



## **Public Comment**

### **U.S. Commission on Civil Rights**

#### **"Briefing on Police Practices and Use of Force"**

**June 19, 2015**

Founded in 1982, the National Immigration Forum (Forum) works to uphold America's tradition as a nation of immigrants. The Forum advocates for the value of immigrants and immigration to the nation, building support for public policies that reunite families, recognize the importance of immigration to our economy and our communities, protect refugees, encourage newcomers to become new Americans and promote equal protection under the law.

#### **Introduction**

The National Immigration Forum (the Forum) thanks the U.S. Commission on Civil Rights (USCCR) for the opportunity to provide its views on the important issue of police practices and use of force. The past few years have seen the emergence of body-worn cameras in everyday policing across the United States. Many of the country's major police departments have begun piloting or have already implemented body-worn cameras for their officers.<sup>1</sup> Because of recent events in Ferguson, MO; New York City, NY; Baltimore, MD; and elsewhere in the past year, the discussion around body-worn cameras has only increased. More and more jurisdictions are announcing plans to begin piloting body-worn cameras. Public discussion, however, has not included the nation's largest law enforcement agency: Customs and Border Protection (CBP).

With more than 60,000 employees, including 46,000 gun-carrying customs officers and border patrol agents, CBP is one of the largest law enforcement agencies in the world and the largest in the United States.<sup>2</sup> As an example, the New York City police force only has 75 percent of the number of uniformed officers at CBP.<sup>3</sup>

Since 2010, at least 35 people have been killed by CBP agents in use of force incidents.<sup>4</sup> Between 2005 and 2012 2,170 incidents of CBP misconduct were reported, and 144 current or former CBP employees were arrested or indicted for corruption-related activities.<sup>5</sup> According to a 2014

---

<sup>1</sup> <http://www.vocativ.com/usa/justice-usa/police-force-wearing-body-cameras/>

<sup>2</sup> <http://www.cbp.gov/about>

<sup>3</sup> [http://www.nyc.gov/html/nypd/html/faq/faq\\_police.shtml](http://www.nyc.gov/html/nypd/html/faq/faq_police.shtml)

<sup>4</sup> [http://www.washingtonpost.com/politics/border-agencys-former-watchdog-says-officials-impeded-his-efforts/2014/08/16/ce143288-2304-11e4-8593-da634b334390\\_story.html](http://www.washingtonpost.com/politics/border-agencys-former-watchdog-says-officials-impeded-his-efforts/2014/08/16/ce143288-2304-11e4-8593-da634b334390_story.html)

<sup>5</sup> <http://www.gao.gov/products/GAO-13-59>

American Immigration Council report, in more than 800 complaints against the Border Patrol between January 2009 and January 2012, 97 percent resulted in no action being taken against the officer involved.<sup>6</sup> In May of this year, the DHS OIG released a report stating that CBP currently refers individuals for prosecution who have expressed credible fear of returning to their home countries which “may violate U.S. treaty obligations.”<sup>7</sup> In June, CBP announced it would not take any action against agents involved in 67 older deadly use of force incidents that had been under internal review.<sup>8</sup> These statistics and incidents have resulted in the perception that CBP is an out-of-control agency that is unaccountable to the public.<sup>9</sup>

One way CBP could change that perception is by implementing body-worn cameras for all of its agents and officers. The inherent benefits are obvious -- when law enforcement have an encounter with the public body-worn cameras will create a record of the event that can be shared with the public. A joint study by the Department of Justice and the Police Executive Research Forum (PERF) noted that “Body-worn cameras can help improve the high-quality public service expected of police officers and promote the perceived legitimacy and sense of procedural justice that communities have about their police departments.”<sup>10</sup> For CBP, this type of record would be invaluable. Agents on patrol along the border are many times alone for long stretches of time making investigations into complaints difficult to substantiate because little record on an incident exists except for the agent’s own account of an incident. At ports of entry some cameras already exist but none are worn by the officers who have hundreds of encounters with the public in a single shift.

