Buffalo Police Department

Draft: Body – Worn Camera Policy

March 15, 2018

I Purpose

The Buffalo Police Department is undertaking a body worn camera program. The intent of the program is to equip our officers with video and audio recording devices and to document interactions with the public at large. Through this video evidence, our goal is to foster a relationship of mutual respect between our officers and the community we serve. While we recognize that no one piece of technology can be the end all be all answer to the many challenges that law enforcement faces, it is our hope that this program continues to build on the trust we have worked to build with our community.

II Policy

It is the policy of the Buffalo Police Department to record interactions with the community, within the guidelines contained herein. This policy covers recording, storing, retaining, releasing and maintaining data from body worn cameras which are used to document an officer's enforcement related activities. Body-worn cameras will also assist in gathering evidence, promoting transparency and providing an objective record of an incident.

III Definitions

A. Body-Worn Cameras (BWC) – Small video cameras that are evidence collection devices, typically attached to an officer's clothing, bullet resistant vest exterior cover or helmet that maximizes the camera's ability to capture video and audio data of the officer's law enforcement related activities.

B. Agency Administrator – A person chosen from the rank of Lieutenant or above who is appointed by the Commissioner of Police and has full access to and user rights within the data storage system. He or she can assign and track equipment, control passwords, oversee needed repairs, delete non-evidentiary recordings, conduct audits and quality control reviews and act as a liaison with BWC representatives.

C. Enforcement Related Activity – Situations during an officer's official duties that include, but are not limited to:

- 1. Calls for service
- 2. Traffic stops
- 3. Search warrants

- 4. Arrests
- 5. Investigatory activities
- 6. Confrontational / adversarial citizen contacts

IV Devices

A. BWCs shall be worn by uniformed officers assigned to the Patrol Division as well as other units at the discretion of the Commissioner of Police. They shall be worn in a manner that maximizes the camera's ability to capture video footage of the officer's activities.

B. Members of the Buffalo Police Department shall only use BWCs issued by the department.

C. All members of the Buffalo Police Department shall be trained on the use of BWCs before being issued and or using one. This training shall include but not be limited to activation, deactivation, uploading procedures, proper maintenance, reviewing, documentation and other procedures regarding the BWC program.

V Recording

A. Members of the Buffalo Police Department who are issued a BWC shall activate the device upon engaging in an enforcement related activity that occurs while the officer is on duty, unless:

- 1. There is an immediate threat to the officer's safety
- 2. Turning on the BWC would be impractical and place the officer in a tactical disadvantage

3. When activating the BWC would delay an officer's response to the safety needs of a citizen or fellow officer, during a critical incident

4. During the course of activation, the BWC malfunctions

B. Officers will document in their P-1375 and or other police reports, the presence of video captured by a BWC during the course of any enforcement related activity.

C. Non recording – Officers shall not record activities of a non-enforcement basis. Situations to include, but not limited to:

- 1. Conversations with confidential informant and undercover officers
- 2. Conversations with all law enforcement personnel that involve case tactics or strategy

3. Places such as locker rooms, bathrooms, churches or hospitals, unless engaged in an enforcement related activity or if a suspect is present

4. Officers shall not record activity inside of police buildings or non-enforcement activities of other officers

5. A potential witness who requests to speak to an officer confidentially or desires anonymity, provided the officer is comfortable with the situation

6. 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

7. When explosive devices may be present

8. Officers should avoid recording people who are nude or when sensitive human areas are exposed unless considerations are outweighed by a legitimate law enforcement interest

9. Sexual assault victims

D. Deactivation of recording – Officers shall have the discretion to terminate the recording when enforcement related activity has concluded. If a BWC has been activated and during the course of enforcement related activity the legitimate law enforcement interest for recording no longer outweighs an individual's privacy, the officer shall document on video and in the police report, the reason for deactivating the BWC.

