



**Upturn**









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

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Version 2.0

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## Policy Scorecard

Department <small>🇺🇸 : DOJ funded</small>	 Policy Available	 Officer Discretion	 Personal Privacy	 Officer Review	 Footage Retention	 Footage Misuse	 Footage Access	 Biometric Use
Albuquerque 🇺🇸	✓	○	✗	✗	✗	✗	✗	✗
Aurora	✗	?	?	?	?	?	?	?
Austin	✓	○	○	✗	✗	✗	✗	✗
Baltimore	✗	○	○	○	✗	✓	✗	○
Baltimore County	✓	○	○	✗	✗	✗	✗	○
Baton Rouge	✗	?	?	?	?	?	?	?
Boston	✗	○	○	✗	✗	✗	✗	✓
Charlotte-Mecklenburg	✓	✓	○	✗	✓	✗	○	✗
Chicago 🇺🇸	✓	✓	✓	✗	✓	✓	✓	✗
Cincinnati	✓	✓	○	✗	✓	✓	✓	○
Cleveland	✗	✓	✓	✗	✗	✓	✗	✗
Dallas	✗	✓	○	✗	✓	○	✗	✗
Denver	✓	○	○	✗	✗	○	✗	✗
Detroit 🇺🇸	✗	?	?	?	?	?	?	?
Fairfax County	✓	✓	○	✗	✓	○	✗	✗
Fayetteville 🇺🇸	✓	○	○	✗	✗	✗	✗	✗
Ferguson	✗	✗	✗	✗	✗	✗	✗	✗
Fort Worth	✗	○	✗	✗	✓	○	✗	✗
Fresno	✗	✗	✗	✗	✗	✗	✗	✗
Houston	✓	✓	○	✗	✓	✗	✗	✗
Las Vegas 🇺🇸	✗	✓	✓	✗	✓	✓	✗	✗
Louisville	○	✓	○	✗	✓	○	✗	✗
Los Angeles 🇺🇸	○	✓	○	✗	✗	○	✗	✗
Memphis	✗	✓	○	✗	✗	○	✗	✗
Mesa	✗	○	○	✗	✗	○	✗	✗
Miami	✗	○	○	✗	✗	✗	✗	✗
Miami-Dade 🇺🇸	✓	○	○	✗	✗	○	✗	✗
Milwaukee	✓	○	○	✗	✗	✗	✗	✗
Minneapolis 🇺🇸	✗	○	○	✗	✗	○	✗	✗
Montgomery County	✓	✓	✓	✗	✓	✓	✗	○
New Orleans 🇺🇸	✓	○	○	✗	✗	○	✗	✗

New York	✗	✓	✓	✗	✗	✓	✗	✗
Oakland	✓	✓	○	○	✗	✓	✗	✗
Oklahoma City	✗	✓	✓	✗	✗	○	✗	✗
Omaha <sup>Ⓢ</sup>	✓	○	○	✗	✗	✓	✗	✗
Parker, CO	✓	✓	✓	○	○	✓	✓	○
Philadelphia	✓	✓	✓	✗	✗	○	✗	✗
Phoenix <sup>Ⓢ</sup>	✗	○	○	✗	✗	✗	✗	✗
Pittsburgh	✗	?	?	?	?	?	?	?
Rochester <sup>Ⓢ</sup>	✓	○	○	✗	✗	○	○	✗
Salt Lake City	✗	✓	○	✗	✗	✗	✗	✗
San Antonio <sup>Ⓢ</sup>	✗	✓	○	✗	✗	○	✗	✗
San Diego	✓	○	○	✗	✗	○	✗	✗
San Francisco <sup>Ⓢ</sup>	✓	✓	✓	○	✗	✓	✗	✗
San Jose	✓	○	✓	○	✗	✗	✗	✗
Seattle <sup>Ⓢ</sup>	✓	✓	○	✗	✗	✗	✗	✗
St. Louis	✓	○	○	✗	✗	○	○	✗
Tampa	✗	○	✓	✗	✗	✗	✗	✗
Tucson	✓	○	○	✗	✓	○	✗	✗
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 are rapidly adopting 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 50 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 already updated their policies 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 August 2016, of the 68 “major city” departments in the U.S., 42 now have body worn camera programs with policies in place. Three additional major departments appear to have cameras on the ground, but have not released their policies to the public — in Aurora, Detroit and Pittsburgh.
- Even when departments have policies in place, nearly half (24 of 46) 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, Chicago, 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. However, six department policies have partial prohibitions in place, for certain critical incidents like officer shootings.
- 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, and Parker (CO) have all followed suit.

## Notable Policy Provisions

Example Provisions that Protect Civil Rights

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 location 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,
3. When the recording would capture gruesome images, persons nude or when sensitive human areas are exposed and there is no legitimate law enforcement need to capture the images,
4. When entering a religious institution, during services, and
5. When entering a hospital room or private patient area in a hospital.

4-C. PROHIBITED RECORDING

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. To record conversations with confidential informants and undercover officers,
- d. During any strip searches, . . .

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.



### 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

- 1. . . .
- 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. (§3XX.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.



Boston PD sharply limits the use of facial recognition technologies, going even further to mandate 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.

## Department Policies

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### 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: July 13, 2016. 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, linked from the department's [General Orders Manual](#). Order 1-39, on the "Use of Tape/Digital Recorders," applies to body-worn cameras. While the Order is dated January 22, 2013, it appears to be the department's current policy.

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

Albuquerque PD requires officers to record certain categories of citizen contact. (§§1-39-1-A, 1-39-2-B)

1-A. Personnel will use issued tape/digital recorders to document the incidents listed below.

It will be the responsibility of the primary officer to ensure that the incident will be recorded in its entirety.

...

2-B. All sworn department personnel will record each and every contact with a citizen during their shift that is the result of a dispatched call for service, arrest warrant, search warrant service or traffic stop. . Personnel will activate the recorder prior to arriving at the call or prior to citizen contact on non-dispatched events (within the safety parameters of 1-39-1B) and will record the entirety of citizen contact. . . .

Officers may use discretion in certain "proactive (non-dispatched)" circumstances, if activating the recorder puts the officer or others in danger. (§1-39-1-B)

The Albuquerque Police Department recognizes there are certain circumstances where officers in a proactive (non-dispatched) capacity, 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 recorder if doing so does not place them or others in danger. If the immediate activation of the recorder is not feasible due to immediate risk to the safety of the officer or others, the officer will activate the camera at the first available opportunity when the immediate threat has been addressed. Supervisors will closely review documentation of such incidents to ensure exigent circumstances did in fact exist.

1. Resisting Arrest.
2. Disorderly Conduct Arrests.
3. Refusing to Obey an Officer Arrests.
4. From the start of a search warrant until the area is secured (as outlined in subsection 2-16-2 B).
5. Those contacts where there is reason to believe a complaint could result.
6. Domestic violence calls for court purposes.
7. All calls involving suspected suicidal and/or suicidal individuals.
8. When a citizen refuses to sign a traffic citation.
9. When officers seek verbal/written permission to search a residence, building, structure, or vehicles.  
Officers will record through the duration of the search.
10. Child custody disputes.

Albuquerque PD does not require officers to provide concrete justifications when they fail to record required events.

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

Albuquerque PD does not address personal privacy concerns.

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

Albuquerque PD does not address, and thus does not prohibit, officer review of footage before filing their initial reports.

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

Albuquerque PD specifies a minimum retention period, but does not appear to require footage deletion. (§1-39-2-B)

... The recordings will be saved for no less than 120 days.

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

Albuquerque PD does not expressly prohibit footage tampering and unauthorized access.

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

Albuquerque PD does not expressly prohibit footage tampering and unauthorized access.

#### **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.

# Aurora Police Department



- 
- ✘ Makes the Department Policy Publicly and Readily Available
  - ?
  - ?
  - ?
  - ?
  - ?
  - ?
  - ?
  - ?

*Last updated: July 29, 2016. Is this policy now publicly available? [Let us know.](#)*

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

In January 2016, Aurora PD [reportedly](#) purchased 427 VIEVU LE4 body worn cameras. While we found scant information online about the Aurora PD body camera program, we know some Aurora officers have worn these cameras, because the department [released](#) body camera footage in April of an incident where an officer was allegedly dragged by a fleeing suspect.

We have not been able to locate a public copy of the Aurora PD body worn camera policy.



# 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

*Last updated: July 13, 2016. 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 was issued on May 11, 2016, and was adopted on May 16, 2016, although the policy is also included in the full Austin Police Department policy manual issued on June 19, 2016. The BWC policy is Policy 303, starting on page 126 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. (§§303.2.2.a-c; 303.2.3.a-c)

#### 303.2.2 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) Officers 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. Officers are encouraged to record all interviews for evidentiary purposes, however the need for privacy in certain circumstances and locations should be taken into consideration.

