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









# **Police Body Worn Cameras: A Policy Scorecard**

**Updated November 2017**

Version 3.03

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## Policy Scorecard

Department	 Policy Available	 Officer Discretion	 Personal Privacy	 Officer Review	 Footage Retention	 Footage Misuse	 Footage Access	 Biometric Use
<b>Alameda County</b> 	✗	✓	✓	✗	✗	✗	✗	✗
<b>Albuquerque</b> 	✓	✓	○	✗	○	✗	✗	✗
<b>Arlington, TX</b>	✓	✓	○	✗	✗	○	✗	✗
<b>Atlanta</b>	✓	✓	○	○	✗	✓	✗	✗
<b>Aurora</b>	✓	○	○	✗	✗	✗	✗	✗
<b>Austin</b> 	✓	○	✓	✗	✗	✗	✗	✗
<b>Baltimore</b>	✓	✓	✓	○	✗	✓	✗	✓
<b>Baltimore County</b>	✓	○	✓	✗	✗	✓	✗	○
<b>Baton Rouge</b> 	✗	?	?	?	?	?	?	?
<b>Boston</b>	✗	○	○	✗	✗	✗	✗	○
<b>Broward County</b> 	✗	?	?	?	?	?	?	?
<b>Buffalo</b>	✗	?	?	?	?	?	?	?
<b>Charlotte-Mecklenburg</b>	✓	○	○	○	✓	✗	○	✗
<b>Chicago</b> 	✓	✓	✓	✗	✓	○	✗	✗
<b>Cincinnati</b> 	✓	✓	○	✗	✓	✓	✓	○
<b>Cleveland</b>	✗	○	✓	✗	✗	✓	✗	✗
<b>Colorado Springs</b>	✗	✗	○	✗	✗	✗	✗	✗
<b>Columbus</b>	✗	✓	○	✗	✗	✗	✗	✗
<b>Dallas</b>	✗	✓	○	✗	✓	○	✗	✗
<b>Denver</b>	✓	○	✓	✗	✗	○	✗	✗
<b>Detroit</b> 	✗	✓	○	✗	✗	○	✗	✗
<b>Fairfax County</b>	✓	✓	○	✗	✗	✗	✗	✗
<b>Fayetteville</b> 	○	○	○	✗	✗	✗	✗	✗
<b>Ferguson</b>	✓	○	○	✗	✗	○	✗	✗
<b>Fort Lauderdale</b> 	✗	✓	○	○	✗	✗	✗	✗
<b>Fort Worth</b>	✗	○	✗	✗	✓	○	✗	✗
<b>Fresno</b>	✓	✓	○	✗	✗	✗	✗	✗

Honolulu	✓	✓	○	○	×	✓	×	×
Houston	✓	✓	✓	×	×	×	×	×
Jacksonville \$	✓	✓	✓	×	×	✓	×	×
Las Vegas \$	×	○	✓	×	✓	✓	✓	×
Long Beach	✓	○	○	×	×	×	×	×
Los Angeles \$	○	✓	○	×	×	○	×	×
Los Angeles County \$	×	×	×	×	×	×	×	×
Louisville	✓	✓	○	×	✓	○	×	×
Memphis	×	✓	○	×	×	○	×	×
Mesa	×	✓	○	×	×	○	×	×
Miami \$	✓	○	○	×	×	×	×	×
Miami-Dade \$	✓	○	○	×	×	○	×	×
Milwaukee	✓	○	○	×	×	×	×	×
Minneapolis \$	✓	✓	○	×	×	✓	×	×
Montgomery County	✓	✓	✓	×	✓	✓	×	○
Newark	✓	✓	○	×	×	○	×	×
New Jersey	✓	○	○	×	×	✓	×	×
New Orleans \$	✓	○	○	×	×	○	×	×
New York	✓	✓	✓	×	○	○	×	×
Oakland	✓	✓	○	○	×	✓	×	×
Oklahoma City	×	✓	✓	×	×	○	×	×
Omaha \$	✓	✓	○	×	×	✓	×	×
Orlando	×	✓	○	×	×	×	×	×
Parker, CO	✓	✓	✓	○	○	✓	✓	○
Philadelphia	✓	✓	✓	×	×	○	×	×
Phoenix \$	×	○	○	×	×	×	×	×
Pittsburgh	×	○	×	×	✓	×	×	×
Portland	○	○	×	○	×	○	×	×
Prince George's County	×	✓	○	×	×	×	×	×
Raleigh \$	✓	✓	○	×	×	×	○	×
Rochester \$	✓	○	○	×	×	×	×	×
Sacramento	✓	○	○	×	×	×	×	×
Saint Paul	✓	✓	○	×	×	×	×	×
Salt Lake City	✓	✓	○	×	×	×	×	×
San Antonio \$	✓	✓	○	×	×	✓	×	×

San Bernardino

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San Diego	✓	○	○	×	×	×	×	×
San Francisco <sup>§</sup>	✓	○	○	×	×	○	×	×
San Jose	✓	✓	✓	○	×	✓	×	×
Seattle <sup>§</sup>	✓	○	✓	○	×	×	×	×
Stamford	✓	✓	○	×	×	×	×	○
St. Louis	×	?	?	?	?	?	?	?
Suffolk County	✓	○	○	×	×	○	○	×
Tampa	×	?	?	?	?	?	?	?
Tucson	✓	○	✓	×	×	×	×	×
Tulsa <sup>§</sup>	✓	✓	○	×	✓	○	×	×
Virginia Beach	×	✓	○	×	×	×	×	×
Washington, DC <sup>§</sup>	✓	✓	○	○	✓	✓	×	×
	✓	✓	○	○	×	○	✓	×


## Purpose

In the wake of high-profile incidents in Ferguson, Staten Island, North Charleston, Baltimore, and elsewhere, law enforcement agencies across the country have rapidly adopted body-worn cameras for their officers. One of the main selling points for these cameras is their potential to provide transparency into some police interactions, and to help protect civil rights, especially in heavily policed communities of color.

But accountability is not automatic. Whether these cameras make police more accountable — or simply intensify police surveillance of communities — depends on how the cameras and footage are used. That's why The Leadership Conference, together with a broad coalition of civil rights, privacy, and media rights groups, developed shared [Civil Rights Principles on Body Worn Cameras](#). Our principles emphasize that “[w]ithout carefully crafted policy safeguards in place, there is a real risk that these new devices could become instruments of injustice, rather than tools for accountability.”

This scorecard evaluates the body-worn camera policies currently in place in major police departments across the country. Our goal is to highlight promising approaches that some departments are taking, and to identify opportunities where departments could improve their policies.





## Methodology

When we initially released our scorecard in November 2015, we examined the body-worn camera policies from 25 local police departments. Since then, we've expanded our scorecard to 75 departments, covering all major city police departments in the country that have equipped — or will soon equip — their officers with body cameras. We also added departments that have received more than \$500,000 in DOJ grant funding to support their camera programs (as indicated by  on the scorecard). In addition, we included Baton Rouge (LA) and Ferguson (MO) because of the national attention they have received after recent events, and Parker (CO) because of the promising policies they have adopted.

The policy landscape is shifting rapidly: Since our initial release, many departments have updated their policies multiple times based on their early experiences, and others have launched new body camera programs and policies. Our analysis is current as of the “last updated” date on each individual department scorecard. As we become aware of new deployments and policy changes, we will do our best to update our scorecard analysis. If you see anything that looks out of date, please [let us know](#).

## Evaluation Criteria

We evaluated each department policy on eight criteria, derived from our [Civil Rights Principles on Body Worn Cameras](#). We believe that these are among the most important factors in determining whether the proper policy safeguards are in place to protect the civil rights of recorded individuals.

For each factor, we scored department policies on a three level scale. We awarded a policy a green check  only if it fully satisfies our criteria — these are the policies that other departments should consider emulating if they are looking to improve their own. A yellow circle  means that a policy partially satisfies our criteria, and that the department has room for improvement. A red ex  indicates that a policy either does not address the issue, or a policy runs directly against our principles. In cases where the department has not made its policy public, we use a question mark  as a placeholder for future review.

Our eight criteria examine whether a department:



#### **Makes the Department Policy Publicly and Readily Available**

- ✔ The department publishes the most recent publicly available version of its policy on its website, in a location that is easy for members of the public to find.
- The policy posted on the department's website either is outdated, or is difficult for members of the public to find.
- ✘ The department's policy is not available on its website.



#### **Limits Officer Discretion on When to Record**

- ✔ The policy clearly describes when officers must record, and requires officers to provide concrete justifications for failing to record required events.
- The policy clearly describes when officers must record, but does not require officers to provide concrete justifications for failing to record required events.
- ✘ The policy does not clearly describe when officers must record.



#### **Addresses Personal Privacy Concerns**

- ✔ The policy specifically protects categories of vulnerable individuals (e.g., victims of sex crimes) from being recorded without their informed consent.
- The policy mentions the importance of personal privacy, but either offers vague guidance on when not to record, or does not require informed consent from vulnerable individuals.
- ✘ The policy does not address personal privacy concerns.



#### **Prohibits Officer Pre-Report Viewing**

- ✔ The policy requires officers to file an initial written report or statement before relevant footage is reviewed, for all incidents.
- The policy requires officers to file an initial written report or statement before relevant footage is reviewed, for some incidents.
- ✘ The policy allows — or even encourages — officers to view relevant footage before filing an initial written report or statement.



#### **Limits Retention of Footage**

- ✔ The policy requires the department to delete unflagged footage within six months.
- The policy requires the department to delete unflagged footage — but after more than six months.
- ✘ The policy does not require the department to delete unflagged footage, or we are unable to determine whether the unflagged footage must be deleted.



#### **Protects Footage Against Tampering and Misuse**

- ✔ The policy expressly prohibits both footage tampering and unauthorized access, and indicates that all access to recorded footage will be logged or audited.
- The policy expressly prohibits both footage tampering and unauthorized access, but does not indicate that all access to recorded footage will be logged or audited.

- ✗ The policy does not expressly prohibit both footage tampering and unauthorized access.



#### Makes Footage Available to Individuals Filing Complaints

- ✓ The policy expressly allows individuals who are filing police misconduct complaints to view all relevant footage.
- The policy expressly allows individuals who are filing police misconduct complaints to view some relevant footage.
- ✗ The policy does not expressly allow individuals who are filing police misconduct complaints to view relevant footage.



#### Limits the Use of Biometric Technologies

- ✓ The policy sharply limits the use of biometric technologies (e.g., facial recognition) to identify individuals in footage.
- The policy places some limits on the use of biometric technologies (e.g., facial recognition) to identify individuals in footage.
- ✗ The policy places no limits on the use of biometric technologies (e.g., facial recognition) to identify individuals in footage.

Of course, a department's policy is only as good as how it is put into practice. Departments must ensure that their stated policies are followed and, when department personnel violate those policies, that the appropriate disciplinary measures are taken.

## Findings

Departments are moving quickly to deploy body-worn cameras, and are experimenting with a wide range of policies across each of the dimensions we examined. Departments that have a strong policy in one area often falter in another — every department has room to improve. At the same time, we are pleased to find examples of strong policy language currently in use for nearly all of our criteria. The positive policy language highlighted on this site should serve as a model to departments looking to improve their policies.

We found that:

As of November 2017, of the 69 "major city" departments in the U.S., 62 now have body worn camera programs with policies in place. Three of those major departments appear to have cameras on the ground, but have not released their policies to the public — Buffalo, Suffolk County, Tulsa.

Even when departments have policies in place, over a third (28 of 68) don't make them easily and publicly available on their department websites, which hinders robust public debate about how body cameras should be used. Many of the policies we analyzed were found externally on other websites.

Increasingly, departments are establishing explicit procedures that allow recorded individuals — like those seeking to file a police misconduct complaint — to view the footage of their own incidents. Four departments we analyzed — in Cincinnati, Las Vegas, Parker (CO) and Washington DC — now appear to provide special access to recorded individuals. These special access rights, tailored specifically for body camera footage, exist alongside state-level public records laws.

None of the department policies we analyzed have a blanket limitation on officer review of footage before filing an initial written incident report. Only thirteen departments have

partial prohibitions in place, for certain critical incidents like officer shootings. The vast majority of departments (55) allow officers [unrestricted footage review](#).

Due to concerns from civil rights groups about the increased potential for surveillance, leading departments have begun to include limits on their use of biometric technologies, like facial recognition, together with camera footage. In our initial release, only Baltimore's policy addressed facial recognition. Since then, Baltimore County, Boston, Cincinnati, Montgomery County, Parker (CO), and Seattle have all followed suit. Additionally, Baltimore strengthened its policy since our first analysis.



## Notable Policy Provisions

Example Provisions that Protect Civil Rights

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While no single department satisfied all of our criteria, many departments have adopted strong policies in one or more individual criterion. Below, we highlight the leading examples we've found from across the country, and we hope that departments looking to strengthen civil rights protections in their body camera policies will emulate these examples.



### Makes the Department Policy Publicly and Readily Available

- ✓ The department publishes the most recent publicly available version of its policy on its website, in a location that is easy for members of the public to find.



San Francisco PD has a [webpage](#) dedicated to the development of its BWC policy, which provides details about the department's biweekly BWC working group meetings. The group publishes the latest iteration of the draft policy for each meeting.



### Limits Officer Discretion on When to Record

- ✓ The policy clearly describes when officers must record, and requires officers to provide concrete justifications for failing to record required events.



Chicago PD provides officers with a clear list of situations that must be recorded. (§V.E)

E. Department members assigned a BWC:

1. will activate the system to event mode to record the entire incident for all:
  - a. routine calls for service;
  - b. investigatory stops;
  - c. traffic stops;
  - d. traffic control;
  - e. foot and vehicle pursuits;
  - f. emergency driving situations;
  - g. emergency vehicle responses to in-progress or just-occurred dispatches where fleeing suspects or vehicles may be captured on video leaving the crime scene;
  - h. high-risk situations, including search warrants;
  - i. situations that may enhance the probability of evidence-based prosecution;
  - j. situations that the member, through training and experience, believes to serve a proper police purpose, for example, recording the processing of an uncooperative arrestee;
  - k. any encounter with the public that becomes adversarial after the initial contact; and
  - l. any other instance when enforcing the law.

**NOTE:** Department members responding as assist units will activate the BWC for all of the above-listed incidents.

Chicago PD allows officers to turn off their cameras “when further recording of the incident will not serve a proper police purpose.” Officers must state the reason for deactivation on camera before turning it off. If an officer fails to record a required event, the officer must justify this failure on camera after the fact. (§V.G)

G. During the recording of an incident, Department members will not disengage the BWC until the entire incident has been recorded or when further recording of the incident will not serve a proper police purpose. In the event of an arrest, the incident is concluded when the subject is transported to the district station.

Department members will:

1. verbally state the justification of any disengagement, including requests from the individuals listed in item V-E-2 of the directive, of the BWC system prior to the entire incident being recorded before disengaging the BWC, unless impractical or impossible.
2. in instances when the Department member failed to record an event listed in item V-E1 of this directive, document the event by initiating the BWC to even mode and state the:
  - a. type of incident;
  - b. event number; and
  - c. reason for not recording the event.



**Addresses Personal Privacy Concerns**

- ✓ The policy specifically protects categories of vulnerable individuals (e.g., victims of sex crimes) from being recorded without their informed consent.



Philadelphia PD requires officers to turn off their cameras upon the request of a crime victim, and in certain sensitive locations and circumstances. (§§4-B, 4-C, 7-F)

4-B. . . [O]fficers shall deactivate a Body-Worn Camera prior to the conclusion of an incident or event under the following circumstances:

1. Prior to entering the residence of any individual, unless prior consent is provided and recorded with the Body-Worn Camera,
2. When requested by a crime victim, witness or informant, who request not to be recorded, officers shall:
  - a. Balance the value of obtaining a recording with the reluctance of a victim, witness or informant to provide information while being recorded.
  - b. Officers should use discretion in making the decision.
3. When the recording would capture gruesome images, persons nude that are not involved in criminal activity or when private areas of the human body are exposed and there is no legitimate law enforcement need to capture the images.
4. When entering a religious institution, during services.
5. When entering a hospital room or private patient area in a hospital.

#### 4-C. PROHIBITED RECORDING AND ACTIONS

1. Body-Worn Cameras shall not be used or activated to:
  - . . .
  - b. In places where a reasonable expectation of privacy exists (i.e., locker rooms, dressing rooms or restrooms).
  - c. Record conversations with confidential informants and undercover officers.
  - d. During any strip searches. . .
2. Officers shall not lead a person to believe the BWC has been deactivated when in fact, the BWC is left active.

. . .

7-F. Prior to entering the residence of any individual, unless prior consent is provided and recorded with the Body-Worn Camera, the Body-Worn Camera shall be deactivated.

1. Once inside a residence, if practical, officers shall request permission to record. If permission is granted, the Body-Worn Camera shall be activated and the resident will again be asked for consent to record.
2. If at any time a resident rescinds consent to record while in a residence, officers shall immediately or as soon as practical, deactivate the Body-Worn Camera.
3. Officers shall state that they were requested to deactivate the camera.



**Prohibits Officer Pre-Report Viewing**

- ✓ The policy requires officers to file an initial written report or statement before relevant footage is reviewed, **for all incidents**.
- The policy requires officers to file an initial written report or statement before relevant footage is reviewed, for some incidents.

While we are not fully satisfied with any department's policy in this category, Oakland provides an example that we believe should be applied to all footage and in all situations.



Oakland PD requires officers to file an initial written statement before relevant footage is reviewed, for some critical incidents, like when officers use force that results in death or serious bodily injury. Oakland PD institutes a two-step process. First, before viewing the footage, the involved officer must submit an initial report to the investigator. Second, once the initial report is approved, the officer may view the footage, and be given an opportunity to supplement the initial report (presumably, with a clear delineation of the parts of the report that were written before and after footage was reviewed). (§§IV.A.2-3)

#### IV. VIEWING [CAMERA] VIDEO FILES

Viewing [camera] video files is authorized, restricted or prohibited as follows . . . :

##### A. Level 1 Use of Force, Level 1 Pursuit or In-Custody Death

. . .

2. No personnel involved in or a witness to the incident may view any audio/video recordings prior to being interviewed by the appropriate investigative unit and receiving command approval.
3. Once a member's report(s) has been submitted and approved and the member has been interviewed by the appropriate investigator, the investigator will show the member his/her audio/video. This will occur prior to the conclusion of the interview process[.]

Personnel will be given the opportunity to provide additional information to supplement their statement and may be asked additional questions by the investigators.



### Limits Retention of Footage

- ✓ The policy requires the department to delete unflagged footage within six months.



Dallas PD automatically deletes unflagged footage after 90 days. (§332.06.B)

- B. All video will be maintained for a minimum of 90 days. If the video has not been categorized as one which is to be retained it will automatically be deleted after 90 days.



Las Vegas Metropolitan PD deletes unflagged footage in exactly 45 days.

Category Retention Schedule

The retention period begins from the date the BWC recording was labeled or categorized. Unlabeled or uncategorized recordings will be auto-deleted at 45 days. . . .



**Protects Footage Against Tampering and Misuse**

✓ The policy expressly prohibits both footage tampering and unauthorized access, and indicates that all access to recorded footage will be logged or audited.



Omaha PD prohibits the deletion, alteration, and download of footage without prior authorization. (§§VII.B-D)

- B. Employees shall not erase, alter, reuse, edit, copy, share, modify, or tamper with BWC recordings without prior written authorization and approval of the Chief of Police or designee.
- C. Officers shall not record, download, or otherwise transfer BWC recordings onto any type of personal recording devices, including but not limited to personal cellular phones, video recorders, tables, etc.
- D. To prevent damage to, or alteration of, original Recorded Media, such media shall not be copied, viewed, or otherwise inserted into any device not approved by the BWC System Administrator.

The Omaha PD policy also indicates that access to recorded footage will be audited by a system administrator for unauthorized access. (§IV.D)

- D. The BWC System Administrator(s) will periodically audit BWC Recorded Media to make certain only authorized users are accessing the data for legitimate and authorized purposes. . . .



**Makes Footage Available to Individuals Filing Complaints**

✓ The policy expressly allows individuals who are filing police misconduct complaints to view all relevant footage.



Metropolitan Police Department of the District of Columbia expressly allows a recorded individual to request to view footage. The policy also, commendably, clearly lay out the process of requesting to view relevant footage, and is one of the few policies we have seen that does so. (§V.F)

#### F. Requests for BWC Recordings by Subjects

1. The subject of a BWC recording, his or her legal representative, or the subject's parent or legal guardian if the subject is a minor, may request to schedule a time to view the BWC recording at the police district where the incident occurred.
2. Members shall be aware that subjects may request to view BWC recordings online or at the district station.
  - a. Subjects may submit requests for recordings online at <http://mpdc.dc.gov/page/body-worn-camera-citizen-viewing-process> or by submitting a Request to Review Body-Worn Camera Recording (see Attachment C).
  - b. Members who receive requests to view BWC recordings by subjects or their representatives at the district station shall immediately notify their district's BWC Unit Coordinator, in writing, and forward requests to the MPD FOIA Office at [mpd.foia@dc.gov](mailto:mpd.foia@dc.gov).
3. The assigned MPD FOIA specialist shall conduct a privacy review of the video and determine if the un-redacted BWC recording violates the individual privacy rights of any other subjects of the recording and shall notify the BWC Unit Coordinator if the recording or a portion of the recording is eligible for viewing.
4. Upon notification from the FOIA Office that a recording is eligible for viewing, the BWC Unit Coordinator shall review the recording and confirm that the viewing of the recording would not compromise the safety of any other subject.
5. The BWC Unit Coordinator shall notify the subject whether the recording is available for viewing.
  - a. In cases where the recording is available, the BWC Unit Coordinator shall schedule a suitable time for the subject, his or her legal representative, or the subject's parent or legal guardian to view the recording under the following conditions:
    - (1) The subject, his or her legal representative, or the subject's parent or legal guardian if the subject is a minor shall provide a valid government-issued photographic identification [e.g., a driver's license, passport, green card (U.S. Permanent Resident Card) or military identification]. . .
    - (2) The subject, his or her legal representative, or the subject's parent or legal guardian must sign the PD Form 99-B (Consent to View Body-Worn Camera Recording) (Attachment D) prior to viewing the recording.
    - (3) The viewing must occur in the presence of the BWC Unit Coordinator.
    - (4) Under no circumstances shall the subject, his or her legal representative, or the subject's parent or legal guardian:
      - (a) Be allowed to use any recording device to make a copy of the BWC recording.
      - (b) Be provided a copy of the recording. Subjects, or their representatives, may contact the FOIA Office to request copies of the recording.

...

#### 3. Notwithstanding the provisions of this order:

- (1) A complainant's request to view a BWC recording prior to initiating a complaint is **voluntary**. Whether or not the complainant chooses to request to view the recording shall in no way be considered by MPD if the complainant chooses to proceed with the complaint. . . .



## Limits the Use of Biometric Technologies

- ✓ The policy sharply limits the use of biometric technologies (e.g., facial recognition) to identify individuals in footage.



Baltimore PD limits the use of facial recognition technologies to perform broad searches of BWC data. A narrow exception is made for analyzing particular incidents using such technologies. (Review of Recordings §9)

### Review of Recordings

...

9. BWC data shall not:

- 9.1. Be used to create a database or pool of mug shots;
- 9.2. Be used as fillers in photo arrays; or
- 9.3. Be searched using facial recognition software.

**EXCEPTION:** This subsection does not prohibit the BPD from using a recognition software to analyze the recording of a specific incident when a supervisory member has reason to believe that a specific suspect, witness, or person in need of assistance was recorded.

## Department Policies

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# Alameda County Sheriff's Department



- 
- ✗ Makes the Department Policy Publicly and Readily Available
  - ✓ Limits Officer Discretion on When to Record
  - ✓ Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
  - ✗ Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage
  - 💰 Received a [\\$1,000,000 DOJ grant](#) for BWCs in 2016

*Last updated: November 16, 2017. Is this policy now publicly available? [Let us know.](#)*

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## ✗ **Makes the Department Policy Publicly and Readily Available**

Alameda County Sheriff's Office (ACSO) implemented its first body-worn camera (BWC) program in 2012. In December of 2015, ACSO conducted a study to evaluate BWC policies, guidelines, recommendations, and technologies as part of an effort to align under Department of Justice (DOJ) practices. In 2015, ACSO appears to have solicited community feedback on the program through a [survey](#). In 2016, DOJ [awarded](#) ACSO \$1 million to expand and improve its existing body-worn pilot program. On May 8, 2017, ACSO [entered into a contract with Axon](#) to purchase 1,200 body-worn cameras.

While officers are wearing body cameras in the neighborhoods of Alameda County and the community has been [debating](#) the policies governing the program, the department does not make its policy public. We obtained a copy of a policy, revised on March 15, 2017, from a reporter.

## ✓ **Limits Officer Discretion on When to Record**

Alameda County's policy requires officers to record certain categories of law enforcement encounters, and has additional guidance for officers assigned to the Detention and Corrections Division. (§§IV.D.5,E)

### D. GENERAL PROCEDURES AND USE FOR MEMBERS:

...

5. As soon as practical and safe, Members shall activate their BWCs when responding to calls for services and during law enforcement related encounters that occur while on duty. Members assigned BWCs shall activate the BWC in the following situations:

- a. All dispatched calls for service (prior to arrival on scene)
- b. All traffic stops
- c. All enforcement and investigative contacts (consensual, detention or arrest)
- d. When serving all search or arrest warrants
- e. All Code 3 driving and/or responses
- f. When conducting the following: searches of one's person, property or residence (incident to arrest, cursory, probable cause, probation/parole, consent, vehicle)
- g. All vehicle pursuits: primary and secondary deputies and other authorized deputies
- h. Any foot pursuit
- i. All K-9 deployment or searches
- j. Crowd control situations involving engagement, enforcement, or investigative contact
- k. All incidents involving use of force
- l. Witness and victim statements
- m. Suspect statements to include post-Miranda advisement interviews
- n. While serving all civil processes
- o. All inmate/prisoner transports [exception for Detention and Corrections (D&C) Transportation Unit noted in the D&C section of this order
- p. Any contact that becomes adversarial after the initial contact, in a situation that would not otherwise require recording
- q. Anytime the Member believes audio and/or video evidence would be of use
- r. At the direction of a supervisor

**E. DETENTION AND CORRECTIONS:**

Members assigned to the D&C Division shall activate their BWCs in accordance with the general procedures and use for Members, as well as while in the performance of the following duties:

1. Anytime an inmate is removed or escorted from their cell or holding area
2. Entering a cell, dormitory housing, or holding area occupied by an inmate (i.e., conducting a count inside a minimum housing setting, window checks)

Exception - supervising pod time or conducting general observation and intensive observation checks, unless a situation arises that dictates otherwise

3. Processing of new arrestees (except during the supervision of medical screenings or classification interviews)
4. Resistive Inmate Movement (RIM) activations
5. Searches of a cell, dormitory housing, or holding area (i.e., shakedown)
6. Supervising inmate workers who are in close proximity to security exit/entry points or perimeters
7. During on-loading and off-loading of Transportation vehicles
8. Members shall not record inmates while conducting a strip search, conducting a classification or medical interview, or during the inmates' use of a toilet or shower. There may be circumstances which dictate the need for BWC activation, such as the inmate becoming uncooperative or resistive, or the possibility of an allegation of misconduct arises from the contact.

The policy says that officers "should" explain the reason for deactivating their cameras, but does not appear to require them to do so. (§IV.G.3)

3. Once activated, the BWC should remain in recording mode . . .

...

4. In all cases indicated above, while in recording mode, the Member should explain the reason for deactivating their BWC.

However, the policy does require officers to provide concrete justifications for activation delays or non-activation. (§IV.H.5)

5. Members shall document and explain in their incident report any delayed or non-activation of their BWC when activation was required. In an incident where any of the above listed reports were not generated, Members may be required to submit a memorandum to the captain of their duty station, explaining their reasons for delaying or failing to activate their BWC in a situation requiring activation.

Alameda County's policy mentions the importance of privacy, recommend officers advise people they are being recorded, and makes allowances for a variety of sensitive situations. Members may, but are not required to, stop video recording upon the request of a member of the public. (§IV.E.8,G)

E. DETENTION AND CORRECTIONS:

...

8. Members shall not record inmates while conducting a strip search, conducting a classification or medical interview, or during the inmates' use of a toilet or shower. There may be circumstances which dictate the need for BWC activation, such as the inmate becoming uncooperative or resistive, or the possibility of an allegation of misconduct arises from the contact.

...

G. ADVISEMENT AND DEACTIVATION:

1. Generally, Members are not required to advise or obtain consent from a person(s) to record or utilize the BWC when they are in a public place or at a location where the Member is lawfully present.
2. Members should make a reasonable effort to advise a person(s) they are being recorded with the BWC, unless the advisement would endanger their safety, another Member's safety, the safety of the public, or the advisement would interfere with an ongoing investigation.
3. Once activated, the BWC should remain in recording mode until:

...

- d. Members may stop recording when encountering or interviewing a victim(s) who asks not to be video-recorded (i.e., sexual assault, domestic violence or child abuse victims), and the absence of a BWC recording will not affect the investigation.
- e. Members may stop recording when interviewing a Member of the public who does not want to be video-recorded, if the Member feels the importance of obtaining information and/or a statement outweighs the need to record it.

...

9. Places where there is reasonable expectation of privacy (i.e., doctor office).

The policy also states that officers should obtain consent before interviewing crime victims and witnesses. (§IV.G.5)

5. While in recording mode, the Member should obtain consent prior to conducting an interview with crime victims and witnesses. If the witness and/or victim refuse to provide a statement on camera, the option of an audio statement or written statement may be used. An audio statement can be accomplished by angling the camera lens away from the victim and/or witness. Statements taken with a BWC are required to be audible, intelligible, and summarized accurately in a police report. Members who take a statement with a BWC, absent exigent circumstances, will create a separate file for each statement by turning the BWC off and then turning it back on.

 **Prohibits Officer Pre-Report Viewing**

Alameda County allows offers to review their own footage to prepare official reports. (§IV.H.4)

H. MEMBER RESPONSIBILITIES:

...

4. Members shall be able to review BWC data under the following instances:
    - a. To complete a criminal investigation or preparation of an official report
    - b. Prior to courtroom testimony
- ...
- d. Pursuant to a Critical Incident in accordance with General Order 1.02
  - e. To prepare for an Internal Affairs Unit investigation, to include reviewing the data with their representative, outside the presence of any supervisor or investigator
  - f. For other reasons not specified, with the permission of the Sheriff or designee
  - g. The Sheriff or Undersheriff reserves the right to prohibit a Member from reviewing BWC data.

In use-of-force incidents, supervisors are instructed to take possession of the BWC, but the policy still does not appear to prohibit officers from reviewing footage prior to making a statement in those cases. (§IV.I.4-5)

I. SUPERVISOR RESPONSIBILITIES:

4. In the event of an officer involved shooting, use-of-force involving significant injury or death, or pursuit involving great bodily injury or death, supervisors shall take possession of the BWC of the involved Member(s) and ensure data related to critical incidents and other incidents described in this subsection is downloaded as soon as possible following the incident.
5. Supervisors completing use-of-force reviews or pursuit analysis where a BWC was used will review the video as part of their review.

✘ **Limits Retention of Footage**

Alameda County states that “data will be retained in compliance with governmental standards, guidelines and applicable laws,” for a minimum of three years. After that point, data *may* be destroyed, but the policy does not appear to require footage deletion. (§IV.J.3)

3. BWC data will be retained in compliance with governmental standards, guidelines and applicable laws. Per the recommendation of the Office of the County Counsel, data will be maintained in a secured data storage medium for a minimum period of three years. After that period, the data may be destroyed, unless other conditions (described herein) would preclude destruction. Exceptions to this purge criteria are data associated with civil or criminal cases that have yet to be adjudicated, or if the Sheriff’s Office has sufficient notice of a potential litigation that could involve particular BWC data; sustained Internal Affairs investigations; the request of the District Attorney’s office or other law enforcement agency; and/or at the discretion of the Sheriff’s Office. The purging of data files will be completed in a manner consistent with all statutory requirements and Sheriff’s Office policies.

✘ **Protects Footage Against Tampering and Misuse**

Alameda County prohibits unauthorized access and notes that access to the system is logged, but the policy does not appear to explicitly prohibit footage tampering. (§IV.J.4)

J. DATA STORAGE AND SECURITY:

4. Any access to the BWC system will be tracked utilizing the VERIPATROL software solution. Members are prohibited from accessing, downloading, uploading or using the BWC data for private, unauthorized, or personal use.

...

K. AUDIT OF BODY-WORN CAMERA SYSTEM:

...

2. The audit will be conducted on an annual basis to ensure that Members are complying with the guidelines set forth in this order. The audit will review the efficacy of the BWC program, including but not limited to, agency-wide training issues, impacts on use-of-force situations, adjudication of Internal Affairs complaints, and impacts on prosecution of criminal cases submitted to the District Attorney.

✘ **Makes Footage Available to Individuals Filing Complaints**

The policy does not expressly allow individuals who are filing police misconduct complaints to view relevant footage, and relies on a separate public records policy. (§IV.D.3)

3. Pursuant to Government Code section 6254 (California Public Records Act) all BWC video and footage is considered a “law enforcement investigatory file” and does not require full disclosure to the public. **Requests for video will be processed pursuant to General Order 1.22, Public Records.**

✘ **Limits Biometric Searching of Footage**

The policy does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

## Albuquerque Police Department



- 
- ✓ Makes the Department Policy Publicly and Readily Available
  - ✓ Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - Limits Retention of Footage
  - ✗ Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage
  - 💰 Received a [\\$250,000 DOJ grant](#) for BWCs in 2015

*Last updated: October 3, 2017. Is there a new version of this policy? [Let us know.](#)*

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### ✓ **Makes the Department Policy Publicly and Readily Available**

Albuquerque PD publishes its BWC policy on its website, in the department's [General Orders Manual](#). Order 2-8 is titled "Use of On-Body Recording Devices." The latest version is dated June 2, 2017, and is due for review on June 2, 2018.

### ✓ **Limits Officer Discretion on When to Record**

Albuquerque PD requires officers to record certain categories of citizen contact. The policy also includes an "Officer's Quick Guide: When Do I Record" page that the department encourages officers to print and keep. (§§2-8-5.B.1,6,8)

1. Department personnel shall activate OBRDs only in conjunction with official law enforcement duties.  
...
6. This policy is intended to achieve a reasonable balance between the benefits of using OBRD devices and an individual's reasonable expectation of privacy. Although this policy identifies those situations in which activation of the OBRD is mandatory, Department personnel have discretion to manually activate the device any time an officer believes it would be appropriate or valuable to document an incident. In exercising this discretion, personnel should be aware of, and sensitive to an individual's reasonable privacy expectations. The OBRD may only be activated for legitimate law enforcement purposes.  
...
8. Mandatory Recording Incidents  
Subject to the limitations in this policy, Department personnel shall use Department-issued OBRDs to document the incidents listed below:
  - a. All use of force encounters, including contacts leading up to the use of force, when Department personnel can reasonably foresee a use of force may occur.

- b. All encounters with individuals who are the subject of a stop based on reasonable and articulable suspicion or probable cause.
- c. Traffic stops and DWI investigations.
- d. Arrests, including contacts leading up to the arrest, when Department personnel can reasonably foresee an arrest occurring.
- e. Vehicle searches, unless conducted at tow yards, APD facilities, or other law enforcement facilities.
- f. Search warrants of structures from the time of entry until the location has been secured.
- g. Emergency evaluations (i.e. pick up orders)
- h. Contacts with subjects who (1) are not complying with officers' commands; (2) appear to pose a current threat to themselves or others; or (3) are known to the officer to have a history of being a threat to themselves or others based on either personal knowledge or notification from an APD resource.
- i. Any other legitimate law enforcement contact where the Department personnel believe that recording an incident would be appropriate or valuable. In these contacts, the Department personnel shall balance the law enforcement objectives and need to record against the individual's expectation of privacy, particularly with respect to sensitive victims.

The policy requires officers to provide justifications for stopping record in certain limited circumstances. (§§2-8-5.B.5, 11-12)

- 5. For all mandatory recording incidents identified below:
  - a. Department personnel will activate their OBRDs at the beginning of the incident and prior to exiting the patrol car, if possible.
  - b. If the immediate activation of the OBRD is not feasible due to immediate risk to the safety of the Department personnel or others, then the Department personnel will activate the OBRD at the first available opportunity when it is safe to do so.
  - c. Department personnel may cease recording when they reasonably determine that the incident has concluded, based on information available to the personnel at the time. Deciding when the incident has concluded will depend on the type of incident and individual circumstances, but, typically, the incident has concluded when Department personnel terminate contact with the individual or they have cleared the scene.
- ...
- 11. Individuals may request that an officer stop recording them. Department personnel shall not stop recording in response to an individual's request if the recording is required by this policy or if the Department personnel deem that continued recording is necessary. If the recording is not mandatory, the Department personnel may evaluate the situation and, when appropriate, may honor the individual's request.
- 12. The individual's request to stop recording should be documented with the OBRD. In the event that it is not reasonably possible to record the individual's request with the OBRD, Department personnel shall document the request via the CAD system or a report.

Albuquerque PD also requires officers to provide concrete justifications when they fail to record required events. (§2-8-5.F.b)

- b. Articulate on an OBRD recording or in writing their reasoning for not activating their OBRD before required incidents, for not recording the entire contact, or for interrupting the recording. Department personnel shall document why a recording was not made, was interrupted, or was stopped.

Notably, the department requires supervisors to refer officers for investigation if they "intentionally or repeatedly fail to activate" their BWCs. (§2-8-5.F.2.g)

- g. Supervisors shall refer assigned personnel for investigation if they intentionally or repeatedly fail to activate their OBRDs during incidents required to be recorded. Intentional or otherwise unjustified failure to activate an OBRD when required by APD policy shall subject the Department personnel to discipline.

## Addresses Personal Privacy Concerns

Albuquerque PD mentions the importance of personal privacy in its policy. (§§2-8-5.B.6-7)

6. This policy is intended to achieve a reasonable balance between the benefits of using OBRD devices and an individual's reasonable expectation of privacy. Although this policy identifies those situations in which activation of the OBRD is mandatory, Department personnel have discretion to manually activate the device any time an officer believes it would be appropriate or valuable to document an incident. In exercising this discretion, personnel should be aware of, and sensitive to an individual's reasonable privacy expectations. The OBRD may only be activated for legitimate law enforcement purposes.
7. Officers should not record in locations where individuals may have a reasonable expectation of privacy, such as in private residences, restrooms, locker rooms, hospitals, or in the presence of medical personnel. However, Department personnel will record in these locations if the encounter is subject to mandatory recording as set forth below or if the totality of the incident leads Department personnel to believe that recording is appropriate.

The policy recommends officers inform people they are being recorded, and are required to inform arrestees they are being recording, but does not require officers receive consent to do so. (§§2-8-5.B.2-3)

2. It is recommended that officers inform individuals they are being recorded during their initial contact; however, they are not mandated to do so.
3. Department personnel shall inform arrestees that they will be recorded, unless informing them would be unsafe, impractical, or impossible.

The policy allows individuals to request that officers stop recording, but gives officers discretion to continue if they deem it necessary. (§2-8-5.B.11)

11. Individuals may request that an officer stop recording them. Department personnel shall not stop recording in response to an individual's request if the recording is required by this policy or if the Department personnel deem that continued recording is necessary. If the recording is not mandatory, the Department personnel may evaluate the situation and, when appropriate, may honor the individual's request.

The policy does not specifically protect categories of vulnerable individuals (e.g., victims of sex crimes) from being recorded without their informed consent.

### ✘ Prohibits Officer Pre-Report Viewing

Albuquerque PD allows offers to review their own footage to "assist quality and accuracy in their reports." (§2-8-5.D.2)

2. Department personnel may review their own OBRD recordings to assist quality and accuracy in their reports and for investigatory interviews. For specific procedures involving an officer-involved shooting, see the guidelines in SOP 7- 3 – Force Investigation Team (FIT).

In use-of-force incidents, the policy refers to [a different section](#) of the departments general orders; this section also does not appear to restrict involved officers from viewing footage prior to writing reports or making statements.

### ○ Limits Retention of Footage

Albuquerque PD specifies a minimum retention period, and refers to a video category called "120 Day Delete," but does not otherwise appear to require footage deletion. (§§2-8-5.E.5;G.5)

- E.5. Department personnel shall add the "120 Day Delete" category to non- evidentiary recordings that are uploaded or imported into the Department's digital storage application.

...

G.5. The Department shall retain and preserve non-evidentiary recordings for 120 calendar days. Deleting non-evidentiary videos after 120 calendar days does not imply that the Department personnel did not record the incident, as it is reflected in the audit trail.

### ✘ **Protects Footage Against Tampering and Misuse**

Albuquerque PD allows footage access only for “authorized purposes.” (§§2-8-5.D.3-4;G.4)

#### D. Viewing, Accessing, and Sharing OBRD Recordings

...

3. Department personnel may view, download, redact, and share OBRD recordings only for legitimate law enforcement purposes and for authorized administrative review purposes
4. Department personnel will not delete OBRD recordings unless deletion is consistent with this policy and SOP 2-73 - Submission of Evidence, Confiscated Property, and Found Items.

...

#### G. Redaction, Retention, and Release of Recordings

...

4. Viewing and downloading OBRD recordings is for criminal investigation and prosecution, administrative investigations, or authorized administrative purposes only.

The policy indicates the system retains audit trails; however, the policy does not appear to explicitly prohibit tampering. (§2-8-5.G.3.d)

d. If recording contains evidentiary content, only the portion that meets Paragraph B(9) shall be redacted of audio, video, or both by the lieutenant or equivalent. A detailed description stating the reason for edit shall be noted in the system for each segment of the recording that is redacted. Redactions will automatically be reflected in the audit trail.

### ✘ **Makes Footage Available to Individuals Filing Complaints**

Albuquerque PD does not expressly allow individuals who are filing police misconduct complaints to view relevant footage; it make reference to a separate policy governing records and public disclosure. (§2-8-5.G.1)

1. APD policies shall comply with all existing laws and regulations, including those governing evidence collection and retention, public disclosure of information, and consent. See SOP 2-16 – Records and Administrative Instruction 1-7.

### ✘ **Limits Biometric Searching of Footage**

Albuquerque PD does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.



# Arlington Police Department



- 
- ✓ Makes the Department Policy Publicly and Readily Available
  - ✓ Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
  - Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage

*Last updated: October 11, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✓ **Makes the Department Policy Publicly and Readily Available**

Arlington PD has [a section of their website specifically dedicated to its body camera program](#), although it isn't easily accessible on the homepage of their website. The department's [BWC policy](#) is embedded within a list of Commonly Asked Questions, dated September 20, 2015.

## ✓ **Limits Officer Discretion on When to Record**

Arlington PD provides officers with a clear list of situations that must be recorded and clearly states that the "officer shall document why a recording was not made, was interrupted, or was terminated" in instances where the officer failed to activate the BWC, record the entire contact, or interrupts the recording. (§C.2)

### 2. When and How to Use the BWC (A 41.3.8b)

- a. When safe to do so officers shall activate the BWC during all calls for service and law enforcement-related activities to include but not limited to:

- Any enforcement stop, pedestrian or vehicle
- Investigations and interviews of criminal acts
- Arrest
- Searches
- Use of force
- Critical Incidents
- Pursuits
- Any encounter with the public that becomes confrontational after initial Contact.

...

- c. The BWC shall remain activated until the event is completed in order to ensure the integrity of the recording unless deactivation is authorized by this policy or a Supervisor.
- d. If an officer fails to activate the BWC, fails to record the entire contact, or interrupts the recording, the officer shall document why a recording was not made, was interrupted, or was terminated.
- e. If the officer stops recording, the reasoning and circumstances will be made both on camera before recording ceases and later in the written report. The name of the approving supervisor should also be recorded if applicable.

### ○ **Addresses Personal Privacy Concerns**

In general, Arlington PD prohibits recording in places where individuals have a “reasonable expectation of privacy, such as a residence” but offers vague evidence on when not to record vulnerable individuals. (§C.2.b)

Officers should inform individuals that they are being recorded, when it is safe to do so. In locations where individuals have a reasonable expectation of privacy, such as a residence, recording should not be made unless the recording is being made as part of an ongoing investigation or police action resulting from a call for service, offense observed by the officer, or during the execution of an arrest or search warrant.

### ✗ **Prohibits Officer Pre-Report Viewing**

The policy allows officers to view the recording prior to making any statement. (§C.3.f)

An officer may access any recording of an incident involving the officer before being required to make any statement about the incident as required by state law.

### ✗ **Limits Retention of Footage**

The policy states that “non-evidentiary video and audio recordings” are retained for 90 days. However, the policy does not appear to expressly require that footage be deleted. (§C.5.c)

Files should be securely stored in accordance with state records retention laws and no longer than useful for purposes of training or for use in an administrative or criminal investigation or prosecution. Non-evidentiary video and audio recordings will be maintained for 90 days. All video and audio recordings marked as evidence shall be maintained through the conclusion of court proceedings and in compliance with the evidence retention policy of this agency. In capital punishment prosecutions, recordings shall be kept until the offender is no longer under control of a criminal justice agency.

### ○ **Protects Footage Against Tampering and Misuse**

Arlington PD prohibits both footage tampering and unauthorized access “without prior approval.” However, the policy does not indicate that all access to recorded footage will be logged or audited. (§C.3.d, §C.4.b, §B, §C.6.f.5)

C.3.d. Officers shall not edit, alter, erase, duplicate, copy, share, or otherwise distribute in any manner BWC recordings without prior approval of the Police Chief or his or her Designee.

C.4.b. Accessing, copying, editing or releasing recordings or depictions of recordings without proper approval is prohibited. This restriction does not apply to recordings that are released as a requirement through the Public Information Act request process or as required through the evidentiary sharing process for criminal investigation or prosecution.

B. Supervisors will conduct random audits of BWC footage to ensure compliance with departmental policy and training.

C.6.f.5) An officer or any other employee of the Police Department will not use their position to obtain, attempt to obtain, or convert for their personal use or for the unauthorized use of another person/entity, any BWC video or information from Department video files.

### ✘ **Makes Footage Available to Individuals Filing Complaints**

The policy does not expressly allow individuals who are filing complaints to view relevant footage. Instead, supervisors are allowed to review BWC recordings to resolve complaints. (§C.7.c, §C.5.a)

C.7.c. Supervisors may have the ability to resolve citizen complaints by reviewing video captured by an officer's BWC. In those circumstances where a complaint is resolved with no further action needed, the supervisor shall document their investigation and shall include a copy of the video reviewed.

C.5.a. Public Information Act requests for video will be handled in accordance with Chapter 552 of the Texas Government Code and departmental procedures.

### ✘ **Limits Biometric Searching of Footage**

SDPD PD does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# Atlanta Police Department



- 
- ✓ Makes the Department Policy Publicly and Readily Available
  - ✓ Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
  - ✓ Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage

*Last updated: October 3, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✓ **Makes the Department Policy Publicly and Readily Available**

Atlanta PD publishes its BWC policy [on its website](#) as part of its Standard Operating Procedure. It can be reached by searching "body worn cameras" from the department homepage. The current policy was made effective January 15, 2017.

## ✓ **Limits Officer Discretion on When to Record**

Atlanta PD requires officers to record all calls for service and law enforcement interactions with the public, among other events. (§§2; 4.3.1-5, 4.3.8)

2. . . . The BWC shall be used during the course of regular and extra job duties, for the purpose of potential evidence in the prosecution of criminal and traffic offenses, departmental internal investigations, and any other situations which the Department shall deem necessary. . . .

...

4.3.2 Employees shall place the BWC in event (recording) mode upon arriving on scene of a call for service requiring recording of an incident, or when interacting with the public in a law enforcement capacity which the officer and/or his or her supervisor deems necessary to record and document.

4.3.3 Supervisors shall place the BWC in event (recording) mode upon arriving on scene of all supervisor requests initiated by a citizen or an employee regarding a call for service or incident.

4.3.4 The Atlanta Police Department recognizes that employee safety is paramount and understands that events can take place without notice. Employees shall place their BWC into event (recording) mode for the following circumstances listed to include, but not limited to:

- a. Vehicle or Pedestrian stops;
- b. Department approved vehicle safety checkpoints;
- c. Field Interviews;

- d. Vehicle or Foot Pursuits;
- e. Emergency Driver (either code 2 or code 3);
- f. When requested by a citizen during an encounter with law enforcement;
- g. While en route to crimes in progress where fleeing suspects or vehicles may be captured on video leaving the crime scene;
- h. Statements made by suspects, victims or witnesses while interviewing; and
- i. Execution of a search warrant.

4.3.5 Employees may activate the BWC anytime they believe its use would be appropriate and/or valuable to document an incident, or as instructed by their supervisor. The BWC shall be placed in event (recording) mode as soon as it is practically possible for employees to do so in order to capture an event.

...

4.3.8 Employees shall deactivate their BWC when the incident has transitioned to a controlled orderly manner, when the interaction has been completed by the employee, or as instructed by their supervisor. (CALEA 5th ed. Standard 41.3.8(b))

The policy also requires officers to justify non-activation or interruption of recordings. (§4.3.6)

4.3.6 If there is a non-activation or interruption of recording by employees arriving on scene of an incident requiring activation of the BWC, or if an employee does not place the BWC in event (recording) mode while interacting with the public in a law enforcement capacity deemed necessary by the employee and/or his or her supervisor, the employee shall begin recording the event as soon as practically possible and document the circumstances in a written report explaining the delay in activation or interruption in the recording of the incident in accordance with APD.SOP.3060 "Report Writing".

### ○ Addresses Personal Privacy Concerns

Atlanta mentions reasonable expectations of privacy, but then strangely notes that officers still may record in those events since "they occur in the presence of the law enforcement officer." However, the policy does go on to prohibit recordings in dressing rooms, locker rooms and restrooms, and to avoid recording "exposed genitals or other sexually sensitive areas." (§§4.3.1; 4.4.1)

4.3.1 Law enforcement officers may use their BWC or other camera devices during the lawful performance of their duties to observe, photograph, videotape, or record the activities that occur in places where there is a reasonable expectation of privacy if they occur in the presence of the law enforcement officer. (Senate Bill 94, O.C.G.A Section 16-11-62 Unlawful Eavesdropping or Surveillance)

...

4.4.1 The purpose of the BWC is to be used during law enforcement interactions with the public. The BWC shall not be used for the following reasons to include, but not limited to:

- a. The BWC shall not be activated in areas such as but not limited to: dressing rooms, locker rooms and restrooms unless performing a legitimate law enforcement action;
- b. When possible, employees shall refrain from recording exposed genitals or other sexually sensitive areas, unless doing so would be unavoidable;

The policy does attempt to protect the privacy of recorded individuals by exempting recordings from The Georgia Open Records Act when reasonable expectation of privacy is met. (§4.9.1)

4.9.1 The Georgia Open Records Act shall exempt audio and video recordings used by law enforcement in places where there is a reasonable expectation of privacy from disclosure under certain circumstances specified in accordance with O.C.G.A. Section 50-18-72(a)(26.2).

The policy does not specifically protect vulnerable individuals or victims, or allow subjects to opt-out of recordings by request.

## 🚫 Prohibits Officer Pre-Report Viewing

Officers may review footage before writing their reports for all incidents, except in the cases of use of force. In use of force incidents, employees are explicitly required to complete a report prior to reviewing footage or audio, and include a statement to that effect. (§§4.3.9; 4.9.2-4)

4.3.9 Employees are permitted to access and review either video stored on their BWC or the employee's video uploaded to the Atlanta Police Department (APD) approved storage network with the exception of all use of force incidents (see section 4.9.3).

...

4.9.2 Any use of force incident captured by the BWC must be uploaded by a supervisor before the end of the employee's shift/tour of duty. Supervisors and employees shall adhere to guidelines and procedures in accordance with APD.SOP.3010 "Use of Force".

4.9.3 Any employee involved in a "use of force" incident, shall complete an incident report of the event prior to viewing the BWC footage. Only after an employee has completed an incident report following a use of force event, shall the employee be permitted to view BWC footage if they desire to do so.

4.9.4 Upon completion of the incident report, the employee shall include the following statement:

*"I have completed this report prior to reviewing any video/audio pertaining to this incident to the best of my knowledge."*

## ⊗ Limits Retention of Footage

Atlanta PD notes that the retention period for "citizen contact" footage (which we assume to be non-evidentiary) is 180 days. However, it is not clear whether this is a minimum or maximum retention period, and the policy does not appear to expressly require that footage be deleted. (§4.8.1)

4.8.1 BWC recorded data shall remain stored on a secured APD approved storage network, in accordance with Georgia Archives (State Govt. Schedule 13-002) and The Georgia Records Act O.C.G.A. 50-18-90 et seq. The retention guidelines are as follows:

- a. Traffic Stop 180 Days
- b. Citation 180 Days
- c. Citizen Contact 180 Days
- d. Criminal Investigation 30 months
- e. Use of force w/ no arrest 30 months
- f. Arrest 5 Years
- g. Homicide Indefinite

## ✅ Protects Footage Against Tampering and Misuse

Atlanta PD prohibits tampering with both cameras and footage, as well as "destroying any evidentiary recording produced." (§4.5)

4.5 Tampering with the BWC

4.5.1 The BWC and recordings are the property of the Atlanta Police Department. Use of the BWC for any purpose not associated with an employee's duties, or as specifically prescribed in this Standard Operating Procedure, is strictly prohibited. (CALEA 5th ed. Standard 41.3.8(c))

4.5.2 Employees are strictly prohibited from disabling or destroying a BWC. This includes changing or attempting to change settings and/or permission levels within a BWC.

4.5.3 Employees shall not interfere or intentionally block the ability of the BWC to record an encounter.

4.5.4 The intentional destroying or altering of any evidentiary recording produced from the BWC by any employee shall be treated as a violation of O.C.G.A 16-10-94 tampering with evidence, O.C.G.A 16-10-94 interference with government property, APD.SOP.2010 "Truthfulness" Section 4.1.3, and subject to disciplinary and/or criminal prosecution.

Access appears to be limited to users given permission by the BWC Compliance Administrator, and employees who view footage must place a note on the file justifying their reasoning for accessing it. (§§4.9.5-6; 4.11.1)

4.9.5 Whenever an employee or supervisor reviews a recording, they shall place a note in the video detailing their reasoning for accessing the video.

4.9.6 Employee responsibilities include, but are not limited to:

- a. Video tagging;
- b. Reviewing;
- c. Not allowing unauthorized people to view the BWC footage;
- d. Not obtaining copies of video without authorization; and
- e. Prohibiting the release of footage without permission.

...

4.11.1 The BWC Compliance Administrator shall be responsible for the following:

- a. Maintaining an accurate listing of all BWC users;
- b. Management of the digital data storage management system;
- c. Assigning permissions and roles to users in the BWC system as directed and/or approved by the Chief of Police or his or her designee;

...

The policy also provides that footage will be audited. While the language does not make clear whether these audits also review access or change logs, the relevant clauses, when read together with the clause requiring employees to document and justify viewing of footage, imply that access is indeed audited. (§§4.10.2; 4.10.4; 4.11.2)

4.10.2 The BWC Compliance Administrator shall be responsible for conducting audits of BWC footage, and shall ensure accountability and compliance in accordance with the guidelines and procedures in this directive.

...

4.10.4 The Compliance Administrator shall conduct a random audit of BWC data on a semi-annual basis and generate a report documenting the findings.

...

4.11.2 The Compliance Administrator shall be responsible for conducting audits of BWC footage, generate a report documenting the findings, and shall ensure accountability and compliance in accordance with the guidelines and procedures in this directive. The report shall be submitted to the Deputy Chief of Strategy and Special Projects Division (SSP) for review.

### ⊗ **Makes Footage Available to Individuals Filing Complaints**

Atlanta PD does not expressly allow recorded individuals to view footage.

### ⊗ **Limits Biometric Searching of Footage**

Atlanta PD does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# Aurora Police Department



- 
- ✓ Makes the Department Policy Publicly and Readily Available
  - Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
  - ✗ Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage

*Last updated: October 6, 2017. Is this policy now publicly available? [Let us know.](#)*

---

## ✓ Makes the Department Policy Publicly and Readily Available

Aurora PD publishes its BWC policy on its website as a part of its [Directives Manual](#) in the chapter titled "Police Technical Systems." The most recent policy was made effective on October 3, 2017.

## ○ Limits Officer Discretion on When to Record

Aurora PD requires officers to activate cameras "as soon as practical" during citizen contact or at the discretion of the officer when they determine footage should be captured for "evidentiary purposes." (§16.4.3)

### 16.4.3 Body-Worn Camera Operation

...

#### b. Body-worn camera activation:

- ...
- On duty officers shall activate the camera's recording capabilities as soon as practical when;
  - (1) Contacting a citizen or confronting an incident unless such activation is not feasible;
  - (2) Anytime the officer determines that a video or audio file needs to be captured for evidentiary purposes such as a member-involved critical event;
  - (3) When actively involved in a pursuit.
- Uniformed off duty/secondary employment officers will activate the camera when they are in contact with a citizen regarding official business or when confronting a situation that would merit camera activation.



The policy also describes when officers may turn off cameras. When officers deactivate recording prior to the completion of an event, they must justify it verbally on camera before deactivation. (§16.4.5)

16.4.5 Body-worn camera de-activation

Body-worn camera may be de-activated when:

- The contact is completed.
- An articulable reason exists prior to the completion of the contact or incident. The wearer should record the reason verbally, just prior to de-activating the equipment.
- A citizen requests that the recording stop. Deactivating the camera is at the discretion of the member operating the camera. If the member chooses [SIC] to deactivate the body-worn camera, the request from the citizen must be recorded. If the camera is deactivated, the camera should be reactivated to record the conclusion of the citizen contact.

While officers must document whether body worn cameras were used and failures to record are tracked, Aurora PD does not require officers to provide concrete justifications when they fail to record required events. (§16.4.9,12)

16.4.9 Member Responsibility

- ...
- Members shall document the use of the body worn camera or any other recording device in all reports.

16.4.9 Failure to properly utilize the body worn camera system

If the body-worn camera was not utilized as required by this policy, an entry into the AIM system will be done under the incident type of Body-Worn Camera Violation (BWCV).

Process

Supervisors will document the incident in a Body-Worn Camera Violation (BWCV) entry in AIM when the member:

- Failed to activate the camera.
- Activated the camera late.
- Activated camera late and did not record a use of force.
- Turned off the camera early.
- Turned off the camera upon request, but failed to re-activate the camera at conclusion of contact.

 **Addresses Personal Privacy Concerns**

While vague, Aurora PD's policy does mention privacy concerns, prohibiting recording in "public places where a reasonable expectation of privacy exists" except for "official law enforcement activity." The policy also encourages officers to be cautious in healthcare facilities, and provides additional guidance for recording within private property. (§16.4.4)

16.4.4 Special considerations:

- ...
- The body-worn camera will not be activated in public places where a reasonable expectation of privacy exists, such as locker rooms, changing rooms, or restrooms unless the activation is for the purpose of official law enforcement activity.
- ...
- Members will only use the body-worn cameras in patient care areas of a healthcare facility when the recording is for official purposes and caution should be used to record only the parties involved in the event being investigated.
- Members have the authority to record inside a private property as long as the member has legal authority to be there. If a member enters private property in response to a call for service, pursuant to a valid search warrant, lawfully without a warrant, or with consent of a resident or person with lawful authority, members should activate their body-worn cameras.

Citizens may request that cameras be deactivated, and officers have discretion as to whether to do so. The policy does not provide stronger protections for vulnerable individuals like victims of sex crimes. (§16.4.5)

16.4.5 Body-worn camera de-activation Body-worn camera may be de-activated when:

- ...
- A citizen requests that the recording stop. Deactivating the camera is at the discretion of the member operating the camera. If the member chooses [sic] to deactivate the body-worn camera, the request from the citizen must be recorded. If the camera is deactivated, the camera should be reactivated to record the conclusion of the citizen contact.

### ✘ Prohibits Officer Pre-Report Viewing

The policy encourages officer to view footage when preparing reports. (§16.4.9)

16.4.9 Member Responsibility

...

- Members are encouraged to review recordings when preparing reports to ensure accuracy and consistency.

Following critical incidents, the policy dictates that supervisors or detectives should take custody of cameras, but does not restrict officers from viewing footage prior to making a statement. (§16.4.6)

16.4.6 Video Download

...

- Based on the nature of the Member-involved critical event, a Supervisor or a detective assigned to Major Crimes Unit or a member of the Crime Lab Section will take custody of the body-worn camera of any member involved in a critical event. The Supervisor or Crime Lab Section member will download all video contained on the body-worn camera.

### ✘ Limits Retention of Footage

Aurora PD specifies a minimum retention period of 90 days, and mentions, but does not appear to require, footage deletion. (§16.4.10)

16.4.10 Retention, Storage and Duplication

- Body-worn camera video, other than test video, is considered a Criminal Justice Record and will be retained for a minimum of 60 days. The retention period is based upon the disposition code category. Supervisors may mark video for extended retention. Any video marked for retention will be retained according to Crime Lab Section Standard Operating Procedures.
- ...Destruction of any recorded media will be in accordance with the Department retention schedule based on statutes of limitation as outlined in the Crime Lab Section Standard Operating Procedure.

### ✘ Protects Footage Against Tampering and Misuse

Aurora PD expressly prohibits employees from erasing or altering BWC recordings, and states that employees may not use recordings for personal use or distribute footage. (§16.4.9-10)

16.4.9 Member Responsibility

- Members will not erase or attempt to erase, alter, reuse, modify, copy or tamper with any recording. All audio and visual recordings will be treated as evidence and the appropriate chain of custody will be maintained.

- Members will not modify or attempt to modify the body-worn camera. Modifications include covering the lens, microphone, or LED lights with any object or material.
- Members will not log in to the system utilizing another member's log in
- ...

#### 16.4.10 Retention, Storage and Duplication

- ...
- All recorded files associated with body-worn cameras, or any other recording device are the property of the Aurora Police Department. Dissemination outside the agency is strictly prohibited without specific authorization from the Media Relations Detail or the Chief of Police. Members cannot use any part of recorded files for personal use.
- The Aurora Police Department Crime Lab Section Lieutenant is the administrator of the storage and duplication of all recorded media. Members will not copy, alter, modify or tamper with original recordings without permission of the Crime Lab Section Lieutenant or his/her designee. Destruction of any recorded media will be in accordance with the Department retention schedule based on statutes of limitation as outlined in the Crime Lab Section Standard Operating Procedure.

While the policy alludes to unauthorized access by prohibiting officers from logging in using someone else's credentials, it does not appear to otherwise restrict unauthorized access to footage, and does not indicate that access to recorded footage will be logged or audited.

#### **Makes Footage Available to Individuals Filing Complaints**

Aurora PD does not expressly allow recorded individuals to view footage.

#### **Limits Biometric Searching of Footage**

Aurora PD does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# Austin Police Department



- 
- ✓ Makes the Department Policy Publicly and Readily Available
  - Limits Officer Discretion on When to Record
  - ✓ Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
  - ✗ Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage
  - 💰 Received a [\\$750,000 DOJ grant](#) for BWCs in 2016

*Last updated: October 4, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✓ Makes the Department Policy Publicly and Readily Available

Austin PD publishes its most recent publicly available [BWC policy](#) on its website under a [section dedicated to](#) body worn cameras. The latest available version is not dated, although the policy is included in the full Austin Police Department policy manual issued on August 21, 2017. The BWC policy is Policy 303, starting on page 130 of the full manual.

## ○ Limits Officer Discretion on When to Record

Austin PD requires officers to record in a wide range of law enforcement situations, which it lays out in the policy. The policy also gives officers discretion to activate cameras “anytime they believe its use would be appropriate and/or valuable to document an incident.” (§303.2.1)

This section is not intended to describe every possible situation where the system may be used. In some circumstances it may not be possible to capture images of an incident due to conditions or location of the camera, however the audio portion can be valuable evidence and is subject to the same activation requirements. The BWC should only be activated for law enforcement purposes.

(a) All units responding to a scene shall activate their department issued BWC equipment when they:

1. Arrive on-scene to any call for service; or
2. Have detained or arrested a person; or
3. Are attempting to detain or arrest a person; or
4. By the nature of the call for service, are likely to detain or arrest a person; or
5. Any consensual contact in which the officer or a citizen believes activation of the BWC would be in the best interest of the community.

(b) Examples of when the department issued BWC system must be activated include, but are not limited to:

1. Traffic stops
  2. Foot pursuits, until completion of enforcement action
  3. DWI investigations including field sobriety tests
  4. Warrant service
  5. Investigatory Stops
  6. Any contact that becomes adversarial in an incident that would not otherwise require recording.
- (c) Officers that are issued a BWC will be required to utilize the BWC when engaging in Off-Duty LERE Overtime.
- (d) In addition to the required situations, employees may activate the system anytime they believe its use would be appropriate and/or valuable to document an incident.

**Austin PD also provides detailed requirements to officers as to when BWC deactivation is authorized and when BWC system use is not required. (§§303.2.3.a-c; 303.2.5)**

#### 303.2.3 WHEN DEPARTMENT ISSUED BWC SYSTEM DEACTIVATION IS AUTHORIZED

Once the BWC system is activated it shall remain on until the incident has concluded.

(a) For purposes of this section, conclusion of an incident has occurred when:

1. All arrests have been made and arrestees have been transported, and
2. No further law enforcement action is likely to occur (e.g., waiting for a tow truck or a family member to arrive).

(b) Employees may choose to discontinue a recording currently in progress for any non-confrontational encounter with a person, including an interview of a witness or victim.

</li>

#### 303.2.5 WHEN DEPARTMENT ISSUED BWC SYSTEM USE IS NOT REQUIRED

Activation of the BWC system is not required:

- (a) During break and lunch periods
- (b) When not in service and not on a call
- (c) When in service, but not on a call.
- (d) Employees will not utilize the body worn camera in the following circumstances:
  1. A potential witness who requests to speak to an officer confidentially or desires anonymity.
  2. A victim or witness who requests that he or she not be recorded as a condition of cooperation and the interests of justice require such cooperation.
  3. During tactical briefings, or the discussion of safety and security procedures.
  4. Public or private locker rooms, changing rooms, restrooms, unless taking police action.
  5. Doctor's or lawyer's offices, unless taking police action.
  6. Medical or hospital facilities, unless taking police action.
  7. At a school, where minor children are present, unless taking police action.
  8. To monitor persons based solely upon the person's political or religious beliefs or upon the exercise of the person's constitutional rights to freedom of speech and religious expression, petition, and assembly under the United States Constitution, or because of the content or viewpoint of the person's protected speech.

**Officers must articulate the reasoning for discontinuing recording for privacy reasons or for delayed activation of their BWC during required situations, such as the need to "take immediate action...which may not allow time to activate their BWC." (§§303.2.1; 303.2.2.b)**

303.2.2.b. . . . Officers choosing to discontinue a recording for privacy must be able to articulate their reasoning

303.2.1.e There may be instances in which an officer is required to take immediate action to an event that occurs directly in front of them which may not allow time to activate their BWC. In those situations, it may be impractical or unreasonable for employees to activate their BWC system before taking police action. It is expected that once the immediacy of the situation is over, employees will activate their BWC system to record the remainder of the incident. Officers will need to articulate the reasoning for the delayed activation of their BWC.

The policy does not appear to require justification for failure to record.

**✔ Addresses Personal Privacy Concerns**

The policy briefly mentions the need to balance evidence collection with privacy considerations and allows officers to choose to discontinue recording when interviewing witnesses or victims. (§303.2.4)

303.2.4 Victim and Witness Statements

- (a) When conducting an investigation, the officer shall attempt to record the crime victim or witness' statement with the body worn camera. The recording may be valuable evidence that contributes to or compliments an investigation. While evidence collection is important, the Department also recognizes it is important for officers to maintain credibility with people wanting to share information with law enforcement. On occasion, an officer may encounter a reluctant crime victim or witness who does not wish to make a statement on camera. In these situations, the officer should continue to develop rapport with the individual while balancing the need for evidence collection with the individual's request for privacy.
- (b) Should the officer use discretion and not record the crime victim or witness statement with the body worn camera, the officer should document the reason for not fully recording the statement with the body worn camera. In these instances, officers may still record with an audio recorder. Officers should work with victim services when possible in determining what type of statement will be taken.
- (c) If a citizen, other than a victim or witness as described in this section requests that an officer turn off the BWC, the officer will explain that APD Policy requires the camera to be activated and recording until the conclusion of the incident or until there is no further law enforcement action necessary.

The policy expressly protects victims. (§303.2.5(d)2)

303.2.5 WHEN DEPARTMENT ISSUED BWC SYSTEM USE IS NOT REQUIRED

...

- (d) Employees will not utilize the body worn camera in the following circumstances:
  - 1. A potential witness who requests to speak to an officer confidentially or desires anonymity.
  - 2. A victim or witness who requests that he or she not be recorded as a condition of cooperation and the interests of justice require such cooperation.

**✘ Prohibits Officer Pre-Report Viewing**

Austin PD allows officers to view footage before completing their written reports. (§303.4.a.b)

Recordings may be reviewed:

...

- 2. By an employee to assist with the writing of a report, supplement, memorandum, or prior to making a statement about the incident.

**✘ Limits Retention of Footage**

Austin PD mandates that recordings should be kept for a minimum of 181 days, but does not specify a maximum retention period or require the department to delete footage. (§303.3.4)

Videos shall be retained for a longer period of time consistent with the City of Austin's Records Management Ordinance, Chapter 2-11, and any applicable City Records Control Schedules and/or the State Local Government Retention Schedules. At a minimum all BWC recordings shall be retained for 181 days.

**✘ Protects Footage Against Tampering and Misuse**

Austin PD expressly prohibits employees from erasing or altering BWC recordings. (§303.2)

Employees shall not:

- (a) Bypass or attempt to override the equipment.
- (b) Erase, alter, or delete any recording produced by the BWC.

Austin PD mentions the existence of unauthorized access to footage or copies of recordings and notes that “authorized persons” may review recordings, but does not expressly prohibit unauthorized access to footage. (§§303.3.3; 303.5)

303.3.3. Copies of a BWC media recording will be used for official APD business only. This may include public information requests after the recording has been reviewed by the Department of Legal Advisor and approved for release by the department. Copies of BWC System Recordings will not normally be made unless the person requesting the copy is authorized to view the recording and does not otherwise have access to view the recording using the BWC system. When a copy is made, it is the responsibility of the person receiving the copy to comply with records retention as outlined in policy [sic].

303.5.a . Recordings may be reviewed:

- ...
- 3. By authorized persons for the purpose of reviewing evidence.
- ...
- 5. By authorized Department personnel participating in an official investigation, such as a personnel complaint, administrative inquiry, or a criminal investigation.
- ...
- (d) Employees shall not obtain, attempt to obtain, or convert for their personal use or for the unauthorized use of another person, any information obtained by a BWC system.
- (e) Employees shall not make personal copies or attempt to upload recordings to social networking sites (e.g., You-Tube, Facebook).

The policy does not indicate that access to recorded footage will be logged or audited.

#### ✘ **Makes Footage Available to Individuals Filing Complaints**

Austin PD does not expressly allow individuals who are filing police misconduct complaints to view footage, and refers to “applicable laws” to govern the release of recordings. (§303.5.6)

The Department will comply with all applicable laws pertaining to the release of BWC recordings. Open records requests will be processed through the department coordinator in central records. Media requests will be processed through the Public Information Office (PIO).

#### ✘ **Limits Biometric Searching of Footage**

Austin PD does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# Baltimore Police Department



- 
- ✓ Makes the Department Policy Publicly and Readily Available
  - ✓ Limits Officer Discretion on When to Record
  - ✓ Addresses Personal Privacy Concerns
  - ⦿ Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
  - ✓ Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✓ Limits Biometric Searching of Footage

*Last updated: October 10, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✓ **Makes the Department Policy Publicly and Readily Available**

Baltimore PD publishes its BWC policy [on its website](#), and also has a [page](#) dedicated to the department's BWC program. The current policy was published on September 13, 2017.

## ✓ **Limits Officer Discretion on When to Record**

Baltimore PD requires officers to record activities that are "investigative or enforcement in nature." (Mandatory Recordings §1-8; Ending a Recording §1-2)

### Mandatory Recording

Unless unsafe, impossible, or impractical to do so, all members (not just the primary unit) present, dispatched, or otherwise participating in any of the below listed activities must activate their BWC:

1. At the initiation of a call for service or other activity that is investigative or enforcement in nature.
  - 1.1. The BWC must be activated immediately upon receipt of or response to any in-progress call, or activity likely to require immediate enforcement action (e.g., in progress or just occurred armed robbery, armed person, aggravated assault, narcotics, gambling, etc.).
  - 1.2. The BWC shall be activated upon arrival for routine, non-emergency calls for service (e.g., larceny from auto report, destruction of property report, Signal 30, etc.).
2. During any encounter that becomes confrontational.
3. When operating a vehicle in Emergency Response Mode (emergency lights and siren activated) as defined in Policy 1503, Emergency Vehicle Operation and Pursuit Policy.
4. When attempting to conduct a stop (traffic stop, bicycle stop, or person), the BWC shall be activated immediately upon obtaining probable cause or reasonable suspicion for the attempted stop, or responding to



provide back-up for another officer.

5. When present on the scene with prisoners, arrestees, suspects or any other individuals who are stopped by police, whether primary unit or not, the BWC shall be activated.
6. When transporting a detainee, regardless if the transport vehicle is equipped with a Transport Vehicle Camera (TVC) System.
7. When following a medic, tow truck, or other vehicle as part of a continuation for an investigation or call for service.
8. When a search for evidence, or inventory of a vehicle is being conducted. This applies to both the member(s) searching, and those on scene. (See Strip Searches on pg. 6).
- ...

#### Ending a Recording

Once recording with a BWC has been initiated, members shall not end the recording until:

1. The event or encounter has fully concluded; or
2. The member leaves the scene and anticipates no further involvement in the event...

**Officers who fail to activate their cameras or interrupts or terminates a recording in progress are required to document the reason for the failure. (Exceptions to Recording §4,6)**

#### Exceptions to Recording

- ...
4. A member who does not activate the BWC as directed by this subsection shall document the reason that the BWC was not activated in an Administrative Report, Form 95, as soon as possible after the incident concludes, and submit the report to the member's first-line supervisor by the end of the member's tour of duty. Upon review, the first-line supervisor shall scan/email the Administrative Report, Form 95 to: BWC@Baltimorepolice.org.
  - 6.[sic] A member who interrupts or terminates a BWC recording in progress shall document the reason that the BWC was interrupted or terminated in an Administrative Report, Form 95, as soon as possible after the incident concludes, and submit the report to the member's first-line supervisor by the end of the member's tour of duty. Upon review, the first-line supervisor shall scan/email the Administrative Report, Form 95 to: BWC@Baltimorepolice.org.

### **Addresses Personal Privacy Concerns**

**Baltimore PD expressly protects victims and witnesses from being recorded without their consent. (Policy §2; Exceptions to Recording §2, Ending a Recording §2)**

#### Policy

- ...
2. Privacy Protection. BWCs might record extremely sensitive and private data. A breach in BWC data security, careless handling of BWC data and/or intentional release of BWC data to non-authorized individuals could jeopardize relationships with victims, witnesses, and the general public, as well as subject those people to invasions of privacy, endanger their safety, and/or jeopardize prosecutions. Accordingly, the utmost care and caution shall be taken to ensure that this data is not mishandled or misused. Private residences should not be treated differently than other locations for purposes of recording.
- ...

#### Exceptions to Recording

- ...
2. When victims, witnesses or other individuals wish to make a statement or share information during a voluntary interaction with police, but refuse to do so while being recorded, members may deactivate the BWC in order to obtain the statement or information. If the encounter begins when the BWC is not actively recording, the member may, but is not required to, temporarily activate the BWC for the sole purpose of documenting the person's request they not be recorded.
- ...

#### Ending a Recording

...

2. Deactivation of a BWC is permitted when a victim, witness, or other person who wishes to make a statement or share information and who is free to terminate the encounter, requests on camera that the camera be turned off. Members shall inform individuals in these categories at the earliest opportunity that they can request to deactivate the BWC.

The policy also addresses patient privacy and the wishes of individuals being strip searched, and some other cases. (Health Care Facilities: Patient Privacy; Strip Searches; Review of Recordings)

#### Health Care Facilities: Patient Privacy

1. Inside a medical facility, members shall not activate the BWC until just prior to meeting with the complainant/victim on a call for service or when encountering an on-view incident which would require BWC activation under this policy.
  - 1.1. Members shall be aware of patients' rights to privacy when in hospital settings. Members shall not record patients during medical or psychological evaluations or treatments. When recording in hospitals and other medical facilities, members shall avoid recording persons other than the person of interest, or recording medical documents.
  - 1.2. However, as in any setting, if confronting a violent or assaultive suspect, or in an anticipated use of force instance, the member shall activate the BWC in advance of the encounter or as soon as reasonably practicable.

#### Strip Searches

1. When conducting a strip search, members issued a BWC shall advise the person being searched, while the BWC is activated, that the BWC is recording. The member shall then ask the individual to be searched if he/she wants the search to be recorded on the BWC, or if the individual wishes the BWC to be deactivated during the search to respect privacy.
2. Comply with the wishes of the individual.
  - 2.1. If the individual asks for the BWC to be deactivated, memorialize this request on the BWC, and conduct the search.
  - 2.2. Once the search of the requested area is complete, activate the BWC immediately to record the rest of the encounter.

...

#### Review of Recordings

...

8. BWC recordings of constitutionally protected activity may not be used to identify persons present at the activity who are not otherwise suspected of being engaged in illegal activity.

## Prohibits Officer Pre-Report Viewing

For certain serious incidents, Baltimore PD only allows officers to review the BWC recording if certain conditions are met, such as if an officer "has been compelled to make a statement." For other routine matters and administrative investigations, officers can view footage before writing their reports. Officers must document in their written reports whether BWC data for the incident was reviewed. (Review of Recordings §5-6)

#### Review of Recordings

...

5. Where not otherwise prohibited by this policy, members may view BWC data from their own assigned camera, or the camera of another involved member to assist in complete and accurate report writing for routine matters. A member must document in their written reports whether BWC data for the incident was reviewed.
6. Members who are involved in a Level 3 Reportable use of force (See Policy 1115, Use of Force), in custody death, or are the subject of a criminal investigation may not view their BWC recordings related to the incident prior to completing and submitting any required reports and/or being interviewed by the appropriate investigative unit unless:
  - 6.1. The member is in receipt of a declination letter from the prosecuting authority, or the member has been compelled to make a statement and the appropriate Garrity warning has been issued; and
  - 6.2. The recording is viewed at OPR or at a location approved by an OPR official.

✘ **Limits Retention of Footage**

Although the policy contains a section titled "Security, Retention, and Disclosure of BWC Data," Baltimore PD does not address, and thus does not require, the regular deletion of any footage.

✔ **Protects Footage Against Tampering and Misuse**

Baltimore PD expressly prohibits both footage tampering and unauthorized access, and logs all access to footage. (Security, Retention and Disclosure of BWC Data)

Security, Retention and Disclosure of BWC Data

1. Members are strictly prohibited from sharing any BWC log-in credentials with any other person.
2. Accessing, copying or releasing BWC data for non-law enforcement purposes are strictly prohibited, unless directed by the Police Commissioner, or designee.
3. Accessing, copying, releasing or sharing BWC data on any computer or device not controlled or provided by the BPD is strictly prohibited.
4. The BPD shall retain a non-editable original version of BWC footage, and shall log any time the data is viewed, for what length of time and by whom, and shall log any copying or editing of BWC data. BPD personnel are strictly prohibited from tampering with or editing this original version.
5. Access to BWC data shall be controlled through a secure location.

✘ **Makes Footage Available to Individuals Filing Complaints**

Baltimore PD relies on Maryland's public records law to make footage available, and does not expressly allow complainants to view relevant footage. (Review of Recordings §4)

Review of Recordings

...

4. The following members can view and/or copy BWC data upon request and approval from the BWC Coordinator:

...

- 4.5. Members of the public, after approval of a properly submitted Maryland Public Information Act (MPIA) request.

Maryland Public Information Act (MPIA) Requests

Members of the public may request to obtain BWC footage by completing a Baltimore Police Department MPIA Request Form and emailing same to: DCU@baltimorepolice.org. Requests for BWC footage shall be granted or denied based upon the Maryland Public Information Act (MPIA).

✔ **Limits Biometric Searching of Footage**

Baltimore PD limits the use of facial recognition technologies to perform broad searches of recorded footage. A narrow exception is made for analyzing particular incidents using such technologies. (Review of Recordings §9)

Review of Recordings

...

9. BWC data shall not:

- 9.1. Be used to create a database or pool of mug shots;
- 9.2. Be used as fillers in photo arrays; or
- 9.3. Be searched using facial recognition software.

**EXCEPTION:** This subsection does not prohibit the BPD from using a recognition software to analyze the recording of a specific incident when a supervisory member has reason to believe that a specific suspect, witness, or person in need of assistance was recorded.

