on the assumption that body-worn camera footage can provide more objective evidence of police-civilian interactions (like that captured by bystander video, but with more consistent and pervasive coverage of police-citizen contacts). However, in practice, rather than simply serving as accountability and transparency tools to the benefit of the public, these cameras serve the coercive aims of the state. Indeed, “because police are administrative agents, civilians will never have direct control over the regulations, application, and enforcement of police body cameras.” Body-worn cameras are a state-supported, administrative response to bystander video and other forms of increasing police visibilities; as such, they support the police and legitimize official state narratives and the use of state police power. In so doing, they represent a form of power that the state can use to dominate its citizens.

In combination with footage of police activity filmed by bystanders, online social media platforms are becoming flooded with videos of police conduct, which the mass media also present to their audiences. Within law enforcement, these developments raise concerns about objectivity, documentation, behavior modification, and transparency—all of which manifest as elements of a broader, and transforming, politics of information within the police and across broader society. Indeed,
police practices related to using video as evidence can be seen as a form of “media labor” in which they employ “repurposing techniques and technologies borrowed from the domain of creative media production in order to invest recorded video with indexicality, or a direct, empirical connection to material reality.” These evidentiary media practices are embedded within a system that also prioritizes constructing narratives about police work, crime and social disorder, and symbolic police authority. Against this backdrop, and with the advent of the body-worn camera, we can see that modern police labor has become imbued with media work, and that “both police work and police authority” have become “embodied, technical, data-intensive, performative, interpretive, and mediated.”

Any value for the police in increased visibility is contingent “upon maintaining ‘normal appearances’ and delivering ‘proper performances.’” The possibility that misconduct might become more visible because of increased recording poses a serious problem for law enforcement image management. The recording of nonarrest, peacekeeping activities may also subject officers to oversight from a variety of sources that may diminish their ability to exercise discretion or “act alternatively” in situations where they might otherwise have chosen not to make an arrest—for example, to merely give a warning in a situation where an offense was not patently illegal. In the case of officer-mounted cameras, however, the police fulfill a gatekeeper role that is not available when they are confronted with the lenses of bystander video. This gatekeeping potentially threatens the public’s ability to conduct effective citizen oversight, especially when combined with certain efforts and laws that would restrict the ability of citizens to conduct reciprocal surveillance (or “sousveillance”) by filming officers in public spaces or during other police-citizen interactions.

In the pages that follow, I draw from existing literature and original findings from qualitative fieldwork with police officers in two municipal police agencies in the Pacific Northwest during their initial adoption of body-worn cameras, as well as interviews with local police transparency and privacy activists, police supervisors, and body-camera technology developers. In conducting this research, I spent many hours riding in patrol cars with officers, observing and asking questions about their work and how they perceive body cameras impacting what they do on a daily basis. It is worth remembering that the departments studied were largely white and overwhelmingly male, like many police agencies, and that this also has implications for my findings. Throughout this book,
I aim to challenge popular, simplistic conceptions of police body-worn cameras as a positive, transparent mechanism for overseeing the police and ensuring “good” police behavior without serious negative consequences. Along the way, I attempt to illustrate how the advent of police body-worn cameras may also destabilize and recalibrate existing forms of information politics around police power and inadvertently violate the privacy of bystanders, victims, witnesses, and suspects—individuals who are most often members of marginalized or minority populations, the homeless, those with mental illness, and others who exist outside discriminatory social boundaries often reinforced by the police.

Throughout this book I develop an argument, based in legal and political theory informed by empirical findings, for regulating the use of body-worn cameras and the visual records that these cameras create. This argument is largely about limiting the potential for body-worn cameras to increase police power while also enhancing the ability of communities to understand and control the power their local police agencies wield. Along the way, I argue for a robust public right to document and access information about how the police do the work we’ve entrusted to them, for privacy-based limits on broad public disclosure in some cases, and for a more forward-thinking approach to the regulation of police surveillance powers. In particular, we should regulate the police in ways that forestall their ability to establish de facto information and surveillance policies through the unregulated procurement and deployment of surveillance technologies prior to public deliberation, debate, and consent.