If a citizen request [sic] that an officer turn off their 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.

#### 303.2.3 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.

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. 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 for privacy in certain circumstances" and allows officers to choose to discontinue recording non-confrontational circumstances including interviews of victims. However, the policy does not offer officers specific guidance on when not to record, and does not require informed consent from anyone to record. (§303.2.2)

(b) Officers 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. Officers are encouraged to record all interviews for evidentiary purposes, however the need for privacy in certain circumstances and locations should be taken into consideration. Officers choosing to discontinue a recording for privacy must be able to articulate their reasoning.

(c) If a citizen request [sic] that an officer turn off their 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.

### ⊗ 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, or memorandum.

### ✘ **Limits Retention of Footage**

Austin PD mandates that recordings should be kept for a minimum of 90 days, but does not specify a maximum retention period or require the department to delete footage. (§303.3.4)

All BWC recordings shall be retained for a minimum of 90 days or for a period of time that is 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.

### ✘ **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 [camera].

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.

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: July 18, 2016. 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 does not publish its BWC policy on its website. However, the Baltimore Sun obtained a copy of the policy and published it [online](#). The policy is dated October 26, 2015.

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

Baltimore PD requires officers to record all activities that are “investigative or enforcement in nature.”

### Mandatory Activation

Unless unsafe, impossible, or impractical to do so, the BWC shall be activated:

1. At the initiation of a call for service or other activity that is investigative or enforcement in nature.
2. During any encounter that becomes confrontational.

**NOTE:** If a member is unable to activate the BWC at the initiation of a call for service or other activity that is investigative or enforcement in nature, the member shall activate the BWC at the first reasonable opportunity to do so.

...

### 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; or
3. A supervisor has authorized that a recording may cease because the member is no longer engaged in a related enforcement or investigative activity; or
4. An involved person refuses to cooperate unless recording ceases, and in the member’s judgment, the need for cooperation outweighs the need to record the information.

Before stopping a recording, officers must record a reason on camera before turning it off.

Exceptions [to Mandatory Recording]

1. Members may deactivate a BWC in certain situations. In the event that a member disables the recording function of the BWC, the member shall state orally into the BWC, the reason for disabling the device. When in doubt, record the interaction.

However, when officers fail to record a required incident, there is no requirement to provide a concrete justification.

 **Addresses Personal Privacy Concerns**

Baltimore PD allows officers to deactivate the camera when “sensitive circumstances are present,” providing only vague guidance (through one example) as to what this means.

Exceptions [to Mandatory Recording]

...

3. Sensitive circumstances are present (for example, when interviewing a victim of sexual violence).

Officers must always notify subjects that the camera is recording. But officers are under no obligation to turn off their cameras, even when a crime victim requests that the recording stop. (Only when the victim “wishes to make a statement or share information” can the officer even consider turning the camera off.)

Notice

1. Except as otherwise exempted by law, notify, as soon as practicable, the individual that the individual is being recorded unless it is unsafe, impractical, or impossible to do so, by stating:
  - 1.1. “Hello, I am Officer of the Baltimore Police Department. I am advising you that our interaction is being recorded.”
2. This notice provision is satisfied even if another individual becomes a party to the communication after the initial notice has been provided.

...

Exceptions [to Mandatory Recording]

...

2. Deactivation of a BWC may be appropriate when a victim, witness, or other person wishes to make a statement or share information, but refuses to do so while being recorded, or requests that the camera be turned off. Officers may turn the camera off to obtain the statement.

Baltimore PD provides special privacy considerations when recording in health care and detention facilities, but *not* in private residences.

Private Residences

Private residences should not be treated any differently than other property for purposes of recording.

...

Health Care Facilities and Detention Facilities

Patient Privacy

1. Members shall not activate the BWC until meeting with the complainant on a call-for-service or when encountering an on-view incident while inside of a medical facility which requires activation pursuant to this policy.
2. Members shall not record patients during medical or psychological evaluations by a clinician or similar professional, or during treatment. 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.
3. 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.
4. Officers shall not regularly record while inside jail facilities.
5. However, in any setting, if confronting a violent or assaultive suspect, or in an anticipated use of force instance, the member shall, when reasonably able to do so, activate their BWCs to record the encounter.

## ○ 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.

### Review of Recordings

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2. Members may view their own video footage to assist in complete and accurate report writing for routine matters. A member must document in their written reports whether camera data for the incident was reviewed.
3. 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:
  - 3.1. 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
  - 3.2. The recording is viewed at IAS or at a location approved by an IAS official.
4. 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

Baltimore PD does not address, and thus does not require, the 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

1. Members are strictly prohibited from sharing any BWC log-in information or passwords with any other person.
2. Only members who have successfully completed BWC training and possess valid BWC system log-in credentials are authorized to view BWC footage.
3. Accessing, copying or releasing files for non-law enforcement purposes are strictly prohibited. All access to the downloaded material must be authorized in writing by the Police Commissioner or his/her designee.
4. Accessing, copying, releasing or sharing BWC footage on/from any computer or device not issued by the BPD is strictly prohibited.
5. The BPD shall retain a non-editable original version of BWC footage, and shall log any time the footage is viewed, for what length of time and by whom, and shall log any copying or editing of BWC footage.
6. Access to BWC data shall be controlled through a secure location.
7. Members are explicitly prohibited from tampering, editing and/or copying data stored in the BWC and the hosted storage repository.

## ✗ 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.

### 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”), Annotated Code of Maryland, General Provisions Article, § 4-101, et seq.

## ○ 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 §7.2)

Review of Recordings

...

7. Stored video and audio data from a BWC shall not:

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

**NOTE:** This subsection does not prohibit the BPD from using a recognition software to analyze the recording of a particular incident when a supervisory member 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 incorporation of facial recognition technology into live video capture and situational awareness technology.

# 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: July 29, 2016. Is there a new version of this policy? [Let us know.](#)*

## ✔ 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 July 14, 2016.

## ○ 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 only 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.).
- b. 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 and does not have a deletion requirement. (Categories and Retention)

#### Categories and Retention

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- 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, but does not explicitly prohibit footage tampering. (System Recordings)

#### System Recordings

...

- Are the property of the Department.
- 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.” However, the policy does not specifically define who a “Person in Interest” is — does it include complainants? — and it does not specifically describe what access rights

such a person has, or how those rights can be exercised. 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.

...

#### 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
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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

*Last updated: July 29, 2016. Is this policy now publicly available? [Let us know.](#)*

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

We include Baton Rouge PD in our scorecard due to the national attention the department has received since the Alton Sterling shooting on July 5, 2016. NBC News [reported](#) that during the incident, "the body cameras worn by two officers involved allegedly fell off during the altercation, and didn't capture footage." There have been [conflicting reports](#) about the kind of body cameras these Baton Rouge officers were wearing.

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



- 
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  - Limits Officer Discretion on When to Record
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  - ✘ 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: July 15, 2016. 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**

Commendably, Boston PD sharply limits the use of facial recognition technologies, going even further to mandate 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.



# 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: July 12, 2016. 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 July 1, 2016.

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

The policy provides a clear list of citizen contacts that must be recorded. (§IV.F.6)

6. While on duty, BWCs shall be turned on and activated to record responses to calls for service and interactions with citizens. 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;
  - b. Suspicious vehicles or persons;
  - c. Voluntary Investigative Contact: The mere suspicion of some type of criminal activity by a person;
  - d. Arrests;
  - e. Uses of force;
  - f. When operating a vehicle in emergency or pursuit situations;
  - g. Calls for Service (CFS):
    - The BWC will be activated in the following citizen or officer generated request for police response.
      - (1) Disturbances or disorders.
      - (2) Involving emotionally or mentally disturbed persons.
      - (3) Involving weapons or violence.
      - (4) Identified as "in progress".
  - h. K-9 tracks and building searches.
  - i. When requested by a citizen during an interaction with an officer.
  - 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) or, in any situation that the officer deems necessary.
  - (7) Officers 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) Officers shall not record the preparations for or the tactical service of any search warrant.
  - (2) The Officer in Charge (OIC) of the Search shall record a before and after search walkthrough after the location has been secured.
  - (3) The OIC shall be called to the location of any evidence located by a member of the search team and shall record the evidence in its found location prior to collection.
- m. Consent Searches
  - (1) During a consent search in one of the above, the officer 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 the search unless consent is withdrawn.
- n. Officers shall record show-ups either with the BWC or DMVR; whichever is most prudent.

**If an officer fails to record in a required circumstance, he or she must provide justification (§IV.F.7)**

It is recognized that officers with a take home vehicle may need to make enforcement stops or respond to a law enforcement need while traveling to and from work, which may result in stops not being recorded. When this occurs the officer shall document their actions and reason for not having their BWC within the KBCOPS report or CAD.

**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.8; IV.F.24)**

8. 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.

...