# Baltimore County Police Department



- 
- ✓ Makes the Department Policy Publicly and Readily Available
  - Limits Officer Discretion on When to Record
  - ✓ Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
  - ✓ Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - Limits Biometric Searching of Footage

*Last updated: October 10, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✓ **Makes the Department Policy Publicly and Readily Available**

Baltimore County PD has a [dedicated public website](#) that provides an overview of its body camera program. The site includes both an informational video, as well as a link to the latest policy. The most recent publicly available [policy](#) is dated January 9, 2017.

## ○ **Limits Officer Discretion on When to Record**

Baltimore County PD requires its officers to record all “enforcement or investigative” activities, among other types of situations. (General; Required BWC Activation; Discretionary BWC Uses)

### General

...

- BWCs should be activated as soon as possible to ensure as much of the incident as possible is captured. Note: If there is immediate danger to the member or others, the BWC should be activated once that immediate danger has been addressed and it has been deemed safe, practical and possible to activate the device.

...

### Required BWC Activation

- Members wearing a BWC will activate the device as soon as possible unless it is unsafe, impractical, or impossible.
- The device will be activated in the following circumstances whether or not they are engaged in a call for service:

1. Enforcement or investigative activity (e.g., traffic stops, searches, pursuits, arrests, field interviews, stop and frisk situations, etc.).
2. Other activities of a potentially confrontational nature.
3. Emergency vehicle operations.
4. Custodial transports.

...

**Discretionary BWC Uses**

- Members wearing a BWC have the discretion to activate the device during any legitimate law enforcement contact if the member believes a recording of an incident would be appropriate (e.g., transports of people of the opposite sex, advising of Miranda rights, etc.).

However, the policy does not require officers to provide concrete justifications for failing to record required events.

✔ **Addresses Personal Privacy Concerns**

Baltimore County PD prohibits officers from recording “in depth interviews with sexual assault victims,” but otherwise allows officers to determine when there is a “heightened expectation of privacy.” (Prohibited Uses of BWCs; Discretionary BWC Uses; BWC Deactivation)

**Prohibited Uses of BWCs**

...

- During in depth interviews with sexual assault victims beyond the initial call for service assessment.

...

**Discretionary BWC Uses**

...

- In order to preserve the dignity of our citizens, members will exercise good judgement prior to the discretionary use of the BWC during situations where a heightened expectation of privacy exists (e.g., restrooms, locker rooms, etc.).

...

**BWC Deactivation**

...

- Once recording has been activated, members shall not end the recording until one of the following occurs:

...

6. Required activation circumstances no longer exists, or did not exist, and the member has determined that:

- a. A heightened expectation of privacy exists and deactivation is necessary in order to preserve the dignity of our citizens (e.g., locker rooms, restrooms, etc.).

...

7. A victim, witness, or other individual wishes to make a statement or share information, but requests not to be recorded or refuses to be recorded.

Note: During these situations members may deactivate their BWC in order to obtain the statement or information.

The policy requires officers to notify individuals that they are being recorded. (Public Notification)

**Public Notification**

- Members shall notify individual(s) they are being recorded as soon as possible, unless it is unsafe, impractical, or impossible to do so.  
Exception: Unless otherwise exempted by law.
- When notification is delayed, it will be given once it is safe, practical, and possible.  
Note: These provisions are satisfied even if another individual becomes a party to the communication

after the initial notice has been provided.

### ✗ Prohibits Officer Pre-Report Viewing

Baltimore County PD permits officers to review footage when completing their written reports. (Access to Recordings; Internal Affairs Section (IAS))

#### Access to Recordings

- Members have access to their own recordings, and recordings shared by other members.
- Members may access recordings for the following purposes:
  1. Report writing or preparation of other official documents.
  2. Court preparation.
  3. Review of prosecution evidence.
  4. Review of victim/witness/suspect statements.
  5. Crime scene observations.
  6. Statement of charges preparation.
  7. Clarifying observations at the scene of an incident.
- Members will share their recordings with other members upon request to further an investigation or for other official purposes.

...

#### Internal Affairs Section (IAS)

- Ensures that members and their representatives are given the opportunity to review all related recordings prior to providing a statement during an administrative investigation.

### ✗ Limits Retention of Footage

Baltimore County PD keeps unflagged footage for 18 months. (Categories and Retention)

#### Categories and Retention

...

- The Department's categories and retention periods are:
  1. *Miscellaneous and Non-Criminal*
    - Retention: 18 months.
    - Use: Field interviews, non-criminal calls, and accidental recordings.
  2. *Routine Traffic*
    - Retention: 18 months.
    - Use: Non-jailable and non-arrestable traffic.

### ✓ Protects Footage Against Tampering and Misuse

Baltimore County PD prohibits officers from unauthorized footage distribution and deletion, and prohibits footage tampering. (System Recordings)

#### System Recordings

- Are the property of the Department.
- Will not be altered or tampered with in any manner.
- ...
- Will not be copied, reproduced, shared, posted, downloaded, or disseminated in any manner unless for an official law enforcement purpose.
- Will only be copied, reproduced, shared, posted, downloaded, or disseminated in any manner absent an official law enforcement purpose when authorized by the Chief of Police or the TCS Video Manager.
- Will not be deleted without authorization from the TCS Video Manager.

The policy indicates that Baltimore County PD maintains audit logs for footage access. (Technology and Communications Section (TCS))

- Technology and Communications Section (TCS)**
- ...
- Ensures the DEMS is configured to:  
...
    2. Automatically create and track audit and access logs, including all viewing, copying, and editing.

### ⊗ **Makes Footage Available to Individuals Filing Complaints**

Baltimore County PD sets out a category of recordings that are “[r]eleasable to a Person in Interest,” defined in Maryland code as “a person or governmental unit that is the subject of a public record or a designee of the person or governmental unit” (Maryland GP §4-101), but does not expressly allow individuals who are filing police misconduct complaints to view relevant footage. All other public footage requests are handled in accordance with Maryland’s public records law. (Definitions; Recording Redaction and Reproduction; TCS Video Manager)

- Definitions**
- ...
- Person In Interest - a person having a greater right of access to a recording than the general public as defined by GP §4-101.
- ...
- Recording Redaction and Reproduction**
- All requests for production of recordings will be sent to the TCS Video Manager.
  - BWC recording requests will be fulfilled and redacted in accordance with applicable laws.
  - BWC recordings requested by the public will be categorized as:
    1. *Publicly Releasable* - Released to any member of the public subject to public redaction requirements.
    2. *Person In Interest Releasable* - Releasable to a Person in Interest subject to individual redaction requirements.
    3. *Non-Releasable* - Recordings that cannot be released at the time of the request in accordance with legal requirements.
  - Recordings of the following nature will be automatically categorized as non-releasable:
    1. Suspected neglect, abuse and or exploitation of a vulnerable adult or child.
    2. Covert personnel and or activities.
    3. An ongoing investigation.
    4. Intelligence information or security procedures.
  - Exceptions to release and redaction standards may only be authorized by the Chief of Police.
- ...
- TCS Video Manager**
- ...
- Receives, reviews, and processes public requests for copies of BWC recordings in accordance with the Maryland Public Information Act (MPIA), MD. Code Ann. Gen. Provis. §§ 4-401 to 601.
  - Estimates, collects, and processes fees associated with request fulfillment in accordance with the MPIA.
  - Releases authorized and redacted recordings consistent with this policy and applicable law.
  - Sends a denial letter, explicitly stating the reason, if the release of a recording is not authorized.

### ⊙ **Limits Biometric Searching of Footage**

Baltimore County PD limits the use of facial recognition technologies to perform broad searches of recorded footage. A narrow exception is made for analyzing particular incidents using such technologies. (System Recordings)

## System Recordings

...

- May not be:
  1. Used to create a database or pool of mugshots.
  2. Used as fillers in photo arrays.
  3. Searched using facial recognition software.Exception: Recognition software may be used to analyze the recording of a particular incident when a supervisor has reason to believe that a specific suspect or person in need of assistance may be the subject of a particular recording.

However, we are concerned that the policy limits the restriction to “system recordings,” which leaves room for the incorporation of facial recognition technology into live video capture and situational awareness technology.



## Baton Rouge Police Department



- 
- ✘ Makes the Department Policy Publicly and Readily Available
  - ? Limits Officer Discretion on When to Record
  - ? Addresses Personal Privacy Concerns
  - ? Prohibits Officer Pre-Report Viewing
  - ? Limits Retention of Footage
  - ? Protects Footage Against Tampering and Misuse
  - ? Makes Footage Available to Individuals Filing Complaints
  - ? Limits Biometric Searching of Footage
  - 💰 Received a [\\$749,992 DOJ grant](#) for BWCs in 2017

*Last updated: October 4, 2017. Is this policy now publicly available? [Let us know.](#)*

---

### ✘ **Makes the Department Policy Publicly and Readily Available**

We include Baton Rouge PD in our scorecard due to the national attention the department received following the Alton Sterling on July 5, 2016. NBC News [reported](#) that during the shooting, "the body cameras worn by two officers involved allegedly fell off during the altercation, and didn't capture footage." At the time of the shooting, the officers were wearing body cameras as part of a pilot program to test various vendors before final implementation of the program. On June 28, 2017, East Baton Rouge Metro Council members voted unanimously to enter into a five-year contract with Axon (formerly "TASER") to outfit the entire police department with body cameras.

While we know that officers are wearing body cameras in the streets of Baton Rouge, we haven't been able to locate a public version of the department's policy.

# Boston Police Department



- 
- ✗ Makes the Department Policy Publicly and Readily Available
  - Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
  - ✗ Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - Limits Biometric Searching of Footage

*Last updated: October 4, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✗ **Makes the Department Policy Publicly and Readily Available**

Boston PD does not make its BWC policy available on its website, presumably because the program is still in a pilot stage. However, a copy of the most recent policy was [shared by the Boston Globe](#) (embedded at the bottom of the article).

## ○ **Limits Officer Discretion on When to Record**

Boston PD's policy clearly describes when officers must record contact with civilians. (§2.2)

BWC Activation and Incidents of Use: Officers will activate the BWC only in conjunction with official law enforcement duties, where such use is appropriate to the proper performance of duties, and where the recordings are consistent with this policy and the law. If there is an immediate threat to the officer's life or safety, making BWC activation impossible or dangerous, the officer shall activate the BWC at the first reasonable opportunity to do so. The BWC shall not be deactivated until the encounter has fully concluded and/or the officer leaves the scene (See Section 2.8, BWC Deactivation). Officers shall record all contact with civilians in the following occurrences:

1. Vehicle Stops;
2. Investigative person stops: consensual, or articulable reasonable suspicion stops pursuant to Rule 323 (FIOE Report), or stops supported by probable cause;
3. All dispatched calls for service involving contact with civilians;
4. Initial responses by patrol officers, including on-site detentions, investigations pursuant to an arrest, arrests, and initial suspect interviews on-scene;
5. Pat frisks and searches of persons incident to arrest (if not already activated);
6. K9 searches;
7. Incidents of Emergency Driving (primary and secondary responding officers);

8. Incidents of Pursuit Driving (primary and secondary responding officers);
9. When an officer reasonably believes a crowd control incident may result in unlawful activity;
10. Any contact that becomes adversarial, including a Use of Force incident, when the BWC had not been activated; or
11. Any other civilian contact or official duty circumstance that the officer reasonably believes should be recorded in order to enhance policing transparency, increase public trust and police-community relations, or preserve factual representations of officer-civilian interactions, provided that recording is consistent with Sections 2.3, 2.4, 2.5, 2.6, 2.7, 7.1 and 7.2 of this policy.

The policy also describes when cameras should be deactivated. Officers are encouraged to justify their decision to discontinue recording, but are not required to do so. (§2.8)

To the extent possible, prior to deactivating a BWC, the officer shall state the reason for doing so. Generally, once the BWC is activated, recording will continue until or unless the event has concluded. Below are examples of when an event shall be considered concluded:

1. Victim and/or witness contact has concluded;
2. All persons stopped have been released or left the scene or an arrestee has arrived at the district station for booking. If a transporting officer has a BWC, recording shall continue until the transporting officer arrives inside the station at the booking desk;
3. The event is of a sensitive nature and the BWC officer has weighed the BWC Discretionary Recording Considerations specified in Section 2.4 and decided to deactivate the BWC;
4. The incident has concluded prior to the arrival of the officer;
5. The incident or event is of such duration that deactivating the BWC is necessary to conserve available recording time; or
6. The officer is ordered to turn the camera off by a supervisor.

When officers fail to record a required incident, the policy does not appear to require that officers provide a concrete justification.

### Addresses Personal Privacy Concerns

The policy highlights the importance of privacy and prohibits recording civilians' constitutionally protected rights, and also allows officers to stop recording in areas with a reasonable expectation of privacy, which are described. Officers can, but are not required to, deactivate their cameras in circumstances of a sensitive or private nature or when minors are present. (§§1; 2.4)

1. It is the policy of the Department to respect the legitimate privacy interests of all persons in Boston, while ensuring professionalism in its workforce. The recording of civilians based solely upon the civilian's political or religious beliefs or upon the exercise of the civilian's constitutional rights to freedom of speech and religious expression, constitutional petition and assembly is prohibited. BWC footage shall not be reviewed to identify the presence of individual participants at such events who are not engaged in unlawful conduct. . .
- 2.4. Recording in Areas Where There May be a Reasonable Expectation of Privacy: BWC officers should be mindful of locations where recording may be considered insensitive, inappropriate, or may be prohibited by privacy policies. Such locations may include locker rooms, places of worship, religious ceremonies, certain locations in hospitals or clinics, law offices, day care facilities, etc. At such locations, at the officer's discretion and based on the circumstances, BWCs may be turned off. The officer may consider the option to divert the BWC away from any subjects and record only audio, if appropriate. When exercising discretion in such situations, the decision whether to stop recording, divert the BWC, or record only audio should generally be based on the following BWC Discretionary Recording Considerations: the extent to which the officer observes activities or circumstances of a sensitive or private nature; the presence of individuals who are not the subject of the officer-civilian interaction; the presence of people who appear to be minors; any request by a civilian to stop recording; and the extent to which absence of BWC recording will affect the investigation.

The policy also allows subjects to opt out of recording in a private residence. (§2.3)

Recording within a Residence: Before entering a private residence without a warrant or in non-exigent circumstances, the BWC officer shall seek the occupant's consent to continue to record in the residence. If the civilian declines to give consent, the BWC officer shall not record in the residence. Officers recording in a residence shall be mindful not to record beyond what is necessary to the civilian contact, and not to use the BWC with exploratory intent in an effort to create an inventory of items in the residence.

**Officers are required to notify subjects they are being recorded, but are not required to obtain consent to continue recording outside of private residences. (§§2.5-6)**

2.5. Notice of Recording: Unless there is an immediate threat to the officer's life or safety, making BWC notification impossible or dangerous, BWC officers shall inform civilians that they are being recorded. BWC officers shall notify civilians with language such as "Ma'am/Sir, I am advising you that our interaction is being recorded by my Body Worn Camera." BWC officers shall not record civilians surreptitiously.

2.6. Consent to Record: Aside from the restriction in Section 2.3 (Recording within a Residence), BWC officers are not required to obtain consent to record. If a civilian has requested the BWC officer to stop recording, officers have no obligation to stop recording if the recording is pursuant to the circumstances identified in Section 2.2. When evaluating whether or not to continue recording, BWC officers should weigh the BWC Discretionary Recording Considerations specified in Section 2.4. The request to turn the BWC off should be recorded, as well as the officer's response.

**Officers are not required to deactivate recording victims or witnesses, but are given discretion to turn off their cameras if requested. (§2.7)**

Recording of Victims / Witnesses: If a BWC officer is in range of visual or audio recording of a victim or witness who is giving their first account of a crime, the officer may record the encounter but should weigh the BWC Discretionary Recording Considerations specified in Section 2.4 in determining whether to activate or discontinue recording. If the decision to activate and/or continue recording is made, notification shall be made as specified in Section 2.5. If the victim is in anyway unsure of the need for the recording to be made or is uncomfortable with the thought of being recorded, the officer shall inform the civilian that they can request to have the BWC turned off. If the camera is already activated, the request to turn the BWC off should be recorded, as well as the officer's response.

## **✘ Prohibits Officer Pre-Report Viewing**

**Boston PD encourages officers to view footage before completing their written reports. (§4.1)**

BWC Officer Access to Footage: BWC officers may review their own BWC recording as it relates to:

1. Their involvement in an incident for the purposes of completing an investigation and preparing official reports. To help ensure accuracy and consistency, officers are encouraged to review the BWC recording prior to preparing reports;
2. Providing testimony in court to refresh recollection. Officers will ensure that the prosecuting attorney is aware the BWC recording was reviewed; and
3. Providing a statement pursuant to an internal investigation, including officer involved shooting investigations and other critical incidents as outlined in Sec. 4.2. below.

**Boston PD prohibits officers from viewing footage immediately following officer-involved shootings or use of deadly force, but officers are allowed to view these recordings prior to making a statement about the situation. (§4.2)**

BWC Officer Access to Footage Following an Officer Involved Shooting: Following an officer involved shooting, or other use of deadly force, involved officers, including supervisors, shall not view the BWC recording on any device or computer prior to the Firearm Discharge Investigation Team ("FDIT") viewing the footage and uploading it into the system, except if exigent circumstances exist, such as an officer being injured, in order to obtain identifying suspect information or other pertinent information from the BWC recordings. BWC officers involved in an officer involved shooting and BWC officers who witness an officer involved shooting or other use of deadly force shall be allowed to view their own BWC recording prior to a walkthrough and/or statement.

### ✘ **Limits Retention of Footage**

The policy does not limit retention of footage during the department's pilot program. (§6)

RETENTION: During the pilot program, no recording or footage shall be deleted. Footage recorded during the pilot program will be retained for no longer than one year after the pilot program concludes; however, footage recorded during the pilot program that relates to any criminal or civil proceeding, any criminal or administrative investigation, or any use of force will be retained during the pendency of any relevant proceeding, investigation, or statute of limitations period. The retention period for footage recorded pursuant to the pilot program may be superseded by any future BWC policy implemented.

### ✘ **Protects Footage Against Tampering and Misuse**

Boston PD prohibits officers who do not wear cameras from accessing footage without supervisor permission, but does not seem to apply the same restriction to officers with cameras. (§4.4)

Non-BWC Officer Access to Footage: Non-BWC officers shall only access footage with permission of a supervisor.

The policy prohibits "improper use" of footage, but does not expressly prohibit employees from erasing or altering recordings. (§7.2)

Improper Use of BWC Footage: BWC recording/footage shall not be:

1. Used for the purposes of ridiculing or embarrassing any employee or person depicted on the recording;
2. Randomly reviewed by the Internal Affairs Division for disciplinary purposes;
3. Disseminated by any employee unless approved by the Police Commissioner or his designee, or disseminated in the course of their official duties; or
4. Copied by any employee (i.e. use their iPhone, iPad, or any other electronic device to copy).

The policy indicates that access to footage will be audited, but the actual language of the relevant clause appears to apply to BWC use rather than footage access. (§4.6)

Audit and Review Access to Footage: Audit and Review shall conduct periodic checks to ensure BWC's are being used appropriately.

### ✘ **Makes Footage Available to Individuals Filing Complaints**

The policy does not expressly allow individuals filing police misconduct complaints to view relevant footage. It mentions victim and witness requests, but refers them to the Officer of the Legal Advisor and does not explain the process by which complainants would access footage. (§5)

BWC recordings related to an ongoing investigation or in support of a prosecution may be provided by the recording officer to the applicable law enforcement entity. Should an officer receive a subpoena for BWC footage, the officer shall direct the subpoena as soon as practicable to the commander of the Information Services Group for response, with a copy to the Office of the Legal Advisor. BWC recordings may be requested by the public pursuant to a public records request (M.G.L.c. 66 §10). If an officer receives a request for BWC footage from the Media, the request shall be directed to the Commander, Office of Media Relations. All other requests for BWC recordings, including victim or witness requests, shall be directed to the Office of the Legal Advisor.

### ○ **Limits Biometric Searching of Footage**

Boston PD limits the use of facial recognition technologies together with cameras, mandating that cameras will not include any “technological enhancements.” This policy is unique among the major department policies we’ve reviewed. (§1)

... BWC's will not include technological enhancements including, but not limited to, facial recognition or night-vision capabilities.

We had originally scored this policy as green. However, it was pointed out to us that the language may only apply to the cameras themselves, and could still allow broad biometric searches of *stored* body camera footage. Until we get clarity from the Boston PD about this, we’ve downgraded their score to yellow.

## Broward County Sheriff's Office



- 
- ✘ Makes the Department Policy Publicly and Readily Available
  - ? Limits Officer Discretion on When to Record
  - ? Addresses Personal Privacy Concerns
  - ? Prohibits Officer Pre-Report Viewing
  - ? Limits Retention of Footage
  - ? Protects Footage Against Tampering and Misuse
  - ? Makes Footage Available to Individuals Filing Complaints
  - ? Limits Biometric Searching of Footage
  - 💰 Received a [\\$999,564 DOJ grant](#) for BWCs in 2016

*Last updated: October 13, 2017. Is this policy now publicly available? [Let us know.](#)*

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### ✘ **Makes the Department Policy Publicly and Readily Available**

Broward County Sheriff's Office (BSO) [implemented](#) its first body-worn camera (BWC) program in 2016. That same year, the United States Department of Justice [awarded](#) BSO approximately \$1 million to start its body-worn camera program. According to BSO, more than 700 deputies are now equipped with BWC. By the end of 2017, it is expected that all deputies will be wearing BWCs.

While we know that deputies are wearing body cameras in the neighborhoods of Broward County, we haven't been able to locate a public version of the department's policy.

## Buffalo Police Department



- 
- ✘ Makes the Department Policy Publicly and Readily Available
  - ? Limits Officer Discretion on When to Record
  - ? Addresses Personal Privacy Concerns
  - ? Prohibits Officer Pre-Report Viewing
  - ? Limits Retention of Footage
  - ? Protects Footage Against Tampering and Misuse
  - ? Makes Footage Available to Individuals Filing Complaints
  - ? Limits Biometric Searching of Footage

*Last updated: October 11, 2017. Is this policy now publicly available? [Let us know.](#)*

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### ✘ **Makes the Department Policy Publicly and Readily Available**

The Buffalo Police Department (BPD) intends to start a 90-day pilot program for body-worn cameras to determine whether all patrol officers should wear such cameras. If the department deems the program to be successful, it will provide cameras for all of the 500 officers assigned to the Patrol division.

Collaborating with the Buffalo Police Benevolent Association, BPD created a draft policy for the use of body-worn cameras. However, the official draft policy is not available on the BPD website or elsewhere on the internet. The only publicly available information regarding the draft policy is available through a [news article describing the draft policy](#). The department expects the policy to be amended as the cameras are put to actual use.



# Charlotte-Mecklenburg Police Department



- 
- ✓ Makes the Department Policy Publicly and Readily Available
  - Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - Prohibits Officer Pre-Report Viewing
  - ✓ Limits Retention of Footage
  - ✗ Protects Footage Against Tampering and Misuse
  - Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage

*Last updated: October 11, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✓ Makes the Department Policy Publicly and Readily Available

Charlotte-Mecklenburg PD publishes its most recent publicly available BWC policy on its website through the [Interactive Directives Guide](#). The most recent policy is [Departmental Directive 400-006](#), which was issued on June 8, 2016 and is current as of May 8, 2017.

## ○ Limits Officer Discretion on When to Record

The policy provides a clear list of citizen contacts that must be recorded. (§IV.F.16)

16. BWCs shall be turned on and activated to record when a sworn employee is assigned to any call for service, crime related interactions with citizens while on duty or working secondary employment. Recording shall occur prior to or in anticipation of the following circumstances. These circumstances include but are not limited to:
- a. Traffic stops: The stopping of a motor vehicle for law enforcement purposes, including the following of a vehicle you intend to stop or has failed to stop;
  - b. Suspicious vehicles or persons;
  - c. Voluntary Investigative Contact: The mere suspicion of some type of criminal activity by a person;
  - d. Arrests;
  - e. Use of force;
  - f. When operating a vehicle in an emergency or pursuit;
  - g. Calls for Service (CFS):
    - A BWC recording shall be activated upon response assignment to all calls for police service, on or off-duty;
  - h. K-9 tracks and building searches.
  - i. When requested by a citizen during an interaction with a sworn employee.

j. Traffic Checking Station:

The preplanned systematic stopping of vehicles to check motorists for compliance with license requirements and other motor vehicle laws including driving while impaired.

- (1) Once an officer determines there is reasonable suspicion or probable cause to detain the driver, the officer shall begin recording with their BWC.
- (2) Except as listed above, officers are not required to record during the entire duration of the checkpoint.

k. During the entire duration of the transportation of any prisoner who:

- (1) Has been involved in a use of force;
- (2) Is argumentative and/or combative;
- (3) Is verbally abusive
- (4) Is using any other inappropriate and/or suggestive or sexual language;
- (5) Is injured or claims to be injured;
- (6) Any situation that the officer deems necessary.
- (7) Sworn employees shall position their DMVR camera, if available, to also record the actions of the prisoner.

l. Search warrants or exigent circumstance searches of vehicles, buildings, and other places.

- (1) Sworn employees shall not record the preparations for or the tactical service of any search or arrest warrant.
- (2) All sworn employees issued a BWC who are participating in the execution of a search on an entry team shall begin a recording prior to making entry and continue the recording until the premises have been secured.
- (3) All sworn employees issued a BWC who are participating in a search authorized by a search warrant or with exigent circumstances shall record until the search has been concluded and all evidence has been located and properly confiscated.

m. Consent Searches

- (1) During a consent search officers shall record him or herself asking for consent and the citizen's response to that request.
- (2) If during a consent search in a non-public place the citizen no longer wants the search recorded, the officer shall stop recording and continue as normal without recording.

n. Officers shall record show-ups either with the BWC or DMVR; whichever is most prudent.

However, only in limited circumstances does the Charlotte-Mecklenburg PD require that officers provide concrete justifications for failing to record required events. (§IV.E.3, §IV.F.29)

3. Sergeants shall ensure:

...

Proper troubleshooting steps are followed upon notification of any damage or malfunction of a BWC.

...

The Sergeant shall notify the officer to document in his/her departmental reports the reason for lack of BWC recordings.

...

29. Prior to conducting a strip search, the officer shall record a 360-degree video of the location where the search will be conducted; however, before any part of the actual strip search begins, the sworn employee shall verbally record the reason the BWC is being turned off. Once the reason is recorded the sworn employee(s) shall properly power off the BWC. As soon as the search is complete, the BWC shall immediately be powered back on.

The policy requires officers to continue recording until the incident's "adversarial action" ends or until the incident becomes a follow up investigation. (§IV.F.18, §IV.F.36)

18. A BWC recording shall be stopped during non-enforcement activities such as traffic control, criminal investigations, or when no adversarial events are ongoing. An example of this would be the time in which a CFS [Call for Service] or other defined recording event changes from adversarial or a fact finding contact to a follow up investigation. For example, an officer that has arrived on scene and the suspect has left and the officer is now taking written statements, identifying witnesses, and processing the crime scene.

...

36. Once a BWC is started, officers shall continue to record until the incident evolves into a criminal investigation or the adversarial action has stopped. However; traffic stops shall be recorded in their entirety, which is until the vehicle has left the stop or a person is placed under arrest and is being transported to the intake center.

### ○ Addresses Personal Privacy Concerns

The policy does not require officers to obtain informed consent prior to recording, and does not require officers either to alert individuals that the camera is recording or to inform individuals that they may refuse to be recorded.

The policy does prohibit officers from activating their cameras to record certain sensitive conversations or within certain sensitive places, and it prohibits officers from recording people or discussions unrelated to “a call for service or event.” (§IV.F.30)

30. To aid in the protection of the right to privacy, sworn employees shall not record while:

- a. In a patient care area of a health care facility, unless the patient becomes adversarial with the officer or others.
- ...
- d. In the presence of a Confidential Informant (CI);
- e. In the Intake Center or Jail;
- f. In the magistrate's office or any state or federal court;
- g. Having discussions with attorneys, peer support counselors, doctors, etc;
- h. Involved in a department, supervisory, or public meeting;
- i. In a classroom and/or when in a testing environment;
- j. Any person or conversation that is not involved in a call for service or event as outlined in this directive.

The policy prohibits officers from recording in places “where there is an expectation of privacy” but makes an exception for officers “present in an official capacity,” which it does not further define. (§IV.F.28)

28. Unless present in an official capacity, the BWC shall not be used in bathrooms, locker rooms, or other places where there is an expectation of privacy.

The policy prohibits officers from recording strip searches of individuals. (§IV.F.29)

29. Prior to conducting a strip search, the officer shall record a 360-degree video of the location where the search will be conducted; however, before any part of the actual strip search begins, the sworn employee shall verbally record the reason the BWC is being turned off. Once the reason is recorded the sworn employee(s) shall properly power off the BWC. As soon as the search is complete, the BWC shall immediately be powered back on.

### ○ Prohibits Officer Pre-Report Viewing

The policy permits officers to review footage when completing their written reports in most cases, but requires officers to provide a statement first after “Significant Officer Involved incidents.” (§V.H.2.d-e)

d. Sworn employees may review their BWC video to aid in completing incident reports, preparing for court testimony, or completing statements for internal investigations except as outlined in e below.

e. Sworn Employees may review their BWC video in Significant Officer Involved incidents such as officer involved shootings after providing a statement to detectives or sergeants with the Criminal Investigations Bureau and/or Sergeants with the Internal Affairs Bureau.

### ✓ Limits Retention of Footage

Charlotte-Mecklenburg PD's policy requires footage that is not related to a criminal charge or investigation to be deleted within 45 days. The policy requires footage classified as "Non-Citizen Involvement" (video that "does not contain an interaction with a citizen, suspect or associated with any other category. Ex: Pre shift test video, blue light and TASER spark test, accidental activation") and "Non-Criminal Offenses" ("interaction with a citizen that is not related to a criminal charge or investigation") to be retained for 45 days and specifies that the BWC storage system automatically deletes footage at the end of the assigned retention period. (§IV.F.19,21, §V.E-F)

19. When an incident has ended, the officer shall stop the BWC recording and enter the appropriate category and when necessary the incident complaint number.

...

21. Sworn Employees shall complete any corrections to the categorization or addition of a complaint number within 48 hours of being notified of the error.

Category is the term used to identify the selections an authorized user can classify an event that has been recorded.

Category	Retention Period
Non-Citizen Involvement	45 Days
Traffic Stop – Warning	45 Days
Traffic Stop – Infraction	45 Days
Traffic Stop – Misdemeanor	3 Years
Traffic Stop – Felony	20 Years
Non-Criminal Offenses	45 Days
IACMS	4 Years
Criminal Investigation – Non Felony	3 Years
Criminal Investigation – Felony	20 Years
Test	45 Days
Accidental	45 Days

Retention Category Definitions:

- a. Non-Citizen Involvement: Video that does not contain an interaction with a citizen, suspect or associated with any other category. Ex: Pre shift test video, blue light and TASER spark test, accidental activation.
- b. Traffic Stop Warning: Verbal or written warning, with no citation or arrest, regardless of reason for stop.
- c. Traffic Stop Misdemeanor, Felony: Outcome of the traffic stop is a misdemeanor or felony investigation or charge.
- d. Non-Criminal Offenses: Interaction with a citizen that is not related to a criminal charge or investigation.

...

...

E. The BWC system automatically deletes recordings from the server when the retention period for the categorized recording has elapsed. The retention period is set by the system according to specific categories assigned to the video by the officer, supervisor or authorized user.

F. Digital files associated with an investigation shall be disposed of or deleted in accordance with current CMPD policy and state and federal laws.

## Protects Footage Against Tampering and Misuse

The policy does not explicitly prohibit unauthorized access, but does prohibit the viewing of footage for "anything other than approved departmental purposes" and, with certain limited exceptions, prohibits the copying and dissemination of BWC footage. However, the policy does not further define "approved departmental purposes." (§IV.F.31,34, §V.A,C)

31. The viewing of any recording for anything other than approved departmental purposes is prohibited. Ex. sworn employees shall not use the BWC as a means to conduct a field show up of a suspect.

...

34. Sworn employees are prohibited from using any device to copy, photograph or record the playback of any video/audio recorded by a BWC.

...

#### V. RECORDING CONTROL AND MANAGEMENT

A. All video/audio recordings are the property of CMPD and will not be duplicated except as described in (Section V.G.).

...

C. Employees are prohibited from using any device to copy, photograph or record the playback of any video/audio recorded by a BWC, unless authorized by this directive.

The policy does not expressly prohibit officers from tampering with or modifying BWC footage; the policy only states that recordings are "incapable of being altered or deleted" by officers and supervisors, without specifying how this is enforced. (§V.B)

B. BWC recordings are incapable of being altered or deleted by users.

The policy states that each recording maintains an audit log of all access to recorded footage. (§V.B,D)

B. ... Each recording has an audit trail that tracks the date and time of each person that accesses all video within the system.

...

D. Each video recording has a Chain of Custody Audit Trail which documents all events associated with the file.

### ○ **Makes Footage Available to Individuals Filing Complaints**

The policy provides that Charlotte-Mecklenburg PD "may"— rather than must — allow individuals who are subjects of recordings (or their representatives) to view BWC footage. (§V.H.3.e)

e. The following individuals may receive disclosure of a video/audio recording:

- (1) A person whose image or voice is in the recording.
- (2) A personal representative of an adult person whose image or voice is in the recording, if the adult person has consented to the disclosure.
- (3) A personal representative of a minor or of an adult person under lawful guardianship whose image or voice is in the recording.
- (4) A personal representative of a deceased person whose image or voice is in the recording.
- (5) A personal representative of an adult person who is incapacitated and unable to provide consent to disclosure.

However, disclosure to individuals filing complaints may be denied in several situations. (§V.H.3.h)

h. Disclosure may be denied if;

- (1) The person requesting disclosure of the recording is not a person authorized to receive disclosure.
- (2) The recording contains information that is otherwise confidential or exempt from disclosure or release under State or federal law.
- (3) Disclosure would reveal information regarding a person that is of a highly sensitive personal nature.
- (4) Disclosure may harm the reputation or jeopardize the safety of a person.
- (5) Disclosure would create a serious threat to the fair, impartial, and orderly administration of justice
- (6) Confidentiality is necessary to protect either an active or inactive internal or criminal investigation or potential internal or criminal investigation.

The policy requires Charlotte-Mecklenburg PD's Chief of Police to release BWC footage to the public when doing so complies with state and federal law and "is in the best interest of public safety." (§IV.A.2)

A. CHIEF OF POLICE

...

2. Review and determine whether to seek the release of any BWC recordings that is in the best interest of public safety and in accordance with state and federal law.

 **Limits Biometric Searching of Footage**

The policy does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# Chicago Police Department



- 
- ✓ Makes the Department Policy Publicly and Readily Available
  - ✓ Limits Officer Discretion on When to Record
  - ✓ Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✓ Limits Retention of Footage
  - Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage
  - 💰 Received a [\\$1,000,000 DOJ grant](#) for BWCs in 2015

*Last updated: October 4, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✓ Makes the Department Policy Publicly and Readily Available

Chicago PD publishes its most recent publicly available BWC policy online on its [Department Directives System](#). The most recent policy is [Special Order S03-14](#), which was issued on June 9, 2017.

## ✓ Limits Officer Discretion on When to Record

Chicago PD provides officers with a clear list of situations that must be recorded. (§II.A)

### II. INITIATING, CONCLUDING, AND JUSTIFYING RECORDINGS

#### A. Initiation of a Recording

1. The decision to electronically record a law-enforcement-related encounter is mandatory, not discretionary, except where specifically indicated.
2. The Department member will activate the system to event mode at the beginning of an incident and will record the entire incident for all law-enforcement-related activities. If circumstances prevent activating the BWC at the beginning of an incident, the member will activate the BWC as soon as practical. Law-enforcement-related activities include but are not limited to:
  - a. calls for service;
  - b. investigatory stops;
  - c. traffic stops;
  - d. traffic control;
  - e. foot and vehicle pursuits;
  - f. arrests;
  - g. use of force incidents;

- h. seizure of evidence;
- i. interrogations;
- j. searches, including searches of people, items, vehicles, buildings, and places;
- k. statements made by individuals in the course of an investigation;
- l. requests for consent to search;
- m. emergency driving situations;
- n. emergency vehicle responses where fleeing suspects or vehicles may be captured on video leaving the crime scene;
- o. high-risk situations;
- p. any encounter with the public that becomes adversarial after the initial contact;
- q. arrestee transports;
- r. any other instance when enforcing the law.

Officers must state the reason for deactivation on camera before turning it off. If an officer fails to record a required event, the officer must justify this failure on camera after the fact. (§II.B)

#### B. Deactivation of a Recording

...

##### 3. Justification for Deactivating a Recording

The Department member will verbally justify on the BWC when deactivating it prior to the conclusion of an incident. When a member fails to record an incident or circumstances warrant the verbal justification of a deactivation as being impractical or impossible, the member will document the reason by activating the BWC and stating the type of incident, event number, and the reason for deactivating the recording.

**NOTE:** Department members will notify their immediate supervisor when the BWC is deactivated prior to the conclusion of an entire incident.

### ✓ Addresses Personal Privacy Concerns

Chicago PD prohibits officers from recording inside medical facilities and with exposed individuals. (§III)

#### III. PROHIBITED CONDUCT

##### A. The BWC will not be activated to record:

1. individuals in residences or other private areas not open to the public unless there is a crime in progress or other circumstances that would allow the officer to be lawfully present without a warrant.
2. inside medical facilities, except when directly relevant and necessary to a law enforcement investigation and approved by the member's immediate supervisor.
3. appearances at court or hearings. Members will turn off their BWC so that it is not in buffering mode after notifying the dispatcher and verbally announcing the reason for turning off the BWC.
4. in connection with strip searches.

NOTE: Department members will not activate the BWC to record strip searches.

In addition, officers must notify all individuals that they are being recorded. (§II.A.4)

4. Upon initiation of a recording, Department members will announce to the person(s) they intend to record that their BWC has been activated to record.

Chicago PD expressly permits victims to opt-out of recording. But "if exigent circumstances exist" exist, or "if the officer has reasonable articulable suspicion" of a crime, the officer may continue to record, despite the request to opt-out, after announcing the reason on camera. (§§II.B.1)

#### B. Deactivation of a Recording

1. The Department member will not deactivate event mode unless



...

- b. requested by a victim of a crime;
- c. requested by a witness of a crime or a community member who wishes to report a crime; or
- d. the officer is interacting with a confidential informant.

EXCEPTION: Department members may continue or resume recording a victim or witness if exigent circumstances exist or if the officer has reasonable articulable suspicion that a victim, witness, or confidential informant has committed or is in the process of committing a crime.

- 2. The Department member will ensure that any request by a victim or witness to deactivate the camera, unless impractical or impossible, is made on the recording.

### ✘ Prohibits Officer Pre-Report Viewing

Chicago PD allows officers to review BWC recordings "prior to writing any report related to the incident." (§IV.4. NOTE)

**NOTE:** Department members may review the BWC recording of an incident prior to writing any report related to the incident. The member will document this fact in the narrative portion of the report. This includes but is not limited to case reports, arrest reports, and investigatory stop reports.

Supervisors must ensure that officers document the fact that they viewed a BWC recording "prior to writing an arrest report." (§V.A.1.e)

C. All supervisors assigned to oversee Department members utilizing Department-issued BWCs:

- 1. Will ensure

...

- e. members who reviewed a BWC recording prior to writing any report document this fact in the narrative portion of the report prior to the supervisor's approval of the report.

### ✔ Limits Retention of Footage

Chicago PD incorporates by reference policies from its department-wide data retention policy, as well the state's recent [Officer-Worn Body Camera Act](#). (§IX.A)

#### IX. RETENTION

All digitally recorded data created by the BWC will be retained in accordance with the Department's Forms Retention Schedule (CPD 11.717) and the Illinois Officer-Worn Body Camera Act (50 ILCS 706/10).

- A. Recordings made on BWCs must be retained for a period of 90 days unless any encounter captured on the recording has been flagged.

The Department's [Forms Retention Schedule](#) does not provide a specific schedule for BWC recordings. However, the Illinois Officer-Worn Body Camera Act requires unflagged recordings to be retained for 90 days. After this 90-day storage period elapses, unflagged recordings must be destroyed. (50 ILCS 706/10-20(a)(7))

(7) Recordings made on officer-worn cameras must be retained by the law enforcement agency or by the camera vendor used by the agency, on a recording medium for a period of 90 days.

(A) Under no circumstances shall any recording made with an officer-worn body camera be altered, erased, or destroyed prior to the expiration of the 90-day storage period.

(B) Following the 90-day storage period, any and all recordings made with an officer-worn body camera must be destroyed, unless any encounter captured on the recording has been flagged. An encounter is deemed to be flagged when:

- (i) a formal or informal complaint has been filed;
- (ii) the officer discharged his or her firearm or used force during the encounter;
- (iii) death or great bodily harm occurred to any person in the recording;

- (iv) the encounter resulted in a detention or an arrest, excluding traffic stops which resulted in only a minor traffic offense or business offense;
- (v) the officer is the subject of an internal investigation or otherwise being investigated for possible misconduct;
- (vi) the supervisor of the officer, prosecutor, defendant, or court determines that the encounter has evidentiary value in a criminal prosecution; or
- (vii) the recording officer requests that the video be flagged for official purposes related to his or her official duties.

...

### ○ Protects Footage Against Tampering and Misuse

Chicago PD expressly prohibits footage tampering (*i.e.*, modification and deletion). (§VIII.A)

#### VIII. VIEWING DIGITALLY RECORDED DATA

...

C. Department members authorized to view recordings on Evidence.com will use their unique user access credentials from a Department computer at a Department facility.

...

NOTE: All digitally recorded data created with BWCs are the property of the Department. Dissemination outside the Department of any BWC-recorded data is strictly prohibited without specific authorization by the Superintendent or an appointed designee. Unauthorized duplicating, deleting, altering, capturing, or disseminating of any audio or video from BWC footage is strictly prohibited

The Information Services Division is responsible for ensuring that authorized CPD members and "authorized outside-agency personnel" have access to recordings "that relate to their official duties." (§VI.A)

#### A. The Information Services Division (ISD):

1. will ensure all authorized Department members and any authorized outside-agency personnel have access to view recordings on the Evidence.com database that relate to their official duties.

NOTE: Supervisors, members of the Bureau of Internal Affairs, select members of the Inspections Division, and the Civilian Office of Police Accountability (COPA) investigators may view the digitally recorded footage from BWCs on Evidence.com as determined by their clearance level and as authorized by the Information Services Division.

However, the policy does not note that access to the system is logged or audited.

### ✗ Makes Footage Available to Individuals Filing Complaints

The Chicago PD policy does expressly allow individuals who are filing police misconduct complaints to view footage. It incorporates by reference the state's Law Enforcement Officer-Worn Body Camera Act (50 ILCS 706), which requires flagged recording to be disclosed to footage subjects "in accordance with the Freedom of Information Act." (§IX)

#### IX. RETENTION

All digitally recorded data created by the BWC will be retained in accordance with the Department's Forms Retention Schedule (CPD-11.717) and the Illinois Officer-Worn Body Camera Act (50 ILCS 706/10).

...

- B.3. The Bureau of Internal Affairs will flag recordings that relate to a complaint against a Department member or an officer who is the subject of an internal investigation.

### ✗ Limits Biometric Searching of Footage

Chicago PD does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# Cincinnati Police Department



- ✓ Makes the Department Policy Publicly and Readily Available
- ✓ Limits Officer Discretion on When to Record
- Addresses Personal Privacy Concerns
- ✗ Prohibits Officer Pre-Report Viewing
- ✓ Limits Retention of Footage
- ✓ Protects Footage Against Tampering and Misuse
- ✓ Makes Footage Available to Individuals Filing Complaints
- Limits Biometric Searching of Footage
- 💰 Received a [\\$600,000 DOJ grant](#) for BWCs in 2016

*Last updated: October 4, 2017. Is there a new version of this policy? [Let us know.](#)*

## ✓ Makes the Department Policy Publicly and Readily Available

Cincinnati publishes its most recent publicly available BWC policy in its online [Police Department Procedures Manual](#). The most recent policy is [Procedure 12.540](#), dated April 27, 2017.

## ✓ Limits Officer Discretion on When to Record

Cincinnati PD requires officers to record "all law enforcement-related encounters and activities as defined in the procedure." (Policy; §§A.2,4)

### Policy:

... Officers are required to activate their BWC system during all law enforcement-related encounters and activities as defined in this procedure. ...

### Procedure:

A. Operating and Utilizing BWC systems

...

2. Officers will use BWC equipment to record all calls for service and self-initiated activities. The BWC must be activated when the officer arrives on-scene. This includes:

- a. While responding for calls for service in emergency mode.
- b. Traffic stops, including the investigation of a vehicle and occupants already stopped or parked.

1) Officers equipped with the BWC (primary or backup officers) will continue to record until the stopped vehicle departs or officers leave the scene.

- c. During the entirety of traffic or foot pursuits.
    - 1) Activate the BWC before initiating a traffic or foot pursuit.
    - 2) Deactivate the BWC when a vehicle or subject cannot be located.
  - d. When assisting other officers on any call for service or self-initiated activity.
    - 1) Officers must ensure they are added to the CAD incident when assisting other officers.
  - e. **All** requests for consent to search without a warrant, including searches of persons, buildings, or vehicles, will be recorded. Both audio and video recordings will be made of the request and consent when practical.
    - 1) Recording is intended to enhance a documented consent; it does not replace a signed Form 601, Consent to Search Without a Warrant.
  - f. Requests for searches and deployments of drug-detection canines involving vehicles, when practical.
  - g. Recordings of all persons physically arrested and being transported in any Department vehicle to any location.
  - h. Officers have the discretion to activate the BWC when they believe an event may have evidentiary value.
  - ...
4. The BWC may be deactivated after:
- a. Clearing the call for service/self-initiated activity, or
  - b. The DVR is activated and recording a subject being transported in the police vehicle.

When officers fail to record a required event, they must “report the incident to their supervisor,” who must then investigate and document the failure. (Policy; §§A.1.b; F.1.d)

**Policy:**

... Officer safety and public safety take precedence over recording events. Under extenuating circumstances, utilization of the BWC system may not be possible (e.g., ambush/assault on a police officer, compromising the tactical advantage of police). When this occurs, officers will report the incident to their supervisor. The supervisor will investigate and document the incident on a Form 17BWC...

**Procedure:**

A. Operating and Utilizing BWC systems

- 1. Equipment is the responsibility of the officer assigned and will be operated according to the manufacturer’s recommendations.
- ...
- b. If an officer fails to activate or deactivate their BWC according to policy, or fails to upload their BWC in a timely manner, whether intentionally or accidentally, they will report the incident to their supervisor.
  - 1) The supervisor will investigate and document the incident on a Form 17BWC, including any disciplinary recommendation.
- ...

F. Supervisory Responsibilities

- 1. All supervisors will:
  - ...
  - d. Investigate and document on a Form 17BWC all incidents involving an officer who fails to activate or deactivate the BWC in accordance with procedure, including any disciplinary recommendation.

 **Addresses Personal Privacy Concerns**

Cincinnati PD prohibits officers from recording where there is “a reasonable expectation of privacy.” (§§A.5.c-d)

A. Operating and Utilizing BWC systems

- ...
- 5. Officers will **not** use the BWC to record the following:
  - ...

- c. In any place where there is a reasonable expectation of privacy (e.g., restroom, locker room) **except** during an active incident (e.g., foot pursuit that leads into a locker room).
- d. In any detention facility or hospital facility (when confidential patient information may be recorded) **except** during an active incident (e.g., disorderly person).

**Officers are not required to inform citizens that they are being recorded. (Information)**

... Officers are not required to inform citizens they are being recorded with the BWC.

**No individuals — and in particular, no victims — can opt out of recording. (§A.2.i)**

- i. Officers are not required to initiate or cease recording an event solely at the request of a citizen.

**In addition, officers may record in private homes under certain circumstances. (Policy)**

... Officers have the right to use the BWC system (e.g. inside a private home/facility, public/private school) **as long as** they have a legal right to be there (e.g., call for service, valid search warrant, consent of owner)...

**The policy also requires the redaction of “sensitive and/or private situations,” if and when footage is released. (§E.5)**

5. Personal Privacy Redaction

- a. BWC footage containing sensitive and/or private situations (e.g., interview of a victim of sexual assault; individual who is partially or completely unclothed) will be redacted according to the PRS SOP prior to being released.

**✗ Prohibits Officer Pre-Report Viewing**

Cincinnati PD does not expressly prohibit officers from viewing relevant footage before filing an initial written report or statement. For police-involved shootings, the Homicide supervisor decides when BWC footage may be reviewed. (§B.5)

B. Viewing, Altering and/or Sharing BWC Recordings

- ...
- 5. When an officer is involved in a police intervention shooting, their BWC will be subject to the process outlined in Procedure 12.550, Discharging of Firearms by Police Personnel.
  - a. Review of the BWC footage at Criminal Investigations Section (CIS) will be made according to the investigative process and at the discretion of a Homicide supervisor.

**✓ Limits Retention of Footage**

Cincinnati PD automatically deletes unflagged footage after 90 days. (Policy)

The Department will preserve video for at least 90 days after the last recorded event. After the 90 day retention period, recordings not categorized for retention will be automatically deleted by TASER...

**✓ Protects Footage Against Tampering and Misuse**

Cincinnati PD expressly prohibits both footage tampering and unauthorized access. (Information; §§B.2; B.6)

Information:

... Video files are the property of the CPD and are not to be duplicated and/or used without authorization from the Police Chief or their designee. ...

**Procedure:**

B. Viewing, Altering and/or Sharing BWC Recordings

...

2. Officers shall not edit, alter, erase, duplicate, copy, share or otherwise distribute in any manner BWC recordings without prior approval.

a. Requests to delete portions of a BWC recording (e.g., in the event of a personal recording) must be submitted for approval on a Form 17 to the police chief, who will review in accordance with state record retention laws. All request and final decisions shall be kept on file.

...

6. Officers shall not use non-agency equipment or devices to record or download video from BWC's.

The policy also requires all access to recorded footage to be logged. (§B.1)

B. Viewing, Altering and/or Sharing BWC Recordings

1. All access to BWC footage is automatically logged to create an electronic audit trail.

 **Makes Footage Available to Individuals Filing Complaints**

Cincinnati PD expressly allows a recorded individual to view footage during a citizen complaint investigation. This is a promising policy, although the policy lacks detail on how the viewing procedure works, including whether the recorded individual may be accompanied by his or her attorney. (§F.2.d)

F. Supervisory Responsibilities

...

2. Supervisors will ensure BWC footage are made and accompany department reports for all incidents involving:

...

d. Citizen Complaints

1) Form 648 — Citizen Complaint

a) When applicable, any member of the public, parent or legal guardian of a minor, or a deceased subject's next of kin or legally authorized designee who is subject of video footage, shall be permitted to review that specific video footage during a citizen complaint investigation.

For requesters who are not recorded subjects, the policy relies on existing public records law to make footage available. Oddly, the policy contains an exception for OVI (Operating a Vehicle Under the Influence) incidents, which allows the prosecutor to withhold footage. (§§E.3-4)

E. Records Requests

...

Outside requests for video files must be submitted to PRS on a Form 29, Police Records Public Records Request. The request can be completed online by emailing the Form 29 to [cpdrecords@cincinnati-oh.gov](mailto:cpdrecords@cincinnati-oh.gov) or filling out an online form at <http://cincinnati-oh.gov/noncms/police/records/>. Ohio Public Records Law does not require requestors to submit requests in writing. Any oral request will be completed on a Form 29 by Police Records or district personnel, as outlined in Procedure 18.120, Public Records Requests.

a. Police Records will follow their SOP for the fulfillment of record requests, including completing redactions required by law.

b. OVI recorded events will only be released with the approval of the prosecutor.

c. When a request for a video file is made from outside the Department, a second disc copy of the video file will be made by Police Records and maintained in a file for one year.

4. Media requests for video files will be referred to and handled by the Public Information Office (PIO). Police Records will release a disc copy of video files to PIO upon request.

### **Limits Biometric Searching of Footage**

Cincinnati PD sharply limits the use of facial recognition technologies to perform broad searches of recorded footage. (A narrow exception is made for analyzing particular incidents using such technologies.) (§G)

#### G. Biometric Searches

1. Stored video and audio from a BWC shall not:
  - a. Be used to create a database or pool of mug shots
  - b. Be used as fillers in photo arrays, or
  - c. Be searched using facial recognition software
    - 1) This does not prohibit CPD from using recognition software to analyze the recording of a particular incident when reasonable suspicion exists that a specific subject or person in need of assistance may be a subject of a particular recording.

However, we are concerned that the policy limits the restriction to “stored video and audio,” which leaves room for the incorporation of facial recognition technology into live video capture and situational awareness technology.



# Cleveland Division of Police



- 
- ✗ Makes the Department Policy Publicly and Readily Available
  - Limits Officer Discretion on When to Record
  - ✓ Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
  - ✓ Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage

*Last updated: October 4, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✗ **Makes the Department Policy Publicly and Readily Available**

Cleveland Police does not publish its BWC policy on its website. However, a version of its [policy](#) was found on the Cleveland Police Monitoring Team website. This policy, revised on December 16, 2016, was submitted to the Northern District Court of Ohio on December 19, 2016, pursuant to a consent decree between the Cleveland Police and the Department of Justice. On January 17, 2017, the policy was approved by the court, with the exception of Section I-G regarding officer access to BWC footage, Section VII-G regarding public access to BWC footage, and Section V regarding the use of BWCs while working for a private employer. As of September 25, 2017, only one other court document had been filed relating to the department's BWC policy and it concerned only Section V. So presumably, Section I-G and VII-G are still in the process of being updated.

## ○ **Limits Officer Discretion on When to Record**

Cleveland Police clearly describe when officers must record. (§I.A-B; )

### I. General Guidelines

A. All officers assigned a WCS [Wearable Camera System], while in the field, shall activate their camera immediately upon initiating a response to a call for service, during all investigative or enforcement contacts with the public, or other contact with the public that may or does become adversarial after the initial contact. Officers shall understand there are exceptions and prohibited times to record set forth in sections IV and V.

B. If placing the WCS in event mode is not feasible due to an immediate risk to the safety of the officer or others, the officer shall place the WCS in event mode as soon as the immediate threat has been addressed.

...

### II. Camera Deployment

...

B. During Their Tour of Duty – Requirements for Recording

1. Officers shall:

- a. Immediately upon initiating a response to a call for service and during all investigative or enforcement contacts with the public, place their WCS into event mode, including but not limited to:
  - i. Calls for service
  - ii. Traffic stops
  - iii. Arrests
  - iv. Searches
  - v. Interviews
  - vi. Pursuits
  - vii. Prisoner/Citizen transports
  - viii. Any situation an officer believes captured media may be of use.
- b. Place their WCS into event mode during other contacts with the public that may or does become adversarial.
- c. Record events in accordance with this GPO.

...

...

D. Event Mode: Prohibited Recording

1. Officers shall not record in event mode in the following circumstances/situations:

- a. Internal non-investigative staff meetings, hearings, and encounters with other officers, supervisors, command staff, or City-employed civilians assisting the Division.
- b. Conversations of fellow officers or civilian employees without their knowledge during routine, non-enforcement related activities.
- c. Any place where there is a reasonable expectation of personal privacy (e.g., dressing rooms, restrooms) unless necessary to fulfill a law enforcement objective.
- d. Conversations of/with citizens and/or officers unrelated to investigative or enforcement contacts (e.g., administrative duties, court, community meetings).

**Officers must record the entire contact and must always announce the reason why the camera is being turned off before doing so. (§§II.B.1.e-h)**

e. Keep the WCS in event mode until the contact has concluded or when ordered by a Cleveland Division of Police supervisor.

...

h. Document the reason that a WCS unit has been returned to buffering mode. Documentation shall take the form of making a recorded announcement on the WCS. Examples include;

- i. Contact complete
- ii. Incident complete
- iii. Ordered by supervisor (name) to end recording
  - 1) Exceptions to recording (II. C. 1. a-j)
  - 2) Prohibited recording (II. D. 1. a-d)

**Officers must notify a supervisor if they fail to record, but the policy does not indicate whether officers must provide a concrete justification for failing to record required events. (§II.B.2)**

Notify a supervisor when a WCS was not placed into event mode in compliance with this order as soon as practical

**However, the policy does suggest officers will be subject to discipline for repeatedly failing to activate their cameras according to the policy (§I.I)**

Officers shall be subject to the disciplinary process for intentional, repeated or otherwise unjustified failure to activate their WCS in violation of the Division policy.

## ✔ Addresses Personal Privacy Concerns

Cleveland Police prohibits officers from recording in “[a]ny place where there is a reasonable expectation of privacy.” (§II.D)

### D. Event Mode: Prohibited Recording

1. Officers shall not record in event mode in the following circumstances/situations:

...

- c. Any place where there is a reasonable expectation of personal privacy (e.g., dressing rooms, restrooms) unless necessary to fulfill a law enforcement objective.

Officers may turn off cameras if requested by victims or witnesses, or parents of juvenile victims or witnesses. (§II.C)

### Event Mode: Exceptions to Recording

1. The WCS may be returned to buffering mode for the following circumstances, after obtaining approval from their immediate supervisor or the sector/unit supervisor:

- a. Entering a private home or building where consent of the owner or person with authority to consent to the entrance is required and that person expressly declines to permit video and/or audio recording inside the home or building. This will not apply to an entrance where consent is not required or no longer required once inside the home/building, including entrances related to a search warrant, arrest warrant, domestic violence calls, and emergency or exigent circumstances. If possible, officers shall request that the citizen step outside or, depending on the circumstances and with supervisory approval, return the WCS to buffering mode.
- b. When interacting with a victim or witness who refuses to cooperate if the WCS is in event mode. If practicable and reasonable, record the victim or witness requesting the WCS be turned off.
- c. When interacting with a juvenile victim or witness, a parent or legal guardian may refuse to allow the juvenile to cooperate while the WCS is in event mode. If practical and reasonable, record the parent or guardian requesting the WCS be turned off.
- d. When requested by a victim of domestic violence or sexual assault, if practicable and reasonable, record the victim’s request that the WCS be turned off.

## ✘ Prohibits Officer Pre-Report Viewing

Cleveland Police allows officers to view relevant footage while completing their reports (*note that the court rejected clause I.G; presumably this subsection is under review*). (§I.D,G)

### I. General Guidelines

...

D. The existence of captured media shall not replace a thorough, accurate, and complete incident report or Form-1.

...

G. The Division reserves the right to limit or restrict an officer’s ability to view captured media based on the circumstances surrounding the incident.

1. Officers are authorized to access their own WCS recording for a legitimate law enforcement purpose, including but not limited to completion of reports.
  - a. Officers shall only view their WCS recording after a use of force that requires a FIT [Force Investigation Team] response when authorized by the FIT OIC.
  - b. Officers may view their own or another officer’s WCS recording, if a FIT response is not required, as necessary to complete required reports or complete a supervisory investigative/administrative function.

Supervisors are responsible for identifying discrepancies between footage and reports. (§III.6)

### III. Supervisor Responsibilities

A. Supervisors shall:

...

6. Reference the existence of captured media in a distinct and separate heading in a supervisory investigation, including:
  - a. All captured media reviewed.
  - b. Any discrepancies between the captured media and reports.

### ✗ **Limits Retention of Footage**

Cleveland Police specifies a retention period of 2 years days for "citizen encounters" and 90 days for "Alarms without citizen contact." but no deletion requirement exists. (§VII.B.4)

B. Officers shall use the following categories to assist in maintaining and filing captured WCS media:

...

3. Misdemeanors, Traffic Stops, Citations, and Citizen Encounters (retention of 2 years).
  - a. Misdemeanors with identified suspects
  - b. Citations issued without an arrest (UTT & MMC).
  - c. Citizen encounters where none of the other category criteria apply.
  - d. Traffic stops where no citation is issued.
  - e. Captured media that does not fall into any of the above categories.
  - f. Alarms with citizen contact
4. Administrative and Alarms (retention of 90 days).
  - a. Start of tour vehicle inspection recordings.
  - b. End of tour vehicle inspection recordings.
  - c. Alarms without citizen contact

### ✓ **Protects Footage Against Tampering and Misuse**

Cleveland Police expressly prohibits footage tampering and access for unauthorized use. Each time an officer accesses recorded footage, the officer must note the reason in the system. Cleveland Police also logs all access to footage. (§§I.C; VI.B-C; VII.A)

I.C. Officers shall not edit, delete, or alter captured media. The security features of Evidence.com ensure compliance and track all access to captured media.

VI.B. Officers shall not use any recording device to record captured media (still pictures, audio, and/or video) from Evidence.com or Evidence Sync.

VI.C. Officers shall add notes to captured media stating the reason for each view of captured media (e.g., completing report, court prep, random review, use of force).

VII.A. All captured media is an official record of the Cleveland Division of Police. Officers accessing, copying, or releasing any captured media for any purpose other than law enforcement related is strictly prohibited and shall subject the officer to discipline. All requests to exhibit, display, or demonstrate the WCS to outside parties shall be directed to the Chief's Office.

### ✗ **Makes Footage Available to Individuals Filing Complaints**

Cleveland Police does not expressly allow individuals who are filing police misconduct complaints to view footage (*note that the court rejected clause VII.G; presumably this subsection is under review*). (§VII)

VII. Access and Public Records Request

- A. All captured media is an official record of the Cleveland Division of Police. Officers accessing, copying, or releasing any captured media for any purpose other than law enforcement related is strictly prohibited and shall subject the officer to discipline. All requests to exhibit, display, or demonstrate the WCS to outside parties shall be directed to the Chief's Office.

...

- D. Unusual or exceptional incidents related to law enforcement activities are often the subject of heightened public curiosity and interest. However, officers are strictly prohibited from allowing persons outside of law enforcement to view or listen to any media captured by the WCS or any other Divisional evidence capture system without prior authorization from the Chief.
- E. Unless otherwise directed by the Chief, all video and/or audio recordings recorded on duty shall not be disseminated outside of law enforcement. Officers shall refer all non- Divisional requests for captured media to file a public records request.
- F. The Office of Professional Standards (OPS) shall be provided access to requested video without having to file a public record request. Requests from OPS shall be forwarded to the Mobile Support Unit
- G. The public may request captured media through a public records request. Release of any captured media will be in accordance with the Ohio Public Records Law.

### **Limits Biometric Searching of Footage**

Cleveland Police does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# Colorado Springs Police Department



- 
- ✘ Makes the Department Policy Publicly and Readily Available
  - ✘ Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - ✘ Prohibits Officer Pre-Report Viewing
  - ✘ Limits Retention of Footage
  - ✘ Protects Footage Against Tampering and Misuse
  - ✘ Makes Footage Available to Individuals Filing Complaints
  - ✘ Limits Biometric Searching of Footage

*Last updated: October 13, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✘ **Makes the Department Policy Publicly and Readily Available**

The Colorado Springs Police Department (CSPD) posts several department policies online for public review online, however none of these policies specifically address the use of body worn cameras. A "Body Camera" section under "[Public Information](#)" on the website has two broken links: one for a Body Worn Camera survey and one for an informational video.

While the policy governing BWC use is not available on the CSPD's website, we were able to locate a draft copy of the policy online. This draft was released to public in March 2016 as part of the public comment process that took place prior to the department deploying the cameras. However, it is not clear whether the policy has been updated since.

## ✘ **Limits Officer Discretion on When to Record**

CSPD's draft policy does not clearly describe when an officer must record or limit an officer's discretion on when to record. This policy offers guidance recommendations on when to record, and lays out clear situations on when an officer may not record, however, it does not clearly state when an officer *must* record. (§§.04; .20)

.04 It is the policy of this department that officers shall activate the BWC when such use is appropriate to the proper performance of his or her official duties, where the recordings are consistent with this policy and law.

.20 If an officer is in doubt as to whether or not the BWC should be activated, the BWC should be activated if practical.

Examples include but are not limited to:

- Contacts with the public where law enforcement action will potentially be taken;
- Pursuits by vehicle and on foot;
- Execution of consent searches;
- Persons behaving in an erratic manner;
- Ongoing investigations that may lead to an arrest or search;
- Any other encounter with the public that becomes adversarial after the initial contact in a situation that would not otherwise require recording.

Based on the circumstances of the call-for-service, officers should consider activating the BWC immediately upon being dispatched to a call-for-service in order to minimize the chance of an accidental non-activation.

However, the draft policy requires officers to state why they turned off the camera or why they failed to activate the camera. (§.20)

.20 . . . Otherwise, the BWC shall remain activated until the event is completed and shall not be turned off until the initial incident that caused the activation has concluded in order to ensure the integrity of the recording, unless the contact moves into an area restricted by this policy or when the gathering of evidence or exchange of communication related to police enforcement activities are concluded. Officers shall verbally state why they are choosing to deactivate the digital recording device prior to doing so.

Additionally, if an officer fails to activate the BWC within the guidelines dictated by this policy, fails to record the entire contact, interrupts the recording, or fails to record due to an equipment malfunction the officer shall document in the officer's incident/criminal report why a recording was not made, was interrupted, or was terminated.

The policy also requires that officers give a "clear, articulable reason" for why they did not record or discontinued recording. This reason must be stated either on the video prior to turning off the camera, on the CADS report, or in the report submitted by the officer. (Procedure §C.5, Procedure §D.3)

### ○ Addresses Personal Privacy Concerns

CSPD's draft policy offers clear guidance on when officers should not record and specifically prohibits recording in "any location where individuals have a reasonable expectation of privacy." (§§.24; .22)

.24 BWCs shall be used only in conjunction with official law enforcement duties and officers shall not use personally owned digital recording devices while on duty.

The BWC shall not be used to record:

- Communications with other police personnel without their knowledge, without the permission of the Chief of Police or authorized designee;
- Encounters with undercover officers or confidential informants;
- When on break or otherwise engaged in personal activities; or
- In any location where individuals have a reasonable expectation of privacy; such as, a restroom or locker room.
- Recordings in patient care areas of medical facilities unless the recording is for official police business such as a criminal investigation, dying declaration, Horizontal Gaze Nystagmus (HGN) on injured drivers, a specific call for police service, or when dealing with an uncooperative subject(s).

.22 Officers shall not activate a BWC while on the grounds of any public, private or parochial elementary, middle, high or secondary school except when responding to an imminent threat to life or health, or where there is a potential for enforcement and/or criminal investigation, or during an encounter with the public that becomes adversarial after the initial contact in a situation that would not otherwise require recording.

### ○ Prohibits Officer Pre-Report Viewing

CSPD's draft policy allows officers to view their own recording prior to documenting an event and does not require that an officer make a written record or statement of an event before viewing footage. In limited circumstances, an officer is prohibited from accessing their own recording and must gain approval to view the recording. (§.40)

.40 Officers are authorized, but not required, to review their own BWC recording when preparing official written documentation of a specific event. Officers may view the video of another officer that was on the same call-for-service with supervisor approval. The viewing may be utilized as a tool when completing written reports to ensure the accuracy and consistency of events. Employees are granted access to Department records systems solely to aid them in carrying out their assigned duties.

The following are exceptions to the above:

- Upon advisement that the officer is the subject of (or witness to) an internal or criminal investigation or complaint, the officer can no longer view the BWC video of the event in question unless expressly authorized by Internal Affairs or the Shift Lieutenant or designee if the investigation or inquiry is being conducted in the chain of command. Unless the nature of the investigation dictates otherwise, the subject officers and the supervisor(s) conducting the investigation will typically view the BWC video together prior to the officer making a statement.
- If the officer is involved in (or witness to) a critical incident such as a police shooting, an in-custody injury resulting in death or other critical incident, the officer is authorized to view their BWC recording only after the approval of the commander of the Investigations Division or his/her designee."

### ✘ Limits Retention of Footage

CSPD's draft policy distinguishes recordings of "evidentiary value or where a case report number is generated," recordings dealing with traffic violations, and other recordings of an "unclassified nature." Recordings of an "unclassified nature" are stored for 30 days. While these retention periods are within our recommendations, it is unclear from the language of the policy whether these are maximum or minimum retention periods. (§.14)

.14 Files should be securely stored in accordance with state records retention laws and shall be disposed of as soon as practical once appropriate authorization is given and the file is no longer of use in an investigation or prosecution.

BWC recordings of evidentiary value or where a case report number is generated shall be stored in accordance with the Colorado Springs Police Department's GO 833 Section 8: Evidence Office Procedures/Investigations and Evidence.

TRAFFIC – Traffic stops involving a citizen, vehicle, bicycle, pedestrian, etc. where the officer issues a citation into Municipal Court or County Court for traffic related offenses. Retention is one hundred eighty (180) days.

All other recordings of an unclassified nature shall be stored for a period of thirty (30) days. This includes traffic stops where a summons was not issued and motorist assists.

In the event that an officer or supervisor believes the BWC recording should be retained for more than the designated retention periods listed above due to extenuating circumstances (eg. Public scrutiny, potential for civil action, etc), authorization shall be obtained from the shift or section lieutenant for such extension and the video will be retained until further notice.

### ✘ Protects Footage Against Tampering and Misuse

CSPD's draft policy indicates that access to BWC footage is automatically audited. The draft policy prohibits officers from tampering with footage. The policy also mandates that requests for deletion are kept on record and requires approval before content is erased. (§.14, §.30)

.14 The system also has an internal audit system that shows when BWC video has been viewed, shared, or redacted. This audit trail may aid in determining the chain-of-custody...

...



All access is audited to ensure that only authorized users are accessing the data for legitimate and authorized purposes.

.30 Officers shall not edit, alter, erase, duplicate, copy, share, or otherwise distribute in any manner BWC recordings without prior written authorization and approval of the Chief of Police or authorized designee.

...

Requests for deletion of portions of the recordings (e.g., in the event of a personal recording) must be submitted in writing and approved by the Chief of Police or authorized designee in accordance with state record retention laws. All requests and final decisions shall be kept on file for the period outlined for records retention for the identified incident.

While this part of the policy is quite robust, the policy does not explicitly prohibit unauthorized access so we cannot give it a higher score.

#### **Makes Footage Available to Individuals Filing Complaints**

CSPD's draft policy does not expressly allow individuals who are filing police misconduct complaints to view relevant footage and prohibits subjects of the recording who are not law enforcement from viewing the recording on the scene. According to the draft policy, requests for footage will be subject to the CSPD's internal policies, the Colorado Open Records Act (CORA), and the Colorado Criminal Justice Records Act (CCJRA). CSPD's internal policies are not available on the department's website. (§§.14; .24)

.14 All images and sounds recorded by the BWC are the exclusive property of the Colorado Springs Police Department. Accessing, copying, or releasing files for non-law enforcement purposes is strictly prohibited.

Any request for BWC media made from outside the Colorado Springs Police Department will comply with both the records disclosure and records management policies of the Department referenced above, as well as the Colorado Open Records Act (CORA) and the Colorado Criminal Justice Records Act (CCJRA). Criminal justice system partners such as the District Attorney's Office and City Attorney's Office will have limited access to the BWC system to download and view video evidence that pertains to specific cases.

.24 Non law enforcement personnel shall not be allowed to review the recordings at the scene.

#### **Limits Biometric Searching of Footage**

The CSPD draft policy does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# Columbus Police Department



- 
- ✗ Makes the Department Policy Publicly and Readily Available
  - ✓ Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
  - ✗ Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage

*Last updated: October 12, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✗ Makes the Department Policy Publicly and Readily Available

Columbus PD does not publish its BWC policy on its website. However, a version of its [policy](#) was found on the Bureau of Justice Assistance's Body Worn Camera Toolkit. This policy was effective February 3, 2015.

## ✓ Limits Officer Discretion on When to Record

The Columbus PD policy provides a clear list of contacts that must be recorded. The policy requires that the BWC be activated "as soon as possible without endangering the life of the officer" and mandates that recording continue "until the completion of the event, or [the officers] have left the scene." (§§III.C-E; V.A)

### III. Axon Flex BVRs Use

...

- C. Officers shall place the BVRs in Event Mode as soon as practical at the onset of a given situation.
- D. Once in Event Mode, officers shall continue to record until the completion of the event, or they have left the scene.
- E. Additional units arriving to a scene shall place their BVRs in the event mode as soon as practical, and continue to record until the completion of the event, or they have left the scene.

### V. Required BVRs Use Events

- A. The BVRs shall be activated during the following events as soon as possible without endangering the life of the officer:
  - i. Responding to calls for service in an emergency situation;
  - ii. All traffic and foot pursuit;
  - iii. All traffic stops, including the investigation of a vehicle and occupants already stopped or parked;

- iv. All searches including, but not limited to, people, vehicle, buildings, and places;
- v. All requests for consent to search without a warrant. This is intended to enhance consent documentation not replace current consent forms;
- vi. All requests for searches and deployments of drug-detection canines, when practical;
- vii. All arrests and/or citations;
- viii. Any incident in which an officer is acting under color of law and it may become necessary for the officer to invoke his/her authority as a law enforcement officer;
- ix. Any incident upon direction from a supervisor, at the request of another officer or any time an officer deems it appropriate to activate a BVRS unit; and
- x. All domestic violence calls including suspect/victim interviews.

The policy appears to require officers to provide concrete justifications for failing to record events. (§V)

...It is understood that situations could arise spontaneously and without warning. In the event that this occurs an explanation will be submitted in writing/typed detailing the event. This documentation will be submitted to the officer's supervisor prior to the end of shift or workday. In the event that BVRS was not used and there is no justifiable reason, the supervisor will submit the employee counseling report supported by SOP 1.13 Discipline accountability. The Chief will then determine what discipline might be required based upon the facts and circumstances and past compliance or non-compliance with this SOP by the officer in question.

#### ○ Addresses Personal Privacy Concerns

The policy mentions the importance of personal privacy, but offers vague guidance on when not to record. The policy prohibits recording "in places where a reasonable expectation of privacy exists" and only provides as examples "locker rooms, dressing rooms, or restrooms." (§VII)

- A. Except as authorized or required by this SOP BVRS units shall not be activated in places where a reasonable expectation of privacy exists, such as locker rooms, dressing rooms, or restrooms.
- B. BVRS units shall not be activated to record conversations of fellow employees without their knowledge during routine, non-enforcement related activities.

The policy allows officers to turn off cameras "in places where there is reasonable expectation of privacy" such as in medical facilities or when interviewing sexual assault victims, but does not require them to do so at the request of vulnerable individuals. (§VI.A)

- A. Other than at the conclusion of the contact or investigation or when searching pursuant to a search or arrest warrant or with probable cause to search under exigent circumstances, personnel may deactivate in places where there is reasonable expectation of privacy or in circumstances where BVRS may prevent them from obtaining information in relation to an investigation. Instances where personnel may deactivate include, but are not limited to:
  - i. During interviews involving sexual assault victims;
  - ii. Respecting the dignity of others (individuals who are nude or when sensitive human areas are exposed);
  - ...
  - iv. Inside hospital emergency rooms and other medical facilities

#### ⊗ Prohibits Officer Pre-Report Viewing

Columbus PD allows officers to view relevant footage while completing their reports. (§IV.G-H)

- G. Officers may use captured media to assist with investigations or complete reports.
- H. Officers involved in any significant use of force incident or accident causing injury will be permitted, but not required, to review their own BVRS data related to the incident, prior to providing a recorded statement or completing reports.

### ✘ **Limits Retention of Footage**

Columbus PD does not address, and thus does not require, the deletion of any footage.

### ✘ **Protects Footage Against Tampering and Misuse**

While Columbus PD mentions the fact that access is controlled based on security clearance, the policy does not prohibit unauthorized access or indicate that access is logged or audited. The policy appears to prohibit "permanent" footage tampering. (Definitions; §IV.A,F; §VIII.A-B)

#### DEFINITIONS

...

Evidence.com: Online Web-based digital media storage facility. The virtual warehouse stores digitally encrypted data in a highly secure environment accessible to personnel based on security clearance....

IV.A The Axon Flex BVRS will allow an officer to record audio/video data without the ability to alter or delete the data. Once the Event Mode is started, resultant data is permanently recorded within the device and unalterable by the officer.

IV.F. Officers may view media captured through evidence.com but will not be able to permanently alter or delete any data.

VIII.A. Only the BVRS System Administrator, Shift Supervisors, Division Commanders, Assistance Chiefs, and the Chief of Police have the ability to "log in" and view or copy a data file. No permanent alteration or deletion is allowed to the original data file. Any of the individuals listed in this Paragraph VIII(A) may create a copy of the video file for court or other Department purposes, subject to the following requirements:

- i. This should be done at the request of the investigating officer;
- ii. All copies of such files will be placed on a CD and given to the officer on the day of his/her court date;
- iii. Upon completion of the court appearance the officer will return the CD to his/her supervisor (if the CD was not appropriated by the court)
- iv. The supervisor will destroy the CD upon receipt.

VIII.B. Only the BVRS System Administrator has the ability to delete a file and can only do so through written authorization by the Chief of Police.

### ✘ **Makes Footage Available to Individuals Filing Complaints**

The policy does not expressly allow individuals filing a complaint to review footage. (§IX.A)

Production of copies of a BVRS recording must be done under the following conditions;

- i. Must be done through a court order or subpoena;
- ii. If no court order or subpoena, must be submitted in writing and approved through the prosecuting attorney; and
- iii. Released video/audio footage will not contain any confidential information such as social security numbers, personal information about police officers, etc. unless expressly requested and approved by the Chief of Police and the prosecuting attorney.

### ✘ **Limits Biometric Searching of Footage**

Columbus PD does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# Dallas Police Department



- 
- ✗ Makes the Department Policy Publicly and Readily Available
  - ✓ Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✓ Limits Retention of Footage
  - Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage

*Last updated: October 4, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✗ **Makes the Department Policy Publicly and Readily Available**

Dallas PD does not publish its BWC policy on its website. However, the policy was found within a presentation made to the City of Dallas Public Safety Committee on January 9, 2017. The policy is dated August 31, 2015.

## ✓ **Limits Officer Discretion on When to Record**

Dallas PD requires officers to record "all contacts that are conducted within the scope of an official law enforcement capacity." At the end of each recording, officers must verbally announce why the camera is being turned off. (§§332.04.A.1-3, B)

A. Officers will utilize the BWC in the following circumstances:

1. Officers will activate their body worn camera to record all contacts that are conducted within the scope of an official law enforcement capacity including but not limited to:
  - a. Before any enforcement stop, pedestrian or vehicle, officers will activate the body camera upon exiting the police vehicle. An officer may activate the camera any time prior to exiting the vehicle. If the BWC cannot be activated upon exiting the police vehicle, it will be activated as soon as practical and safe to do so.
  - b. Upon arrival when on any call for service. Officers may activate the camera while enroute to a call destination if they deem it necessary.
  - c. During non-vehicle pursuits (foot, bike, T3, etc.) as soon as the officer can do so safely.
  - d. During vehicle pursuits, in vehicles without in-car DVR systems, as soon as the officer can do so safely.
  - e. Upon arriving to all crime in progress calls as soon as the officer can do so safely.
  - f. During the execution of a warrant or "knock and talk" operation.
  - g. When requesting and conducting a consensual search.
  - h. Before any planned or anticipated arrest.

- i. During the inventorying of seized narcotics, money or any high value property.
  - j. When conducting the Standard Field Sobriety Test (SFST) or Drug Recognition Expert (DRE) test.
  - k. Any situation where the officer's training and experience causes him/her to believe the incident needs to be recorded to enhance reports, preservation of evidence, and aid in subsequent court testimony.
  - l. Any time an officer deems necessary
  - ...
  - n. Critical Incident Team (CIT) calls.
  - o. Any incident or contact that may result in an enforcement action being taken or official report being generated
2. The BWC may be deactivated during non-enforcement activities such as when protecting a traffic crash scene, or other incident that provides no evidentiary value.
  3. Officers shall have the latitude to terminate a recording when there is no likelihood of anything else of evidentiary or law enforcement value occurring. It shall be deemed a violation of this policy for an officer to fail to activate the body worn camera or intentionally terminate a recording in order to commit a violation of department policy or law. . . .

B. Prior to deactivating the BWC, officers will make a recorded announcement as to the reason the device is being deactivated such as —

1. "Contact completed"
2. "Incident concluded"
3. "Instructed by supervisor (name) to end recording"
4. "Officer or supervisor discussion in the field"

When officers fail to record a required incident, they must document the failure in their report. (§§332.04.C-D)

C. If the BWC fails to activate the officer will document the failure in a MIR or offense supplement report. The officer will also notify their supervisor of the equipment failure.

D. If an officer fails to activate the BWC or fails to record the entire contact, the officer shall document the reasons in a MIR or offense supplement report.

### ○ Addresses Personal Privacy Concerns

Dallas PD prohibits officers from recording where "individuals have an expectation of privacy." The policy does not specifically protect vulnerable classes of individuals, and even in hospitals and doctors' offices, only limited restrictions on recording exist. (§§332.05.A, B, E)

#### 332.05 Prohibited use of BWC Equipment

- A. In any situation where individuals have an expectation of privacy such as bathrooms and locker rooms, unless it is required to capture evidence for a criminal investigation.
- B. The use of BWCs in a hospital or doctor's office setting will be limited to investigative use only. Officers will not record a patient's medical interaction and procedures with hospital or medical personnel unless all parties are aware that a recording is taking place and it is needed as evidence.
- ...
- E. Images of undercover officers or confidential informants will not be recorded, unless requested by the undercover officer or their supervisor in the furtherance of an investigation.