By looking at police body cameras as a site of information politics and understanding how these politics emerge within the policing organizations I studied, I am concerned with how the adoption of these cameras implicates the possibility for state domination and, in response, how we can design law and policy to mitigate this power in favor of citizens. In doing so, I draw from neorepublican theories of freedom and “antipower” as framed by Pettit. In this view, if an act or policy arbitrarily dominates the will and autonomy of citizens, thus violating their ability to self-govern (as a collective body of citizens), then these acts or policies are unjustified. This power to remove the potential for domination is Pettit’s notion of “antipower.” This proposition is part of a larger neorepublican research agenda based on three primary tenants: individual freedom (conceptualized as freedom as nondomination), limited government power over its citizens based on a mixture of constitutionalism and the rule of law, and a vigilant commitment by
citizens to maintain the freedom-preserving structure and substance of their government through active democratic participation.\textsuperscript{12} This argument is closely related to Roberts’s position that, “members of a republican democracy can only realize the ideal of self-government, and be sure that they will enjoy conditions of non-domination, through active participation in the decision-making processes that generate—determine the nature and extent of—the norms that will regulate their conduct.”\textsuperscript{13}

The notion of \textit{antipower} is particularly important to my analysis. Antipower may manifest as rights or activities that promote the ability of the public to interfere with the coercive workings of the state. For example, rights to access government information, including body-worn camera footage, or to record the police exemplify antipower. Antipower, then, essentially encompasses the conditions necessary and sufficient for freedom to exist. When these conditions obtain, people “[enjoy] the non-interference resiliently” because they are not dependent on the arbitrary use of power, precisely because they have the power to “command non-interference.”\textsuperscript{14} As such, they enjoy some greater measure of freedom.

In the sections that follow, I introduce some of the major themes that emerge throughout the rest of the book. I start at the beginning of my fieldwork in late summer 2014, shortly after the tragic police shooting of Michael Brown, an unarmed black teenager, by a white police officer in Ferguson, Missouri.\textsuperscript{15} In the scene that follows, I describe one of my initial encounters with the subjects of my study while attending the introduction of the cameras within one of the agencies.

\textbf{September 2014: Inside the headquarters of a municipal police department in Washington State}

I sit against the wall in an overcrowded room as about two-dozen police officers pull small black cameras out of square white boxes. Most of them appear eager to see what is inside, and they begin to talk excitedly among themselves as they try to figure out how to attach the cameras to their uniforms. A representative from the camera manufacturer explains to the officers what to expect from their new body-worn cameras. As the trainer explains how to activate and deactivate the cameras, electronic beeps fill the room as a number of the officers initiate their first recordings. All the officers, except two, have volunteered to wear the cameras as part of the department’s initial body-camera pilot program. The other two, like all other new recruits and lateral transfers into the department, are required to begin using a camera as soon as they begin work or complete their field training. The officers have a variety
of reasons for volunteering to wear the cameras, but some claim they want to be able to document evidence and counter unfounded claims of misconduct. Others hope that the footage will show citizens just how mundane most police work actually is, and that most police officers are not hell-bent on violating people’s rights.

As the trainer shows sample videos of officers using electronic control devices (e.g., TASERS) to subdue uncooperative suspects, officers express excitement about the video they see on the screen and ask how they should mount their own cameras to get a similar perspective. As they try out various mounting options, one officer turns to another and, as he struggles to get the camera situated on his uniform, says, “Don’t look at me like I’m a monkey, I’m just bad with technology.” Another officer turns to his neighbor and says, “I guess I won’t say anything stupid, I’m sure at least one person in the room is recording right now.”

The good humor in the room is evident as the officers play with the cameras for another few minutes. Eventually one officer asks jokingly, “Where’s the direct-to-YouTube button?” The subsequent commentary makes it obvious that some of the officers feel that they should have the ability to post videos of citizens to YouTube, just as citizens have been doing (with videos of the police) for years. “If citizens can do it,” another officer asks me after the training, “why can’t we also benefit from the ability to record in public places?” This statement, like others I heard, highlights the vulnerability officers feel because of the potential their work will become more visible, but it also suggests that the power the police hold in society is sometimes invisible even to themselves.