24. 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.17)

To aid in the protection of the right to privacy, officers 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. If so, the officer shall record for law enforcement purposes only, but not record any patient/doctor conversations;
- ...
- d. In the presence of a Confidential Informant (CI) or Undercover Officer (UC);

- e. In the magistrate's office or any state or federal court;
- f. Having discussions with attorneys, peer support counselors, doctors, etc.;
- g. Involved in a department, supervisory, or public meeting;
- h. In a classroom and/or when in a testing environment;
- i. 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.15)

- 15. 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.16)

- 16. 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 officer shall verbally record as to the reason the BWC is being turned off. Once the reason is recorded the officer(s) shall properly turn off the BWC. As soon as the search is complete, the BWC shall immediately be turned back on.

The policy requires officers to "ensure all recordings are for official purposes" when recording juveniles not participating in crimes, children who are younger than age six, or within residences. (§IV.F.19)

- 19. When recording juveniles not involved in criminal activity, under six years of age, or while in a person's residence officers should ensure all recordings are for official purposes as outlined within this directive.

#### Prohibits Officer Pre-Report Viewing

The policy permits officers to review footage when completing their written reports. (§V.J.3.c)

- c. Officers may review BWC video to aid in completing reports, providing statements or court testimony.

#### 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.9; V.G-H)

- 7. When an incident has ended, the officer shall stop the BWC recording and enter the incident complaint number and appropriate category.

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

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.

Traffic Stop Warning: Verbal or written warning, with no citation or arrest, regardless of reason for stop.

Non-Criminal Offenses: Interaction with a citizen that is not related to a criminal charge or investigation.

IACMS: All video associated with an internal investigation should be categorized IACMS, unless the suspect is charged with a felony. If so, it shall be categorized as traffic stop or criminal investigation – felony.

...

#### V. RECORDING CONTROL AND MANAGEMENT

...

G. 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.

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

When an officer’s supervisor considers but then dismisses a misconduct complaint, the policy requires Charlotte-Mecklenburg PD to retain the footage related to that complaint for three years. (§V.J.4.a, d)

#### 4. Citizen Review of Video/Audio Recordings

...

a. Citizen Review: That portion of a video/audio recording which contains an event resulting in a citizen complaint against an officer may be reviewed by the person alleged to have been aggrieved by the officer's actions (hereinafter "complainant") according to N. C. G. S. 160A-168(c)

...

d. If the supervisor determines that no such violation(s) occurred, they will document the complaint and a summary of their actions on a memorandum to the division captain. Internal Affairs case numbers will not be generated. The memorandum form will be filed in the division/unit office for one year from the date of filing. In addition, the supervisor will ensure the recording is marked so that it is retained for a three year period. If the complainant does not agree with the supervisor's determination that no violation(s) occurred, the complainant may appeal that determination to the division/unit captain. The decision of the division captain is final.

### 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.18, 22; V.A; V.C; V.I.1, 2, 3.a, c)

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

...

22. Officers 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.I).

...

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.

...

I. Recordings shall be duplicated for court and investigative purposes only, unless authorized by the Chief of Police...

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 officers and supervisors.

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 allows individuals filing complaints to view relevant portions of recordings, but the policy does not allow complainants to view footage showing the most serious events that could form the basis for complaints (“discharge of [a] firearm by an officer or serious injury or death of any person”) unless the Chief of Police provides “prior approval” for the citizen to view the footage. (§V.J.4.a)

| 4. Citizen Review of Video/Audio Recordings  
...  
a. Citizen Review: That portion of a video/audio recording which contains an event resulting in a citizen complaint against an officer may be reviewed by the person alleged to have been aggrieved by the officer's actions (hereinafter "complainant") according to N. C. G. S. 160A-168(c) (9). Any video/audio recording which depicts a discharge of firearm by an officer or serious injury or death of any person will not be shown to a complainant without prior approval of the Chief of Police.

The policy provides that Charlotte-Mecklenburg PD “may”— rather than must — allow individuals to view BWC footage, but in limiting that footage to video that is not “criminal intelligence, records of a criminal investigation, evidence in a criminal matter or associated with a personnel investigation” the policy appears to prohibit individuals from viewing almost all footage relevant to filing a complaint. (§§V.J.3.a-b)

| 3. Recordings may be available for viewing in the following circumstances:  
a. By the media when mandated upon receipt of a court order from a court of competent jurisdiction.  
b. A person may submit a request to view a BWC recording if they can identify the recording by date, approximate time, encounter or other reasonable particularity, unless such recordings are criminal intelligence, records of a criminal investigation, evidence in a criminal matter or associated with a personnel investigation.  
(1) Persons requesting to view aforementioned material will not be allowed to make copies nor record/photograph any of the recordings. Access to recorded material under this provision only allows the requester to view the material.  
(2) To view video the requestor shall submit a “BWC Request for Review” form to the Police Attorney's Office.

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)

| The Chief of Police shall:  
...  
2. Review and determine 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
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  - ✗ 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: July 15, 2016. 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 May 10, 2016.

## ✓ Limits Officer Discretion on When to Record

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

Chicago PD prohibits officers from recording “where a reasonable expectation of privacy exists,” and specifically protects both medical patients and exposed individuals. (§V.H)

#### H. Prohibited Recordings

The BWC will not be used to record:

1. in locations where a reasonable expectation of privacy exists, such as dressing rooms or restrooms, unless required for capturing evidence.
2. sensitive exposures of private body parts, unless required for capturing evidence.

**NOTE:** Department members will not engage the BWC to record strip searches

...

4. inside medical facilities, except when a situation arises that the member believes to serve a proper police purpose.

**NOTE:** Department members will not engage the BWC to record strip searches

In addition, officers must notify all individuals that they are being recorded. (§V.B)

B. Upon initiating the recording, Department members will announce to the individual(s) that they are being recorded. If exigent circumstances exist which prevent the member from providing notice, notice must be provided as soon as practicable.

**EXAMPLE:** “The police camera is operating and you are being audibly and visually recorded.”

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. (§§V.E.2-4)

#### E. Department members assigned a BWC:

...

2. will disengage event mode consistent with item V-G-1 of this directive when:
  - a. requested by a victim of a crime,
  - b. requested by a witness of a crime or a community member who wishes to report a crime,
  - c. the officer is interacting with a confidential informant.
3. will ensure a request to turn off the camera, unless impractical or impossible, is made on the recording.
4. may continue to record or resume recording a victim or witness:
  - a. if exigent circumstances exist; or
  - b. if the officer has reasonable articulable suspicion that a victim or witness or confidential informant has committed or is in the process of committing a crime.

**NOTE:** The Department member will indicate on the recording the reason for continuing to record despite the request of the victim or witness unless impractical or impossible.



## ✘ Prohibits Officer Pre-Report Viewing

Chicago PD allows officers to review BWC recordings "prior to writing any report related to the incident." (§VI.A.2. 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.

District Station Supervisors (DSS) must ensure that officers document the fact that they viewed a BWC recording "prior to writing an arrest report." (§VI.C.3)

C. District station supervisors (DSS) will ensure:

...

3. members who reviewed a BWC recording prior to writing an arrest report document this fact in the narrative portion of the arrest report prior to approving preliminary probable cause for any arrests.

## ✔ 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 ninety 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

All digitally recorded data created with the BWC are the property of the Chicago Police Department.

**Dissemination of any digitally recorded data outside the Department is strictly prohibited without specific**

**authorization by the Superintendent or an appointed designee.**

- A. Unauthorized duplicating, deleting, altering, capturing, or disseminating of audio or video from BWC footage is strictly prohibited. For example, Department members are authorized to view their own BWC footage on a Department workstation but may not record this footage with a cell phone, camera, or other method.

Footage access is also limited: officers are only authorized to view their own recordings, and supervisors are only authorized to view recordings for listed reasons. (§§VIII.C-D)

- C. Department members assigned a BWC are authorized to view their own recordings on Evidence.com using their unique user access credentials from a Department computer at a Department facility.
- D. Department supervisors are authorized to view recordings on Evidence.com, using their unique user access credentials from a Department computer at a Department facility, for the following reasons:
  1. To investigate a complaint against an officer or a specific incident in which the officer was involved;
  2. To identify videos for training purposes and for instructional use;
  3. When Department members are probationary police officers;
  4. When Department members have had a pattern of allegations of abuse or misconduct;
  5. When a Department member has been placed in the Behavioral Intervention System or Personnel Concerns Program;
  6. To approve a report that indicates a member viewed the video prior to writing the report; or
  7. For any other reason consistent with this directive.

The Information Services Division is responsible for ensuring that authorized CPD members and "authorized outside-agency personnel" have access to recordings "limited to their specific role[s]." (§VI.G.1)

- G. The Information Services Division:
  1. will ensure all authorized Department members and any authorized outside-agency personnel have access, limited to their specific role, to view recordings on the Evidence.com database that relate to their official duties.