Officers do not need to obtain the consent of subjects to record, nor are they required to proactively notify subjects that the camera is recording. (§§332.04.A.4-6)

4. Officers are not required to obtain consent from a private person when in a public place or in a location where there is no reasonable expectation of privacy. It is at the discretion of the officer to determine if they want to announce a recording is occurring.

5. While in public areas, officers are not required to advise a subject that they are recording their interaction unless the subject specifically asks if they are being recorded, at which point the officer will inform the subject

that they are being recorded.

6. When in a private residence in an official capacity, officers are not required to advise the resident they are recording. The officer is not prohibited from but encouraged to advise the citizen of the recording if doing so if it would better serve the handling of the incident.

### ✘ Prohibits Officer Pre-Report Viewing

Dallas PD encourages officers to view incident recordings before writing their reports, and the policy indicates that Texas state law entitles officers to do so. (§§332.04.A.1.m; 332.06.F)

332.04.A.1.m. Officers are encouraged to review video recordings of incidents prior to writing any offense, arrest, or incident report to ensure the accuracy and consistency of the report. . . .

332.06.F. Per Texas state law, an officer is entitled to access recordings of an incident involving the officer before the officer is required to make a statement about the incident.

### ✔ Limits Retention of Footage

Dallas PD automatically deletes unflagged footage after 90 days. (§332.06.B)

B. All video will be maintained for a minimum of 90 days. If the video has not been categorized as one which is to be retained it will automatically be deleted after 90 days.

### ○ Protects Footage Against Tampering and Misuse

Dallas PD expressly prohibits tampering with cameras and footage, as well as unauthorized distribution of footage. However, the policy does not indicate that access to recorded footage will be logged or audited. (§§332.03.A.5-8)

4. Personnel will not remove, dismantle or tamper with any hardware and/or software component or part of a body worn camera.

5. Officers will not edit, alter, erase, duplicate, copy, or otherwise distribute in any manner body worn camera recordings without proper authorization.

6. Personnel will not make copies of anybody worn camera file or screen shot for their personal use and are prohibited from using a recording device such as a phone camera or secondary video camera to record such.

7. Under no circumstances will audio/video evidence be converted for personal use. Accessing, copying, editing or releasing recordings or depictions of recordings without proper approval is strictly prohibited.

### ✘ Makes Footage Available to Individuals Filing Complaints

Dallas PD relies on Texas public records law to make footage available, and does not expressly allow individuals who are filing police misconduct complaints to view footage. (§§332.03.A; 332.06.A, D, E)

332.03.A. All audio/video captured during the scope of an officer's duties are the property of the Dallas Police Department and are subject to Departmental policies and applicable laws regarding viewing, release, retention, and destruction. . . .

...

332.06. Retention, Storage and Handling of Videos

A. Public Information Act requests for videos will be handled in accordance with Chapter 552 of the Texas Government Code and departmental procedures.

...

- D. BWC recordings will not be provided to anyone outside of the Dallas Police Department unless the recording is requested through the proper Public Information Act request process or through a Criminal Justice request received on a completed and approved request form.
- E. The Open Records/Records Management Unit will set charges for duplications of videos for Public Information Act requests.

 **Limits Biometric Searching of Footage**

Dallas PD does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.



# Denver Police Department



- 
- Makes the Department Policy Publicly and Readily Available
  - Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - Prohibits Officer Pre-Report Viewing
  - Limits Retention of Footage
  - Protects Footage Against Tampering and Misuse
  - Makes Footage Available to Individuals Filing Complaints
  - Limits Biometric Searching of Footage

*Last updated: October 10, 2017. Is there a new version of this policy? [Let us know.](#)*

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## **Makes the Department Policy Publicly and Readily Available**

Denver PD publishes its most recent publicly available [BWC policy](#) on its website. The web-based manual makes the policy very easy to find. The policy is Title 119.04, dated September 15, 2017.

## **Limits Officer Discretion on When to Record**

Denver's policy includes a detailed list of situations that must be recorded and instructs officers to exercise "good judgment when activating and deactivating the BWC." (§3)

... Officers are expected to follow departmental policy and procedure, utilizing ethical and legal discretion as well as good judgment when activating and deactivating the BWC. . . .

### a. Required Activation

1. All officers will place the BWC into EVENT mode after being dispatched and prior to arriving to the following calls for service and prior to any officer initiated contacts involving actual or potential violations of the law including:

- a. Traffic stops
- b. Pedestrian, citizen and/or vehicle contacts
- c. All calls requiring the presence of a Crisis Intervention Team (CIT) officer
- d. Reported weapons calls
- e. All calls involving suicidal individuals

f. When engaging in a foot chase (if the BWC was not placed in EVENT mode prior to the foot chase, officers are required to place the BWC into EVENT mode as soon as the situation has stabilized and it is safe to do so)

- g. Any encounter that becomes adversarial
- h. When engaging in a forced entry
- i. To assist in documenting warrantless or consensual searches of individuals, vehicles, buildings and other places
  - The BWC will be utilized to record the request and consent. This recording is intended to enhance a documented consent; it is not intended to replace the use of the Consent to Search form (DPD 272).
  - The existence of the recorded request will be documented in the officer's statement.
  - The BWC can be used to record the search itself.
- j. To assist in documenting an individual's Miranda Advisement
  - The BWC will be utilized to record the advisement and the subject's responses when practical. This recording is intended to enhance a documented consent. It is not intended to replace the use of Juvenile Advisement/Waiver Form (DPD 102) or the Advisement form (DPD 369).
  - The existence of a recorded advisement will be documented in the officer's statement.
- k. All arrests and/or citations
- l. To assist in documenting the handling and inventory of currency, whether being submitted to the Property Management Section or returned to a citizen.
- m. Any situation that the officer believes the use of the BWC would be appropriate or would provide valuable documentation if not already activated per policy

The policy does provide officers discretion to not activate their camera in situations where "immediate activation of the BWC is not feasible due to an immediate risk to the safety of the officer or others." However, the policy then requires officers to activate recording "at the first available opportunity" after the immediate threat has been addressed. (§3)

The Denver Police Department recognizes there are certain circumstances where officers in a proactive (non-dispatched) capacity may become involved in a situation requiring immediate action to prevent injury, make an arrest and/or prevent the destruction of evidence or escape. When these situations occur, officers must activate the BWC, unless doing so places them or others in jeopardy. If the immediate activation of the BWC is not feasible due to an immediate risk to the safety of the officer or others, the officer will activate the BWC at the first available opportunity after the immediate threat has been addressed.

The policy does not require officers to provide concrete justifications for failing to record required events.

### ✔ Addresses Personal Privacy Concerns

While the policy prohibits officers from recording in places where "a reasonable expectation of privacy exists," including patient care areas of healthcare facilities, the policy makes an exception for camera activation for "official law enforcement activity." (§3.b.4)

The BWC will not be activated in places where a reasonable expectation of privacy exists (such as detox, medical, and/or healthcare facilities, locker rooms or restrooms, etc.) unless the activation is for the purpose of official law enforcement activity such as a call for service or policy requires activation. . . .

- a. Officers will only use the BWC in patient care areas of a healthcare facility and/or ambulances when the recording is for official purposes and caution should be used to record only the parties involved in the event being investigated.

The policy appears to allow officers to turn off cameras when a victim requests that the officer stop recording. (§§3.a.2; 4.d.1-2)

- 3.a.2. Once placed in EVENT mode, the BWC will remain on and not be turned off unless the initial incident that caused the activation has stabilized; upon request of the victim; or as ordered by a supervisor.
- 4.d.1. Officers should notify crime victims and persons wanting to anonymously report a crime that they are being recorded as soon as it is safe to do so.

4.d.2. Unless use of the BWC is necessary for an officer's safety, the safety of others, or to ensure an accurate account of an event, when a person wants to anonymously report a crime or assist in an ongoing investigation, the officer will ask the person if they want the officer to discontinue use of the BWC. If the person states yes, the officer will immediately announce the reason for the deactivation and turn off the BWC.

The policy allows officers to turn cameras to "buffering mode" during private conversations with an officer, supervisor, doctor, nurse or paramedic. (§3.a.2.c)

c. Once the situation has stabilized, if it is necessary to discuss issues or concerns with an officer, supervisor, doctor, nurse or paramedic in private, or if the information to be conveyed is not part of an investigative case, the BWC may be switched to BUFFERING mode. As soon as the private conversation is completed, the BWC will be returned to EVENT mode so long as the situation still falls under the definition of required use. Officers are reminded that when the BWC is placed back to EVENT mode, the prior 30 seconds of video (no audio) will be saved.

The policy prohibits officers from taking video of an individual being strip searched. (§3.b.7)

7. Prior to conducting a strip search, the officer will record a 360-degree video of the location where the strip search will be conducted. During the actual strip search, the BWC will be utilized to only capture audio of the event by positioning the camera away from the individual to be searched (see OMS 104.01(8) for authorization).

The policy encourages but does not require officers to notify the public the BWC is activated and recording. (§4.d)

d. Officers are encouraged to notify the public that the BWC is activated and recording. Under most circumstances, notification has shown to diffuse incidents. However, there may be times that this is impractical or that the notification could diminish lines of communication. Officer discretion should be utilized and generally favor notification over non-notification.

Likewise, the policy requires officers to turn on the camera audible alert signal, but provides officers discretion to mute the signal for tactical situations. (§4.b.3)

3. Under normal operation, the BWC's audible alert signal must remain in the ON position. The audible alert signal may be muted for tactical situations; however the audible alert signal must be immediately reactivated at the conclusion of the tactical portion of the incident.

#### Prohibits Officer Pre-Report Viewing

The policy allows officers to review their own camera footage before writing reports and encourages officers to use the footage "to ensure accuracy" when writing reports.

The policy requires officers to receive prior approval to view their own footage in circumstances involving use of force and other critical incidents. However, in both circumstances, the policy does not prohibit officers from viewing footage once approval is granted, and the policy is silent as to whether an officer must file a report or statement before viewing that footage. (§4.e)

e. Officers are authorized to review their own BWC recording when preparing official written documentation of a specific event... The viewing will be utilized as a tool when completing written reports to ensure accuracy. The following are exceptions to the above:

1. If the officer is involved in (or witness to) a use of force incident that per policy requires the response of an Internal Affairs Division investigator, the officer may be authorized to view their BWC recording after the Internal Affairs Division investigator has been consulted. The viewing of any BWC recording will only be

permitted after receiving authorization from the Internal Affairs Division investigator acting under the direction of the commander of the Internal Affairs Division.

2. If the officer is involved in (or witness to) a critical incident such as a police shooting, an in-custody injury resulting in death or other critical incident as defined in the Operations Manual, the officer is authorized to view their BWC recording only after the approval of the commander of the Major Crimes Division (or designee).

### ✘ **Limits Retention of Footage**

The policy is not clear how and when stored media is purged. The policy notes that media is to be purged in accordance with the current City and County of Denver General Records Retention schedule, which is not readily available online. (§9.a)

- a. All recorded BWC media will be uploaded and retained in evidence.com in accordance with the current retention schedule. The retention of all BWC media will comply with all applicable State of Colorado statutory requirements regarding criminal justice record management and evidence retention and will be based upon the current City and County of Denver General Records Retention Schedule. All BWC media will be purged from the system in accordance with the current retention schedule.

The current [State of Colorado Municipal Records Retention Schedule \(§100.080\(AA\)\)](#) requires video recordings made from officer recording systems to be maintained for 30 days, but does not specify when the media must be deleted.

### ○ **Protects Footage Against Tampering and Misuse**

The policy does not explicitly prohibit footage tampering. It does, however, in limited circumstances, require supervisors to take possession of the BWC media for chain of custody purposes and to ensure that the BWC data remains “uncompromised.” (§6.b)

- b. When an incident arises that requires the immediate retrieval of BWC media for chain of custody purposes (including, but not limited to serious crime scenes, officer involved shootings, critical incidents or other incidents as determined by policy/supervision) a supervisor will respond to the scene and ensure that the BWC remains affixed to the officer in the manner it was found and that the BWC data remains uncompromised. Through direct and uninterrupted supervision, the supervisor is responsible for the care and custody of the BWC until it has been removed and secured by the lead investigator.

The policy restricts access to stored footage to “authorized users” and restricts footage viewing to “legitimate law enforcement or administrative purposes.” (§10.b)

- b. Access to all BWC stored media will be restricted to authorized users and the viewing of any BWC footage will be restricted to legitimate law enforcement or administrative purposes.

The policy also specifies that audio, images and media shall not be copied, released, or disseminated without express consent from the Chief of Police. (§3.b.2)

2. All audio, images and media associated with the BWC are the property of the Denver Police Department and these items are not to be copied, released or disseminated in any form or manner outside the parameters of this policy without the expressed written consent of the Chief of Police. Under no circumstances will any employee of the Denver Police Department make a personal copy of any recorded event without the written consent of the Chief of Police (e.g. using a cellular telephone or other recording device to record BWC media). Lead investigators may create a secondary copy of a BWC recording subsequent to an official investigation and will ensure that the copy remains attached to the case file.

The policy states that the storage software currently used by the DPD documents footage viewing in an online audit trail.(§6.f)

- f. All officers, with the rank of lieutenant or higher, will have access to view BWC media in evidence.com for the officers assigned to their respective assignments, except for cases that have restricted access. All viewing of BWC media in evidence.com is documented in an online audit trail.

The policy also lists monthly usage audits, video storage audits, viewing audits, and other audits under as a BWC System Administrator Responsibility. (§8.e)

- e. Assisting in data collection reporting. These reports include, but are not limited to, monthly usage audits, video storage audits, viewing audits and other audits as requested.

### **Makes Footage Available to Individuals Filing Complaints**

The policy does not expressly allow individuals who are filing police misconduct complaints to view relevant footage, and refers to the department's existing policy on public records requests (OMS 109.04 and 109.05) to make footage available. The department's public records policy does not appear to treat BWC footage differently from other records. (§10.a-b)

- a. Access to all BWC stored media will be restricted to authorized users and the viewing of any BWC footage will be restricted to legitimate law enforcement or administrative purposes.
  1. BWC recordings will not be reviewed by anyone outside of the involved officer's chain of command except as outlined in this policy. Any other review (video and/or audio) of BWC recordings must have prior approval from the Chief of Police (or designee).
  2. All officers are accountable for each BWC video/audio review and will be required to justify the reason for accessing the recording. All viewing of BWC media in evidence.com is documented with an online audit trail.
  3. BWC recordings will not be accessed for personal gain or entertainment.
- b. Any request for BWC media made from outside the Denver Police Department, including other law enforcement agencies, the District or City Attorney's Office, and/or any city agency will comply with both the records disclosure and records management policies of the department (See OMS 109.04 and 109.05).

In addition, the policy expressly prohibits officers from playing back BWC footage for citizen viewing and (§3.b.8)

- 8. Officers are not authorized to playback BWC recorded media for citizen viewing.

### **Limits Biometric Searching of Footage**

The Denver PD policy does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# Detroit Police Department



- 
- ✗ Makes the Department Policy Publicly and Readily Available
  - ✓ Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
  - Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage
  - 💰 Received a [\\$1,000,000 DOJ grant](#) for BWCs in 2015

*Last updated: October 10, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✗ **Makes the Department Policy Publicly and Readily Available**

The Detroit Police Department does not appear to publish its policy [on its website](#), but what appears to be a [draft copy](#) of the policy was found on the City of Detroit website by searching on Google. The policy is dated "2016" but document metadata indicates it was most recently updated on April 13, 2017.

## ✓ **Limits Officer Discretion on When to Record**

Detroit PD's policy describes when officers must record, and requires officers to provide concrete justifications both when officers fail to record and when recordings are interrupted or cameras are deactivated (§304.6-3.1-2)

### **304.6-3.1 When to Activate Body-Worn Cameras**

The BWC shall be activated prior to initiating, or as soon as practical after initiating the following police actions:

- 1) Except as otherwise provided in this policy, officers shall activate his/her body-worn cameras to record all contacts with citizens in the performance of his/her official duties (i.e. calls for service, vehicle stops, observed events, and casual encounters).
- 2) Once a body-worn camera is activated, the device shall remain on until the event is completed in order to ensure the integrity of the recording.
- 3) If an officer fails to activate his/her body-worn camera, fails to record the entire event, or interrupts the recording, the officer shall document on his/her Activity Log why the recording was not made, interrupted, or terminated.
- 4) If an officer purposely de-activates his/her body-worn camera without justified case, he/she may be subject to disciplinary action.

### **304.6-3.2 When to Stop Recording**

...

6) Any interruption of a BWC recording under this section must be properly documented as set forth in Section 304.6-3.1(3) of this Policy.

### ○ **Addresses Personal Privacy Concerns**

DPD's policy provides details about how to weigh required recording circumstances with people's reasonable expectations of privacy. (§304.6-3.2)

#### **304.6-3.2 When to Stop Recording**

Whether an officer must comply with a citizen's request to stop recording with a body-worn camera depends on the location, whether the officer is at the location pursuant to valid search warrant, and whether or not exigent circumstances exist. The following rules apply:

- 1) When an officer is in an area **open to the public**, and a citizen objects to the recording, the officers is not required to stop recording.
- 2) When an officer is in an area where an individual has a **reasonable expectation of privacy** (such as a private home), pursuant to a valid **search warrant**, and a citizen objects to the recording, the officers is **not** required to stop recording.
- 3) When an officer enters an area where an individual has a **reasonable expectation of privacy** (such as a private home), **without** a valid search warrant, but where **exigent circumstances exist** (hot pursuit of fleeing felon; imminent destruction of evidence, need to prevent suspect's escape; or risk of danger to the police or others) and a citizen objects to the recording, the officers is **not** required to stop recording.
- 4) When an officer enters an area where an individual has a **reasonable expectation of privacy** (such as a private home), **without a valid search warrant**, and where **exigent circumstances do not exist**, and but **with the consent of the owner**, and a citizen objects to the recording, this should be regarded as a revocation of the consent to enter, and the officer should either **turn off the camera** (after recording the objection) and remain, or **leave the premises**. Revoking consent for a search does not constitute probable cause to arrest.

The policy requires officers to inform citizens they are being recorded. While officers have discretion to deactivate cameras at the request of victims, but allowing for discretion in such cases does not go far enough to specifically protect victims from being recorded without their informed consent. (§§304.6-3-1.5; 304.6-3.2.5)

#### **304.6-3-1 When to Activate Body-Worn Cameras**

...

- 5) Members shall inform citizens immediately

#### **304.6-3.2 When to Stop Recording**

...

- 5) The officer is taking a witness statement from a victim of an alleged rape, other victim of a violent crime, or if there is a rational belief by that officer that the recording would place the witness in danger of harm. This discretion is solely left to the responding officer...

While we realize the department's policy uses the word "citizens," we would prefer a term like "subjects" or "potential subjects" since not everyone captured by BWCs may be a citizen (e.g. lawful permanent residents or others).

### ⊗ **Prohibits Officer Pre-Report Viewing**

DPD allows officers to view footage before completing their written reports. (§§304.6-4; 304.6-6.405)

#### **304.6-4 REPORTING**

- 1) The use of the BWC will be recorded in all department reports. This notation of the use of the BWC does not replace the officer's responsibility to fully complete Department reports.

- 2) Whenever an officer documents a recording of a statement, the event shall be documented in all Department reports. A video statement is a supplement to, and not a replacement for, a written statement.
- 3) An officer may not exclusively use "please see video" or any similar language on any Department mandated reports.

#### **304.6-6 MEDIA STORAGE**

...

- 4) Officers may use media captured via BWC for official duties including completion of department-mandated reports. Officers shall be allowed to review the recording from their own BWC. Furthermore, the determination of when a member may view another member's BWC footage shall be determined on a case by case basis at the discretion of the officer in charge of the case.
- 5) If any material discrepancy is identified between media captured via BWC and a department report, a supplemental report will be filed.

### **Limits Retention of Footage**

DPD specifies a retention period for unflagged of 90 days, but does not appear to require footage deletion after that period. (§304.6-8)

#### **304.6-8 RECORDS RETENTION**

- 1) All files from body-worn cameras shall be securely stored on the DPD's local storage server for a period of ninety (90) days. Files flagged by administrative or legal department personnel shall be maintained after ninety (90) days.
- 2) Any files retained longer than ninety (90) days shall be maintained by DPD on the agency server.
- 3) Files flagged for extended retention under subpart 1 shall be retained until the investigation is concluded, or allegations of misconduct are fully investigated and resolved, or litigation is completed, or the statute of limitation for a claim has expired as dictated by the State of Michigan, Department of Technology, Management and Budget, General Schedule #11, Retention and Disposal.

### **Protects Footage Against Tampering and Misuse**

The policy prohibits tampering with and deleting footage, and specifies that "[a]llowing unauthorized personnel to view or listen to" media captured by the BWC is "[i]nappropriate and unauthorized" use. (§304.6-6-7)

#### **304.6-6 MEDIA STORAGE**

...

- 3) Any and all media captured by the BWC shall only be used for official department purposes.

...

- 6) unless authorized by subpart 7 below, DPD personnel shall not alter, edit, erase, share or otherwise distribute in any manner any BWC information, images, sound or content without prior written approval of the Chief of Police or his/her designee.
- 7) Unless otherwise required by law, DPD personnel shall not duplicate, copy, share or distribute in any manner, any BWC information, images, sound or content without the prior written approval of the Chief of Police or his/her designee.

#### **304.6-7 INTEGRITY CONTROL SAFEGUARDS**

...

- 2) All digital media collected using body-worn cameras shall be subject to the same security and chain of custody restrictions as evidence and shall not be released to any other agency or individual without the approval of the Chief of Police, his/her designee and the Office of Professional Standards.
- 3) Access to stored recordings shall be limited to department personnel for administrative or law enforcement purposes only...
- 4) After adjudication, BWC recordings may be used in conjunction with Professional Education and Training to aid in training Department personnel.
  - a. Examples of inappropriate and unauthorized use of body-worn cameras include, but are not limited to:



- i. Publishing the digital media on internet sources such as Facebook, YouTube, or any other social media, web hosting or internet sites.
- ii. Using a secondary recording device such as a phone to record media from the body-worn cameras or any other source where captured media is stored.
- iii. Allowing unauthorized personnel to view or listen to any portion of the digital media captured by any officer's body-worn camera.

However, the police does not indicate that access to footage is logged or audited.

#### ✘ **Makes Footage Available to Individuals Filing Complaints**

The policy does not expressly allow individuals who are filing police misconduct complaints to view relevant footage. Footage is classified as a "public record" under Michigan's FOIA law. (§304.6-9)

##### **304.6-9 REQUEST(S) FOR COPY OF VIDEO RECORDING(S)**

1) Upon receipt of a request for a copy of the video recording, the custodian of the recording shall:

...

b. Record the following information:

i. Type of request (FOIA, subpoena, etc.);

...

c. Immediately locate the requested video recording and duplicate the recording within 5 (5) business days of the receipt of the request.

2) For purposes of request(s) submitted under the Michigan Freedom of Information Act (the Act or FOIA), it should be noted that the images and audio recorded by the officer's body-worn camera are a "public record" within the meaning of the Act.

Therefore, the images and audios recorded by the BWC while the officer was performing his/her official duty are public record and subject to disclosure, unless otherwise exempt from disclosure under the Act or other applicable statute.

#### ✘ **Limits Biometric Searching of Footage**

DPD's policy places no limits on the use of biometric technologies (e.g. facial recognition) to identify individuals in footage.

# Fairfax County Police Department



- 
- ✓ Makes the Department Policy Publicly and Readily Available
  - ✓ Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
  - ✗ Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage

*Last updated: October 10, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✓ **Makes the Department Policy Publicly and Readily Available**

The Fairfax County Police Department's draft policy on body worn cameras is accessible via the department website. One must search "body worn cameras" on FCPD's website in order to locate the policy. FCPD's most recent BWC policy is from January 2017.

As of late September 2017, Fairfax County was preparing for a pilot program, [according to local media](#).

## ✓ **Limits Officer Discretion on When to Record**

FCPD requires that the BWC should be used in "all instances" of police and law enforcement response. (§IV.1)

The recordings prove beneficial in administrative and criminal investigations and provide an unbiased account of events. For this reason, the BWC should be used in all instances of police community member contacts and law enforcement response, except as prohibited by this policy.

The situations in which officers are required to activate their BWC "includes, but is not limited to, the following circumstances": (§V.A)

1. Prior to any officer initiated person contact involving actual or potential violations of law, to include traffic stops, subject stops, etc., provided that such activation does not interfere with officer safety or the safety of others;
2. When responding to any call for service, where response driving is warranted;
3. When engaged in any foot chase, provided the activation does not interfere with officer safety;
4. On all calls for service involving Emotionally Disturbed Persons;
5. While executing warrantless searches of individuals, vehicles, buildings, and other places; when practical, the BWC should be used to document the officer's request and consent given for such searches;
6. When taking statements from victims, witnesses, suspects, and offenders (see § IX below for privacy concerns);
7. To document accident and crime scenes, where appropriate;
8. During any other situation where the officer reasonably believes that the use of BWC is in the best interest of public safety.

Once officers activate their BWC, they shall be left active until the "event has concluded." If the officer deactivates the BWC they must verbally justify the reason for deactivation. (§IV.C)

The BWC, once activated, shall be left active until the police/individual contact, or event, has concluded. An exception can be made for events of extended duration, where continued recording does not serve a legitimate law enforcement purpose. . . . Prior to deactivating the BWC in these instances, officers should verbally state why they are stopping the recording.

FCPD mandates that officers must provide an explanation for failing to record in the notes of their report. (§IV.E)

In the event that the BWC is not used, or is discontinued prior to the end of an event, an explanation for the lack of video shall be documented in the notes field of the appropriate report module being used. If no module is used, the officer shall make a notation in the memo field of the mobile computer aided dispatch application, explaining the absence of video. This documentation should also include the name of the supervisor who authorized such deactivation when applicable.

## ○ Addresses Personal Privacy Concerns

FCPD's policy does mention the importance of personal privacy, but offers vague guidance and leaves the decision to record in "sensitive" situations up to officer's discretion. (§§VI.C,I.1-4)

C. The BWC shall not be used to document activities occurring in hospitals, or other medical facilities, unless those activities are for specific law enforcement purposes. In such instances where the BWC is used in these facilities, care should be taken to limit who and what is being recorded.

...

I. Additionally, some interactions by their very nature are sensitive and discretion should be used when determining whether or not these events should be recorded. These types of incidents do not occur often, and include, but are not limited to:

1. Interviews with those wishing to provide confidential information;
2. Complainants who do not wish to be identified;
3. Victims and witnesses of crimes, who wish to protect their identity;
4. Instances involving juveniles.

In the above instances, officers shall articulate the specific reason for not utilizing the BWC in the narrative of their police report or in the memo field of the mobile computer aided dispatch application.

The policy instructs officers to inform individuals that they are being recorded "when practical." (§IX.A)

When officers are recording persons, in locations where the person should have a reasonable expectation of privacy (i.e. home, business office not open to the public, restroom, locker room, etc.), the officer should, when practical, in the absence of reasonable suspicion or probable cause of criminal activity, inform the person(s) that they are being recorded.

### ✘ Prohibits Officer Pre-Report Viewing

FCPD's policy appears to allow officers to review footage prior to making a statement. (As worded, though, the policy appears to indicate this viewing should happen prior to the supervisor making a statement). (§VII.D).

During an administrative investigation or inquiry, and prior to making a statement, supervisors should allow employees the opportunity to review BWC footage for the incident in question. Supervisors shall be present for this type of review.

While the policy states that commanders may restrict officers from viewing footage in some circumstances, it does not explicitly prohibit officers from viewing their footage in any cases. (§VIII.D)

Commanders may limit or restrict an officer from viewing BWC footage for an incident where the officer is suspected of misconduct or subjected to criminal investigation.

### ✘ Limits Retention of Footage

FCPD's new draft policy has blank spaces where retention periods will presumably be added. Until the policy is completed, we cannot be certain that unflagged footage will be deleted within a reasonable amount of time. (§XII)

The back-end system for the BWC program includes network storage for the data. To meet the basic provisions of the Library of Virginia, Records Retention and Disposal Schedule, the following is the Department retention schedule:

*{DRAFT POLICY NOTE – all retention schedules will be finalized prior to the implementation of a pilot project and/or full program in consultation with all legal stakeholders in the County and State. Therefore all items are to be determined for legal compliance to days and years}*

- A. Video/audio recordings not required to support known investigations or litigations should not be retained beyond [TBD] days
- ...
- C. BWC footage shall be classified for automatic deletion based on the above retention periods....

### ✘ Protects Footage Against Tampering and Misuse

Fairfax County PD expressly forbids officers from "manipulat[ing]...or delet[ing]" any information collected by the BWC. (§IV.F)

Officers shall not manipulate, obstruct, interrupt, or delete the BWC device's video and/or audio recording during mandatory use situations, unless stated otherwise herein.

FCPD fails to specify who is authorized to access the information from the BWC. The policy mentions that footage should be audited, but does not indicate that all access to recorded footage will be logged or audited. (§VII.B)

Supervisors shall conduct a minimum of one audit per month of a sample of BWC footage from a minimum of three officers under their direct supervision, and document the results of the audit using the BWC-Audit form located on the BlueNET.

**✘ Makes Footage Available to Individuals Filing Complaints**

FCPD's policy does not expressly allow individuals who are filing police misconduct complaints to review footage. (§X.A,C-D)

A. Recordings are releasable under a Subpoena Duces Tecum or when ordered as part of the discovery rules of evidence. In certain circumstances, recordings may also be releasable under the Virginia Freedom of Information Act. All BWC footage will be subject to review by the Commander of the Internal Affairs Bureau prior to any release outside of the Department. Furthermore, when video footage is copied for this purpose, only the segment of the incident required to be produced is to be released.

...

C. In certain circumstances, recordings may be releasable under the Virginia Freedom of Information Act. These requests will be referred to the Public Affairs Bureau and all BWC footage will be subject to the review of the Director of Public Affairs Bureau, or his/her designee, prior to any release outside of the Department.

D. All other external requests for BWC video shall be referred to the Public Affairs Bureau.

**✘ Limits Biometric Searching of Footage**

FCPD's policy places no limits on the use of biometric technologies (e.g. facial recognition) to identify individuals in footage.

# Fayetteville Police Department



- 
- Makes the Department Policy Publicly and Readily Available
  - Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
  - ✗ Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage
  - 💰 Received a [\\$530,000 DOJ grant](#) for BWCs in 2015

*Last updated: October 10, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ○ **Makes the Department Policy Publicly and Readily Available**

Fayetteville PD publishes its BWC policy on its website, linked from the department's Written Directives and [Operating Procedures Guide](#). Operating Procedure 3.24, on "Body Camera Systems" covers this. However, the policy is quite difficult to find: once one finds "Policies and Procedures," visitors are taken to a page with had a document titled "WD and OP Interactive Directives Guide," unusual acronyms with no indication this document will contain the body worn camera policy. The procedure was last updated on June 26, 2016 and has been effective since December 30, 2016.

## ○ **Limits Officer Discretion on When to Record**

Fayetteville PD provides an extensive list of events that officers must record. (§§3.24.5.A-B; 3.24.5)

### 3.24.5 ACTIONS REQUIRING MANDATORY RECORDING

A. This operating procedure is not intended to describe every possible situation in which the BWC should be used, although there are many situations where its use is appropriate. However, an officer shall activate the BWC during the following circumstances, unless overwhelmingly extenuating circumstances prevent the activation of a BWC:

1. Traffic stops;
2. Priority responses and/or responses requiring blue lights and siren;
3. Vehicle pursuits;
4. Suspicious persons/vehicle contacts;
5. Arrests, detentions or protective frisks (persons and vehicles);

NOTE: During an arrest, Officers may only deactivate their BWC until after the individual is placed into a patrol vehicle where the in-car camera has been activated.

6. Warrantless searches of individuals, buildings, vehicles (including K-9 sniffs) and other places
7. Physical or verbal confrontations;
8. Domestic violence calls;
9. DWI investigations;
10. Foot pursuits;
11. Advising an individual of their Miranda warnings while not in an FPD interview room;
12. Crimes in progress;
13. Contact with distraught, disorderly, argumentative, emotionally disturbed persons or angry persons;
14. Planned and deliberate ERT Operations, situations which become dynamic in nature and/or at the direction of the Chief of Police, ERT Commanders or ERT Supervisors;
15. During search warrant executions when the structure or area has not previously been rendered safe and secure;
16. Any other situation which could result in potential adversarial conditions or liability for the officer, FPD or City of Fayetteville.

B. If there is any doubt in the officer's mind whether a situation should be recorded, the officer should opt to record the event.

#### 3.24.4 GENERAL OPERATIONS

A. All contacts and activities other than those noted as mandatory are considered optional and may be recorded at the discretion of the individual officer and all recordings should continue without interruption until the contact ends, if feasible.

B. A BWC recording shall be stopped during non-enforcement activities such as traffic control, criminal investigations or when no adversarial events are ongoing. An example of this would be the time in which a call for service or other defined recording event changes from adversarial to a fact finding contact or follow-up investigation. However, officers should be prepared to activate their BWCs if the situation changes.

FPD's policy mandates that officers "should activate" their BWC at the "first reasonable opportunity." (§3.24.4.C)

C. Officers should activate the BWC at the first reasonable opportunity, unless an immediate threat to the officer's life or safety makes activating the BWC impossible or dangerous, in which case the officer should activate the BWC as soon as possible. Additional arriving officers equipped with a BWC should activate their cameras upon arrival to an incident requiring a recording.

The policy does not require officers to provide concrete justification for failing to record events. However, any officer who "intentionally disables" their BWC is subject to "disciplinary actions." (§3.24.2.F)

F. Any officer who intentionally disables any part of the video recording or transmitting equipment, or who fails to activate the system as required by this operating procedure by this operating procedure, will be subject to criminal and/or administrative disciplinary actions.

### ○ Addresses Personal Privacy Concerns

FPD's policy mentions the importance of protecting privacy, but the policy does not require informed consent from vulnerable individuals. (§§3.24.4.H)

H. To aid in the protection of the right to privacy, officers **shall not** record while:

1. In a patient care area of a health care facility, unless the patient becomes adversarial with the officer or others and a potential police action may be required. If the need to record does arise, officers shall only record for law enforcement purposes and will not record any patient/doctor conversations;
2. Discussing a case with other officers or supervisors;
3. Conducting tactical planning;
4. In the magistrate's office or any state or federal court facility, unless an adversarial type of disturbance occurs requiring the officer wearing the BWC to take police action;

- 5. Having discussions with attorneys, peer support counselors, doctors, etc.;
- 6. Involved in a department, supervisory or public meeting;
- 7. In a classroom and/or in a testing environment.

The policy states that officers should inform individuals when they are being recorded (§3.24.2).

- B. When feasible, officers should inform individuals they are being audio and video recorded if the notification could potentially prevent aggressive, uncooperative or adverse behavior.

However, the policy fails to require that an officer receive informed consent from vulnerable individuals.

### ✘ Prohibits Officer Pre-Report Viewing

Fayetteville PD's BWC policy does not mention whether officers are permitted to view relevant footage before filing an initial written report or statement. Personnel are required to document in their reports when a "BWC was utilized." (§3.24.6)

- A. Personnel shall document in their incident reports, supplemental reports, citations, affidavits and field interviews that a BWC was utilized.
- B. It is the responsibility of the member downloading a video file to identify any digital file associated with an investigation.

### ✘ Limits Retention of Footage

While the policy references a retention period for digital recordings, it does not specify whether unflagged footage must be deleted after the end of the retention period. (§3.24.9)

Digital recordings will be maintained and stored on the FPD's on-line storage account (fayettevillepdnc.evidence.com) for the designated time, based on activation classification. Digital recordings of the following types of incidences/scenes will be classified by the officer utilizing the table below with the most appropriate classification titles:

Category	Retention Schedule
Non-Citizen Involvement	29 Days
Field Contacts/Non-Criminal Offenses	45 Days
Traffic Stop Warning (written or verbal)	45 Days
Traffic Stop-Infraction	45 Days
Traffic Stop-Misdemeanor	1095 Days (3 Years)
Traffic Stop-Felony	3650 Days (10 Years)
Criminal Investigation-Non Felony	1095 Days (3 Years)
Criminal Investigation-Felony	3650 Days (10 Years)
Internal Affairs	22555 Days (7 Years)

1. Non-Citizen Involvement: Video that does not contain interaction with a citizen, suspect or associated with any other category. (examples: test video, accidental activation [sic])
- ...
2. Field Contacts/Non-Criminal Offenses: Interaction with a citizen that does not result in a criminal charge.
3. Internal Affairs: All video associated with an internal investigation should be categorized as such, unless the suspect is charged with a felony, if so, it should be categorized appropriately.

### ✘ Protects Footage Against Tampering and Misuse



The policy does not expressly prohibit footage tampering or unauthorized access. Employees and officers are prohibited from copying or disseminating any footage to non-FPD employees. (§§3.24.8.A-B)

- A. The BWC and all video files are the property of the FPD and will be only be used for law enforcement purposes in accordance with applicable law and departmental policy. Employees/Officers are **prohibited** from using any device to copy, photograph or record the playback of any video/audio data by a BWC other than for official police purposes
- B. Employees/Officers are **prohibited** from disseminating or performing any type of playback to non-FPD employees, unless the employee performing the dissemination or playback has received authorization from the Chief of Police or FPD Police Attorney and in accordance with all applicable laws and departmental policy.

### ✔ **Makes Footage Available to Individuals Filing Complaints**

The policy does not expressly allow individuals who are filing police misconduct complaints to view relevant footage. Supervisors are only required to categorize any footage as “associated with any citizen complaint” prior to the end of the officer’s shift. (§3.24.3.D)

#### 3.24.3 SUPERVISORY RESPONSIBILITY

...

- D. Ensure any video associated with any citizen complaint or internal investigation is properly categorized by the end of the officer’s shift.

#### 3.24.8 DUPLICATION AND DISTRIBUTION OF RECORDINGS

...

- C. Recordings that are NOT classified as public record pursuant to North Carolina State Law will only be given to attorneys upon the presentation of a valid court order issued by a court with appropriate jurisdiction. Only those portions of the recording relevant to the incident will be furnished.

...

- F. The District Attorney’s (DA) Office will submit a request for BWC video through the DA Liaison Officer, or his/her designee, in the same manner as other evidence requests are submitted.
- G. All Public Defenders and Private Attorneys will submit a request through the Cumberland County District Attorney’s Office, which will in turn disseminate the video evidence to the Public/Private Attorney at their discretion and in accordance with all established laws and procedures.
- H. Any FPD employee receiving a subpoena or court order for copies of BWC data shall contact the FPD Police Attorney’s Office and advise them of the order. No video will be released absent a court order unless otherwise directed by the Chief of Police, or his/her designee.
- I. All public record requests shall be referred to the Internal Affairs Unit and/or Police Attorney’s Office for action.

### ✘ **Limits Biometric Searching of Footage**

Fayetteville PD does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# Ferguson Police Department



- 
- ✓ Makes the Department Policy Publicly and Readily Available
  - Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
  - Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage

*Last updated: October 10, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✗ **Makes the Department Policy Publicly and Readily Available**

Ferguson PD publishes its [BWC Policy](#) from February 26, 2016 on its website and is listed under the department's General Order number 481.00 "Officer Audio and Video Recording Equipment."

## ○ **Limits Officer Discretion on When to Record**

Ferguson PD requires officers to record "[a]ll field contacts involving actual or potential criminal conduct." While the policy covers a wide range of situations, it requires officers in some cases to predict whether a field contact will involve "potential criminal conduct," which may be difficult to do. (§§481.3)

### 481.3 REQUIRED ACTIVATION OF THE BWC

Although this policy identifies those situations in which activation of the BWC is required, an officer has discretion to manually activate the system any time the officer believes it would be appropriate or valuable to document an incident. The BWC shall only be activated for legitimate law enforcement purposes.

Activation of the BWC is required in the following situations:

- 1) All field contacts involving actual or potential criminal conduct within video and audio or audio range, including:
  - a) Traffic stops (to include, but not limited to, traffic violations, stranded motorist assistance, and all crime interdiction stops)
  - b) Emergency responses
  - c) Vehicle pursuits
  - d) Suspicious vehicles

- e) Arrests and transports
  - f) Vehicle searches
  - g) Consent to Search
  - h) Physical or verbal confrontations or use of force
  - i) Pedestrian checks/Terry Stops
  - j) DWI investigations including field sobriety tests
  - k) Domestic violence calls
  - l) Statements made by individuals in the course of an investigation or complaint
  - m) Advisements of Miranda rights
  - n) Seizure of evidence
  - p) High Risk Warrants
  - q) On all calls for service
- 2) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.
  - 3) Any other legitimate law enforcement contact where the officer believes that a recording of an incident would be appropriate. . . .
  - 4) The BWC may not be used for the purpose of intimidating an individual or to discourage an individual from observing police activity, making appropriate inquiries of an officer, or making a complaint.
  - 5) Officers may happen upon a situation requiring immediate action to prevent injury, destruction of evidence, or escape. In these situations, officers should activate the recorder if doing so does not place them or others in danger. Otherwise they shall activate the camera at the first available opportunity when the immediate threat has been addressed. . . .

...

#### 481.5 CESSATION OF RECORDING

Once the BWC system is activated it shall remain on and shall not be turned off until an investigative or enforcement contact or incident has concluded. For purposes of this section, conclusion of an incident has occurred when an officer has terminated contact with an individual, cleared the scene of a reported incident, or has completed transport of a civilian or an arrestee. Refer to PR000.4 (b) for exceptions to this requirement. In any instance in which cessation of the recording prior to the conclusion of the incident may be permitted, the officer should seek and obtain supervisory approval prior to deactivating the BWC, whenever possible. . . .

**If officers are required to record, and they either activate their cameras too late or deactivate their cameras too early, they must document the reason in their written reports. However, the policy does not require officers to always document outright failures to record required incidents — they are only required to document failures to record at medical facilities. (§§481.3.5, 481.5, PR481.2(k))**

#### 481.3 REQUIRED ACTIVATION OF THE BWC

...

- 5) . . . The officer will document the reasons for the delayed activation in a supplement or after action report.

...

#### 481.5 CESSATION OF RECORDING

. . . In any instance in which cessation of the recording prior to the conclusion of the incident may be permitted, the officer should seek and obtain supervisory approval prior to deactivating the BWC, whenever possible. If supervisory approval cannot be reasonably obtained, officers must document on the BWC the reason for termination of the recording prior to deactivation of the BWC by noting the date, time, and the reason for the deactivation on the recording and in subsequent written reports as applicable.

...

#### PR481.2 GENERAL PROCEDURES

...

- (k) When handling calls for service or incidents involving the treatment of individuals at a medical facility, Department members may be required to restrict use of a BWC in accordance with facility privacy protocols according to state law. Where facility protocols or state law do not allow for the recording of an event for which recording would otherwise be required, an officer must notify his or her supervisor as soon as reasonably practical, and shall document the reasons for the failure to activate the BWC in the incident report.

Ferguson PD instructs its officers to “be aware of and sensitive to civilians’ reasonable privacy expectations,” including in certain sensitive locations. The policy mentions the privacy and dignity of crime victims, but it does not expressly allow victims to opt-out of recording. (§§481.3(3), PR481.2(b), PR481.4(b))

481.3 REQUIRED ACTIVATION OF THE BWC

...

3) ... In exercising this discretion, officers should be aware of and sensitive to civilians’ reasonable privacy expectations. ...

...

PR481.2 GENERAL PROCEDURES

...

(b) Unless there is reasonable suspicion to believe that criminal activity is occurring or will occur, employees shall not intentionally record: People who are lawfully exercising their freedom of speech, press, association, assembly, religion, or the right to petition the government for redress of grievances. (Protected activity which is unintentionally captured while recording an event as otherwise required by this policy is not a violation.) Places where a heightened expectation of privacy exists, such as public restrooms, jails, or hospitals, unless for direct law enforcement purpose such as a crime in progress or the recording of the location is material to a criminal investigation.

...

PR481.4 OPERATIONAL PROTOCOLS

...

(b) ... there may be limited circumstances where the respect for an individual’s privacy or dignity outweighs the need to record an event (e.g., a victim traumatized following a violent assault). Where an officer believes such circumstances exist, or that use of a BWC would impede or limit the cooperation of a victim or witness during an investigative contact, an officer may deactivate the BWC after receiving authorization from a supervisor consistent with PR 481.2(k). Department members have discretion whether to activate a BWC during consensual contacts of a non-criminal nature.

**✘ Prohibits Officer Pre-Report Viewing**

Ferguson PD always allows officers to review their footage before filing their initial reports, even in critical and use-of-force incidents. (§§PR481.2(i), PR481.4(p), PR481.6(a)-(b))

PR481.2 GENERAL PROCEDURES

...

(i) ... Officers shall have unlimited access to view their own recordings at any time via issued usernames and passwords. ...

...

PR481.4 OPERATIONAL PROTOCOLS

...

(p) When an incident arises that requires the immediate retrieval of a BWC digital recording (e.g., serious crime scenes, officer-involved shootings, and Department vehicle crashes while in pursuit) a supervisor from the involved member’s chain of command or the assigned investigator shall respond to the scene to secure the device and maintain a chain of custody. Subject officers shall not be questioned about critical incidents before being given an opportunity review the recordings.

...

PR481.6 AUTHORIZED USER ACCESS TO UPLOADED MEDIA OR DATA

...

(a) A Department member who has been assigned a BWC device may review his or her own BWC recording to help ensure accuracy and consistency of accounts. This can be done by accessing the videos in a manner consistent with the storage and viewing procedures. The original recordings shall only be viewed by member(s) who are assigned a BWC device through means authorized by The Department.

(b) A Department member involved in any use of force incident or accident causing injuries will be permitted, but will not be required, to review their own BWC video and audio recordings prior to providing a recorded statement or completing reports. Witness Department members will be allowed to review BWC video and audio.

### ✘ **Limits Retention of Footage**

Ferguson PD retains footage "in accordance with state law" but does not appear to require the deletion of unflagged footage. (§PR481.4(o))

(o) Records Retention: Officers requesting recordings to be entered into evidence will notify the SA and provide the complaint number of the recorded incident. All recordings of evidentiary value shall be downloaded by the SA onto a disk and that disk entered into evidence by the reporting officer. All other recordings will be preserved in accordance with state law, or if a case is under investigation or litigation for at least three years after the final disposition of the matter (including appeals) unless a written request is made to store them for a longer period of time for a legitimate law enforcement purpose. If a recording is transferred to disk, the disk and all recordings on the disk are subject to the rules of evidence and will be noted by the SA to retain until the case has a final disposition.

### ○ **Protects Footage Against Tampering and Misuse**

Ferguson PD expressly prohibits footage tampering and unauthorized access. However, the policy does not indicate that access to recorded footage will be logged or audited. (§§PR481.2(i)-(j), PR481.4(n), PR481.6)

#### PR481.2 GENERAL PROCEDURES

...

(i) ... Officers shall not have the ability to edit, delete, or otherwise modify their own recordings[.]

(j) Department members are not authorized to make copies of any recordings for their personal use and are prohibited from using a recording device (such as a phone camera or secondary video and audio camera) to record media.

...

#### PR481.4 OPERATIONAL PROTOCOLS

...

(n) Department members assigned a BWC shall not erase, alter, reuse, modify, destroy, abuse, or tamper with BWC audio-video and audio recordings or the device.

...

#### PR481.6 AUTHORIZED USER ACCESS TO UPLOADED MEDIA OR DATA

... General access to digital recordings shall be granted to Department- authorized users only. It is the responsibility of authorized users to keep their username and password confidential. Accessing, copying, or releasing any recordings for other than official law enforcement purposes is strictly prohibited, except as required by law or this policy and procedure.

### ✘ **Makes Footage Available to Individuals Filing Complaints**

Ferguson PD does not expressly allow recorded individuals to view footage. Requests for footage by the public are handled in accordance with Missouri's Sunshine Law. (§PR481.4(q))

(q) Requests for recordings by anyone outside the police department or city administration shall be submitted in writing to the Ferguson City Clerk and forwarded to the Police Chief in accordance with the "Sunshine Law".

### ✘ **Limits Biometric Searching of Footage**

Ferguson PD does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# Fort Lauderdale Police Department



- 
- ✗ Makes the Department Policy Publicly and Readily Available
  - ✓ Limits Officer Discretion on When to Record
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  - ✗ Limits Retention of Footage
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  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage
  - 💰 Received a [\\$600,000 DOJ grant](#) for BWCs in 2016

*Last updated: October 13, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✗ **Makes the Department Policy Publicly and Readily Available**

The Fort Lauderdale Police Department does not publish its BWC policy on its website. However, the City of Fort Lauderdale [accepted](#) \$600,000 from the Department of Justice to start a body-worn camera pilot program in 2016. The City of Fort Lauderdale's budget for FY 2018 indicates the pilot program is close to implementation and will last one year.

While the policy for this pilot program is not available on the department's website, we were able to locate a [draft](#) copy of the policy online. This draft was released to the public in December 2016 as part of the public comment process taking place before the department deploys its body-worn camera pilot program, and may have changed since then.

## ✓ **Limits Officer Discretion on When to Record**

Fort Lauderdale PD requires officers to activate cameras "if practical and without compromising the safety of the participants or others, prior to engaging in law enforcement activity with the public." In addition, the Fort Lauderdale PD provides officers with a clear list of situations that must be recorded and when not to record. (§ E, E.1, E.5)

### E. BODY WORN CAMERA PROCEDURES

The participant shall activate their BWC, if practical and without compromising the safety of the participant or others, prior to engaging in law enforcement activity with the public.

The following situations, which are not an exhaustive list of every incident in which a BWC can be used, are classified as law enforcement activities, and should be recorded:

Traffic stops, DUI investigations, priority responses, vehicle and foot pursuits, suspicious subjects/vehicles/incidents, investigatory detentions, arrests, vehicle searches, disturbances, field investigations, verbal or physical confrontations, crimes in progress, response to resistance, Miranda warnings, victim/witness or suspect statements, prisoner/Baker Act transports, all transports of non-city personnel regardless of purpose, or any other situation the participant, through training and experience, believes should be recorded, provided that the party being recorded does not have a reasonable expectation of privacy.

...

5. Participants are not expected to record casual interactions with the public, such as exchanging pleasantries, providing directions, or while attending community meetings. Additionally, participants are not required to activate their BWC during non-law enforcement activities such as breaks, directing traffic, crime scene processing, remaining on an accident scene waiting for a tow truck, etc. Participants are allowed to turn off ("power down") the camera when entering a restroom or locker room.

**Officers are required to provide justifications verbally on camera before deactivating recording prior to the completion of an event. If an officer fails to record a required event, the officer must justify this failure after the fact. (§§E.3,6)**

3. Once the BWC is activated to record an interaction, it shall remain on until the event has ended.

- a. If it becomes necessary to turn off the BWC prior to the conclusion of a recorded incident the participant will verbally record the reason prior to the deactivation if it is safe and practical to do so.

...

6. Participants who inadvertently fail to activate their BWC at the onset of an incident that requires recording shall activate the BWC as soon as it is practical and safe to do so.

- a. If a participant inadvertently fails to activate, interrupts or deactivates their BWC during any portion of a situation that requires recording, the participant shall notify their supervisor as soon as possible. The reason for inadvertently failing to record a required incident shall be documented via an email to their supervisor and the MVSA. In cases which require a police report, the participant shall document in the report the reason they inadvertently failed to record the entire incident.

## **Addresses Personal Privacy Concerns**

The BWC policy for Fort Lauderdale PD offers some guidance on when not to record and prohibits officers from recording "where a reasonable expectation of privacy exists." (§§E.5,9)

5. Participants are not expected to record casual interactions with the public, such as exchanging pleasantries, providing directions, or while attending community meetings. Additionally, participants are not required to activate their BWC during non-law enforcement activities such as breaks, directing traffic, crime scene processing, remaining on an accident scene waiting for a tow truck, etc. Participants are allowed to turn off ("power down") the camera when entering a restroom or locker room.

...

9. The following are prohibited actions:

- a. The BWC will not be used to record personal activity.
  - b. The BWC will not be intentionally activated to record conversations of fellow employees without their knowledge during routine non-enforcement activities.
  - c. Except in the course of an active criminal investigation, the BWC will not be activated in places where a reasonable expectation of privacy exists.

However, the policy does not specifically protect vulnerable individuals or victims. While subjects of recordings can expressly request to opt-out of recordings, the policy gives officers the discretion whether or not to honor that request. Furthermore, officers are not required to notify individuals that they are being recorded. (§§E.2.c; E.4)

2. Participants using a BWC during an interview, interrogation, statement, confession and/or utterance shall:

- ...
- c. Attempt to secure signed consent and/or waiver forms.
- ...

- ...
- 4. When participants are interacting with victims, witnesses and others from the community who request not to be recorded, participants shall:
  - a. Use discretion in balancing the value of obtaining a recording with the victim's, witness' or community member's reluctance to provide information while being recorded.
  - b. If the suspect of a crime is present, the participant shall not turn off the BWC.
  - c. If the participant decides to deactivate the BWC at the request of a victim, witness or community member, the participant shall verbally record the reason prior to the deactivation. Additionally, the participant should attempt to record the victim's/witness'/community member's refusal to being recorded.

### Prohibits Officer Pre-Report Viewing

The BWC policy for Fort Lauderdale PD requires officers to file an initial written report or statement before relevant footage is reviewed, but only for some incidents. The policy expressly prohibits pre-report viewing for incidents "in which a law enforcement response to resistance was required." However, officers are allowed to view the recorded incident in all other matters. If the BWC recording is reviewed before authoring the report, then the officer must specify in their report the use of the BWC recording. (§E.15)

15. Participants and non-pilot program employees involved in an incident in which a law enforcement response to resistance was required are not permitted to review BWC recordings of the incident prior to authoring their report or supplement. Once the employee authors their report they may review any BWC recordings of the incident. If the recordings reflect circumstances different from the author's written recollection, the employee may author a supplement describing the discrepancies and explaining the reasons for the discrepancies.

In all other matters captured by BWCs Pilot Program Participants and non-pilot program employees involved in a recorded incident shall have the option to review recordings of an incident captured by a BWC when preparing written reports or supplements to assist with the accurate documentation of the incident. However, if BWC recording(s) is reviewed prior to authoring a report or supplement the following statement will be added to the report/supplement:

"The content of this document is based on my observations of the incident and a review of the recording captured by a body worn camera system."

### Limits Retention of Footage

The BWC policy for Fort Lauderdale PD specifies a minimum retention period that is at least one year for all footage. The policy does not expressly require footage deletion. (§F.5)

#### F. RETENTION AND DISSEMINATION

- ...
- 5. All BWC recordings capturing an arrest, response to resistance, or citizen contact shall be retained for a minimum of fifty-four (54) months. All other BWC recordings shall be retained for a minimum of one (1) year.
  - a. However, the timeframes described above do not reduce the retention schedules described in the General Records Retention Schedules established by the Florida Department of State and instructions from the City Attorney or designee.

### Protects Footage Against Tampering and Misuse

Fort Lauderdale PD prohibits both footage tampering and unauthorized use and distribution—and it maintains an audit log of all access to recorded footage. (§§E.9.e,i; G.1.g.b)



E. BODY WORN CAMERA PROCEDURES

9. The following are prohibited actions:

...

e. Participants shall not erase, alter or tamper with any BWC recording.

...

i. Participants shall not intentionally obstruct the camera or microphone, or otherwise compromise the functionality of their BWC.

G. Mobile Video System Administrator (MSVA)

1. The MSVA is responsible for the BWC systems' overall maintenance, management, and retention, and acts as the technology liaison to the Forensic Unit and associated vendors. The MSVA also has the following duties:

...

g. Maintenance of an audit system that monitors and logs access to recorded data.

Furthermore, the policy requires that requests for deletion are kept on file, and require approval before content is erased. (§F.3)

F. RETENTION AND DISSEMINATION

...

3. A participant's request to delete recordings of a personal nature must be submitted in writing to the MSVA and approved by the Chief of Police or designee, after consultation with the City Attorney or designee. All applicable records retention laws shall be taken into account before a decision is reached regarding the deletion of a BWC recording. All requests and final decisions shall be kept on file.

However, the policy does not expressly prohibit unauthorized access to recorded footage.

 **Makes Footage Available to Individuals Filing Complaints**

The BWC policy for Fort Lauderdale PD does not expressly allow individuals who are filing police misconduct complaints to view relevant footage. While footage may be available under public record laws, the FLPD policy does not describe any specific details about the footage request process. In addition, some BWC footage may be exempted from public record laws, which could undermine the ability for anyone to access these recordings. (§ F.1-2,4)

F. RETENTION AND DISSEMINATION

1. All video recordings collected using a BWC system are official records and the exclusive property of the City of Fort Lauderdale.

2. BWC recordings shall be maintained in accordance with Section 119.071(2)(1)5 of Florida Statutes and the State of Florida General Records Retention Schedules.

...

4. Digital media collected by a body worn camera system may be a public record as defined by Florida Statutes and Federal Laws. As such, the applicable Florida Statutes and Federal Laws will govern the handling of all public records request.

 **Limits Biometric Searching of Footage**

The FLPD draft policy does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# Fort Worth Police Department



- 
- ✘ Makes the Department Policy Publicly and Readily Available
  - Limits Officer Discretion on When to Record
  - ✘ Addresses Personal Privacy Concerns
  - ✘ Prohibits Officer Pre-Report Viewing
  - ✓ Limits Retention of Footage
  - Protects Footage Against Tampering and Misuse
  - ✘ Makes Footage Available to Individuals Filing Complaints
  - ✘ Limits Biometric Searching of Footage

*Last updated: October 11, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✘ **Makes the Department Policy Publicly and Readily Available**

There appear to be two policy documents governing Fort Worth PD's use of BWCs, and Fort Worth PD does not publish either document on its website. We located both documents on the [Bureau of Justice Assistance's Body Worn Camera Toolkit](#). One document is titled "Officer-Worn Digital Recording Devices Standard Operating Procedure" (Standard Operating Procedure) and dated March 7, 2014. The other document is Fort Worth PD's General Orders, which contain a [General Order on Officer-Worn Digital Recording Devices \(General Order\)](#). The Order mainly restates the Standard Operating Procedure, but also includes additional requirements. The Fort Worth Police Department General Orders includes a section (506.03) on "Officer-Worn Digital Recording Devices" but the only content in that section is the word "RESTRICTED."

A phone call to the Fort Worth PD on March 3, 2016 confirmed that both the General Order and Standard Operating Procedure currently govern the department's use of body worn cameras. Since both documents cross-reference each other, the two documents seem to operate concurrently to govern the Fort Worth PD's use of body cameras.

## ○ **Limits Officer Discretion on When to Record**

Both Fort Worth PD documents provide nearly identical lists of specific circumstances that must be recorded. The policies list relatively few selective incidents that officers are required to record and do not explicitly state when officers must activate their cameras in these circumstances. (§§II.A.1-6, B.1-2; §§506.03.L-M)

- A. The digital recording device should be activated under the following circumstances:
1. Collection of evidence that can be used in the prosecution of criminal offenses;
  2. Recording contacts with the public in connection with investigations where law enforcement action will potentially be taken;
  3. Pursuits by vehicle and on foot;
  4. Execution of consent searches;
  5. Investigating calls involving mentally distressed persons; and
  6. Documentation of accident or crime scenes, etc.
- B. Officers who conduct or supervise planned tactical entry operations shall ensure that at least one digital recording device is worn and activated during its execution. This also applies to Fort Worth officers who are members of other task forces. Dynamic as well as deliberate operations are covered by this mandate.
1. Dynamic entry is defined as rapid entry and movement through a target location with the intent of quickly overwhelming any potential threats and/or preventing the destruction of contraband.
  2. Deliberate entry (Slow Clear) is defined as the entry into and methodical movement through a target location with the intent of identifying and securing potential threats.

The policies allow officers relatively wide discretion to turn off cameras “when the purpose for activation is no longer present.” The policies do require officers to justify their decision to deactivate recording verbally on camera. (§§II.C.1-5; §506.03 N.1-5)

- C. Officers may deactivate the digital recording device when the purpose for activation is no longer present. Officers shall verbally state why they are choosing to deactivate the digital recording device prior to doing so. Also, temporary deactivation may occur when:
1. Exchanging NCIC/TCIC, DPS or other law enforcement sensitive data either in person or via the police radio or MDC;
  2. Facilitating discussion of training issues or operation strategies;
  3. Sharing information such as telephone numbers or personal information with another officer;
  4. Conducting conversations containing “privileged information” (i.e. communication with Clergy and Police Alliance/Ministers Against Crime, Police Peer Counselors, Attorneys, etc.); and
  5. When authorized by a supervisor or commander who determines that continued recording of an incident is not required to meet the objective of the Officer-Worn Digital Recording Device General Order that corresponds with this SOP. The authorizing supervisor or commander should be identified in the appropriate report narrative.

Neither policy requires officers to provide concrete justifications for failing to record required events.

#### **Addresses Personal Privacy Concerns**

Neither document explicitly requires officers to notify subjects that the camera is recording or to obtain informed consent from vulnerable individuals, such as victims of sex crimes, before recording interactions.

While the Standard Operating Procedure does not require officers to deactivate cameras while in sensitive locations or circumstances, the General Order prohibits officers from recording footage of patient care areas of medical facilities unless the footage is for “official police business such as a criminal investigation,” as well as from recording juveniles unless the resulting footage would be “evidentiary in nature as authorized by the Family Code.” However, neither restriction is framed as a response to personal privacy concerns. (§506.03 O.6-7)

- O. Officers shall not:
- ...
6. Create recordings in patient care areas of medical facilities unless the recording is for official police business such as a criminal investigation, dying declaration, Horizontal Gaze Nystagmus (HGN) on injured drivers, or a specific call for police service.
  7. Intentionally record juveniles unless evidentiary in nature as authorized by the Family Code.

8. Wear an officer-worn digital recording device into a [ . . . ] courtroom [ . . . ]
  - a. Officers do not have to remove their digital recording device when in [ . . . ] public meetings or when in classrooms unless testing will be included; however, the device shall be deactivated unless the instructor or facilitator has authorized the device to be activated during the meeting [ . . . ]

### Prohibits Officer Pre-Report Viewing

The Fort Worth PD Standard Operating Procedure does not prohibit officers from viewing footage prior to writing their incident reports, and the General Order explicitly permits officers to view the footage to assist with writing their reports. (§506.03.S)

Officers may use media captured via the officer-worn digital recording device to assist with the investigation and completion of reports.

### Limits Retention of Footage

Both policies require destruction of all uncategorized BWC footage after 180 days. (§IV.E; §506.03 W.1)

E. DME [Digital Multimedia Evidence] on Evidence.com that was categorized as “Criminal” or “Administrative” will be kept for a minimum of 2 years. Uncategorized DME will be destroyed after 180 days.

### Protects Footage Against Tampering and Misuse

The Fort Worth PD Standard Operating Procedure suggests that tampering with BWC recordings “may constitute a criminal offense and/or an administrative violation” but does not expressly prohibit tampering with footage. (“Legal Aspects”)

Unless specifically authorized by this order or done in accordance with the City Document Retention Schedule, tampering with evidence (including, but not limited to, alteration, overwriting, erasure or other efforts to purposely destroy or modify any recordings) may constitute a criminal offense and/or an administrative violation. Violation of any portion of this SOP may lead to disciplinary action.

Use of digital recording devices for any other purpose than in accordance with this SOP is prohibited.

On the other hand, the General Order explicitly prohibits accessing, copying, editing, or releasing footage without proper authority. The policy forbids officers from showing footage to “non-sworn personnel” without the permission of the officer’s immediate superior – except to government employees directly involved in investigations related to specific footage. The order also bans officers from uploading BWC footage to any type of social media. (§§506.03 B; O.4-5)

B. All digital multimedia evidence (DME) that is captured during the scope of an officer’s duties is property of the Fort Worth Police Department and is subject to City, State and police department policies regarding viewing, release, retention and destruction. DME shall not be converted for personal use. Accessing, copying, editing or releasing recordings or depictions of recordings without proper authority and/or approval is strictly prohibited.

...

O. Officers shall not:

...

4. Allow non-sworn personnel to view the DME without permission from the officer’s immediate supervisor. Governmental employees who are directly involved in the investigation and/or prosecution of a criminal case related to the DME or who work in Internal Affairs are exempt from this provision.
5. Upload or convert digital recordings for use on any type of social media.

The Standard Operating Procedure expressly forbids officers and other individuals from viewing footage without “need-to-know” authorization. (§III.F)

F. The personal use and/or retention of DME beyond the scope of this SOP is expressly prohibited. This includes unauthorized viewing by personnel that do not have specific “need-to-know” authorization to access the recordings.

Neither document explicitly requires that all access to recorded footage be logged or audited.

#### ✘ **Makes Footage Available to Individuals Filing Complaints**

The Fort Worth PD policies rely on Texas law governing the release of public records to make footage available. Nothing in either document allows complainants to view footage relevant to their complaint. (“Legal Aspects,” §IV.I; §506.03 Y)

DME [Digital Multimedia Evidence] recorded by the digital recording devices is considered to be an official record of the City of Fort Worth and is subject to the Public Information Act as well as the City’s Records Retention Policy. Public Information requests for such DME shall be handled as directed in General Order 212.05(c) and the Public Information Act.

...

I. All stored DME is subject to release in accordance with the Texas Public Information Act.

#### ✘ **Limits Biometric Searching of Footage**

The Fort Worth PD policy does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# Fresno Police Department



- 
- ✓ Makes the Department Policy Publicly and Readily Available
  - ✓ Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
  - ✗ Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage

*Last updated: October 4, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✓ Makes the Department Policy Publicly and Readily Available

Fresno PD publishes its BWC policy on its website as part of its [policy manual](#), located by searching the [City of Fresno website](#). The most recent publicly available policy (Policy 450) was made effective on February 1, 2017.

## ✓ Limits Officer Discretion on When to Record

Fresno PD provides list of situations that officers must record, when they have discretion to record, and when they are prohibited from recording. (§§450.4-5,7)

450.4 GUIDELINES FOR CAMERA ACTIVATION – Officers shall record interactions including, but not limited to, the following:

- (a) Arrests and detentions, or situations where an officer reasonably believes they will effect an arrest or detention (to include traffic stops and consensual encounters made with the intent to develop reasonable suspicion to detain);
- (b) Officers assisting in an arrest or detention situation;
- (c) Confrontational interactions with citizens;
- (d) Vehicle and foot pursuits;
- (e) Forced entries, search warrants and warrantless searches (including vehicles);
  - 1. When entry is made with or without a warrant, all officers should activate their cameras prior to making entry and continue recording until the scene has been secured. Once the location is secure, and no other circumstances warrant recording, officers may deactivate their cameras.
- (f) Suspect interrogations (including Miranda advisement) and generally, interviews of victims and witnesses.

Officers shall activate their camera system as soon as practical upon encountering the above types of events. When an officer is dispatched to a zero or one priority call, they should activate their camera upon arrival before exiting their vehicle. When an officer is unable to activate their camera at the beginning of the event or contact

and a case number is drawn, they shall document the reason in their police report. The documentation should also explain the reason the camera was activated at the time it was.

450.5 INFORMAL COMMUNITY INTERACTIONS (Public Encounters) – Informal community interactions differ from “consensual encounters” officers may make in an effort to develop reasonable suspicion to detain or probable cause for arrest. To strengthen relationships between police and citizens, officers may use discretion regarding the recording of informal, non-enforcement related interactions with members of the community. In the event a public encounter becomes adversarial, officers should activate their recorders without compromising their safety or the safety of others.

#### 450.7 PROHIBITED RECORDINGS

AXON Cameras shall not be used to record non work related personal activity. AXON recorders will not be activated in places where a reasonable expectation of privacy exists, such as workplace locker rooms, dressing rooms, or restrooms. No type of recording device may be intentionally activated to record the conversations of fellow employees or superiors without their knowledge. In addition:

- Officers should not record undercover officers or confidential informants, absent supervisor approval under limited circumstances.
- When possible, officers should avoid recording exposed private areas of the body.
- Officers shall not record patients during any medical or psychological evaluation or treatment by a health professional.
- While inside a medical or psychological facility, officers should not record persons other than the intended subject.

The policy states that recordings should generally continue until an incident has concluded, and requires officers to provide concrete justification if they fail to activate their camera (§450.4,8).

#### 450.4 GUIDELINES FOR CAMERA ACTIVATION

...

When an officer is unable to activate their camera at the beginning of the event or contact and a case number is drawn, they shall document the reason in their police report. The documentation should also explain the reason the camera was activated at the time it was....

#### 450.8 OPERATING PROCEDURES

...

If the AXON camera is in use during an enforcement situation and it becomes necessary to discuss issues or concerns with another officer or supervisor in private, the AXON may be turned off. The intention to stop the recording will be noted by the officer verbally before switching the device off. When the private conversation has ended, the AXON camera recording may resume. In general, once the AXON recorder is activated, officers should continue recording until the incident has concluded, recording is no longer relevant, or there is no apparent value in continuing to record...

### Addresses Personal Privacy Concerns

The policy references mentions privacy, but does not require officers to obtain informed consent from video subjects, including victims and witnesses. (§§450.4;6-7)

#### 450.4 GUIDELINES FOR CAMERA ACTIVATION

...

Officers may use discretion when deciding whether or not to advise a citizen he or she is being recorded. Generally, officers should not cease recording solely based on the request or demand of a citizen (refer to section J below).

450.6 VICTIMS AND WITNESSES – Officers should generally record interviews of crime victims and witnesses. Officers have no obligation to advise a victim or witness that he or she is being recorded, but may do so at their discretion. When a victim or witness requests they not be recorded, officers may consider their request (See section M for provisions of Penal Code §632). In cases where a victim or witness requests they not be recorded, and the officer agrees not to record, officers should record their request prior to turning the camera off. When an officer is already recording, he/she shall record their explanation for turning the camera off prior to doing so.

Witnesses - In the event a crime witness or a member of the community wishes to report or discuss criminal activity anonymously, officers have the discretion to not record.

Victims - Officers should record interviews of crime victims, unless otherwise requested by the victim. Upon request by the victim, officers have the discretion to not record the interview. Officers may offer to avert their camera to capture only audio during the interview, when doing so would facilitate obtaining the victim's recorded statement.

Domestic Violence Victims – Officers should record interviews of domestic violence victims to facilitate future prosecution efforts and discourage later recanting of statements. Officers should also record interviews with children who witness domestic violence, when the child is willing.

Child Abuse and Sexual Assault Victims – Officers should not record interviews of victims, who are age 12 and under.

Video recording of individuals who are picketing, engaged in peaceful protest or First Amendment protected speech will be avoided unless the officer believes a violation of criminal law is occurring, may occur, or if the officer interacts with a participant or third party to the event.

#### 450.7 PROHIBITED RECORDINGS

...

AXON recorders will not be activated in places where a reasonable expectation of privacy exists, such as workplace locker rooms, dressing rooms, or restrooms...

...

- When possible, officers should avoid recording exposed private areas of the body.
- Officers shall not record patients during any medical or psychological evaluation or treatment by a health professional.
- While inside a medical or psychological facility, officers should not record persons other than the intended subject.

### ✘ Prohibits Officer Pre-Report Viewing

Fresno PD allows officer review of footage before filing their initial reports, including after critical incidents. (§450.10-11)

#### 450.10 REVIEW AND USE OF RECORDINGS

Officers should review recordings to assist with their investigation, prior to the completion of their report. Recorded statements shall be summarized and documented within the narrative of the applicable report. Only official Department devices should be used to review AXON recordings. Once uploaded to the system, sworn personnel may view their own recordings by logging onto Evidence.com and documenting the reason for access in the "NOTES" section (e.g. noting specific time markers, reviewing for court, reviewing for report, etc.).

#### 450.11 CRITICAL INCIDENTS

...

Officers, either as a subject or witness, who are involved in any significant use of force incident or collision causing injuries will be permitted to review their recordings prior to providing a statement or written report.

### ✘ Limits Retention of Footage

Fresno PD retains footage between one year and an indefinite period of time, and does not appear to require deletion after that period. (§450.9)

#### Category

In addition to attaching an event or case number to recordings, officers must assign a video Category to facilitate proper retention of the video. Categories are selected based on the statutory retention requirements for the incident, and range from one year to an indefinite period of time.

### ✘ Protects Footage Against Tampering and Misuse

Fresno PD prohibits officers from making personal copies of footage, but does not address tampering or unauthorized access to footage. The policy also does not indicate that access to recorded footage will be logged or audited. (§450.7)



Employees shall not obtain or convert any recordings obtained during the course and scope of their duties for personal use. The following are specifically prohibited:

- Personal copies of official recordings;
- Re-recording of videos with other devices;
- Posting of official video and/or audio to any non-Department sponsored social networking or other web sites;
- Posting of AXON recordings on any Department sponsored site without express permission from the Chief of Police or his designee (any video posted on a Department sponsored social media or other web site will thereafter be considered public information)

Video files shall not be transmitted, shared or transferred via e-mail (or by any other electronic process) except for official purposes and by personnel who have been authorized by the system administrator.

The policy does indicate that footage is audited to ensure “the camera is being utilized in accordance with this policy”, but does not indicate that audit includes access to or modification of footage. (§450.17)

#### 450.17 AUDIT RESPONSIBILITIES

The system coordinator will conduct periodic, random audits to ensure the AXON camera system is operating properly and the camera is being utilized in accordance with this policy. An FPOA representative may be appointed to monitor such random audits. Minor infractions regarding the use of AXON cameras and related equipment should be viewed as training opportunities rather than a means to take disciplinary action.

### ✘ **Makes Footage Available to Individuals Filing Complaints**

Fresno PD does not expressly allow complainants to view relevant footage. (§450.15)

#### 450.15 RELEASE OF OFFICIAL VIDEO TO THIRD PARTIES

Video captured by the AXON camera is evidence. The release of video captured by the AXON camera to any third party will be processed in a manner consistent with applicable law, current discovery request practices and the provisions of Policy §810. Video captured by the AXON camera shall not be released to third parties unless expressly authorized by the Chief of Police, or designee. In rare circumstances, the Chief of Police may elect to release video when the public interest served by the disclosure of the video outweighs the public interest served by the non-disclosure of the video.

### ✘ **Limits Biometric Searching of Footage**

Fresno PD does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# Honolulu Police Department



- 
- ✓ Makes the Department Policy Publicly and Readily Available
  - ✓ Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
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  - ✗ Limits Biometric Searching of Footage

*Last updated: October 30, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✓ Makes the Department Policy Publicly and Readily Available

Honolulu PD publishes its [BWC policy](#) on its website, under a [section dedicated to departmental policies](#). The latest available version was issued on March 29, 2017.

Honolulu PD had [planned to launch](#) a pilot BWC program in mid-September of 2017. The pilot program has been delayed, but the department [still plans](#) to roll out its BWC program "by the end of the year."

## ✓ Limits Officer Discretion on When to Record

Honolulu PD requires officers to record calls for service and "law enforcement or investigative encounter[s]" between officers and a member of the public. (§II.B.1)

1. Officers shall activate the BWC when the officer:

- a. Responds to a call for service; or
- b. Initiates a law enforcement or investigative encounter between himself or herself and a member of the public.

However, when a threat to the officer's life or safety makes immediately activating the BWC impossible or dangerous, the officer shall activate the BWC at the first reasonable opportunity.

The policy requires officers to continue recording until "the call for service or encounter has fully concluded" or until ordered to deactivate by a supervisor. (§II.B.2)

2. The BWC shall not be deactivated until the call for service or encounter has fully concluded or as ordered by the supervisor or in accordance with this policy

If an officer fails to record a required event, the officer must “document the issue” in the incident report and notify his or her supervisor. Before stopping a recording, officers must record a reason on camera before turning it off. (§§II.B.7-8)

7. If an officer fails to activate the BWC, the officer shall notify his or her supervisor immediately and document the issue in the incident report.
8. An officer’s decision to discontinue the use of the BWC shall be stated and recorded by the BWC prior to deactivation.

### ○ Addresses Personal Privacy Concerns

Honolulu PD prohibits officers from recording “where a reasonable expectation of privacy exists...unless it is part of a law enforcement function.” Officers are also prohibited from recording conversations that would be “in violation of state or federal privacy laws.” (§II.D)

The BWC shall not be used to record:

1. Any conversation that would be in violation of state or federal privacy laws;
2. In areas where a reasonable expectation of privacy exists (e.g., locker rooms, dressing rooms, and restrooms) unless it is part of a law enforcement function (e.g., active police investigation, arrest, or search);
3. Situations that could compromise specialized police tactics, covert operations, and/or briefings; or
4. Situations that could compromise the identity of confidential informants or undercover operatives.

Officers can, but are not required to, deactivate their cameras in circumstances of a sensitive or private nature. (§C.1)

1. Officers are not required to activate their BWCs or continue recording in the following situations:
  - a. When dealing with victims involved in crimes of a sensitive nature (e.g., sexual assault, child abuse, and/or child pornography);
  - b. When the recording would risk the safety of a witness; and
  - c. While in a courthouse or judge’s chamber unless responding to a call for service.

Officers are not required to deactivate recording victims or witnesses, but are given discretion to turn off their cameras if requested. Officers are not required to obtain consent to record in any situation. (§§II.B.3-5)

3. When interacting with a victim of a crime, the officer may ask the victim if he or she wants the officer to discontinue the use of the officer’s BWC. If the victim responds affirmatively and the situation is nonconfrontational, the officer may deactivate the BWC.
4. When interacting with a person seeking to anonymously report a crime or assist in an ongoing investigation, the officer may ask the person if he or she wants the officer to discontinue the use of the officer’s BWC. If the person responds affirmatively and the situation is nonconfrontational, the officer may deactivate the BWC. Officers may activate the BWC if the officer deems it appropriate.
5. Officers are not required to obtain consent to record.

### ○ Prohibits Officer Pre-Report Viewing

Officers may review footage before writing their reports for all incidents, except in the cases of critical incidents. Critical incidents are defined in [department policy number 4.49](#) as incidents where “a fatal or serious bodily injury occurs.” In critical incidents, employees are

explicitly required to complete “a public safety statement” “immediately after a critical incident has occurred,” as per policy number 4.49, and prior to reviewing any footage. (§III)

### III. REVIEW OF BWC RECORDINGS

- A. Officers may review BWC recordings on their authorized device or computer for any legitimate investigatory purpose, including (but not limited to) preparing an incident report or statement, conducting a follow-up investigation, or providing testimony.
- B. If an officer is involved in a critical incident, the officer shall provide a public safety statement prior to the review of the BWC recording.

### ✗ **Limits Retention of Footage**

Honolulu PD retains BWC footage for 13 months, with limited exceptions that do not include unflagged footage. Honolulu PD also permits, but does not require, that the department’s BWC administrator delete recordings “in accordance with departmental retention schedules and policies.” (§§II.F.1-2,4)

### F. Retention

1. BWC recordings shall be retained for thirteen months from the date it was recorded with the following exceptions:
  - a. BWC recordings that have evidentiary or exculpatory value for use in a criminal or civil case shall be retained for the period of the applicable statute of limitations or until the final disposition of the case, whichever is shorter;
  - b. BWC recordings that have been identified as part of a preservation order or litigation shall be retained until such hold is lifted or by court order; or
  - c. BWC recordings that are kept for training purposes only.
2. BWC recordings shall be retained for no less than three years from the date it was recorded, if the video captures the following:
  - a. Use of force; or
  - b. Any encounter for which a complaint has been registered or an administrative investigation has been initiated.
- ...
4. Subject to the above limitations, the BWC administrator is authorized to delete BWC recordings in accordance with departmental retention schedules and policies.

### ✔ **Protects Footage Against Tampering and Misuse**

Honolulu PD expressly prohibits both footage tampering and unauthorized access. (§V.C)

- C. Departmental personnel are prohibited from tampering with, accessing, or using BWC recordings for personal use.

Honolulu PD also logs all access to recorded footage. (§II.F.5)

- 5. The department shall retain permanent records of all logins to access the BWC recording database, written requests for video deletion, and retention schedule deletions.

### ✗ **Makes Footage Available to Individuals Filing Complaints**

Honolulu PD does not expressly allow individuals who are filing police misconduct complaints to view footage, and requires public requests for recordings to be approved by the Office of the Chief of Police. The policy also refers to “federal, state, and local statutes and departmental policy” to govern the release of recordings. (§VI.B)

1. All public requests of BWC recordings shall be referred to the Office of the Chief of Police within 24 hours of receiving the request.
2. The HPD shall respond to requests for BWC recordings in accordance with federal, state, and local statutes and departmental policy.
3. Upon approval of the Office of the Chief, requests from the public for BWC footage shall be transmitted to the BWC Administrator, along with a date for response.
4. It shall be the responsibility of the BWC Administrator or his or her designee to:
  - a. Locate and review the requested BWC footage;
  - b. Redact the requested footage, where appropriate, in accordance with federal, state, and local statutes and departmental policy; and
  - c. Submit the BWC footage by the date set by the Office of the Chief. If the BWC Administrator cannot meet the due date, he or she shall inform the Office of the Chief at least two days prior to the due date and shall provide the reason for the delay in writing.