The cameras at ports of entry have already shown CBP the potential value of wearing body cameras. Just last year in July 2014, a scoutmaster of a Boy Scout troop alleged a CBP officer drew his firearm and pointed it at the troop.<sup>11</sup> This very serious allegation sparked multiple news articles in late July and the Department of Homeland Security (DHS) Office of the Inspector General (OIG) started an investigation.<sup>12</sup> However, because CBP has strategically placed cameras at ports of entry a camera recorded the incident. The OIG quickly found that the allegation was unsubstantiated and was able to issue a public statement exonerating CBP and the officer within a month of the first news coverage of the incident. <sup>13</sup> This example shows not only the potential benefits to CBP, but also to the public. Because footage of the incident existed, the entire investigation took two weeks according to the Inspector General and the resolution was made public. Contrast this result with many of the previous use of force incidents which take years to

---

<sup>6</sup> <http://www.immigrationpolicy.org/special-reports/no-action-taken-lack-cbp-accountability-responding-complaints-abuse>

<sup>7</sup> [https://www.oig.dhs.gov/assets/Mgmt/2015/OIG\\_15-95\\_May15.pdf](https://www.oig.dhs.gov/assets/Mgmt/2015/OIG_15-95_May15.pdf)

<sup>8</sup> <http://www.azcentral.com/story/news/politics/immigration/2015/06/08/cbp-action-agents-deadly-force-cases/28670843/>

<sup>9</sup> <http://www.politico.com/magazine/story/2014/10/border-patrol-the-green-monster-112220.html#.VKcJuHtOeFg>

<sup>10</sup> <http://www.justice.gov/iso/opa/resources/472014912134715246869.pdf>

<sup>11</sup> <http://www.foxnews.com/opinion/2014/07/24/troop-leader-border-agent-held-boy-scout-at-gunpoint/>

<sup>12</sup> <http://www.foxnews.com/opinion/2014/07/24/troop-leader-border-agent-held-boy-scout-at-gunpoint/>  
<http://www.washingtonpost.com/news/post-nation/wp/2014/07/23/troop-leader-says-border-patrol-agent-pointed-gun-at-scouts-head-agency-is-investigating/>

<sup>13</sup> [http://www.oig.dhs.gov/assets/pr/2014/oigpr\\_081814.pdf](http://www.oig.dhs.gov/assets/pr/2014/oigpr_081814.pdf)

investigate and nothing is shared with the public.<sup>14</sup> Knowing that video footage exists for all encounters with the public would instill confidence that all incidents will be investigated and investigated fairly. It would also help to end the perception that CBP operates many times with impunity.<sup>15</sup>

Additionally, while it is unclear, based on existing studies, whether officers or citizens act differently when body-worn cameras are deployed, initial evidence strongly implies that body-worn cameras do lead to fewer complaints against officers and fewer assaults against them, creating a win-win for the public and law enforcement.<sup>16</sup> Footage from body-worn cameras has also provided state and local law enforcement departments with real scenarios that officers and agents face in the field, which helps teach best practices and address problem areas.

Yet, in his budget for fiscal 2016, the president omitted CBP when he announced a new initiative that would provide \$263 million for body cameras and training for local law enforcement agencies across the country.<sup>17</sup> During his presidency, and especially more recently, the president has called the tension between law enforcement and their communities a national problem. Customs and Border Protection should not be excluded from this assessment.

Despite the lack of attention from the media and the White House, in late 2014 and early this year, CBP began testing whether the agency should implement body-worn cameras.<sup>18</sup> However, Commissioner Gil Kerlikowske called the implementation of body-worn cameras “complicated” and “expensive,” and CBP has neither moved forward with an actual pilot nor requested funding from Congress.<sup>19</sup>

The National Immigration Forum asks that the USCCR recommend that CBP implement body-worn cameras. As the nation’s largest law enforcement agency, CBP has a great opportunity to be a leader in 21<sup>st</sup> century policing by moving forward with the implementation of body-worn cameras across the agency.

---

<sup>14</sup> <http://www.usatoday.com/story/news/nation/2014/09/14/border-deaths-agents-transparency/15629919/>

<sup>15</sup> <http://www.politico.com/magazine/story/2014/10/border-patrol-the-green-monster-112220.html#.VLhoy50fNk>

<sup>16</sup> <http://www.justice.gov/iso/opa/resources/472014912134715246869.pdf>;  
[http://www.oig.dhs.gov/assets/pr/2014/oigpr\\_081814.pdf](http://www.oig.dhs.gov/assets/pr/2014/oigpr_081814.pdf);  
<https://ojpdiagnosticcenter.org/sites/default/files/spotlight/download/Police%20Officer%20Body-Worn%20Cameras.pdf>

<sup>17</sup> <http://www.nbcnews.com/politics/first-read/obama-requests-263-million-police-body-cameras-training-n259161>

<sup>18</sup> <http://www.usatoday.com/story/news/nation/2014/09/18/border-body-cameras/15832351/>;  
<http://abcnews.go.com/blogs/politics/2014/09/customs-and-border-protection-to-investigate-officer-misconduct-test-body-cameras/>

<sup>19</sup> See note 18.