The policy mentions that "all access [is] tracked by individual user credentials." (§IV.H)

- H. The recordings are stored and viewed on Evidence.com. Evidence.com is a secured encrypted environment with all access tracked by individual user credentials. Department members are reminded not to share their unique access credentials with other users.

 **Makes Footage Available to Individuals Filing Complaints**

The Chicago PD policy does not itself allow individuals who are filing police misconduct complaints to view footage. But it incorporates by reference both the department's [Freedom of Information](#) directive and the state's [Officer-Worn Body Camera Act](#). (§VIII.E.2)

- E. When inquiries seeking access to examine or obtain copies of recordings from a BWC are made of the Department:
  - ...
  2. the directive entitled Freedom of Information will be followed.

NOTE: All applicable laws including the Freedom of Information Act (FOIA) (5 ILCS 140/1) and exceptions in the Illinois Officer-Worn Body Camera Act (50 ILCS 706/10), will be followed when a FOIA request is made.

The Illinois Officer-Worn Body Camera Act requires Chicago PD to release footage to recorded subjects under the state's FOIA. (50 ILCS 706/10-20(b)(3))

- (b) Recordings made with the use of an officer-worn body camera are not subject to disclosure under the Freedom of Information Act, except that:
- (3) upon request, the law enforcement agency shall disclose, in accordance with the Freedom of Information Act, the recording to the subject of the encounter captured on the recording or to the subject's attorney, or the officer or his or her legal representative.

✘ **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

*Last updated: July 18, 2016. Is there a new version of this policy? [Let us know.](#)*

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## ✔ 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](#), released on July 14, 2016.

## ✔ 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.2-3)

### 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.

...

3. 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.c; F.1.c)**

**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.

...

c. If an officer fails to activate or deactivate their BWC according to policy, 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:

...

c. 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.4.c-d)**

A. Operating and Utilizing BWC systems

...

4. 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. Unlike the back of a police car or empty police interrogation room, which requires notification recording equipment is in use, the personal contact between an individual and an officer does not constitute an environment where there is a reasonable expectation of privacy. ...

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 inside a private home **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; §§BB.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

- ...
3. 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/>.
    - a. PRS will follow their SOP for the completion of records requests.
    - 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 PRS 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). PRS 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: July 21, 2016. 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 Bureau of Justice Assistance's Body Worn Camera Toolkit. This policy was effective February 2, 2015. In March 2016, Cleveland [released a survey asking residents for feedback on the existing policy](#), however the survey is no longer active and no updated policy appears to have been released yet.

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

Cleveland Police requires officers to record "any police related action." (§IV.G)

G. [Activate the camera] prior to taking any police related action including, but not limited to:

1. Encounters with victims, witnesses, and suspects including those that involve or may involve a stop or investigation based on reasonable suspicion or probable cause.
2. All citations, uses of force, detentions, and arrests.
3. All searches including, but not limited to, people, vehicles, items, buildings, and places.
4. All domestic violence calls including suspect/victim interviews.
5. All interactions with persons known or suspected of having mental illness or in crisis.
6. Assisting other members engaged in a police related action, whether or not the other member has a WCS in event mode.
7. Pursuits (vehicle and foot) and emergency response driving.
8. When asked to by a citizen during the interaction with the citizen.
9. While en route to crimes in progress or just occurred where fleeing suspects or vehicles may be captured on video leaving the crime scene.
10. Crime or accident scenes where captured media can help document, enhance and support members: written reports, evidence collection, investigations, and court testimony.
11. Other events, situations and circumstances including but not limited to armed encounters, acts of physical violence, civil disturbances, and criminal or suspicious activity
12. Any situation that a member believes captured media may be of use.

Officers must record the entire contact and must always announce the reason why the camera is being turned off before doing so. (§§IV.H.3; §IV.J)

H. [Officers shall, after the camera is turned on:]

...

3. Not stop the recording until the contact has concluded or when ordered by a Cleveland Division of Police supervisor.

...

J. Document the reason that a WCS unit has been activated to Event Mode and is then returned to Buffering Mode. Documentation shall take the form of making a recorded announcement on the WCS.

1. Contact complete.
2. Ordered by supervisor (name) to end recording.
3. Incident complete.

Officers must notify a supervisor if they fail to record, but the policy does not indicate whether officers must provide a concrete justification (or how that information should be handled by the supervisor). (§IV.D)

Notify a supervisor when a WCS was not placed into event mode in compliance with this Order.

### ✓ Addresses Personal Privacy Concerns

Cleveland Police prohibits officers from recording in “[a]ny place where there is a reasonable expectation of privacy.” It specifically protects exposed individuals and those who have suffered extreme injuries. (§§V.D-H)

V. The [camera] shall not be used [] to capture the following, unless capturing evidence related to activities described [as required recording]:

...

- D. Protected health information and treatment when requested by the patient, or on-scene Emergency Medical Service or Division of Fire personnel.
- E. Gratuitous captured media (i.e. effects of extreme violence or injury, exposed genitalia or other erogenous areas, etc.).
- F. Any place where there is a reasonable expectation of privacy (i.e. dressing rooms, restrooms, etc.).
- G. Images of confidential informants or undercover members, unless requested by the undercover member, their supervisor, or commanding member.
- H. Conversations of citizens and/or members (i.e. administrative duties, court, community meetings, etc.).

Officers must notify citizens that the camera is recording. (§IV.H.2)

2. [Officers shall, after the camera is turned on] [a]dvice citizens that a camera is on and recording audio and video at the first reasonable opportunity keeping member safety a priority.

In two limited circumstances — when police are entering a private home or building, or recording a victim or witness — the officer may be allowed (but is not required) to turn the camera off if the subject opts out. (§IV.I)

I. Be permitted to [turn the camera off] after a citizen has been notified that a [camera] is recording in the following situations. . . .

1. 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 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, members shall request that the citizen step outside or, depending on the circumstances and with supervisory approval, [stop recording].
2. When interacting with a victim or witness who refuses to cooperate if the [camera is recording]. Members shall notify and obtain approval from their immediate supervisor or the sector supervisor and document by stating, while the [camera is recording], the reason the [camera is being turned off]. If practicable and reasonable, record the victim or witness requesting the [camera] be turned off.

### ✗ Prohibits Officer Pre-Report Viewing

Cleveland Police allows officers to view relevant footage while completing their reports.

(§X.B)

B. Members may access [camera] captured media via [the footage storage and access system] and view it to assist with investigations or reports.

### ✘ **Limits Retention of Footage**

Cleveland Police specifies a retention period of 180 days for unflagged footage, but no deletion requirement exists. (§§X.A; XVII.E)

X.A. All captured media will be uploaded [from the docking unit] and stored at [the digital storage website] according to the City of Cleveland records retention policy.

...

XVII. Members shall use the following categories to assist in maintaining and filing captured [camera] media.

Captured media that members suspect needs to be retained longer than the retention period shall be documented in a Form-1 describing the reason and forwarding it through the chain of command to the Mobile Support Unit.

...

E. Possible complaints (retention of 180 days).

1. Member believes the incident may result in a complaint.
2. Captured media that does not fall into any of the above circumstances.

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

Cleveland Police expressly prohibits both footage tampering and unauthorized access. 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-II; X.C-D)

I. All captured media is an official record of the Cleveland Division of Police. Accessing, copying, or releasing any captured media for any purpose other than law enforcement related is strictly prohibited and subject to discipline.

II. Members shall not be able to edit, delete, or alter captured media. The security features of [the footage storage and access system] ensure compliance and track all access to captured media.

...

X. Media Storage:

...

C. Members shall not use any recording device to record captured media from [the footage storage and access system].

D. Members shall add notes to captured media stating the reason for each view of captured media (i.e. completing report, court prep, random review, etc.).

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

Cleveland Police does not expressly allow individuals who are filing police misconduct complaints to view footage, and expressly prohibits officers from allowing anyone outside the department to view footage. (§§XIV.D-F)

D. Unusual or exceptional incidents related to law enforcement activities are often the subject of heightened public curiosity and interest. However, members are strictly prohibited from allowing persons outside of law enforcement to view or listen to any media captured by the [camera] or any other Divisional evidence capture system without prior authorization from the Chief of Police.

E. Unless otherwise directed by the Chief of Police, all video and/or audio recordings (including personal) recorded on duty shall not be disseminated outside of law enforcement.

F. Members shall advise all non-Divisional requests for captured media to file a public records request.

### ✘ **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.

# 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 15, 2015. 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, a [draft policy](#) was found on the Bureau of Justice Assistance's Body Worn Camera Toolkit. The policy was presented by the Dallas Chief of Police to the City Council's Public Safety Committee on May 26, 2015. It's the most recent policy we could locate.