E. Recording statements – Proper documentation shall be made anytime the BWC captures a video statement from a suspect. The video statement shall not take the place of a written statement where applicable. Documentation of the statement(s) shall be made in all required reports and on a CPL 710.30 form, when necessary.

F. Failure to record – If an officer fails to activate a BWC, chooses to terminate the BWC or if the BWC malfunctions, the officer will articulate on form P ____ the following:

- 1. Why a recording was not made
- 2. Why a recording was interrupted
- 3. Why a recording was terminated

Shift supervisors will review all P _____ and forward that information to the Agency Administrator. Any officer who is deemed to be intentionally not activating the body camera when the policy dictates that they should be is subject to disciplinary actions.

VI Storage & Retention

A. Downloading procedures:

1. Ever officer who is assigned a BWC will follow the downloading procedures at the end of their tour of duty. If data is not downloaded at the end of the tour, the officer or their supervisor must fill out form P _____ explaining the reason why.

2. All BWC data relating to a criminal incident shall be considered evidence and will be handled accordingly.

3. If an officer records a non enforcement incident that they feel may be beneficial to retain, (e.g. a confrontational citizen contact), the officer should promptly notify their supervisor of the existence of the recording and fill out a P ____.

4. All data recorded by a BWC is the property of the Buffalo Police Department. Officers may not copy, publish, share or disseminate any audio, video, image or data to anyone without the Agency Administrator's permission. Officers are not allowed to edit, delete or alter any video, audio or other data captured by a BWC.

5. The storage system software will maintain a strict audit record of who has accessed BWC data.

B. Retention schedule:

1. All video, audio and other data captured by BWCs shall be kept for a minimum of 6 months.

2. If a recording is determined to be evidentiary and needed beyond the 6 month period, that file shall be maintained until the District Attorney's Office authorizes the removal of the video from our storage system.

3. Any video, audio or other data file that is subject to an internal affairs investigation may be retained indefinitely. At the conclusion of an internal affairs investigation, the video shall be kept for 5 years and 1 day from the day of the original incident.

4. Any video, audio or other data file associated with the filing of a Blue Team report, shall be kept for 5 years and 1 day from the date of the original incident.

VII Access

A. Permitted review of footage

1. Officers will be permitted to review only video footage of an incident in which they were involved for the purposes of:

- a. Conducting a criminal investigation
- b. Preparing for courtroom testimony or District Attorney Office conferences
- c. Providing testimony pursuant to an administrative inquiry
- d. Providing testimony pursuant to an internal affairs investigation
- e. Assisting the officer in professional development

2. In addition to the permitted access listed above, supervisors may also review recordings as it pertains to:

- a. Investigating an alleged misconduct report or meritorious conduct
- b. Whenever such recording would be beneficial in reviewing an officer's performance
- c. Prior to completing Blue Team reports
- d. Recordings that are of value as training tools

3. The District Attorney's Office shall be permitted to review video footage as it pertains to their investigations.

B. Public disclosure of data

1. Any and all disclosure of BWC data must be consistent with existing record release policies and applicable statutes. All requests for data must be sent to the department's FOIL Officer.

2. When BWC data is disseminated outside the agency, the reason and identity of the authorized requesting person or agency and the rationale used for determining why or why not data is released, shall be documented.

3. Civilians shall not be allowed to review any recordings without following appropriate FOIL request procedures.

VII Maintenance

A. Inspection of the equipment at the start of an officer's shift

 Officers who are assigned a BWC shall inspect and test the BWC prior to the start of each shift in order to verify proper functioning and shall notify their supervisor of any problems.
Supervisors shall document any malfunctions on form P _____. They will then transmit form P ______ to the Agency Administrator as soon as possible.

2. Officers shall ensure that their assigned BWC is put into a charging unit, at the end of their tour of duty.

3. When a BWC is inoperable, it shall be exchanged for an operable unit as soon as possible. If there is no staff working, then the malfunction shall be noted on form P _____ and transmitted to the Agency Administrator prior to the end of that officer's tour of duty.