 **Limits Biometric Searching of Footage**

The policy does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# Houston Police Department



- 
- ✓ Makes the Department Policy Publicly and Readily Available
  - ✓ Limits Officer Discretion on When to Record
  - ✓ Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
  - ✗ Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage

*Last updated: October 11, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✓ **Makes the Department Policy Publicly and Readily Available**

Houston PD maintains a [dedicated webpage](#) about its BWC program, which includes its most recent publicly available draft BWC policy (dated August 11, 2017).

## ✓ **Limits Officer Discretion on When to Record**

Houston PD requires officers to record “any law enforcement related activities.” (§§6; 13)

### **6 ACTIVATION OF BWC EQUIPMENT**

The BWC has three modes: Off, Standby, and Activate. Normally, while performing routine matters and prior to participating in any law enforcement activities, officers shall keep the BWC in Standby mode.

Officers shall place the BWC in Activate mode to record all law enforcement activities regardless of dispatch status. Officers shall continue recording until the law enforcement activity is completed or until there is a reason, as permitted by this policy, to deactivate the BWC. Officers are not required to cease recording an event, situation, or circumstance solely at the demand of a citizen. The BWC shall be activated as follows:

- a. Priority One or Two call for service. Activate upon being dispatched or when driving to the call regardless of the dispatch status.
- b. Any other call for service. If a vehicle is being used, activate prior to exiting the vehicle. If a vehicle is not being used, activate prior to arrival.
- c. Self-initiated law enforcement activity (e.g., traffic or pedestrian stop) or On-View Incident (e.g., being flagged down). Officers shall activate BWCs prior to taking any police action, including vehicle and foot pursuits. In all cases, BWCs shall be activated prior to turning on emergency equipment.
- d. Search or arrest warrant. Officers equipped with a BWC shall record during the execution of any search warrant or arrest warrant and during all consent searches.

e. Prisoner or passenger transports. Officers equipped with a BWC shall record all prisoner or passenger transports, regardless of the gender of the prisoner or passenger. The entire transport shall be recorded.

For prisoner transports, officers may elect to have the BWC facing the rear passenger compartment of the vehicle. Once officers are in a secured jail facility with surveillance cameras, the BWC may be deactivated.

When a prisoner or passenger is transported by a two-man unit, both officers shall be required to record with the BWC during the transport.

f. Hostile or contentious interaction. There may be times when an officer is interacting with the public and the discussion becomes unexpectedly hostile or contentious. As soon as an officer determines that this is likely to occur or is occurring, the officer shall immediately activate his BWC.

### **13 PROHIBITED USAGE**

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The BWC is for official use only and shall not be used to record:

- a. Personal or non-work related activity.
- b. Department roll calls, locker rooms, break rooms, restrooms, or administrative activities.
- c. Conversations of fellow employees without their knowledge during routine activities not related to enforcement.
- d. Conversations with any law enforcement personnel that involve briefings or tactical operations or plans.
- e. Lineup proceedings or associated briefings.
- f. Department meetings including, but not limited to, administrative meetings, committee meetings, mediations, counseling, and in-service training.
- g. Inside police facilities unless taking law enforcement action.
- h. During "walk-throughs" following officer-involved shootings.

**Officers must provide a concrete justification if they fail to record a required event. (§8)**

### **8 FAILURE TO ACTIVATE BWC**

Although the BWC is required to be activated prior to initiating a law enforcement activity, there may be circumstances that require an officer to act immediately in order to ensure his safety or the safety of others. In those situations, it may be impractical or unreasonable for the officer to activate the BWC before taking police action. In these instances, the officer shall activate the BWC as soon as it is safe to do so to ensure that the remainder of the incident is properly recorded.

If an officer is required to activate his BWC and fails to do so, the officer shall immediately after the conclusion of the event, use the BWC to record his explanation or reasoning as to why the BWC was not activated. If this situation occurs, the officer shall notify his supervisor and document the reason for not activating the BWC in the incident report or call slip.

An officer's justification for failing to activate the body worn camera because it is unsafe, unrealistic, or impractical shall be evaluated based on whether a reasonable officer under the same or similar circumstances would have made the same decision. If the department determines an officer was unjustified in failing to activate his BWC when required to do so, the officer may be subject to disciplinary action up to and including indefinite suspension.

## **Addresses Personal Privacy Concerns**

**Houston PD allows officers to exercise discretion to turn off their cameras with victims, and while officers and supervisors are instructed to go to great lengths to record, are required to cease recording long enough for victims of family violence to give a statement. (§11)**

### **11 SPECIAL CIRCUMSTANCES**

This section addresses special circumstances in which additional guidance regarding the use of BWCs is needed.

#### **Traumatic Events**

Officers are sometimes called on to respond to scenes where persons, including witnesses and complainants, may have been traumatized (e.g., a scene of a sexual assault). While officers are encouraged to use their BWCs when it is prudent to do so, they may use their discretion in choosing to deactivate their BWC when recording the person might inhibit the officer's ability to obtain a full and candid statement from a complainant or witness. This does not include domestic violence scenes except as provided below. Officers shall audibly note the reason

prior to deactivating. The BWC shall be activated once the contact with that individual has ceased and until the remainder of the investigation is complete.

#### Family Violence

If an officer encounters a person during an investigation that the officer believes to be a victim of family violence and who refuses to cooperate with the investigation while being recorded by the officer's BWC, the officer shall briefly explain the department's policy with regard to recording interactions to attempt to alleviate the concerns. If the person continues to object to being recorded, the officer shall cease attempts to interview that person and make contact with a supervisor. The supervisor contacted shall ensure that a supervisor reports to the officer's scene.

Once at the scene, the supervisor shall make contact with the possible victim and attempt to resolve any issues related to being recorded. In the rare instance the supervisor is unable to remedy the person's concerns, the supervisor should authorize the investigation to continue while the BWC is deactivated long enough to obtain a statement from the individual. The BWC shall be activated once the contact with that individual has ceased and until the remainder of the investigation is complete.

The policy also references general privacy concerns. (§12)

#### **12 PRIVACY CONCERNS**

Officers shall not have BWCs recording while inside restrooms, dressing rooms, or locker rooms unless officers are entering in response to an ongoing emergency or a crime that is still in progress, there is reason to believe that a suspect is still inside the location, or other exigent circumstances exist.

#### **✘ Prohibits Officer Pre-Report Viewing**

Houston PD expressly allows officers to view footage while completing their reports or giving a statement. (§§17; 21)

#### **17 REVIEWING BWC DIGITAL RECORDINGS**

##### Employee Reviews

Officers may, but are not required to, review BWC videos before completing an incident report. Officers should view their own digital recording prior to providing testimony at hearings, trials, or depositions.

#### **21 INTERNAL INVESTIGATIONS**

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Any officer shall be allowed to review video captured by his BWC prior to being compelled to give a statement.

Officers are also encouraged to review footage in "response to resistance" incidents. (§11)

#### **11 Special Circumstances**

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##### Response to Resistance (R2R)

Officers involved in R2R incidents captured by BWCs shall follow the applicable departmental policies regarding the R2R and reporting of R2R in General Order 600-17, Response to Resistance. When feasible, an officer involved in an R2R incident may, but is not required to, review the BWC recording before completing his incident report. The supervisor conducting the R2R review shall review video recordings of all R2R incidents.

If an officer is unable to upload the BWC video to the designated server due to illness or injury, the supervisor who has been made aware of the officer's inability to upload the video shall be responsible for ensuring that the video is uploaded as soon as practicable.

In critical incidents such as officer-involved shootings, in-custody deaths, or other officer-involved incidents that result in a person's serious bodily injury or death, a supervisor shall take custody of all involved BWCs at the scene and ensure that they are transferred to Homicide Division or Internal Affairs Division. If Homicide or Internal Affairs do not make the scene, then the supervisor shall ensure that all videos from the involved BWCs are uploaded. Officers involved in the critical incident shall not be tasked with uploading the BWC recordings related to that incident.



## ✘ **Limits Retention of Footage**

Houston PD retains non-evidentiary footage for 180 calendar days, but does not appear to require deletion after that period. (§15)

### **15 CLASSIFICATION OF BWC RECORDINGS**

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#### Retention Schedule

Once an officer completes the classification of the digital recording, the retention period is automatically applied as set forth below.

- a. Class B and Above. For BWC recordings related to criminal offenses that are Class B misdemeanors and above, the retention schedule is 10 years.
- b. Class C and All Traffic Stops. For Class C offenses and all traffic stops, the retention schedule is 2 years.
- c. Information. For all other BWC recordings the retention schedule is 180 calendar days.

## ✘ **Protects Footage Against Tampering and Misuse**

Houston PD prohibits unauthorized footage sharing, but does not appear to explicitly prohibit footage tampering. (§§1-2)

### **1 INTEGRITY OF VIDEO RECORDINGS**

The use of any body worn camera (BWC) not issued by the department is prohibited unless approved by the Chief of Police. All digital recordings from any BWC shall be used for official law enforcement purposes only and are the property of the Houston Police Department.

### **14 BWC EQUIPMENT**

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Unless authorized by the Chief of Police, employees shall not disassemble the camera or attempt to access the internal storage, files, programs, or configuration of the BWCs either wirelessly or by direct connection.

### **14 PROHIBITED USAGE**

Unless approved by the Chief of Police, officers are prohibited from making copies of digital evidence for non-law enforcement purposes or uploading digital evidence to public or social media sites at any time. While viewing a BWC recording for official purposes, officers shall not take a screen shot or make any separate recording of the BWC recording.

However, the policy does indicate that access to footage is audited (§18).

### **18 AUDITS OF BWC RECORDINGS**

#### Monthly Audits by Supervisors

Shift commanders are required to review two randomly selected BWC videos of each sergeant under their command each month to monitor compliance with departmental policies and procedures. Sergeants are required to review two randomly selected BWC videos of each officer under their command each month to ensure compliance with departmental policies and procedures.

#### Semiannual Audits by Inspections Division

Employees of the Inspections Division shall conduct the below BWC audits.

- a. Activation Audit. This audit is to ensure the BWCs are being activated in accordance with department policy. This audit shall be done when Inspections Division conducts a Management Analysis and Risk Assessment of a patrol division. This audit does not include viewing any video; it does include verifying if there is a video when policy dictates there should be one. Inspections Division shall determine the number to be audited based on the volume and time lines for the audit. At a minimum, an activation audit shall be conducted once every six months at a division that utilizes BWCs.
- b. Compliance Audit. This audit is to ensure that departmental policies and procedures are being followed. This audit shall be conducted concurrently with the Independent Police Oversight Board (IPOB). Twice each year, IPOB shall view twenty videos randomly selected by the Office of Technology Services. Inspections Division personnel shall view the same twenty videos.

#### Semiannual Audits by the Office of Technology Services

Employees of the Office of Technology Services shall perform audits twice a year of randomly selected stored BWC video files for quality control purposes to ensure video quality, audio quality, color rendition, and proper focus. System audits shall also be conducted focusing on user access, retention schedules, partial or incomplete video files, and system storage.

✘ **Makes Footage Available to Individuals Filing Complaints**

Houston PD relies on Texas public records law to make footage available, and does not expressly allow complainants to view relevant footage. (§23)

**23 REQUESTS FOR RECORDINGS**

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Texas Public Information Act (TPIA) Requests

Recordings captured during the scope of an officer's duties may be subject to release to the public under applicable laws. All requests from persons for BWC video copies or viewing shall be referred to the department's Office of Public Affairs. These requests shall be handled in accordance with Chapter 552 of the Texas Government Code (Public Information Act), Chapter 1701 of the Texas Occupations Code, and departmental procedures.

✘ **Limits Biometric Searching of Footage**

Houston PD does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

## Jacksonville Sheriff's Office



- 
- ✓ Makes the Department Policy Publicly and Readily Available
  - ✓ Limits Officer Discretion on When to Record
  - ✓ Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
  - ✓ Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage
  - 💰 Received a \$997,956 DOJ grant for BWCs in 2017

*Last updated: October 11, 2017. Is there a new version of this policy? [Let us know.](#)*

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### ✓ **Makes the Department Policy Publicly and Readily Available**

Jacksonville Sheriff's Office (JSO) publishes its most recent publicly available BWC policy on its website under a [section dedicated to body worn cameras](#). JSO's most recent BWC Policy is dated July 28, 2017.

### ✓ **Limits Officer Discretion on When to Record**

Jacksonville SO provides officers with a clear list of situations that must be recorded. (§II.C.1)

1. There are many situations where the activation of the BWC is appropriate and/or required and this policy is not intended to describe every possible circumstance. It is understood that not all situations will clearly start out as necessitating documentation by the BWC nor will all recorded events have a clear ending for when the BWC is no longer required. Officers are expected to follow departmental policy and procedure, utilizing ethical and legal discretion as well as good judgment when activating and deactivating the BWC. When safe to do so, Officers who are assigned BWC's whether primary or back up will activate their BWC prior to exiting their vehicles to initiate any investigative or enforcement activity involving a member of the public to include:
  - a. Advising an individual of their Miranda rights (Not applicable if interactions occurs in an interview room where a recording device has been activated;
  - b. Arrests and transports;
  - c. Citizen contacts that become verbally/physically confrontational and may lead to the use of force;

- d. Consent to Search/Search warrants;
- e. Statements made by individuals in the course of an investigation or complaint;
- f. Crowd control, protest or mass arrest incidents. Officers shall not record First Amendment assemblies for the purpose of identifying and recording the presence of individual participants who are not engaged in unlawful conduct;
- g. DUI investigations including field sobriety exercises;
- h. Emergency responses;
- i. Enforcement related secondary employment;
- j. Foot pursuits;
- k. High risk encounters (e.g., Execution of an arrest warrants, barricade situations, and active shooter situations). Activation is not required during the tactical discussion;
- l. Inventorying of seized narcotics, money, or any high value property;
- m. Other investigative or enforcement activities where, in the Officer's judgment, a video recording would assist in the investigation or prosecution of a crime or when a recording of an encounter would assist in documenting the incident for later investigation or review;
- n. Pedestrian stops (To include Officer initiated consensual encounters);
- o. Statements made by suspects;
- p. Suspicious vehicle investigations;
- q. Traffic stops (to include, but not limited to, traffic violations, stranded motorist assistance, and all criminal interdiction stops);
- r. Upon the order of a higher ranking Officer;
- s. Vehicle pursuits;
- t. Vehicle searches;
- u. While securing a perimeter on an active scene; and
- v. Witness or victim interviews (See Exceptions).

Officers may happen upon a situation requiring immediate action to prevent injury, destruction of evidence, or escape. In these situations, officers should activate the recorder if doing so does not place them or others in danger. Otherwise they shall activate the camera at the first available opportunity when the immediate threat has been addressed.

#### If an officer fails to record in a required circumstance, he or she must provide justification (§II.1.5)

Officers are required to provide a written explanation for failing to activate the BWC prior to initiating a law enforcement or investigative contact when required, and when the Officer fails to record the entire contact. Documentation shall be provided in at least one of the following reports, as appropriate: Traffic citation, civil citation, misdemeanor citation, and General Offense Report, Arrest Report, Field Investigative Report, and/or CAD notes.

#### ✓ Addresses Personal Privacy Concerns

Jacksonville Sheriff's Office prohibits officers from recording certain sensitive situations, including legally-privileged communications of sexual assault and domestic violence victims. (§II.D)

##### D. Prohibitions / Restrictions

1. Officers are prohibited from using their BWC for any purpose other than their official law enforcement duties.
2. Officers shall not record a particular person based solely on the person's race, color, religion, national origin, gender, age, marital status, personal appearance, sexual orientation, identity or expression, family responsibility, homelessness status, physical disability status, matriculation, or political affiliation.
3. Officers shall not intentionally record juveniles not involved in criminal activity, or while in a person's residence. The recording of juveniles is for official purposes only.
4. BWC shall not be used to capture legally privileged communications as defined in F.S.S. 90 (e.g., sexual assault counselor-victim privilege, domestic violence advocate-victim privilege, attorney/client, doctor/patient, etc.).
5. BWC shall not be used surreptitiously.
6. BWC shall not be used to record undercover Officers and Confidential informants.
7. BWC shall not be utilized within 1000 feet of a bomb threat scene.

8. Officers shall not activate the BWC while inside any police or City owned facility, unless the officer is in the process of handling an official law enforcement matter.
9. BWC shall not be activated during roll call, during non-investigative staff meetings, hearings, and encounters with other Officers, supervisors, and command staff.
10. BWC shall not be used during an administrative investigation/interview.
11. Officers shall not use the BWC as a means to conduct a field show up of a suspect.
12. Officers shall not intentionally use the BWC recording functions to record any personal conversation of, or between another Officer/employee.
13. BWC shall not be activated when discussing strategic or tactical operations.
14. BWC shall not be activated during training (e.g., Firing Range, academy, roll call training, etc.).

Jacksonville Sheriff's Office requires officers to turn off their cameras upon request when "invited into a location where a person has a reasonable expectation of privacy, and the Officer otherwise has no lawful right to occupy that space." An officer need not provide notification nor honor a request to terminate recording when "an Officer is lawfully present... at a location where a person has a reasonable expectation of privacy," except when interacting with victims of sexual assault. (§II.E, §II.B.6, §II.C.2.f)

#### II.E. Privacy Considerations / Citizens Advisement

1. The Fourth Amendment of the U.S. Constitution protects people, and provides them with a reasonable expectation of privacy from government intrusion. Guidance explaining protections against unreasonable search and seizure can be found in the case of *Katz v. United States*, 389 U.S. 347 (1967), which extends Fourth Amendment protection to all areas where a person has a "reasonable expectation of privacy." In summary, the court found that the government may not intrude into places, unwanted, when a person enjoys a reasonable expectation of privacy. If an Officer is lawfully present (e.g., arrest warrant, search warrant, criminal investigation, exception to the warrant requirement) at a location where a person has a reasonable expectation of privacy (e.g., residence, restroom, dressing room, locker room, hospital, or mental health facility), there is no requirement that the Officer inform the person that video is being taken. Additionally, there is no requirement that the Officer discontinue use of the BWC upon an individual's request. **Exception: Officers shall inform victims of sexual assaults when they are being recorded and provide them with the option to not be recorded (e.g., "Ma'am/Sir, I am advising you that our interaction is being recorded)."**
2. Officers who are invited into a location where a person has a reasonable expectation of privacy, and the Officer otherwise has no lawful right to occupy that space, shall inform the person they are being recorded. If the person requests the Officer not to record, the Officer shall discontinue use of the BWC. The Officer should attempt to capture the individual's request to stop recording prior to deactivating the BWC.
3. As a general rule, if the Officer must legally ask permission to enter a premise, he should also ask if the resident will allow the officer to record.
4. When an Officer is asked whether a BWC is being utilized, the Officer shall disclose that he is recording. Officer shall not lead a person to believe the BWC has been deactivated when in fact, the BWC is left active. In addition, Officers are not required to play back BWC recordings to allow the public to review the video footage. Officers are reminded, they may inform the victim or others present at the scene, that BWC recordings taken inside a personal residence, medical, mental, or social service facility, places where there is a reasonable expectation of privacy or related to an incident involving domestic violence, stalking, or sexual assault will be withheld from release to the public (F.S.S. 119 Records Request).

...

II.B.6. Officers should restrict recording to areas and persons necessary in order to obtain evidence and information relevant to the incident and should attempt to minimize collateral intrusion to those not involved.

II.C.2.f. In situations when community members, witnesses, crime victims or other parties wish to share information related to criminal activity, but refuses to do so while being recorded, Officers will have the discretion to turn off the BWCS during the interview. The preference is to record such statements; however, it is recognized that such persons may be hesitant to provide information while being recorded due to a fear of retaliation, privacy concerns or a feeling that the information is sensitive. In these situations, Officer may decide that obtaining the information is more important than recording the conversation.

Jacksonville SO allows officers to view footage before completing their written reports. (§J.1.B).

Officers shall be allowed to review the recorded footage from their BWC, upon his own initiative or request, before writing a report or providing a statement regarding any event arising within the scope of his official duties. Any such provision may not apply to an officer's inherent duty to immediately disclose information necessary to secure an active crime scene or to identify suspects or witnesses.

### ✘ **Limits Retention of Footage**

The policy requires footage be retained in accordance with the Florida General Records Schedule GS2 for Law Enforcement, Correctional Facilities and District Medical Examiners. Item #224 in the General Retentions Schedule requires audio and visual recordings to be maintained for a minimum of 90 days. While the General Retentions Schedule is unclear on whether unflagged footage must be deleted, the Jacksonville SO policy indicates that "the software is programmed to perform automated purges to delete recordings set to expire as provided in this directive." (§§II.M.3; II.S)

II.M.3. Files will be securely stored in accordance with state records retention laws and no longer than useful for purposes of training or for use in an investigation or prosecution.

#### **II.S Retention and Disposal of Body-Worn Camera Video / Audio Recording**

1. The retention of BWC recordings will be in accordance with the General Records Schedule as published by the Secretary of State for Law Enforcement Agencies GS2 is the publication consulted for guidelines when planning records disposal.
2. Recordings are managed for retention by software applications. Recordings are retained in accordance with this directive and statutory requirements addressing the storage of evidence. The software is programmed to perform automated purges to delete recordings set to expire as provided in this directive.
3. A non-event classification tag is defined as a recording that was a result of accidental activation of a BWC device. A non-event classification tag may also be a recording wherein the Officer had no contact with a citizen and no law enforcement action was warranted.
4. Recordings must be retained according to the mandates or retention periods established by local, state, or federal law, the statute of limitations, and if applicable, Sheriff's Office policy. Recordings that do not qualify for retention beyond the default and minimum retention periods may be deleted by the BWC System Administrator.
5. If a recording does not meet the criteria for retention, but an Officer or supervisor believes a recording may be worthy of retaining based on the circumstances of the event, they shall consult with the BWC System Administrator.
6. BWC recordings may only be deleted by the BWC System Administrator or approved employees authorized by the Sheriff or his designee.
7. It is the responsibility of the BWC System Administrator (or other authorized designee) to extend the retention rate if it is determined the recording should be archived for future court proceedings, administrative access, or otherwise may serve to support criminal and civil statute of limitations (capital or life felonies, evidence preservation requests, DNA evidence, etc.), and if applicable, that copies are stored on DVD, or other media approved by ISM, in support of such extension.

### ✔ **Protects Footage Against Tampering and Misuse**

The policy expressly prohibits both footage tampering and unauthorized access, and indicates that all access to recorded footage will be audited. (§§II.D.20; II.D.15; II.J.1.e; II.M.4)

II.D.20. Officers will not erase, alter, reuse, modify, or tamper with any recording.

II.D.15. Officers shall not make copies of any recording; disseminate any recording to the public, any media outlet, social media, or any other employee except in the course of official duties. The posting of BWC footage to any social media site, without prior written approval of the Sheriff or designee is strictly prohibited

II.J.1.e. All access to BWC data (images, sounds, and metadata) must be specifically authorized by the BWC System Administrator or his designee, and all access is to be audited to ensure that only authorized users are accessing the data for legitimate and authorized purposes.

II.M.4. Each video recording shall have a chain of custody audit trail which documents all events associated with a file.

### ✘ **Makes Footage Available to Individuals Filing Complaints**

The policy does not expressly allow individuals who are filing police misconduct complaints to view relevant footage, and instead references various state, local, and federal public records law. (The policy does not expressly allow individuals who are filing police misconduct complaints to view relevant footage, and instead references various state, local, and federal public records law. (§§II.J.1.d; II.R)

II.J.1.d. Request for video or audio recordings will be handled in accordance with Chapter 119 of the Florida Statutes.

#### **R. Record Requests**

1. Authority governing the release of reports containing criminal investigative information and criminal history information is found in various State and Federal Statutes, local ordinances, and Administrative rules and directives including, but not limited to:
  - a. Section 37.111, Municipal Ordinance;
  - b. Florida State Statute (F.S.S.) Chapters 39.119, 257, and 943; and
  - c. Chapters, 1B-24, 26, and 27, Florida Administrative Code.
2. Public Records requests shall be accepted and processed, in accordance with the provisions of federal law, state law, (F.S.S. 119), local statutes, and Public Information Unit Order 586. The request shall be forwarded to the BWC System Administrator for processing.

### ✘ **Limits Biometric Searching of Footage**

Jacksonville SO does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# Las Vegas Metropolitan Police Department



- 
- ✗ Makes the Department Policy Publicly and Readily Available
  - Limits Officer Discretion on When to Record
  - ✓ Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✓ Limits Retention of Footage
  - ✓ Protects Footage Against Tampering and Misuse
  - ✓ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage
  - 💰 Received a [\\$250,000 DOJ grant](#) for BWCs in 2015

*Last updated: October 4, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✗ **Makes the Department Policy Publicly and Readily Available**

Las Vegas Metropolitan PD does not publish its BWC policy on its website. However, in August 2016, a department representative e-mailed us a copy of the latest policy, titled "5/210.01 Body Worn Cameras" and dated October 2015.

## ○ **Limits Officer Discretion on When to Record**

LVMPD requires its officers to record a wide range of situations. (General Procedure)

Officers will activate the BWC when such use is appropriate to the proper performance of duties, where the recordings are consistent with this policy and law, and as soon as practical and safe, to record. Officers will record all contacts with citizens in the following occurrences:

1. Vehicles stops;
2. Person stops: consensual, articulable reasonable suspicion, or probable cause;
3. All dispatched calls for service involving contact with citizens;
4. Detentions, investigations pursuant of an arrest, arrests, suspect interviews, and post-Miranda interrogations;
5. Search of persons incident to arrest (if not already activated);
6. Search warrants of structures or vehicles;
7. K9 searches requested by a Patrol officer;
8. As soon as possible after the occurrence of an officer-involved traffic accident (if not already activated);
9. Code 3 driving;
10. Pursuits: primary and secondary officers;



11. Any contact that becomes adversarial when body camera had not been activated;
12. Transport of Code 5 prisoners;
13. Any other citizen contact or official duty circumstance at the officer's discretion based on circumstances and reasonableness reasonableness (e.g. field testing of narcotics, counting of seized money in the field, documenting high-value found property).

The policy requires officers to record until the event has concluded. However, the policy appears to give officers some discretion to turn their cameras off, if they determine it necessary to "conserve available recording time" or if they have a "clearly articulable reason" for doing so. This vague guidance creates concerning loopholes. (General Procedure)

Once the BWC is activated, recording will continue until the event has concluded; the following are exceptions:

1. When privacy concerns outweigh legitimate law enforcement interests (e.g. child sexual assault, presence of child pornography, etc.), and the absence of a BWC recording will not affect the investigation;
2. The incident has concluded prior to the arrival of the officer;
3. The incident or event is of such duration that deactivating the BWC is necessary to conserve available recording time;
4. The officer has a reasonable belief there will be no loss of critical documentary information (for example, completing reports at the conclusion of an event, etc.);
5. Investigative personnel arrive and begin the formal investigative process;
6. The officer determines that the recording must be stopped, either temporarily or for the duration of the event, based on clearly articulable reasons (e.g. to discuss sensitive intelligence or investigative information);
7. A citizen has requested the officer stop recording. Officers have no obligation to stop recording in response to a citizen's request if the recording is pursuant to an investigation, arrest, lawful search, or the circumstances clearly dictate that continued recording is necessary. However, officers should evaluate the situation and when appropriate, honor the citizen's request. The request to turn the camera off should be recorded, as well as the officer's response.
8. A citizen with standing has requested the officer stop recording within their residence and the officer's presence is not pursuant to an investigation, arrest, lawful search, unless the circumstances clearly dictate that continued recording is necessary. As a general rule, if an officer must legally ask permission to enter a premise, the officer should also ask the resident with standing if they will allow recording.

Before turning their cameras off, officers must announce the reason on camera. When officers fail to record, they must document the reason in their reports. (General Procedure; Camera Deployment)

#### General Procedure

...

Officers shall continue recording until they announce on camera that they are deactivating their BWC. These instances are:

- Under the exceptions above. Officers must state the specific reason(s) they are turning off their cameras before doing so; ...

#### Camera Deployment

...

B.8. If an officer fails to activate the BWC or the BWC malfunctions, the officer will document the circumstances and reason as a closing comment to the event on the MDT and in any applicable reports.

### **Addresses Personal Privacy Concerns**

LVMPD requires officers to obtain explicit permission from crime victims and witnesses (or a parent or legal guardian, in the case of a juvenile) before recording. In addition, LVMPD allows officers to cease recording in sensitive locations and situations. (General Procedure; Victims and Witnesses; Juvenile Recordings; Sensitive Locations)

#### General Procedure

... Officers are not required to obtain consent to video/audio record (except in the case of victims/ or [sic] witnesses or consensual entries as addressed below). ... Officers should restrict recording to areas and persons necessary in order to obtain evidence and information relevant to the incident and should attempt to minimize collateral intrusion to those not involved.

Once the BWC is activated, recording will continue until the event has concluded; the following are exceptions:

1. When privacy concerns outweigh legitimate law enforcement interests (e.g. child sexual assault, presence of child pornography, etc.), and the absence of a BWC recording will not affect the investigation;

#### Victims and Witnesses

... If an officer is approached by a victim or a witness who are giving their first account of a crime the officer may record the encounter but the needs of these individuals and the sensitivity to the nature of the crime being reported should be considered in deciding to continue recording. ... Officers will document the consent or non-consent on the recording at the time of the first account statement. In the case of crimes, such as sexual assault, where sensitivity to the victim is paramount, officers must get the explicit permission for recording of the first contact statement from the victim and this will be documented on the recording. If the victim is in anyway unsure of the need for the recording to be made or is uncomfortable with the thought of being recorded then the officer should not record the statement. If a victim or witness does not consent to being recorded on any event the officer may consider asking the subject if they would agree to the option to divert the camera away and recording only audio.

#### Juvenile Recordings

It is recognized that video images of juvenile offenders will at times be recorded by the BWC when responding to calls for service or during the course of an investigation. Because of this, officers shall protect video recordings of juveniles the same as still photographs of juveniles. ... Juvenile victims or witnesses to a crime will only be recorded with the permission of a parent or legal guardian present at the time of the recording. This permission must be documented on the recording. If consent is not given to being recorded the officer may consider the option to divert the camera away from the subject and recording only audio.

#### Sensitive Locations

BWC officers should be mindful of locations where recording may be considered insensitive, inappropriate, or prohibited by private policies. Such locations include places of worship, religious ceremonies, certain locations in hospitals or clinics, law offices, day care facilities, etc. The presence of, and recording by, BWCs may not be practical even though officers may have a legal reason to be present and conduct public safety business. At such locations, at the officer's discretion and based on the circumstances, BWCs may be turned off. Officers must state the reason they are turning off the camera before doing so. The officer may consider the option to divert the camera away from any subjects and recording only audio if appropriate.

### Officers are required to notify individuals that they are being recorded. (General Procedures)

... Officers will always inform individuals that they are being recorded at the beginning of the contact whenever it is possible, safe and practical to do so (e.g. "Ma'am/Sir, I am advising you that our interaction is being recorded.")...

### Prohibits Officer Pre-Report Viewing

LVMPD permits officers to view footage before completing their statements, even in cases of officer-involved shootings.

#### Officer Involved Shootings

Following an officer involved shooting, or other use of deadly force, involved personnel or any supervisor shall not view the BWC recording on any device or computer prior to FIT or CIRT viewing the footage.

- Involved officers shall be allowed to view their own BWC recording prior to a scene walkthrough and subsequent FIT/CIRT statement;
- Witness officers shall be allowed to view their own BWC recording prior to a scene walkthrough and subsequent FIT/CIRT statement; ...

## RECORDED DATA ACCESS AND REVIEW

...

1. OFFICER ACCESS - Officers may view their own BWC recordings as they relate to:
  - a. Their involvement in an incident for the purposes of completing an investigation and preparing official reports. To help ensure accuracy and consistency, officers are encouraged to review the BWC recording prior to preparing reports;
  - b. Prior to court to refresh recollection. NOTE: Officers will ensure that the prosecuting attorney is aware the BWC recording was reviewed;
  - c. Providing a statement pursuant to an internal investigation, including officer involved shooting investigations and other critical incidents. NOTE: Following an officer involved shooting or other critical incident, involved personnel shall not view their BWC recording on any device or computer prior to the BWC recording being uploaded into Evidence.com.

### ✔ Limits Retention of Footage

LVMPD deletes unflagged footage in exactly 45 days. (Category Retention Schedule)

The retention period begins from the date the BWC recording was labeled or categorized. Unlabeled or uncategorized recordings will be auto-deleted at 45 days. . . .

### ✔ Protects Footage Against Tampering and Misuse

LVMPD prohibits both footage tampering and unauthorized use and distribution — and it maintains an audit log of all access to recorded footage. (Upload and Storage Procedures; Recorded Data Access and Review)

## UPLOAD AND STORAGE PROCEDURES

### General

. . . Once recordings are uploaded to lvmpdnev.evidence.com the program provides detailed tracking on who accesses recorded data, when and for what purpose. This extensive audit system prevents data tampering, deleting or copying.

### Data Storage, Security, and Access

1. Storage and security of BWC recordings is the contractual responsibility of AXON/TASER. The Body Camera Detail is responsible for management of all BWC recordings within the Evidence.com system;
2. Any and all images, video, and/or audio generated by any BWC are the sole property of the Las Vegas Metropolitan Police Department;
3. Unauthorized use, duplication, and/or distribution of BWC recordings files are prohibited;
4. Employees, other than those assigned to the Body Camera Detail, Internal Affairs, Force Investigative Team (FIT) or Critical Incident Review Team (CIRT) shall not download, copy, or record BWC recordings from Evidence.com onto any computer, device, drive, CD/DVD, or any other format without the express written consent of the Body Camera Detail Lieutenant;
5. Employees shall not remove, dismantle or tamper with any hardware/software component or part of the BWC. Employees shall not attempt to erase or alter in any manner, BWC recordings file;
6. Evidence.com shall only be accessed from LVMPD authorized computers. Access to Evidence.com from a home, personal, or non-departmental mobile device is prohibited. . . .;
7. Employees shall not publish or display BWC recordings to the internet or social media sites . . .
9. BWC recordings shall not be used or shown for the purpose of ridicule or embarrassment.

...

## RECORDED DATA ACCESS AND REVIEW

All access and activity on Evidence.com is logged and subject to audit at any time.

### ✔ Makes Footage Available to Individuals Filing Complaints

LVMPD allows individuals who are seeking to file complaints (and others) to view relevant footage. (Data Storage, Security, and Access; Requests for Video/Audio Pursuant to Nevada's Open Records Act)

Data Storage, Security, and Access

...

8. IAB personnel may allow citizens, arrestees or violators to view BWC recordings as part of an investigation into an allegation of misconduct;

...

REQUESTS FOR VIDEO/AUDIO PURSUANT TO NEVADA'S OPEN RECORDS ACT

It is the policy of the Las Vegas Metropolitan Police Department to allow for inspection and copying of public records in its possession. As a police department, LVMPD has in its possession many records that in whole or in part are confidential by law. Requests for copies of video from BWCs present a unique challenge in determining whether the requested record is public. Further challenges arise when confidential material is contained within the recording. It is the policy of LVMPD to balance the interests of individuals who seek access to BWC records with individual privacy rights and applicable confidentiality laws.

The release of any BWC recordings to media outlets will be in strict compliance with this and department policy 5/107.24, News Media and Public Information.

While the BWC policy itself is short on details, a [LVMPD webpage](#) provides specific details about the footage request process. Individuals can make a [request to inspect footage](#) either in writing, in person or over the phone. LVMPD classifies requestors into one of three categories — media, involved citizens, or general public — each with slightly different access procedures. For involved citizens, LVMPD will respond to a request within 5 days to arrange an appointment to inspect the footage at LVMPD Headquarters. An involved citizen may also request a copy of the footage, and could be charged a fee if redactions are necessary.

... The LVMPD Program Management and Video Bureau is responsible for the operations and management of the department's BWC program. Part of that management responsibility is receiving, processing and fulfilling requests for inspection and possible copying of BWC recordings.

**REQUESTS**

Requests to inspect BWC recordings can be made in writing, in person, or telephonically. All requests, regardless of how they are received, must be documented on an LVMPD Body Worn Camera Video Public Records Request form which is available on our website, here: [Body-Worn Camera Video Public Records Request](#). The form is necessary to ensure accuracy, accountability, and timely responses. Requestors can download, complete and submit this form through email or standard mail. Requestors may also come to LVMPD Headquarters to fill out the form in person. Finally, requestors may contact the LVMPD BWC Manager by phone and submit a request via voice mail. This request must contain all the same information on it as the on-line form. Specific instructions on the entire request process are detailed on the request form. ...

BWC recordings that are evidence in an ongoing investigation, judicial or administrative proceeding, are not public records until either the matter is concluded or, in the case of a criminal proceeding, the evidence is submitted in a public forum (filed with the court or submitted in open court). Such recordings will not be released until they become public. ...

**PROCEDURES**

LVMPD acknowledges that Nevada public records laws do not require a requestor of a public record to state the purpose of the inspection. However, whether a document is confidential and/or requires redaction may depend on the identity of the requestor. To timely process requests and ensure that privacy rights, confidentiality laws, and laws regarding the release of criminal history are complied with, the Department has classified requestors into three general categories. These categories are:

1. Media
2. Involved Citizens (may include attorney representatives with letters of representation and client authorization)
3. General Public

Each group necessitates slightly different procedures. These procedures are outlined below by category. ...

2. Involved Citizens.

“Involved citizen” refers to a citizen who had direct and primary interaction with an officer wearing a BWC. It may also include counsel retained by an Involved Citizen if a letter of representation is presented by a Nevada licensed attorney. It does not apply to witnesses, bystanders, relatives, or other citizens with no connection to the event.

- a. Requests BWC recording by submitting a written request as outlined in the Requests section above.
- b. Will be contacted by the BWC Manager within 5 days to discuss request and arrange an appointment to inspect the recording.
- c. Comes to LVMPD Headquarters to view the recording. This will occur in the presence of the BWC Manager in a designated and controlled room with video surveillance. No electronic equipment, including cellular phones will be allowed in the recording room. No recording of the BWC footage will be allowed. Viewing time may be limited due to Department staffing and/or other logistical issues.
- d. Requests a copy of the recording, if desired, on the previously submitted records request form or amends the request, if applicable, based on inspection of the footage. Involved Citizens may request that their confidential information not be redacted. Such requests will be referred to the LVMPD Office of General Counsel for evaluation. Copies may not be completed within 5 days depending on duration and scope.
- e. Receives a cost estimate from the BWC Manager for the requested recording. Signs an authorization to proceed and pays the estimated payment prior to processing.
- f. Returns to LVMPD Headquarters to pick up recording when it is ready to be released. Receives a refund if processing time was less than estimated or pays the difference if the processing time was greater than estimated.

#### **Limits Biometric Searching of Footage**

LVMPD does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# Long Beach Police Department



- 
- ✓ Makes the Department Policy Publicly and Readily Available
  - Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
  - ✗ Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage

*Last updated: October 30, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✓ **Makes the Department Policy Publicly and Readily Available**

Long Beach Police Department (LBPD) publishes its [BWC policy](#) on its website. One must search “body worn cameras” on LBPD’s website in order to locate the policy. The latest available version was last revised June 2, 2016.

LBPD [launched a BWC pilot program](#) on November 5, 2016. As of July 2017, the pilot program [was ongoing](#), but it is [unclear whether full funding will be authorized](#) in the city’s 2018 budget.

## ○ **Limits Officer Discretion on When to Record**

LBPD provides officers with a clear list of situations that must be recorded. (§7.8.5.4)

A) Enforcement related contacts: Unless mitigating circumstances are present, officers should record enforcement related contacts which include but are not limited to:

1. Traffic stops
2. Subject stops
3. Detentions
4. Arrests
5. Searches
6. Crimes in progress
7. Demonstrations, protests, unlawful assemblies,
8. Consensual encounters – recording should begin at the point when the officer believes the encounter may transition into a detention.
9. Other – Officers shall record incidents where they are assisting other city employees or law enforcement officers engaged in an enforcement related contact. If a dispute arises related to filming, the involved officer shall notify a supervisor.

- B) Arrests: Officers may stop recording when the arrestee is cooperative and safely secured inside a police car or law enforcement facility. If an arrestee becomes uncooperative, or if there is some evidentiary purpose, officers should resume recording.
  - C) Searches: Officers should record their actions during the execution of a search warrant, an arrest warrant, or a consent search in which the officer is looking for evidence or contraband. When the scene is secured, the recording may be stopped. A supervisor may use discretion when determining whether or not BWC equipped officers shall record the service of a warrant.
  - D) Crimes in progress: Officers actively engaged in the apprehension of a suspect during an incident should activate BWCs. Officers should begin recording prior to arrival on scene.
  - E) Interviews: Victim, suspect and witness interviews may be recorded.
  - F) Personnel complaints: Supervisors handling personnel complaints should record interviews with the public, if they are assigned a BWC. Any interviews involving department personnel shall follow the Internal Affairs protocol.
  - G) Other circumstances: Officers may record any other legitimate law enforcement contact where he or she believes that a recording would be appropriate.
  - ...
- Officer safety takes precedence over camera activation.

The policy encourages officers to activate their BWC "prior to contact with citizens, or as soon as safely possible thereafter" and to continue recording until the contact "is concluded." (§7.8.5.3(B))

- B) **When to record:** If possible, the BWC should be activated prior to contact with citizens, or as soon as safely possible thereafter, and continue recording until the contact is concluded.

When an officer fails to record a required event, the policy indicates that the incident "shall be reviewed at the divisional level," but does not require officers to provide concrete justifications for failing to record. (§7.8.5.11)

In the event that the Department becomes aware of a failed recording, the incident shall be reviewed at the divisional level.

## ○ Addresses Personal Privacy Concerns

LSPD's policy mentions the importance of personal privacy concerns, but maintains that civilians have no reasonable expectation of privacy whenever talking to an officer "during the scope of an officer's official duties." (§7.8.5.5(5), §7.8.5.3(C))

- 5) Unless there is a clear and valid law enforcement purpose, BWCs should not be activated in places where citizens have a reasonable expectation of privacy, such as locker rooms, dressing rooms, or restrooms.
- ...
- C) **Citizen advisement:** Per CPC § 633, private citizens do not have a reasonable expectation of privacy when talking with police officers during the scope of an officer's official duties.

The policy does not require informed consent from vulnerable individuals, but permits deactivation upon request if an officer determines that recording will "impede or limit the cooperation of a victim or witness during an investigative contact." (§7.8.5.3(E), §7.8.5.5(6))

- E) **Citizen demands:** Officers shall not initiate or cease the recording of an event, situation, or circumstance solely at the demand of a citizen.
- ...
- 6) Where an officer believes...that the use of a BWC would impede or limit the cooperation of a victim or witness during an investigative contact, an officer may deactivate the BWC.

### ✘ Prohibits Officer Pre-Report Viewing

LBPDP allows officers to review their footage and any footage “in which they appear or could have been heard” before filing their initial reports. For officer involved shootings or in-custody deaths, the policy indicates that approval may be required. (§7.8.5.8(1), §7.8.5.8(3))

- 1) Officers may review their own recordings and those recordings of other employees in which they appear or could have been heard.
- ...
- 3) Officers may review digital evidence prior to completing reports to ensure accuracy.
  - a) Digital evidence capturing an officer involved shooting or in-custody death may be reviewed by involved employees prior to the initial investigation at the scene and after obtaining approval from the Homicide Detail. This procedure will be re-evaluated periodically throughout the duration of the pilot program.

The policy requires officers to note in their police reports whether a recording was reviewed prior to writing such reports. (§7.8.5.3(F))

- F) Police reports: Officers shall note in their police reports whether or not the incident was recorded on their BWC and if it was reviewed prior to writing the report.

### ✘ Limits Retention of Footage

The policy is not clear how and when stored media is purged, only that it will be “preserved in accordance with the law.” (§7.8.5.7)

- All recordings related to any criminal proceeding, claim filed, pending litigation, or a personnel complaint, shall be preserved in accordance with the law. All recordings not governed by legal statute shall be retained for one year.

### ✘ Protects Footage Against Tampering and Misuse

Long Beach PD expressly prohibits footage access “for other than official police department use.” However, the policy does not indicate that access to recorded footage will be logged or audited, nor does it explicitly prohibit footage tampering. (§7.8.5.2(6))

- 6) Accessing, copying, forwarding, or releasing any digital evidence for other than official police department use is prohibited.

### ✘ Makes Footage Available to Individuals Filing Complaints

Long Beach PD does not expressly allow individuals who are filing police misconduct complaints to view footage, and refers to the LBPDP Public Records Request Act Policy to govern the release of recordings. While certain department personnel may show footage to complainants, they do not appear to be required to do so. (§7.8.5.2(5))

- 5) All requests for digital evidence by the public will be handled in accordance with the LBPDP Public Records Request Act Policy. This will not preclude supervisors and detectives from showing digital evidence to the public to further an investigation or investigate a personnel complaint.

### ✘ Limits Biometric Searching of Footage

Long Beach PD does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.



# Louisville Metro Police Department



- 
- ✓ Makes the Department Policy Publicly and Readily Available
  - ✓ Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✓ Limits Retention of Footage
  - Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage

*Last updated: October 11, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✓ **Makes the Department Policy Publicly and Readily Available**

Louisville PD publishes its most recent publicly available body worn camera policy on its website within its lengthy Standard Operating Procedures. The policy is numbered SOP 4.31, beginning on page 341 of the manual. It was last revised on August 7, 2017.

## ✓ **Limits Officer Discretion on When to Record**

The policy requires officers to record “any call for service” and activate their camera prior to engaging in “any law enforcement activity or encounter.” The policy provides an exception “for extremely rare situations” involving exigent safety concerns but requires the officer to activate the camera “at the first opportunity when it is safe to do so” afterwards. (§4.31.5)

The WVS shall be used to record all calls for service and law enforcement activities/encounters (e.g. arrests, citations, stops, pursuits, Code 3 operations/responses, searches, seizures, interviews, identifications, use of force incidents, collisions, transports, warrants, etc.). Officers will activate their WVS in recording mode when they acknowledge a call for service or prior to engaging in any other law enforcement activity or encounter. Officers will verify that their WVS is functioning in recording mode by listening for the audible tone and/or checking the visible light indicator. In extremely rare situations, an encounter may be sudden and unanticipated. If an officer is involved in a sudden and unanticipated incident where exigent safety concerns prevent the immediate activation of his/her WVS, he/she shall activate the WVS at the first opportunity, when it is safe to do so, in order to capture the immediate aftermath of the situation.

The policy requires officers to document in writing a justification for failing to activate their BWCs or failing to complete a recording of a situation required by the policy. (§4.31.5)

If the officer neglects to activate his/her WVS at a scene which requires recording, fails to record the complete incident or interrupts the recording, he/she will notify his/her supervisor, prior to the end of his/her tour of duty, and complete a Failure to Activate Wearable Video System Memorandum (LMPD #17-0002)...The memorandum shall be forwarded, through the chain of command, to the appropriate Bureau Commander by the end of the officer's next tour of duty. If data is lost, the officer shall document the reason in a memorandum and forward it, through the appropriate chain of command, to his/her Bureau Commander by the end of the officer's next tour of duty.

### ○ Addresses Personal Privacy Concerns

The policy does not require officers to obtain informed consent prior to recording in any circumstance, nor does it require officers to inform subjects that the camera is recording. The policy does not explicitly protect vulnerable individuals. (§4.31.6)

Officers shall not discontinue recording based solely on a person's verbal request, unless the person wishes to submit an anonymous tip, in which the decision to record is at the discretion of the officer. The officer may contact his/her commanding officer for further guidance in these situations, if needed. Officers shall not be required to discontinue recording an event, situation or circumstance for anyone other than a commanding officer.

The policy does take privacy into consideration to a limited extent by requiring that the camera not be used "where an *exceptional* expectation of privacy exists" (emphasis added) and requiring that cameras be turned off when officers enter juvenile detention facilities. The policy requires that officers limit recording to "legitimate law enforcement activities while on school property" or at school events, and to "specific law enforcement activity" in bathrooms, locker rooms, and other highly private areas. The policy permits discretionary deactivation when hospital medical staff request it. The policy also requires officers to make a full recording of consent searches, including the giving of consent by the subject, and requires audio-only recording of strip searches. (§4.31.5)

The WVS shall not be used inside of Louisville Metro Youth Detention Services (LMYDS). Officers are required to turn off their WVS prior to entering the facility.

School Resource Officers (SROs) who are issued a WVS shall only record legitimate law enforcement activities while on school property or during school-related events...

The WVS shall not be used in places where an exceptional expectation of privacy exists (e.g. restrooms, locker rooms, dressing rooms, etc.) unless the recording is required for a specific law enforcement activity. Officers have the right to record if they have a legal right to be at, or in, the location (e.g. responding to a call for service, pursuant to a valid search warrant, consent of the resident, etc.).

Officers may be required to turn off their WVS at any hospital or medical facility at the request of the medical staff, unless they are engaging in a law enforcement activity or encounter (e.g. active shooter, unruly patient/visitor, etc.).

...

Officers shall use their WVS to record all consent searches in their entirety. This includes recording the subject giving consent to the search.

...

When conducting strip searches, officers shall video and audio record a 360 degree view of the location where the strip search is taking place. However, officers shall only record the audio portion of the actual strip search by positioning the camera away from the person on whom the strip search is being conducted.

### ⊗ Prohibits Officer Pre-Report Viewing

The policy allows officers to view relevant footage before filing a report or statement, but explains that recordings are not a replacement or substitution for written reports. (§§4.31.6;

#### 4.31.14)

WVS recordings are not a replacement/substitution for written reports. . .  
Officers shall be permitted to review their WVS footage of any incident in which they were involved prior to making a statement or report regarding the incident.

#### ✔ **Limits Retention of Footage**

The policy requires that non-evidentiary recordings be retained for a minimum of 30 days (§4.31.15).

##### 4.31.15 Retention/Distribution

WVS recordings shall be retained for a minimum of 30 days (non-evidentiary recordings), with the exception of those recordings which need to be retained longer (evidentiary recordings) due to an investigation (including criminal, administrative, AIR, etc.), litigation or open records request. These recordings shall be maintained until all investigative or legal activity is completed, pursuant to KRS or applicable records retention schedules. Recordings containing DUI video evidence shall be maintained and destroyed pursuant to KRS 189A.100.

#### ○ **Protects Footage Against Tampering and Misuse**

The policy explicitly prohibits officers from modifying or tampering with footage as well as “any hardware/software component or part associated with the [BWC].” (§§4.31.15; 4.31.6)

##### 4.31.15 Retention/Distribution

Officers shall not delete/erase, destroy, copy, reuse, alter/modify or tamper with WVS recordings.

...

##### 4.31.6 Operation

Officers shall not remove, dismantle or tamper with any hardware/software component or part associated with the WVS.

While the policy does not explicitly prohibit unauthorized access, it does include several provisions controlling access to footage. (§§4.31.15; 4.31.5-6)

##### 4.31.15 Retention/Distribution

...

Copying or reproducing any recording, or segment of any recording, generated by the LMPD, or the removal of any recording outside of the LMPD, without the written authorization of the Chief of Police, or his/her designee, is prohibited.

...

##### 4.31.5 Procedures

...Officers shall not post recordings to any website, including social media websites (KACP 20.5b, d). Officers shall not use other devices (e.g. cell phones, cameras, etc.) to record video and/or audio from the WVS.

Members shall only access their own WVS recordings or those that they have a legitimate purpose to review (e.g. review by detectives involved in the case, review by the Open Records Unit as a result of an open records request, etc.).

...

##### 4.31.6 Operation

Officers shall not remove, dismantle or tamper with any hardware/software component or part associated with the WVS.

...

At the conclusion of a recorded event, officers shall choose the appropriate storage category for their WVS recording in order to allow for later review and appropriate retention. The proper categorization of recordings determines how long the recordings are retained, to whom access is granted and whether the recording can be released to the public/media.

The policy provides that the department's storage system maintains an audit log of videos that have been viewed and "any actions taken by LMPD members." (§§4.31.5)

The Evidence.com storage system maintains an audit log that documents the videos that have been viewed and any actions taken by LMPD members. . . .

#### ✘ **Makes Footage Available to Individuals Filing Complaints**

The policy does not expressly allow individuals who are filing police misconduct complaints to view relevant footage. The policy provides that footage may be requested via an open records request and allows Louisville PD to redact footage that "may compromise an investigation" or "that infringe on an individual's privacy rights." (§4.31.15)

Open records requests for copies of recordings, from persons or agencies outside of the LMPD, shall be directed, in writing, to the Open Records Unit. Open records requests submitted by the media shall be directed, in writing, to LMPD Media and Public Relations Office (KACP 20.2b). ...Any parts of a recording that infringe on an individual's privacy rights or may compromise an investigation may be redacted.

Recordings provided to persons or agencies outside of the LMPD shall be duplicated on new tapes or discs and will be provided by the department for a reasonable fee. The unauthorized duplication of recordings is prohibited.

Only that portion of a recording which contains a specific contact in question may be reproduced.

#### ✘ **Limits Biometric Searching of Footage**

The policy does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# Los Angeles Police Department



- 
- Makes the Department Policy Publicly and Readily Available
  - ✓ Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
  - Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage
  - 💰 Received a [\\$1,000,000 DOJ grant](#) for BWCs in 2015

*Last updated: October 4, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ○ Makes the Department Policy Publicly and Readily Available

LAPD hosts the most recent version of its [BWC policy](#) on its website, but it is not easy to find and doesn't show up in the website's search function. The policy does show up when searching "LAPD body worn camera policy" in external search engines. This version was approved by the Board of Police Commissioners on April 28, 2015.

## ✓ Limits Officer Discretion on When to Record

LAPD requires officers to record the entire contact of "any investigative or enforcement activity involving a member of the public." (§§III; V)

III. WHEN ACTIVATION OF BODY WORN VIDEO EQUIPMENT IS REQUIRED. Officers shall activate their BWV devices prior to initiating any investigative or enforcement activity involving a member of the public, including all:

- Vehicle stops;
- Pedestrian stops (including officer-initiated consensual encounters);
- Calls for service;
- Code 3 responses (including vehicle pursuits) regardless of whether the vehicle is equipped with In-Car Video equipment;
- Foot pursuits;
- Searches;
- Arrests;
- Uses of force;
- In-custody transports;
- Witness and victim interviews (except as specified below);
- Crowd management and control involving enforcement or investigative contacts; and,

- Other investigative or enforcement activities where, in the officer's judgment, a video recording would assist in the investigation or prosecution of a crime or when a recording of an encounter would assist in documenting the incident for later investigation or review.

...

V. RECORDING OF THE ENTIRE CONTACT. The BWV shall continue recording until the investigative or enforcement activity involving a member of the public has ended. If enforcement or investigative activity with a member of the public resumes, the officer shall activate the BWV device and continue recording.

**When officers fail to record a required activity, they must document the reason in writing in various department reports and systems. (§VI)**

VI. DOCUMENTATION REQUIRED FOR FAILING TO ACTIVATE BODY WORN VIDEO OR RECORDING THE DURATION OF THE CONTACT. If an officer is unable or fails to activate the BWV prior to initiating an enforcement or investigative contact, fails to record the entire contact, or interrupts the recording for any reason, the officer shall set forth the reasons why a recording was not made, was delayed, was interrupted, or was terminated in the comments field of the incident in [various reports and systems].

### **Addresses Personal Privacy Concerns**

**LAPD allows (but does not require) officers to turn off their cameras when they encounter victims in sensitive circumstances, or patients in health care facilities. (§VI)**

Officers are not required to activate and record investigative or enforcement encounters with the public when:

- A witness or victim refuses to provide a statement if recorded and the encounter is non-confrontational;
- In the officer's judgment, a recording would interfere with his or her ability to conduct an investigation, or may be inappropriate, because of the victim or witness's physical condition, emotional state, age, or other sensitive circumstances (e.g., a victim of rape, incest, or other form of sexual assault);
- Situations where recording would risk the safety of a confidential informant, citizen informant, or undercover officer; or
- In patient-care areas of a hospital, rape treatment center, or other healthcare facility unless an enforcement action is taken in these areas.

**LAPD "encourages" officers to notify subjects that they are being recorded, but officers do not need to obtain consent. (§IX)**

IX. NOTICE TO MEMBERS OF THE PUBLIC OF RECORDING. Officers are encouraged to inform individuals that they are being recorded when feasible. Officers, however, are not required to obtain consent from members of the public when the officer is lawfully in the area where the recording takes place. For example, an officer who lawfully enters a business or residence shall record any enforcement or investigative activity, as set forth above, and is not required to obtain consent from members of the public who may also be present. In addition, officers are not required to play back BWV recordings to allow members of the public to review the video footage.

### **Prohibits Officer Pre-Report Viewing**

**Not only does LAPD allow officers to view recordings of incidents before filing documentation — they require it. (§§XVIII-XIX)**

XVIII. VIEWING OF BODY WORN VIDEO RECORDINGS BY OFFICERS. The accuracy of police reports, officer statements, and other official documentation is essential for the proper administration of justice and complying with the Department's obligation to maintain full and complete records of enforcement and investigative activities. Investigators, supervisors, prosecutors, and other officials rely on complete and accurate records to perform their essential duties and responsibilities. Officers are therefore required to review BWV recordings on their assigned device or authorized computer prior to documenting an incident, arrest, search, interview, use of force, or other enforcement or investigative activity to ensure that their reports, statements, and documentation are accurate and complete.

XIX. PROCEDURE FOR REVIEWING BODY WORN VIDEO RECORDINGS IN CATEGORICAL USE OF FORCE INCIDENTS. If an officer is involved in a Categorical Use of Force (CUOF), such as an officer-involved shooting, an officer shall not review his or her BWV until authorized by the assigned Force Investigation Division (FID) investigator. Once authorized, the officer shall review his or her BWV recording, and any other relevant BWV footage as deemed necessary and appropriate by the assigned FID supervisor, prior to being interviewed by investigators. An officer may have an employee representative present during the review of the BWV recordings without the FID investigator or supervisor present. The separating and monitoring of officers involved in a CUOF shall be maintained during the review of BWV recordings and a review shall not occur jointly among involved employees.

### ✘ Limits Retention of Footage

LAPD does not directly address footage retention. It only mentions that commanding officers are “responsible for . . . ensuring adherence to record retention protocols . . .” without reference to what those protocols are. (§XXVII)

XXVII. COMMANDING OFFICER’S RESPONSIBILITIES. . . . Area commanding officers are also responsible for supervising the proper maintenance and disposition of division records, ensuring adherence to record retention protocols and properly filing all BWV documents for future reference.

### ○ Protects Footage Against Tampering and Misuse

LAPD considers unauthorized use, release, modification and deletion of footage to be “serious misconduct and subject to disciplinary action.” But the policy does not indicate that access to recorded footage will be logged or audited. (§§VII-VIII; XII)

VII. CONFIDENTIAL NATURE OF RECORDINGS. . . . Unauthorized use or release of BWV recordings may compromise ongoing criminal and administrative investigations or violate the privacy rights of those recorded. Therefore, any unauthorized use or release of BWV or other violation of confidentiality laws and Department policies are considered serious misconduct and subject to disciplinary action.

VIII. PROHIBITION AGAINST MODIFICATION OF RECORDINGS. Officers shall not copy, edit, alter, erase, or otherwise modify in any manner BWV recordings except as authorized by law or Department policy. Any violation of this provision is considered serious misconduct and subject to disciplinary action. . . .

...

XII. PROPERTY OF THE DEPARTMENT. Body Worn Video equipment and all data, images, video, and metadata captured, recorded, or otherwise produced is the sole property of the Department and any unauthorized release is strictly prohibited.

### ✘ Makes Footage Available to Individuals Filing Complaints

LAPD considers footage to be confidential department records, and does not expressly allow individuals who are filing police misconduct complaints to view footage. (§VII)

VII. CONFIDENTIAL NATURE OF RECORDINGS. Body Worn Video use is limited to enforcement and investigative activities involving members of the public. The BWV recordings will capture video and audio evidence for use in criminal investigations, administrative reviews, and other proceedings protected by confidentiality laws and Department policy. Officers shall comply with all applicable laws and policies regarding confidential information . . . .

### ✘ Limits Biometric Searching of Footage

LAPD does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# Los Angeles County Sheriff's Department



- ✘ Makes the Department Policy Publicly and Readily Available
- ✘ Limits Officer Discretion on When to Record
- ✘ Addresses Personal Privacy Concerns
- ✘ Prohibits Officer Pre-Report Viewing
- ✘ Limits Retention of Footage
- ✘ Protects Footage Against Tampering and Misuse
- ✘ Makes Footage Available to Individuals Filing Complaints
- ✘ Limits Biometric Searching of Footage
- 💰 Received a [\\$999,600 DOJ grant](#) for BWCs in 2016

*Last updated: October 30, 2017. Is there a new version of this policy? [Let us know.](#)*

## ✘ **Makes the Department Policy Publicly and Readily Available**

Los Angeles County Sheriff's Department (LASD) does not publish its BWC policy on its website. However, a version of its [policy](#) was found on the Bureau of Justice Assistance's Body Worn Camera Toolkit. This policy was last revised September 27, 2012.

[According to local news outlets](#), about 2,000 LASD deputies have bought BWCs for themselves, but the department itself continues to lack an updated, official BWC policy.

## ✘ **Limits Officer Discretion on When to Record**

LASD officers are only encouraged to make "reasonable attempts" to record "significant incidents." (Recording Incidents with a Portable Video Camera)

Reasonable attempts should be made to record significant incidents with a portable video camera including, but not limited to, the following:

- Inmate disturbances,
- Cell extractions,
- Recalcitrant inmates,
- Application of restraints,
- Medical removals which pose a significant risk or have the potential to become violent,
- Use of force by Department personnel,
- Housing area or facility searches,
- Any incident/event which may pose risk management and/or liability issues,
- All Emergency Response Team (ERT) activations, except for training exercises.



Officers are encouraged to record until “the entire incident has been brought to completion.” (Recording Incidents with a Portable Video Camera)

Generally, once recording on video has begun, it should not be paused or stopped until the entire incident has been brought to completion in order to establish a time line for the incident.

The policy does not require officers to provide concrete justification for failing to record events, except when the camera is deactivated because of “a battery, tape, or memory storage device change.” (Recording Incidents with a Portable Video Camera)

If a battery, tape, or memory storage device change becomes necessary, the video operator shall re-introduce his/her name, rank, employee number, time and state the reason for the interruption.

#### ✘ **Addresses Personal Privacy Concerns**

The policy does not address personal privacy concerns and actually encourages recording in sensitive medical situations (Recording Incidents with a Portable Video Camera)

The video tape or memory storage device should include documenting injuries, evidence, emergency medical treatment, and statements by all concerned parties.

In the case of emergency medical treatment, recording on video should generally continue after medical staff arrives and during the course of medical treatment, until the inmate is completely stable, no longer resisting, and the medical staff has completed their tasks. Outside medical personnel, rendering aid while inside a County jail facility, shall also be recorded on video until they leave the facility.

#### ✘ **Prohibits Officer Pre-Report Viewing**

LASD does not address, and thus does not prohibit, officer review of footage before filing their initial reports.

#### ✘ **Limits Retention of Footage**

LASD specifies a minimum retention period of 25 months and does not appear to require footage deletion. (Retention of Recordings, Unit Commander Responsibilities)

Incidents not associated with an URN or Reference Number, recorded on video, shall be held at the discretion of the watch commander, but no less than 25 months.

...  
The unit commander shall designate a supervisor to be the Video Manager, who is responsible for ensuring video equipment and storage is properly maintained, regular tests are being completed, and proper video evidence retention procedures are in place.

#### ✘ **Protects Footage Against Tampering and Misuse**

The policy does not expressly prohibit footage tampering. However, the policy does indicate that server rooms “shall not be accessed by unit personnel.” (Fixed Video Equipment Inspection)

Data Systems Bureau (DSB) is responsible for establishing protocols governing the security and remote monitoring of server rooms at each facility. The rooms shall remain locked and shall not be accessed by unit personnel, except in case of emergency, or at the immediate direction of DSB.

The policy does not expressly prohibit footage tampering nor does it indicate that access to recorded footage will be logged or audited.

**✘ Makes Footage Available to Individuals Filing Complaints**

The policy does not expressly allow individuals who are filing police misconduct complaints to view relevant footage.

**✘ Limits Biometric Searching of Footage**

LASD does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# Memphis Police Department



- 
- ✗ Makes the Department Policy Publicly and Readily Available
  - ✓ Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
  - Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage

*Last updated: October 4, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✗ **Makes the Department Policy Publicly and Readily Available**

Memphis PD does not publish its BWC policy on its website. However, a [recent policy](#) was published by local news station WREG. The policy is dated September 23, 2015.

## ✓ **Limits Officer Discretion on When to Record**

Memphis PD requires officers to record a wide range of on-duty activities. (§IV.C.4)

4. Officers shall activate their BWC when responding to all calls for service immediately after a call has been acknowledged and during all law enforcement-related encounters and activities that occur while the officer is on duty. There are many situations where the activation of the BWC is appropriate and this policy is not intended to describe every possible circumstance. The following scenarios require activation of the BWC:
  - a) All dispatched calls for service;
  - b) All vehicle stops (to include, but not limited to traffic violations, stranded motorist assistance and all crime interdiction stops;
  - c) DUI investigations including field sobriety tests;
  - d) Suspicious vehicles;
  - e) Person stops: consensual, reasonable suspicion, or probable cause;
  - f) Use of force situations;
  - g) Detentions/Arrests and transport;
  - h) Search of persons incident to arrest;
  - i) High-risk encounters (e.g., barricade situations, active shooter situations);
  - j) Tactical Activities;
  - k) Search warrants of structures and buildings;
  - l) Foot pursuits;

- m) All calls requiring the presence of a Crisis Intervention Team (CIT) officer;
- n) K9 searches requested by a patrol officer;
- o) During the inventorying of seized money or any high value property;
- p) Any citizen contact that becomes confrontational when BWC had not already been activated;
- q) Any citizen transport to any location (including Signal 5).
- r) BWCs shall be used during all work details.

Prior to each camera deactivation, officers must state the reason for termination of the recording. Officers must also document any failures to record in their report. (§§IV.C.6-9; IV.E)

- 6. The BWC shall remain activated until the event has concluded in order to ensure the integrity of the recording. For the purpose of this section, conclusion of an incident has occurred when an officer has terminated contact with an individual, cleared the scene of a reported incident, has completed transport of a civilian or an arrestee, or when the officer is told by a member of [Inspectional Services Bureau] (this should also be recorded). Officers will document the reason that the BWC has been deactivated in the form of a recorded announcement on the BWC prior to deactivation.
  - 7. In any instance in which cessation of the recording prior to the conclusion of the incident may be permitted, the officer must seek and obtain supervisory approval prior to deactivating the BWC. If supervisory approval cannot be reasonably obtained, officers must document on the BWC the reason for termination of the recording prior to deactivation of the BWC.
  - 8. Officers shall provide the dispatcher a disposition, get in service, or in the case of an arrest, have transferred custody of the arrestee before ending a recording.
  - 9. It is recommended that officers record any pedestrian contacts and other events when the recording could have value such as evidence, to limit liability, to resolve citizen complaints or as a training tool.
- IV.E. . . . If an officer fails to activate the BWC, fails to record the entire contact, or interrupts the recording, the officer shall document in the related offense report or memo as to why a recording was not made, was interrupted, or was terminated.

### ○ Addresses Personal Privacy Concerns

Memphis PD advises officers to avoid recording victims and witnesses in sensitive situations and locations. (§§IV.C.10; V.C)

- IV.C.10. When recording victims and witnesses in sensitive situations such as sexual assault cases, in hospitals or other medical or psychiatric facilities, officers shall be careful to avoid, when possible, recording persons in states of undress.  
...
- V.C. The BWC will not be activated in places where a reasonable expectation of privacy exists, such as locker rooms or restrooms, unless the activation is for the purpose of official law enforcement activity such as a call for service. When possible, every precaution shall be taken to respect the dignity of the victim by avoiding recording videos of persons who are nude or when sensitive areas are exposed. If this is unavoidable, the video can later be blurred.

But while officers must inform subjects that they are being recorded, the policy does not expressly allow subjects to opt out of recording. (§IV.C.5)

- 5. Unless unsafe, impractical or impossible officers shall inform contact subjects that they are being recorded at the beginning of the contact (e.g. "Ma'am/Sir, I am advising you that our interaction is being recorded.")

### ⊗ Prohibits Officer Pre-Report Viewing

Memphis PD permits officers to review footage when completing their written reports. (§IV.F)

F. Officers are authorized to review their own BWC when preparing official written documentation of a specific event. Officers may only review recordings from their assigned BWC. The viewing will be utilized as a tool when completing written reports to ensure the accuracy and consistency of events. . . .

#### **Limits Retention of Footage**

The policy does not require Memphis PD to delete unflagged footage.

#### **Protects Footage Against Tampering and Misuse**

Memphis PD expressly prohibits footage tampering and unauthorized access, but does not indicate that access to recorded footage will be logged or audited. (§§5.E-H)

E. Officers shall not remove, dismantle, or tamper with any hardware or software component or part associated with the MVS [mobile video system].

F. Officers shall not destroy, erase, disseminate, edit, alter, tamper, or otherwise use MVS recordings without the written permission of the Director of Police Services.

G. Recordings may not be copied, recorded or shared except for official law enforcement purposes.

H. Recordings shall not be downloaded or converted for personal use or posted to any social media sites.

#### **Makes Footage Available to Individuals Filing Complaints**

Memphis PD does not expressly allow individuals who are filing police misconduct complaints to view footage.

#### **Limits Biometric Searching of Footage**

Memphis PD does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# Mesa Police Department



- 
- ✗ Makes the Department Policy Publicly and Readily Available
  - ✓ Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
  - Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage

*Last updated: October 4, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✗ **Makes the Department Policy Publicly and Readily Available**

Mesa PD does not publish its BWC policy on its website. However, in August 2016, a department representative e-mailed us a copy of the latest policy, titled "DPM 3.4.35 On-Officer Body Camera Program" and made effective June 7, 2016.

## ✓ **Limits Officer Discretion on When to Record**

Mesa PD requires officers to activate their cameras "when responding to a call or have any contact with the public." (§3/Operational Guidelines; §3/Use Guidelines)

### Operational Guidelines

...

- Officers will make every effort to place the On-Officer Body Camera in the Event Mode as soon as practical during law enforcement activities.

...

### Use Guidelines

#### Activation:

- Officers will activate the On-Officer Body Camera when responding to a call or have any contact with the public. This includes, but is not limited to the following events:
  - All calls for service.
  - Code 3 Driving, Failure to Yield incidents and Vehicle Pursuits. o Traffic stops and citizen contacts.
  - Impaired driver investigations.
  - Accident scenes.
  - Transportation of any prisoner(s) or citizens for any reason.

- Any time an officer deems it is appropriate to record.
- All searches (Persons, Vehicles, Structures, etc.)
- Statements made by subjects, victims, and witnesses.
- Advising an individual of his/her Miranda Rights.
- During interrogations.
- Other official law enforcement activity.
- Once activated, officers will continue to record until the completion of the event, except for instances outlined in the order.
- ...
- Additional arriving units to a scene assigned an On-Officer Body Camera will begin recording as soon as practical, and continue to record until the completion of the event, or they have left the scene (this includes recording of statements).

Officers are required to provide justifications whenever they failed to record, or when recordings are interrupted. (§3/Use Guidelines)

- Officers will document the reasons for any non-activations or interruptions in recordings prior to the completion of an event in CAD or RMS.

### ○ Addresses Personal Privacy Concerns

Mesa PD prohibits officers from recording in places where “a reasonable expectation of privacy exists.” (§3/Restrictions)

#### Restrictions

...

- The On-Officer Body Camera will not be activated in places where a reasonable expectation of privacy exists, such as dressing rooms or restrooms.
- Officers shall only record a juvenile “during or as part of a law enforcement investigation” as prescribed in the Parents Bill of Rights outlined in ARS 1- 602(9).

The policy gives officers discretion (but does not require them) to discontinue recording when a victim requests it. (§3/Use Guidelines)

#### Use Guidelines

##### Activation:

...

- Consideration may be given when a victim requests not to be recorded. The request to stop recording an event should be recorded.
  - Contact an on-duty supervisor for resolution, if needed.

### ⊗ Prohibits Officer Pre-Report Viewing

Mesa PD allows its officers to view footage “to assist” in completing their written reports. Even in officer-involved shooting (OIS) incidents and Internal Affairs investigations, officers may review footage before giving a statement. (§3/Review; §4/Documenting & Reporting)

#### Review:

- Officers may use media captured via the On-Officer Body Camera to assist with the investigation and completion of reports.
- Officers involved in an OIS incident (involved and witness officers) may review media captured from an On-Officer Body camera; however, officers shall not review media until approved by the Homicide Unit Sergeant or designee. Officers will be provided an opportunity to review the media, if they choose, prior to making any statements in accordance with **DPM 2.1.10 Police Incidents Involving Death/Serious**

**Injury**, unless otherwise decided by the Chief of Police (COP) or designee or unless it hinders the investigation.

- Officers may review media captured from an On-Officer Body Camera before making any statements in an Internal Affairs investigation unless otherwise decided by the Chief of Police (COP) or designee or unless it hinders the internal investigation.

...

#### **Documentation & Reporting**

##### **General Guidelines:**

- On-Officer Body Camera recordings are intended to supplement Department Reports (DRs). Submitted reports are still required to capture the totality of the event.
- When the On-Officer Body Camera is used in any investigation or during a police contact:
  - Its use will be documented on any citation and/or report prepared regarding the contact.
  - The primary officer (whether assigned a camera or not) will document the presence of the camera anytime a Department Report (DR#) is generated from that contact (Incident or Accident Report).

##### **Primary Officer (Non-Axon and Axon Users):**

- When preparing an RMS Incident Report, Supplemental Report, Accident Report, Civil Process Report, Citation Report, or Field Interview (FI) Card, in connection with an investigation or police event, the following details of the On-Officer Body Camera recording should be included in that report/contact card.
- Check "On-Body Camera" in the RMS module. Indicate that an On-Officer Body Camera recording was made in first line of the narrative, and include:
  - The date and time of the recording.
  - The person(s) recorded.
  - The reason for the recording. (i.e.: traffic stop, criminal investigation, field contact, etc.).

### **✘ Limits Retention of Footage**

Mesa PD does not appear to require the deletion of unflagged footage. (§4/Storage/ Evidentiary Guidelines; §4/Retention & Public Release)

#### **Storage/ Evidentiary Guidelines**

...

- All other On-Officer Body Camera data of non-evidentiary value will be:
  - Tagged in [www.Evidence.com](http://www.Evidence.com) by the Axon User with the applicable category type.
  - Disposed of in accordance with **DPM 3.4.15 Evidentiary Recordings**.

...

#### **Retention & Public Release**

...

- Retention of evidentiary On-Officer Body Camera recordings will be handled in accordance with **DPM 3.4.15 Evidentiary Recordings**.

However, the referenced policy [DPM 3.4.15 Evidentiary Recordings](#) provides a circular reference back to the BWC policy.

#### **On-Officer Body Camera Recordings**

For evidentiary recordings captured on an on-officer body camera, refer to **DPM 3.4.35 On-Officer Body Camera Program** for operational guidelines, evidentiary submission and retention protocols.

### **○ Protects Footage Against Tampering and Misuse**

Mesa PD prohibits both footage tampering and unauthorized access. (§3/Restrictions; §4/Storage/ Evidentiary Guidelines)



**Restrictions**

...

- Accessing, copying, posting or releasing on-officer body camera recordings for other than official law enforcement purposes are prohibited and subject to discipline.

...

- Officers shall not make copies of any On-Officer Body Camera recording for their personal use.

...

**Storage/ Evidentiary Guidelines**

...

- Do not erase, alter or tamper with any camera or collected data.

The policy mentions audits of recordings, but not audits of access to recordings. (§4/Inspection and Audit)

**Inspection and Audit**

- Supervisors will conduct random reviews of On-Officer Body Camera recordings to ensure camera is functioning properly and use is consistent with Department policy. . . .

**✘ Makes Footage Available to Individuals Filing Complaints**

Mesa PD does not expressly allow individuals alleging police misconduct to view relevant footage. Access to footage appears to be guided only by Arizona's public records law. (§3/Restrictions; §4/Retention & Public Release)

**Restrictions**

...

- Recording copies can be requested through public records request as outlined in **DPM 3.3.70 Public Records Request**.

**Retention & Public Release**

...

- The release of information requested through a public records request will be subject to the same statutory exemptions from disclosure as any other departmental records.
- Prior to releasing any On-Officer Body Camera recordings, officers and affected members will ensure proper redaction is completed.

The referenced policy [DPM 3.3.70 Public Records Request](#) also does not address complainant access.

**✘ Limits Biometric Searching of Footage**

Mesa PD does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# Miami Police Department



- 
- ✓ Makes the Department Policy Publicly and Readily Available
  - Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
  - ✗ Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage
  - 💰 Received a [\\$960,000 DOJ grant](#) for BWCs in 2016

*Last updated: October 5, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✓ Makes the Department Policy Publicly and Readily Available

The Miami Police Department publishes the latest BWC policy on its website, and maintains a dedicated page on its website about the department's BWC program which is [linked](#) from the homepage. The policy is undated, but document metadata suggests it was last modified on July 27, 2017.

## ○ Limits Officer Discretion on When to Record

MPD's policy clearly describes the type of incidents during which BWCs should be activated. (§§6.3; 6.4.2.2)

**6.3 RESPONSIBILITIES:** Any officers utilizing BWC equipment shall ensure the device is in working order prior to starting their tour of duty and shall activate the BWC at all times when they become involved in enforcement action, or engaged in any self-initiated interactions with citizens...

### **6.4.2.2 Use of and Recording with the BWC: (CALEA 41.3.8 b)**

...

c) The Department recognizes that officer safety is paramount. Officers with a BWC who arrive on a scene or engage in an enforcement contact must start recording as soon as it is safe and practical to do so. If multiple officers are on scene with a BWC, all officers with a BWC will record.

d) Officers with a BWC shall activate their BWC for all investigative or enforcement contacts including, but not limited to:

1. Responding to calls for service in an emergency mode
2. All vehicle pursuits, or foot pursuits

3. All traffic stops including the investigation of a vehicle and vehicle occupants
4. All searches including, but not limited to, people, vehicle, and buildings
5. All requests for a consent to search without a warrant, including searches of persons, buildings, or vehicles
6. All requests for searches and deployments of drug detection canines involving vehicles, when practical
7. All arrests and/or citations
8. Statements from victims/witnesses
9. Any incident upon the direction of a supervisor, at the request of another police officer, or anytime the officers deems it appropriate to activate the body camera
10. Officers shall only use the Department issued BWC equipment to record official Departmental activities
11. Any other legitimate law enforcement contacts

Officers responding to these types of incidents shall activate the BWC equipment prior to exiting their vehicle.

- e) Officers assigned a BWC and with a prisoner in an MPD prisoner process area will record until either the detention officer releases the officer or the prisoner is put into a cell.
- f) Recording at the Miami Dade Corrections facilities will cease upon entry to the facility unless approved by Miami Dade Corrections staff.

While the policy clearly states that BWC recordings must continue until the completion of an event and requires officers to provide concrete justification for deactivating during required events, the policy does not appear to require concrete justification for failure to record an event. (§§6.4.2.2.g; 6.4.3.1.d)

...

...

- g) Once a BWC is recording, officers must continue to record until either the completion of the event or until they leave the scene and their involvement in the event ceases.

#### 6.4.3. EXCEPTIONS TO RECORDING

...

- d) Officers shall make a verbal notation on the recording anytime he or she intentionally stops a recording prior to the completion of an event or incident. The verbal notation must include the reason why the officer is stopping the recording. Officers shall note on their worksheet the number of videos associated with each case due to the stops and restarts during a call....

### ○ Addresses Personal Privacy Concerns

MPD's policy offers vague guidance on personal privacy concerns. (§6.4.3.2)

**6.4.3.2 PROHIBITED RECORDINGS:** In keeping with the Department's core values of respect and integrity, officers assigned a BWC will adhere to the following guidelines:

1. BWCs will not be activated in a place where a reasonable expectation of privacy exists, such as dressing rooms, locker rooms and restrooms unless while handling a legitimate call in one of these locations. BWCs shall not be used to record a stop search or a body cavity search conducted in accordance with Florida Statutes 901.211.

...

However, the policy does not protect victims from being recorded without informed consent. (§6.4.2.2.h,k)

- h) While not required by policy or state law, officers assigned a BWC may find it valuable to inform other parties that they are being recorded. This has proven to be influential in garnering cooperation of subjects and has been shown to reduce incidents of use of force.
- k) Officers will activate or deactivate the BWC pursuant to this Department Order and not upon the request of a citizen.