## ✓ 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. (§§3XX.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 will 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. (§§3XX.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. (§§3XX.05.A, B, E)

#### 3XX.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. (§§3XX.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. (§§3XX.04.A.1.m; 3XX.06.F)

3XX.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. . . .

3XX.06.F. During any administrative or criminal investigation the person conducting the investigation shall allow the involved officer to review video involving the incident captured by BWC equipment worn by the officer or another officer.

### ✔ **Limits Retention of Footage**

Dallas PD automatically deletes unflagged footage after 90 days. (§3XX.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. (§§3XX.03.A.5-8)

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

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

7. 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.

8. 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. (§§3XX.03.A; 3XX.06.A, D, E)

3XX.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. . . .

...

3XX.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
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  - ✗ 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: July 13, 2016. 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, and the BWC policy is prominently displayed on the homepage of the department website. The policy is Title 111.11, dated November 10, 2015.

## ○ 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. 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 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 if the activation is required policy. . . .

- 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, but the vague languages does not necessarily require them to do so. (§3.a.2)

- 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.

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.5)



5. 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.

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 their 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. (§8.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 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.” (§8.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. (§7.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. (§8.b-c)

- 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.
- c. 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.6)

6. 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: July 20, 2016. Is this policy now publicly available? [Let us know.](#)*

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

As far as we can tell, Detroit PD has never made a BWC policy available to the public. Detroit PD has tested BWCs in two different pilot programs: one in [April 2014](#) and another from [March to July 2015](#). Detroit Police Assistant Chief James White [says](#) that the Detroit PD is using "'common sense' policies that are accepted best practices across the nation." In August 2015, Detroit Mayor Mike Duggan and Police Chief James Craig [announced](#) that Detroit would be implementing the "nation's first law enforcement video system that would integrate body cameras and in-car dashboard cameras," to begin in early 2016 with full deployment of BWCs within three years. In May 2016, the [City of Detroit announced](#) that the Detroit PD would begin full roll-out of the system in June of 2016 and complete implementation by fall 2017.

# 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: July 18, 2016. 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 [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 May 17, 2015.

## ✓ **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/individual 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 involving Emotionally Disturbed Persons;
5. While executing warrantless searches of individuals, vehicles, buildings, and other places; a. When practical, the BWC should be used to document the request and consent of such searches;
6. When taking statements from victims, witnesses, suspects, and offenders (see privacy concerns);

7. To document accident and crime scenes, where appropriate;
8. During any other situation where the officer 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” . . . Prior to deactivating the BWC, 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.J.1-4)

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.

The policy instructs officers to inform individuals that they are being recorded “when practical.” (§VII.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, inform the person that they are being recorded. 1. The 4th Amendment protects people, and provides them with a reasonable expectation of privacy from government intrusion

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

FCPD’s policy does not address, and therefore does not prohibit, officers from viewing the BWC recording before their initial report.

### ⊗ **Limits Retention of Footage**

FCPD states that all recordings not required to “support known investigations or litigations” are deleted after 30 days. (§XII.A)

Video/audio recordings not required to support known investigations or litigations: retain for 30 days after recording, then delete.

The policy details retention periods for recordings that don’t fall into the above category. However, we have some reservations about “traffic stops” being categorically flagged for longer retention periods, rather than only flagging those stops resulting in a more

significant encounter. (§XII.B)

B. Video/audio not falling into either of the above categories:

- Traffic Stops: 190 days
- Arrest: 190 days
- Use of Force: 190 days
- Pursuit: 190 days
- Transport: 100 days
- Investigation: 100 days
- Subject Stop: 100 days
- Test/training/other: 100 days
- Administrative Investigation: Indefinitely

### ○ **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 also does not indicate that all access to recorded footage will be logged or audited.

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

FCPD’s policy does not expressly allow individuals who are filing police misconduct complaints to review footage.

### ✗ **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: July 21, 2016. Is there a new version of this policy? [Let us know.](#)*

## ✔ Makes the Department Policy Publicly and Readily Available

Fayetteville Police Department publishes its most recent publicly available [BWC policy](#) on its website under "Written Directives and Operating Procedures." The most recent policy is Operating Procedure 3.24, which was issued on December 18, 2015.

## ○ 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 personal privacy concerns, but the policy does not require informed consent from vulnerable individuals. The policy specifies that BWC should not be used in bathrooms, healthcare facilities, or any "other place where there is an expectation of privacy." (§§3.24.4.D,E,G,H)

- D. Unless present in an official police capacity, the BWC should not be used in bathrooms, locker room, or other place where there is an expectation of privacy.
- E. The BWC should not be used to document crime scenes or in custody interviews and interrogations. The BWC should not be used when interacting with known confidential informants or undercover officers.
- ...
- G. The BWC will be turned off when entering any police building or substation.
- 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;
  - ...
  - 5. Having discussions with attorneys, peer support counselors, doctors, etc.;
  - ...

### ⊗ 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 (www.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-PFD 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 15, 2015. 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 does not publish its BWC policy on its website. However, a version of its [policy](#) was found online from the St. Louis Post-Dispatch. This policy is effective August 28, 2014, and is the most recent publicly available version we could find.

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

Ferguson PD requires officers "to record contacts with the general public" while performing official patrol duties. (§481.05.A)

A. Body-worn camera recorders will be used at all times to record contacts with the general public by:

1. An officer performing his/her official patrol duties (e.g. motorist and pedestrian contacts, field interviews, calls for service, etc.), or
2. A detective performing his/her official duties (e.g. interviews, interrogations, investigations, etc.)

But the policy does not specify when officers may turn off their cameras, nor does it require officers to provide concrete justifications when they fail to record.

## ✗ **Addresses Personal Privacy Concerns**

Ferguson PD does not address personal privacy concerns.

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

Ferguson PD does not address, and thus does not prohibit, officer review of footage before filing their initial reports.

⊗ **Limits Retention of Footage**

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

⊗ **Protects Footage Against Tampering and Misuse**

Ferguson PD does not expressly prohibit footage tampering and unauthorized access.

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

Ferguson PD does not expressly allow individuals who are filing police misconduct complaints to view footage.

⊗ **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 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: July 13, 2016. 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.

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: July 8, 2016. 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 does not publish its BWC policy on its website. However, the [most recent publicly available policy](#) (Policy 450) was found on the Bureau of Justice Assistance's Body Worn Camera Toolkit and was made effective on January 20, 2015.

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

Fresno PD provides list of situations that officers "are expected" to record, but the policy does not appear to require recording, nor does it provide general guidance for situations that do not fall into included categories. (§450.3)

3. ACTIVATION OF THE RECORDER Officers shall position their camera to facilitate optimum recording field of view. Officers should activate their camera system as soon as practical upon encountering the below types of events. However, at no time should an officer jeopardize his/her safety, or the safety of any other officer, to activate a recording device.

Guidelines for Activation of AXON cameras – Officers are expected to 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);
- ...
- (f) Suspect interrogations (including Miranda advisement) and witness interviews;
- (g) Interviews of victims and witnesses.

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.

The policy does not specify when officers may turn off their cameras, except in the case of forced entries and searches. (§450.3.e.1)

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.

When officers stop recording or fail to record a required incident, there is no requirement to provide a concrete justification.

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

Fresno PD does not address personal privacy concerns, and officers are not required to notify individuals that the camera is recording. (§450.3)

450.3. KNOWLEDGE OF RECORDING PC §632 prohibits any individual from surreptitiously recording any conversation in which any party to the conversation has a reasonable belief that the conversation was private or confidential, however PC §633 expressly exempts law enforcement from this prohibition during the course of a criminal investigation.

Any sworn member may surreptitiously record conversations during the normal course of duty for a criminal investigation in which the sworn member reasonably believes that such a recording will be beneficial to the investigation.

- (a) Any sworn member contacting an individual suspected of violating any law or during the course of any official law enforcement related activity shall be presumed to be engaged in a criminal investigation. This presumption shall not apply to contacts with other sworn members conducted solely for administrative purposes.
- (b) Any individual contacted by a sworn Department member wearing a conspicuously mounted recording device will be deemed to have knowledge that such a contact is being recorded.

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

Fresno PD does not address, and thus does not prohibit, officer review of footage before filing their initial reports.

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

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

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

Fresno PD prohibits officers from making "personal use" 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. (§450.2)

450.2 RECORDING

...

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 personal devices;
- Posting of official video and/or audio to any non-Department sponsored social networking or other web site;
- 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).

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

Fresno PD relies on California's public records law to make footage available, and does not expressly allow complainants to view relevant footage. (§450.3)

450.3 REVIEW AND RELEASE OF RECORDINGS

...

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. When criminal charges are being sought in a case, all related recordings will be provided to the District Attorney's office.

 **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.

# 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: July 21, 2016. 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 March 24, 2016).