Just days after this initial training meeting, the department (and others across the state) received a blanket request from an anonymous member of the public, under the state public records law, for all video footage generated by body-worn cameras or dashboard cameras mounted in patrol vehicles (for the text of this request, see the box).

Working from the city attorney’s legal advice that almost all the footage must be disclosed without any form of redaction, the department struggled to process hundreds of hours of early footage, a lengthy process that—at the time—involved manually redacting footage on a frame-by-frame basis. Within a couple of months, the department had disclosed all the test videos created by the officers during their training meeting, along with many other videos recorded by the officers over the next few weeks as they interacted with civilians during their shifts. After the department disclosed the footage, the (then) anonymous requester uploaded it directly to his YouTube channel. Within weeks it became
clear that the state’s freedom of information (FOI) law was functioning as a legally sanctioned direct-to-YouTube alternative for police body-camera footage, albeit pushed online by private actors and not the police officers themselves.

**POLICE VISIBILITY**

The police, traditionally the most visible face of modern criminal justice systems, have generally been visible only through direct interactions with citizens, either to those with whom they interact directly or to nearby bystanders. This primary and unmediated form of visibility also includes police uniforms and marked vehicles as markers of official authority and legitimacy. Primary visibility may hinder some aspects of police work while facilitating others and may have an impact on the way citizens interact with officers. However, the development of mass media and the more recent digital revolution have led to myriad—and often technologically mediated—forms of visibility, from television news broadcasts of video captured by citizens’ video cameras or CCTV footage to the increasing prevalence of YouTube and other social media

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**Text of Public Records Request Received by Department in September 2014**

This is a public records request for the police department.

I'm requesting all dash and body camera videos not involved in pending litigation.

I would like the requested videos to be uploaded to Youtube by the department at https://www.youtube.com/user/[redacted] or another channel. If the department doesn’t want to upload them to its own Youtube account then I would like it to consider uploading it to YouTube via an account I create and maintain. If uninterested in doing that I would like it to consider uploading the videos to a website, FTP server or cloud storage system like Dropbox or Google Drive.

I would like the videos uploaded in installments beginning with the oldest.

Videos disclosed to this requester were posted to an anonymous YouTube channel at https://www.youtube.com/user/policevideorequests. The Seattle Police Department responded by holding a hackathon and ultimately hiring the person who had filed the original request (Tim Clemans).
channels dedicated to highlighting police (mis)conduct. These secondary forms of police visibility allow many individuals to access photographic and narrative materials documenting and describing these encounters and subsequently pass judgment, even when they are not physically present at the scene of the original interaction. Additionally, the police have long engaged in “image work”—that is, “all the activities in which police forces engage and which construct and project images and meanings of policing”—and have actively worked to produce and generate the social meanings of policing.17

With the advent of mass media, police-media relations became an increasingly important consideration when managing police visibility. As Mawby has argued, police image work has always been about “seeking and retaining legitimacy.”18 It is about informational power and meaning making. Bystander video and online social media have shifted some informational power to those outside police organizations, challenging police ability to frame and anchor narratives. The video of police officers beating Rodney King in Los Angeles in 1991, filmed by bystander George Holliday, provides a clear—and now famous—example of how citizen video can quickly generate considerable visibility for police officer conduct. The mass media played or described Holliday’s footage repeatedly for quite some time, leading to large protests across the United States and internationally. More recently, the police-involved killings of George Floyd, Oscar Grant, Ian Tomlinson, Eric Garner, Walter Scott, and many others—all captured by citizens on cell-phone cameras and later made available on YouTube and other (including newspaper) websites—demonstrate the increasing power of these recordings to spread widely and influence public perception, mass protests, and media coverage of police-related events.19

Bystander video and the presence of large numbers of recording devices in many public spaces (especially in densely populated, urban areas) have increased the nature and amount of policing’s secondary visibility as more and more police-civilian encounters are being recorded and broadcast over the internet to increasingly wider audiences around the world. This increase in secondary visibility has been termed policing’s “new visibility.”20 These recordings, available on YouTube and many other online platforms, also include numerous videos recorded by police department cameras installed in patrol vehicles (dashcams) or worn on officers’ uniforms (body cameras), obtained by citizens under public disclosure requests, and uploaded to the internet. Of course, information law has provided access to certain police records for years, and
journalists, researchers, nongovernmental advocacy organizations, and concerned citizens have long made use of these provisions to cast light on government conduct. FOI requests operate as a form of reciprocal surveillance.\textsuperscript{21} As body-worn cameras continue to become more widely adopted, officers and departments will increasingly need to confront existing public disclosure laws. Indeed, the prediction that such adoption will result in greater numbers of videos being uploaded to the internet is an obvious one: as more footage is captured, more will get released through existing channels and subsequently be uploaded to the internet.