### ✗ Prohibits Officer Pre-Report Viewing

MPD's policy allows officers to view relevant footage before filing an initial written report or statement, including in critical incidents. (§§6.4.4; 6.4.7.2.b)

#### 6.4.4 CRITICAL INCIDENT PROTOCOL:

**6.4.4.1** A critical incident for the purposes of this departmental order is any police action or activity that directly or indirectly results in serious bodily injury or death to an officer and/or a citizen.

**6.4.4.2** In the event of a critical incident, officers assigned a BWC is refrained from viewing the recorded data until the investigative entity responsible for the investigation arrives on scene. This section does not prohibit officers in critical incidents with ongoing exigency from viewing BWC recordings that may aid the present investigation (e.g., suspect descriptions, suspect vehicles, direction of travel). (CALEA 41.3.8 c)

**6.4.4.3** If there are BWCs in use during a critical incident, a police supervisor or an investigator assigned to the Internal Affairs Section and not involved in the actual critical incident will immediately take physical custody of any BWC's that may have captured the incident. The investigator will contact the Virtual Policing Unit to have an officer respond and facilitate with the video uploaded from the BWC into the evidence management system (EMS) without delay and provide copies as authorized.

**6.4.4.4** Officers will be able to review video before giving any statements. (CALEA 41.3.8 c)

#### 6.4.7 DEPARTMENT REVIEW/TRAINING

...

b) By a police officer viewing their individually assigned recordings to assist with writing a report, supplement, citation, memorandum or court case preparation.

### ✘ Limits Retention of Footage

MPD requires that the department all digital media for a minimum of 90 days, but does not appear to require the deletion of footage (§6.4.8.1)

**6.4.8.1** All digital media that is captured with a BWC is the property of and will be retained by the Miami Police Department for a minimum of 90 days following the date it is recorded. Captured video may be retained for longer periods in the event the video is the subject of a litigation hold, a criminal case, part of discovery, etc. (CALEA 41.3.8. d)

The stated retention period for uncategorized footage is 180 days, but again the policy does to appear to require footage deletion at the end of the retention period. (§6.4.5.1.c.1.a)

The following recording categories are to be used

Categories	Retention Duration
1 Uncategorized	180 Days

...

### ✘ Protects Footage Against Tampering and Misuse

MPD prohibits officers from unauthorized access, copying and deletion of information from body worn cameras, but does not prohibit footage tampering. (§6.4.8.2)

**6.4.8.2** Unauthorized accessing, copying, or releasing captured video without the approval of the Chief of Police or his/her designee is strictly prohibited. Officers are prohibited from making copies of a BWC audio/video recording by using another recording device such as a cell phone.

The policy does not appear to indicate that access to footage is logged, but does require "BWC performance and usage" to be audited regularly. (§6.5.2)

**6.5.2 AUDITS** The Virtual Policing Unit and supervisors will be responsible for conducting at a minimum one audit a month to verify BWC performance and usage.

✘ **Makes Footage Available to Individuals Filing Complaints**

The policy relies on Florida's Public Records law for footage access and does not expressly allow individuals who are filing police misconduct complaints to view relevant footage. (§6.4.8.4-5)

6.4.8.4 Officers will not allow citizens to review video captured by a BWC unless there is an investigative reason to do so and such viewing has been approved by a supervisor. Officers shall advise citizens that they may request a copy of the recording through the public records process.

6.4.8.5 The release of video requested through a public records request will be handled in accordance with existing policy. The City of Miami Police Department will follow the Public Records Law Chapter 119. Reproduction fees for duplication of recordings will be established by the City of Miami Records Unit.

✘ **Limits Biometric Searching of Footage**

The policy does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# Miami-Dade Police Department



- 
- ✓ Makes the Department Policy Publicly and Readily Available
  - Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
  - Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage
  - 💰 Received a [\\$1,000,000 DOJ grant](#) for BWCs in 2015

*Last updated: October 4, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✓ **Makes the Department Policy Publicly and Readily Available**

MDPD publishes its most recently publically available BWC policy on its [website under a section dedicated to BWCs](#). The [latest available version](#) was issued on April 20, 2016. The BWC policy is under the MDPD's Departmental Manual at CHAPTER 33 – PART 1 – BODY-WORN CAMERA SYSTEM.

## ○ **Limits Officer Discretion on When to Record**

MDPD requires officers to "make every effort" to record every encounter where "a law enforcement officer, acting in an official capacity, comes into contact with the general public." (§§V.E; V.H)

E. Officers will make every effort to places the BWC in the "Record Mode" as soon as practicable when involved in an official law enforcement matter.

...

H. Official Law Enforcement Matter: An encounter where a law enforcement officer, acting in an official capacity, comes in contact with the general public. These contacts include response to calls for service, traffic enforcement, and self-initiated enforcement activities. Although every encounter that may result in an official law enforcement matter cannot be identified in advance, officers are to use their training and experience when determining what may turn into an official law enforcement matter.

MDPD's policy later states that officers "should activate" their Body Worn Cameras prior to "engaging in any official law enforcement matter" which it goes on to list. (§VII.B)

Officers should activate the BWC prior to exiting their assigned vehicles, or as soon as practicable, when responding to a call for service or prior to engaging in any official law enforcement matter, as defined in Section V. (H) and as indicated below:

1. Traffic stops.
2. Citizen contacts related to official law enforcement matters.
3. Impaired driver investigations.
4. Vehicle pursuits/foot pursuits.
5. All calls-for-service.
6. Transportation of any prisoner(s) or citizen(s) for any reason.
7. All searches (persons, vehicles, structures, etc.)
8. Arrest situations.
9. Other legitimate law enforcement contacts when the officer believes it is in the best interest of the Department and the community.

Officers are expected to continue their recording until the "conclusion of the event." (§VII.C)

Once the BWC is turned on, officers will continue to record until the conclusion of the event.

When officers fail to record, officers must justify the failure in writing and notify their supervisor. (§VI.E)

... Officers who fail to activate the BWC when involved in an official law enforcement matter are required to immediately notify their supervisor and explain the reason for the non-activation. Additionally, the officer will document the incident and reason for non-activation via memorandum to the element commander by the end of the officer's shift, copy to the Professional Compliance Bureau.

## ○ Addresses Personal Privacy Concerns

MDPD allows victims to opt out of recording if they are "in locations where [they] have a reasonable expectation of privacy," but only at the officer's discretion. The policy does not explicitly require informed consent of vulnerable individuals to record. (§VII.H)

In locations where victims have a reasonable expectation of privacy, such as a residence, hospital, or place of worship, an officer may honor a victim's request to turn off the BWC unless the recording is being made pursuant to an arrest or search of the residence or the individuals. Supervisory notification must be made at the conclusion of the event when a request is honored.

In situations not involving victims, MDPD officers are not required to notify or obtain consent from subjects. (§VII.DI)

Officers are not required to obtain consent from individuals to video/audio record. Officers are not required to inform individuals that they are being recorded. If, however, the officer determines that informing an individual may de-escalate a situation, or if asked whether a BWC is being utilized, the officer should disclose that he/she is recording.

Officers can choose to turn off their BWC when dealing with individuals experiencing "matters of a personal nature," but these matters are not defined. (§VII.I)

Officers should balance the need to capture data of non-evidentiary value with the dignity of individuals who may be experiencing matters of a personal nature, and may turn off their BWC as deemed appropriate. Supervisory notification must be made at the conclusion of the event.

Miami-Dade PD also has no policy that requires officers to inform subjects that the camera is recording.

### ✘ Prohibits Officer Pre-Report Viewing

MDPD allows officers to view relevant footage while completing their reports. (§§VII.F; X.C)

VII.F. Officers, supervisors, and investigators may use data captured via the BWC system to assist with the investigation and/or completion of appropriate reports.  
X.C. . . .With supervisory approval, BWC users may view recordings by others to assist with the investigations and the preparation of reports.

In “critical incidents” the policy provides additional guidance about maintaining the integrity of footage immediately following the event, but does not explicitly prohibit officers from reviewing footage before writing a report or making a statement. (§X.I)

A. During the course of a shift, officers equipped with BWC systems may encounter situations where critical incidents or special circumstances are captured on video. Those situations require an immediate response from investigative units and include, but are not limited to, the following:

1. Contact police shootings.
2. Non-contact police shootings.
3. In-custody deaths.
4. Officer involved traffic crashes with fatalities or serious injuries.
5. On-scene complaints of excessive force.
6. Officer suffers serious injury or death in the line of duty.

B. During these circumstances, officers equipped with BWC systems that captured the incident will stop recording by powering down the device at the conclusion of the event. The BWC system will remain affixed to the officer(s) in the same position as it was affixed throughout the event, and shall not be handled in any fashion unless emergency medical attention is necessary, requiring that the device be removed. The lead investigator from the investigative unit or agency will retrieve the BWC device from the officer(s) and process it according to agency standards for handling evidence. In addition, the lead investigator or designee will also coordinate the response of a CSISS supervisor. Who will be responsible for the recovery and storage of all data evidence captured on the device.

### ✘ Limits Retention of Footage

The policy does not expressly require that unflagged footage be deleted. It requires that unflagged footage be retained for a minimum of 90 days. (§XIII.D)

Non-evidentiary data shall be retained for at least 90 days, or as long as needed for administrative investigations or litigation.

MDPD’s policy requires a minimum retention period for evidentiary data, but does not mandate a maximum period of retention. (§Addendum. 1-11)

Retention Periods by Category:

1. Traffic stops – 6 months
2. Citizen contacts related to official law enforcement matter – 90 days.
3. Impaired driver investigations – 3 years.
4. Vehicle pursuits/foot pursuits – 1 year unless arrest, then the arrest retention applies.
5. All Calls-for-Service – 90 days.
6. Transportation of any prisoner(s) or citizen(s) for any reason – 6 months.
7. All searches (persons, vehicles, structures, etc.) – 90 days unless arrest, then the arrest retention applies.
8. Felony Arrests – 5 years or until final disposition of case, whichever is later.
9. Misdemeanor Arrests – 3 years or until final disposition of case, whichever is later.
10. Other legitimate law enforcement contacts when the officer believes it is in the best interest of the Department and the community – until manually deleted.



11. Does not meet above criteria – 90 days.

The policy further states that all data will be retained according to state retention schedules, which can be found in the General Records Schedule GS2 For Law Enforcement, Correctional Facilities, and District Medical Examiners. However, the schedule does not address footage from body worn cameras. (Florida Administrative Code R. 1B-24.003(1)(b))

#### **Protects Footage Against Tampering and Misuse**

MDPD expressly forbids footage tampering and unauthorized access. Employees are forbidden from “access[ing], review[ing], [or] copy[ing]” any footage from body worn cameras. (§VIII.E-I)

- E. Employees will not access, review, copy, or facilitate the release of any recording obtained via the BWC, other than for official law enforcement purposes.
- F. Employees will not make copies of any recordings for personal use and are prohibited from using any recording device (such as a phone, camera, or secondary video camera) to record any data captured by the BWC system.
- G. Employees will not use any other electronic devices or other means in order to intentionally interfere with the capability of the BWC system.
- H. Employees will not post BWC footage to ANY social media site, without prior written approval from the Department Director or his designee.
- I. Employees shall not erase, alter, modify or tamper with any recorded data. Only the authorized system administrator in the VFU may erase, redact, forward, or distribute any recording.

While the policy states that the footage is regularly audited by its secure “cloud based solution” the policy does not expressly state that access to recorded footage will be logged. (§X.B)

BWC recordings and data are kept in a closed, cloud based solution which is regularly managed and audited. These features ensure the integrity of the data uploaded to the cloud. The CSISS will maintain custody of this cloud based system.

#### **Makes Footage Available to Individuals Filing Complaints**

MDPD relies on existing public records law to make footage available and only allows dissemination for “official purposes.” (§VII.K)

BWC data may only be disseminated for official purposes or as otherwise permitted by applicable law.

MDPD does not expressly allow recorded individuals to view footage when filing complaints. If citizens want to review the footage, the supervisor will “explain the procedure” necessary to obtain a copy of the footage, which it does not further spell out. (§VIII.C)

Officers will not allow citizens to review recordings on the scene. A supervisor shall be notified if a citizen insists on viewing the recording on the scene. The supervisor will explain the procedure to obtain or view a copy of the footage.

MDPD states that video will be considered in the public record and that the department it complies with the “applicable law[s]” and will release BWC data in accordance with these laws. (§§XIII.A-B)

- A. BWC data captured as part of a Department member’s duties shall be property of the MDPD and be considered an official public record of the Department.

B. The release of BWC data through a public records request or legal authority shall be governed by applicable law.

 **Limits Biometric Searching of Footage**

Miami-Dade PD does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# Milwaukee Police Department



- 
- ✓ Makes the Department Policy Publicly and Readily Available
  - Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
  - ✗ Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage

*Last updated: October 4, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✓ **Makes the Department Policy Publicly and Readily Available**

Milwaukee PD publishes its most recent publicly available [BWC policy](#) on its website as part of its [Standard Operating Procedures](#). The policy is SOP 747, effective July 15, 2016.

## ○ **Limits Officer Discretion on When to Record**

Milwaukee PD requires officers to record "all investigative or enforcement contacts" through the completion of the event. (§§747.25.C.2.d, g)

d. Members with a BWC shall make every effort to activate their BWC for all investigative or enforcement contacts including, but not limited to:

1. Vehicle stops
2. Impaired driver investigations
3. Field interviews and pedestrian stops
4. Transporting citizens or prisoners
5. Searches of persons or property
6. Dispatched calls for service
7. Crime scenes
8. Crash scenes (may be turned off if member is waiting on a tow truck and no additional enforcement activity is likely)
9. Advising a subject of Miranda warnings (in the field or without MediaSolv)
10. Suspect/witness statements and interviews
11. Vehicle and foot pursuits
12. Emergency response to critical incidents

...

- g. Once a BWC is recording, members must continue to record until either the completion of the event or until they leave the scene and their involvement in the event ceases.

Before prematurely stopping a recording, officers must record a justification on camera before turning it off. (§§747.25.D.3)

- 3. Members shall make a verbal notation on the recording any time he or she plans to intentionally stop a recording prior to the completion of an event or incident. The verbal notation must include the reason why the member is stopping the recording.

However, when officers fail to record a required incident, there is no requirement to provide a concrete justification.

### ○ Addresses Personal Privacy Concerns

Milwaukee PD prohibits officers from recording “in a places where a reasonable expectation of privacy exists.” But in other sensitive situations, including those that involve nude individuals or victims of sexual assault, Milwaukee PD gives officers full discretion over whether to record. (§747.25.D.1; §§747.25.E1-2)

#### D. EXCEPTIONS TO RECORDING

- 1. Police members have discretion in whether or not to record potentially sensitive events or circumstances (e.g., victims of a sexual assault, child victim statements / interviews, nude persons who are not the target of enforcement action, or a citizen victim/witness who requests they not be recorded while giving a statement, or where otherwise authorized in this policy).

...

#### E. PROHIBITED RECORDINGS

In keeping with the department’s core values of respect and integrity, members assigned a BWC will adhere to the following guidelines:

- 1. BWC’s will not be activated in a place where a reasonable expectation of privacy exists, such as dressing rooms, locker rooms and restrooms . . .
- 2. BWC’s shall not be used to record a body cavity search, which are only allowed to occur in a hospital or medical setting. BWC’s will be used to record searches done by officers in the field (e.g., pat-downs, vehicle searches).

Milwaukee PD suggests — but stops short of requiring — that officers inform subjects that they are being recorded. The policy does not expressly allow subjects to opt out of recording. (§747.25.C.2.h)

- h. While not required by policy or state law, members assigned a BWC may find it valuable to inform other parties that they are being recorded. This has proven to be influential in garnering cooperation of subjects and has been shown to reduce incidents of use of force.

### ✗ Prohibits Officer Pre-Report Viewing

Milwaukee PD allows officers to review footage when writing their reports. (§747.25.I.1.b)

- 1. . . . Recordings may be reviewed:

...

- b. By a police member viewing their individually assigned recordings to assist with writing a report, supplement, citation, memorandum or court case preparation.

In “critical incidents” (action resulting in great bodily harm or death) officers are not allowed to view recordings until investigators arrive, but are not prohibited from viewing footage prior to making a statement or writing a report. (§747.25.F.2)

2. In the event of a critical incident, members assigned a body worn camera will refrain from viewing the recorded data until the investigative entity responsible for the investigation arrives on the scene.

### ✘ **Limits Retention of Footage**

Milwaukee PD specifies various “recording management categories” and the minimum retention durations for each category. Unflagged footage is to be preserved for 130 days, but it is not clear whether this is a minimum or maximum period. (§747.25.G.2)

#### 2. Recording Management Categories

a. The following recording categories are to be used.

...

##### 2. Incident - No Official Police Action Taken / Call Advised

- a. All video files that have contact with the public having no immediate evidentiary value at the time of recording will be saved in this category.
- b. Any file not tagged into another category by a member will be placed into this category.
- c. Files retained in this category will be preserved for 130 days from the date of recording.

### ✘ **Protects Footage Against Tampering and Misuse**

Milwaukee PD prohibits unauthorized access to footage, but does not expressly prohibit officers from modifying, deleting, or otherwise tampering with footage. The policy also does not indicate that access to recorded footage will be logged or audited. (§747.25.J.2)

2. Unauthorized accessing, copying, or releasing captured video without the approval of the Chief of Police or his/her designee is strictly prohibited. Members are prohibited from making copies of a BWC audio/video recording by using another recording device such as a cell phone.

### ✘ **Makes Footage Available to Individuals Filing Complaints**

Milwaukee PD relies on existing public records law to make footage available, and does not expressly allow individuals who are filing police misconduct complaints to view footage. (§§747.25.J.4-6)

4. Members will not allow citizens to review video captured by a BWC unless there is an investigative reason to do so and such viewing has been approved by a supervisor. Members shall advise citizens that they may request a copy of the recording through the public records process.
5. The release of video requested through a public records request will be handled in accordance with existing policy and public records laws. Reproduction fees for duplication of recordings will be established by the City of Milwaukee. . . .
6. Prior to the release of any BWC recording to the public, Open Records will ensure that proper redactions have been made in accordance with state law.

### ✘ **Limits Biometric Searching of Footage**

Milwaukee PD does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# Minneapolis Police Department



- ✓ Makes the Department Policy Publicly and Readily Available
- ✓ Limits Officer Discretion on When to Record
- Addresses Personal Privacy Concerns
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- ✗ Limits Retention of Footage
- ✓ Protects Footage Against Tampering and Misuse
- ✗ Makes Footage Available to Individuals Filing Complaints
- ✗ Limits Biometric Searching of Footage
- 💰 Received a [\\$600,000 DOJ grant](#) for BWCs in 2015

*Last updated: October 5, 2017. Is there a new version of this policy? [Let us know.](#)*

## ✓ Makes the Department Policy Publicly and Readily Available

Minneapolis PD publishes the most recent publicly available version of its BWC policy on its website. The policy can be found in the department's online [Policy & Procedure Manual](#) as [Section 4-223 on Body Worn Cameras](#). The most recent policy is dated July 29, 2017.

## ✓ Limits Officer Discretion on When to Record

The policy requires officers to activate their cameras in a wide range of situations, and gives officers discretion to activate the BWC during general citizen contact and anytime an officer feels it is appropriate to preserve audio/visual data while taking a statement from a victim or witness. (§§IV.E.1-2)

### E. Activation

#### 1. Activation Required

- a. When safe to do so, officers shall manually activate the BWC during the situations.
  - Traffic stops.
  - Suspicious Person stops.
  - Suspicious vehicle stops.
  - Any vehicular response requiring emergency driving as defined by MPD P/P 7-402, or emergency response as defined by MPD P/P 7-403.
  - Vehicle pursuits.
  - Work-related transports not involving ride-along or another City employee in their official capacity as a City employee.
  - Any search, including but not limited to searches of vehicles, person, and buildings.
  - Any contact involving criminal activity.

- Any contact involving physical or verbal confrontations.
  - Any contact that is, or becomes adversarial.
  - When advising a person of their Miranda rights.
  - When ordered to by a supervisor.
  - Prior to any use of force. If a BWC is not activated prior to a use of force, it shall be activated as soon as it is safe to do so.
  - Any tactical entry or force entry into building, unless a supervisor has determined in advance that the video or audio data could result in the disclosure of operational or tactical information that would compromise the effectiveness of future actions or jeopardize officer safety.
- b. Activation shall occur as soon as possible, but before any citizen contact.
- i. If a situation changes to require activation, the officer shall immediately activate the BWC as soon as it is safe to do so.
- c. All strip searches shall be recorded by at least one person present during the entirety of the strip search, including all pre-search instructions provided to the person being searched.
- ...
2. Activation with Officer Discretion
- a. Officers may activate the BWC in the following situations:
- General citizen contacts where the officer feels that recording is appropriate.
  - Anytime an officer feels it is appropriate to preserve audio/visual data when taking a statement from a victim, suspect or witness. . . .

The policy requires officers to record until the conclusion of the event. The policy also specifies certain contacts where officers may, but are not required to, deactivate the BWC. (§§IV.F.1-2)

#### F. Deactivation

1. Once activated, the BWC shall be left in the record mode until the conclusion of the event. The conclusion of the event occurs when either the officer or citizen(s) has left the scene or a detention or transport has concluded.
2. Notwithstanding the above, once an event has been stabilized and if the officer reasonably believes there is no longer necessary audio or visual evidence to capture, and that none of the circumstances requiring activation will likely occur, the BWC may be deactivated during activities such as: (07/29/17)
  - Monitoring assigned traffic posts.
  - To protect the identity of an officer in an undercover capacity.
  - To protect the identity of a confidential reliable informant.
  - The incident or event is of such duration that it is necessary to deactivate the BWC to conserve power or storage. If it is necessary to discuss issues surrounding the incident/investigation with a supervisor or another officer in private, officers may turn off their BWC. This includes discussions between Field Training Officers with officers in training that are specific to training issues.
  - If a request is made for a BWC to be turned off by a party being contacted, the officer should take into account the overall circumstances and what is most beneficial to all involved, before deciding to honor the request. For example, an officer may choose to turn off the BWC if its operation is inhibiting a victim or witness from giving a statement. Factors to consider may include the type of call and the vulnerability of the victim, such as the victim of a sexual assault.
  - When ordered to by a supervisor. Both the officer and supervisor shall document the reason for the deactivation as described in the Report Writing section of this policy.

If officers fail to record a required event, they must document the reason in either their report or in the CAD system. Officers must also document the reason for any deactivation, both aloud on camera and either in their report or the CAD system. (§§IV.E.1.d; IV.F.3; IV.G.2)

#### E. Activation

1. Activation Required
  - ...
  - d. If there is a failure to activate the BWC in any of the above situations, the Officer shall document the reasons for the failure in the Officer's report or supplement.
    - i. If a report is not prepared, the reasons for the failure to activate shall be documented via added remarks in Computer Aided Dispatch (CAD).

#### F. Deactivation

...

3. When a BWC is deactivated prior to the conclusion of an event, officers shall describe the reason by narration prior to deactivation. (07/29/17)
  - a. If a report is prepared, the deactivation and the reason shall also be documented in the officer's report or supplement.
  - b. If a report is not prepared, the reason for the deactivation shall be documented via added remarks in Computer Aided Dispatch (CAD).

#### G. Report Writing

...

2. An officer shall document the following in his or her report:
  - ...
  - If the BWC was deactivated prior to the conclusion of the event, the fact that the BWC was deactivated and the reasons of deactivation.

### ○ Addresses Personal Privacy Concerns

The policy allows, but does not require, officers to turn off their cameras when they encounter certain vulnerable individuals, like a victim of a sexual assault, and encourages officers to gain victims' informed consent to record. Officers must also turn their cameras away (and only record audio) during strip searches. (§§IV.E.1.c, IV.F.2)

E.1.c. All strip searches shall be recorded by at least one person present during the entirety of the strip search, including all pre-search instructions provided to the person being searched.

- i. The camera shall be positioned to ensure that only the audio data is collected and that the person being searched is not captured on video.

...

F.2. . . . the BWC may be deactivated during activities such as: . . .

- If a request is made for a BWC to be turned off by a party being contacted, the officer should take into account the overall circumstances and what is most beneficial to all involved, before deciding to honor the request. For example, an officer may choose to turn off the BWC if its operation is inhibiting a victim or witness from giving a statement. Factors to consider may include the type of call and vulnerability of the victim, such as the victim of a sexual assault.

The policy also encourages (but does not require) officers to notify members of the public that they are being recorded. (§IV.A.12)

12. When feasible, officers are encouraged to inform members of the public that they are being recorded.

- a. If asked, officers should inform those inquiring that audio-video recording equipment is in use, unless doing so would be unsafe for officer and/or members of the public.

### ⊗ Prohibits Officer Pre-Report Viewing

The policy encourages officers to view footage before filing an initial report to "ensure the accuracy of reports." (§§IV.G.1; IV.I.4)

#### G. Report Writing

1. To ensure the accuracy of reports, an officer should review audio and video data before making a report or statement.

In "critical incidents" (situations including deadly force, death, or great bodily harm) the policy notes that video access requires approval, but still does not prohibit officers from reviewing footage prior to writing reports. (§IV.J.3)



## J. Critical Incidents

...

3. In any Critical Incident, video and audio data shall not be accessed unless approved by the assigned investigating agency.

## ✗ Limits Retention of Footage

The policy does not expressly require deletion of unflagged footage. Footage related to "Petty Misdemeanor(s)" and "Non-Evidentiary/General Recording(s)" are retained for one year. This appears to be a minimum duration, rather than a maximum. (§IV.A.9.c)

c. The following classification options will be used:

Category	Retention Period
Training	90 Days
Test/Start Checks	1 Year
Petty Misdemeanor	1 Year
Non-Evidentiary/General Recording	1 Year
Any Arrest or Misdemeanor Citation	7 Years
Use of Force	7 Years
Significant Event	Until Manually Deleted/Indefinite Retention (Minimum of 7 years)
Pending Review	Retained until otherwise classified under above categories

## ✓ Protects Footage Against Tampering and Misuse

The policy expressly prohibits footage tampering and defines a specific set of circumstances under which an employee may access footage. (§§IV.B.4, IV.I.1-5)

### B. Restrictions

...

4. Disabling BWC equipment, intentionally interfering with audio or video recording capabilities, and altering, duplicating, deleting or destroying BWC recordings are prohibited, except by Authorized Personnel in the course and scope of their lawful job duties and in accordance with record retention laws and policies and the provisions of this policy. Only the Chief and his or her designee can designate such Authorized Personnel.

...

### I. Access to BWC Data and Requests for Duplication of Recordings

1. All BWC recordings are the property of the MPD and original BWC recordings shall remain in the sole custody of the MPD, unless necessary for the preparation of civil, criminal or administrative matters, used in court as evidence, provided to an expert for analysis, provided to another law enforcement agency in the scope of their investigation, if required to be provided to another by lawful order or as may otherwise be required by the Minnesota Government Data Practices Act or other applicable law. . . .
2. In no event shall any recording be used or shown for the purpose of ridiculing, embarrassing or intimidating any person.
3. Recorded data may only be replayed or displayed for training purposes with the approval of the Deputy Chief of Professional Standards. Nothing herein prohibits Leadership and Organizational Development Staff from having access to BWC recording for the purpose of planning training.
4. Data captured by the BWC may be accessed by an employee, provided the access is in the course and scope of the employee's lawful job duties, or used as evidence related to:
  - Pending administrative, criminal, civil or traffic matters;
  - A complaint of misconduct made against an officer
  - In situations where evidence of officer misconduct is discovered during the course of authorized access (including force reviews);

- A random or uniform review of BWC data with regard to equipment functionality, policy compliance; or
  - Any other purpose authorized under this policy and consistent with State and Federal law.
5. Employees are prohibited from using recording devices to duplicate BWC video or audio in any form, including cell phones or video cameras.

The policy notes that access to data is logged and audited. (§§IV.I.8; II.E.2)

IV.I.8. All accesses of the BWC data are documented automatically as part of the BWC equipment technology. Data relating to accesses will be retained in accordance with the retention schedule for the BWC data that was accessed.

II.E.2. The BWC program shall be independently audited in accordance with existing law.

### ✘ **Makes Footage Available to Individuals Filing Complaints**

The policy does not expressly allow individuals who are filing police misconduct complaints to view relevant footage. Rather, the policy relies on existing public records law to make footage available. (§§IV.I.1, 6, 7)

#### **I. Access to BWC Data and Requests for Duplication of Recordings**

1. All BWC recordings are the property of the MPD and original BWC recordings shall remain in the sole custody of the MPD, unless . . . required by the Minnesota Government Data Practices Act or other applicable law.  
...
6. Public requests for BWC recordings shall be referred to the Records Information Unit and will be considered in accordance with the Minnesota Government Data Practices Act or other applicable law.
7. Officers shall not share BWC recordings with any member of the public or any MPD employee, unless it is required in the performance of their official duties and consistent with State and Federal law.

### ✘ **Limits Biometric Searching of Footage**

The policy does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

## Montgomery County Department of Police



- 
- ✓ Makes the Department Policy Publicly and Readily Available
  - ✓ Limits Officer Discretion on When to Record
  - ✓ Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
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  - ✓ Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - Limits Biometric Searching of Footage

*Last updated: October 4, 2017. Is there a new version of this policy? [Let us know.](#)*

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### ✓ **Makes the Department Policy Publicly and Readily Available**

Montgomery County Police Department publishes its body worn camera policy on its website. MCPD's most recent Body Worn Camera Policy is dated April 20th, 2016.

### ✓ **Limits Officer Discretion on When to Record**

MCPD provides a long and detailed list of situations when officers must use their BWC. (§VI.C)

The BWCS must be activated during all law enforcement related encounters and activities such as, but not limited to, the following examples:

**1. At the initiation of a call for service or other activity that is investigative or enforcement in nature.**

2. All enforcement and investigation related citizen contacts.
3. Documentation of evidence that can be used in the prosecution of criminal and traffic offenses.
4. Arrests and transports
5. Traffic stops
6. Priority responses
7. Vehicle and foot pursuits
8. Suspicious situations
9. All searches (person, vehicles, structures, effects), except strip searches
10. Interviews and interrogations
11. Mental health interrogations
12. Any contact that becomes adversarial after the initial contact, in a situation that would not otherwise require recording

The policy clearly defines when an event is “concluded” and officers are allowed to deactivate their BWC. (§VI.D)

Once the BWCS has been activated, officers will continue to record until:

1. The officer has left the scene and anticipates no further involvement in the event;
  2. A supervisor has authorized that a recording may cease;
  3. **The officer is no longer engaged in a related investigative or enforcement activity; or**
- The event has concluded. An event will be deemed “concluded” when:

- a. all arrests have been made and arrestees have been transported and released from custody;
- b. all witnesses and victims have been interviewed;
- c. the continued recording will not serve to obtain additional evidence; and
- d. no further law enforcement action is likely to occur.

Officers must “record a brief verbal explanation for the deactivation” of their BWC before turning off the device. (§VI.E).

Whenever the BWCS equipment is deactivated, the officer must record a brief verbal explanation for deactivation prior to turning off the recording.

MCPD’s policy states that there are “exigent circumstances” in which the officer may not be able to activate their BWCS. The officer is required to “document the reason” for their failure to use or delayed start of their BWCS. (§VI.F)

There may be instances in which officers are **unable to activate their BWCS due to circumstances making it unsafe, impossible, or impractical to do so. In these exigent circumstances, officers shall begin recording with the BWCS at the first reasonable opportunity to do so** and document the reason for the delayed start in the incident report and/or as part of the recording.

### ✔ Addresses Personal Privacy Concerns

MCPD prohibits recording an “interview with a victim of a sex offense” without his or her consent. (§VI.I)

Officers are required to obtain consent prior to recording an interview with a victim of a sex offense. Consent in these cases must be documented/recorded on camera.

In non-victim cases, officers have discretion as to whether to turn off their camera at the request of subjects. (§VI.G)

In situations when community members, witnesses, crime victims or other parties wish to share information related to criminal activity, but refuse to do so while being recorded, officers will have the discretion to turn off the BWCS during the interview. The preference is to record such statements; however, it is recognized that such persons may be hesitant to provide information while being recorded due to a fear of retaliation, privacy concerns or a feeling that the information is sensitive. In these situations, officers may decide that obtaining the information is more important than recording the conversation. In such situation, the officer must record a brief verbal explanation for the deactivation prior to turning off the recording.

Officers are required to notify individuals that they are being recorded except when exempt by law. (§VI.B)

**Except as otherwise exempted by law**, officers will notify individuals that they are being recorded as soon as practicable, unless it is unsafe, impractical, or impossible to do so.

1. **This notice provision is satisfied even if another individual becomes a party to the communication after the initial notice has been provided.**

2. *Examples of potential notification language include:*

- a. *"You are being audibly and visually recorded";* or
- b. *"Our interaction is being recorded by my body camera".*

Officers are prohibited from recording strip searches. (§VII.B)

A BWCS will not be used to create recordings of strip searches.

The policy also protects the privacy of individuals engaged in constitutionally-protected activity. (§IX.L)

A BWCS recording of a constitutionally protected activity may not be used to identify persons present at the activity who are not suspected of being engaged in illegal activity or in need of assistance.

✘ **Prohibits Officer Pre-Report Viewing**

MCPD allows officers to view their recordings while completing their reports as well as before court appearances. (§IX.A.2)

A BWCS recording may be reviewed by the recording officer for any work related reason, including but not limited to:

...

2. To assist with the writing of a report or other official document.

...

4. To review/prepare for court.

5. *To respond to a civil suit, criminal investigation (if the officer is the subject of the investigation), citizen complaint, or administrative complaint. The officer shall have the ability to review their BWCS recording of the subject incident prior to making a statement.*

✔ **Limits Retention of Footage**

MCPD mandates that non-evidentiary recordings will be "destroyed after 210 days." (§X.C)

**C. Non-evidentiary** recordings will be destroyed after **210 days**, unless the department deems it necessary to retain the recording for a longer period of time.

1. A recording will be retained longer than 210 days if an officer or the officer's representative provides notice to the Department within 210 days of the date of the recording of its potential use in an administrative hearing.
2. **Performance evaluation shall not be the sole reason for the Department retaining a recording beyond the agreed upon term.**
3. **An officer may elect to save BWCS recordings for longer than 210 days if the recording was used to support a performance evaluation which resulted in a single category being rated as below requirements.**

✔ **Protects Footage Against Tampering and Misuse**

MCPD expressly prohibits officers from modifying or tampering with the BWC recordings "in any manner." (§§X.N-O)

N. Employees shall not access, obtain, attempt to obtain, or copy/convert for their personal use any recording produced by a BWCS. Employees shall not upload BWCS recordings to public and/or social media websites.

O. **Except as authorized by policy**, employees shall not attempt to **copy**, delete, alter, release, reuse, modify or tamper with BWCS recordings in any manner. *Employees are prohibited from making a copy of a BWCS audio/video recording by using another recording device, such as a cell phone.*

## The policy requires that access to footage will be logged. (§IX.K)

A log will be kept to record access to all recordings and officers shall have timely and ongoing access to the log. The log will include the:

1. Name of the employee accessing the recording;
2. Reason for access with reasonable clarity;
3. Date recording was accessed;
4. Length of time it was reviewed, and
5. Any copying or editing.

## MCPD also expressly states who may access and view recordings. (§IX.A)

Recordings may be reviewed:

1. By an officer to make sure the BWCS system is working properly
2. By an officer to assist with the writing of a report or other official document
3. By an officer to review/critique his or her own performance
4. By an officer to review/prepare for court
5. By a person authorized by the department for the purpose of reviewing evidence
6. By a supervisor
7. By a person authorized by the department participating in an official investigation such as a personnel complaint, administrative inquiry, or a criminal or civil investigation
8. By authorized department personnel to assess possible training value

## ✘ **Makes Footage Available to Individuals Filing Complaints**

The MCPD policy does not expressly allow individuals who are filing police misconduct complaints to view relevant footage, only noting that recordings will be released under applicable public records law or with permission of the Chief of Police. (§§XI.A; XI.E)

- A. The public release of BWCS recordings will be conducted in accordance with applicable public records laws.
- ...
- E. Recordings will not be disseminated by the employee without receiving written permission under the authority of the Chief of Police.

## ○ **Limits Biometric Searching of Footage**

The MCPD's policy prohibits the use of biometric technologies, with a narrow exception made for analyzing particular incidents using such technologies. (§IX.M)

The stored video and audio data from a BWCS recording may not:

1. Be used to create a database or pool of mug shots;
2. Be used as fillers in photo arrays; or
3. Be searched using facial or voice recognition software.
  - a. This does not prohibit the use of recognition software to analyze the recording of a particular incident when a sworn supervisor has reason to believe that a specific suspect or person in need of assistance may be a subject of a particular recording.

However, we are concerned that the policy limits the restriction to "stored video and audio," which leaves room for the integration of facial recognition technology into live video capture and situational awareness technology.

## Newark Police Department



- 
- ✓ Makes the Department Policy Publicly and Readily Available
  - ✓ Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
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  - ✗ Limits Biometric Searching of Footage

*Last updated: October 11, 2017. Is there a new version of this policy? [Let us know.](#)*

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### ✓ **Makes the Department Policy Publicly and Readily Available**

Newark PD has a [dedicated page on its website](#) that displays a draft body camera policy. The site notes that it will be updated with a permanent policy "on a future date." The policy also indicates that the BWC Administrator will review the policy on a quarterly basis during its pilot phase and an annual basis indefinitely thereafter. Currently, officers in the 5th Precinct are in the pilot phase of their body camera program. The draft policy is not dated, but appears to be active as of September 19, 2017.

Notably, the policy requires that the NPD publicize the deployment of the BWC program on its website and create opportunities for public comment.

It is the policy of the NPD to publicize the deployment of the BWC program on the website, [www.newarkpdonline.org](http://www.newarkpdonline.org) (<http://www.newarkpdonline.org>). A body worn camera tab shall be created where a posting indicating the use of body worn cameras, an image depicting what the camera looks like, where the camera will be worn, the draft BWC policy with a "comment" section and an online community survey will be posted. The online body worn camera community survey and the "comment" section of the policy will allow residents to express their opinions, concerns or recommendations with the deployment and policy governing the use of BWC's.

The NPD shall consider the feedback of the community, for possible inclusion into the body worn camera policy. Surveys and comments received regarding the NPD Body Worn Camera policy shall be reviewed. The BWC administrator shall review this policy quarterly during the pilot phase and on an annual basis after full deployment.

## ✔ Limits Officer Discretion on When to Record

Newark PD provides officers with a clear list of situations that must be recorded. (§VIII.A)

### A. Activation of BWC is Required

Members shall activate the BWC to record police related interactions with citizens in the performance of their duty. Activation is required upon receiving a dispatched assignment or upon the initiation of a police action. The following circumstances require the BWC to be activated:

1. When conducting a motor vehicle stop, from the time the violation is observed until the stop is concluded, to include:
  - a. When conducting a motor vehicle stop, from the time the violation is observed until the stop is concluded, to include:
  - b. Motor vehicle pursuit
  - c. Motor Vehicle Safety Checkpoint
  - d. Vehicle pursuit
2. When responding to a call for service (activate upon receipt of the assignment).
3. When aiding a motorist or a pedestrian (community caretaking check).
4. When interviewing a witness in the course of investigating a criminal offense.
5. When conducting a custodial interrogation of a suspect, unless the interrogation is otherwise being recorded in accordance with N.J. Court Rule 3:17 (electronic recordation of station house interrogation).
6. When making an arrest.
7. When making an arrest. When conducting any kind of search (consensual or otherwise, including a protective frisk for weapons).
8. When engaged in a police response to any type of civil disorder, strike, picket line, demonstration or protest in circumstances where the officer is engaged with or in the presence of civilians and the officer or any other officer on the scene may be required to employ constructive authority or force.
9. When conducting an investigative detention/field interview (e.g. Terry v. Ohio criminal suspicion stop).
10. When conducting an officer-initiated pedestrian stop, which includes a stop that falls short of a Terry stop because the pedestrian is free to walk away, such as a "mere inquiry" (e.g. asking where someone is going).
11. When the member uses constructive authority or force, or reasonably believes that constructive authority may be used in any encounter or situation.
12. When the member is transporting an arrestee to a police station, county jail, other place of confinement, hospital or other medical care/mental health facility. The BWC shall remain activated until the arrestee is secured in the holding cell, processing room or until the arrestee is with hospital/medical/mental health personnel and the officer is no longer in the presence of the arrestee.
13. When the member is involved in any police action/encounter where departmental policy requires a report and/or notation on a log sheet is required other than provisions listed in Section VIII, Subsection D.
14. When a BWC is deactivated, the device shall be reactivated as soon as it is safe and practicable to do so if and when the circumstances justifying deactivation no longer exist.
15. When dispatched or otherwise responding to a scene where knowing or reasonably believing that police deadly force has been or is being employed, or to a scene where an officer has requested emergency assistance (e.g., officer in distress, shots fired, etc.) the BWC shall be activated upon dispatch of the assignment. While at the scene of a police deadly-force event or the on-scene investigation of that event the officer shall not deactivate the BWC unless instructed to do so by the assistant prosecutor supervising the investigation of the deadly force incident.
16. When actively investigating a criminal offense, responding to an emergency or reasonably believing that constructive authority or force will be required in a school or youth facility or on school or youth facility property.
17. When actively investigating a criminal offense, responding to an emergency or reasonably believing that constructive authority or force will be required in a patient care area of a healthcare facility, medical office or substance abuse treatment facility.
18. When actively investigating a criminal offense, responding to an emergency or reasonably believing that constructive authority or force will be required in a place of worship.

Officers must record "the entire duration of the event/encounter" and are prohibited from deactivating the camera prior to the point at which "the officer(s) or all citizens have departed the scene and the officer(s) have informed the dispatcher/communications or a supervisor that the event has ended." (§VIII.C)

### C. Continuous Operation of a BWC, Once Initiated.



1. Except as stipulated in this policy, BWCs shall remain activated for the entire duration of each event/encounter, and shall not be deactivated until either the officer(s) or all citizens have departed the scene and the officer(s) have informed the dispatcher/communications or a supervisor that the event has ended.
2. Officers providing assistance or backup to an officer on an event that requires activation of the BWC are required to have their own BWC activated until all citizens have departed the scene or their assistance is no longer required.

The policy also requires officers to justify non-activation or interruption of recordings. (§VIII.F)

If an officer fails to activate the BWC, fails to record the entire event/contact, or interrupts the recording, the officer shall document the reason the recording was not made, interrupted or terminated in the applicable investigation/incident report. If an incident report is not required and a recording was not made, interrupted or prematurely terminated, this must be documented on an administrative report. A reference must be made regarding the time, date, location and event number, if applicable.

### ○ Addresses Personal Privacy Concerns

Newark PD prohibits officers from recording “where there is a reasonable expectation of privacy...unless enforcement action is required.” The policy specifically prohibits recording in school or youth facilities, places of worship, patient care areas, or during courtroom proceedings in certain circumstances. (§VIII.E)

E. A BWC shall not be activated during the following:

...

In any location where there is a reasonable expectation of privacy (e.g., restroom, locker room, break room, etc.), unless enforcement action is required.

...

8. Members shall deactivate or not activate a BWC when:

- In a school or youth facility or on a school or youth facility property under circumstances where minor children would be in view of the BWC while not actively investigating criminal activity, responding to an emergency or reasonably believing that constructive authority or force will not be used. Officers shall narrate the reason for deactivation.
- Officers shall deactivate or not activate a BWC when in a place of worship under circumstances where worshippers would be in view of the BWC while not actively investigating criminal activity, responding to an emergency or reasonably believing that constructive authority or force will not be used. Officers shall narrate the reason for deactivation.
- Officers shall deactivate or not activate a BWC while in a courtroom during court proceedings, unless the member is responding to a call for service or is authorized to use constructive authority or unless such activation is expressly authorized by the judge.
- Officers shall deactivate or not activate a BWC when in a patient care area of a healthcare facility, medical office or substance abuse treatment facility under the circumstances where patients would be in view of the BWC while not actively investigating criminal activity, responding to an emergency or reasonably believing that constructive authority or force will not be used. Members shall narrate the reason for deactivation.

In the event a BWC captures the image of a patient in a substance abuse treatment facility, the member's immediate supervisor shall be notified and a notification to the BWC Administrator and the Public Safety Director shall be made to ensure compliance with all applicable federal laws and regulations provided for the confidentiality of information for substance abuse treatment. The recording shall be tagged and a notation documenting the date, time, person notified and details of the notification shall be documented in the BWC record keeping system. The recording shall not be accessed without the expressed approval of the Public Safety Director or designee. (Destruction of the recording is inappropriate until it is determined that exculpatory information was not captured.)

The policy requires officers to notify crime victims and civilians inside of their homes or “places of abode” that they are being recorded, unless such notification is “safe” or

## “unfeasible.” (§VIII.B)

### B. Notice of Activation

1. When wearing a BWC, officers shall notify crime victims and civilians inside of their homes or places of abode (e.g., hotel/motel rooms, boarding houses, etc.) that they are being recorded unless it is unsafe or unfeasible to provide such notification
2. If the member decides not to provide notification of the activation of the BWC because it is unsafe or infeasible to do so, the member shall document the reason for that decision in their investigation report or by narrating the reason on the BWC recording.
3. If a civilian inquires if a member is equipped with a BWC or inquires if the device is activated, the member shall answer truthfully unless the Public Safety Director or the Chief of Police has expressly authorized the member to make a covert recording.
4. For all other interactions with members of the public, officers shall inform subjects that they are being recorded at the earliest opportunity that is safe and feasible to do so. The failure to verbally notify a person pursuant to this section shall not affect the admissibility of any statement or evidence.

Newark PD notes that officers may deactivate recording as per civilian request where it appears that the person “will not provide information or otherwise cooperate” until the camera has been turned off, or if the requester is seeking emergency medical services. (§VIII.F)

1. Officers may deactivate a BWC when a civilian conversing with the officer requests that the device be turned off under the circumstances where it reasonably appears that the person will not provide information or otherwise cooperate with the officer unless that request is respected.
  - a. Officers shall not suggest to a person that the BWC should be deactivated; nor shall the member ask whether he or she would prefer the BWC be deactivated. The request for de-activation must be self initiated by the civilian. Officers may explain the consequences of de-activation (e.g., evidence relevant to a criminal investigation will not be recorded).
  - b. In deciding whether to deactivate the BWC, the officer shall consider the privacy and safety interests of the person requesting deactivation, whether the encounter is occurring in the person’s residence, and the need for the information or assistance that the person will provide is important to the investigation, yet is not critical to require recording.
  - c. If a civilian inquires of an officer whether the officer is equipped with a BWC, or inquires whether the device is activated, the officer shall answer truthfully unless the Public Safety Director, acting in accordance with Attorney General directives, has expressly authorized the officer to make a covert electronic recording.
2. When an officer deactivates a BWC at the request of a civilian, the following procedures shall be followed:
  - The conversation between the officer and the civilian requesting the deactivation shall be recorded.
  - The officer shall narrate the circumstances of the deactivation prior to de-activating (e.g., “I am now turning off my BWC as per the victim’s request”).
  - The officer shall report the circumstances concerning deactivation to their immediate superior officer as soon as practicable.
  - The officer shall document the circumstances of the deactivation in any investigation or report concerning the incident under investigation.
3. If an officer declines a request to deactivate a BWC, the reasons for declining the request (e.g. member believes that it may be necessary to use constructive authority during encounter) must be narrated on the recording and shall be reported to the member’s immediate supervisor as soon as it is safe and practicable to do so.
4. Upon declining a deactivation request, the officer must immediately inform the person making the request of that decision. Officers are prohibited from misleading the person making the deactivation request into believing that the BWC has been turned off unless a covert recording has been authorized by the Public Safety Director or designee.
- ...
6. Officers must deactivate a BWC when a person, other than an arrestee, is seeking emergency medical services for him or herself or another and requests that the BWC is deactivated.

## Prohibits Officer Pre-Report Viewing

Officers may review footage before writing their reports for all incidents, except in the cases of use of force that are under investigation. In use of force incidents, employees are prohibited from reviewing footage until authorized to do so by the agency investigating the incident, but are not prohibited from viewing footage before writing a report or making a statement. (§§XI.4; XI.15)

Access to and use of a BWC recording is permitted only:

4. To assist the officer whose BWC made a recording to prepare his or her own police report, except as delineated in number 15 of this section.

...

15. When a police related use-of-force incident is being investigated by the County Prosecutor's Office or any other agency with equivalent or a greater authority, department members and civilians shall not have access to any BWC recording until authorized by that lead investigative agency.

### ✘ Limits Retention of Footage

The policy does not require police to delete their BWC recordings after a certain amount of time. The retention and disposition schedule is determined by the BWC administrator and body camera vendor which notes that the retention period "shall not be less than 90 days." The recordings may not be deleted until the "expiration of the statute of limitations" for individual requests who were the subjects of the video, or the resolution internal investigation. (§X)

#### X. RETENTION OF BWC RECORDINGS

The retention period for BWC recordings shall not be less than 90 days. The BWC administrator is responsible for coordinating with the body camera vendor to establish a retention and disposition schedule, in accordance with requirements set forth by the State of New Jersey. The following shall be subject to the following additional retention periods:

- When a BWC recording pertains to a criminal investigation or otherwise records information that may be subject to discovery in a prosecution, the recording shall be treated as evidence and shall be kept in accordance with the retention period for evidence in a criminal prosecution.
- When a BWC records an arrest that did not result in an ongoing prosecution, or records the use of police force, the recording shall be kept until the expiration of the statute of limitations for filing a civil complaint against the officer and/or agency.
- When a BWC records an incident that is the subject of an internal affairs complaint, the recording shall be kept pending final resolution of the internal affairs investigation and any resulting administrative action.
- When a civilian who is the subject of the video makes a written request that footage be retained, the recording shall be kept until the expiration of the statute of limitations for filing a civil complaint against the officer and/or agency.

### ○ Protects Footage Against Tampering and Misuse

Newark PD expressly prohibits both footage tampering and access for "non-law enforcement purposes" and requires its system administrator to "establish and maintain a database" that logs access to BWC recordings. (§XI, §XII.1,3-4,17)

Viewing of BWC events is strictly limited to authorized employees of this division. Viewing by any other person is prohibited unless authorized by the Public Safety Director. No law enforcement officer or civilian employee of this division shall access, view, copy, disseminate or otherwise use a BWC recording except for an official purpose. . .

...

#### XII. DATA CONTROL AND MANAGEMENT

**Personnel shall not erase or in any other manner alter, tamper with, destroy, or conceal BWC recordings, remove or disable any camera. Any such tampering is a violation of NJSA 2C:28-7, and is a 4th degree crime.**

1. Data uploaded from BWCs will be stored on storage devices located at 480 Clinton Avenue. All images, videos and audio recordings captured by the BWC are the exclusive property of the Newark Police Division.

Accessing, copying, releasing, tampering with, destroying video and transmitting files for non-law enforcement purposes is strictly prohibited.

...

3. The system administrator shall manage the integrity, handling and storage of all BWC recordings. The administrator shall prevent unauthorized access to all BWC recordings. The system administrator must establish and maintain a database to document the following information:

- Date and time of access;
- Specific BWC recording(s) that was/were accessed;
- Member who accessed the stored BWC recording;
- Person who approved access, where applicable;
- Reason(s) for access, specifying the purpose or purposes for access and the relevant case/investigation number, where applicable.

4. A BWC recording that has been "tagged" for special privacy or safety issues, Section VII, Subsection 5, shall not be accessed, viewed, copied, disseminated or otherwise used without first obtaining the permission of the County Prosecutor.

...

17. A BWC recording tagged pursuant to Section VII, Subsection 5, of this policy shall not be accessed, viewed, copied, disseminated, or otherwise used without the express permission of the Public Safety Director, in accordance with the Attorney General directive.

However, the policy does not indicate that this database will be audited, though audits of the system are permitted. (§XI.11)

#### XI. ACCESS, USE AND DISSEMINATION OF BWC RECORDINGS AND RELATED RESTRICTIONS

11. To conduct an audit to ensure compliance with this policy.

#### ✘ **Makes Footage Available to Individuals Filing Complaints**

Newark PD suggests that BWC footage can be shown to civilians who "intends to file a complaint against an officer to demonstrate what actually occurred." However, while such access is "permitted," it does not appear to be required. (§XI.6)

Access to and use of a BWC recording is permitted only:

...

6. To show a civilian who intends to file a complaint against an officer to demonstrate what actually occurred during the encounter so that the person can make an informed decision whether to file the complaint.

#### ✘ **Limits Biometric Searching of Footage**

Newark PD does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

## New Jersey Department of Public Safety



- 
- ✓ Makes the Department Policy Publicly and Readily Available
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*Last updated: October 16, 2017. Is there a new version of this policy? [Let us know.](#)*

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### ✓ **Makes the Department Policy Publicly and Readily Available**

The New Jersey Department of Public Safety's [policy on body worn cameras](#) is accessible via the department website. One must search "body worn cameras" on NJDPS's website in order to locate the policy. NJDPS's most recent BWC policy is from July 28, 2015. This policy appears to be a statewide directive to apply standards for police departments across the state.

### ○ **Limits Officer Discretion on When to Record**

The New Jersey Department of Public Safety (NJDPS) provides officers with a clear list of situations that must be recorded, including when "circumstances develop so that an officer is authorized to use force." (§§5.2; §6.8)

#### 5.2 Circumstances When Activation by a Uniformed Officer Generally is Required.

Except as otherwise expressly provided in section 7 or any other provision in this Directive, a uniformed officer equipped with a BWC shall be required to activate the device in any of the following circumstances as soon as it is safe and practicable to do so:

- a) the officer initiates an investigative detention (e.g., a Delaware v. Prouse traffic stop, a Terry v. Ohio criminal suspicion stop, or a checkpoint or roadblock stop);
- b) the officer is responding to a call for service and is at or near the location to which the officer has been dispatched;
- c) the officer is conducting a motorist aid or community caretaking check;
- d) the officer is interviewing a witness in the course of investigating a criminal offense;
- e) the officer is conducting a custodial interrogation of a suspect, unless the interrogation is otherwise being recorded in accordance with Rule 3:17 (electronic recordation of station house interrogations);

- f) the officer is making an arrest;
- g) the officer is conducting a protective frisk for weapons;
- h) the officer is conducting any kind of search (consensual or otherwise);
- i) the officer is engaged in a police response to any type of civil disorder in circumstances where the officer is engaged with or in the presence of civilians and the officer or any other officer on the scene may be required to employ constructive authority or force;
- j) the officer uses constructive authority or force, or reasonably believes that constructive authority or force may be used in any encounter or situation not otherwise listed in this subsection based on specific and articulable facts warranting heightened caution that are documented by narration on the recording and/or in any investigation or incident report;
- k) the officer is transporting an arrestee to a police station, county jail, or other place of confinement, or a hospital or other medical care or mental health facility; or
- l) the officer reasonably believes that any other officer on the scene has undertaken or is engaged in any of the foregoing police actions/activities.

#### 6.8 Re-Activation When Actual Law Enforcement Force is Authorized.

Notwithstanding any other provision of this Directive, in any instance where a BWC was deactivated pursuant to section 6.1, 6.2, 6.5, 6.6, or any other provision of this Directive, or deactivated pursuant to any policy, standing operating procedure, directive, or order issued by a department, if the circumstances develop so that an officer is authorized to use force, the BWC shall be re-activated as soon as it is safe and practicable to do so.

**The New Jersey Department of Public Safety also provides detailed requirements to officers as to when a BWC should be activated and when BWC deactivation is authorized, including specific requirements for circumstances where use of force may be . (§§5.4,6-7)**

#### 5.4 Continuous Recording Pending Completion of Encounter.

To ensure that the entire encounter/event/episode is recorded, when feasible, a BWC should be activated before a uniformed officer arrives at the scene of a dispatched call for service or other police activity listed in section 5.2. See also note 1. However, the officer need not begin recording at the moment he or she receives instructions from a dispatcher to respond to a call for service. Rather, the officer may delay activation until he or she is near the destination.

Except as otherwise expressly provided in section 6 or any other provision of this Directive, when a BWC is required to be activated by a uniformed officer pursuant to this Directive, the device must remain activated throughout the entire encounter/event/episode and shall not be de-activated until it is concluded (-, the BWC-equipped officer has left the scene; all civilians involved in the encounter have left the scene; the officer has informed the dispatcher or a supervisor that the event has concluded; the event is "closed" on the department's computer-aided dispatch ("CAD") system, etc.).

When a BWC is activated pursuant to section 5.2(k) (transport of arrestee), whether by an officer in uniform or in plain clothes, it shall remain activated at all times while the BWC-equipped officer is in the presence of the arrestee and until the arrestee is secured in the holding cell or processing room, or until custody of the arrestee has been transferred to county jail personnel, or until the arrestee is with hospital/medical/mental health personnel and the officer is no longer in the presence of the arrestee. . .

#### 5.6 Special Activation Rules Governing Deadly-Force Incidents and Other Exigent Circumstances Where Officers Are in Danger.

Notwithstanding any other provision of this Directive, when an officer equipped with a BWC is dispatched to or otherwise goes to the scene of an incident knowing or reasonably believing that police deadly force has been or is being employed, or to a scene where an officer has requested emergency assistance (ems., an officer in distress, shots fired, etc.), the officer shall activate the BWC before arriving at the scene when feasible. Notwithstanding any other provision of this Directive, an officer while at the scene of a police deadly-force event or the on-scene investigation of that event shall not de-activate the BWC unless instructed to do so by the assistant prosecutor or assistant or deputy attorney general supervising the investigation of the deadly - force incident pursuant to Attorney General Law Enforcement Directive No.2006-5, or his or her designee. Such instruction may be given telephonically by the assistant prosecutor, assistant or deputy attorney general, or designee supervising the investigation.

#### 6.7 Re-activation When Reason for De-Activation No Longer Exists.

In any instance where a BWC was de-activated pursuant to section 6.1, 6.2, 6.5, or 6.6, the device shall be re-activated as soon as it is safe and practicable to do so if and when the circumstances justifying de-activation no longer exist (e.g., the interview of the person requesting de-activation is completed), and the officer would otherwise be required to activate the BWC (e.g., where the officer proceeds to other investigative activities that are required to be recorded pursuant to this Directive).

However, the NJDPS does not require officers to provide justification when they fail to record required events.

### ○ Addresses Personal Privacy Concerns

The policy does not require officers to obtain informed consent prior to recording in any circumstance. However, NJDPS officers are permitted, but not required, to deactivate BWCs upon the request of a civilian. When deciding whether to honor a request to deactivate a BWC, the policy encourages NJDPS officers to “consider the privacy and safety interests of the person requesting de-activation” as well as “whether the encounter is occurring in the person’s residence.” The officer is authorized to turn off the recording “under circumstances where it reasonably appears that the person will not provide information or otherwise cooperate with the officer unless that request is respected.” (§§6.1-2)

Notwithstanding section 5.4, and unless the agency adopts a policy that prohibits or restricts de-activation as may be authorized by this section, an officer may de-activate a BWC when a civilian conversing with the officer requests that the device be turned off under circumstances where it reasonably appears that the person will not provide information or otherwise cooperate with the officer unless that request is respected...In deciding whether to de-activate the BWC, the officer shall consider the privacy and safety interests of the person requesting de-activation, whether the encounter is occurring in the person's residence, and the need for the information or assistance that the person will provide only if the de-activation request is honored.

...

Notwithstanding section 5.4, and unless the agency adopts a policy that prohibits or restricts de-activation as may be authorized by this section, an officer may de-activate a BWC when a person, other than an arrestee, is seeking emergency medical services for him or herself or another and requests that the BWC be de-activated. In deciding whether to de-activate the BWC, the officer shall consider the privacy interests of the person requesting de-activation and the person in need of medical assistance.

If the officer declines the request, the officer must inform the individual of that decision and document the reasons for deactivation. (§§6.3-4)

#### 6.3 Procedures for De-Activation Upon a Civilian's Request.

When an officer de-activates a BWC pursuant to section 6.1 or 6.2, the following procedures shall be followed:

1) the colloquy between the officer and the civilian concerning the request for deactivation shall be electronically recorded; 2) the officer before de-activating the BWC shall narrate the circumstances of the deactivation (e.g., "I am now turning off my BWC as per the victim's request."); 3) the officer shall report the circumstances concerning the deactivation to his or her superior as soon as is practicable; and 4) the officer shall document the circumstances of the deactivation in any investigation or incident report concerning the incident under investigation. See also section 9.3 (notations (i.e., "tagging") to indicate BWC recordings that raise special privacy or other issues).

#### 6.4 Decision to Decline a Civilian's De-Activation Request.

If an officer declines a request to de-activate a BWC pursuant to section 6.1 or 6.2, the reasons for declining the request (ems., the officer believes that there is a reasonable possibility that it may be necessary to use constructive authority or force during the encounter) must be documented and shall be reported to the officer's superior as soon as it is safe and practicable to do so, unless the agency's policy prohibits de-activation authorized by section 6.1 or 6.2.

In the event that the officer declines a de-activation request, the officer immediately shall inform the person making the request of that decision. An officer shall be prohibited from misleading the person making the de-activation request pursuant to section 6.1 or 6.2 into believing that the BWC has been turned off when in fact it is operating unless the County Prosecutor or designee or the Director of the Division of Criminal Justice or designee expressly has authorized covert recording.

Any request for deactivation must be “self-initiated” by the civilian. The policy expressly prohibits officers from asking whether a person would prefer that the officer deactivate the BWC or suggesting that the BWC should be deactivated. (§6.1)

The officer shall not suggest to the person that the BWC should be de-activated; nor shall the officer ask the person whether he or she would prefer that the BWC be de-activated. Rather, the request for de-activation must be self-initiated by the civilian. The officer may explain the consequences of de-activation (e.g., evidence relevant to a criminal investigation will not be recorded).

The policy does not require officers to inform subjects that the camera is recording in all cases. Officers are required to answer truthfully when specifically asked whether they are recording an encounter. (§§4.1-4)

#### 4.1 General Policy Considerations.

Eventually, BWCs are likely to become commonplace such that private citizens will expect that uniformed police officers are equipped with these devices, just as citizens today understand that patrol officers carry two-way radios, firearms, flashlights, o.c. spray, batons, and handcuffs as standard equipment. But until such time as the use of BWCs becomes that universal, it is appropriate to provide some form of notice to citizens so that they understand that anything said to a BWC-equipped officer may be electronically recorded, and that the images and sounds of the police-civilian interaction will be stored and accessible for future law enforcement use in accordance with the provisions of this Directive. Such notice to the public that BWCs are in use will help to achieve the above-noted benefits of discouraging persons from engaging in conduct that might provoke the use of law enforcement force, and discouraging persons from filing false complaints against police.

#### 4.2 General Public Notice.

Every police department that acquires/deploys BWCs shall take reasonable steps to inform the citizenry of the agency's decision to deploy this technology. The department shall publish a statement that it deploys BWCs on its Internet web site or, if the department does not have its own web site, then on the municipality's web site when feasible. The County Prosecutor may assist departments in providing general public notice of their deployment of BWCs pursuant to this section. The web site posting shall include a picture showing what the device looks like, and how it is to be worn by uniformed officers or plainclothes detectives so that citizens will be able to determine whether an officer is equipped with the device.

#### 4.3 Specific Notice to Certain Individuals During an Encounter.

When an officer equipped with a BWC is required to activate the device during an encounter 1) with a civilian occurring inside the person's residence, or 2) with a person reasonably believed to be a victim of a criminal offense, the officer shall verbally notify the persons) with whom the officer is conversing that the BWC has been activated unless it is unsafe or infeasible to provide such notification. If the officer decides not to provide notification of BWC activation because it is unsafe or infeasible to do so, the officer shall document the reasons for that decision in a report and/or by narrating the reasons on the BWC recording. The failure to verbally notify a person pursuant to this section shall not affect the admissibility of any statement or evidence. See section 15 (nonenforceability by third parties). Nothing herein shall preclude a department from adopting a policy, standing operating procedure, directive, or order that requires a BWC-equipped officer to provide verbal notification in other specified circumstances, and/or that requires that an indicator light be illuminated when the BWC is activated.

#### 4.4 Truthful Response to Specific Inquiries.

If a civilian inquires of an officer whether the officer is equipped with a BWC, or inquires whether the device is activated, the officer shall answer truthfully unless the County Prosecutor or designee, or Director of the Division of Criminal Justice or designee, has expressly authorized the officer to make a covert electronic recording. Cf. section 2(a) (Directive does not apply to officers while operating in an undercover capacity, or while conducting/participating in a station house custodial interrogation electronically recorded in accordance with Rule 3 :17). Nothing in this section shall be construed to establish a basis for suppressing a statement or other evidence. See section 15 (non-enforceability by third parties).

The policy does explicitly protect certain vulnerable individuals, such as students and patients, and prohibits recording in places of worship and courtrooms. (§§7.1,4)

#### 7.1 Special Restrictions When Recording; in Schools, Healthcare/Treatment Facilities, and Places of Worship.

Notwithstanding sections 5.2 and 5.3 of this Directive, and except as otherwise required by section 5.6, unless the officer is actively engaged in investigating the commission of a criminal offense, or is responding to an emergency, or reasonably believes that he or she will be required to use constructive authority or force, the officer shall not activate a BWC, or shall de-activate a BWC that has been activated, while the officer: 1) is in a school or youth facility or on school or youth facility property under circumstances where minor children would be in view of the BWC; 2) is in a patient care area of a healthcare facility, medical office, or substance abuse treatment facility under circumstances where patients would be in view of the BWC; or 3) is in a place of worship



under circumstances where worshipers would be in view of the BWC. See also section 9.3 (notation (i.e., "tagging") of certain events/encounters raising privacy or other special issues).

If an officer is required to de-activate the BWC in accordance with the provisions of this section, the officer shall narrate the reason for de-activation (-, "I am entering a school building where children are present."). The BWC shall be re-activated as soon as it is safe and practicable to do so if and when the circumstances requiring de-activation no longer exist (ems., the officer is conversing with an adult as part of a criminal investigation while in a place within the school where children would not be in view of the BWC).

In the event that a BWC captures the image of a patient in a substance abuse treatment facility, the County Prosecutor or designee, or Director of the Division of Criminal Justice or designee, shall be notified to ensure compliance with all applicable federal laws and regulations providing for the confidentiality of substance abuse treatment information. See 42 U.S.C. § 290dd-2, 42 C.F.R. §23.1 to 23.41. The recording shall not be accessed without the permission of the County Prosecutor or designee, or Director or designee. (Note that destruction of the recording would be inappropriate until it has been determined that it had not captured exculpatory information that must be provided to a defendant in discovery.)

#### 7.4 Special Restrictions on Recording in Courtrooms.

An officer shall not activate a BWC while in a courtroom during court proceedings, unless the officer is responding to a call for service or is authorized to use constructive force or authority, or unless such activation is expressly authorized by the judge.

**The policy requires that officers tag any recordings that raise special privacy or safety issues and prohibits access and use of those recordings without permission. (§9.3-4)**

#### 9.3 Provisions to Identify ("Tag") Recordings That Raise Special Privacy or Safety Issues.

To identify BWC recordings that may raise special privacy or safety issues, every department that deploys BWCs shall establish and implement a system that permits a notation (i.e., "tagging") to be made when the recording: 1) captures the image of a victim of a criminal offense; 2) captures the image of a child; 3) was made in a residential premises (e.g., a home, apartment, college dormitory room, hotel/motel room, etc.), a school or youth facility, a healthcare facility or medical office, a substance abuse or mental health treatment facility, or a place of worship; 4) captures a conversation with a person whose request to de-activate the BWC was declined; 5) captures a special operations event or execution of an arrest and/or search warrant where confidential tactical information (e.g., verbal codes and hand signals used to give direction to officers, techniques for interior movements and clearing rooms during execution of a warrant, techniques for convincing persons to open doors during warrant execution, etc.) may have been recorded; 6) captures the image of an undercover officer or confidential informant; or 7) captures the screen of a police computer monitor that is displaying confidential personal or law enforcement sensitive information. See also section 7.1 (requiring notice to the prosecutor when a BWC captures the image of a patient at a substance abuse treatment facility).

Subject to the provisions of section 12 of this Directive, an agency's policy, standing operating procedure, directive, or order issued pursuant to section 3.1 may specify additional circumstances when a BWC recording will be "tagged."

#### 9.4 Approval for Access to "Tagged" BWC Recordings.

A BWC recording tagged pursuant to section 9.3 shall not be accessed, viewed, copied, disseminated, or otherwise used without first obtaining the permission of the County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee. Except for recordings tagged pursuant to section 7.1 (when a BWC captures the image of a patient at a substance abuse treatment facility), and subject to the requirements of section 11.1 (requiring notice to County Prosecutor or Director prior to complying with a subpoena, court order, or request for records under the Open Public Records Act or the common law right to know), the County Prosecutor or Director may authorize the chief of the department, and one or more superior officers or duty positions (e.g., head of the detective bureau) identified by the chief of the department, to grant permission pursuant to this section to access, view, copy, disseminate, or otherwise use BWC recordings tagged pursuant to section 9.3. See also section 10.1 (specifying the purposes for which access to a BWC recording is permitted).

### **Prohibits Officer Pre-Report Viewing**

The New Jersey Department of Public Safety allows officers to view footage before completing their written reports. (§10.1.d)

#### 10.1 Specified Authorized Purposes for Accessing/Using Stored BWC Recordings.

No law enforcement officer or civilian employee of a law enforcement agency shall access, view, copy, disseminate, or otherwise use a BWC recording except for an official purpose as specified in this section.

Access to and use of a stored BWC recording is permitted only:

...

- d) to assist the officer whose BWC made the recording in preparing his or her own police report, subject to the restrictions established in section 10.2;

**In the case of a police use-of-force investigation, officers must receive prior approval to review recorded footage of the incident. (§10.2)**

#### 10.1 Authorization for Access to BWC Recordings Related to Use-of-Force Investigations.

...To ensure the integrity of investigations of police-involved shootings and other use-of-force incidents and to avoid possible contamination of a witness's personal recollection of events that could undermine his or her credibility as a witness, notwithstanding any other provision of this Directive, no civilian or law enforcement witness, including the principals) of the investigation, shall be given access to or view a BWC recording of the incident, or a BWC recording of the response or on-scene investigation of the incident, without the express prior approval of the assistant prosecutor, assistant or deputy attorney general, or designee

</li> </ul>

### **Limits Retention of Footage**

**The New Jersey Department of Public Safety specifies a minimum retention period of 90 days, but does not appear to require footage deletion. (§8)**

The policy, standing operating procedure, directive, or order promulgated by a law enforcement agency pursuant to section 3 of this Directive shall specify the period of time during which a BWC recording shall be retained. The retention period shall not be less than 90 days, and shall be subject to the following additional retention periods:

- a) when a BWC recording pertains to a criminal investigation or otherwise records information that may be subject to discovery in a prosecution, the recording shall be treated as evidence and shall be kept in accordance with the retention period for evidence in a criminal prosecution.
- b) when a BWC records an arrest that did not result in an ongoing prosecution, or records the use of police force, the recording shall be kept until the expiration of the statute of limitations for filing a civil complaint against the officer and/or agency.
- c) when a BWC records an incident that is the subject of an internal affairs complaint, the recording shall be kept pending final resolution of the internal affairs investigation and any resulting administrative action.

### **Protects Footage Against Tampering and Misuse**

**The New Jersey Department of Public Safety expressly prohibits unauthorized access to recorded footage, and authorized footage access is limited. (§10.1)**

No law enforcement officer or civilian employee of a law enforcement agency shall access, view, copy, disseminate, or otherwise use a BWC recording except for an official purpose as specified in this section.

**The NJDPS requires each department to maintain a record of all individuals who access recorded footage. (§10.3)**

Each department that deploys a BWC shall maintain a record of all access to stored BWC recordings pursuant to this Directive. The department's record keeping system shall document the following information:

- a) the date and time of access;
- b) the specific BWC recordings) that was/were accessed;
- c) the officer or civilian employee who accessed the stored BWC recording;

- d) the person who approved access, where applicable; and
- e) the reason(s) for access, specifying the purpose or purposes for access authorized pursuant to section 10.1 or section 10.2, and specifying the relevant case/investigation number, where applicable.

### ✘ **Makes Footage Available to Individuals Filing Complaints**

While the New Jersey Department of Public Safety permits officer to show recorded individuals relevant footage related to a potential citizen complaint, the policy does not expressly allow those individuals to review all relevant footage. The policy lacks detail on how the viewing procedure works, including whether the recorded individual may be accompanied by his or her attorney. (§10.1.f)

#### 10.1 Specified Authorized Purposes for Accessing/Using Stored BWC Recordings.

No law enforcement officer or civilian employee of a law enforcement agency shall access, view, copy, disseminate, or otherwise use a BWC recording except for an official purpose as specified in this section. Access to and use of a stored BWC recording is permitted only:

...

- f) to show to a civilian who intends to file a complaint against an officer to demonstrate what actually occurred during the encounter so that the person can make an informed decision whether to file the complaint;

The policy also limits access to recordings of use-of-force incidents that are under investigation. (§10.2)

... no civilian or law enforcement witness, including the principals) of the investigation, shall be given access to or view a BWC recording of the incident, or a BWC recording of the response or on-scene investigation of the incident, without the express prior approval of the assistant prosecutor, assistant or deputy attorney general, or designee.

### ✘ **Limits Biometric Searching of Footage**

The policy does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# New Orleans Police Department



- ✓ Makes the Department Policy Publicly and Readily Available
- Limits Officer Discretion on When to Record
- Addresses Personal Privacy Concerns
- ✗ Prohibits Officer Pre-Report Viewing
- ✗ Limits Retention of Footage
- Protects Footage Against Tampering and Misuse
- ✗ Makes Footage Available to Individuals Filing Complaints
- ✗ Limits Biometric Searching of Footage
- 💰 Received a [\\$237,000 DOJ grant](#) for BWCs in 2015

*Last updated: October 5, 2016. Is there a new version of this policy? [Let us know.](#)*

## ✓ **Makes the Department Policy Publicly and Readily Available**

NOPD publishes its BWC policy on its website within the Department's [Regulations Manual](#). The latest available version of the Regulations Manual is dated April 26, 2017. The BWC policy is Chapter 41.3.10, and was last revised November 6, 2016, and the department also has a policy governing [inadvertent misuse and non-use of BWCs](#).

## ○ **Limits Officer Discretion on When to Record**

NOPD requires officers to record a wide range of situations. (§§10-14)

10. . . . Activation of the BWC is required for the following situations:

- (a) All field contacts involving actual or potential criminal conduct within video or audio range;
- (b) Traffic stops (to include, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops);
- (c) Emergency responses;
- (d) Vehicle pursuits;
- (e) Suspicious vehicles;
- (f) Arrests and transports;
- (g) Vehicle searches;
- (h) Consent to search;
- (i) Physical or verbal confrontations or use of force;
- (j) Pedestrian checks/Terry Stops;
- (k) DWI investigations, including field sobriety tests;
- (l) Domestic violence calls;

- (m) Statements made by individuals in the course of an investigation or complaint;
- (n) Advisements of Miranda rights;
- (o) Seizure of evidence;
- (p) Swat rolls;
- (q) High-risk warrants; and
- (r) All calls for service.

11. Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.
12. Any other legitimate law enforcement contact where the officer believes that a recording of an incident would be appropriate.
13. The BWC may not be used for the purpose of intimidating an individual or to discourage an individual from observing police activity, making appropriate inquiries of an officer, or making a complaint.
14. Department members have discretion whether to activate a BWC during consensual contacts of a non-criminal nature.

**If officers deactivate their cameras before the conclusion of an incident, they must either seek supervisory approval or document their reasoning on camera. (§31)**

31. Once the BWC system is activated, it shall remain on and shall not be turned off until an investigative or enforcement contact or incident has concluded. For purposes of this section, conclusion of an incident has occurred when an officer has terminated contact with an individual, cleared the scene of a reported incident, or has completed transport of a civilian or an arrestee. In any instance in which cessation of the recording prior to the conclusion of the incident may be permitted, the officer must seek and obtain supervisory approval prior to deactivating the BWC. If supervisory approval cannot be reasonably obtained, officers must document on the BWC the reason for termination of the recording prior to deactivation of the BWC.

However, NOPD has no policy that requires officers to provide concrete justifications when they fail to record required incidents. According to the department's Body-Worn Camera ("BWC") Inadvertent Misuse and Non-Use policy, officers are encouraged to self-report BWC policy violations, which includes failure to record. (Body-Worn Camera ("BWC") Inadvertent Misuse and Non-Use policy §14)

Members are encouraged to report their own BWC violation(s) to their supervisor(s)...

### **Addresses Personal Privacy Concerns**

While NOPD expects officers to "be aware of, and sensitive to, civilians' reasonable privacy expectations," the department nonetheless gives officers full discretion to record during sensitive circumstances. The policy also does not expressly allow subjects to opt out of recording. (§§10; 30)

10. This policy is intended to achieve an appropriate balance between the benefits of BWC devices and civilians' reasonable expectations of privacy. Although this policy identifies those situations in which activation of the BWC is required, an officer has discretion to manually activate the system any time the officer believes it would be appropriate or valuable to document an incident. In exercising this discretion, officers should be aware of, and sensitive to, civilians' reasonable privacy expectations. The BWC shall only be activated for legitimate law enforcement purposes.

...

30. The BWC shall be utilized by any Department member assigned this device during all investigative or enforcement contacts however, there may be limited circumstances when the respect for an individual's privacy or dignity outweighs the need to record an event (e.g. – a victim traumatized following a violent assault). When an officer believes such circumstances exist, or that use of a BWC would impede or limit the cooperation of a victim or witness during an investigative contact, an officer may deactivate the BWC after receiving authorization from a supervisor.

### ✘ Prohibits Officer Pre-Report Viewing

NOPD allows officers to view footage before completing their written reports. (§§52-53)

- 52. A department member who has been assigned a BWC device may review his or her own BWC recording to help ensure accuracy and consistency of accounts. . . .Any review of a BWC by the officer shall be documented in the incident report corresponding with the incident.
- 53. A Department member involved in any use of force incident or accident causing injuries will be permitted, but will not be required, to review his or her own BWC video recordings prior to providing a recorded statement or completing reports. . . .

### ✘ Limits Retention of Footage

NOPD specifies minimum retention durations, but does not require footage deletion. (§9)

- 9. Digital recordings shall be preserved for at least two years, or if a case is under investigation or in litigation for longer than two years, at least three years after the final disposition of the matter, including appeals, unless a written request is made to store them for a longer period of time for a legitimate law enforcement purpose.

### ○ Protects Footage Against Tampering and Misuse

NOPD expressly prohibits both footage tampering and unauthorized access, but does not indicate that access to recorded footage will be logged or audited. (§§5-6; 50)

- 5. Department members are not authorized to make copies of any recordings for their personal use and are prohibited from using a recording device (such as a phone camera or secondary video camera) to record media from EVIDENCE.COM.
- 6. Department members assigned a BWC shall not erase, alter, reuse, modify, destroy, abuse, or tamper with BWC audio-video recordings or the device. Department members shall not use other electronic devices or other means to intentionally interfere with the capability of the BWC equipment. . . .
- 50. General access to digital recordings shall be granted to Department-authorized users only. It is the responsibility of authorized users to keep their user names and passwords confidential. Accessing, copying, or releasing any recordings for other than official law enforcement purposes is strictly prohibited, except as required by law.

### ✘ Makes Footage Available to Individuals Filing Complaints

NOPD does not expressly allow individuals who are filing police misconduct complaints to view footage.

### ✘ Limits Biometric Searching of Footage

NOPD does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# New York Police Department



- 
- ✓ Makes the Department Policy Publicly and Readily Available
  - ✓ Limits Officer Discretion on When to Record
  - ✓ Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - Limits Retention of Footage
  - Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage

*Last updated: October 5, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✓ **Makes the Department Policy Publicly and Readily Available**

NYPD publishes its BWC policy on its website as an appendix to a [larger report](#) responding to public and officer input on a draft of that policy. The most recent draft was issued on March 22, 2017.

## ✓ **Limits Officer Discretion on When to Record**

The NYPD policy lists a specific set of actions that officers must record (§3). Officers are given the discretion to record other additional activities (§4), as long as those activities are not on the prohibited recordings list (§10).

### MANDATORY ACTIVATION OF BWC

5. Activate BWC prior to engaging in, or assisting another uniformed member of the service with, the following police actions:

- a. Arrests
- b. Summonses, except for a Notice of Parking Violation (parking violation summons) unless the owner/operator of the vehicle is present
- c. Vehicle stops
- d. Interactions with persons suspected of criminal activity
- e. A search of an individual and/or his/her belongings, except for strip searches
- f. Interactions with an emotionally disturbed person
- g. Use of force as defined in P.G. 221-03, "Reporting and Investigation of Force Incident or Injury to Persons During Police Action"
- h. Public interactions that escalate and become adversarial

- i. Responding to the scene of crime-in-progress calls, including radio code signals 10-10, 10-13, 10-30 series, 10-85 (excluding administrative assistance), calls for service involving a weapon, and Shot Spotter activations
- j. Interior patrols of New York City Housing Authority buildings as well as any privately-owned building. The BWC must be activated upon entering the building and will not be deactivated until exiting the building and terminating the interior patrol along with any associated police action, if any.

