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Open Letter Re Body Worn Cameras

June 10, 2022

We are writing to you on behalf of the Black Legal Action Centre (BLAC), the Women's Legal Education and Action Fund (LEAF), and the Canadian Association of Elizabeth Fry Societies (CAEFS) regarding our concerns related to the Royal Canadian Mounted Police's (RCMP) Body Worn Cameras (BWC) Project.

On May 17, 2022, our respective organizations attended a presentation to national community groups, detailing the BWC Project.

We welcome steps the RCMP takes towards accountability and transparency in policing. However, the presentation led to a number of questions and concerns, specifically about how this program will affect the safety and rights of communities and groups we support and represent. We are concerned that the RCMP's BWC project is going ahead at the cost of \$2,000-3,000 per camera, per year. We are concerned that despite public support for calls to divest from policing budgets, invest directly in communities instead, and address systemic racism and other inequalities, the RCMP is choosing to invest more money into BWCs. Specifically, we are concerned about the implementation, use of, and review of the BWC project.

We discuss our concerns in detail below, and call on the RCMP to:

- A) take an evidence-based approach in the funding and use of BWCs, including measuring the success of the project;
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- B) ensure that policies and procedures regarding the scope of police powers when using BWCs are accessible to the public and have defined key terms;
- C) develop clear and accessible privacy guidelines; and
- D) establish a completely independent mechanism and process to ensure the accountability of officers who misuse BWCs.

Implementation

Despite the perception that BWCs will reduce instances of aggression by police through increasing police accountability,¹ evidence and research do not support this conclusion. In fact, BWCs do not significantly change police behavior. In studies where there was some improvement in police behaviour, the results were minor.² There is data that suggests that number police complaints have increased with the implementation of BWCs, however, there is no data that supports the claim that the rise in complaints have resulted in increased accountability for police officers.³

Use

The presentation also mentioned the policies and procedures that will govern the daily use of BWCs, including circumstances where an officer can deactivate their BWC. Although we did not have an opportunity to review these policies and procedures, the research on BWCs suggests that in instances where police officers have the discretion to turn their body cameras on and off, any initial positive outcomes of BWCs to reduce police use of force was also nullified.⁴

¹ Cynthia Lum, Megan Stoltz, Christopher S. Koper, J. Amber Scherer, "Research on body-worn cameras, What we know, what we need to know" (2019) 18:1 *Criminology and Public Policy* 93 at 97 <<https://doi.org/10.1111/1745-9133.12412>>.

² *Ibid* at 100-101.

³ *Ibid* at 110; Chad Marlow and Jay Stanley, "Should we Reassess Police Body Cameras Based on Recent Study?" (20 November 2017), online: *American Civil Liberties Union* <https://www.aclu.org/blog/privacy-technology/surveillance-technologies/should-we-reassess-police-body-cameras-based>; Jennifer Lee, "Will Body Cameras Help End Police Violence?" (7 June 2021), online: *American Civil Liberties Union Washington* <<https://www.aclu-wa.org/story/%C2%A0will-body-cameras-help-end-police-violence%C2%A0>>

⁴ Lum et al at 101; Rashwan Ray, Kris March, and Connor Powelson, "Can Cameras Stop the Killing? Racial Differences in Perceptions of the Effectiveness of Body-Worn Cameras in Police Encounters" (2017), 31:1 *Sociological Forum* 1032 at 1035 <<https://doi.org/10.1111/socf.12359>>.