Although the first police deployment of modern body-worn cameras occurred in England in 2006 (and the Dutch police had also trialed portable cameras as early as 1998), the cameras did not really become mainstream in the United States until around 2014, when public and political forces pushed them onto the national agenda following the police shooting of Michael Brown in Ferguson, Missouri. The advent of body-worn camera deployment within local police departments is pushing policing’s new visibility to the extreme. Body-worn cameras represent a new, radical form of police visibility insofar as they record more consistently and capture a much more inclusive picture of police officers’ working lives than prior forms of surveillance. However, the fact that they are pointed away from the officer’s body also suggests that officers are not the only ones subjected to this expanded visibility; those with whom officers interact are also being subjected to heightened, collateral forms of visibility whenever the cameras are activated. Indeed, these cameras also record victims, witnesses, suspects, and uninvolved bystanders who just happen to be present when the police activate their cameras. In addition, since state laws may not always require officers to inform others that they are being recorded, many who interact with police may not be informed enough to take advantage of this visibility when they have been treated badly. Unfortunately, both sides frame their efforts to manage visibility, to engage in information politics, as an act of war. We have a “war on cameras”—propagated by the police against recording bystanders—and a reciprocal use of cell-phone cameras as “peaceful weapons of resistance.”\textsuperscript{22}

\textbf{COLLATERAL VISIBILITY}

Beyond just increasing police visibility, broad public access to police body-camera footage (as well as bystander video of police-public contacts) makes those who are contacted by the police—including victims,
witnesses, and suspects of crime, or merely those subjected to a traffic stop—potentially much more visible as well. As such, the increasing or “new visibility” of the police, based on video recorded ostensibly for the purpose of making police work more transparent and accountable, is necessarily intertwined with the increasing, collateral visibility of bystanders, victims, suspects, and witnesses. Importantly, this surveillance is refractive, as observation of one party—the police, in this case—“can facilitate control over another party that is not the direct target of data collection.” Importantly, those (nonofficers) made visible by the recording of police work are often those who are contacted more frequently—and sometimes disproportionately—by the police: members of marginalized or minority populations, the homeless, and those with mental illness. Importantly, when state FOI law requires police departments to disclose this sort of footage under the guise of state transparency, as is currently the case in several US states, the increased visibility of private individuals can easily become the collateral damage of our (otherwise laudable) transparency regimes.

The increased visibility that body cameras and other forms of surveillance bring with them is uncomfortable, perhaps because it violates the “implicit historical assumption that people who do not want to be observed can shield themselves from observation relatively easily by withdrawing behind visual barriers (walls, curtains, clothes).” Surveillance of this sort, especially when practiced by the state, with its coercive powers, can result in the “loss of autonomy in the watched.” Indeed, “if people move beyond visual barriers, they knowingly take the risk that others can see them, and they can adapt their behavior accordingly. However, when visibility leads to records, where an exact reproduction can be made of an otherwise transient image, the situation changes. The image after all is being recorded, it comes within the reach of others, can be multiplied or published. . . . The fact that a fleeting image is captured in a potentially durable record makes people more vulnerable.”

As I spent numerous hours riding with patrol officers over the course of my research, it became increasingly clear that the privacy and other concerns commonly expressed about body cameras have much more direct (and disparate) impact on the lives of certain disenfranchised and disadvantaged minority groups. On multiple occasions, I met the same people while riding with different officers on different days, often contacted by the police for similar reasons. The revolving doors between the streets and the local jails began to come into sharp focus as officers and I repeatedly hauled people off to jail for offenses that both parties