...

#### DISCRETIONARY ACTIVATION OF BWC

8. Uniformed members of the service may record other official activities when, in the uniformed member's judgment, it would be beneficial to record, so long as it is not one of the prohibited recordings described in step "10."

#### PROHIBITED BWC RECORDINGS

10. Do not activate the BWC for any of the following:
- a. Performance of administrative duties or non-enforcement functions
  - b. Routine activities within Department facilities
  - c. Departmental meetings or training
  - d. Off-duty employment including paid detail assignments
  - e. Interviewing a current or potential confidential informant
  - f. Undercover officers
  - g. Interviewing the victim of a sex crime, as soon as the nature of the offense becomes apparent
  - h. Strip searches
  - i. When present in a court facility, except for the immediate lodging of a prisoner
  - j. The inside of a medical facility unless engaging in a police action as listed under step "5."

NYPD also spells out the circumstances in which officers may deactivate their cameras. (§9)

#### DEACTIVATION OF BWC

9. Once the BWC has been activated, continue recording until the investigative or enforcement action is concluded.
- a. In the case of an arrest, continue recording until the prisoner is lodged at the command for arrest processing.
  - b. The UMOS [Uniformed Member of the Service] may choose to deactivate the BWC upon the request of a member of the public if a suspect is not present, and it is safe and advisable to do so after considering all the circumstances, including the requester's desire for privacy or confidentiality.

When officers fail to record required incidents, NYPD requires them to document and justify such failures. (§6)

Notify patrol/unit supervisor when there is a failure to record a mandatory event as described in step "5."

- a. Document notification in ACTIVITY LOG.

### **Addresses Personal Privacy Concerns**

NYPD prohibits officers from recording individuals in certain sensitive situations, including victims of sex crimes and anyone engaged in political activities. (§10)

#### PROHIBITED BWC RECORDINGS:

6. Do not record any of the following events or locations:
- ...
  - g. Interviewing the victim of a sex crime, as soon as the nature of the offense becomes apparent
  - h. Strip searches
  - ...
  - j. When present in a medical facility unless engaging in a police action as listed under step "5."



Member of the public — which would presumably include victims — may request that officers deactivate their cameras for privacy reasons. Upon receiving such a request, officers “may” deactivate — which allows officers to turn their cameras off, but doesn’t require them to do so. The policy would be stronger if it said that officers “must” deactivate in such situations. (§9.b)

The UMOS may choose to deactivate the BWC upon the request of a member of the public if a suspect is not present, and it is safe and advisable to do so after considering all the circumstances, including the requester’s desire for privacy or confidentiality.

Officers are encouraged to notify subjects that they are being recorded. (§4)

#### NOTICE OF BWC RECORDING

4. As soon as reasonably practical, notify members of the public that an interaction is being recorded, unless notification could compromise the safety of any person or impede an investigation.
  - a. Suggested notification: “Sir/Ma’am, I am wearing a body-camera and this encounter is being recorded.”
  - b. Consent is not required to start or continue recording.

### ✘ Prohibits Officer Pre-Report Viewing

NYPD allows officers to view footage “in the performance of their duties.” In the event of a Level 3 use of force (deadly physical force), while officers may not view footage before turning it over to a supervisor, they may still review recordings prior to making an official statement. (§17)

17. In the performance of their duties, members of the service may view the following BWC recordings:
  - a. Their own BWC recordings, subject to steps “17(c)” and “17(d)”
  - b. BWC recordings made by other members of the service, if the viewing is in furtherance of an investigation, preparation of a case or other official purpose, subject to steps “17(c)” and “17(d)”
  - c. When a member of the service is the subject of an official departmental investigation, or is a witness in an official departmental investigation, the member may view his/her own BWC recording of the incident prior to making a statement under the provisions of P.G. 206-13, “Interrogation of Members of the Service,” at a time and place deemed appropriate by the supervisor in charge of the investigation
  - d. When a recording is related to a police firearms discharge, a Level 3 use of force, or a serious injury/death in custody as defined in P.G. 221.03, Reporting and Investigation of Force Incident or Injury to Persons During Police Action, the member may view his/her own BWC recording of the incident prior to making a statement under the provisions of P.G. 206-13, “Interrogation of Members of the Service,” at a time and place deemed appropriate by the supervisor in charge of the investigation.

### ○ Limits Retention of Footage

The NYPD policy states that the default retention period is one year, after which footage is deleted.. (§Operational Considerations)

*...The default preservation period for BWC video is one year, at which time it will be automatically deleted. Depending upon the “category” or “tag” assigned to the video, certain videos (e.g., arrests) may be retained for longer periods. Commanding officers may request that a BWC recording be retained beyond the prescribed retention period, if necessary. Requests should be submitted through channels to the Deputy Commissioner, Information Technology, detailing the reasons for the request and expected duration of the preservation.*

### ○ Protects Footage Against Tampering and Misuse

NYPD expressly prohibits footage tampering and unauthorized sharing of footage, and indicates that access to recorded footage will be logged and audited. (§Operational

## Considerations)

*The BWC and related hardware/software, as well as video, audio and data captured by the BWC, irrespective of the content, are at all times the property of the Department. Other than providing copies of BWC video to members of the Department for official purposes (e.g., detectives conducting criminal investigation, etc.) and prosecutors as described above, uniformed members of the service may not copy, publish, share or disseminate any audio, video, image or data to anyone unless authorized by the Police Commissioner. Furthermore, members of the service may not edit, delete or alter any video or audio captured by the BWC or stored on the Department's network or approved storage media.*

However, the policy does not indicate that the access to footage is logged or audited.

### ✘ **Makes Footage Available to Individuals Filing Complaints**

The policy does not expressly allow individuals filing complaints to review relevant footage. (§Legal Considerations)

The Department is required by law to disclose certain information and material related to criminal and civil proceedings pursuant to the New York Criminal Procedure Law, People v. Rosario, rules governing discovery in civil cases, The Freedom of Information Law (F.O.I.L.), subpoenas, and court orders. The Legal Bureau's Document Production Unit will respond to subpoenas, court orders, and F.O.I.L. requests as per P.G. 211-17, "Processing Legal Bureau Requests for Department Records Including Requests Under the Freedom of Information Law." The Internal Affairs Bureau will process requests from the Civilian Complaint Review Board for body-worn camera video as per P.G. 211-14, "Investigations by Civilian Complaint Review Board." Arresting officers will provide the assigned prosecutor with access to all BWC video related to an arrest utilizing the BWC video management system. Requests by a witness or victim to view a BWC recording must be declined and referred to the appropriate prosecutor handling the case. Confirmatory identifications ("show-ups") must be done in person and not by the witness viewing a BWC video of the suspect. Requests by civilians to view a BWC recording that is not related to a criminal case must be declined and referred to the Legal Bureau's Document Production Unit. Requests for BWC recordings can be made by emailing FOIL@NYPD.ORG or by making a request on New York City's FOIL website at <https://a860-openrecords.nyc.gov/new>.

### ✘ **Limits Biometric Searching of Footage**

NYPD does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# Oakland Police Department



- 
- ✓ Makes the Department Policy Publicly and Readily Available
  - ✓ Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
  - ✓ Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage

*Last updated: October 4, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✓ **Makes the Department Policy Publicly and Readily Available**

Oakland PD publishes the most recent publicly available version of its [BWC policy](#) on its website, linked from its [Departmental Policies and Procedures](#) page. The policy is Departmental General Order I-15.1, effective July 16, 2015.

## ✓ **Limits Officer Discretion on When to Record**

Oakland PD requires officers to record a detailed and lengthy set of circumstances. (§II.A)

### A. Required activation

Members shall activate their [camera] under any of the following circumstances:

1. Citizen contacts to confirm or dispel a suspicion that the citizen may be involved, as a suspect, in criminal activity;
2. Detentions and Arrests;
3. Assessment or evaluation for a psychiatric detention . . . ;
4. Involved personnel, as defined by [the department policy on Pursuit Driving], during a vehicle pursuit;
5. Serving a search or arrest warrant;
6. Conducting any of the following searches of a person and/or property:
  - a. Incident to arrest;
  - b. Cursory\* (i.e., patdown or limited weapons search); \*[]
  - c. Probable Cause;
  - d. Probation/Parole;
  - e. Consent; or
  - f. Inventory

- 7. Transporting any detained or arrested citizen (excluding prisoner wagon transports); or
  - 8. Upon the order of a higher ranking member.
- Members shall activate their [camera] prior to initiating the circumstances enumerated in Part II. A. 1-7, above.

**Once activated, officers must not turn off their cameras until one of the defined circumstances occurs. (§II.D.1)**

1. Members shall not de-activate their [camera], when it was activated as required by this policy, until one of the following occurs:
  - a. Their involvement in the citizen contact, arrest or detention has concluded or becomes a hospital guard . . . ;
  - b. They receive an order from a higher ranking member;
  - c. They are discussing administrative, tactical or law enforcement sensitive information away from the citizen;
  - d. They are at a location where they are not likely to have interaction or a chance encounter with the suspect (e.g. outer perimeter post, traffic control post, etc.);
  - e. The searches requiring activation . . . have concluded and the member believes they will have no further interaction with the person;
  - f. They reasonably believe the recording at a hospital may compromise patient confidentiality;
  - g. A pursuit has been terminated and the member performs the required actions, as specified in [the department policy on Pursuit Driving], or notifies Communications they are in-service; or
  - h. They are interviewing an informant for the purpose of gathering intelligence. At the conclusion of the interview, the [camera] shall be re-activated until no longer required by policy.
  - i. They are meeting with an undercover officer. At the conclusion of the meeting, the [camera] shall be re-activated until no longer required by policy.

After a member de-activates their [camera], it is their responsibility to ensure they re-activate their [camera] should the circumstances require it.

**The policy describes different activation and deactivation requirements for statement taking, but we omit those requirements here for brevity. (§II.D.2)**

**Officers may record at their discretion when not otherwise required by policy, however all camera use must be documented in writing. (§II.E, §III.C.1)**

**II.E. Discretionary Activation and De-Activation**

Members, when not prohibited from or required to activate their [camera], may use their own discretion when deciding to activate and de-activate the [camera].

...

**III.C. [Camera] Use Documentation**

1. Personnel are required to document all activations of their PDRD, except for test or accidental recordings.

Documentation shall be provided in at least one of the following reports, as appropriate:

- a. Crime Report;
- b. Consolidated Arrest Report, electronic or paper, or Juvenile Record;
- c. Field Interview; or
- d. CAD notes
- e. Use of Force Report

**When officers fail to record, they must also document the reason in writing. (§III.C.2)**

2. Personnel are required to document and explain in one of the reports specified above any delayed or non-activation of their PDRD when PDRD activation was required.

Oakland PD allows (but does not require) officers to turn off their cameras during certain sensitive situations, such as investigating a child abuse or sexual assault victim. (§§II.C.2, 4; §II.D.1.f)

C. PDRD Activation is not required under any of the following circumstances:

...

2. During a preliminary investigation with a child abuse victim or a victim of a sexual assault;

...

4. Members on a guard assignment at a Police, Medical, Psychiatric, Jail or Detention facility. Members shall assess the circumstances (e.g., suspect's demeanor/ actions, spontaneous statements, etc.) of each guard assignment, on a continuing basis, to determine whether to discretionarily activate or de-activate their [camera].

D. De-activation of the PDRD

1. Members shall not de-activate their PDRD, when it was activated as required by this policy, until one of the following occurs:

...

f. They reasonably believe the recording at a hospital may compromise patient confidentiality;

Oakland PD also provides specific guidance on statement taking, but the policy is vague as to whether officers simply need to notify subjects that the camera is on, or whether officers actually need to obtain consent. (§II.D.2.a)

2. Statement taking

Personnel are authorized to use the [camera] to record statements in lieu of taking a written statement. [Cameras], however, shall not be used to record statements from child abuse or sexual assault victims.

a. Personnel shall advise or obtain consent from victims or witnesses when taking a PDRD recorded statement.

## 🚫 Prohibits Officer Pre-Report Viewing

Oakland PD requires officers to file an initial written statement before relevant footage is reviewed, for some critical incidents, like when officers use force that results in death or serious bodily injury. Oakland PD institutes a two-step process. First, before viewing the footage, the involved officer must submit an initial report to the investigator. Second, once the initial report is approved, the officer may view the footage, and be given an opportunity to supplement the initial report (presumably, with a clear delineation of the parts of the report that were written before and after footage was reviewed). (§§IV.A.2-3)

IV. VIEWING [CAMERA] VIDEO FILES

Viewing [camera] video files is authorized, restricted or prohibited as follows . . . :

A. Level 1 Use of Force, Level 1 Pursuit or In-Custody Death

...

2. No personnel involved in or a witness to the incident may view any audio/video recordings prior to being interviewed by the appropriate investigative unit and receiving command approval.

3. Once a member's report(s) has been submitted and approved and the member has been interviewed by the appropriate investigator, the investigator will show the member his/her audio/video. This will occur prior to the conclusion of the interview process[.]

Personnel will be given the opportunity to provide additional information to supplement their statement and may be asked additional questions by the investigators.

Aside from the above circumstances, when an officer is under investigation, officers may only view relevant footage upon approval by the Criminal Investigation Division or the Internal Affairs Division. (§IV.B.)

For all other cases, officers may review relevant footage. (§IV.E)

E. Member Review

Members are authorized to review their own [camera] recordings to properly identify the data files, refresh their memory regarding an incident or any other work related purpose, unless otherwise prohibited by policy.

 **Limits Retention of Footage**

Oakland PD retains all footage for a minimum of two years, with no apparent deletion requirement. (§VI.A.3)

3. [The Project Administrator has the responsibility to] [e]nsure PDRD files are secured and retained for a minimum of two (2) years;

 **Protects Footage Against Tampering and Misuse**

Oakland PD expressly prohibits footage tampering and unauthorized use. (§§I.C-E)

C. All [camera] files are the property of the Oakland Police Department. Unauthorized use, duplication, editing, and/or distribution of [camera] files is prohibited.

D. Personnel shall not delete any [camera] file, except as specified in Part VII, C.

E. Personnel shall not remove, dismantle or tamper with any hardware/software component or part of the [camera].

Each time department members view footage, they must document the reason why the footage is being accessed, indicating that all viewing is logged. (§V.B)

B. Viewing a PDRD video file

Authorized personnel viewing any video file shall document the reason for access in the "Comments" field of each video file viewed. The entry shall be made either prior to viewing the video or immediately after viewing the video.

 **Makes Footage Available to Individuals Filing Complaints**

Oakland PD does not expressly allow individuals who are filing police misconduct complaints to view footage. All non-departmental requests are handled by existing department policy on public records request (DGO M-9.1), which is not published on the department's website. (§VII.B)

B. Non-Departmental Requests.

Public Records requests shall be accepted and processed, in accordance with the provisions of federal, state, local statutes and DGO M-9.1, PUBLIC RECORDS ACCESS, and forwarded to the Project Administrator.

 **Limits Biometric Searching of Footage**

Oakland PD does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# Oklahoma City Police Department



- 
- ✗ Makes the Department Policy Publicly and Readily Available
  - ✓ Limits Officer Discretion on When to Record
  - ✓ Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
  - Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage

*Last updated: October 4, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✗ **Makes the Department Policy Publicly and Readily Available**

The Oklahoma City Police Department does not make its body worn camera policy publicly and readily available on their website. The latest available version is from October 2015.

Oklahoma City's body cameras were removed from June 2016 to November 2016, after an arbitrator ruled that the policy violated the contract between the city and the union. The parties [came to an agreement](#) in November 2016, but it is unclear what parts of the policy have changed as the new policy has not been published.

## ✓ **Limits Officer Discretion on When to Record**

OCPD clearly describes when cameras must be activated. (§188.30)

Each officer shall activate his or her body-worn camera in the following circumstances:

1. Voluntary contact (only in a public place or a place where the public and the officer have a right to be). . . . ;
2. Prior to any investigative detention, traffic stop, custodial arrest, or potential or actual use of force;
3. Prior to initiating any Code 3 response;
4. Upon receiving or responding to a Priority 1 or Priority 2 call;
5. While responding to or involved in any vehicle or foot pursuit;
6. When conducting a Standardized Field Sobriety Test (SFST) or Drug Recognition Expert (DRE) evaluation;
7. While transporting, guarding or coming into contact with any person who becomes agitated, combative, threatening or makes statements related to his or her arrest/protective custody; or
8. When directed by a supervisor.

Officers also have the power to activate their BWC when they “deem it appropriate.” (§188.31)

An officer may activate his or her body-worn camera anytime the officer deems it appropriate to record for official purposes, except as prohibited under Procedure 188.32.

Officers are required to make a “recorded announcement” prior to deactivating regarding the reason the camera is being deactivated. (§188.33)

Prior to deactivating a body-worn camera and when safe to do so, the officer shall make a recorded announcement as to the reason the camera is being deactivated, such as:

1. Contact completed;
2. Incident concluded;
3. Ordered by supervisor (name) to end recording;
4. Interviewing victim, witness, reporting party or involved party; or
5. Non-enforcement activity.

OCPD also requires that officers who fail to activate their body worn cameras will provide a “supplemental report” to document their failure to record. (§188.45)

The officer shall document in a supplemental report the reason a body-worn camera was not activated when it should have been activated as required by Procedure 188.30.

### ✔ Addresses Personal Privacy Concerns

OCPD’s policy explicitly states when the cameras should not be activated, including for reasons of privacy, and officers are not permitted to knowingly record victims. (§188.32)

Unless required by Procedure 188.30, an officer shall not activate or shall deactivate his or her body-worn camera:

1. When knowingly interviewing victims, witnesses, involved parties or reporting parties;
2. In any situation where individuals have a reasonable expectation of privacy, such as their residence, a bathroom or a locker room;
3. In a healthcare facility, unless required by Procedure 188.36;
4. During administrative investigations unless approved by the investigating supervisor;
5. When knowingly in the presence of an undercover officer or informant, unless recording is requested by the undercover officer;
6. During activities, conversations or meetings with law enforcement employees;
7. During personal conversations, activities or meetings that are not law enforcement related;
8. At the conclusion of a call or incident; or
9. When directed by a supervisor

When an officer comes in contact with a “voluntary contact” the officer shall receive consent from them in order to continue recording. (§180.30.1)

If a voluntary contact is initiated in a location where a person has a reasonable expectation of privacy, and the criteria listed in numbers 2-8 below do not apply, the officer shall receive consent from the person prior to continuing to record the voluntary contact.

An officer is not required to advise a person they are being recorded unless “required by Procedure 188.30.1” (requiring officers to obtain informed consent in situations where a person has a reasonable expectation of privacy). (§§188.40; 188.30)

§188.40. Except as required by Procedure 188.30.1, an officer is not required to advise a person he or she is recording their interaction unless the person specifically asks if they are being recorded, at which point the



officer shall inform the person they are being recorded.

§188.30.1

If voluntary contact is initiated in a location where a person has a reasonable expectation of privacy, and the criteria listed in numbers 2-8 below do not apply, the officer shall receive consent from the person prior to continuing to record the voluntary contact;

...

### ✘ Prohibits Officer Pre-Report Viewing

OCPD encourages officers to use BWC recordings to assist with the completion of reports. (§188.50)

An officer will be allowed to review his or her body-worn camera recordings or the portion of another officer's recording where that officer is captured:

1. To assist with an investigation and completion of reports;
2. Before making any statement or being interviewed, when the officer is the subject of an investigation. If the officer is the subject of an administrative investigation, he or she may have an employee representative/legal counsel present. If the officer is the subject of a criminal investigation, he or she may have legal counsel present; or
3. Prior to testifying in court.

### ✘ Limits Retention of Footage

The policy has a clear retention schedule for various categories of footage, but the policy appears to assign minimum, rather than maximum, periods, without required deletion. (§188.70)

**Investigative Detention (No Arrest or Citation)** 60 days

*When an officer places a person under investigative detention for a short period of time, but ultimately releases the person and no citation is issued.*

**Protective Custody (PIA, EOD, Juvenile Transport/Custody)** 60 days

*When an officer transports an adult to PIA or takes an adult/juvenile into protective custody under an EOD or transports a juvenile to a shelter or responsible person for release.*

**Traffic Stop and/or Collision Investigation (No Arrest/No Citation/Minor or No Injury)** 60 days

*When an officer conducts a traffic stop but no arrest is made, no citation is issued, or when an officer is working a motor vehicle collision involving no injury or minor injury and no custodial arrest is made and no citation is issued.*

**Field Interview/Citizen's Assist/Voluntary Contacts, etc.** 60 days

*When an officer initiates a field interview, voluntary contact or a citizen assist, where no force is used, no citation is issued and no arrest is made.*

**CAD Calls or Other Activity Not Identified Above-No Further Action.** 60 days

*When a recording does not fit under any of the above categories.*

**Traffic Stop and/or Collision Investigation (Citation Issued/No Custodial Arrest/Minor or No Injury)** 180 days

*When an officer conducts a traffic stop where a citation is issued with no custodial arrest, or when an officer is working a motor vehicle collision involving no injury or minor injury, and a citation is issued but no custodial arrest is made.*

**Misdemeanor Arrest (Citizen's Arrest/Warrant Arrest/PC Arrest) or an Investigation Involving a Misdemeanor Crime** 1 year

*When an officer makes a misdemeanor arrest, regardless if the person is booked into jail, field released, etc., or when an officer is assigned to or responds to a misdemeanor crime investigation and conducts an interview, inventory, search, prepares a crime scene log, crime incident/supplemental report etc.*

**Felony Arrest (Citizen's Arrest/Warrant Arrest/PC Arrest) or an Investigation Involving a Felony Crime (Except Homicide)** 3 years

*When an officer makes a felony arrest, regardless if the person is booked into jail, hospitalized, etc., or when an officer is assigned to or responds to a felony crime investigation and conducts an interview, inventory, search, prepares a crime scene log, crime incident/supplemental report, etc.*

**Collision Investigation Involving a Fatality or Great Bodily Harm** 3 years

*When an officer is involved in investigating a fatality or great bodily injury collision regardless if a citation is issued or an arrest is made.*

**Homicide Arrest, Field Investigation, Interview, Inventory or Search, Etc** Permanent

*When an officer makes a homicide arrest, regardless if the person is booked into jail, hospitalized, etc., or when an officer is assigned to or responds to a homicide investigation and conducts an interview, inventory, search, prepares a crime scene log, crime incident/supplemental report etc.*

**Pending Review by Supervisor** Until Reviewed

*When an officer needs to have a video reviewed by a supervisor prior to making a determination on how the video should be categorized.*

**Administrative: Pursuits** 3 years

*When an officer is assigned to, responds to or is involved in a motor vehicle pursuit.*

**Administrative: Use of Force (No Injury/Minor Injury with or Without Hospitalization)** 3 years

*When an officer is involved in or witnesses a use of force involving no injury or minor injury with or without hospitalization. This includes use of less lethal devices.*

**Administrative: Collisions Involving Department Vehicles (No Injury/ Minor Injury with or without Hospitalization)** 3 years

*When an officer is involved in or witnesses a motor vehicle collision involving a department vehicle where no injury or minor injury occurs with or without hospitalization.*

**Administrative: Formal Complaints/Internal Investigations (Non-Criminal)** 3 years

*When an officer is involved in a formal complaint or an administrative investigation.*

**Administrative: Open Records Release** 3 years

*When an open records copy of an original recording is released, the retention period for the original recording will be changed to this category unless a longer retention period already applies.*

**Administrative: Misdemeanor Warrant** 3 years

*When a warrant has been issued for a misdemeanor charge that was initially categorized under a shorter retention period.*

**Administrative: Felony Warrant** 7 years

*When a warrant has been issued for a felony charge that was initially categorized under a shorter retention period.*

**Administrative: Criminal Investigation of a Department Employee Not Involving A Death** 7 years

*When a department employee is the subject of a criminal investigation not involving a death.*

**Administrative: Use of Force (Death or Serious Bodily Injury)** Permanent

*When an officer is involved in or witnesses a use of force involving death or serious bodily injury with or without hospitalization. This includes use of less lethal devices.*

**Administrative: Collisions Involving Department Vehicles (Death or Serious Bodily Injury)** Permanent

*When an employee is involved in or witnesses a motor vehicle collision involving a department vehicle where death or serious bodily injury occurs.*

**Administrative: Criminal Investigations of Department Personnel Involving a Death** Permanent

*When a department employee is the subject of a criminal investigation involving a death.*

**Administrative: Investigative Retention** Permanent

*When an investigator determines that a recording needs to be retained beyond the original retention period due to circumstances of the investigation.*

The policy adds that recordings that have no "evidentiary value" will be handled by the Digital Evidence Management Unit. (§188.51)

An original recording that may have evidentiary value will be maintained by the Digital Evidence Management Unit. If a redaction is to be made, a copy of the original recording will be made and only the copy will be redacted. The original and the copy will be maintained by the Digital Evidence Management Unit.

An original recording that has no evidentiary value may be deleted as provided above. However, prior to deletion of any non-evidentiary recording, the Digital Evidence Management Unit shall consult with the Municipal Counselor's Office. When a recommendation from the Municipal Counselor's Office differs from the recommendation of the Digital Evidence Management Unit regarding deletion, the information will be forwarded to the Chief of Police, or designee, for resolution.

## ○ Protects Footage Against Tampering and Misuse

OCPD prohibits officers from altering or deleting information from the BWC. (§188.35.2)

Body-worn cameras and or body-worn camera recordings shall not be:

...

Copied, deleted, altered, uploaded, reviewed or released in any manner, except as authorized by written directives;

...

OCPD assigns the Digital Evidence Management Unit to “maintain recordings” among other things, but the policy does not prohibit unauthorized access or note that access will be logged. The policy assigns responsibility for “providing audit information” to the Body-Worn Camera Administrator but does not note what is audited in the system. (§§188.60; 188.15)

§188.60. The Body-Worn Camera Administrator is responsible for:

...

5. Providing audit information.

The Digital Evidence Management Unit is responsible for:

1. Maintaining recordings in accordance with department retention procedures;
2. Processing requests for redaction or deletion and maintaining records of these requests;
3. Providing recordings pursuant to Open Records requests;
4. Processing subpoenas and court orders for recordings; and
5. Processing requests for review from authorized personnel.

§188.15. Digital Evidence Management Unit – The unit responsible for management of the audio and video recordings obtained from body-worn cameras. This includes, but is not limited to, copying, redacting or deleting the audio and/or video recordings.

## ⊗ Makes Footage Available to Individuals Filing Complaints

OCPD’s policy does not expressly allow individuals who are filing police misconduct complaints to view relevant footage. However, OCPD will “provide copies of recordings” in “accordance with federal and state law.” (§188.71)

The Oklahoma City Police Department through the Records Unit will provide copies of recordings from body-worn cameras in accordance with federal and state law. The Records Unit and/or the Digital Evidence Management Unit will consult with the Municipal Counselor’s Office as needed.

## ⊗ Limits Biometric Searching of Footage

The policy does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# Omaha Police Department



- 
- ✓ Makes the Department Policy Publicly and Readily Available
  - ✓ Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
  - ✓ Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage
  - 💰 Received a [\\$67,500 DOJ grant](#) for BWCs in 2015

*Last updated: October 5, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✓ **Makes the Department Policy Publicly and Readily Available**

The Omaha PD publishes its most recent BWC policy online as part of its [Policies and Procedures Manual](#), beginning on page 57, titled "Body Worn Cameras (BWC)." The most recent manual was issued on May 18, 2017.

## ✓ **Limits Officer Discretion on When to Record**

Omaha PD clearly describes what situations must and must not be recorded. (§§VI.E,L,M)

E. Officers shall activate the BWC in the following situations:

1. Immediately when dispatched to a Priority 1 call for service.
  - a. Area/crew supervisors will remind officers on air to activate their BWC during all critical incidents and on calls to which the supervisor is dispatched.
2. During all other calls for service and proactive, non-dispatched law enforcement-related encounters and activities, officers shall activate the camera upon arrival or commencing contact as long as activating the BWC does not place the officer or others at risk.
  - a. If the immediate activation of the BWC is not feasible due to an immediate risk to the safety of the officer or others, the officer shall activate the BWC at the first available opportunity after the immediate threat has been addressed.
    1. Supervisors shall carefully review such incidents to make certain that the BWC was turned on at the earliest available opportunity.

b. Examples of law enforcement-related encounters include but are not limited to the following: traffic stops, arrests, searches, interrogations and/or interviews, foot and/or vehicle pursuits, expedited level responses, citizen and/or suspect transports, violations of law, any situation in which the MVR would be activated (whether or not their vehicle is equipped with an MVR), etc.

**NOTE:** When in doubt, officers shall activate the BWC. Officers shall record any situation or incident they believe, through their training and experience, should be audibly and visually recorded.

...

L. The BWC shall NOT be deactivated during an event/incident, unless:

1. The officer does not reasonably believe that deactivation will result in loss of critical documentary information.
2. A supervisor directs an officer to stop recording.
3. A witness or victim refuses to provide a statement if recorded and the encounter is non-confrontational.
4. In the officer's judgment, a recording would interfere with the officer's ability to conduct the investigation, would be inappropriate because of the victim or witness's physical condition, emotional state, age, or other sensitive circumstances (e.g., a victim of rape, incest, or other form of sexual assault), or would risk the safety of a confidential source/informant, citizen informant, or undercover officer.

When officers fail to record a required incident, they must provide a written justification in their Daily Report. Officers must also provide an explanation prior to deactivating their cameras. Notably, the policy also insists that supervisors investigate failures to record critical incidents. (§§VI.G,K; VII.6M)

VI. Body Worn Camera Operational Guidelines

G. If officers do NOT activate the BWC during an incident they would be expected to record, they shall self-report and document their reason(s) for not recording in an Inter-Office Communication that will be submitted to their precinct and/or section commander via chain of command

...

K. Once activated, officers shall make certain that the BWC continues recording until the incident and/or citizen contact is completed.

1. For critical incidents, such as Pursuits, Use of Force incidents involving Actively Resistive Subjects, Assaultive/High-Risk Subjects, or Life Threatening/Serious Bodily Injury Subjects (as described in the OPD "Response to Resistance – Use of Force" policy), the BWC shall NOT be deactivated until a supervisor determines the incident is completed.

...

M. Prior to deactivating the BWC, officers will verbally announce their intention to deactivate the BWC and/or provide a short explanation (i.e., the event is concluded, a supervisor approved deactivation of the BWC, etc.).

VII. Critical Incidents

6. If involved officers did NOT activate the BWC during the incident the officers' supervisor(s) shall carefully review the incident and submit an Inter-Office Communication to the Chief of Police via chain of command detailing the incident and the officers' reasons for not recording the incident with their BWC.
  - a. The Inter-Office Communication will include the supervisor's recommendations for remedial training and/or discipline if applicable.

## ○ Addresses Personal Privacy Concerns

Omaha PD provides detailed guidance about privacy considerations and prohibitions (§§VII.A; VI.L.4)

VII. Privacy Considerations and Prohibitions

A. Officers shall adhere to the following privacy-related prohibitions when operating BWCs:

1. To respect the dignity of others, officers will try to avoid recording videos of persons who are nude, or when sensitive human areas are exposed.

**NOTE:** Officers shall not activate the BWC while conducting strip searches.

2. Officers shall not record places where a reasonable expectation of privacy exists, such as locker rooms or restrooms, unless they are present in an official capacity.

3. While in patient care areas of a medical facility, officers will only record with BWCs when the recording is for official law enforcement purposes. Care should be used to record only the parties involved in the event being investigated.
4. Officers shall not record non-law enforcement-related personal activity.
5. Officers shall not intentionally record conversations of fellow employees without their knowledge during routine, non-law enforcement-related activities.
6. Officers shall not knowingly record confidential informants or undercover officers.

VI. Body Worn Camera Operational Guidelines

L. The BWC shall NOT be deactivated during an event/incident, unless:

- ...
4. In the officer's judgement a recording would interfere with the officer's ability to conduct the investigation, would be inappropriate because of the victim or witness's physical condition, emotional state, age, or other sensitive circumstances (e.g. a victim of rape, incest, or other form of sexual assault), or would risk the safety of a confidential source/informant, citizen informant, or undercover officer.
- ...

The policy allows, but does not appear to require officers to deactivate recording at the request of victims and witnesses, and does not require officers obtain informed consent. (§§VI.D; L.3)

VI. Body Worn Camera Operational Guidelines

D. When feasible, officers will inform subjects that they are being recorded via BWC.

...

L. The BWC shall NOT be deactivated during an event/incident, unless:

- ...
3. A witness or victim refuses to provide a statement if recorded and the encounter is non-confrontational.

**✘ Prohibits Officer Pre-Report Viewing**

OPD allows officers to view recordings when preparing their reports. (§Preamble; IX.E)

PREAMBLE:

Body Worn Cameras (BWC) can be a useful tool to assist the Omaha Police Department (OPD) by documenting the interaction of police with citizens, which will assist in the documentation of evidence, preparation of reports, and future court testimony. The Recorded Media generated by the BWC may also be used to protect the OPD and its employees from civil litigation and false allegations of misconduct....

E. Officers may review recordings when preparing written reports of events to help make certain of the accuracy and consistency of accounts.

**NOTE:** BWC recordings are not a replacement for required written reports.

Even for incidents that require "immediate retrieval of Recorded Media," such as "employee-involved incidents," the policy still does not explicitly bar officers from viewing footage prior to writing reports or preparing testimony. The policy indicates that such media will be classified as "LOCKED" and restricted to specific employees, but does not define who these specific employees are nor under what circumstances they may access locked footage. (§VII.A)

A. When an incident arises (serious crime scenes, employee-involved incidents, etc.) that requires immediate retrieval of Recorded Media, the following procedure will be followed.

1. If feasible, a field supervisor will respond to the scene and order the impacted BWC to be collected for transfer to the BWC Administrator.
2. The BWC Administrator shall verify that all recordings have been transferred from the BWC to Evidence.com.
3. The BWC Administrator shall:

- a. Make a working copy of the Recorded Media for the investigative unit.
  - b. Create a DVD as the original copy and book the original copy into the OPD Evidence and Property Unit, per OPD procedures.
  - c. Complete an OPD Supplementary Report (PortalOne/OPD Form 200A). Provide additional copies as requested by the CIB Commander.
  - d. Provide additional copies as requested by the CIB Commander.
4. The BWC Administrator shall make certain that the BWC is returned to its assigned officer.
  5. The BWC Administrator shall use the classification "LOCKED" on the Recorded Media. Recordings classified as "LOCKED" are restricted to specific employees.

**NOTE:** See the OPD "Response to Resistance – Investigative Process for Use of Force Incidents Involving Serious Injury or Death" policy for procedures governing retrieval of BWC recordings of these types of incidents.

The "Response to Resistance – Investigative Process for Use of Force Incidents Involving Serious Injury or Death" does not add any additional details about whether officers may view footage prior to making a statement following a serious incident.

### ✘ Limits Retention of Footage

Omaha PD notes that media will be retained for a period of two years, but this appears to be a minimum duration with no requirement to delete footage. (§§VIII.A-B)

#### VIII. Video Retention, Classification, and BWC System Administrator Responsibilities

- A. All media stored on Evidence.com will be retained for a period of two years.
- B. The classification category "LOCKED" will be used to classify serious incidents including, but not limited to, officer-involved shootings and cruiser accidents.
  1. Recordings classified as "LOCKED" are restricted to specific employees only.

### ✔ Protects Footage Against Tampering and Misuse

OPD prohibits the deletion, alteration, and download of footage without prior authorization. (§§IX.B-D)

- B. Employees shall not erase, alter, reuse, edit, copy, share, modify, or tamper with BWC recordings without prior written authorization and approval of the Chief of Police or designee.
- C. Officers shall not record, download, or otherwise transfer BWC recordings onto any type of personal recording devices, including but not limited to personal cellular phones, video recorders, tables, etc.
- D. To prevent damage to, or alteration of, original Recorded Media, such media shall not be copied, viewed, or otherwise inserted into any device not approved by the BWC System Administrator.

The policy indicates that access to recorded footage will be audited by a system administrator for unauthorized access. (§IV.D)

- D. The BWC System Administrator(s) will periodically audit BWC Recorded Media to make certain only authorized users are accessing the data for legitimate and authorized purposes. . . .

### ✘ Makes Footage Available to Individuals Filing Complaints

OPD does not expressly allow complainants to view footage, and forbids employees from playing back or disseminating footage outside the agency without prior authorization. (§§Disclaimer; VI.I; IX)

Disclaimer:

...The BWC Recorded Media is considered investigative in nature and is for use in criminal investigations,

disciplinary investigations, administrative purposes, and other proceedings protected by confidentiality laws and Department policy. The unauthorized use or release of BWC Recorded Media may compromise ongoing criminal and disciplinary investigations or violate the privacy rights of those recorded. Dissemination outside the Omaha Police Department is strictly prohibited without specific written authorization of the Chief of Police or designee. Violators will be subject to discipline up to and including termination.

V. Body Worn Camera Operational Guidelines

...

I. Employees shall not play back BWC recordings to members of the public.

...

IX. Recording, Duplication, Dissemination and Review

A. All BWCs and all Recorded Media, images, audio recordings, and metadata captured by the BWCs are the property of the OPD. Dissemination outside the agency is strictly prohibited without specific written authorization of the Chief of Police or designee. Violators will be subject to discipline up to and including termination.

 **Limits Biometric Searching of Footage**

OPD does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.



# Orlando Police Department



- 
- ✗ Makes the Department Policy Publicly and Readily Available
  - ✓ Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
  - ✗ Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage

*Last updated: October 11, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✗ **Makes the Department Policy Publicly and Readily Available**

Orlando PD does not publish its BWC policy on its website. However, a version of its [policy](#) was found on the Bureau of Justice Assistance's Body Worn Camera Toolkit. This policy was effective October 21, 2015. As of September 7, 2017 the Orlando PD [has fitted](#) about 150 officers with body worn cameras.

## ✓ **Limits Officer Discretion on When to Record**

The Orlando PD requires officers to record "any situation or incident that the member, through training and experience, believes should be audibly and/or visually preserved," along with other listed scenarios, but only "if practical and without compromising the safety of the member or the public." (§§3.2-3)

### 3.2 ACTIVATION OF THE BODY-WORN CAMERA

...

This policy is not intended to describe every possible situation in which the BWC system may be used; however, a member shall activate the BWC, if practical and without compromising the safety of the member or the public, in the following circumstances:

- traffic stops;
- priority responses;
- vehicle pursuits;
- suspicious persons / vehicle contacts;

- arrests;
- vehicle searches;
- physical or verbal confrontations;
- domestic violence calls;
- DUI investigations;
- during interviews; foot pursuits;
- advising an individual of their Miranda warnings;
- response to resistance;
- crimes in progress;
- crimes in progress;
- any situation or incident that the member, through training and experience, believes should be audibly and/or visually preserved.

...

### 3.3 DEACTIVATION OF THE BODY-WORN CAMERA

Once the camera is activated to record, it shall remain on until the initial incident that caused the activation has stabilized or at the time that the member gives a verbal disposition to Headquarters. In some instances, the member may need to record the actions of the arrestee while being transported to the BRC.

## When officers decide to turn off the BWC or fail to record required incidents, Orlando PD requires them to document and justify such failures. (§3.3)

If at any point during an activation a member has reason to turn off the BWC prior to the final conclusion of an incident, that member will verbally state the reason prior to the deactivation of the camera.

...

If a member fails to activate their BWC during a required situation or part of a situation, or interrupts or terminates the recording, shall notify their supervisor as soon as reasonably possible, and shall document the reason to their supervisor and the MVSA via a memorandum or an email. In cases where an official written report of the incident is required, the member shall document the reason they failed to activate, interrupt, or terminated the recording in the report. Repeated failures by a member may be considered as a basis for discipline, up to and including termination.

## Addresses Personal Privacy Concerns

Orlando PD prohibits officers from recording “in places where a reasonable expectation of privacy exists” unless “the BWC is being used as part of an official law enforcement incident” or the officer is “conducting official law enforcement business that requires the member to use the BWC.” (§3.4)

Unless conducting official law enforcement business that requires the member to use the BWC, the following is a list that members must adhere to:

- The BWC will not be used to record personal activity.
- The BWC will not be intentionally activated to record conversations of fellow employees without their knowledge during routine, non-enforcement related activities.
- The BWC will not be used to intentionally record confidential informants or undercover operations.
- Unless the BWC is being used as part of an official law enforcement incident, the BWC will not be activated in places where a reasonable expectation of privacy exists, such as, but not limited to, locker rooms, dressing room, or restrooms.

## Officers are not required to deactivate recording victims or witnesses, but are given discretion to turn off their cameras if requested. (§3.3)

When members are interacting with victims, witnesses and others from the community who request not to be recorded, members shall:

- Balance the value of obtaining a recording with the reluctance of a victim, witness or others from the community to provide information while being recorded
- Members should use discretion in making the decision
- If the suspect of a crime is present, the member shall not turn off the BWC

d) If the member deactivates the BWC at the request of the witness, the member shall state the reason prior to the deactivation

### ✘ Prohibits Officer Pre-Report Viewing

The policy encourages officers to review footage when preparing reports, but requires officers include a disclaimer that footage was reviewed. (§4)

...Members are encouraged to review available video while preparing written reports to ensure accuracy, and will provide the following disclaimer on each document:

**"The contents of this document are based on my observations of the incident and a review of the recordings captured by a mobile video recording system."**

...

### ✘ Limits Retention of Footage

Orlando PD specifies a minimum retention period of 90 days, but does not appear to require footage deletion.(§7)

Generally, recordings shall be retained for a minimum of 90 days, or purged when it is no longer useful for the purposes of agency training, for an investigation, or other law enforcement purposes.

### ✘ Protects Footage Against Tampering and Misuse

The Orlando PD appears to expressly prohibits both footage tampering and unauthorized access, and indicates that all access to recorded footage will be logged or audited. However, the policy includes a concerning loophole indicating that members may erase or alter records when conducting "official law enforcement business that requires the member to use the BWC." (§§3.4.g; 6)

#### 3.4. PROHIBITED RECORDINGS AND ACTIONS

Unless conducting official law enforcement business that requires the member to use the BWC, the following is a list that members must adhere to:

...

g) Members shall not erase, alter, reuse, modify or tamper with any recording. Only the authorized MVSA may erase any previously recorded digital recording.

#### 6. DISSEMINATION

Accessing, copying, or releasing any recordings for other than official law enforcement purposes is strictly prohibited, except as required by law. BWC digital records are accessible only to authorized personnel; the system maintains an audit of user activity.

### ✘ Makes Footage Available to Individuals Filing Complaints

The Orlando PD does not expressly allow individuals to view relevant footage when filing a police misconduct complaint. The policy provides that footage may be released "in response to an official inquiry or investigation" or requested via a public records request (§3.4.i, §4, §6)

#### 3.4. PROHIBITED RECORDINGS AND ACTIONS

...

i) Unless in response to an official inquiry or investigation, members assigned the BWC will not allow citizens to review the recordings.

#### 4. DOCUMENTATION

...All recordings are subject to the Florida Public Records Law. Generally, videos are released unless there is an existing public records exemption, or confidential provision.

#### 6. DISSEMINATION

All digital media collected using the mobile video recording systems is public record as defined in Chapter 119, Florida Statutes. Public records requests shall be handled pursuant to established policy. . .

### **Limits Biometric Searching of Footage**

Orlando PD does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# Parker Police Department



- 
- ✓ Makes the Department Policy Publicly and Readily Available
  - ✓ Limits Officer Discretion on When to Record
  - ✓ Addresses Personal Privacy Concerns
  - Prohibits Officer Pre-Report Viewing
  - Limits Retention of Footage
  - ✓ Protects Footage Against Tampering and Misuse
  - ✓ Makes Footage Available to Individuals Filing Complaints
  - Limits Biometric Searching of Footage

*Last updated: October 11, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✓ **Makes the Department Policy Publicly and Readily Available**

Parker PD provides a [webpage dedicated to its BWC program](#), which includes a link to its [most recent publicly available BWC policy](#), last updated on November 1, 2016.

## ✓ **Limits Officer Discretion on When to Record**

Parker PD requires officers to record “all investigative or enforcement contacts” through the conclusion of the contact. (§§3.25.4.E-G)

E. Enforcement members should activate the BWC at the inception of all investigative or enforcement contacts that are conducted in person with a member of the public, until the contact with the member of the public has concluded and the enforcement member has left the scene, which include but are not limited to; pedestrian stops, consensual encounters, calls-for- service, on-view events and interviews.

F. The enforcement member should activate the BWC at the first reasonable opportunity to do so, unless an immediate threat to the enforcement member’s life or safety makes activating the BWC impossible or dangerous, in which case the enforcement member should activate the BWC as soon as it is safe to do so.

G. Additional arriving enforcement members that are equipped with BWC should activate their cameras and begin recording the situation upon their arrival until the enforcement member leaves the scene.

When officers fail to record an entire contact, they must document the reason why that occurred. (§3.25.6)

3.25.6 . . . BWC DOCUMENTATION

If an enforcement member fails to activate their . . . BWC, fails to record the entire contact, or interrupts the recording, the enforcement member shall document why the recording was not made, interrupted or terminated. Appropriate disciplinary action shall be taken against any enforcement member who is found to have intentionally failed to adhere to the recording or retention requirements contained in this policy, or to have intentionally interfered with a BWC's ability to accurately capture video footage.

### ✔ **Addresses Personal Privacy Concerns**

Parker PD requires officers to notify subjects that the camera is recording. In many circumstances, including interactions with apparent crime victims, officers must offer subjects the option to stop the recording. (§§3.25.4.H-L)

- H. BWC's should not be used surreptitiously. Whenever possible, enforcement members wearing a BWC should notify any person(s) that they are being recorded by a body camera as close to the inception of the encounter as is reasonably possible.
- I. During consensual encounters in locations where members of the public have a reasonable expectation of privacy, such as a residence, an enforcement member shall offer the member of the public the option to have the BWC discontinue its recording. If the member of the public requests the recording be discontinued the enforcement member should immediately discontinue use of the BWC.
- J. When interacting with an apparent crime victim, the enforcement member should, as soon as feasible, ask the apparent crime victim, if they want the enforcement member to discontinue use of the BWC. If the apparent crime victim responds affirmatively, the enforcement member should immediately discontinue use of the BWC.
- K. When interacting with a person seeking to anonymously report a crime or assist in ongoing law enforcement investigation, an enforcement member should, as soon as feasible, ask the person seeking to remain anonymous, if they would like to remain anonymous and would like the enforcement member to discontinue use of the BWC. If the person seeking to remain anonymous responds affirmatively, the enforcement member should immediately discontinue use of the BWC.
- L. All enforcement member offers to discontinue the use of the BWC, and the responses thereto, should be recorded by the BWC prior to discontinuing the use of the BWC.

In addition, officers are prohibited from recording at schools or medical facilities, with few exceptions. (§3.25.5.E)

- D. The BWC should not be activated while on the grounds of any public, private or parochial elementary or secondary school, or inside a medical treatment facility, except for the following exceptions:
  - 1. during times when all parties being visibly or audibly recorded are in a private room with consent for such recording;
  - 2. while affecting an arrest;
  - 3. while controlling a person through response to resistance techniques; or
  - 4. while in direct physical control of a restrained person; or
  - 5. any other circumstances that are extraordinary.

### ○ **Prohibits Officer Pre-Report Viewing**

In certain situations, Parker PD requires officers to complete an initial report before reviewing any relevant footage. (§3.25.5.F)

- F. Circumstances when an enforcement member is expressly prohibited from viewing the video file until after they have completed an initial report are as follows:
  - 1. If an enforcement member is suspected of wrongdoing or;
  - 2. If an enforcement member is involved in a critical incident, such as an officer-involved shooting or other serious use of force.

In other cases, officers may view footage “for exact quotes” by individuals who are filing police misconduct complaints. (§3.25.5.G.2)

#### G. Reporting Requirements

...

2. Unless prohibited by this policy, enforcement members may make reference to the BWC footage for exact quotes that were used by the contacted parties, instead of transcribing conversations into a written report.

### ○ Limits Retention of Footage

Parker PD retains unflagged footage for a minimum of one year, and deletes unflagged footage within three years. (§3.25.10.A)

- A. Data gathered by the MVR or BWC shall be retained and stored by this Department or an authorized third-party for a minimum of one (1) year from the date of creation however shall not exceed three (3) years unless it has evidentiary or exculpatory value in a criminal or civil action. In those circumstances, the applicable data should be downloaded from the server and booked into the Evidence Section via the BEAST and will be retained following the Town of Parker Records Retention Schedule.

### ✓ Protects Footage Against Tampering and Misuse

Parker PD expressly prohibits both footage tampering and unauthorized access, and indicates that access to recorded footage will be logged and audited. (§§3.25.5.G.4; 3.25.5.G.3; 3.25.6; 3.25.7.F-G)

[3.25.5.G.4] An audit log will be maintained by the BWC storage system, which will document member access to files, duplication of files and dissemination of files. This audit log will be digitally attached to the BWC video files within the storage system.

[3.25.5.G.3] 2. All digital recordings captured using the BWC will be considered property of the Parker Police Department. Accessing, copying or releasing any recording by any member for other than official law enforcement purposes is strictly prohibited, except to the extent disclosure is required pursuant to the Colorado Open Records Law.

[3.25.6] ... Appropriate disciplinary action shall be taken against any enforcement member who is found to have intentionally failed to adhere to the ... retention requirements contained in this policy [shown above] ...

[3.25.7.F] F. No static/images/recordings taken by any member in the course and scope of their duties may be used, printed, copied, scanned, e-mailed, posted, shared, reproduced or distributed in any manner, unless for official law enforcement purposes. This prohibition includes the posting of any Department photographs on personal Web sites including but not limited to, Facebook, Myspace, YouTube, other public safety agency Web sites, or e-mailing to friends, relatives or colleagues without prior approval of the Chief of Police.

[3.25.7.G] G. All Department digital data will be downloaded as soon as feasible, and will be cataloged and stored in a secure database with access limited to appropriate members. After being downloaded, digital data on memory cards will be erased, including any member's personal devices.

### ✓ Makes Footage Available to Individuals Filing Complaints

Parker PD expressly allows recorded individuals (or their legal designee) to review footage of all incidents that include that individual. (§3.25.10.E)

- E. Any member of the public, parent or legal guardian of a minor, or a deceased subject's next of kin or legally authorized designee who is a subject of video footage, shall be permitted to review that specific video footage in order to make a determination as to whether they will voluntarily request it to be subject to a three (3) year retention period.

### ○ Limits Biometric Searching of Footage

Parker PD sharply limits the use of facial recognition technologies to perform broad searches of recorded footage. (A narrow exception is made for analyzing particular incidents using such technologies). (§3.25.5.B)

B. The Department shall not utilize any biometric technology, such as facial recognition, to conduct searches of video files or passive searches of the public. Stored video and audio data from a BWC shall not:

1. Be used to create a database or pool of mug shots;
2. Be used as fillers in photo arrays; or
3. Be searched using facial recognition software.

Exception: This subsection does not prohibit the members from using a recognition software to analyze the recording of a particular incident when a member has reason to believe that a specific suspect or person in need of assistance may be a subject of a particular recording. The exception must be approved by the member's direct supervisor.

However, we are concerned that the policy limits the restriction to "video files" and "stored video and audio," which leaves room for the incorporation of facial recognition technology into live video capture and situational awareness technology, and to "passive searches of the public," which may be too vague to meaningfully restrict real-time biometric analysis.



# Philadelphia Police Department



- 
- ✓ Makes the Department Policy Publicly and Readily Available
  - ✓ Limits Officer Discretion on When to Record
  - ✓ Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
  - Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage

*Last updated: October 4, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✓ Makes the Department Policy Publicly and Readily Available

Philadelphia PD publishes its [BWC policy](#) on its website, linked from the Department's [manual of Directives](#). Directive 4.21 on "Body-Worn Cameras" was last updated on June 21, 2016.

## ✓ Limits Officer Discretion on When to Record

Philadelphia PD requires officers to record all contact with the general public, and the entirety of each contact. (§§7-D, 4-A, 4-B)

7-D. The Body-Worn Cameras shall be activated when responding to all calls for service and during all law enforcement related encounters and activities involving the general public as identified in Section 4-A.

...

4-A. Authorized Body-Worn Cameras shall be activated when responding to all calls for service and during all law enforcement related encounters and activities involving the general public. This shall include, but is not limited to (PLEAC 2.4.2 a):

1. When responding to crimes in progress and priority one (1) assignments.
2. When initiating any vehicular or foot pursuit.
3. When conducting any vehicle or pedestrian investigation.
4. When initiating a sight arrest or citation.
5. When taking a statement or information from a victim or witness.
6. When handling a disturbance or crisis related incident.
7. When handling any protest or demonstration.
8. When confronted by any member of the general public that is or may become confrontational, antagonistic or hostile.

9. When handling a situation or incident that the officer, through their training and experience, believes should be visually preserved.
  10. When conducting a suspect confrontation (i.e., show-up identification of a suspect by a victim or witness). A view of the suspect should be recorded during the confrontation, when reasonable. (PLEAC 2.9.1 E)
- 4-B. With the following exceptions, once a Body-Worn Camera has been activated, it shall remain activated and recording until the event or incident has concluded and the officer has been placed back into service by Police Radio. Prior to turning off the camera the officer should state the specific reason why it is being turned off. . . .

**When officers are permitted to turn off their cameras before the contact ends (e.g., for privacy reasons), officers must state the reason on camera before turning it off. (§7-J)**

J. If an officer is required to deactivate Body-Worn Camera prior to the conclusion of any incident or event pursuant to Sections 4-B and/or C, the officer shall state, while the device is still activated, why the device is being deactivated.

**NOTE:** When the conditions that required the deactivation have ceased, if the event or incident is ongoing; the officer **SHALL REACTIVATE** the Body-Worn Camera.

**When officers fail to record a required event, they must notify their immediate supervisor and document the reason why the event was not recorded. (§6-H)**

- H. If an incident or event that was required to be recorded pursuant to Section 4-A was not recorded for whatever reason, the officer(s) assigned a Body-Worn Camera shall:
1. Notify their immediate supervisor, and
  2. Document this fact on the underlying incident 75-48, along with the reason(s) why the incident/event was not recorded.
  3. If the incident/event does not require a 75-48 or the officer assigned the Body- Worn Camera is not responsible for the incident 75-48, the officer assigned the Body-Worn Camera shall submit a separate 75-48. This 75-48 will list the underlying incident DC number and the reason why the incident/event was not recorded. This report will be coded "3413 - Informational Request."

## ✓ Addresses Personal Privacy Concerns

**Philadelphia PD requires officers to turn off their cameras upon the request of a crime victim, and in certain sensitive locations and circumstances. (§§4-B, 4-C, 7-F)**

- 4-B. . . . [O]fficers shall deactivate a Body-Worn Camera prior to the conclusion of an incident or event under the following circumstances:
1. Prior to entering the residence of any individual, unless prior consent is provided and recorded with the Body-Worn Camera,
  2. When requested by a crime victim, witness or informant, who request not to be recorded, officers shall:
    - a. Balance the value of obtaining a recording with the reluctance of a victim, witness or informant to provide information while being recorded.
    - b. Officers should use discretion in making the decision.
  3. When the recording would capture gruesome images, persons nude that are not involved in criminal activity or when private areas of the human body are exposed and there is no legitimate law enforcement need to capture the images.
  4. When entering a religious institution, during services.
  5. When entering a hospital room or private patient area in a hospital.
- 4-C. PROHIBITED RECORDING AND ACTIONS
1. Body-Worn Cameras shall not be used or activated to:
    - ...
    - b. In places where a reasonable expectation of privacy exists (i.e., locker rooms, dressing rooms or restrooms).
    - c. Record conversations with confidential informants and undercover officers.
    - d. During any strip searches. . . .

2. Officers shall not lead a person to believe the BWC has been deactivated when in fact, the BWC is left active.

...

7-F. Prior to entering the residence of any individual, unless prior consent is provided and recorded with the Body-Worn Camera, the Body-Worn Camera shall be deactivated.

1. Once inside a residence, if practical, officers shall request permission to record. If permission is granted, the Body-Worn Camera shall be activated and the resident will again be asked for consent to record.
2. If at any time a resident rescinds consent to record while in a residence, officers shall immediately or as soon as practical, deactivate the Body-Worn Camera.
3. Officers shall state that they were requested to deactivate the camera.

In addition, because Pennsylvania is a “two-party consent” state, officers must inform subjects that they are being recorded, assuming “oral communications” are taking place. (§7-E)

E. Once on location of an incident or event, officers shall inform, as soon as reasonably practical, the individuals identifiably present that the officer has intercepted and recorded the oral communication (i.e. that they are being recorded) (PLEAC 2.4.2 b).

### ✘ Prohibits Officer Pre-Report Viewing

Philadelphia PD allows officers to review footage when writing their reports. (§9-B-2)

2. Department personnel shall review their own digital recordings for report writing, court preparations, and/or training purposes (See also, Section 6-G). The following statement will be recorded on all police reports prepared after reviewing their BWC video:

“The contents of this document are based on my observations of the incident and a review of the recordings captured by a mobile video recording system.”

Even in a critical incident, like a weapon discharge or other serious use of force, the operational protocol specifies that the officer’s camera be taken by a supervisor to the district and uploaded as soon as possible — but it does not explicitly prohibit the officer from reviewing the footage in the field before that can happen. (§7-K)

K. If any Body-Worn Camera video captures a police discharge, a seriously injured officer, a motor vehicle accident involving serious bodily injury, any death captured on video, or any use of force resulting in serious bodily injury or death, the officer’s Body-Worn Camera shall be taken to the district by the first available supervisor and uploaded into the DEMS.

1. The supervisor shall immediately notify the DEMS Administrator of the incident and request the video footage be restricted from being viewed by all departmental personnel except the Police Commissioner, Deputy Commissioners, the appropriate investigative unit and the District Attorney’s office. However, the Police Commissioner or their designee may approve access to other individuals or entities if necessary or required by court order.
2. Once the recorded media is uploaded, stored, and restricted from view, the Body- Worn Camera will be returned to the officer, as soon as possible.

### ✘ Limits Retention of Footage

Philadelphia PD specifies a minimum retention period of 30 days for unflagged footage. The policy does not clearly indicate when unflagged footage must be deleted. (§§4-D, 9-A-1)

4-D. Unless a specific incident or event is marked as evidence or tagged for further review, digital recordings captured by Body-Worn Cameras shall be retained for no less than thirty (30) days from the date of the incident or event. The retention of digital recordings marked as evidence shall be consistent with existing document retention periods for the appropriate investigative files.

...

9-A. Evidentiary and Right to Know Access to Data.

1. Retention periods for the purpose of the BWC Program shall be no less than thirty (30) days, unless video is required for evidentiary purposes or further review. If the video is required as evidence, the retention period shall be the same as that required for evidence of that particular crime (PLEAC 2.4.2 d).

### **Protects Footage Against Tampering and Misuse**

Philadelphia PD expressly prohibits both footage tampering and unauthorized access to footage. But the policy does not indicate that access to recorded footage will be logged or audited. (§§6-E, K; 9-B-4)

6-E. Officers shall not erase, alter, modify, or tamper with any Body-Worn Camera, software, hardware, or any audio/video recording.

...

6-K. Officers, investigators and supervisors shall not personally make any copies of any recordings for their personal use.

...

9-B-4. In no event shall any digital recording captured by a Body-Worn Camera be used for the purposes of officer or civilian ridicule or embarrassment. This includes submission of any portion of a digital recording from a Body-Worn Camera to a media organization, social media, or any other media platform designed to be viewed by the general public or other members of the department.

### **Makes Footage Available to Individuals Filing Complaints**

Philadelphia PD relies on Pennsylvania's public records law to make footage available, and does not expressly allow complainants to view relevant footage. (§9-A-4)

4. The release of any digital recordings obtained through Body-Worn Cameras through a public records request will be consistent with the Pennsylvania Right to Know Act (65 P.S. §37.304 et seq.). To ensure compliance, the Digital Evidence Custodian shall coordinate with the Department's Right-to-Know Officer on such requests.

Any public release of footage must be authorized by the Commissioner. (§9-B-6)

6. If there is a legitimate law enforcement need, only the Police Commissioner or his designee shall have the authority to release any digital recordings from a Body- Worn Camera to the media and/or social media outlets.

### **Limits Biometric Searching of Footage**

Philadelphia PD does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# Phoenix Police Department



- 
- ✘ Makes the Department Policy Publicly and Readily Available
  - Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - ✘ Prohibits Officer Pre-Report Viewing
  - ✘ Limits Retention of Footage
  - ✘ Protects Footage Against Tampering and Misuse
  - ✘ Makes Footage Available to Individuals Filing Complaints
  - ✘ Limits Biometric Searching of Footage
  - 💰 Received a [\\$637,000 DOJ grant](#) for BWCs in 2015

*Last updated: October 4, 2017. Is there a new version of this policy? [Let us know.](#)*

---

## ✘ Makes the Department Policy Publicly and Readily Available

Phoenix PD's most recent publicly available [BWC policy](#) is dated April 2013. Oddly, we found the policy on the website of the city of Spokane, WA. In July 2015, we confirmed with a Phoenix PD official that this policy is current and is the only one they've released to date.

Phoenix PD offers a [brief, one-paragraph description](#) of its BWC program on its website, but the page does not link to this policy or any other relevant documents.

## ○ Limits Officer Discretion on When to Record

Phoenix PD requires officers to record "all investigative or enforcement contacts." (§5.B.4)

4. The  camera must be activated during all investigative or enforcement contacts such as, but not limited to, the following examples:

- a. Vehicle stops
- b. Pedestrian stops
- c. Consensual encounters that are investigative in nature
- d. Radio calls for service
- e. On-view events requiring enforcement activity
- f. Suspect and witness statements and interviews
- g. Vehicle and foot pursuits
- h. Emergency response to critical incidents

Officers that are allowed discretion if “they are able to justify such a deviation” — but the policy does not specify how, or even whether, officers must provide such a concrete justification. (§5.B.5)

5. Once the [] camera is in the “On/Record” mode, employees must continue to record until either the completion of the event or until they leave the scene.
  - a. Employees may deviate from this directive if it is in the obvious best interests of the department to do so and they are able to justify such a deviation.

### ○ Addresses Personal Privacy Concerns

Phoenix PD prohibits officers from recording “where a reasonable expectation of privacy exists,” but does not specifically protect categories of vulnerable individuals. (§5.C.1)

1. In keeping with the Department’s value of respecting the dignity of all human beings, user officers/supervisors will adhere to the following guidelines:
  - a. The [] camera will not be activated in a place where a reasonable expectation of privacy exists, such as dressing rooms, precinct locker rooms and restrooms.
  - b. The [] camera will not be intentionally activated to record conversations of fellow employees without their knowledge during routine and non-enforcement activities.
  - c. The [] camera will not be utilized to surreptitiously record conversations of citizens and employees.
  - d. User officers/supervisors will not knowingly record undercover officers or confidential informants.
  - e. The [] camera will not be utilized to record any off duty or personal activity and will not be worn while working in an off-duty capacity.

Phoenix PD has no policy that requires officers to inform subjects that the camera is recording.

### ⊗ Prohibits Officer Pre-Report Viewing

Phoenix PD allows officers to view footage before completing their reports. (§5.B.6)

6. User officers/supervisors can view captured video utilizing provided software once the data has been downloaded from the camera. This will allow for user officers and supervisors to refresh their memories prior to the completion of departmental reports or while preparing for court proceedings.

### ⊗ Limits Retention of Footage

Phoenix PD specifies a minimum duration for footage retention, but does not appear to require footage deletion. (§5.H)

#### H. RETENTION OF RECORDINGS

All media that is captured during the pilot program will be retained by the Phoenix Police Department for a minimum of one year following the date it is recorded. Captured video may be retained for longer periods in the event the video is the subject of a litigation hold, a criminal case, part of discovery, etc.

### ⊗ Protects Footage Against Tampering and Misuse

Phoenix PD prohibits unauthorized access and distribution of footage, but does not expressly prohibit footage modification or deletion. The policy also does not indicate that access to recorded footage will be logged or audited. (§5.D.1)

1. All digital media that is captured using the [] camera will be considered property of the Phoenix Police Department. Accessing, copying, or releasing captured video without the approval of the Police Chief or his

designee is strictly prohibited.

**✘ Makes Footage Available to Individuals Filing Complaints**

Phoenix PD relies on existing public records law to make footage available, and does not expressly allow individuals who are filing police misconduct complaints to view footage. (§§5.D.2, 5.D.5)

2. The release of video/s requested through a public records request will be handled in accordance with existing policy and public records laws. See Operations Order 4.6, Release of Records, for additional information.

...

5. Officers/supervisors will not allow citizens to review video captured by the [] camera unless there is an investigative reason to do so.

**✘ Limits Biometric Searching of Footage**

Phoenix PD does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# Pittsburgh Bureau of Police



- 
- ✗ Makes the Department Policy Publicly and Readily Available
  - Limits Officer Discretion on When to Record
  - ✗ Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✓ Limits Retention of Footage
  - ✗ Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage

*Last updated: October 5, 2017. Is this policy now publicly available? [Let us know.](#)*

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## ✗ **Makes the Department Policy Publicly and Readily Available**

The Pittsburgh Bureau of Police does not publish its BWC policy on its website. The ACLU of Pennsylvania [obtained a copy](#) via Pennsylvania Right-To-Know-Law. The policy was issued on, and appears to be effective as of, July 30, 2014.

## ○ **Limits Officer Discretion on When to Record**

Pittsburgh's police outlines when officer should record, as long as it is "reasonable and safe to do so." (§5.2)

5.2. Utilization: When reasonable and safe to do so, members operating the BWC equipment will ensure the following types of incidents are recorded:

- 5.1.1 Traffic and criminal enforcement stops.
- 5.1.2 In-progress Vehicle and Crime Code violations.
- 5.1.3 Police Vehicle Pursuits.
- 5.1.4 Fatal crash or major crime scenes, as necessary, to document the scene.
- 5.1.5 DUI Stops / Standardized Field Sobriety Tests
- 5.1.5 [sic] Any other incident the member deems appropriate while acting in the performance of his/her official duty.
- 5.1.6 When it is safe to do so, officers should also record the following:
  - 5.1.6.1 Pat downs
  - 5.1.6.2 Obtaining consent to search
  - 5.1.6.3 Search incident to arrest



However, the policy does not provide detailed guidance about when officers must not record, nor does it require officers to provide concrete justification for failure to record.

#### **Addresses Personal Privacy Concerns**

The policy references expectations of privacy, but this appears to refer to officer privacy rather than privacy interests of recorded individuals. (§5.2.7)

Audio or video recording devices shall not be used in department locker rooms, restrooms or any other place where there would be a reasonable expectation of privacy.

The policy does not provide any protections for vulnerable individuals, and while the policy requires that officers inform individuals they are being recorded “as soon as reasonably practical,” it does not require informed consent to record. (§5.2.5)

Member shall inform all individuals identifiably present as soon as reasonably practical, that their oral/video communications will be or have been intercepted and recorded.

#### **Prohibits Officer Pre-Report Viewing**

Officers are permitted to review footage prior to writing their reports. (§10.4)

Officers may use media captured via the BWC to assist with investigations and the completion of required reports...

#### **Limits Retention of Footage**

The policy indicates that unflagged footage is deleted after 90 days. (§9.2.8)

Requests for Retention: Any member who believes that the retention of a recording not specifically required by this regulation is advisable (e.g., for use in a summary proceeding involving a serious traffic violation or training), shall notify the MVR Custodial Officer as soon as possible. MVR Custodial Officers shall evaluate each request in accordance with this regulation. Members are advised, per this regulation, that all recordings collected by the BWC equipment which is not regulated by a regular retention schedule will be purged no later than 90 days from the date of the last recording.

#### **Protects Footage Against Tampering and Misuse**

The policy prohibits tampering with or deleting BWC footage, but does not expressly prohibit unauthorized access. (§§5.3.2; 6.2,4)

5.3.2 Members shall not erase or alter BWC recordings, except for approved annotation in accordance with the training and capabilities of the BWC system (example- flagging a location in Evidence.com for use in court at a later date).

6.2 Any and all data and recordings created by the BWC equipment are the exclusive property of the PBP. Members will not duplicate, copy, or otherwise possess any such data or recordings for any personal reason.

6.4 Members will ensure that all care is taken to prevent unauthorized persons from viewing the digital recordings. Any unauthorized use of the recordings will subject the member to disciplinary action. This includes, but is not limited to, the uploading or converting of the digital evidence for posting to any type of social media without the express permission of the member's supervisor.

The policy does not indicate that access to footage is logged or audited.

### ✘ **Makes Footage Available to Individuals Filing Complaints**

The PBP policy does not expressly allow individuals who are filing police misconduct complaints to view all relevant footage. "Participants" on recordings may request that footage be preserved for use in civil or criminal proceeding against the department or officer. (§§9.2.2,4-6)

9.2 MVR Custodial Officers shall ensure that the below-listed recordings are identified and retained in accordance with this policy. MVR Custodial Officers shall complete a supplemental report to the applicable incident report when an incident recording is retained. Electronically retained recordings shall be retained until the case is adjudicated or there is a court order, unless otherwise indicated below:

...

9.2.4 Recordings requested to be preserved by any individual who is a participant on the recording for use in any criminal proceeding. Such requests must be in writing to the Chief of Police, and should contain the date, time, and location of the recording and the names of the parties involved.

9.2.5 Recordings requested to be preserved by any individual who is a participant on the recording for use in any civil proceeding against the PBP or its personnel. Such requests must be in writing, and should contain the date, time, location of the recording, and the names of the parties involved. Notice of the request shall be immediately provided to the City Law Department and the recordings shall be retained for a minimum of two years from the date of the incident and shall not be destroyed without the permission of the City Law Department.

9.2.6 Recordings requested to be preserved by any individual who is a participant on the recording for use in any civil proceeding that is not against the PBP or its personnel. Such requests must be in writing to the City of Pittsburgh Law Department, and should contain the date, time, location of the recording, and the names of the parties involved. The recordings shall be retained for a period of two years or until a copy of the recording has been provided to the requester when authorized under PBP policies, whichever comes first.

### ✘ **Limits Biometric Searching of Footage**

PBP does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# Portland Police Bureau



- 
- Makes the Department Policy Publicly and Readily Available
  - Limits Officer Discretion on When to Record
  - ✗ Addresses Personal Privacy Concerns
  - Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
  - Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage

*Last updated: October 31, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ○ Makes the Department Policy Publicly and Readily Available

Portland PD publishes its most recent publicly available body worn camera [policy](#) on its website, but it is not easy to find and doesn't show up in the website's search function. The policy is titled "Mobile Audio Video Procedure" and is filed under the heading "Field Operations" within the [Portland PD Directives Manual](#), and was current as of October 17, 2017.

In March 2017, news outlets [reported](#) that conversations were ongoing about how to fund a body worn camera program. In 2015, Portland PD [had been accepting feedback](#) on the BWCs from the public through an online form, but it is unclear whether they are still doing so.

## ○ Limits Officer Discretion on When to Record

Portland PD provides officers with a clear list of situations that must be recorded. (Required Activation of MAV (630.70))

The activation of the MAV system is required in any of the following situations:

a. All field contacts involving actual or potential criminal conduct, within video or audio range, which includes:

1. Vehicular pursuits.
2. Suspicious vehicles.
3. Arrests.
4. Pedestrian checks.
5. DUII investigations.
6. Consensual encounters
7. Responding to an in-progress call.
8. Traffic enforcement.

- b. Any call for service involving a crime where the recording may aid in the apprehension and/or prosecution of a suspect, such as:
  - 1. Domestic violence calls.
  - 2. Disturbance of peace calls.
  - 3. Offenses involving violence or weapon.
- c. Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.
- d. Any other circumstances where the officer believes that a recording of an incident would be appropriate.

In addition, Portland PD allows officers to turn on their cameras “any time he/she believes its use would be appropriate and/or valuable to document an incident.” (Required Activation of MAV (630.70))

In addition to the required situations, officers may activate the system any time he/she believes its use would be appropriate and/or valuable to document an incident. In some circumstances, it is not possible to capture images of the incident due to conditions or location of the camera; however, the audio portion can be valuable evidence and is subject to the same activation requirements as the MAV.

The policy requires officers to continue recording “until the officer has cleared the scene of the incident or the transport is concluded.” (Required Activation of MAV (630.70))

Once the MAV system is activated, it shall remain on and shall not be turned off until the officer has cleared the scene of the incident or the transport is concluded. For purposes of this section, conclusion of an incident includes, but is not limited to, when all arrests have been made, arrestees have been transported, all interviews of citizens have been conducted, and all contact with the subject has ended. Audio and video recording may cease if an officer is simply waiting for tow truck or a family member to arrive or other similar situations or during the after action review process.

However, Portland PD does not require officers to provide concrete justifications when they fail to record required events.

#### ✘ **Addresses Personal Privacy Concerns**

Portland PD does not address personal privacy concerns and encourages its officers to record statements from victims and witnesses. (Members’ Responsibilities (630.70)(d))

- d. Members are encouraged to narrate events, when practical using the audio recording and obtain video of crime scenes and recorded statements from suspects, victims and witnesses in accordance with the ORS.

Officers are encouraged to notify subjects that the camera is recording “as soon as possible,” but are under no obligation to turn off their cameras at the request of vulnerable individuals. (PROCEDURE (630.70))

When the MAV is activated, officers should, as soon as possible, advise all persons present they are being recorded in accordance with Oregon Revised Statutes 165.540(5)(b).

#### ○ **Prohibits Officer Pre-Report Viewing**

Officers may review footage before writing their reports for all incidents, except “during investigations involving the use of deadly force or in an in-custody death, where the officer was neither a witness nor directly involved in the incident.” (Operation Protocols (630.70)(c))

Members

...

- c. May review the recordings when preparing written reports, except during investigations involving the use of deadly force or in an in-custody death, where the officer was neither a witness nor directly involved in the incident.

### ✘ Limits Retention of Footage

Portland PD specifies a minimum retention period of six months and does not appear to require footage deletion. (Video Media Storage and Integrity (630.70), Retention Of Recordings (630.70)(c))

All video media that is not booked in as evidence will be retained for a minimum of six months after which time they may be erased, destroyed, or recycled.

...

- c. All other recordings shall be retained for a minimum of six months to ensure the recording is available in the event of litigation.

### ○ Protects Footage Against Tampering and Misuse

Portland PD expressly prohibits both footage tampering and unauthorized access, but does not indicate that access to recorded footage will be logged or audited. (Operation Protocols (630.70)(a), Media Duplication (630.70)(b))

Members:

- a. Shall not delete, alter, reuse, modify or tamper with MAV recordings with the exception of the MAV technician pursuant to the provisions of this policy.

...

- b. Recorded media shall not be copied, viewed, or otherwise inserted into any device not approved by the Bureau.

### ✘ Makes Footage Available to Individuals Filing Complaints

The policy describes situations and individuals who are allowed to view recordings, but does not expressly allow individuals who are filing police misconduct complaints to view footage. (Review of MAV Recordings (630.70), Copies of Video Recordings (630.70))

Recordings may be reviewed in any of the following situations:

- a. By a supervisor investigating a specific act of officer conduct.
- b. By an investigator or supervisor who is participating in an official investigation, such as a personnel complaint, administrative inquiry or a criminal investigation.
- c. By bureau personnel who were on scene and either directly involved, or witnessed the incident, or with consent of the member, their collective bargaining representatives.
- d. By court personnel through proper process or with permission of the Chief of Police or his/her designee.
- e. By media personnel in accordance with current public records rules.
- f. Recordings may be shown for the purposes of training value. If an involved officer objects to the showing of recording, his/her objection will be submitted to the appropriate Branch Chief to determine if the training value outweighs the officer's objection for not showing the recording. All reasonable accommodations will be made to limit the impact of the incident on the member.

...

A copy of the original video recording will be made upon proper request for any person authorized in this directive.

The policy also indicates that footage will be only be released through “a valid court order, approved public record request, or upon approval by the Chief of Police or his/her designee” and will be referred to different offices for processing, depending on the nature of the

request. (Copies of Video Recordings (630.70), Public Records and Discovery Requests (630.70))

Audio and video records may only be released in response to a valid court order, approved public record request, or upon approval by the Chief of Police or his/her designee. In the event that an original recording is released to court, a copy shall be made and placed in storage until the original is returned.

...

Requests for copies or viewings will be referred to the Records Division. Fees will be charged in accordance with Appendix A. Requests for viewing a recorded "crime" and any companion "violation" tracking with the case will be referred to the district attorney's office. Requests for viewing a recorded "violation" will be conducted by the Records Division as follows:

- a. Citizen requesting to view traffic "violations" will be facilitated by the MAV Technician.
- b. A fee will be collected at the time of appointment before the viewing, a receipt will be issued and the payment will be forwarded to the Records Division for deposit.  
A fee will not be charged for a copy of a MAV file to a governmental agency.

 **Limits Biometric Searching of Footage**

Portland PD does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# Prince George's County Police Department



- 
- ✗ Makes the Department Policy Publicly and Readily Available
  - ✓ Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
  - ✗ Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage

*Last updated: October 11, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✗ **Makes the Department Policy Publicly and Readily Available**

Prince George's County PD (PGPD) does not publish its BWC policy on its website. However, a version of its [policy](#) was found on the Bureau of Justice Assistance's Body Worn Camera Toolkit. This policy was effective April 18, 2015.

As of February 10, 2017, the Prince George's County Police Department (PGPD) [had planned](#) to implement its body-worn camera program before April 2017. Earlier this year, PGPD [was criticized](#) for not permitting the public to review or comment on the policy before it went into effect.

## ✓ **Limits Officer Discretion on When to Record**

The policy provides a clear list of citizen contacts that must be recorded. (§§IV.7; V.3-4)

IV. 7. BWCs must be activated at the initiation of a law enforcement or investigative encounter between the officer and a member of the public, or when the officer is responding to a call for service.

...

V.3. Officers will record the following police activity:

- a. Response to 911 or priority calls, starting when the officer begins travel to the call and ending consistent with Paragraph 5 (below),
- b. Terry stops
- c. Traffic stops

- d. On-View Criminal Activity
- e. Arrests and seizures
- f. Searches and inventories of vehicles or persons
- g. Transports (excluding ride-alongs and passengers for meetings)
- h. Vehicle Eluding/Pursuits
- i. Questioning suspects or witnesses

V.4 Once activated, a BWC shall continue recording until:

- a. The conclusion of the incident or encounter;
- b. The officer has left the scene; or
- c. An on-scene supervisor has authorized the recording to cease; or
- d. It is apparent that the involved person(s) are refusing to cooperate unless recording ceases.

When officers fail to record required incidents, PGPD requires them to document and justify such failures. (§§IV.4; IV.14)

4. Officers must follow PGPD officer safety policies while conducting enforcement stops. Officer safety will take priority over the ability to record an event during a citizen contact or vehicle stop; however. Officers must be able to articulate why any decision was made to fail to record.

...

14. When an officer fails to record a law enforcement-related encounter or according to other recording protocols as determined by PGPD, the officer shall document his or her reasons for failing to record.

### ⊙ Addresses Personal Privacy Concerns

While the policy mentions the importance of personal privacy, it offers vague guidance on when officers must not record, and does not require informed consent from vulnerable individuals. (§§IV.10.e,g; V.5.d)

10. Officers shall not:

...

e. Record personal activity.

...

g. Record in places where a reasonable expectation of privacy exists unless the activation is required for the performance of official duties.

...

V.5 Notice of Recording

...

d. Officers are not required to initiate or cease recording an event, situation or circumstance solely at the demand of a citizen.

### ⊗ Prohibits Officer Pre-Report Viewing

The policy requires officers to complete written reports "in conjunction with the BWC recordings," but it's unclear what this means. (§IV.12)

12. Recordings should not be seen as a substitute for written reports; officers must continue to complete written reports in conjunction with the BWC recordings.

### ⊗ Limits Retention of Footage

The policy requires that footage be tagged, but it is unclear whether unflagged footage must be deleted. (§V.6)

6. Category and Retention



a. At the end of each shift, officers in the Pilot Phase utilizing BWCs shall identify each video by category. In the event a video is taken that does not fall into a listed category and has no apparent evidentiary or administrative value, the officer may leave the video as "Uncategorized".

- i. Arrests
- ii. Citizen Complaint
- iii. Critical Incident
- iv. Evidence
- v. Firearm Discharge
- vi. Pursuits
- vii. Traffic Collisions
- viii. Training
- ix. Use of Force
- x. Uncategorized

#### ✘ **Protects Footage Against Tampering and Misuse**

PGPD prohibits officers from destroying, altering, or releasing any recordings without permission of the Chief of Police. But there is no indication that unauthorized access is prohibited, nor that all access to recorded footage will be logged or audited. (§IV.10.a-b)

10. Officers shall not:

- a. Remove or tamper with the BWCs.
- b. Destroy, alter, or release any recordings without permission of the Chief of Police.

#### ✘ **Makes Footage Available to Individuals Filing Complaints**

The policy does not expressly allow individuals who are filing police misconduct complaints to view relevant footage. (§IV.10.c)

10. Officers shall not:

- ...
- c. Copy or share a recording without approval; recordings should be shared for official law enforcement purposes only.