## ✓ Limits Officer Discretion on When to Record

Houston PD requires officers to record "any law enforcement related activities." (§§9; 11)

### 9 ACTIVATION OF BWC EQUIPMENT

The BWC has three modes: off, standby, and event. Normally, while performing routine matters and prior to participating in any law enforcement related activities Officers shall keep the BWC on standby mode.

Officers shall place the BWC in event mode to record all law enforcement-related activities. This requirement applies to all officers engaged in a law enforcement activity, whether they are designated as a primary or secondary unit. The BWC shall be activated while officers are acting in a law enforcement capacity, prior to actual contact with a citizen(s), or as soon as it is safe to do so. 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 shall activate their BWC equipment prior to doing any of the following (the following is a non-exhaustive list):

- a. Arriving on scene to any call for service.
- b. Self-initiating any law enforcement activity.
- c. Initiating a traffic or pedestrian stop.
- d. Responding to a citizen who flags them down.
- e. Detaining, arresting, or attempting to detain or arrest a person.
- f. Conducting any search, including those of people, vehicles, buildings, and places.
- g. Transporting any person from one location to another, including prisoners and passengers.
- h. Interviewing witnesses and complainants.
- i. Engaging in any vehicular or foot pursuit.

Officers shall record during the execution of any search warrant, or arrest warrant, and during a consent search including the officer's request for consent and the person's response to such request.

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 through the transfer of custody to jail personnel, placement into a holding cell, or completion of the passenger transport.

When a prisoner is transported by a two-man unit, both officers shall be required to record with the BWC during the transport. In order to document the transport of the prisoner or passenger officers may elect to turn their BWCs so that they face the back seat of the vehicle during transport.

Whenever an officer engages in a vehicular or foot pursuit, the BWC shall immediately be activated, so long as it is safe to do so, so that the incident can be captured from inception through final disposition.

The department values the trust of those person who choose to confidentially assist in its efforts to preserve the peace and enforce the law. Officers shall not knowingly record persons who confidentially provide information for law enforcement purposes.

...

Officers may, but are not required to, record informal or casual encounters with members of the public. Officers shall consider that recording people in some circumstances may inhibit the sharing of information or impair the development and maintenance of strong ties between members of the community and officers.

In non-confrontational situations, employees should inform complainants and witnesses they are being recorded. (e.g. interviewing a complainant in a burglary or BMV). Officers may exercise their discretion as to whether to deactivate their BWCs during such non-confrontational encounters unless the scene involved family violence. Officers shall audibly note the reason for the termination of the recording prior to deactivating their BWCs.

There may be times when an officer is interacting with a citizen and their discussion becomes unexpectedly contentious. As soon as an officer determines that this is likely to occur or is occurring, the officer shall immediately activate his BWC.

#### **11 DEACTIVATION OF BODY WORN CAMERA EQUIPMENT**

...

Deactivating a BWC to cease recording an event is governed by the following guidelines. In most circumstances, an officer's BWC may be deactivated once the following are true:

- a. All arrests have been made and arrestees have been transported from the scene and accepted by jail personnel, or placed into a jail holding cell
- b. All witnesses and victims have been interviewed; and
- c. All contacts with the public on the scene are completed.

Officers may also deactivate their BWCs as in accordance with other circumstances permitted by this General Order.

Except when handling a family violence incident, officers may exercise their discretion as to whether to deactivate their BWCs during non-confrontational encounters. Officers shall audibly note the reason for the termination of the recording prior to deactivating their BWCs.

...

Officers may deactivate the BWC when conferring with other personnel regarding handling of an incident, at the scenes of extended incidents, or when no enforcement action is occurring, but shall audibly note the reason for termination. Officers shall properly classify their recordings when they stop each individual recording (if applicable).

### **Officers must provide a concrete justification if they fail to record a required event. (§10)**

An officer's justification for failing to activate the body worn camera because it is unsafe, unrealistic, or impracticable is based on whether a reasonable officer under the same or similar circumstances would have made the same decision.

If at any time an officer is required to activate his BWC and fails to do so, or in an officer is unable to activate his BWC in a timely manner as required by this policy, the officer shall immediately after the conclusion of said event, use the BWC to record their explanation or reasoning as to why the BWC was not activated. The officer shall notify their supervisor when these situations occur.

If the event described in the preceding paragraph requires an officer to produce an incident report or notes to a call slip, an explanation of why the BWC was not activated shall also be included in the documentation.

If the department becomes aware of an officer's failure to activate his BWC through supervisory review, random audit, court discovery, or other means, the officer may be subject to disciplinary action.

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

Houston PD allows officers to exercise discretion to turn off their cameras with victims, but officers are not required to turn off the camera "solely at the demand of a citizen" (presumably, including crime victims). (§9)

Officers are sometimes called upon to respond to scenes where persons, including witnesses and complainant, 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 discontinue a recording which might inhibit their ability to obtain a full and candid statement from a complainant or witness. In furtherance of trust and cooperation of victims who may have been traumatized, officer shall respond in a respectful and supportive manner and be considerate of the fact that some victims may not be comfortable discussing the facts of their situation while being recorded.

Officers should exercise caution in medical and psychiatric facilities, restrooms, dressing rooms and locker rooms. (§11)

#### **11 PRIVACY CONCERNS AND ADVISEMENTS**

Officers are not required to initiate or cease recording an event, situation, or circumstances solely at the demand of a citizen. However, there are circumstances in which officers need to exercise caution in the use of their BWCs.

##### **Medical and Psychiatric Facilities:**

Officers shall be considerate of a patient's privacy when in medical facilities.

Officers are reminded that, regardless of the setting, when they confront a violent or assaultive suspect, or anticipate any use of force, officers shall, when safely able to do so, activate their BWCs to record the event

##### **Restrooms, Dressing Rooms, Locker Rooms:**

BWC recordings shall not be used inside restrooms, dressing rooms, or locker rooms unless officers are entering in response to an emergency or a crime 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, including in use of force and weapon discharge incidents. While the policy states that homicide investigators "shall have the authority to classify a video recording as 'Confidential'" it does not state under what conditions that limits review. The policy requires officers to document whether they viewed a recording prior to completing a related report. (§§12; 17; 19)

#### **12 SPECIAL CIRCUMSTANCES**

...

##### **Use of Force Incidents**

... When feasible, an officer involved in a use of force incident may, but is not required to, review the BWC recording before completing his incident report. . .

Incidents involving deadly force, serious bodily injury, or allegations of serious misconduct captured on BWC shall be handled directly by the Homicide Division or Internal Affairs Division investigator on the scene.

Homocide Division and Internal Affairs Division each shall have the authority to classify a video recording as 'Confidential.'

##### **Weapon Discharges:**

Any officer involved in a weapons discharge shall be allowed to review video captured by his BWC at the scene prior to being compelled to give a statement.

#### **17 DOCUMENTATION WITHIN INCIDENT REPORTS**

...

In incidents requiring an officer to complete an incident report, officers shall ensure each BWC recording is documented within the incident report by selecting the appropriate option in the RMS drop-down menu. In instances where no BWC is available, officers shall select No BWC. In instance where there is a BWC recording that has been reviewed by the officer prior to completing his report, the officer shall select 'BWC - Reviewed'. In instances where there is a BWC recording available but the officer completing the report has not reviewed the video prior to completing his report, the officers shall select 'BWC- Not Reviewed.'

The fact that a recording was made shall also be documented on any other corresponding documentation including, but not limited to, any of the following, crash report, Vehicle Pursuit form, Conducted Energy Device (CED) report, Use of Force report, etc.

...

#### **19 REVIEWING BWC DIGITAL EVIDENCE**

...

##### **Employee Reviews:**

Officers shall be mindful of how digital evidence is useful in completing incident reports. Officers may, but are

not required to review a BWC recording before completing an initial report.  
Officers shall view their own digital evidence especially prior to providing testimony at hearings, trials, or depositions.

### ✔ **Limits Retention of Footage**

Houston PD deletes non-evidentiary footage after 180 days. (§21)

#### **20 RETENTION**

Recordings not classified as Class B+ [recordings related to criminal offenses that are Class B misdemeanors or above] or not needed for other official HPD business shall be retained for 180 days from the date of the recording before being automatically purged from the VEMS database.

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

Houston PD prohibits unauthorized footage sharing, and prohibits tampering of “BWC equipment and software” — but footage is neither “equipment” nor “software.” (§§2; 14)

#### **2 INTEGRITY OF VIDEO RECORDINGS**

...

All digital evidence from any BWC shall be used for official law enforcement business only and is the property of the Houston Police Department. Only personnel authorized by the Chief of Police shall use or be in possession of a BWC device. All audio and video footage captured by a BWC of a law enforcement activity shall be treated as evidence.

...

#### **14 PROHIBITED USAGE**

...

Officers are further prohibited from making copies of digital recordings or uploading digital recordings 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.

...

Recordings made by officers while performing their police duties shall not be used for personal gain or entertainment.