During the presentation, we expressed our reservations about discretionary decisions made by police officers, which can lead to the overrepresentation of Black people being charged.⁵ We are deeply concerned about the potential impact these discretionary decisions will have on marginalized communities. We understand from the presentation that BWCs can be “deactivated, deliberately repositioned or covered ... when there is a reasonable belief that the collection audio/video media no longer:

- Supports public or officer safety
- Benefits the investigation
- Supports the rationale of the use of BWCs”.⁶

As we noted during the presentation, terms like “safety” and “benefits” in the above exceptions are not specifically defined, which would result in officers relying on their subjective assessment and discretion. Additionally, most police organizations support the use of BWCs because they can increase the number of convictions against individuals, not police.⁷ There are also a number of studies from the United Kingdom that show that the use of BWCs has led to an increase in guilty pleas by individuals.⁸

The potential for BWCs to hold the RCMP accountable would not be realized without ensuring timely access to the BWC footage by people who have experienced police misconduct. However, many law enforcement agencies in the United States have tried to

⁵ Ontario Human Rights Commission, “A Disparate Impact: Second Interim Report on the Inquiry Into Racial Profiling” (August 2020), online: *Ontario Human Rights Commission* <<https://www.ohrc.on.ca/sites/default/files/A%20Disparate%20Impact%20Second%20interim%20report%20on%20the%20TPS%20inquiry%20executive%20summary.pdf#overlay-context=en/disparate-impact-second-interim-report-inquiry-racial-profiling-and-racial-discrimination-black>>.

⁶ RCMP, RCMP Body Worn Cameras, Program Overview Presentation to National Community Groups, (delivered May 17, 2022)

⁷ Justin Doucet and Ted Ruthland, “Opinion: Police Body Cameras are not the Answer” (18 February 2021), online: *Montreal Gazette* <<https://montrealgazette.com/opinion/opinion-police-body-cameras-are-not-the-answer>>; Toronto Police Service, “Body Worn Cameras: A Report on the Findings of the Pilot Project to Test the Value and Feasibility of Body-Worn Cameras for Police Officers in Toronto” (2016), online (pdf) at 32-33 and 42-43 <<https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/tps-body-worn-camera-pilot-project-evaluation.pdf>>.

⁸ Lum et al. at 108.

limit access to BWC footage.⁹ We urge the RCMP to establish mechanisms and processes to facilitate timely access BWC footage.

We are acutely aware of the statistics regarding the over-policing of Black communities and the criminalization of poverty.¹⁰ We are concerned that Black and other marginalized communities will be further criminalized under this project.

Review

Finally, it is our position that success of the project ought to be measured regularly, in a meaningful manner that includes public and community participation. As we mentioned during the presentation, if the project does not achieve its goals of increased accountability and transparency, and does not improve police behaviour, the project should be reviewed, reassessed, and potentially rolled back in its entirety.

BLAC, LEAF, and CAEFS are concerned about the potential for this project to be used to perpetuate the legacy of racial profiling and harassment of the Black and marginalized communities across this country. Particularly given the recent mandate letter¹¹ outlined by the federal government to RCMP Commissioner Brenda Lucki, we call on the RCMP to:

- A) take an evidence-based approach in the funding and use of BWCs, including measuring the success of the project;
- B) ensure that policies and procedures regarding the scope of police powers when using BWCs are accessible to the public and have defined key terms;
- C) develop clear and accessible privacy guidelines; and
- D) establish a completely independent mechanism and process to ensure the accountability of officers who misuse BWCs.

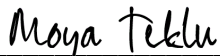
We look forward to your response.

⁹ Chad Marlow and Gary Daniels, "Ohio Bucks a Bad Trend With New Police Body Camera Law" (5 February 2019) online: *American Civil Liberties Association* <<https://www.aclu.org/blog/privacy-technology/surveillance-technologies/ohio-bucks-bad-trend-new-police-body-camera-law>>.

¹⁰ Ontario Human Rights Commission, "Under Suspicion: Research and consultation report on racial profiling in Ontario" (April 2017), online: *Ontario Human Rights Commission* <https://www3.ohrc.on.ca/sites/default/files/Under%20suspicion_research%20and%20consultation%20report%20on%20racial%20profiling%20in%20Ontario_2017.pdf>.


¹¹ The Royal Canadian Mounted Police, "Commissioner's mandate letter", (May 2022) online: *RCMP* <<https://www.rcmp-grc.gc.ca/en/commissioners-mandate-letter>>.

Signed by:

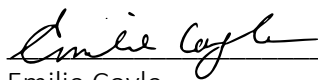


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