#### ✘ **Limits Biometric Searching of Footage**

PGPD does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# Raleigh Police Department



- 
- ✓ Makes the Department Policy Publicly and Readily Available
  - ✓ Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
  - ✗ Protects Footage Against Tampering and Misuse
  - Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage
  - 💰 Received a [\\$600,000 DOJ grant](#) for BWCs in 2016

*Last updated: October 12, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✓ **Makes the Department Policy Publicly and Readily Available**

Raleigh Police Department's (Raleigh PD's) [draft policy on body worn cameras](#) is accessible via the department website. One must search "body worn cameras" on Raleigh PD's website in order to locate the draft policy. The draft policy does not indicate an effective date. As of October 11, 2017, Raleigh PD was accepting public comments on its BWC program via email at [RaleighBWC@raleighnc.gov](mailto:RaleighBWC@raleighnc.gov).

## ✓ **Limits Officer Discretion on When to Record**

Raleigh PD clearly describes when officers must record and requires officers to continue recording "until the conclusion of the officer's involvement in an event." (§Guidelines for BWC Operation: Use of the Body Worn Camera, §Guidelines for BWC Operation: Deactivation)

### GUIDELINES FOR BWC OPERATION

...

#### **USE OF THE BODY WORN CAMERA (BWC)**

...

The BWC shall be activated to record during all field contacts involving actual or potential violations of the law; including, but not strictly limited to:

- Traffic Stops
- Suspicious Vehicles or Persons
- Arrests
- Voluntary Encounters of an Investigative Nature

- Officers working a checking station shall not activate their BWCs until they have reason to believe that a criminal violation has occurred, is occurring or is about to occur.

The BWC shall also be activated when responding to the following calls for service:

- When responding to any "in progress" call for service:
- Unlawful Disturbances or Disorders
- Calls involving a crisis or disturbance involving emotionally or mentally disturbed subjects
- Offenses involving weapons or violence

Additionally, the BWC shall be activated during the following situations:

- When obtaining consent to search a person, vehicle, residence, building or other location, property or personal item,
- During all warrantless searches of individuals, vehicles, buildings, and other places,
- During the initial inventory of seized money or any high value property, and
- Prior to conducting a strip search, officers shall record a 360-degree video of the location where the strip search will be conducted.

#### DEACTIVATION

If not already activated, the BWC shall be activated to record any encounter that becomes adversarial after initial contact or in any situation that the officer believes its use would be appropriate or valuable to document the incident or encounter.

...

Once the BWC is activated by an officer, the BWC shall remain on, and not be turned off or placed in standby mode, until the conclusion of the officer's involvement in an event. This will occur when the incident that required activation has stabilized, concluded, or the officer has left the scene. An incident shall be considered stabilized when the initial police response or exchange of communication related to police enforcement activities has transitioned to a controlled and orderly investigation by the primary officer. . .

When officers deactivate recording prior to the completion of an event, they must justify the failure verbally on camera before deactivation. (§Guidelines for BWC Operation: Deactivation)

Anytime an officer deactivates his or her BWC other than when the call has concluded, stabilized or the officer has left the scene, the officer will document the reason the BWC has been deactivated in the form of a recorded announcement on the BWC prior to deactivation.

However, the policy does not require that officers who fail to record required events provide concrete justifications.

#### ○ Addresses Personal Privacy Concerns

Raleigh PD prohibits recording in certain sensitive locations and circumstances such as within medical facilities and during privileged communications, as well as "in places where a heightened expectation of personal privacy exists...unless there is a need to capture criminal activity or a physical arrest." (§Guidelines for BWC Operation: Restricted Uses)

Use of BWCs is **specifically prohibited** in certain situations:

- Officers **shall not** use BWCs to record fellow Departmental or City employees, except during situations that would require recording of a citizen in accordance with this policy;
- Officers **shall not** use BWCs in places where a heightened expectation of personal privacy exists, such as locker-rooms, dressing rooms, or restrooms, unless there is a need to capture criminal activity or a physical arrest. In such instances, officers should make every attempt to avoid recording when uninvolved parties are present;
- Officers **shall not** use BWCs to record strip searches. However, prior to conducting a strip search, the officer will record a 360-degree video of the location where the strip search will be conducted;
- Officers **shall not** use BWCs to record known confidential informants or undercover officers unless they are the subject of a criminal investigation;
- Officers **shall not** use BWCs to record judicial proceedings in courtrooms and Magistrate's Offices unless express permission is given beforehand by the presiding judicial official;
- Officers **shall not** use BWCs to record privileged communications between a defendant and his/her attorney;

- Officers **shall not** use BWCs to record peaceful and lawful assemblies, pickets, parades or protests;
- Officers **shall not** use BWCs to record activities that are not law enforcement functions;
- Officers **shall not** use BWCs in the patient area of a health care facility, including mental health care facilities, other than to document injuries for official law enforcement purposes or to capture criminal activity or a physical arrest. In these situations, Officers should take special care to record only parties involved in the incident being investigated; and
- Officers **shall not** use BWCs while on the grounds of any public, private, or parochial elementary, middle or secondary school, **except** in the following situations:
  - While making a physical arrest;
  - While controlling a person with use of force above soft hands; or
  - Any other circumstances that are extraordinary and in the discretion of the officer, required activation of the BWC.

The policy specifically protects categories of vulnerable individuals. (§Guidelines for BWC Operation: Deactivation)

Officers shall make all reasonable efforts to avoid recording interviews with citizens who are:

- Victims of a criminal act;
- Victims of a sexual assault;

However, officers are not required to deactivate recording victims or witnesses, but are given discretion to turn off their cameras if requested. (§Guidelines for BWC Operation: Deactivation)

BWC recordings may also be stopped at the request of a non-suspect. Should the officer choose to honor such a request to stop recording, said request shall be captured on the officer's BWC prior to doing so. The officer shall maintain the discretion to resume recording at any time during the encounter should he or she deem it necessary. Additionally, the officer shall have the discretion to deny such a request if he or she reasonably believes continued recording is necessary.

...

The BWC may be deactivated if it is necessary to discuss issues or concerns regarding an individual's mental or physical health condition. As soon as the private conversation is completed, the BWC shall be returned to record mode so long as the situation falls under the definition of required use.

**✘ Prohibits Officer Pre-Report Viewing**

Raleigh PD allows officers to view relevant footage before filing an initial written report or statement. (§Collection, Storage and Management of MVR and BWC Data: Officer Review of Recordings)

Officers are permitted to view recorded video to the extent allowed by and in accordance with NCGS § 132-1.4A prior to completion of an incident report. To the extent feasible, officers may use video captured via the BWC or MVR equipment to assist with an investigation and to aid in the completion of official reports. The viewing of any recording for anything other than approved Departmental purposes is prohibited.

**✘ Limits Retention of Footage**

The policy requires that the Department retain footage categorized as "Default/Infractions/Traffic Stop" for 90 days. However, it is not clear whether this is a minimum or maximum retention period, and the policy does not appear to require that footage be deleted. (§Collection, Storage and Management of MVR and BWC Data: Officer Review of Recordings)

Digital videos will be stored and retained on a secure video storage server according to the following classifications:

Event Type	Retention Period
Default/Infractions/Traffic Stop	90 Days
DWIs	3 Years
Misdemeanor Cases	3 Years
Felony Cases	20 Years
Consent Search	3 Years

### ✘ Protects Footage Against Tampering and Misuse

The policy prohibits officers from attempting to “erase, edit, or otherwise alter any data captured by a BWC or MVR,” but does not prohibit unauthorized access nor indicate that access to footage will be logged or audited. (§Collection, Storage and Management of MVR and BWC Data: Officer Review of Recordings)

**No officer shall attempt to erase, edit or otherwise alter any data captured by a BWC or MVR.**

...

Officers shall not erase, alter, or tamper with recorded data. Employees are prohibited from making and/or distributing copies, in any form, of BWC or MVR video except in strict compliance with this policy. Only the Chief of Police, or the Chief’s designee, may authorize additional methods for making or distributing copies of BWC and MVR data at their discretion as necessary.

### ○ Makes Footage Available to Individuals Filing Complaints

Raleigh PD expressly allows a recorded individual to request to view footage “in certain circumstances.” The policy also, commendably, clearly lay out the process of requesting to view relevant footage, and is one of the few policies we have seen that does so. (§Audio/Video Recording Media Disclosure and Release)

As set forth in NCGS § 132-1.4A, this is the process through which a person, or that person’s personal representative, is allowed to review a video or audio recording in which that individual is captured.

...

Pursuant to NCGS § 132-1.4A, recordings made by departmental personnel must be disclosed and/or released to requesting individuals in certain circumstances.

...

Any person requesting disclosure of a recording must submit a completed “Recording Disclosure Request” form to the Chief of Police. These forms may be obtained online through the Raleigh Police Department’s web site, in person at any Raleigh Police Department District station or from any sworn member of the Department. Completed forms shall be delivered in person to the Office of Professional Standards so that the identity of the requesting party can be confirmed.

The Chief of Police or his/her designee may only authorize disclosure of a recording to the following entities:

- A person whose image or voice is in the recording;
- A personal representative of an adult person whose image or voice is in the recording, if the adult person has consented to the disclosure;
- A personal representative of a minor or of an adult person under lawful guardianship whose image or voice is in the recording;
- A personal representative of a deceased person whose image or voice is in the recording;
- A personal representative of an adult person who is incapacitated and unable to provide consent to disclosure

When disclosing the recording, only those portions of the recording that are relevant to the petitioner’s request will be disclosed. Any person who receives disclosure of a recording is prohibited from recording or otherwise making a copy of the recording.

### ✘ Limits Biometric Searching of Footage

Raleigh PD does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# Rochester Police Department



- 
- ✓ Makes the Department Policy Publicly and Readily Available
  - Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
  - ✗ Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage
  - 💰 Received a [\\$600,000 DOJ grant](#) for BWCs in 2015

*Last updated: October 6, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✓ Makes the Department Policy Publicly and Readily Available

Rochester PD publishes its most recent publicly available BWC policy online on the [Body Worn Camera Project](#) section of its website. The most recent policy is the RPD BWC Manual, which was issued on August 31, 2017.

## ○ Limits Officer Discretion on When to Record

Officers assigned a BWC are required to activate their cameras immediately after being dispatched, unless there is an "imminent threat to the member's safety." (§IV.A.2)

2. Members will immediately activate the BWC when required unless it is not safe and practical, i.e., the member cannot immediately activate the BWC due to an imminent threat to the member's safety, physical resistance, flight, or other factors rendering immediate activation impractical. In such cases, *the member will activate the BWC as soon as possible.*

The policy mandates that cameras must be activated in the "course of performing or when present at any enforcement activity" and "police duties." RPD's policy is clear that there is no exception to this rule, and clearly defines what an enforcement activity is. (§IV.B.1; IV.C)

B. Mandatory BWC Recording. Members assigned a BWC will activate it and record all activities, and contact with persons, in the course of performing or when present at any enforcement activity, or upon direction of a

supervisor. **There are no exceptions to the requirement to record mandatory events.**

1. "Enforcement activities" are:

- a) **arrests and prisoner transports** (including issuance of appearance tickets and mental hygiene arrests);
- b) **pursuits** (pursuit driving as defined by G.O. 530, Pursuit Driving, and foot pursuits);
- c) **detentions/stops of person and vehicles** (includes street stops, traffic stops, persons on bicycles, and field interviews as defined by G.O. 570, Field Interview Form);
- d) **force** (use of force or deadly physical force as defined by G.O. 335, Subject Resistance Report and NY Penal Law § 10.00-11).

C. Standard BWC Recordings. Unless a specific exception exists (see Section IV.E below), Members assigned a BWC will activate it and record all activities, and contact with persons, in the course of performing police duties. This includes all calls for service and self-initiated police activity unless listed as Optional below.

RPD provides a list of situations in which officers have the option to record if they believe it to be for a "legitimate law enforcement purpose." (§IV.D)

D. Optional BWC Recording. Unless a mandatory or standard event arises which must be recorded, members are not required to record the following activities with a BWC, but may do so if the member believes it serves a legitimate law enforcement purpose:

1. While driving or a passenger during routine vehicle patrol.
2. Traffic control and traffic points.
3. Walking beats, directed patrol, corner posts, and special attention checks.
- ...
5. Interviewing cooperative victims, witnesses, and persons with knowledge in a private residence or a police facility.
- ...
11. Routine walk-up requests for information or assistance (e.g., giving directions).
12. Civilian Transports.

Officers must continue to use their BWC until the completion of the event or incident, and prior to deactivating their BWC officers are expected to record a "verbal statement" noting the end of the recording. (§VI.A.6).

6. Members will continue to record with the BWC until the completion of the event or incident in question, or deciding to end recording in accordance with this Manual. Prior to deactivating the BWC, the member will make a recorded verbal statement noting that the recording is ending, unless unsafe or impractical to do so.

However, RPD's policy does not require officers to provide concrete justifications for failing to record required events.

## 📍 Addresses Personal Privacy Concerns

Rochester PD forbids officers from recording in "sensitive locations," unless they are engaging in enforcement activity. (§IV.E.1.A.C)

1. Sensitive Locations. Members will not record with BWCs in the following locations **unless members anticipate or are engaging in an enforcement activity** as defined by this Manual:

- a. Victim support or advocacy agencies (e.g., Bivona, Willow/ABW, etc.);
- ...
- c. locker rooms, bathrooms, or other locations where persons are expected to be disrobed or in a state of undress.

RPD's policy specifies a list of scenarios in which officers are prohibited from recording. While the policy protects individuals in a "locker room or bathroom," there is no mention of vulnerable individuals such as victims of sex crimes. (§IV.F.4.8)



F. Prohibited BWC Recording. Members will not activate or record with a BWC under the following circumstances, and will deactivate and stop recording if any of these circumstances arise.

...

4. Members will not record with BWCs while in a locker room or bathroom in an RPD facility, or while using any bathroom

...

8. Members will not record strip searches and body cavity searches

Officers are encouraged, but not required, to inform individuals that they are being recorded with a BWC. (§IV.I)

I. Recording Notice Guidelines

1. Members are encouraged to inform persons they are recording with a BWC unless they encounter physical resistance, flight, or other factors rendering such notice unsafe or impractical (e.g. "Ma'am/Sir, I am advising you that our interaction is being recorded.>").
2. If an individual asks a member if he or she is being recorded by a BWC the member will answer truthfully unless factors exist that would render such notice unsafe or impractical.

The policy allows citizens to request that an officer stop recording, and gives officers some discretion as to whether to comply. Officers have discretion to stop recording upon request during "Optional Recording events" which includes interviews of victims, but the policy does not provide explicit protection for especially vulnerable individuals. (§IV.E.2)

Civilian Requests to Stop Recording. Requests by civilians to stop recording with a BWC will be handled as follows:

- a. If the situation involves an enforcement activity (mandatory recording event), the member will not grant the request and will continue recording.
- b. If the situation involves a Standard or Optional Recording event, members will record the verbal request to stop recording, and may exercise their discretion based on the circumstances in deciding to continue or stop recording.
- c. If the requesting person is a prisoner who is offering information about criminal activity but will not do so if recorded, the member may briefly stop recording while the information is provided, and must resume recording once the information is given.

**Note: If the member stops recording upon request of a civilian, then he or she must resume recording as soon as possible if he or she anticipates or commences an enforcement activity.**

Interestingly, the policy also requires police to begin recording an interaction at the request of a civilian. (§IV.E.2)

Civilian Requests to Record. If a civilian requests that their interaction is recorded, members will do so unless it is prohibited under this policy.

## ✗ Prohibits Officer Pre-Report Viewing

Rochester PD allows officers to view BWC recordings to "assist in accurate report writing." (§V.A)

V.A. Employees may review and use BWC recordings only for official RPD duties, to include:

1. Members may view BWC recordings from their assigned BWC if available to assist in accurate report writing;

**Note: the purpose of using BWC recordings in writing reports is to maximize the accuracy of the report—not to replace the member's independent recollection and perception of an event.**

...

During "serious incidents," an uninvolved responding supervisor is responsible for taking possession of the involved officers' BWCs, but the policy does not prohibit involved officers from watching footage in those situations. (§VIII.A.1.a-b)

1. As soon as the scene is rendered safe and under control, an uninvolved responding supervisor will:
  - a. Identify which, if any, of the involved and witness members have an assigned BWC.
  - b. Take possession of the BWCs as soon as possible and ensure that it is not recording. The supervisor will maintain possession of the BWCs until directed by the Incident Commander or ranking Command Officer on scene to turn them over to a designated person.

### ✘ Limits Retention of Footage

RPD's policy provides retention periods for unflagged footage in Appendix A: BWC Categories and Retention Schedule of their BWC Manual. (§§II.H; II.X)

- H. RPD will review and retain BWC recordings in accordance with the retention schedule established in Appendix A.
  - ...
- X. REVIEW, RETENTION, COPYING, AND DELETION OF BWC RECORDINGS
  - A. BWC recordings will be reviewed and retained in accordance with Appendix A, BWC Categories and Retention Schedule.

Appendix A of the manual lists the required length of retention for unflagged footage. However, the policy does not specify whether the unflagged footage must be deleted. (§ Appendix A.5-10)

Category	Retention Period
...	
Non-Felony Offenses/Arrests (Misdemeanors, Violations, MHA, Municipal Code)	6 years
Street/Pedestrian Stops, Searches, or Seizures—Without Arrest (with or without FIF)	5 years
Vehicle Stops, Searches, or Seizures—Without Arrest (with or without FIF, includes V&T)	5 years
Domestic Incident—DIR/No Arrest (NYCPL 140.10-5)	4 years
Recorded in Error	6 Months—Immediate Review
General Storage	6 Months—No Review
...	

### ✘ Protects Footage Against Tampering and Misuse

Rochester PD expressly prohibits footage tampering (i.e., modification and deletion). (§§II.F, J, K)

- F. No video or audio recording produced by a BWC will be copied, duplicated, downloaded, converted, or retained except as authorized for official RPD purposes.
  - ...
- J. No RPD employee will use an electronic device or any other means in order to intentionally interfere with or alter the capability or operation of a BWC or any component of the BWC System.
- K. No RPD employee will alter, tamper with, delete, damage, or destroy any BWC or BWC recording or attempt to do the same unless assigned as a System Administrator and specifically authorized to do so by departmental policy.

Employees are allowed to access BWC recordings only for “official RPD duties.” (§V.A)

A. Employees may review and use BWC recordings only for official RPD duties, to include:

1. Members may view BWC recordings from their assigned BWC if available to assist in accurate report writing; . . .
2. conducting criminal investigations;
3. conducting supervisory duties;
4. preparing for testimony relating to their official police duties;
5. managing the BWC recordings, e.g., tagging;
6. training upon approval of a Commander or above, the Administrative Captain, the Commanding Officer of the Professional Development Section (PDS), or the Commanding Officer of a Special Team; and,
7. performing other official RPD duties as authorized by departmental policy or by competent authority.

The Research and Evaluation Section (R&E) within the administration of the RPD is responsible in administering RPD’s BWC program. R&E has various responsibilities including, but not limited to, “providing access or copies” of BWC recordings to RPD personnel. (§IX.A)

A. R&E will be responsible to administer RPD’s BWC Program. The duties and responsibilities of R&E in performing this function include but are not limited to:

- ...
4. providing access or copies of BWC recordings to RPD personnel and components as authorized by departmental policy or competent authority;
- ...
11. coordinating review of stored BWC recordings in accordance with established policies and procedures (see § X below);

Members of the Professional Standards Section (PSS) of Rochester PD are “authorized to access and copy” BWC recordings. (§V.B.1)

1. Personnel assigned to PSS will be given direct access to the BWC System and are authorized to access and copy BWC recordings as needed to perform their duties. PSS may also allow civilians to view BWC recordings in handling complaints against Department personnel.

However, the policy does not appear to prohibit unauthorized access, nor indicate that all access to the footage obtained from cameras is logged or audited.

#### **Makes Footage Available to Individuals Filing Complaints**

Members of the Professional Standards Section of Rochester PD *may* grant civilians access to view BWC recordings in reference to “complaints against department personnel.” (§V.B.1)

1. Personnel assigned to PSS will be given direct access to the BWC System and are authorized to access and copy BWC recordings as needed to perform their duties. PSS may also allow civilians to view BWC recordings in handling complaints against Department personnel.

RPD supervisors have the power to allow civilians to view BWC footage in responding to “QSI’s, complaints, or other inquiries.” (§VI.7)

7. Request to View BWC Recording. Officers are not required to allow civilians to view BWC recordings. Supervisors may allow civilians to view BWC recordings in responding to QSI’s [Quality of Service Inquiry], complaints, or other inquiries.

The policy incorporates by reference the department’s Freedom of Information directive. (§XIII.A)

A. BWC recordings may be subject to requests for release under New York's Freedom of Information Law (FOIL) (Public Officers Law, Article 6; §§ 84-90). FOIL is based upon a presumption of access that requires agencies to make all records available, except to the extent that records or portions thereof fall within one or more grounds for denial appearing in the statute.

The policy does provide some exceptions to footage that must be released under Freedom of Information requests, but notes that these are not categorical exceptions. (§XIII.C)

C. RPD bears the burden to demonstrate that the requested material qualifies for exemption from FOIL disclosure. In doing so, RPD may not rely on general categories of material, but must cite a specific and particularized justification to establish a valid exemption.

#### **Limits Biometric Searching of Footage**

Rochester PD does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# Sacramento Police Department



- 
- ✔ Makes the Department Policy Publicly and Readily Available
  - Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - ✘ Prohibits Officer Pre-Report Viewing
  - ✘ Limits Retention of Footage
  - ✘ Protects Footage Against Tampering and Misuse
  - ✘ Makes Footage Available to Individuals Filing Complaints
  - ✘ Limits Biometric Searching of Footage

*Last updated: October 31, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✔ Makes the Department Policy Publicly and Readily Available

Sacramento PD publishes its most recent publicly available [BWC policy](#) on its website under a [section dedicated to](#) body worn cameras. The policy is dated September 12, 2016.

## ○ Limits Officer Discretion on When to Record

Sacramento PD provides officers with a clear list of situations that must be recorded. (§C.3)

3. Employee shall activate their body-worn cameras during any enforcement or investigative activity, whether self-initiated-activity or in response to a dispatched call including but not limited to the following:
  - a. Vehicle stops;
  - b. When administering field sobriety tests;
  - c. Pedestrian and/or vehicle contacts;
  - d. While responding to any in-progress, just occurred and/or any other call for service in which the fleeing suspect and/or vehicles may be captured leaving the crime scene;
  - e. When responding to a call reportedly involving weapons or violence;
  - f. All calls involving suspected suicidal and/or suicidal individuals;
  - g. When pursuing a suspect on foot;
  - h. Code 3 responses (including vehicle pursuits) regardless of whether the vehicle is equipped with an in-car camera system;
  - i. While executing warrantless searches of individuals, vehicles, buildings and other places. NOTE: The body-worn camera shall be utilized to record the consent when practical. The intent of the recording is to corroborate the consent and is not intended to replace the use of any form used to gain and/or document the consent to search without a warrant.
  - j. Executing a search warrant;

- k. When advising suspects of their rights per Miranda;
- l. All arrests, detentions, and/or citations;
- m. While taking statements from witnesses, victims, and other subjects (see below for exceptions);
- n. Protests, demonstrations, or civil unrest;
- o. When ordered to by a supervising officer; and,
- p. Other contacts that become adversarial, or in which, in the employee judgement, a video recording would assist in documenting the incident for later investigation or review.

The policy requires officers to continue recording until "the investigative or enforcement activity involving a member of the public has reasonably concluded." In situations where officer or civilian safety is at immediate risk, officers are encouraged to begin recording once it is "safe to do so." (§C.2, §C.5)

- 2. If immediate activation of the body-worn camera is not feasible due to an immediate risk to the safety of the employee or others, the employee should activate the body-worn camera as soon as it is safe to do so.
- ...
- 5. The body-worn camera shall continue recording until the investigative or enforcement activity involving a member of the public has reasonably concluded. If enforcement or investigative activity with a member of the public resumes, the officer shall re-activate the body-worn camera and continue recording.

The policy encourages officers to justify any decision to deactivate the BWC and requires officers to document any failure to activate for safety reasons. However, the policy does not require justification for any failure to record required incidents. (§§C.2,7; D.2)

- C.2. If immediate activation of the body-worn camera is not feasible due to an immediate risk to the safety of the employee or others, the employee should activate the body-worn camera as soon as it is safe to do so. Failure to activate the body-worn camera under these circumstances shall be documented.
- C.7. Absent deliberate and/or a repeated pattern, the failure to activate the body-worn camera, alone, shall not constitute cause for discipline.
- D.2. Details regarding the reason for deactivation should be recorded and documented.

## ○ Addresses Personal Privacy Concerns

The policy discourages officers from recording patients during evaluation and treatment and from recording "informal or casual encounters with members of the public." Officers must also turn their cameras away (and only record audio) during strip searches, and officers may not record confidential informants. (§E, §C.6)

### E. RESTRICTED USE OF THE BODY-WORN CAMERA AND/OR STORED MEDIA

- 1. Under no circumstances, except those instances involving a criminal investigation of Department personnel, will a conversation between Department employees be intentionally recorded without all parties to the conversation being aware of the fact that it was being recorded.
- 2. The body-worn camera will not be intentionally activated to record Department personnel during briefings, meetings, roll calls or while in private spaces such as locker rooms or restrooms where a reasonable expectation of privacy exists.
- 3. The body-worn camera shall not intentionally be utilized to record confidential informants or undercover employees.
- 4. Prior to conducting a strip search, the officer shall record a 360-degree video of where the strip search will be conducted. During the strip search, the body-worn camera will be utilized to only capture audio of the event by positioning the camera away from the individual to be searched.
- 5. Employees should not normally record patients during medical or psychological evaluation by a clinician or similar professional, or during treatment. Employee shall be aware of patients' rights to privacy when in hospital settings. When recording in Hospitals and other medical facilities officers should be careful to avoid recording persons other than those who are the focus of the investigations.
- ...
- C.6. Generally, employees should not record informal or casual encounters with members of the public. Employees should consider that recording people in some circumstances may inhibit sharing neighborhood

information or developing strong ties between members of the community and employees.

The policy gives officers discretion to deactivate the BWC in sensitive circumstances but does not require officers to obtain informed consent from victims or other vulnerable individuals prior to recording. (§D)

#### D. DEACTIVATION OF THE BODY-WORN CAMERA

1. Employees may deactivate the body-worn camera at any time based on their discretion, in the following circumstances:
  - a. Discussion of tactical or confidential information with other law enforcement personnel, briefings, or conversations with confidential informants.
  - ...
  - c. If it is necessary to discuss issues or concerns with an employee, supervisor, doctor, nurse, or paramedic in private, the body-worn camera may be deactivated.
  - d. A witness or victim refuses to provide a statement if recorded and the encounter is non-confrontational.
  - e. In the employee's judgement, a recording would interfere with his or her ability to conduct an investigation, or may be inappropriate because of the victim or witness's physical condition, emotional state, age, or other sensitive circumstances (e.g., a victim of rape, incest, or other form of sexual assault).

The policy does not require officers to notify subjects that they are being recorded, but officers are encouraged to do so for the purpose of de-escalation or when interacting with certain vulnerable individuals. (§C.4)

4. Employees are not required to give notice they are recording when talking with private citizens during the course and scope of their official duties, even when the contact occurs in a private residence. If asked, employees shall advise citizens they are being recorded. Moreover, employees should strongly consider advising citizens that they are being recorded as a tool to de-escalate a situation or when dealing with instances such as outlined in D.1 (e).

#### ✘ **Prohibits Officer Pre-Report Viewing**

Sacramento PD allows officers to view footage before completing their written reports, including "prior to giving a statement after being involved in a critical incident." (§A.2.c, §B.4)

2. Body-worn cameras should assist in the following:
  - ...
  - c. Assisting officers with completing reports and providing testimony in court
  - ...
4. Employees are authorized to review their own body-worn camera recording at any time, including prior to giving a statement after being involved in a critical incident, writing reports, testifying in court or other proceedings, or for any other official use.

#### ✘ **Limits Retention of Footage**

1. Employees are authorized to review their own body-worn camera recording at any time, including prior to giving a statement after being involved in a critical incident, writing reports, testifying in court or other proceedings, or for any other official use.

1. Body-worn camera recordings will be retained for a minimum of 18 months from the date created in accordance with the City of Sacramento Retention Schedule. Video recordings which become evidence will be kept in accordance with the crime classification listing in the City of Sacramento Retention Schedule SPD-007.

### ✘ **Protects Footage Against Tampering and Misuse**

Sacramento PD expressly prohibits employees from erasing, altering, or tampering with BWC recordings, and states that employees may not use recordings for personal use or distribute footage. (§G.2, §B.5)

G.2. Any attempt to erase, alter, or tamper with the body-worn camera or its recordings except as authorized by law or Department policy will be considered employee misconduct.

B.5. Employees shall not:

- a. Make copies of any recorded event for personal use.
- b. Use a recording device such as a cell phone camera or secondary video camera to record a body worn camera file or image.
- c. Copy or upload any body-worn camera recordings onto public, private, or social media websites for personal use.

However, the policy does not appear to restrict access to footage, and does not indicate that access to recorded footage will be logged or audited.

### ✘ **Makes Footage Available to Individuals Filing Complaints**

Sacramento PD does not expressly allow individuals who are filing police misconduct complaints to view footage. The policy requires approval of the Chief of Police for any release of footage to the public and treats recordings as official records. (§A.4, §G.4)

A.4. All audio, video images, and recordings associated with body-worn cameras are property of the Sacramento Police Department and will not be released or disseminated to the public without the express written consent of the Chief of Police or designee or unless otherwise expressly required by federal or state law.

G.4. Digital evidence captured by a body-worn camera shall be treated as official records and handled pursuant to existing Department policies and procedures as outlined in GO 525.03, sections F and G.

### ✘ **Limits Biometric Searching of Footage**

Sacramento PD does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.



# Saint Paul Police Department



- 
- ✓ Makes the Department Policy Publicly and Readily Available
  - ✓ Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
  - ✗ Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage

*Last updated: November 14, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✓ Makes the Department Policy Publicly and Readily Available

The Saint Paul Police Department hosts its [body-worn camera policy](#) on the Police Department's section of the City of Saint Paul website. The policy was revised October 2, 2017.

## ✓ Limits Officer Discretion on When to Record

The Saint Paul Police Department policy clearly outlines when an officer must record, and when an officer must not record. (§10)

### 10. MANDATORY, DISCRETIONARY, AND PROHIBITED (sic) RECORDING

#### 1. Mandatory Recording

Understanding that officers encounter tense, uncertain, and rapidly evolving situations, officers must activate their BWC at their earliest opportunity and before arriving on scene when recording is required by this policy.

Activating a BWC early, before an officer arrives on scene, allows an officer to safely turn on the BWC before reacting to or dealing with the circumstances of a particular call, incident, investigation or event. This also helps document important information from a view closer to that of the officer's perspective. Therefore, officers must activate their BWCs when preparing for or initiating any law enforcement action, when responding to any call or incident, and before arriving on scene in the following circumstances and conditions:

- When an officer is dispatched to or investigating any call or incident.
- When an officer is assisting another officer at a call or incident.
- When an officer is participating in any of the following police actions:
  - Any vehicle stop, including traffic and investigative stops.
  - Vehicle pursuits.
  - Initiating any arrest.

- All frisks and searches (e.g., suspect, vehicle, structure, physical area).
- All strip searches must be conducted in accordance with General Order 409.08 and will only be audio recorded with the BWC.
- When encountering or responding to resistance or aggression. See General Orders 246.00, 246.01.
- When any situation becomes adversarial, including situations which are either verbally or physically adversarial
- In-custody transports.
- Suspect interviews in the field, including in-custody interviews occurring in the field when the Miranda warning is required.
- When directed by a supervisor.
- While operating a vehicle under General Order 444.01 Emergency Runs.

If an officer is at a location or in any situation where an event occurs or develops where this policy mandates recording and their BWC is not already activated, the officer must activate the BWC as soon as activation is possible and safe.

#### 1. Discretionary Recording

This policy does not describe every possible situation where the BWC may be activated. Beyond the mandated scenarios described above, an officer may activate the BWC when they believe it should be activated based on their training, experience, and judgement, except when recording is prohibited under this policy. If an officer is involved in a situation and they are unsure if the activation is mandatory, discretionary or prohibited, they should activate the BWC.

#### 2. Prohibited Recording

- Interactions solely among other department employees when not actively investigating or assigned to a call or incident.
- Non-work related activity.
- Within areas of a police facility restricted to personnel-only access, including roll call rooms, locker rooms, break rooms, and report rooms. BWCs should only record citizen contacts inside a police facility if relevant to an investigation or to comply with the Mandatory Recording situations described in this policy.
  1. When interacting with undercover officers or confidential informants, or persons providing information based on confidentiality, unless necessary for a law enforcement investigation or to comply with the Mandatory Recording situations described in this policy.
  2. During a work break.
  3. At any location where a reasonable expectation of privacy exists, such as a bathroom or locker room, unless necessary for a law enforcement investigation or to comply with the Mandatory Recording situations described in this policy.
  4. In patient care areas of a hospital, sexual assault treatment center, or other healthcare facility unless necessary for a law enforcement investigation or to comply with the Mandatory Recording situations described in this policy.
    1. This policy also recognizes that officers encounter tense, uncertain, and rapidly evolving situations regardless of location. Given this fact, officers may unintentionally create a prohibited recording or may intentionally record to comply with the Mandatory Recording requirements of this policy.

Additionally, the policy offers guidance for when recording may be stopped. (§12)

#### 12. WHEN RECORDING MAY BE STOPPED OR MUTED

Once activated, the BWC must remain on-recording until the incident has concluded; meaning it is reasonable to believe that all arrests are made, arrestees transported, and victim, witness and suspect interviews are completed, unless or until:

1. The incident or event is of such duration that recording is stopped to conserve power or storage capacity and the officer is not directly involved in activity relating to the incident or event.
2. In a Critical Incident, the supervisor has ordered deactivation - see section 16 "Critical Incidents".
3. Deactivation is reasonable and necessary to protect the safety of the officers or others.
4. Deactivation is approved or ordered by a supervisor.
5. Recording may be temporarily muted to exchange information with other law enforcement officers or those working in official capacities as part of a law enforcement investigation (e.g., medics, firefighters, medical examiners, dispatchers, civilian employees of government agencies, etc.). For example, discussion of case tactics or strategies or official information exchange or discussion of training issues between field training officers and officers in training. An officer must note their intent

to mute recording verbally into the BWC before turning on the mute option. The verbal note should include the officer's intent to mute and the reason. Muting for authorized reasons must also be documented in a police report if a police report is otherwise written. If no police report is otherwise required, the decision to mute must be documented in CAD comments.

6. BWCs may be deactivated during non-enforcement activities, such as waiting for a tow truck or protecting accident scenes.
7. BWCs may be deactivated after the officer has arrived on scene, assessed and stabilized the call, and if the officer reasonably believes there is no longer necessary audio or visual evidence to capture and that none of the circumstances requiring activation will likely occur.

The policy requires officers to note the reason for stopping the recording, or failing to record, in their report. (§9)

#### 9. FAILURE TO RECORD

Officer and public safety are the department's highest priorities. If an officer is unable to activate his or her BWC before one of the mandatory recording scenarios described in this policy, the BWC must be activated as soon as it is possible and safe.

Facts surrounding a failure to record must be reported to a supervisor and documented in an incident report, or if no incident report is required it must be documented in CAD comments.

If an officer is involved in a critical incident and they were unable or failed to record a mandatory record incident, any stated reason for the failure to record will be documented by an investigator assigned to the incident.

Officers involved in a critical incident who are not required to write a report are encouraged to provide any information as to their inability or failure to activate the BWC to the investigator under procedures outline in General Order 246.09 Critical Incident Policy, Responsibilities of Involved Employees.

### Addresses Personal Privacy Concerns

The Saint Paul policy prohibits recording in certain sensitive cases, but does not specifically protect vulnerable individuals from being recorded without their informed consent. (§10)

#### 10. MANDATORY, DISCRETIONARY, AND PROHIBITED RECORDING

...

All strip searches must be conducted in accordance with General Order 409.08 and will only be audio recorded with the BWC.

...

##### 2. Prohibited Recording

...

3. At any location where a reasonable expectation of privacy exists, such as a bathroom or locker room, unless necessary for a law enforcement investigation or to comply with the Mandatory Recording situations described in this policy.
4. In patient care areas of a hospital, sexual assault treatment center, or other healthcare facility unless necessary for a law enforcement investigation or to comply with the Mandatory Recording situations described in this policy.

The policy notes that victim and witness interviews must be recorded, though they may, but are not required to, deactivate recording upon request of the interviewee. (§10)

Victim or witness interviews must also be recorded, unless the officer becomes aware of the following:

- Officers may be aware that the identity of a victim or witness is protected by the MGDPA. Individuals whose identities are protected under the MGDPA include victims or alleged victims of criminal sexual conduct or sex trafficking. An officer may deactivate recording to protect the identity of someone afforded protection under the MGDPA, provided the request does not conflict with any other Mandatory Recording requirement under this policy.

- An officer may deactivate recording upon the request of a victim or witness, provided the request does not conflict with any other Mandatory Recording requirement under this policy.

Officers should consider the totality of the circumstances before deactivating recording and determine the best approach for a particular circumstance. For example, deactivation may be the best option if the situation is not adversarial and a BWC inhibits a victim or witness from providing information. Nothing precludes an officer who has deactivated recording under these circumstances from reactivating it should mandatory recording circumstances emerge or the officer choose to reactivate recording in their discretion.

## Officers are encouraged, but not required, to inform individuals if a BWC is recording. (§14)

If an individual asks an officer if a BWC is on or recording, research and experience shows the best practice is telling individuals they are being recorded. While not required by law (MN Statute 626A.02, subdivision 2), the Saint Paul Police Department strongly encourages officers to tell people that they are being recorded, unless the officer believes that disclosure would result in a safety issue for the officer or public.

## Prohibits Officer Pre-Report Viewing

The Saint Paul policy explicitly allows officers to access BWC footage while preparing a report or for “any legitimate law enforcement purpose.” The policy requires an officer who is involved in a critical incident to meet with the “investigative entity” before he or she is permitted to view footage of that incident. (§§20, 24)

### 20. WATCHING, REVIEWING, AND COPYING BWC DATA

Officers are authorized to access public and non-public (confidential or private) BWC data for legitimate law enforcement purposes, including but not limited to report writing. Nothing in this policy restricts an officer from reviewing data for law enforcement purposes, including for preparing to give a statement, preparing for court testimony or to respond to allegations of substandard performance or misconduct, excepting department policy under General Order 235.20 Administrative Lockdown.

...

Officer(s) involved in a Critical Incident may view and/or listen to BWC Data of the incident only after:

- The officer has met with the Saint Paul Police Federation representative or legal counsel, if those entities are requested by the officer, and
- The officer and legal counsel have met with the investigative entity or designee regarding the process for a Critical Incident set out in General Order 246.09.

...

### 24. REPORT WRITING - DOCUMENTING BWC DATA CONTENT IN A NON-CRITICAL INCIDENT

1. To ensure the accuracy of reports and statements, officers may review audio and video data before making a report or statement.
  2. Officers completing an original report for an incident in which the BWC data was created are responsible to ensure the content of BWC data is referenced in narrative reports. This must be accomplished by either referring to BWC content in the original narrative report or verifying other officers have done so in their reports. Therefore, an original narrative report must describe, beyond the header of “NO BWC or BWC Officer Name”:
- ...
  - Whether officers have reviewed their BWC data before completing a report.
  - ...
  - Whether the officer completing a report has reviewed the data of other BWCs.
  - The extent of review of any BWC data undertaken by an officer.
  - Some examples
  - “I have not reviewed footage before completing this report.” I have conducted a full and detailed review of all data which could function as a transcript.” “I have conducted a cursory review of video at fast speed without audio review.” “The footage begins at 21:00:10 hours and ends at 21:20:00 hours.” “I have conducted a full and detailed review of portions (21:05:05 to 21:09:30).” ...

However, the policy does not explicitly prohibit viewing before writing an initial report even in critical incidents.

### ✘ **Limits Retention of Footage**

The Saint Paul policy lists the retention periods for various types of recordings, but it is unclear whether the retention periods listed are minimums or maximums. Furthermore, Saint Paul PD does not appear to require footage deletion after any of the listed retention periods. (§24)

24. REPORT WRITING - DOCUMENTING BWC DATA CONTENT IN A NON-CRITICAL INCIDENT

...

All BWC Data not covered under the aforementioned provisions will be retained for a minimum period of 1 year. There are no exceptions for erroneously recorded or non-evidentiary data.

Classification	Retention Period
...	...
General Citizen Contact	1 year

### ✘ **Protects Footage Against Tampering and Misuse**

The Saint Paul policy notes it will restrict access, maintain access logs, and require documented reason for access, but does not appear to prohibit footage tampering. (§21, 27)

21. PROTECTION OF BWC DATA / AUDIT

BWC data will be protected in compliance with state law and this policy. To that end, the department will:

3. Restrict access to BWC data according to an authorized employee's access credentials, and
4. Maintain an automated audit/electronic audit trail of the date, time, and person with regard to each access to data. All employees who access BWC Data via evidence.com will be required to document the reason for their access by adding a note describing their reason for accessing the data in the "notes" section of whatever data file is accessed.

27. POLICY COMPLIANCE AND AUDIT

Minnesota Statutes section 626.8473 requires that police departments put in place "procedures to ensure compliance and address violations of the policy, which must include, at a minimum, supervisory or internal audits and reviews, and the employee discipline standards for unauthorized access to data contained in section 13.09."

To meet these statutory requirements, supervisors must monitor compliance with this policy.

The department has also created the position of BWC Quality Control Sergeant. The BWC Quality Control Sergeant will be assigned to the technology unit to verify compliance with this policy. The BWC Quality Control Sergeant will confirm that officers are using BWC cameras according to department policy and training, but will not review general officer conduct or performance.

### ✘ **Makes Footage Available to Individuals Filing Complaints**

While the Saint Paul policy does allow for subjects of BWC footage, it contains exceptions to this rule, while not creating an explicit allowance for those filing complaints. (§19)

19. ACCESS BY DATA SUBJECTS

As required by statute, an individual must be allowed to access BWC data about him/ herself as a subject of the recording, however access is not required under the following conditions:

- The data are collected or created as part of an active investigation.
- The data are restricted by law from disclosure to the person seeking access, such as portions that would reveal identities protected by Minnesota Statutes section 13.82, subdivision 17.

Unless the data are part of an active investigation, an individual data subject must be provided with a copy of the recording redacted as follows:

- Data on other individuals in the recording who do not consent to the release must be redacted.
- Data that would identify undercover officers must be redacted.

### **Limits Biometric Searching of Footage**

The Saint Paul policy does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# Salt Lake City Police Department



- 
- ✓ Makes the Department Policy Publicly and Readily Available
  - ✓ Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
  - ✗ Protects Footage Against Tampering and Misuse
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  - ✗ Limits Biometric Searching of Footage

*Last updated: October 5, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✓ Makes the Department Policy Publicly and Readily Available

SLCPD makes its BWC policy readily available to the public on its website as a part of the [Salt Lake City Police Department Policies and Procedures Manual](#), beginning on page 151, titled "III-535 BODY WORN CAMERAS." The policy was current as of September 26, 2017.

## ✓ Limits Officer Discretion on When to Record

SLCPD lists a set of situations in which "the body camera is utilized." In order to ensure these events are recorded, the policy requires officers to activate their cameras for any public interactions and calls for service with some limited exceptions. (pp. 151-152)

### Body Worn Camera Video Recordings

The body camera is utilized to record law enforcement encounters, as defined above and to include but not be limited to other examples of events such as: traffic stops; pursuits; vehicle searches; confrontational citizen contacts; use of force situations; statements made by subjects, victims and witnesses, advising an individual of his or her Miranda rights, interrogations, and arrest checks done by supervisors.

In order to capture the above types of contacts and events, officers wearing a camera shall activate the body camera whenever they interact with the public and/or at the time dispatched to a call for service.

An officer who is found to have purposefully failed to activate the BWC during an interaction with a member of the public, or who has a pattern of not recording interactions with the public will be subject to disciplinary action.

### Prohibited Body Worn Camera Recordings

The body camera shall not be used to record non-work related personal activity and will not be activated in places where a reasonable expectation of privacy exists, such as locker rooms, dressing rooms or restrooms. The body camera will not be intentionally activated to record the conversations of fellow employees without their knowledge during routine, non-enforcement related activities.

Officers will not record undercover officers or confidential informants.

When officers decide to deactivate their cameras or fail to record an event, SLCPD requires them to document and justify their actions either on camera or in a written report. (p. 151-152)

#### **Exceptions to Recording Requirement**

...Any decision to turn off the camera and reasons why should be documented in the written report.

#### **Camera Use Procedures**

Once activated, the body camera shall remain in recording mode until the conclusion of the incident/encounter, the officer has left the scene or a supervisor has authorized that a recording may cease. The authorizing supervisor must be identified on camera or in a written report.

...

If an officer fails to record an incident or activity that is required to be recorded, the officer shall articulate on camera or in a written report, the reason for the failure to record.

### **○ Addresses Personal Privacy Concerns**

SLCPD prohibits recording “where a reasonable expectation of privacy exists,” and gives officers discretion to turn off recording at the request of victims, witnesses, and community members “who wish to report or discuss criminal activity.” (p. 151-52)

#### **Prohibited Body Worn Camera Recordings**

The body camera shall not be used to record non-work related personal activity and will not be activated in places where a reasonable expectation of privacy exists, such as locker rooms, dressing rooms or restrooms. The body camera will not be intentionally activated to record the conversations of fellow employees without their knowledge during routine, non-enforcement related activities.

Officers will not record undercover officers or confidential informants.

...

#### **Exceptions to Recording Requirement**

Officers have the discretion to turn off the camera for only those reasons listed in Utah State Code Chapter 77-7a- 104(9). Officers should be mindful of the protections a video would provide against unwarranted accusations of misconduct.

#### **Camera Use Procedures**

...An officer may place the body camera into Privacy Mode, during a law enforcement encounter, in the following situations:

- to consult with a supervisor or another officer
- during a significant period of inactivity
- during a conversation with a sensitive victim of a crime, a witness of a crime, or an individual who wishes to report or discuss criminal activity, if:
  - the individual who is the subject of the recording requests that the officer deactivate the officer’s body camera; and
  - the officer believes that the value of the information outweighs the value of the potential recording and records the request by the individual to deactivate the body camera

The intention to stop the recording will be noted by the officer verbally on the video and as soon as the private conversation has ended the camera will be returned to Event Mode. Officers will verbally note the date and time the video is reinitiated. The officer shall also document the reason for placing the body camera into Privacy Mode in a written report.



Officers are not required to notify subjects they are being recorded. The policy requires officers to notify occupants of a private residence that a body camera is in use, but indicates that merely wearing the camera provides sufficient notice. (p. 153)

When an officer with a body camera enters a private residence, the officer shall give notice, when reasonable under the circumstances, to the occupants of the residence that a body camera is in use by either: wearing a body camera in a clearly visible manner, or giving an audible notice that the officer is using a body camera.

### ✘ Prohibits Officer Pre-Report Viewing

Officers are encouraged to use videos to aid in completing reports, and are allowed to review relevant footage in use of force incidents before writing a report or completing an interview. (p. 153, Review of Body Worn Camera Media)

#### Review of Body Worn Camera Media

Officers should use captured media to assist with investigations and in the completion of reports.

Officers involved in any significant use of force incident or accident resulting in injuries will be permitted to review their own camera video or audio recordings prior to completing a report or interview.

### ✘ Limits Retention of Footage

Footage is retained according to the department's retention schedule, which appears to outline minimum retention durations rather than requirements to delete footage after the retention period. (pp. 152)

Recorded media captured by the camera will be retained according to the Department's retention schedule below:

- Arrests - 1 year, unless categorized as evidence
- Contacts and Detentions - 1 year
- Critical Incidents (non-arrest) - 2 years
- Evidence - Until adjudication of final disposition (Case agent or Initial officer responsible to ensure)
- Pursuits (non-arrest) - 1 Year
- Traffic Stops/no Citation issued - 1 Year
- Use of force - 1 Year
- Miscellaneous - 1 Year
- Video footage of interactions only - 1 year
- Accidental activations - 6 Months
- When an IA Complaint or Notice of Claim against the City is received by the Internal Affairs Unit, the IA Lieutenant is responsible to change the video category to retain the evidence.

### ✘ Protects Footage Against Tampering and Misuse

SLCPD prohibits unauthorized copying of footage — but it does not expressly prohibit footage tampering (i.e., modification and deletion). (p. 153, Copies of Video)

The media captured will only be uploaded to Evidence.com and will only be used for official purposes. Officers will not make copies of any audio or video recordings for personal use and are prohibited from using a recording device such as a telephone camera or secondary video camera to record media from Evidence.com or the MDT if video is viewed through the sync system.

### ✘ Makes Footage Available to Individuals Filing Complaints

SLCPD does not expressly allow individuals who are filing police misconduct complaints to view footage. (p. 153)

#### **Review of Body Worn Camera Media**

...

All other access to body camera media will be governed by Salt Lake City Police Department Policy IV-320 RECORDS (Guidelines for Accessing Official Records).

#### **Release of Body Camera Media to Third Parties**

...

Request for body camera video from the news media and other third parties must be made in writing and will be routed to the Records Unit Government Records Access and Management Act (GRAMA) Coordinator. Once granted, the GRAMA coordinator will notify the Department Body Camera System Administrator to facilitate access for the person/entity making the request.

#### **✘ Limits Biometric Searching of Footage**

SLCPD does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# San Antonio Police Department



- 
- ✓ Makes the Department Policy Publicly and Readily Available
  - ✓ Limits Officer Discretion on When to Record
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  - ✗ Limits Retention of Footage
  - ✓ Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage
  - 💰 Received a [\\$1,000,000 DOJ grant](#) for BWCs in 2015

*Last updated: October 5, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✗ **Makes the Department Policy Publicly and Readily Available**

The San Antonio Police Department's [policy on body worn cameras](#) is accessible via the department website. One must search "body worn cameras" on SAPD's website in order to locate the policy. SAPD's most recent BWC policy is from July 6, 2016.

## ✓ **Limits Officer Discretion on When to Record**

Officers must record all events related to the "contact, stop, detention, interview and arrest of suspected violators." (§.03.A)

Officers with properly functioning BWC equipment shall record all events surrounding the contact, stop, detention, interview, and arrest of suspected violators and maintain this recorded evidence for consideration in criminal prosecution.

SAPD provides an extensive list of the events that officers must record. (§.06.D)

Officers shall begin recording the following events and continue recording until the event is concluded; (Any deviations will require a supervisor's approval and must be documented in the Officer's video, report, or CFS comment entry field in accordance with Section .07 of this procedure):

1. Upon observation of suspicious or criminal behavior;
2. Upon reception of or response to CFS, whether dispatched or not;
3. Officer-initiated contacts:

- a. Arrest,
  - b. Field Contacts,
  - c. Traffic/Pedestrian Stops,
  - d. Vehicle/Foot Pursuits;
4. During all prisoner or witness transports. If an officer arrives at a facility that is recorded, such as Public Safety Head Quarters (PSHQ) or the Magistrate's Office, the Officer may cease recording upon entering the facility or transferring custody of the prisoner/witness;
  5. In instances where the Officer reasonably believes that the recording may provide evidence in criminal investigations;
  6. Service of search or arrest warrants on the premises of a residence, business or building, if the Officer is assisting in such service of search or arrest warrants; and
  7. Citizen-initiated contacts or flagged down requests for public safety services.

SAPD requires that officers "verbally document" their reasoning for "all stoppages and/or mutings" of their BWC. (§.06.G)

All stoppages and/or mutings, other than administrative functions testing or accidental activation, of the BWC must be verbally documented—stating a specific reason—in the Officer's video, and report or CFS comment entry field in accordance with Section .07 of this procedure.

Once an officer activates his or her camera, it "shall remain on until the incident has concluded" and the policy clearly describes when officers shall deactivate their BWC. (§.07.A-B)

- A. Unless otherwise permitted by this procedure, once the BWC is activated, it shall remain on until the incident has concluded.
- B. For the purpose of this section, conclusion of the incident has occurred when:
  1. All arrests have been made and arrestees have been transported and released from custody;
  2. All witnesses and victims have been interviewed; and
  3. The continued recording will not serve to obtain additional evidence.

Officers are required to document a "reasonable justification" for why they failed to record certain events. (§.07.D)

Failure to record activities as laid out in this policy will not be considered a policy violation as long as reasonable justification is documented.

## 🟡 Addresses Personal Privacy Concerns

While the policy mentions the importance of personal privacy, it offers vague guidance on when officers must not record. (§.06.F, I)

- F. Officers shall not stop or mute a recording during a public encounter or assigned CFS, except for the following reasons:
  1. Officers may stop and/or mute:
    - a. Encounters with undercover officers or confidential informants;
    - b. Personal relief or break and;
  2. Officers may momentarily mute only:
    - a. Conversations that involve police and/or case tactics or strategy and;
    - b. Personal emergency matters of a sensitive nature (i.e. family emergency, medical emergency, catastrophic event).
- ...
- I. Officers shall not:
  - ...
  5. Use Departmentally-owned BWC equipment to record any type of personal activities.

...

7. Create recordings in patient care areas of any medical or mental health facilities unless the recording is for official police business such as a criminal investigation, dying declaration, Horizontal Gaze Nystagmus (HGN) on injured drivers, or a specific call for police service, in compliance with Federal HIPPA regulations.
8. Record any court facility, legal proceeding (i.e. deposition, city council meetings) or, secured governmental facility.

The policy does not require informed consent from vulnerable individuals, nor does it require officers to inform citizens that they are being recorded. (§.06.A)

Officers are not required to advise citizens they are being recorded or show any citizen a video which they recorded; furthermore, Officers should not activate/deactivate the BWC solely upon the request of a citizen.

### ✘ Prohibits Officer Pre-Report Viewing

SAPD encourages officers to use their BWC recordings to gather "pertinent information" when writing reports. (§.06.C)

Officers shall use the recording to gather pertinent information for composing reports, training, and investigatory purposes.

The policy also allows officers to access any "police originated DME recording" before making a statement about the incident. (§.15.D)

An Officer is entitled to access any police originated DME recording of an incident involving the Officer before the Officer is required to make a statement about the incident.

### ✘ Limits Retention of Footage

SAPD uses a categorization label which helps determine the "minimum length of retention" of BWC footage. SAPD requires that recordings from BWC that are categorized as an "Event 0" (non-evidentiary) must be retained for at least 180 days, but does not appear to mandate a maximum retention period. (§12)

B. The categorization label will determine the minimum length of retention.

1. Event 0 – is selected for non-evidentiary video such as false starts, testing, or IT administrative purposes;

#### VIDEO CATEGORIZATION AND RETENTION PERIODS

Event Code	Category	Retention Schedule
------------	----------	--------------------

0	Admin/Default	180 days
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...

E. Non-evidentiary, accidental recordings tagged under event 0 which contain personal and/or sensitive material and which fall under Section .06J, may be deleted when:

1. An immediate supervisor is notified in writing; the supervisor notifies a systems administrator, who will restrict the video;
2. Reviewed by a supervisor from the office of the Chief of Police;
3. Reviewed by a Deputy Chief;
4. Reviewed and finalized by Police Audio/Video Records Specialist.

### ✔ Protects Footage Against Tampering and Misuse

SAPD prohibits officers from tampering with and altering the BWC recordings. (§.09.B)

No member assigned BWC equipment shall alter, modify, reuse, tamper with or disable the device or associated accessories in any manner.

### The BWC policy states the requirements for "viewing privileges of DME." (§.04.E)

Standardized viewing privileges of DME for administrative and investigatory purposes shall be as follows:

1. All Officers will be able to view their own DME;
2. Detective-Investigators and above will have viewing privileges for all DME.

### SAPD personnel must obtain permission if they require access to locked BWC recordings. (§.15.B)

Personnel requiring access to locked videos will send a request for access/viewing of the specific DME through their chain-of-command.

The policy explicitly states that the personnel viewing BWC recordings must "manually document" their information in the "notes field in the BWC application" and indicates that access is logged automatically. (§.10.G, §.15.C)

10.G. An automated internal electronic data access log (chain-of-custody) will be generated and kept for every DME file produced via BWC to document the authenticity of the DME. Members shall be prepared to justify the reason for accessing/viewing DME.

15.C. Personnel reviewing DME shall manually document name, badge number, and the purpose of their viewing in the "notes" field in the BWC application.

### ✘ **Makes Footage Available to Individuals Filing Complaints**

SAPD does not expressly allow complainants to view relevant footage, and requires a five step process to handle individual complaints "alleging misconduct." (§.11.A)

When a complaint is received alleging misconduct involving an Officer who is assigned a BWC, the following procedures shall be followed:

1. The Officer's immediate supervisor or Internal Affairs Unit shall determine if any police originated DME exists.
2. The supervisor or Internal Affairs Unit shall view the video(s) of the incident in question and determine if there is any cause for the allegations in the complaint.
3. If no cause is determined, the supervisor or Internal Affairs Unit shall contact the complainant and advise them police originated DME exists for the incident and that no misconduct was observed.
4. The supervisor or Internal Affairs Unit shall advise the complaining party that they may make an open records request for copy/copies of the police originated DME.
5. The supervisor or Internal Affairs Unit shall proceed with their established protocols if misconduct is determined.

SAPD's policy states that any requests for any Digital Media Evidence will be handed under the "Open Records Act." (§.10.A)

Requests by non criminal justice agencies/individuals for DME will be handled under the Open Records Act in accordance with GM Procedure 323, Release of Police Records.

### ✘ **Limits Biometric Searching of Footage**

San Antonio PD BWC policy places no limits on the use of biometric technologies (e.g. facial recognition) to identify individuals in footage.

# San Bernardino Police Department



- 
- ✔ Makes the Department Policy Publicly and Readily Available
  - Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - ✘ Prohibits Officer Pre-Report Viewing
  - ✘ Limits Retention of Footage
  - ✘ Protects Footage Against Tampering and Misuse
  - ✘ Makes Footage Available to Individuals Filing Complaints
  - ✘ Limits Biometric Searching of Footage

*Last updated: October 31, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✔ Makes the Department Policy Publicly and Readily Available

The San Bernardino Police Department publishes its most recent publicly available BWC [policy](#) on the front page of its website. It is dated July 13, 2017.

## ○ Limits Officer Discretion on When to Record

The policy includes a non-exhaustive list of citizen contacts that officers are required to record. (§449.5.9)

### (a) Enforcement Related Contacts

1. Officers **shall** use the event mode to record enforcement related contacts. The event mode should be activated prior to actual contact with the citizen, or as soon as safely possible thereafter, and continue recording until the contact is concluded.
2. Enforcement related contacts include but are not limited to the following: Traffic stops, field interviews, detentions, arrests, persons present at radio calls who are accused of crimes, and consensual encounters in which the officer is attempting to develop reasonable suspicion on the subject of the encounter.
3. Covering another City employee or law enforcement officer during an enforcement contact; including, but not limited to: CSPs, Parking Enforcement Officers, Animal Control Officers, etc.
- ...
5. If an officer is unable to activate his or her BWC prior to initiating any of these enforcement or investigative activities, the officer shall activate the device as soon as it is practical and safe to do so. As in all enforcement and investigative activities including vehicle and pedestrian stops, the safety of the officer and members of the public are the highest priorities.

### (b) Arrests

1. Officers may stop recording in the event mode once the arrestee is no longer in their custody.

...

(e) During the execution of a search warrant, an arrest warrant, a Fourth Amendment waiver search, or a consent search in which the officer is looking for evidence of contraband.

The policy does offer officers specific guidance on when not to record. (§449.5.10) However, when officers fail to record a required incident, there is no requirement to provide a concrete justification.

### ○ Addresses Personal Privacy Concerns

San Bernardino's policy does mention privacy concerns, prohibiting recording in "places where persons have a reasonable expectation of privacy...unless such presence is directly relevant to the criminal investigation." (§449.5.10(c)) The policy also discourages recording peaceful demonstrations and "informal or casual encounters with members of the public." (§449.5.10(f), §449.5.10(g)).

However, the policy does not explicitly require informed consent of vulnerable individuals to record. In fact, the policy encourages officers record in some instances that may be considered sensitive, such as domestic abuse or sex crimes. (§449.5.09(i))

#### (i) Victim and witness interviews

1. Victim and witness interviews should be recorded.
2. Domestic violence victims often recant their statements as early as the following morning after a crime. Victims may also make their children unavailable for investigators or court to avoid their providing statements. For these reasons, domestic violence victims should be recorded unless the victim expressly refuses to be recorded. Officers should also record the statements of children of domestic violence victims who are witnesses in these types of cases when possible.
3. BWCs should be used during Sex Crimes or Child Abuse investigations to include statements of victims, witnesses, and interactions with parents of victims.

In addition, officers are not required to notify subjects they are being recorded, nor cease recording at a citizen's request. They are, however, required to answer truthfully if a citizen inquires as to whether the officer is recording. (§449.5.8)

### ⊗ Prohibits Officer Pre-Report Viewing

San Bernardino PD allows officers to review their own camera footage. (§449.5.16(b)) Officers are allowed to review footage before writing reports "when necessary to ensure accuracy" and are required to review footage prior to providing formal testimony. (§449.5.16(a))

(a) Digital evidence captured by the BWC is not all inclusive. The system captures a less broad and less detailed image than the totality of the human senses. An officer's recollection of specific details may be different than what is captured in digital evidence. Officers may review digital evidence prior to completing reports when necessary to ensure accuracy. Officers may review digital evidence prior to providing voluntary statements during critical incident investigations. Officers shall review digital evidence prior to providing testimony at hearings, trial, or depositions.

(b) Officers may review their own recordings.

### ⊗ Limits Retention of Footage

San Bernardino PD does not appear to require the deletion of unflagged footage. (§449.5.15)

(a) All recordings related to any criminal proceeding, claim filed, pending litigation, or a personnel complaint, shall be preserved until that matter is resolved and/or in accordance with the law.



1. Evidentiary recordings shall be retained for a minimum of 2 years under any of the following circumstances (PC 832.18, et al):
  - (a) The recording is of an incident involving the use of force by a peace officer or an officer-involved shooting.
  - (b) The recording is of an incident that leads to the detention or arrest of any individual.
  - (c) The recording is relevant to a formal or informal complaint against a law enforcement officer or a law enforcement agency.
2. Evidentiary recordings that may be relevant to a criminal prosecution should be retained in the same manner as is required by law for other evidence that may be relevant to a criminal prosecution.

### ✘ **Protects Footage Against Tampering and Misuse**

San Bernardino PD prohibits officers from tampering with BWC hardware and software and from accessing, copying, or releasing footage for “other than official law enforcement use” (449.5.2 (f)), but does not appear to prohibit unauthorized access to, tampering or deletion of footage. (§449.5.2(c))

- (c) Officers shall not tamper with or dismantle any hardware or software component of any BWC device.  
...
- (f) Accessing, copying, forwarding or releasing any digital evidence for other than official law enforcement use and contrary to this procedure is strictly prohibited...

The policy indicates that records or logs of access to footage are retained permanently but does not say whether those logs are audited. (§449.5.15(b)). In fact, the policy appears to bar the department from auditing the system for policy violations (§449.5.16(d)).

- (b) Records or logs of access and deletion of data from BWC shall be retained permanently.  
...
- (d) The Department shall not review digital evidence solely for the purpose of general performance review, for routine preparation of performance reports, or to arbitrarily discover policy violations.

### ✘ **Makes Footage Available to Individuals Filing Complaints**

San Bernardino PD does not expressly allow recorded individuals to view footage.

### ✘ **Limits Biometric Searching of Footage**

San Bernardino PD does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# San Diego Police Department



- 
- ✓ Makes the Department Policy Publicly and Readily Available
  - Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
  - Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage

*Last updated: October 11, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✓ Makes the Department Policy Publicly and Readily Available

SDPD publishes its most recent publicly available [BWC policy](#) online on its website under a section dedicated to Body Worn Cameras. This version, logged in section 1.49 in "Administration," was issued and effective on July 20, 2016.

## ○ Limits Officer Discretion on When to Record

SDPD requires all officers to record "enforcement related contacts." Officers are required to activate their BWC "prior to actual contact with the citizen, or as soon as safely possible thereafter" and "continue recording until the contact is concluded or the contact transitions from an enforcement contact into intelligence gathering." The policy has specific requirements for when to record during circumstances including enforcement related contacts; arrests; searches; transporting prisoners; suspect interviews; and special events. (§V.I.1-7)

### 1. Mandated Recordings

#### Enforcement Related Contacts

- a. All officers who are issued a BWC shall keep their BWC on Buffering Mode/Stand-by Mode while on duty, except during instances listed in this procedure under Prohibited Recordings. Keeping the BWC on Buffering/Stand-by Mode allows officers to capture pre-event recordings when the Event Mode is activated.
- b. Officers shall use the Event Mode to record enforcement related contacts. The event mode should be activated prior to actual contact with the citizen, or as soon as safely possible thereafter, and

continue recording until the contact is concluded or the contact transitions from an enforcement contact into intelligence gathering.

- c. Officers should begin recording in the event mode while driving to a call that has the potential to involve an enforcement contact.

...

- e. Enforcement related contacts include the following: Traffic stops, field interviews, detentions, arrests, persons present at radio calls who are accused of crimes, and consensual encounters in which the officer is attempting to develop reasonable suspicion on the subject of the encounter.

...

## 2. Arrests

- a. Officers may stop recording in the event mode when the arrestee is cooperative and safely secured inside a law enforcement facility. If an arrestee becomes uncooperative, or if there is some evidentiary purpose, officers should resume recording in the event mode.
- b. If an officer resumes recording in the event mode, the camera shall remain in event mode until the officer no longer has contact with the subject.

## 3. Searches

- a. When searching a prisoner and without sacrificing officer safety, it is advantageous to position the search so that it is captured on camera. This starts the chain of custody by allowing any contraband or weapons found to be documented on the BWC recording.
- b. Officers should record during the execution of a search warrant, an arrest warrant, a Fourth Amendment waiver search, knock and talk, or a consent search in which the officer is looking for a suspect, evidence or contraband.
- c. During searches of commercial buildings or residential dwellings when there is a strong indication of encountering a suspect, while keeping officer safety as the primary concern, officers should activate their body worn cameras prior to making entry into the building. The recording of a suspect confrontation normally outweighs tactics potentially shown in the recording.

## 4. Transporting Prisoners

- a. Officers equipped with BWC will record all prisoner or passenger transports, regardless of the gender of the prisoner or passenger. The entire transport will be recorded. Two officer units will be required to record with at least one BWC during transports.

...

## 5. Suspect Interviews

- a. Officers are encouraged to fully record suspect interviews. Officers shall not stop and start the recording during a suspect interview. The only exception to recording a suspect interview would be if the suspect declines to make a statement due to the body worn camera being activated.
- b. When recording interviews, officers shall ensure they record any admonishments prior to the start of an interview.

## 6. Special Events

When directed to work a special event, officers shall retrieve and use their BWCs. Officers shall comply with the provisions of this Department Procedure.

## 7. Deactivation of BWC

- a. Officers assigned BWCs will occasionally assist specialized investigative units and agencies in sensitive operations where confidentiality is imperative to the operation. If there is a specific reason in the interest of the investigation for officers involved in the operation to not activate their BWCs, the supervisor in charge must give his or her approval.
- b. Absent any specific reason to not activate the BWC approved by the supervisor in charge, officers shall record any instances listed in this procedure.
- c. If a supervisor orders an officer to turn off their camera during an enforcement contact, that officer will document that order on an ARJIS-9 explaining the specific reason why the BWC was not activated.
- d. Additionally, a supervisor who gives an order to an officer to turn off their BWC during an enforcement contact will also be responsible for documenting the reason on an ARJIS-9.

The policy also expressly lists specific prohibited recordings. (§V.K)

## K. Prohibited Recordings

- 1. BWCs shall not be used to record non-work related activity.
- 2. BWCs shall not be used to record in areas or activities such as pre-shift conferences, Department locker rooms, break rooms, restrooms, or other activities not related to an enforcement contact or a criminal investigation.

3. BWCs shall not be used during Department administrative investigations.
4. BWCs shall not be used during line-ups or briefings.
5. BWCs shall not be used during major crime briefings, homicide briefings, or during a homicide walk-through.
6. BWCs shall not be used during contact with confidential informants.

In addition, the policy requires officers to provide concrete justifications for intentionally deactivating their BWC during events that officers are required to record. (§V.I.1-7.c,e)

- c. If a supervisor orders an officer to turn off their camera during an enforcement contact, that officer will document that order on an Arjis-9 explaining the specific reason why the BWC was not activated.
- ...
- e. Officers will always document why the BWC was intentionally deactivated during an enforcement contact.

However, the policy does not seem to require officers to provide concrete justifications for failure to record a required event.

### 🟡 Addresses Personal Privacy Concerns

SDPD does not require officers to cease recording at citizens' request and specifies that "private citizens do not have a reasonable expectation of privacy when talking with police officers," even when police are lawfully present in a private residence. (§V.H)

1. Private citizens do not have a reasonable expectation of privacy when talking with police officers during the scope of an officer's official duties, even when the contact is in a private residence. When officers are lawfully present in a home (warrant, consent, or exigent circumstances) in the course of official duties, there is no reasonable expectation of privacy. Therefore, officers are not required to give notice they are recording. However, if asked, officers shall advise citizens they are being recorded.
2. Officers are not required to initiate or cease recording an event, situation or circumstance solely at the demand of a citizen.
3. Officers and supervisors involved in the investigation of a complaint against a member of the police department must inform complainants and complaint witnesses they are being recorded.

While officers are not required to inform citizens they are being recorded, officers are encouraged to as a means to "de-escalate potential conflicts." (§V.I.1.d)

- d. Officers are strongly encouraged to inform citizens they are being recorded in an effort to de-escalate potential conflicts.

While SDPD prohibits officers from recording during Sex Crimes or Child Abuse investigations, it mandates that victims (and their children) be recorded when they are victims of domestic violence incidents. (§V.J.1)

1. Victim and Witness Interviews
  - a. Victim and witness interviews will generally not be recorded.
  - b. Domestic violence victims often recant their statements as early as the following morning after a crime. Some victims go so far as to testify that the officer fabricated their statement. Victims may also make their children unavailable for investigators or court to avoid their providing statements. For these reasons, all domestic violence victims and witnesses should be recorded. Officers should also record the statements of children of domestic violence victims who are witnesses in these types of cases.
  - c. BWCs shall not be used during Sex Crimes or Child Abuse investigations to include statements of victims, witnesses, and interactions with parents of victims.
  - d. When necessary to obtain cooperation, officers may position the BWC so they capture only audio, and not video, of the person making the statement.

Officers are also prohibited from recording patients during medical or psychological evaluations and in medical care facilities unless the officer is confronting a violent suspect or anticipating use of force. (§V.K.7)

- a. Officers shall not record patients during medical or psychological evaluations by a clinician or similar professional, or during treatment. This includes during PERT clinician interviews. Officers shall be aware of patients' rights to privacy when in hospital settings. When recording in hospitals and other medical facilities, officers shall be careful to avoid recording persons other than the suspect.
- b. Officers shall not record while in a facility whose primary purpose is to provide psychiatric or medical services unless responding to a radio call involving a suspect or taking a suspect statement.

### ✘ Prohibits Officer Pre-Report Viewing

SDPD allows and encourages officers to view footage prior to completing their reports, and requires them to do so prior to providing testimony at hearings, trials, or depositions. (§V.Q)

#### Q. Reviewing Impounded Digital Evidence

1. Officers may review their own digital evidence. Digital evidence can provide a cue to an officer's priming memory to recall more facts and greater detail of an incident
- ...
4. ... Officers should review digital evidence prior to completing reports to assist in priming their recollection. Officers shall write their reports to what they remember and notate any discrepancies from what the recording shows. Officers shall not write their reports based solely on what they viewed from the BWC recording.
5. Officers shall review digital evidence prior to providing testimony at hearings, trials, or depositions.

### ✘ Limits Retention of Footage

The policy references a retention period for digital evidence but does not specify what that period is, nor does it require unflagged footage to be deleted. (§V.O)

All recordings related to any criminal proceeding, claim filed, pending litigation, or a personnel complaint, shall be preserved until that matter is resolved and/or in accordance with the law. Officers and detectives are required to ensure that the BWC evidence is properly categorized for the necessary retention period.

### ○ Protects Footage Against Tampering and Misuse

SDPD prohibits officers from tampering with "hardware and software component[s]," and notes that digital evidence is to be used for official purposes only, but the policy does not expressly prohibit tampering with footage. (§V.C)

#### C. General

- ...
4. Officers shall not tamper with or dismantle any hardware or software component of any BWC device
- ...
6. All digital evidence collected using the BWC is considered an investigative record for the San Diego Police Department and is for official use only.
7. Accessing, copying, forwarding or releasing any digital evidence for other than official law enforcement use and contrary to this procedure is strictly prohibited. Public release of digital evidence is prohibited unless approved by the Chief of Police or designee.

The BWC footage is stored by a service, Evidence.com, that digitally encrypts and secures the footage. (§IV)

...

Evidence.com – A digital evidence management service contracted for the city and accessed at Sdpd.evidence.com. The service stores digitally encrypted data in a highly secure environment accessible to personnel based on security clearance.

While it is true that Evidence.com logs and audits access to footage, the policy does not indicate that, nor mention any other source logs or audits footage access.

**✘ Makes Footage Available to Individuals Filing Complaints**

Individuals filing complaints only have access to footage at the discretion of SDPD supervisors. (§V.Q.7.n)

Digital evidence may be viewed for administrative purposes limited to the following:

...

n. Supervisors should review BWC recordings to assist citizen's complaints. Supervisors have discretion to show BWC recordings to a complainant when it relates to his or her complaint, to assist in clarifying the complaint, resolving the complaint, or having the complaint withdrawn.

**✘ Limits Biometric Searching of Footage**

SDPD PD does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# San Francisco Police Department



- 
- ✓ Makes the Department Policy Publicly and Readily Available
  - ✓ Limits Officer Discretion on When to Record
  - ✓ Addresses Personal Privacy Concerns
  - Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
  - ✓ Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage
  - § Received [permission to use \\$250,000 of another DOJ law enforcement technology grant](#) for BWCs in 2013

*Last updated: October 5, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✓ **Makes the Department Policy Publicly and Readily Available**

SFPD has a [webpage](#) dedicated to the development of its BWC policy, which provides details about the department's biweekly BWC working group meetings that occurred in 2015. [The final version of the body camera policy](#) was adopted on June 1, 2016.

## ✓ **Limits Officer Discretion on When to Record**

SFPD requires officers to record a wide range of law enforcement activities. (§III.C)

### C. Authorized Use.

All on-scene members equipped with a BWC shall activate their BWC equipment to record in the following circumstances:

1. Detentions and arrests
2. Consensual encounters where the member suspects that the citizen may have knowledge of criminal activity as a suspect, witness, or victim . . .
3. 5150 evaluations
4. Traffic and pedestrian stops
5. Vehicle pursuits
6. Foot pursuits
7. Uses of force
8. When serving a search or arrest warrant
9. Conducting any of the following searches on one's person and/or property:

- a. Incident to an arrest
  - b. Cursory
  - c. Probable cause
  - d. Probation/parole
  - e. Consent
  - f. Vehicles
10. Transportation of arrestees and detainees
  11. During any citizen encounter that becomes hostile
  12. In any situation when the recording would be valuable to evidentiary purposes
  13. Only in situations that serve a law enforcement purpose

In addition to specifying when officers shall terminate their recordings (§III.E), SFPD requires officers to document the reasons for any failures to record. (§III.G)

#### G. Documentation.

Members submitting an incident report or completing a written statement shall indicate whether the BWC was activated and whether it captured footage related to the incident.

... If a member deactivates a BWC recording prior to the conclusion of an event, the member shall document the reason(s) for terminating the recording in CAD, an incident report, a written statement or a memorandum.

If a higher ranking member orders a subordinate member to deactivate the BWC, the higher ranking officer shall document the reason(s) for restarting the recording in CAD, an incident report, a written statement or a memorandum.

If a member reactivates the BWC after turning the equipment off, the member shall document the reason(s) for restarting the recording in CAD, an incident report, a written statement or a memorandum.

If a member determines that officer or public safety would be compromised if a BWC were activated during an incident requiring its use, the member shall document in CAD, an incident report, a written statement or a memorandum the reason(s) for not using the BWC.

### ✔ Addresses Personal Privacy Concerns

SFPD proactively prohibits officers from recording three categories of sensitive victims, including sexual assault and child abuse victims. (§III.D)

#### D. Prohibited Recordings.

Members shall not activate the BWC when encountering:

1. Sexual assault and child abuse victims during a preliminary investigation
2. Situations that could compromise the identity of confidential informants and undercover operatives
3. Strip searches.

In addition, officers must terminate a recording "when recording at a hospital would compromise patient confidentiality." (§III.E.3)

### ○ Prohibits Officer Pre-Report Viewing

SFPD requires officers to file initial statements before reviewing BWC for three categories of critical incidents: after an "officer-involved shooting," after an "in-custody death," and in a "criminal matter." The latter category ("criminal matter") is not clearly defined in the policy. Is an incident a criminal matter only after charges are filed? Does the policy apply to all criminal matters, or only those where the officer is the subject of the investigation?

For all other incidents (ambiguity aside), SFPD allows officers to review BWC footage before filing their initial reports. (§III.F.1)



#### F. Viewing BWC Recordings

1. A member may review a BWC recording on his/her assigned device or on an authorized computer for any legitimate investigatory purpose, including but not limited to, preparing an incident report, preparing statements, conducting a follow-up investigation, or providing testimony. Following any (1) officer-involved shooting, (2) in-custody death, or (3) criminal matter, any subject officer shall be required to provide an initial statement before he or she reviews any audio or video recording.

The initial statement by the subject officer shall briefly summarize the actions that the officer was engaged in, the actions that required the use of force, and the officer's response. The statement shall be distinct from the "public safety statement."

After providing an initial statement, the subject shall have an opportunity to review any audio or video recordings depicting the incident with his or her representative or attorney prior to being subject to an interview.

#### **Limits Retention of Footage**

SFPD retains all BWC footage for a minimum of 60 days. After this duration, recordings "may be erased, destroyed or recycled" — but there is no requirement to do so. (§III.J)

1. Consistent with state law, the Department shall retain all BWC recordings for a minimum of sixty (60) days, after which recordings may be erased, destroyed or recycled.

Notwithstanding any other provision of this policy, the Department shall retain BWC recordings for a minimum of two (2) years if:

- a. The recording is of an incident involving a member's use of force or officer-involved shooting; or
- b. The recording is of an incident that leads to the detention or arrest of an individual; or
- c. The recording is relevant to a formal or informal complaint against a member or the Department.

2. Notwithstanding any other provision of this policy, a BWC recording may be saved for a longer or indefinite period of time as part of a specific case if deemed relevant to a criminal, civil or administrative matter.

...

4. Subject to the above limitations, members of the RMO are authorized to delete BWC recordings in accordance with the Department's established retention policies on BWC recordings or when directed by the Commanding Officer of the RMO.

#### **Protects Footage Against Tampering and Misuse**

SFPD prohibits officers from deleting, tampering, accessing for personal use, or sharing footage without prior authorization from the Risk Management Office (RMO). (§§III.H.3; III.J.3)

#### H. Storage and Use of Recordings.

...

3. Members are prohibited from tampering with BWC recordings, accessing BWC recordings for personal use, and from uploading BWC recordings onto public or social media Internet Web sites without written approval from the commanding officer of the RMO.

...

#### J. Retention.

...

3. A member may not delete any BWC recording without prior authorization. The member seeking to delete a recording shall submit a memorandum to his/her Commanding Officer requesting to delete footage from a BWC file and shall make an entry of the request in the appropriate case file, if applicable. The Commanding Officer shall then forward the memorandum to the Commanding Officer of the RMO for evaluation and appropriate action.

In addition, SFPD prohibits footage access for purposes unrelated to a legitimate law enforcement. (§III.F.2)

2. Members shall not access or view a BWC [recording] unless doing so involves a legitimate law enforcement purpose.

SFPD also logs all access to recorded footage. (§§III.1.2.c; III.J.5)

I. Duplication and Distribution.

...

2. Departmental Requests:

...

c. Duplication and distribution of BWC recordings are limited to those who have a "need to know" and a "right to know" and are for law enforcement purposes only. The Department shall maintain a log of access, duplication and distribution.

...

J. Retention.

...

5. The Department shall retain permanently all records of logs of access as set forth in I.1.3 and deletion of data including memorandums as set forth in J.3 and J.4 from the BWC.

### ✘ **Makes Footage Available to Individuals Filing Complaints**

SFPD relies on existing public records law to make footage available, and does not expressly allow individuals who are filing police misconduct complaints to view footage. (§III.1.3.a)

3. Non-Departmental Requests

a. The Department shall accept and process [Public Record Act] requests in accordance with the provisions of federal, state and local statutes and Department policy.