...

Officers shall not dismantle, erase, alter, or tamper with any department-issued BWC equipment or software, unless otherwise authorized by the General Order, by the Chief of Police, or by a court of law.

### ✘ **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. (§26)

#### **26 REQUESTS FOR RECORDINGS**

Recordings captured during the scope of an officer’s duties may be subject to release under applicable laws.

These recordings shall only be used for official purposes such as court or other official proceedings. Any other attempt to access, copy, forward or release any digital evidence for other than official law enforcement use and contrary to this General Order is strictly prohibited.

Under Texas Occupations Code Section 1701.659, it is a Class A misdemeanor for a peace officer or other employee of the department to release a recording created with a body worn camera without permission of the department.

#### **Texas Public Information Act (TPIA) Requests**

All requests from persons for copies or viewing of video shall be referred to the Office of Public Affairs. These requests shall be handled in accordance with the Public Information Act, Chapter 552 of the Texas Government Code, 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.



# 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 15, 2015. Is there a new version of this policy? [Let us know.](#)*

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

LVMPD does not publish its BWC policy on its website. However, a [draft policy](#) was found on the Bureau of Justice Assistance's Body Worn Camera Toolkit. The policy is dated December 2014, and is §5/210.01 of the LVMPD Department Manual.

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

LVMPD requires officers to record "all contacts with citizens in the following occurrences."

### General Procedure

...

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.

LVMPD gives officers discretion to turn off their cameras in certain situations. Whenever officers exercise discretion, they must record the justification on camera before turning it off. When officers fail to record, they must document the reason in their reports.

#### General Procedure

Officers shall continue recording until they announce on camera that they are deactivating their BWC:

Under the exceptions above. Officers must state the specific reason(s) they are turning off their cameras before doing so . . .

#### Camera Deployment

...

B.7. 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

. . . 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. . .

.

[Recording need not continue if] [t]he event is of a sensitive nature, i.e. child sexual assault, presence of child pornography, etc. . . .

#### Victims and Witnesses

. . . 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

. . . 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. . . .

### ✘ **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/CIRT/IAB viewing the footage.

- Involved officers shall be allowed to view their own BWC recording prior to a walkthrough and statement;
- Witness officers shall be allowed to view their own BWC recording prior to a walkthrough and 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

##### General

. . . Once recordings are uploaded to [the video storage and access system] 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. The Body Camera Detail is responsible for the storage and security of BWC recording files;
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 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 Sheriff or his designee. Only trained LVMPD personnel shall operate the BWC;
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 permits — but does not require — the Internal Affairs Bureau (IAB) to show footage to potential complainants. But the policy does not detail how requests to view footage should be made or handled.

#### 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;

All other requests for footage must be made pursuant to Nevada's Open Records Act.

RECORDED DATA ACCESS AND REVIEW

G. REQUESTS FOR VIDEO/AUDIO PURSUANT TO NEVADA'S OPEN RECORDS ACT - Nevada law allows for the public to request to inspect and/or copies of public records. Whether a BWC recording is a public record will depend on several factors [listed within].

 **Limits Biometric Searching of Footage**

LVMPD 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: July 14, 2016. 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, but buried within its lengthy [Standard Operating Procedures](#). The manual makes the camera policy somewhat challenging to find, using the lesser-known term "Wearable Video System" (WVS). The policy is numbered SOP 4.31, beginning on page 338 of the manual. It was last revised on February 8, 2016.

The policy references accreditation standards from the Commission on Accreditation for Law Enforcement Agencies (CALEA), specifically [CALEA standards 41.3.8 \(In-Car Audio/Video\)](#) and [83.2.2 \(Photography and Video Tapes\)](#), and from the Kentucky Association of Chiefs of Police (KACP), specifically KACP standards 17.13, 20.2, and 20.5. We were not able to review either set of accreditation standards, because the CALEA standards are only available through a paid subscription. The specific KACP standards cited in Louisville PD's policy are not available online.

## ✓ 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)

When practical, officers shall activate their WVS in recording mode, prior to their arrival on-scene, for any call for service or engaging in any law enforcement activity or encounter. 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.). 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.

...

Officers shall use their WVS to record all consent searches in their entirety. This includes recording the subject giving consent to the search.

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 an officer fails to activate his/her WVS in recording mode, fails to record the complete incident or interrupts the recording, he/she shall document the reason in a memorandum and forward it, through the appropriate chain of command, to his/her Bureau Commander. When an officer activates his/her WVS and such activation is not required by policy and the circumstances do not require continued recording, he/she may use his/her discretion when deciding to deactivate the WVS (KACP 17.13c).

The policy does not require officers to deactivate cameras when a citizen requests that they do so, but does provide officers with the discretion to deactivate their camera in order to preserve the anonymity of a person giving an anonymous tip. (§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 policy provides that, when given permission by a superior, officers may deactivate their BWC in extended non-law enforcement situations. However, the policy requires officers in that situation reactivate their camera as soon as they have contact with the public. (§4.31.6)

If a member is on an extended scene with a low likelihood of taking law enforcement action (e.g. downed power lines, downed tree, blocking intersection, etc.), a commanding officer may authorize him/her to discontinue recording. He/she shall reactivate his/her WVS during any public contact at the scene.

## ○ 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, cross-referencing Kentucky statutes and "applicable records retention schedules." The [Louisville Metro Records Retention Schedule](#), Series L6896, requires the destruction of non-evidentiary footage after 30 days. (§4.31.15; Louisville Metro Records Retention Schedule, Series L6896 (page 108))

#### 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.

#### Louisville Metro Records Retention Schedule, Series L6896

Retain non-evidentiary recordings for thirty (30) days, then destroy. Evidentiary recordings used in any investigation, pending investigation, litigation or open records requests must be kept until all investigative or legal activity is completed. Then destroy the original and all copies of the recording.

### ○ 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 prohibits the removal of any recording outside of the LMPD without the written authorization of the Chief of Police or his/her designee and provides that recordings are the exclusive property of the LMPD and shall be used for law enforcement purposes only. But there is no constraint on who may be a designee, or how many designees there may be. The policy also includes several provisions controlling access to footage. (§§4.31.15; 4.31.5-6)

#### 4.31.15 Retention/Distribution

... Recordings generated on departmental equipment are the exclusive property of the LMPD and shall be available for departmental use in accordance with applicable legal restrictions, or upon direct authority of the Chief of Police, or his/her designee. WVS recordings shall be used for official law enforcement purposes only.

...

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 and also tasks supervisors with performing random audits to verify compliance with the policy." (§§4.31.5; 4.31.14)

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 the 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 15, 2015. 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.

# 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 15, 2015. 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: July 22, 2016. 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, a version of its [policy](#) was found on the Bureau of Justice Assistance's Body Worn Camera Toolkit. This policy was effective October 1, 2012, and we could not locate a more recent version. Mesa [intends to roll out](#) body-worn cameras to its entire patrol force by mid-2016.

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

Mesa PD provides a list of situations where officers should "make every effort to activate the on-officer camera...if practical." The policy specifies that cameras may be turned off upon "completion" of the event but does not give additional guidance. [§§ General Guidelines / Operational Guidelines; Use Guidelines]

**[General Guidelines / Operational Guidelines]** Officers will make every effort to place the on-officer body camera in the Event Mode as soon as practical during a given situation.

**[General Guidelines / Use Guidelines]** Officers will make every effort to activate the on-officer camera to record the following event(s), if practical:

- Traffic Stops and citizen contacts.
- Impaired driver investigations.
- Vehicle pursuits and Failure to Yield incidents.
- Accident scenes.
- All calls for service.
- Transportation of any prisoner(s) or citizens for any reason.
- Any time an officer feels 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 legitimate law enforcement contacts.

...

Once on, officers will continue to record until the completion of the event, or they have left the scene except for instances outlined in this 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).

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 prohibits recording in places with a "reasonable expectation of privacy." [§ General Guidelines / 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 appear to be given discretion to discontinue recording when a victim requests, but the policy lacks details that might strengthen this provision. [§ General Guidelines / Use Guidelines]

Consideration may be given when a victim requests not to be recorded. Contact an on-duty supervisor for resolution, if needed

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

Mesa PD allows officers to view footage before completing their written reports. [§ General Guidelines / Use Guidelines]

Officers may use media captured via the on-officer body camera to assist with the investigation and completion of reports.

### ⊗ **Limits Retention of Footage**

The policy notes that recordings are retained and that unclassified footage will be purged, but relies on Arizona law to define retention periods. However, we could not identify the Arizona law that contains such a schedule. [§ Storage, Documentation & Retention Guidelines / Media Storage/ Evidentiary Value]

All on-officer body camera recordings shall be retained and considered as Evidence.

...

Recordings not attached to a case or investigation will be purged per schedule determined by Arizona Retention Laws.