### ✘ **Limits Biometric Searching of Footage**

SFPD does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# San Jose Police Department



- 
- ✓ Makes the Department Policy Publicly and Readily Available
  - Limits Officer Discretion on When to Record
  - ✓ Addresses Personal Privacy Concerns
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  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage

*Last updated: October 5, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✓ Makes the Department Policy Publicly and Readily Available

San Jose PD publishes its most recent publicly available [body worn camera policy](#) on its website's homepage. San Jose PD welcomes public comment on the department's BWC program, directing the public to a public opinion [survey](#) and an additional follow up [survey](#) for those who have made contact with an officer wearing a body worn camera. Additionally, the policy is translated into English, Spanish, and Vietnamese. The website also has a Frequently Asked Questions page on the policy.

San Jose PD's body worn camera policy is not dated, but the URL includes "06-29-15" following the title, suggesting that the policy was released on June 29, 2015.

## ○ Limits Officer Discretion on When to Record

The policy includes a non-exhaustive list of citizen contacts that officers are required to record. (§5)

Officers shall make every effort to record non-enforcement contacts should they become confrontational, assaultive or enforcement-oriented. In addition to the required conditions, personnel may activate the system any time they feel its use would be appropriate and/or valuable to document an incident...

During their shift, officers shall make every reasonable effort to activate the body-worn camera prior to initiating, or as soon as practical after initiating, the following police actions:

- A. All enforcement encounters where there is at least reasonable suspicion the person(s) has committed, is committing or may be involved in criminal activity. This includes, but is not limited to:
  - a. Detentions, vehicle stops, pedestrian stops and consensual encounters

- b. Probation, parole, post-release community supervision, mandatory supervision or consent searches, 'knock and talks.'
- B. Taking or attempting to take a person into custody (e.g., arrests, protective custody of mentally disturbed person, etc.).
- C. Enforcement encounters where there is reason to believe that the individual is committing a violation for which a citation may be issued.
- D. All incidents involving a use of force.
- E. All public interaction, regardless of context, that escalates and becomes adversarial.
- F. Service of search or arrest warrants.
- G. Suspect statements.
- H. Witness/Victim statements (when practical).
- I. Pursuits (when practical).
- J. Response to complaints or calls for service.

The policy instructs officers to use "reasonable judgment" in determining when to deactivate the camera. While the policy prohibits officers from intentionally terminating the recording until the "conclusion of the encounter," the policy provides a vague exception for "tactical and safety reasons." Without further guidance this language gives officers wide discretion to turn the camera off prematurely. (§6)

Body-worn camera recordings shall not be intentionally terminated until the conclusion of the encounter, except for tactical or safety reasons, or the encounter no longer holds evidentiary or investigative value...  
 Officers will use reasonable judgment in determining when to deactivate the body-worn camera, such as when the purpose for activation is no longer present. (Example: An officer is assigned to an outer perimeter for an extended period of time and has no verbal or visual contact with involved parties.) (Example: Officers have secured a prisoner and are completing paperwork outside the presence of the prisoner, unless the prisoner is combative, agitated or otherwise uncooperative.)

The policy requires officers to record the reason for deactivating recording on camera verbally and in a police report. If no police report is filed, the officer must record the reasons for deactivating the camera on the citation, Computer Aided Dispatch report, or Street Check report. (§6)

... Anytime the recording is terminated prior to the end of the encounter, the reason(s) should be documented both on the body-worn camera recording before deactivation and in the subsequent police report. If no police report is filed for the recorded encounter, then the reason(s) for the early termination should be recorded on the citation, CAD event or Street Check. . .

The policy does not require officers to justify a failure to record a required event.

 **Addresses Personal Privacy Concerns**

The policy does not require officers to gain informed consent from victims or witnesses prior to recording. However, in some circumstances, the policy either requires officers to comply with a victim or witness' request to not to be recorded or allows the officer to use his or her discretion not to record. (§§8; 9)

... Officers will not knowingly activate the body-worn camera in the following circumstances:

- A. A potential witness who requests to speak to an officer confidentially or desires anonymity (See Section 9, Victim and Witness Statements).
- B. A victim or witness who requests that he or she not be recorded and the situation is not confrontational (See Section 9, Victim and Witness Statements).
- C. A victim who requests that he or she not be recorded as a condition of cooperation and the interests of justice require such cooperation (See Section 9, Victim and Witness Statements)

...

Should the officer use discretion and not record the crime victim or witness statement with the body-worn camera, the officer should document the reason for not fully recording the statement with the body-worn

camera.

Although the policy prohibits officers from recording or allows them not to record in these situations, the policy encourages officers to record crime victim and witness statements and includes a procedure for doing so, recommending that officers develop a rapport with a victim/witness who is hesitant to be recorded. The policy provides that if the officer decides to use discretion to deactivate the camera, the officer may still record the audio of the victim/witness statement. (§9)

When conducting an investigation, the officer shall attempt to record the crime victim or witness' statement with the body-worn camera. The recording may be valuable evidence that contributes to or complements an investigation. While evidence collection is important, the Department also recognizes it is important for officers to maintain credibility with people wanting to share information with law enforcement.

On occasion, an officer may encounter a reluctant crime victim or witness who does not wish to make a statement on camera. In these situations, the officer should continue to develop rapport with the individual while balancing the need for evidence collection with the individual's request for privacy.

Should the officer use discretion and not record the crime victim or witness statement with the body-worn camera, the officer should document the reason for not fully recording the statement with the body-worn camera. In these instances, officers may still record with an audio recorder as outlined in Duty Manual Section L 4513.

The policy provides that officers are not required to deactivate their body-worn camera solely on the basis of the request or demand of a citizen, but this section is followed by the above guidance on victim and witness statements which indicates those cases take precedence over this general guidance. (§5)

[O]fficers shall not be required to activate or deactivate their body-worn camera based solely on the requests or demands of a citizen, but rather rely on their training and this policy to direct their use of the body-worn camera.

The policy requires officers to make a reasonable effort to advise people that they are being recorded, but only at times when the officer is required to record. The policy also provides an exception for when the officer has reason to believe that advising that the camera is on will endanger the officer or another person, or will interfere with the investigation. The policy does not require officers to advise or obtain consent to record when the officer is in a public place or when the officer is lawfully present in a location where there is an expectation of privacy, unless the officer is performing a consent-based search of a residence. (§7)

Generally, officers are not required to advise or obtain consent to utilize the body-worn camera from a private person when:

- A. In a public place; or
- B. In a location where there is an expectation of privacy (e.g., inside a building or dwelling) but the officer is lawfully present.

However, when initiating a police action as described in Section #5 (When to Activate), officers **shall make a reasonable effort to** advise persons they are being recorded with the body-worn camera, unless the officer has reason to believe that doing so will endanger the safety of the officer or another officer or a member of the public or will interfere with the conduct of an investigation.

When an officer's legal grounds for a search of a residence is based solely on **consent**, they are required to both advise **and** obtain consent to record with a body-worn camera from the person, with legal standing, who is being recorded and/or searched.

The policy prohibits activation in several circumstances where personal privacy is at issue. (§8)

Officers will not knowingly activate the body-worn camera in the following circumstances:

...

F. Strip Searches.

G. Public or private locker rooms, changing rooms, restrooms, unless taking the police actions stated in 5(A)-(F), and (I).

...

J. Other places where individuals unrelated to the investigation are present and would have a reasonable expectation of privacy, unless taking the police actions stated in 5(A)-(F), and (I).

### ○ Prohibits Officer Pre-Report Viewing

San Jose PD's policy encourages officers to view footage prior to writing initial reports, with the exception of officers involved in or witness to an "Officer Involved Incident." (§13)

An officer should review body-worn camera files, including those of other officers, in the following instances:

For the purposes of completing criminal investigations and preparing official reports with the exception of Officer-Involved Incidents. See [Officer-Involved Incidents \(Section 16\)](#). . .

The policy prohibits officers involved in or witness to an "Officer-Involved Incident" from viewing footage before making an initial statement, unless given permission to do so by the Chief or his or her designee. The policy defines "Officer-Involved Incidents" as including officer-involved shootings, in-custody deaths, and any intentional act by an officer which proximately causes injury likely to produce death to another. (§16)

The initial interview of an officer involved in an Officer-Involved Incident should occur before the officer has reviewed any audio/video recordings of the incident. Once an involved officer has provided an initial statement, he will have an opportunity to review any available recordings with his representative. The officer shall then be afforded an opportunity to provide a follow-up statement after having reviewed the recording(s). The Chief or designee shall have discretion to permit officers to review video files prior to the initial interview.

The policy does provide, in general, that officers should not substitute a recording for a detailed police report. (§12)

Personnel should not substitute a body-worn camera recording for a detailed and thorough report. Personnel should continue to prepare reports as outlined in the Duty Manual.

### ✗ Limits Retention of Footage

The policy does not require the department to delete unflagged footage. The policy states that BWC footage will be retained "for a period of time," but does not define that period nor require deletion at the end of that period. (§1)

The Department adopts the use of body-worn cameras to visually and audibly record specific categories of interactions between officers and the public and to retain associated video for a period of time.

### ✗ Protects Footage Against Tampering and Misuse

While the policy does prohibit officers from tampering with BWC hardware and software, the policy does not expressly prohibit officers from tampering with footage. (§3)

Officers shall not deliberately remove, dismantle or tamper with any hardware and/or the evidence management software component of the body-worn camera.

The policy does prohibit unauthorized access to BWC recordings. (§§10; 13; 3)

(§10) All body-worn camera recordings shall remain the property of the Department and constitute official records of investigation of the Department.

(§10) Unauthorized access to, or use, duplication, and/or distribution of body-worn camera files is prohibited. Personnel shall not make copies of any body-worn camera file for their personal use and are prohibited from using a recording device such as a phone camera or secondary video camera to record body-camera files.

(§13) All file viewing is for law enforcement use only and subject to a right to know and need to know basis. . .

(§3) Media captured via the body-worn camera shall only be downloaded/uploaded to Department-approved secure storage. Since the content of the recording may be considered evidence, and are considered Department records of investigation, officers will comply with all sections in the Duty Manual regarding the handling of evidence and official Department records.

The policy does indicate that all access to footage is automatically logged. (§13)

Access to the body-worn camera system is logged automatically with the date, time and name of person viewing the files.

#### ✘ **Makes Footage Available to Individuals Filing Complaints**

The policy does not allow complainants to view relevant footage, unless the Chief of Police or the designee approves the request. (§4)

At no time, except at the direction of the Chief or designee, shall the supervisor allow the citizen to view the file footage.

However, the policy allows supervisors to view video in order to resolve citizen complaints. (§4)

Supervisors may have the ability to immediately resolve citizen complaints by viewing video captured by the officer's body-worn camera prior to contacting the citizen.

The policy further states that the footage captured is for law enforcement use only. (§13)

All file viewing is for law enforcement use only and subject to a right to know and need to know basis [Refer to Duty Manual Sections C 2002-2004, C 2007, C 2011, and Chapter C 2100]

#### ✘ **Limits Biometric Searching of Footage**

The San Jose PD policy does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# Seattle Police Department



- 
- ✓ Makes the Department Policy Publicly and Readily Available
  - ✓ Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
  - ✗ Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - Limits Biometric Searching of Footage
  - 💰 Received a [\\$600,000 DOJ grant](#) for BWCs in 2015

*Last updated: October 6, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✓ Makes the Department Policy Publicly and Readily Available

Seattle PD publishes its most recent publicly available [BWC policy](#) on its website. While the policy is found within the [Seattle Police Department Manual](#), the web-based manual makes the BWC policy reasonably easy to find. The policy is Title 16.090, effective July 19, 2017.

## ✓ Limits Officer Discretion on When to Record

Seattle PD requires officers to record a clearly defined set of police activity. (§5.b)

### **b. When Employees Record Activity**

When safe and practical, employees will record the following police activity, even if the event is out of view of the camera:

- Dispatched calls, starting before the employee arrives on the call to ensure adequate time to turn on cameras
- Traffic and Terry stops
- On-view infractions and criminal activity
- Arrests and seizures
- Searches and inventories of vehicles, persons, or premises
- Transports (excluding ride-alongs and passengers for meetings)
- Vehicle eluding/Pursuits
- Questioning victims, suspects, or witnesses (This does not include conversations with persons merely wishing to pass on information about general criminal activity not tied to a specific event.)

If circumstances prevent recording at the start of an event, the employee will record as soon as practical.



The policy also gives officers discretion to record in other circumstances. (§5.c)

**c. Discretion in Recording**

Employees reasonably exercising discretion under policy subsections 5c – 5g will not be subject to discipline for the decision to record or not record those portions of an event.

Unless otherwise prohibited by this policy, employees may initiate recording any time they determine it would be beneficial to capture an event or activity.

Officers must record the entire event, and if they stop recording prematurely, they must document the reason in their report. (§5)

b...Employees will record the entire event to its conclusion unless specifically instructed otherwise by this manual section.

...

**h. Employees Stating the Reasons for Stopping BWV**

Employees who stop recording during an event will state on the recording their intention to stop recording and explain the basis for that decision. Employees will also document the reason(s) in the GO report and/or CAD update.

Supervisors who direct that recordings cease will direct employees to document the order in the GO report and/or CAD update.

Any failure to record required events must also be documented. (§7)

**7. Officers Will Document the Existence of Video or Reason for Lack of Video**

Employees will document the existence of video in a call update and any related GO report, Street Check, Notice of Infraction, Criminal Citation, or Traffic Contact Report (TCR).

If this policy requires that an event be recorded, and there is no recording or there was a delay in recording, employees must explain in writing why it was not recorded or why the start of the recording was delayed.

Employees who are not logged to a call or event but capture video of the event will log to the call and note that the event was recorded in a call update.

**○ Addresses Personal Privacy Concerns**

Seattle PD prohibits officers from intentionally recording in “sensitive areas” but does not address specific categories of vulnerable people. (§5.d-e; g)

**d. Recording in Sensitive Areas**

Employees will not record in restrooms, jails and the interiors of medical, mental health, counseling, or therapeutic facilities unless for a direct law enforcement purpose, such as a crime in progress.

**e. Recording in Residences and Private Areas**

Employees will ask for consent to record with BWV in residences or other private areas not open to the public unless there is a crime in progress, or other circumstances exist that would allow the employee to be lawfully present without a warrant. The request and any response will be recorded.

If any person with legal standing denies permission to record, employees will stop recording with BWV while they are in the private area. However, employees will continue to record ICV audio, if equipped, and notify the persons involved of the continued audio recording.

...

**g. Recording Protected Activity / Demonstrations**

Employees will not record people lawfully exercising their freedom of speech, press, association, assembly, or religion unless they have probable cause to believe that criminal activity is occurring or when ordered to record by a supervisor, as provided below.

When an imminent risk to public safety or largescale property destruction appears likely, supervisors at the

squad level and/or the incident commander of an event may order employees to record with BWV. Under such direction, employees will record until ordered to cease recording.

Protected activity unintentionally captured is not a violation.

The policy acknowledges that in some circumstances “an individual’s privacy or dignity outweighs the need to record an event.” Officers have discretion to deactivate recording those circumstances, but are not required to do so. (§5.f)

#### f. Protecting Privacy and Dignity

There may be limited circumstances when the respect for an individual’s privacy or dignity outweighs the need to record an event.

Such circumstances may include natural death scenes, death notifications, child or sexual assault victim interviews, cultural or religious objections to being recorded, and when the use of BWV would impede or limit the cooperation of a victim or witness.

When an employee believes such circumstances exist, the employee may deactivate the BWV.

### ✘ Prohibits Officer Pre-Report Viewing

Seattle PD allows officers to view recorded footage for a wide range of purposes, including for investigations. (POL-2 §3)

#### 2. Employees May Review Recorded Video

Employees may review their own recorded video except in instances of FIT investigations. The FIT manual outlines when employees may view video in those cases.

The Department, including supervisors, OPA, Training, Audit, and investigatory personnel may view ICV and BWV recordings for these purposes:

- Complaint
- Criminal investigation
- Officer-involved collision
- Vehicle pursuit investigation or review
- Public disclosure request
- Use of force review or investigation (See FIT Manual if applicable)
- Performance appraisal
- As part of the Early Intervention System (EIS)
- Training purposes, with the permission of the involved officers.
- Audit and Quality Control/Troubleshooting

Viewers must note the purpose for viewing footage. (POL-2 §5)

#### 5. Users Shall Note the Purpose for Viewing Video

Any employee viewing a video after it has been uploaded will manually make an entry in the viewer application at the beginning of the viewing session stating the purpose for viewing the video...

### ✘ Limits Retention of Footage

The policy refers to a [different part](#) of the SPD manual to address questions of video retention. (POL-2 §1)

SPD Manual Section 12.080 – Retention and Disclosure of Department Records addresses video retention periods and release of video to the public, including persons wishing to file misconduct complaints.

**✘ Protects Footage Against Tampering and Misuse**

Seattle PD expressly prohibits unauthorized copying of footage, but does not address other forms of footage tampering or unauthorized access. The policy vaguely states that “[d]epartment policy” governs the uses of footage, but does not clearly identify which specific policies apply. (POL-2 §§1-2)

- 1. All ICV and Body Worn Videos and Related Data are the Property of the Seattle Police Department**  
Department policy governs all access, review, and release of in-car and body-worn video.
- 2. Employees Shall Not Tamper With, Alter, or Delete Video**  
Exception: This does not apply to personnel tasked with system maintenance who purge videos under established retention guidelines.

Seattle PD does not indicate that access to footage is logged or audited.

**✘ Makes Footage Available to Individuals Filing Complaints**

Seattle PD does not expressly allow individuals who are filing police misconduct complaints to view footage, and the policy refers to a [different part](#) of the SPD manual to address questions of video release. (POL-2 §1)

SPD Manual Section 12.080 – Retention and Disclosure of Department Records addresses video retention periods and release of video to the public, including persons wishing to file misconduct complaints.

However, that chapter of the policy does not appear to lay out a process for people filing misconduct complaints apart from discussing general procedures for disclosure under public records laws.

**○ Limits Biometric Searching of Footage**

SPD’s policy refers to the [Booking Photo Comparison Software](#) section of the SPD manual to address questions of biometric technologies. (POL-2 §1). This policy does place some limitations on the use of facial recognition technology; specifically, it prohibits the use of biometric processing in “live” camera systems (which it does not explicitly define, but presumably means real-time recording on cameras including BWCs) (12.045-POL §1,4,6)

- 12.045-POL**  
This policy applies to the usage of any software capable of biometric processing (facial or human recognition,) including Booking Photo Comparison Software (BPCS.) The intent is to regulate the use of this technology to allow for legitimate law enforcement purposes while protecting privacy.
  - 1. Usage of BPCS is Limited to the Comparison of Unidentified Images to Booking Photos**  
BPCS may only be used in an attempt to identify a person whom an officer reasonably suspects may be involved in criminal activity.  
...
  - 4. BPCS may Not be Used to Connect with ‘Live’ Camera Systems**  
...
  - 6. No Personnel may use BPCS to Identify Individuals for Identification Purposes who do not Meet the Listed Criteria**

For non-“live’-camera” images, the policy requires officers to establish a “reasonable suspicion” that a biometric search would identify a suspect. However, reasonable suspicion is a low standard that does not meet our requirement for “sharply limiting” the use of biometric technologies. (12.045-PRO-1)

#### 12.045-PRO-1 Procedures for Using BPCS to Identify a Possible Suspect

The Officer/Detective

1. **Establishes** a reasonable suspicion that there is a suspect involved in criminal activity
2. **Contacts** the SPD Photo Unit with the GO Number, if applicable
3. **Presents** the captured image of a possible suspect to Photo Unit personnel

## Stamford Police Department



- 
- ✘ Makes the Department Policy Publicly and Readily Available
  - ? Limits Officer Discretion on When to Record
  - ? Addresses Personal Privacy Concerns
  - ? Prohibits Officer Pre-Report Viewing
  - ? Limits Retention of Footage
  - ? Protects Footage Against Tampering and Misuse
  - ? Makes Footage Available to Individuals Filing Complaints
  - ? Limits Biometric Searching of Footage

*Last updated: October 31, 2017. Is this policy now publicly available? [Let us know.](#)*

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### ✘ **Makes the Department Policy Publicly and Readily Available**

Stamford PD does not make its BWC policy publicly available on its website, probably due to the recent nature of a recent agreement between the city and the department. The parties [reached an agreement](#) in April outlining policies for use of the body worn cameras, relaunching the program which had been discontinued in late 2016.

# Metropolitan Police Department, St. Louis



- 
- ✓ Makes the Department Policy Publicly and Readily Available
  - Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
  - Protects Footage Against Tampering and Misuse
  - Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage

*Last updated: October 4, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✓ Makes the Department Policy Publicly and Readily Available

St. Louis PD has a [section on its website](#) devoted to its body worn camera program, linked to clearly from the homepage. The page links to the [draft policy](#), which appears to have been published or updated on March 9, 2016 (according to document metadata).

## ○ Limits Officer Discretion on When to Record

St. Louis PD provides a list of situations where officers must record. (§1.1)

### 1. Enforcement Related Contacts

- a. Officers will use the event mode to record enforcement related contacts. The event mode should be activated prior to actual contact with the citizen, or as soon as safely possible thereafter, and continue recording until the contact is concluded or the contact transitions from an enforcement contact into intelligence gathering.
- b. Officers are strongly encouraged to inform citizens they are being recorded in an effort to de-escalate potential conflicts.
- c. Enforcement related contacts include the following:
  - 1) Traffic stops,
  - 2) Field interviews,
  - 3) Detentions,
  - 4) Arrests,
  - 5) Persons present at radio call, who are accused of crimes, and
  - 6) Consensual encounters in which the officer is attempting to develop reasonable suspicion on the subject of the encounter.
- d. Assisting another City employee or law enforcement officer (ie. Parking Enforcement, Park Rangers, etc.) during an enforcement contact.

### 2. Arrests

- a. Officers may stop recording in the event mode when the arrestee is cooperative and safely secured inside a law enforcement facility. If an arrestee becomes uncooperative, or if there is some evidentiary purpose, officers should resume recording in the event mode.
- b. If an officer resumes recording in the event mode, the camera will remain in event mode until the officer no longer has contact with the subject.

### 3. Searches

- a. When searching a prisoner and without sacrificing officer safety, it is advantageous to position the search so that it is captured on camera. This starts the chain of custody by allowing any contraband or weapons found to be documented on the BWC recording.
- b. Officers should record during the execution of a search warrant, an arrest warrant, a Fourth Amendment waiver search, knock and talk, or a consent search in which the officer is looking for a suspect, evidence or contraband.
- c. During searches of commercial buildings or residential dwellings when there is a strong indication of encountering a suspect, while keeping officer safety as the primary concern, officers should activate their body worn cameras prior to making entry into the building. The recording of a suspect confrontation normally outweighs tactics potentially shown in the recording.

### 4. Transporting Prisoners

- a. Officers equipped with BWC will record all prisoner or passenger transports, regardless of the gender of the prisoner or passenger. The entire transport will be recorded. Two officer units will be required to record with at least one BWC during transports.

### 5. Suspect Interviews

- a. Officers are encouraged to fully record suspect interviews. Officers will not stop and start the recording during a suspect interview. The only exception to recording a suspect interview would be if the suspect declines to make a statement due to the body worn camera being activated.
- b. When recording interviews, officers will ensure they record any admonishments prior to the start of an interview.

### 6. Special Events

- a. Officers assigned BWCs will occasionally assist specialized investigative units and agencies in sensitive operations where confidentiality is imperative to the operation. If there is a specific reason in the interest of the investigation for officers involved in the operation to not activate their BWCs, the supervisor in charge must give his or her approval. Absent any specific reason to not activate the BWC approved by the supervisor in charge, officers will record any instances listed in this procedure.

...

But, when officers stop recording or fail to record a required incident, there is no requirement to provide a concrete justification.

## 🟡 Addresses Personal Privacy Concerns

The policy notes that citizens do not have a reasonable expectation of privacy when interacting with police officers, but the policy does include some privacy safeguards for victims, witnesses, patients, and individuals involved in peaceful demonstrations. Officers are not required to notify citizens they are being recorded except in some limited circumstances, nor are they required to stop recording "solely at the demand of a citizen."

We are encouraged that the department considered the needs of vulnerable individuals, but discouraged by the policy's presumption against a right to privacy, as well as the policy's confusing language. We believe the department is moving the in the right direction, but there is room for improvement. (§H)

### H. PRIVACY CONCERNS

1. Private citizens do not have a reasonable expectation of privacy when talking with police officers during the scope of an officer's official duties, even when the contact is in a private residence. When officers are lawfully present in a home (warrant, consent, or exigent circumstances) in the course of official duties, there is no reasonable expectation of privacy. Therefore, officers are not required to give notice they are recording. However, if asked, officers will advise citizens they are being recorded.
2. Officers are not required to initiate or cease recording an event, situation, or circumstance solely at the demand of a citizen.

3. Officers and supervisors involved in the investigation of a complaint against a member of the Department must inform complainants and complaint witnesses they are being recorded.

The policy indicates that victims and witnesses are “generally” not recorded, and editorializes the reasoning for recording victims of violent domestic crimes. (§§J; K.7-8)

#### J. DISCRETIONARY RECORDING

1. Victim and witness interviews will generally not be recorded.
2. Domestic violence victims often recant their statements as early as the following morning after a crime. Some victims go so far as to testify that the officer fabricated their statement. Victims may also make their children unavailable for investigators or court to avoid their providing statements. For these reasons, domestic violence victims of violent felonies such as strangulation, assault with a deadly weapon, or anything requiring hospitalization should be recorded. Officers should also record the statements of children of domestic violence victims who are witnesses in these types of cases.
3. BWCs will not be used during Sex Crimes or Child Abuse investigations to include statements of victims, witnesses, and interactions with parents of victims.
4. Officers occasionally respond to dynamic and chaotic crime scenes. The initial encounters with the victim, and witnesses, including their location and any spontaneous statements made, can be important to the overall investigation. Therefore, officers may use their BWCs to record these types of scenes for evidentiary purposes.

#### K. PROHIBITED RECORDING

...

7. Patient Privacy
  - a. Officers will not record patients during medical or psychological evaluations by a clinician or similar professional, or during treatment. Officers will be aware of patients’ rights to privacy when in hospital settings. When recording in hospitals and other medical facilities, officers will be careful to avoid recording persons other than the suspect.
  - b. Officers will not record while in a facility whose primary purpose is to provide psychiatric or medical services unless responding to a radio call involving a suspect or taking a suspect statement.
  - c. Officers will not regularly record while inside jail facilities.
  - d. However, in any setting, if confronting a violent or assaultive suspect, or in an anticipated use of force instance, officers will, when reasonably able to do so, activate their BWCs to record the encounter.
8. Demonstrations
  - a. As a general policy, Department personnel should refrain from video recording or photographing peaceful demonstrations.
  - b. When there is reason to believe that a planned event has the potential for unlawful activity, Commanding Officers should make the determination whether visual recording or photographing is appropriate.
  - c. When there is reason to believe that a planned event has the potential for unlawful activity, Commanding Officers should make the determination whether visual recording or photographing is appropriate.

### ✘ Prohibits Officer Pre-Report Viewing

St. Louis PD allows officers to view footage before completing their written reports and providing testimony. The policy also somewhat strangely editorializes the benefit of camera footage over human recollection. (§§Q.1-5)

#### Q. REVIEWING DIGITAL EVIDENCE

1. Officers may review their own digital evidence. Digital evidence can provide a cue to an officer’s memory to recall more facts and greater detail of an incident.
2. Detectives are responsible for reviewing, updating and tracking digital evidence associated with their assigned cases.
3. BWCs have a field of vision of either 75 degrees for the Flex or 130 degrees for the Axon. While human beings have a field of vision of 180 degrees, the human brain has a field of attention of 50-60 degrees. Under stress, this field can narrow down to a 1/2 degree. Stress also induces auditory exclusion and prevents the brain from analyzing and remembering all the stimuli that it takes in through the senses.



- a. Officers make decisions based on the totality of the human senses. An officer's recollection of specific details may be different than what is captured in digital evidence since BWCs only capture audio and video.
- b. Officers should review digital evidence prior to completing reports to assist in priming their recollection.
- 4. Officers will write their reports to what they remember and note any discrepancies from what the recording shows. Officers will not write their reports based solely on what they viewed from the BWC recording.
- 5. Officers will review digital evidence prior to providing testimony at hearings, trial, or depositions.
- ...

### ✖ **Limits Retention of Footage**

The policy refers to retention categories, but fails to elaborate in how they affect retention periods. The policy notes that recordings will be retained for at least 90 days, but does not specify a maximum retention period after which footage must be deleted. (§§N.1.C; O.1)

- N.1.C. Officers will select the retention category that most accurately fits the recording.
- ...
- O. BWC FILE RETENTION
  - 1. Recordings generated on Departmental equipment will be retained for at least ninety (90) days.

### ○ **Protects Footage Against Tampering and Misuse**

St. Louis PD prohibits officers from erasing or tampering with recordings and collected data, as well as from accessing, copying, or releasing footage for reasons "other than official law enforcement purposes." (§§C.10-11)

- 10. Accessing, copying, forwarding or releasing any digital evidence for other than official law enforcement use and contrary to this procedure is strictly prohibited. Public release of digital evidence is prohibited unless approved by the Police Commissioner or designee.
- 11. Personal computer equipment and software programs will not be utilized when making copies of digital evidence. Using a secondary recording device such as video camera, cell phone or other device to record or capture digital evidence from Evidence.com is strictly prohibited.

The policy mentions that the Planning and Research department is responsible for providing copies of audit trails for recordings when requested, but the language is not sufficiently clear to convince us that the audit log relates to access to footage rather than simply recording metadata and chain of custody information. Were the policy to clarify this, the department would receive a green in this category. (§U.3)

- 3. PLANNING AND RESEARCH is responsible for performing the following duties:
  - ...
  - b. Provide official copies of any recording audit trail when properly requested.

### ○ **Makes Footage Available to Individuals Filing Complaints**

St. Louis PD gives supervisors some discretion to allow complainants to view relevant footage, but does not require them to do so. (§Q.7.M)

- Supervisors should review BWC recordings to assist citizen's complaints. Supervisors have discretion to show BWC recordings to a complainant when it relates to his or her complaint, to assist in clarifying the complaint, resolving the complaint, or having the complaint withdrawn.

✘ **Limits Biometric Searching of Footage**

The policy does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

## Suffolk County Police Department



- 
- ✘ Makes the Department Policy Publicly and Readily Available
  - ? Limits Officer Discretion on When to Record
  - ? Addresses Personal Privacy Concerns
  - ? Prohibits Officer Pre-Report Viewing
  - ? Limits Retention of Footage
  - ? Protects Footage Against Tampering and Misuse
  - ? Makes Footage Available to Individuals Filing Complaints
  - ? Limits Biometric Searching of Footage

*Last updated: October 11, 2017. Is this policy now publicly available? [Let us know.](#)*

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### ✘ **Makes the Department Policy Publicly and Readily Available**

Suffolk County PD does not publish its BWC policy on its website, and we were unable to obtain the policy from other sources. It is unclear whether there is a policy.

In May 2017, the Suffolk County Police Department (SCPD) had [begun conducting a pilot program](#) regarding the use of body worn cameras, and some details of the policy have been [covered in the media](#). Cameras were initially placed on two officers in the Driving While Intoxicated (DWI) enforcement team. As of July 2017, SCPD planned to place cameras on all 10 members of the Safe-T team within the Highway Patrol Bureau.

# Tampa Police Department



- 
- ✓ Makes the Department Policy Publicly and Readily Available
  - Limits Officer Discretion on When to Record
  - ✓ Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
  - ✗ Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage

*Last updated: October 11, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✓ **Makes the Department Policy Publicly and Readily Available**

Tampa PD publishes its most recent publicly available body worn camera policy on its website within its [Standard Operating Procedures](#). The policy appears under the heading "BODY WORN RECORDING EQUIPMENT" starting on page 631 of the 1,079 page manual. The manual was last revised on September 1, 2016.

## ○ **Limits Officer Discretion on When to Record**

Tampa PD's policy provides a clear list of situations that must be recorded. Officers must provide written explanations when they fail to record an incident that the policy requires to be recorded. (§§IV.C.2-3)

2. The department and individual officers are likely to be scrutinized whenever there is no video on an incident where video would be helpful. Your discretion and documentation will be paramount in explaining your actions.
3. The body worn recording system SHALL be utilized to gather and record the following types of events, whenever possible, by all officers involved:
  - a. Traffic stops;
  - b. Pursuits- vehicle or foot;
  - c. Potentially confrontational citizen contacts;
  - d. Physical arrests;
  - e. Response to resistance situations;
  - f. Suspicious vehicle/person calls;

- g. In-custody Miranda rights advisement and interviews (unless recording by other means inside police facilities);
- h. Alarm responses and building checks;
- i. Any other law enforcement activity which the officer feels could benefit from use of the body worn recording system. If there is any doubt the system should be activated. The inability to do so, and lack of recording of video in any of the above instances, must be justified in writing.

Tampa PD's policy allows officers to not immediately record an incident if "doing so . . . place[s] them or others in danger." However, in these situations, the policy requires the officer to begin recording as soon as possible after "the immediate threat has been addressed." (§IV.C.5)

The Tampa Police Department recognizes there are certain circumstances where officers may happen upon a situation requiring immediate action to prevent injury, destruction of evidence, or escape. In these types of situations officers should activate the body worn recording system if doing so does not place them or others in danger. If immediate activation is not feasible, the officer will activate the camera at the first available opportunity, when the immediate threat has been addressed.

The policy allows officers to deactivate their cameras in three specific situations, including when they "reasonably believe that doing so will not result in the loss of critical documentary information." In these situations, the officer must note any decision to deactivate in the video recording and in the incident report; however, the officer does not explicitly require officers to document why they stopped recording. This category would have received a green classification had it included language to explicitly require justification (§IV.C.6)

The body worn recording system may be manually deactivated by officers when they reasonably believe doing so will not result in the loss of critical documentary information, to protect tactical or confidential discussions or briefings, or when directed to do so by a supervisor. The deactivation will be documented on the video and in the report.

The policy explicitly forbids officers from deactivating the camera in anticipation of using force or while engaging in a confrontational citizen contact. (§IV.C.9)

Intentionally turning off the system in anticipation of a response to resistance incident or other confrontational citizen contact is absolutely forbidden, and will result in discipline up to and including termination.

In addition, failure to activate the camera "may" — rather than "will" — result in disciplinary action. (§IV.C.8)

Failure to activate the body worn recording system as outlined in this SOP . . . may result in disciplinary action.

### ✔ Addresses Personal Privacy Concerns

While the policy does not address general privacy issues, it does require officers to both inform and turn off their cameras upon the request of a crime victim when the officer interviews the victim. (§IV.C.4)

A **victim** should be informed that the interview will be recorded unless the victim objects. The refusal should be stated on the video by the victim, the video turned off and documented in the report.

The policy also specifies that officers may not record confidential informants. (§IV.C.7.d.)

7. The body worn recording system SHALL NOT:

...

d. Be used to record confidential informants or undercover officers unless approved by a Sergeant or above.

### ✘ Prohibits Officer Pre-Report Viewing

Not only does the policy allow officers to review recordings of incidents before filing documentation — the policy requires it. Furthermore, the policy instructs officers to include in their reports a “detailed description” of the content of the video footage and “what may have been out of view” of the camera. (§IV.E.2)

The video should be reviewed prior to writing a report to ensure consistency. Although the video is a reference in a report it shall not exclude the writing of the details in the report. As an example the term “see video” should be avoided and a detailed description of what the video observed and what may have been out of view should be described in the report.

### ✘ Limits Retention of Footage

The policy sets a minimum for how long Tampa PD should retain footage that is uncategorized or tagged as “non-event.” However, the policy does not indicate when Tampa PD must delete its BWC footage. (§IV.E.3)

Any video that is uncategorized or tagged as non-event will be kept in the system a minimum of 90 days. All video that is tagged will follow a standard retention period based on the video tagging in conjunction with the rules under F.S. Chapter 119 for retention of records.

F.S. Chapter 119.071(2)(5) provides that “A law enforcement agency must retain a body camera recording for at least 90 days” but does not set a date for the purging of BWC footage. F.S. Chapter 119.021(2)(a) designates the Division of Library and Information Services of the Department of State as responsible for setting [retention and disposal schedules for public records](#). While the office’s [records schedule for law enforcement](#), effective August 2017, does include a schedule for body worn camera video it only requires a minimum retention period of 90 days and does not require deletion. Therefore, it remains unclear how Tampa ultimately disposes of recorded footage.

### ✘ Protects Footage Against Tampering and Misuse

Tampa PD’s policy prohibits officers from tampering with BWC recordings. However, the policy does not provide that access to recorded footage will be logged or audited. (§IV.C.10)

Officers shall not erase, alter, reuse, modify, or tamper with original audio/video recordings.

The policy prohibits “the abuse or misuse of the [BWC] system” and requires officers to “properly retain and store” footage. However, the policy never makes clear what constitutes abuse or misuse. (§IV.C.8)

Failure to . . . properly retain and store recordings, or the abuse or misuse of the system may result in disciplinary action.

The policy prohibits unauthorized copying and transmission of footage, but does not explicitly prohibit unauthorized access to BWC footage. The policy seems to allow any officer to access any BWC recording at any time for any reason. (§§VII.A, C, and D)

- A. . . . Copying, transmitting or other reproduction of any digital recording segment generated by the Tampa Police Department body worn recording system, or removing such recordings outside the Tampa Police Department, without authorization from the Chief of Police is prohibited.
- . . .
- C. Officers or other employees shall not retain, or distribute to any person or entity, any original or copy of any recording except as specified in the S.O.P. or as expressly approved by the officer's or employee's supervisor.
- D. Posting of footage to any social media site without prior written approval from the Chief or designee is strictly prohibited.

**✘ Makes Footage Available to Individuals Filing Complaints**

The policy relies on existing public records law to make footage publicly accessible and does not expressly allow individuals who are filing police misconduct complaints to view footage. (§§VII.A-B)

- A. It is the policy of the Tampa Police Department that all recordings generated on departmental equipment are the property of the Tampa Police Department. . . .
- B. Requests for copies of digital recordings by persons or agencies outside the Tampa Police Department or State Attorney's Office shall be directed to the Public Records Office and subject to the provisions of Florida Statutes Chapter 119. The requesting person will be responsible for the cost of duplication pursuant to state statute.

**✘ Limits Biometric Searching of Footage**

The policy does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# Tucson Police Department



- 
- ✓ Makes the Department Policy Publicly and Readily Available
  - ✓ Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - ✗ Prohibits Officer Pre-Report Viewing
  - ✓ Limits Retention of Footage
  - Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage

*Last updated: October 11, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✓ **Makes the Department Policy Publicly and Readily Available**

Tucson PD publishes its most recent publicly available BWC policy online within the [Tucson Police Department General Orders](#), found under a section called 3700 Specialized Department Equipment. The policy is "3760 BODY WORN CAMERA SYSTEM," which was revised on February 7, 2017 and was current as of September 20, 2017.

## ✓ **Limits Officer Discretion on When to Record**

The policy requires officers to record in a wide range of law enforcement situations, including searches of suspects and buildings, service calls, and citizen interactions performed "in an investigative or enforcement capacity." (§3764.1)

Users shall activate the BWC to record the following events:

- On calls for service (upon dispatch for priorities Level 1 and Level 2 calls for service; upon arrival to all other calls for service).
- Upon Code 3 activation.
- During contact with members of the public in an investigative or enforcement capacity (e.g. traffic stops, detentions, arrests, Miranda advisement, use of force incidents, critical incidents, field interviews, or consensual contacts where the officer is attempting to develop reasonable suspicion).
- Anytime the user feels it is appropriate or necessary to create a video record.
- When ordered by a supervisor.
- During suspect/building searches.



The policy limits officers' discretion to stop recording by requiring officers to continue recording required events "until the completion of the encounter or action, or until [the officers] have left the scene." Also, when officers are involved in an incident where death or serious injury occurs or "where a Board of Inquiry may be convened e.g. an officer-involved shooting," the policy prohibits them from stopping recording "until directed to do so" by a superior officer. (§3764.1)

Once activated, members will continue to record until the completion of the encounter or action, or until they have left the scene, except as provided in this order.

BWC users involved in an incident where serious injury or death occurs, or where a Critical Incident Review Board may be convened e.g. an officer-involved shooting . . . shall not stop the recording until directed to do so. In such circumstances, the recording shall only be stopped by the first supervisor on-scene or Incident Commander when the scene is secured. As soon as practical, the first supervisor on-scene or Incident Commander shall provide direction to stop the recording of any BWC worn by an involved member (Focus, Cover or Witness officer). The BWCs shall be secured by the investigative detail.

In addition, the policy requires a concrete justification for turning the camera off nor for failing to record a required event. (§3764.2)

Members shall document on any citation and/or report why a camera was not utilized in instances where a camera is required.

### ○ Addresses Personal Privacy Concerns

The policy mentions the importance of personal privacy, but offers vague guidance on when not to record. The policy prohibits recording "in places privacy would be expected" and only provides as examples "locker/dressing rooms or restrooms." The policy also provides an exception for recording "in the official performance of a law enforcement function." (§3764.3)

The BWC system shall not be activated in places where privacy would be expected, such as locker/dressing rooms or restrooms, except in the official performance of a law enforcement function.

The policy does not require officers to notify subjects that they are being recorded, nor does the policy require officers to obtain informed consent from victims or other vulnerable individuals prior to recording. The policy permits but does not require an officer to comply with a victim's request to not be recorded and as such allows officers to continue recording despite a victim's request not to record. (§3764.1)

When recording a victim contact, consideration may be given if the victim asks not to be recorded. Alternative means of operating the BWC can be used to audio record but not video record victims (camera in pocket or lens blocked). The victim's request to not be recorded shall be recorded to document this if possible.

### ⊗ Prohibits Officer Pre-Report Viewing

The policy allows officers to view footage while completing their reports. The policy does not expressly require an initial written report or statement before any relevant footage is reviewed. (§§3764.1-2)

Members shall only view files created via the BWC to assist with an investigation, the completion of reports, or in preparation for hearings, depositions and trial.

...

Members involved in critical incidents (e.g. police shootings, in-custody deaths, etc.) shall not view video or listen to BWC audio prior to authorization by an investigative supervisor in accordance with G.O. 2500.

...

Video recordings are intended to supplement Departmental reports. Submitted reports are still required to comprehensively capture the totality of the event.

### ✔ **Limits Retention of Footage**

The policy requires Tucson PD to delete unflagged footage after 180 days. (§3765.3)

Recordings not attached to a case or investigation will be purged after 180 days.

The policy also requires compliance with “existing state record retention law and evidence retention protocols.” The current [retention schedule](#) does not specifically address BWC recordings. (§3765.3)

Each audio-video file will be retained for a minimum of 180 days. Long-term video file storage shall comply with existing state record retention law and evidence retention protocols.

While not included in the policy, a page on the police department website called “[Obtaining Police Reports & Disclosure](#)” indicates that flagged footage is retained for 3 years for petty offenses, 25 years for misdemeanors and 109 years for felonies.

### ○ **Protects Footage Against Tampering and Misuse**

The policy expressly prohibits both footage tampering and unauthorized access, and while Tucson’s policy for dashcams specifically indicates that “Each attempt to access the audio-video file is logged and tracked,” the body worn camera policy does not indicate that all access to recorded footage will be logged or audited. (§3764.3)

Members shall not alter, remove, dismantle, or tamper in any way with any BWC related hardware and or software. Members shall not delete or alter BWC recordings.

Accessing, viewing, copying, or releasing BWC recordings for other than the official law enforcement purposes set out in this *General Order* is strictly prohibited. Any deviation must be approved by a supervisor.

### ✘ **Makes Footage Available to Individuals Filing Complaints**

The policy relies on Arizona’s public records law to make footage available and does not expressly allow individuals who are filing police misconduct complaints to view footage. Under the policy, citizens can only access recordings through a public records request or if access is “approved by a supervisor.” The policy does not provide any criteria for supervisors to consider in determining whether or not to approve footage for public disclosure. (§§3764.3; 3765.3)

3764.3. Department members shall not allow citizens to review the recordings, unless approved by a supervisor. Members of the public requesting to view a recording shall be directed to utilize the public records process to obtain video.

3765.3. All BWC recordings and information captured as part of a Department member’s duties shall be the property of the Tucson Police Department and be considered a record of the Tucson Police Department. The release of information requested through a public records request will be subject to the same statutory exemptions from disclosure as any other Departmental records. Prior to releasing any BWC recordings, the Department will ensure proper redaction is completed.

### ✘ **Limits Biometric Searching of Footage**

The policy does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

## Tulsa Police Department



- 
- ✘ Makes the Department Policy Publicly and Readily Available
  - ✔ Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - ✘ Prohibits Officer Pre-Report Viewing
  - ✘ Limits Retention of Footage
  - ✘ Protects Footage Against Tampering and Misuse
  - ✘ Makes Footage Available to Individuals Filing Complaints
  - ✘ Limits Biometric Searching of Footage
  - 💰 Received a [\\$599,200 DOJ grant](#) for BWCs in 2015

*Last updated: November 15, 2017. Is this policy now publicly available? [Let us know.](#)*

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### ✘ **Makes the Department Policy Publicly and Readily Available**

Tulsa Police Department does not publish its most up-to-date BWC policy on its website, but we obtained a copy of the policy from a local reporter, which was made effective on October 28, 2016. An earlier version of the mobile video recording policy from 2012, which does not cover BWCs, is available on the department website as part of the department's [Policies and Procedures Manual](#).

In 2015, TPD received \$599,200 from the Department of Justice to develop a body worn camera program. TPD began field testing of BWC in November 2016. Following the initial pilot program, TPD purchased 450 BWC to outfit its officers, and is currently in the process of carrying out officer training and hardware updates.

In March 2017, the Tulsa Commission on Community Policing made a number of recommendations to improve local policing practices, including a recommendation that TPD implement BWC standards. The Commission identifies this as an area where "TPD is fully implementing this effort on an ongoing basis."

### ✔ **Limits Officer Discretion on When to Record**

The policy requires officers to record a wide range of enforcement actions. (§§Definitions; B.4-5; Regulations.15)

**DEFINITIONS:**

ENFORCEMENT ACTION – interactions between Tulsa Police Officers, or employees of any other law enforcement agency occurring in the presence of a Tulsa Police officer, involving any of the following events:

- a) Any use of force
- b) Emergency response (Code 1), vehicle pursuits
- c) Any stop for a traffic violation, the investigation of any suspicious activity to include pedestrian checks and vehicle checks, DUI investigations, including sobriety checkpoints, advisement of the Oklahoma Implied Consent Law, investigation of any collision
- d) Arrests, foot pursuits, detentions, custodial transports
- e) Personal searches as defined in policy and procedure 31-107, vehicle searches, consent to search, including obtaining the consent to search, seizure of evidence
- f) Domestic violence investigations
- g) Advisement of Miranda rights by an officer and statements made by a subject after waiving Miranda rights, witness statements
- h) Arrest warrant service, search warrant service
- i) Mental health evaluations resulting in an emergency order of detention.

...

**B. MVRS USE**

...

- 4. Officers are required to record all enforcement action defined in this policy. Recording shall not be stopped until the conclusion of any enforcement action requiring an A/V recording as directed in this policy. Officers involved in a custodial transport shall not discontinue recording until they are no longer in the presence of the person being transported.
- 5. Officers will activate a MVRS when a citizen expressly communicates a desire to report misconduct by any Tulsa Police Employee or a member of any other law enforcement agency. TPD personnel will report complaints against police employees in accordance with policy and procedure 31-304A. The capture of these statements will be considered administrative recordings.

...

**REGULATIONS**

...

- 15. Failure to use the MVRS as prescribed by this policy may result in disciplinary action.

In addition, the policy requires concrete justification for turning the camera off or for failing to record a required event. (§B.7)

- 7. . . . Officers will document the reason for any delay or non-activation of a MVRS mandated in this policy in the incident report related to the event. If an incident report is not required, the delay or non-activation shall be documented in an inter-office correspondence to the Chief of Police.

**○ Addresses Personal Privacy Concerns**

The policy does mention the importance of privacy within residences, though most mentions of privacy appear to reference the interests of police personnel. (§§Policy; Regulations.8-9,12)

It is not the intent of the Tulsa Police Department to record private conversations, phone calls, or generally invade the public's or an employee's right to privacy by recording events not specified in this policy.

...

- 8. Officers shall not routinely record audio or video within a private residence unless the officer is engaged in enforcement action or making an administrative recording as defined in this policy. If an officer reasonably believes a contact in a private residence will result in a complaint of misconduct, recording is authorized.
- 9. Tulsa Police personnel shall not intentionally record activities of other Tulsa Police personnel which are not mandated by this policy and/or without their knowledge. Unless a pre-existing investigation is authorized by the Chief of Police, or his designee, the recording of routine non-enforcement Tulsa Police activities and/or conversations occurring in Tulsa Police facilities, and other areas where a reasonable right to privacy exists is prohibited. All Tulsa Police personnel involved in activities which require A/V recording as mandated by this

policy, shall assume their activity is being recorded. Notification to other Tulsa Police personnel of activation of a MVRS pursuant to this policy is not required.

...

12. In the event of an unintentional or accidental recording not required by this policy such as a restroom break, meal break, or in a situation where a reasonable expectation of employee privacy exists, police employees can request the deletion of the A/V recording. . .

The policy allows, but does not require, officers to notify subjects that they are being recorded, and the policy does not require officers to obtain informed consent from victims or other vulnerable individuals prior to recording. (§§Definitions; B.6)

ENFORCEMENT ACTION – interactions between Tulsa Police Officers, or employees of any other law enforcement agency occurring in the presence of a Tulsa Police officer, involving any of the following events:

...

- g) Advisement of Miranda rights by an officer and statements made by a subject after waiving Miranda rights, witness statements

B.6. While not mandatory, officers may advise any citizen that the interaction with police is being recorded by a MVRS.

### ✘ Prohibits Officer Pre-Report Viewing

The policy allows officers to view footage while completing their reports. The policy does not expressly require an initial written report or statement before any relevant footage is reviewed. (§§Policy; B.15; Regulations.10-11)

#### POLICY:

...

...Audio/Video recordings will be available for viewing by Tulsa Police personnel who created the recording.

..

#### B. MVRS USE

...

15. An officer assigned a MVRS may review their own A/V recording, and the A/V recordings of other officers involved in the same enforcement action event, to ensure accuracy and consistency of reporting.

#### REGULATIONS:

...

10. Whenever any officer is subject to internal administrative investigation, the officer and their representative or legal counsel shall be given an opportunity to review all relevant recordings prior to being questioned.
11. Police personnel not listed as the primary or secondary officer on A/V recordings do not have an inherent right to view another officer's video unless they are involved in the recorded incident. However, if necessary for report or administrative purposes, a supervisor can provide supervised access to the files requested by the non-involved officer.

### ✘ Limits Retention of Footage

The policy requires Tulsa PD to retain all footage for a minimum of 26 months. (§B.12)

12. Once uploaded to the server, A/V recordings will be retained for a minimum of 26 months from the date of the recorded incident. Recordings can be retained longer, or indefinitely, upon the request of investigators, supervisors, etc. upon approval of the Chief of Police, or designee.

### ✘ Protects Footage Against Tampering and Misuse

The policy expressly prohibits footage tampering, deletion, and misuse, but does not appear to prohibit unauthorized access to footage. While the policy indicates a system administrator will maintain a log of footage copying, deletion and release, it does not indicate that all access to recorded footage will be logged or audited. The policy does note that footage copied for evidence "shall be treated according to normal evidentiary procedure." (§§Regulations.4-7,12; C.2)

4. Distribution of, or allowing others outside the TPD to view, duplicate, film or possess A/V recordings from a Tulsa Police MVRS, without permission of the Chief of Police, or designee, is expressly forbidden.
  5. Officers are not authorized to make copies of any recordings for their personal use and are prohibited from using a recording device (such as a phone or secondary video camera) to record an A/V recording from the MVRS system.
  6. A/V recordings copied for evidence shall be treated according to normal evidentiary procedures.
  7. Any tampering or obstruction to any degree with the intent to disable the MVRS or impede it's utility in capturing audio and video is expressly forbidden, as is the destruction, alteration or deletion of any A/V recording except as prescribed in Regulation 12.
  - ...
  12. . . . The MVRS administrator will maintain a log of deleted unintentional A/V recordings.
- C.2. The MVRS Administrator will maintain a log of all A/V recordings which are copied and/or released.

### ✘ **Makes Footage Available to Individuals Filing Complaints**

The policy does not appear to expressly allows individuals who are filing police misconduct complaints to view all relevant footage. The policy simultaneously states that recordings will be made available to the public for review and notes that recordings are police records (a classification which is often used by departemtns as an exemption to freedom of information laws). (§§Policy; C.1; Regulations.4)

#### **POLICY**

. . .MVRS equipment will be used to capture audio/visual recordings of certain Tulsa Police operations to collect evidence, defend against civil litigation, investigate allegations of misconduct by Tulsa Police personnel, improve performance, and identify training needs. Pursuant to state statute and this policy, audio/video recordings will be made available to the public for review.

...

. . .MVRS recordings shall be considered police records and shall not be released or exported for any reason without the express consent of the Chief of Police, or designee.

C.1. The MVRS administrator will only copy A/V recordings for distribution outside the Tulsa Police Department subject to statutory requirements such as subpoenas or open records requests. The MVRS administrator will only honor such requests that are compliant with TPD policy regarding the release of information and subpoenas or at the direction of the Chief of Police, or designee. The MVRS administrator will make A/V recordings available, upon the request of a supervisor, for training purposes or administrative investigations, with approval of the Chief of Police, or designee.

#### **REGULATIONS**

...

4. Distribution of, or allowing others outside the TPD to view, duplicate, film or possess A/V recordings from a Tulsa Police MVRS, without permission of the Chief of Police, or designee, is expressly forbidden.

### ✘ **Limits Biometric Searching of Footage**

The policy does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

# Virginia Beach Police Department



- 
- ✓ Makes the Department Policy Publicly and Readily Available
  - ✓ Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - Prohibits Officer Pre-Report Viewing
  - ✓ Limits Retention of Footage
  - ✓ Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage

*Last updated: October 13, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✓ **Makes the Department Policy Publicly and Readily Available**

The Virginia Beach Police Department's (VBPD's) [draft policy on body worn cameras](#) is accessible via the department website. One must search "body worn cameras" on VBPD's website in order to locate the policy. VBPD's most recent draft BWC policy is from September 23, 2016. As of September 29, 2017, VBPD was accepting public feedback on the BWC program via [a form published on the VBPD website](#).

VBPD stated in January 2017 that it would [initiate its body-worn camera program on June 1, 2017](#), with 110 cameras being activated. However, as of September 18, 2017, VBPD had [not yet ordered the necessary equipment](#) and had not announced a revised rollout date.

## ✓ **Limits Officer Discretion on When to Record**

The policy requires recording "anytime an officer makes official contact with a citizen in the performance of his/her duties" and includes a short list of scenarios where recording is required. (Procedure §C.1,2)

### C. Activation

1. Officers shall only activate the BWCs for legitimate law enforcement purposes. BWCs will not be allowed for personal use.
2. The BWC will be activated anytime an officer makes official contact with a citizen in the performance of his/her duties. This includes but is not limited to:
  1. Calls for service
  2. Traffic stops/crash scenes



- 3. Officer initiated investigations
- 4. Any encounter that is likely to result in an arrest
- 5. Any encounter where use of force is likely to occur
- 6. Vehicle and foot pursuits
- 7. Citizen interviews

VBPD's policy mandates that officers activate their BWC "as soon as practical, during any encounter that becomes adversarial or in any situation where documenting the event will contain administrative or evidentiary value (best interest of the agency/officer)." (Procedure §C.3)

The BWC will be activated, as soon as practical, during any encounter that becomes adversarial or in any situation where documenting the event will contain administrative or evidentiary value (best interest of the agency/officer). This includes areas within private residences understanding that officers have a legal right to be there. Officers should not sacrifice safety concerns for the sake of activating the camera, but it should also be instinctive to begin recording prior to the encounter.

The policy also requires that officers give a "clear, articulable reason" for why they did not record or discontinued recording. This reason must be stated either on the video prior to turning off the camera, on the CADS report, or in the report submitted by the officer. (Procedure §C.5, Procedure §D.3)

- C.5. Once the BWC is activated the entire encounter should be recorded without interruption unless a clear, articulable reason to discontinue recording occurs. In that case, the officer will state the reason for stopping the recording when practical.
  - ...
  - e. Officers will have the discretion to cease a recording provided the officer can provide a clear and articulate reason why continuing to record will create unintended hostility between the officers and the citizens. If the officer expects to take law enforcement action (i.e. make an arrest), the officer shall record the entire event.
- D.3. Officers shall use their best discretion in areas where a high expectation of privacy is expected. If an officer does not record an event or elects to discontinue recording there should be an articulable reason for not recording. This will be stated either on the video prior to turning off the camera, on the CADS report or in the report submitted by the officer.

### ○ Addresses Personal Privacy Concerns

The policy prohibits officers from recording inside any medical facility where medical privacy is expected and recorded by law. However, the policy only instructs officers to "use their best discretion" in areas where a high level of privacy is expected. (Procedure §C.5.d, Procedure §§D.3,6,7)

- C.5.d. Officers may terminate recording an event if:
  - The event becomes sensitive in nature or requires the officer to go to an area where privacy is expected.
- D.3. Officers shall use their best discretion in areas where a high expectation of privacy is expected. If an officer does not record an event or elects to discontinue recording there should be an articulable reason for not recording. This will be stated either on the video prior to turning off the camera, on the CADS report or in the report submitted by the officer.
  - ...
- D.6. Officers will not activate their BWC's inside any courthouse during any trial proceeding or while waiting for their cases to be called.
- D.7. Officers will not activate their BWC's inside any medical facility where medical privacy is expected and required by law.

Although the policy requires officers inform civilians when they are being recorded, the policy does not require informed consent from vulnerable individuals. (§Procedure C.4)

Whenever reasonable, safe and practical to do so, officers shall advise citizens that the encounter is being recorded. It is believed that recording the event will positively influence the behaviors of all persons involved.

### 🚫 Prohibits Officer Pre-Report Viewing

The policy permits officers to view their recordings in order to assist in completing reports, unless the officer is submitting a BlueTeam report (officers have to submit a BlueTeam report if they have used force to take a civilian into custody). Officers may view the recording prior to speaking to a supervisor or making statements to Internal Affairs investigators about the incident, but this step appears to come after an officer would be expected to submit a Blue Team report. (Procedure §A.4, Procedure §§E.5,7)

- A.4. Officers may not review any recordings where force is used and a Blue Team report is to be submitted. Supervisors will ensure the correct video is included with the BlueTeam submission. Officers may view video recordings prior to completing reports involving events that do not involve BlueTeam submissions provided it does not cause a timely delay in their completion. Officers may also view recordings prior to speaking to a supervisor or making statements to Internal Affairs investigators about the incident.
- E.5. Officers may view the recordings to help complete reports, with the exception of BlueTeam reports, provided it does not cause a delay in the submission of those reports. Firearms discharge reports are considered a use-of-force and will not be allowed to be viewed by the officer prior to submitting a BlueTeam report.
- ...
- E.7. In a critical incident, such as officer-involved shooting, in-custody injury or death, or use-of-force against a citizen causing serious bodily injury or death, a supervisor will immediately take possession of the BWC equipment at the scene and ensure it is properly maintained. The video will be handled in a manner consistent with other evidence. No department members shall watch the video prior to an Internal Affairs investigator's arrival. The video will be turned over to IA at the scene or immediately uploaded at the precinct.

### ✅ Limits Retention of Footage

The policy states that non-evidentiary and non-administrative videos will be "expunged from [the] system" 30 days after being recorded. (Retention)

Video retention schedules are determined by the Virginia Library of Records and Virginia State Code. Any recordings deemed to have administrative or evidentiary value will be saved on the server for the amount of time required by law. Non-evidentiary and non-administrative videos will be retained for a period of 30 days from the date of the recording. After 30 days they will be expunged from our system.

### ✅ Protects Footage Against Tampering and Misuse

Virginia Beach PD expressly prohibits officers from editing any footage. It also expressly prohibits officers from accessing a co-worker's footage without authorization, and limits officers' access to their own footage to specific scenarios, such as when completing their report. (§§ A.4-7; D.13-14; E.3,7)

- A. . . . Intentional abuse or misuse of the equipment or malicious violation of this policy may result in disciplinary action.
- ...
- 5. Officers shall not edit any recordings. Only the Program Administrator (Internal Affairs) with administrative rights can edit recorded events. Any edits/changes made to an existing recording will be documented in an audit log and maintained at Internal Affairs. The log will contain the date and time of the

edit, the date and time of the actual recording, the reason for the edit and the supervisor who approved the edits.

6. Employees are prohibited from making a copy of any BWC recording by using another recording device such as a cell phone.

7. Officers are not allowed to view another officer's recording(s) except for a work-related reason which is authorized by a supervisor.

D. Restricted Use of BWC's: (CALEA 41.3.8 - b)

...

13. Employees shall not access, obtain or view video footage from another employee's BWC without the permission of a supervisor after expressing a need to do so.

14. Employees shall not convert obtain, or copy any BWC footage for personal use. No images, footage or BWC information will be released to any social media site without the permission of the Chief of Police.

...

E. Video Recordings:

...

3. Only the designated Program Administrator(s) can edit any data captured on BWC's.

The policy also indicates that access to recorded footage will be audited by a system administrator for unauthorized access. (Procedure §A.11)

All videos will contain tracking software (audits) to indicate who has viewed the footage and if the data was edited.

**✘ Makes Footage Available to Individuals Filing Complaints**

The policy does not expressly allow individuals who are filing police misconduct complaints to view footage, and refers to "applicable laws" to govern the release of recordings. (Procedure §D.2, Procedure §E.1, Freedom of Information Act)

D.2. All recordings captured by BWC's are the property of the Virginia Beach Police Department and cannot be released without proper authorization through the Internal Affairs/FOIA office.

E.1. All recordings captured on BWC's are property of the Virginia Beach Police Department and will be treated as evidence. No recordings will be disseminated without the approval of the Custodian of Records.

...

**Freedom of Information Act**

The Virginia Beach Police Department will administer FOIA requests for BWC footage consistent with department policy and Virginia State Code. No videos will be released without the approval of the Chief of Police.

**✘ Limits Biometric Searching of Footage**

Virginia Beach PD does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage. However, the policy does prohibit officers from identifying any civilians within the footage who were not engaged in illegal activity and from compiling a database comprised of the individuals in the videos. (§D.9; D.12)

D.9 BWC recordings of constitutionally protected activities may not be used to identify citizens present at the activity unless there was articulable, illegal activity involved, or there was a need for assistance by members of the public.

...

D.12. The stored video and audio data from the BWCs may not be used to create a database or pool of mugshots, as fillers for photo lineups, nor randomly searched for members of the public by members of our agency.

# Metropolitan Police Department of the District of Columbia



- 
- ✓ Makes the Department Policy Publicly and Readily Available
  - ✓ Limits Officer Discretion on When to Record
  - Addresses Personal Privacy Concerns
  - Prohibits Officer Pre-Report Viewing
  - ✗ Limits Retention of Footage
  - Protects Footage Against Tampering and Misuse
  - ✓ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage
  - 💰 Received a **\$1,000,000 DOJ grant** for BWCs in 2015

*Last updated: October 5, 2017. Is there a new version of this policy? [Let us know.](#)*

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## ✓ **Makes the Department Policy Publicly and Readily Available**

MPD maintains a [dedicated webpage](#) about its BWC program. Not only does the page provide MPD's most recent publicly available [BWC policy](#) (dated March 11, 2016), it also provides program context, relevant documents, answers to frequently asked questions, and even sample BWC footage.

## ✓ **Limits Officer Discretion on When to Record**

MPD provides a long and detailed list of situations that officers must record. (§§V.3-4)

3. Members, including primary, secondary, and assisting members, shall start their BWC recordings as soon as a call is initiated via radio or communication from OUC on their mobile data computer (MDC), or at the beginning of any self-initiated police action.
4. In addition, members shall activate their BWCs for the following events:
  - a. All dispatched and self-initiated calls-for-service;
  - b. All contacts initiated pursuant to a law enforcement investigation, whether criminal or civil; NOTE: Members are not required to record non-investigatory contacts (e.g., business checks).
  - c. All stops (i.e., traffic, pedestrian, and bicycle), and frisks as defined in GO-OPS-304.10 (Police-Citizen Contacts, Stops, and Frisks);

- d. Vehicle and foot pursuits;
- e. All traffic crash scenes;
- f. Any incident or traffic crash in which the member is involved;
- g. DUI and consumption of marijuana investigations;
- h. High-risk encounters (e.g., barricade situations, active shooter situations);
- i. Tactical activities, to include canine, Emergency Response Team and Civil Defense Unit deployments;
- j. Encounters with mental health consumers;
- k. Suspicious activities;
- l. Use of force situations;
- m. Arrests;
- n. Encounters requiring the advising of Miranda rights;
- o. All transports of prisoners and citizens;
- p. Any of the following searches of a person or property:
  - (1) Consent searches;
  - (2) Warrantless searches;
  - (3) Vehicle searches;
  - (4) Searches conducted incident to arrest;
  - (5) Inventory searches;
  - (6) Cursory searches;
  - (7) Probable cause searches;
  - (8) Execution of search or arrest warrants;
  - (9) Field searches;
  - (10) Full-custody searches;
  - (11) Strip or squat searches;
- q. Hospital guard details as outlined in Part V.A.9.b of this order;
- r. During the initial inventorying of seized money or any high value property;
- s. During school-based events as defined in Part III.11 of this order as well as other encounters with juveniles during events defined in this section;
- t. During First Amendment Assemblies in accordance with Part V.A.7 of this order;
- u. While assisting other law enforcement agencies (e.g., United States Park Police, District of Columbia Housing Authority Police) in handling incidents outlined in this section;
- v. While interacting with citizens inside a police facility (e.g., station personnel providing police services or information); and
- w. Any incident that a member deems appropriate to activate the BWC in accordance with this order or upon direction from an official.

**Officers are given clear guidelines about deactivating their cameras. (§V.11.a)**

Once activated in accordance with this order, members shall not deactivate their BWC until/unless:

- 1) They have notified the dispatcher of their assignment's disposition, and they have cleared the assignment or, in the case of arrest, have transferred custody of the arrestee to another member.
- (2) Their involvement in the citizen contact or detention has concluded.
- (3) They receive an order from a higher-ranking member. In such cases, members shall document the order and the name of the official in their associated incident or arrest reports and on the BWC when practicable.
- (4) The search requiring activation as outlined in Part V.A.4.p of this order has concluded, and the member believes he or she will have no further interaction with the person or property.
- (5) A pursuit has been terminated, and the member has returned to service through the dispatcher.
- (6) In the event of a prolonged crime scene or an incident during which time they need to take a break (e.g., restroom break). In those cases, members shall contact the dispatcher to request a break and later document in the non-public narrative section of all related reports or their notebook the interruption of the BWC recording.

**Officers must document "any delay or failure to activate" or interruption of recording in their written reports. (§V.12.a)**

12. Reporting Requirements:

- a. Prior to the end of their shift, members who are assigned BWCs shall:

...

2. Document in the non-public narrative section of all related reports or their notebook any delay or failure to activate their BWC and any interruption of a BWC recording required by this order.

## ○ Addresses Personal Privacy Concerns

In general, MPD prohibits recording “in places where a reasonable expectation of privacy exists,” and specifically prohibits recording of individuals with extreme injuries. (§IV.M)

Members shall not . . .

- (8) In general, MPD prohibits recording “in places where a reasonable expectation of privacy exists,” and specifically prohibits recording of individuals with extreme injuries. (§IV.M)
- . . .
- (11) Record gratuitous or obscene images, such as the effects of extreme violence or injury, unless necessary for evidentiary documentation. . . .
- . . .
- (13) Record in places where a reasonable expectation of privacy exists, such as locker rooms or restrooms, unless the activation is required for the performance of official duties.

For privacy reasons, officers are also instructed to take special precautions when recording victims of intrafamily incidents, and medical patients. (§§V.A.8-9)

### 8. Intrafamily, Sexual Assault, and Stalking Incidents and Offenses

Intrafamily Incidents and Offenses – members who respond to intrafamily incidents and offenses as outlined in GO-OPS- 304.11 (Intrafamily Offenses) shall continue their BWC recording but make every effort to provide the victim privacy such that they do not record any discussions between the On- Call Advocacy Program (OCAP) advocate and the victim, regardless of whether the conversation is in-person or over the phone. Members shall position themselves in such a way as to afford the victim as much privacy as possible.

### 9. Medical Facilities, Ambulances, and Patient Privacy

- a. Members shall record ambulance transports when they are present for law enforcement purposes.
- b. Members are reminded that they shall **only** activate their cameras in hospitals and other medical facilities for the events listed in Part V.A.4 [required recording events] of this order, including hospital guard details.
- c. Members shall not record in the common areas of medical facilities except when recording a required event as required by Part.V.A.4 of this order.
- d. When recording in hospitals or other medical or psychiatric facilities, members shall be careful to avoid, when possible, recording persons other than the suspect, complainant, and witnesses.
- e. When members are in hospitals or medical facilities pursuant to Part V.A.4, they shall continue to record and make every effort to provide patients with privacy such that they **do not** record patients during medical or psychological treatment or evaluations by a clinician or similar medical professional. Members shall position themselves in such a way as to afford the patients as much privacy as possible.

Officers must notify subjects that they are being recorded, but importantly, MPD does not allow subjects (in particular, crime victims or other vulnerable individuals) to affirmatively opt out of recording unless they wish to provide an anonymous tip. (§§IV.E; IV.M; V.A.8)

IV.E. When practicable, members shall inform contact subjects that they are being recorded at the beginning of the contact (e.g. “Ma’am/Sir, I am advising you that our interaction is being recorded.”)

### IV.M. Members **shall not**

17. End a recording based solely on a citizen’s request unless the citizen wishes to provide an anonymous tip. In cases where the citizen continues to request that a recording be turned off, and the member cannot resolve the issue, the member shall request that an official respond to the scene to assist. Members may use BWCs to record initial interviews of victims, complainants and witnesses.

### V.A.8. Intrafamily, Sexual Assault, and Stalking Incidents and Offenses

- a. Intrafamily Incidents and Offenses – members who respond to intrafamily incidents and offenses as outlined in GO-OPS- 304.11 (Intrafamily Offenses) shall continue their BWC recording but make every

effort to provide the victim privacy such that they do not record any discussions between the On- Call Advocacy Program (OCAP) advocate and the victim, regardless of whether the conversation is in-person or over the phone. Members shall position themselves in such a way as to afford the victim as much privacy as possible.

- b. Sexual Assault Incidents and Offenses – members who initially respond to allegations of sexual assault shall continue their BWC recording but are reminded that, in accordance with GO- OPS-304.06 (Adult Sexual Assault Investigations), they shall ask only the necessary questions to enable them to determine the type of crime, and to obtain the required information for a lookout broadcast. Members shall not question the victim in detail about the offense.
- c. Members are reminded, and may inform the victim or others present at the scene, that BWC recordings taken inside a personal residence or related to an incident involving domestic violence, stalking, or sexual assault will be withheld from release to the public.

One laudable feature of MPD’s policy is that recording notices be made available in six languages — this policy is unique among major department policies we’ve seen. (§IV.G)

G. In accordance with GO-SPT-304.18 (Language Access Programs), members shall ensure that they provide language access services to all limited and non-English proficient (LEP/NEP) persons in a timely and effective manner. Members shall provide LEP/NEP persons with a MPD and Body Worn Camera Recording Notice . . . in the appropriate language at the beginning of the BWC recording when practicable.

NOTE: MPD and Body Worn Camera Recording Notices are available in the following languages: Amharic, Chinese, French, Korean, Spanish, and Vietnamese.

Finally, MPD requires periodic privacy audits of recorded footage. (§V.K)

- a. The MPD Privacy Officer shall
  - ...
  - 5. Conduct periodic audits to confirm that the proper protection of individuals’ privacy rights have been afforded in accordance with the Body-Worn Camera Program Amendment Act of 2015.

### ○ Prohibits Officer Pre-Report Viewing

Officers involved in police shootings are not permitted to review recordings related to the case. In other cases (including use of force, in-custody death, or subject of criminal investigation) officers may view footage prior to submitting a report or being interviewed. (§V.E.3.1)

- a. Pursuant to the Body-Worn Camera Program Amendment Act of 2015, members involved in a police shooting shall not review their BWC recordings, or other members’ recordings, related to the case.
- b. In all other cases, members who are involved in a serious use of force, in-custody death, or are the subject of a criminal investigation may view their BWC recording related to the incident prior to completing and submitting any required reports and being interviewed by the appropriate investigative unit provided that:
  - (1) The member is in receipt of a declination from the prosecuting authority or after a Reverse Garrity Warning is issued; and
  - (2) The recording is viewed at the IAD or at a location approved by an IAD official.
- c. Members who are the subject of an administrative investigation may view their BWC recording prior to completing and submitting any required reports and being interviewed by the appropriate investigative unit.

### ✗ Limits Retention of Footage

MPD provides a detailed table of footage retention periods for various categories of events. For instance, events in the category “Incident, No Arrest” shall be retained for 90 days. However, these retention periods appear to be minimum durations, and no requirement exists for footage deletion. (§V.G.H)

1. BWC recordings shall be retained and accessible on the BWC database for a period of 90 calendar days unless they are categorized as follows:

...

16. Incident, No Arrest . . . 90 Days

### **Protects Footage Against Tampering and Misuse**

MPD expressly prohibits officers from tampering with BWC hardware, software and recorded footage. (§§IV.M.1-5)

#### M. Members **shall not**:

1. Remove, dismantle, or tamper with any hardware or software component or part associated with BWCs applications.
2. Destroy, disseminate, edit, alter, modify, tamper with, or otherwise use BWC recordings without the written permission of the Chief of Police. Members who tamper with BWC recordings may be subject to criminal investigation and/or prosecution.
3. Copy or download a BWC recording without written approval of an official. BWC recordings shall only be shared for official law enforcement purposes.
4. Delete any BWC recording except as specified in Part V.C of this order (i.e., accidental recordings).
5. Record, view, download or convert any BWC recording for personal use. . . .

The MPD BWC Coordinator must maintain “an audit log on the history of every recording,” but it’s unclear what this means. This could mean an audit log that details all files added to, and deleted from, the storage database — or it could mean an audit log of all access to stored footage. Until MPD clearly establishes the latter, full credit for this criterion is withheld. (§V.C.3)

3. An audit log on the history of every recording will be maintained in the storage database.

### **Makes Footage Available to Individuals Filing Complaints**

MPD expressly allows a recorded individual to request to view footage. The policy also, commendably, clearly lay out the process of requesting to view relevant footage, and is one of the few policies we have seen that does so. (§V.F)

#### F. Requests for BWC Recordings by Subjects

1. The subject of a BWC recording, his or her legal representative, or the subject’s parent or legal guardian if the subject is a minor, may request to schedule a time to view the BWC recording at the police district where the incident occurred.
2. Members shall be aware that subjects may request to view BWC recordings online or at the district station.
  - a. Subjects may submit requests for recordings online at <http://mpdc.dc.gov/page/body-worn-camera-citizen-viewing-process> or by submitting a Request to Review Body-Worn Camera Recording (see Attachment C).
  - b. Members who receive requests to view BWC recordings by subjects or their representatives at the district station shall immediately notify their district’s BWC Unit Coordinator, in writing, and forward requests to the MPD FOIA Office at [mpd.foia@dc.gov](mailto:mpd.foia@dc.gov).
3. The assigned MPD FOIA specialist shall conduct a privacy review of the video and determine if the un-redacted BWC recording violates the individual privacy rights of any other subjects of the recording and shall notify the BWC Unit Coordinator if the recording or a portion of the recording is eligible for viewing.
4. Upon notification from the FOIA Office that a recording is eligible for viewing, the BWC Unit Coordinator shall review the recording and confirm that the viewing of the recording would not compromise the safety of any other subject.
5. The BWC Unit Coordinator shall notify the subject whether the recording is available for viewing.
  - a. In cases where the recording is available, the BWC Unit Coordinator shall schedule a suitable time for the subject, his or her legal representative, or the subject’s parent or legal guardian to view the



recording under the following conditions:

- (1) The subject, his or her legal representative, or the subject's parent or legal guardian if the subject is a minor shall provide a valid government-issued photographic identification [e.g., a driver's license, passport, green card (U.S. Permanent Resident Card) or military identification].
- (2) The subject, his or her legal representative, or the subject's parent or legal guardian must sign the PD Form 99-B (Consent to View Body-Worn Camera Recording) (Attachment D) prior to viewing the recording.
- (3) The viewing must occur in the presence of the BWC Unit Coordinator.
- (4) Under no circumstances shall the subject, his or her legal representative, or the subject's parent or legal guardian:
  - (a) Be allowed to use any recording device to make a copy of the BWC recording.
  - (b) Be provided a copy of the recording. Subjects, or their representatives, may contact the FOIA Office to request copies of the recording.

...

3. Notwithstanding the provisions of this order:

- (1) A complainant's request to view a BWC recording prior to initiating a complaint is **voluntary**. Whether or not the complainant chooses to request to view the recording shall in no way be considered by MPD if the complainant chooses to proceed with the complaint. . . .

All other public requests for footage are handled by the DC FOIA Office. (§IV.G.2)

Requests for BWC recordings by the public shall be referred to the Freedom of Information Act (FOIA) Office, Office of the General Counsel.

#### **Limits Biometric Searching of Footage**

MPD does not place any limits on the use of biometric technologies (e.g., facial recognition) to search footage.

## APPENDIX

# Civil Rights Principles on Body Worn Cameras

May 2015

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Mobile cameras operated by law enforcement may play a valuable role in the present and future of policing. Whether they're worn by an officer or mounted on police equipment, cameras could help provide transparency into law enforcement practices, by providing first-hand evidence of public interactions.

But police-operated cameras are no substitute for broader reforms of policing practices. In fact, cameras could be used to intensify disproportionate surveillance and enforcement in heavily policed communities of color. Without carefully crafted policy safeguards in place, there is a real risk that these new devices could become instruments of injustice, rather than tools for accountability.

To help ensure that police-operated cameras are used to enhance civil rights, departments must:

1. **Develop camera policies in public** with the input of civil rights advocates and the local community. Current policies must always be publicly available, and any policy changes must also be made in consultation with the community.
2. **Commit to a set of narrow and well-defined purposes** for which cameras and their footage may be used. In particular, facial recognition and other biometric technologies must be carefully limited: if they are used together with body cameras, officers will have far greater visibility into heavily policed communities—where cameras will be abundant—than into other communities where cameras will be rare. Such technologies could amplify existing disparities in law enforcement practices across communities.
3. **Specify clear operational policies for recording, retention, and access**, and enforce strict disciplinary protocols for policy violations. While some types of law enforcement interactions (e.g., when attending to victims of domestic violence) may happen off-camera, the vast majority of interactions with the public—including all that involve the use of force—should be captured on video. Departments must also adopt systems to monitor and audit access to recorded footage, and secure footage against unauthorized access and tampering.
4. **Make footage available to promote accountability** with appropriate privacy safeguards in place. At a minimum: (1) footage that captures police use of force should be made available to the public and press upon request, and (2) upon request, footage should be made available in a timely manner to any filmed subject seeking to file a complaint, to criminal defendants, and to the next-of-kin of anyone whose death is related to the events captured on video. Departments must consider individual privacy concerns before making footage available to broad audiences.

5. **Preserve the independent evidentiary value of officer reports** by prohibiting officers from viewing footage before filing their reports. Footage of an event presents a partial—and sometimes misleading—perspective of how events unfolded. Pre-report viewing could cause an officer to conform the report to what the video appears to show, rather than what the officer actually saw.

**Signed by:**

American Civil Liberties Union  
Asian Americans Advancing Justice | AAJC  
Asian Americans Advancing Justice | Asian Law Caucus  
Asian Americans Advancing Justice | Los Angeles  
Asian Americans Advancing Justice | Chicago  
Center for Democracy and Technology  
Center for Media Justice  
ColorOfChange.org  
Data & Society  
Demand Progress  
Demos  
Electronic Frontier Foundation  
Free Press  
Hip Hop Caucus  
The Lawyers' Committee for Civil Rights Under Law  
The Leadership Conference on Civil and Human Rights  
Martinez Street Women's Center  
May First/People Link  
Media Alliance  
Media Literacy Project  
Media Mobilizing Project  
Million Hoodies Movement for Justice  
NAACP  
NAACP Legal Defense and Educational Fund, Inc.  
National Association of Social Workers  
National Council of La Raza  
National Hispanic Media Coalition  
National Urban League  
New America's Open Technology Institute  
Public Knowledge  
Southwest Workers' Union  
Urbana-Champaign Independent Media Center  
Voices for Racial Justice  
Working Narratives  
Alvaro Bedoya, Executive Director, Center on Privacy and Technology at Georgetown Law \*

\* Affiliation for Identification Purposes Only

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