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

Mesa 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." [§§ General Guidelines / Operational Guidelines; General Guidelines / Restrictions; Storage, Documentation & Retention Guidelines / Media Storage/ Evidentiary Value]

**[General Guidelines / Operational Guidelines]** On-officer body camera recordings will be used for official Department purposes only.

**[General Guidelines / Restrictions]** Members accessing, copying or releasing of on-officer body camera recordings for other than official law enforcement purposes are prohibited and subject to discipline.

**[Storage, Documentation & Retention Guidelines / Media Storage/ Evidentiary Value]** Do not erase, alter or



tamper with any ATC [Axon Tactical Computer] or collected data.

The policy mentions auditing, but this clause does not appear to refer to access to footage. [§ Storage, Documentation & Retention Guidelines / Inspection and audit]

During the one year pilot period, supervisors will conduct random reviews of on-officer body camera recordings, with the affected Division Commander approval.

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

Mesa PD does not expressly allow complainants to view relevant footage. [§§ General Guidelines / Restrictions; Restrictions; Storage, Documentation & Retention Guidelines / Media Storage/ Evidentiary Value]

[General Guidelines / Restrictions] Officers will not allow citizens to review the recordings.

...

Dissemination of information will be:

- For criminal justice purposes only.
- For training purposes only when approved by a Division Commander.

[Storage, Documentation & Retention Guidelines / Media Storage/ Evidentiary Value]

- On-officer body camera recordings captured as part of a Department member's duties shall be the property of the Mesa Police Department and be considered a record of the Mesa 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 on-officer body camera recordings, officers and affected members will ensure proper redaction is completed.

### ✘ **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

*Last updated: July 18, 2016. 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 fails to publish the latest BWC policy on its website. MPD's latest policy is from February 2015.

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

MPD requires officers to use their BWC at "all times when on duty." (§10.4.1)

Officers utilizing body worn camera equipment shall wear the device at all times when on duty.

MPD's policy clearly describes the type of incidents during which BWCs should be activated. (§10.4.5)

Body Worn Camera Activation: The body worn camera shall be activated to record all portions of the following type incidents:

- a) Responding to call for service in an emergency mode
- b) All vehicle pursuits, or foot pursuits
- c) All traffic stops to include the investigation of a vehicle and vehicle occupants
- d) All searches including, but not limited to, people, vehicles, and buildings
- e) All requests for a consent to search without a warrant, including searches of persons, buildings, or vehicles
- f) All requests for searches and deployments of drug detection canines involving vehicles, when practical
- g) All arrests and/or citations
- h) Statements from victims/witnesses after their consent
- i) Any incident upon the direction of a supervisor, at the request of another police officer, or anytime the officer deems it appropriate to activate the body camera
- j) Officers shall only use the department issued body worn camera equipment to record official departmental activities
- k) Any other legitimate law enforcement contacts Officers responding to these types of incidents shall activate the body worn camera equipment prior to exiting their vehicle

While the policy clearly defines when officers must use their BWC, it does not require officers to provide concrete justification for deactivating during or failing to record required events.

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

MPD's policy offers vague guidance on personal privacy concerns but does not protect victims from being recorded without informed consent. (§10.4.6.1)

Officers shall not activate the body worn camera equipment:

...

- f) Locations where a reasonable expectation of privacy exists (e.g., locker rooms, restrooms). Except while handling a legitimate call in one of these locations.
- g) While confidential informants are being interviewed, or when undercover officers are present.
- h) To document any deaths for crime scene purposes, unless directed by a supervisor.

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

MPD's policy does not prohibit officers from viewing relevant footage before filing an initial written report or statement, and instructs officers to include reference to the recording in incident reports. (§10.4.8)

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**

MPD requires that the department maintain "miscellaneous recordings" for 90 days, but this appears to be a minimum rather than a requirement to delete footage (§10.4.5.2)

Miscellaneous recordings will be maintained for a period of ninety (90) days. . . .

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

MPD prohibits officers from altering and deleting information from body worn cameras. (§10.4.6.3)

Employees accessing, copying, altering, deleting, reusing, or releasing body worn camera recordings for other than departmental requirements shall be subject to discipline and/or criminal prosecution.

While officers are prohibited from tampering with the BWC footage, the policy does not expressly prohibit unauthorized access or require information to 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**

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: July 14, 2016. Is there a new version of this policy? Let us know.*

## ✓ **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: July 21, 2016. 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
  - ✘ 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: July 14, 2016. Is there a new version of this policy? [Let us know.](#)*

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

Minneapolis PD does not appear to have the most recent version of its [BWC policy](#) on its website, though the department has made its policy readily available in the past and has shared the most updated policy with the public and the media.

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

The policy specifies certain contexts where officers must activate the BWC before any citizen contact, and allows 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)

### Activation Required

- a. When safe to do so, officers shall manually activate the BWC during the below 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.
- 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. However, the policy appears to give officers arbitrary discretion by allowing them to “deactivate the BWC to conserve power and/or storage,” leaving a concerning potential loophole.

The policy also specifies certain contacts where officers may, but are not required to, deactivate the BWC. (§IV.F)

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:
  - While protecting accident scenes
  - Monitoring assigned traffic posts
  - Assisting motorists
  - 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 is necessary to deactivate the BWC to conserve power and/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. . . .
  - When ordered by a supervisor. Both the officer and the supervisor shall document the reason for the deactivation as described below in the Report Writing section of this policy.

Officers must describe why they deactivated the camera out loud, prior to deactivation, as well as in their reports (if one is prepared). If a report is not prepared, the reason for deactivation must still be documented. However, the policy does not require justification for failure to record. (§§IV.F.3; IV.G.2)

When a BWC is deactivated officers shall describe the reason by narration prior to deactivation.

F.3. If a report is prepared, the deactivation and the reason therefore shall also be documented in the officer’s report or supplement.

G.2. If a report was not prepared, the reason for the deactivation shall be documented via added remarks in the CAD.

...

An officer shall document the following in his/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 specifies protected classes of vulnerable individuals, including those individuals

subject to strip searches, victims, and witnesses, and gives officers discretion to turn off cameras after considering the vulnerability of the victim. The policy encourages, but does not require, informed consent from those vulnerable individuals prior to recording. (§§IV.E.2.a; IV.F.2.)

IV.E.2.a. . . . Officers should make an effort to notify a victim or witness of the use of the BWC and should attempt to gain their consent to record the statement.

IV.F.2. . . . 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.

The policy also encourages, but does not require, officers to notify members of the public that they are being recorded and allows discretion for officers to not answer an inquiry from the public as to whether the camera is recording. (§IV.A.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.

Under the policy an officer may — but is not required to — deactivate the camera if a party requests not to be recorded. The policy instructs the officer to weigh the “overall circumstances and what is most beneficial to all involved” before deciding whether to honor such request. (§IV.F.2)

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. It is up to the officer to make the determination as to what is best for the investigation or contact. . . .

The policy requires officers to turn the camera away during strip searches so video of the person being searched is not captured. (§IV.E.1.c)

All strip searches shall be recorded by at least one person present during the entirety of the strip search. . . .

- i. The camera shall be positioned to assure that the person being searched is not captured on video.

Notably, the policy does prohibit officers from recording constitutionally protected activities. (§IV.E.3.)

The BWC shall not be activated solely for the purpose of surveillance of, or identification of individuals engaged in constitutionally protected activities conducted in a lawful manner.

### **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.1. To ensure the accuracy of reports, an officer should review audio and video data before making a report or statement.

. . .

I.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 for reviews);
- . . .
- Any other purpose authorized under this policy and consistent with State and Federal law.

In “critical incidents” (situations including deadly force, death, or great bodily harm) the policy notes that video access requires approval, but still does not specify whether officers can review footage prior to writing reports in these cases. (§IV.J.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. However, the policy requires footage that is flagged as related to arrests, citations or use of force to be 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
NonEvidentiary/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 tampering with or destroying BWC footage, but provides an exception for “authorized personnel,” which the policy does not explicitly define. (§IV.B.4)

Disabling BWC equipment, intentionally interfering with audio/video recording capabilities and/or altering duplicating, deleting, or destroying BWC recordings is 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.

The policy notes that access to data is logged and retained. (§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.

### ✘ **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 and formal legal avenues to make footage available. (§IV.I.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.

While the policy provides that BWC footage “may be accessed and/or used as evidence relating to a complaint of misconduct made against an officer,” the policy does not expressly

allow individuals who are filing police misconduct complaints to view relevant footage and refers public requests for access to other departments and statutes. (§§IV.1.4; IV.1.6-7).

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 relating to:
  - ...
  - 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);
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
  - ✓ Limits Retention of Footage
  - ✓ Protects Footage Against Tampering and Misuse
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - Limits Biometric Searching of Footage

*Last updated: July 18, 2016. 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.

# 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: July 14, 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 1143-page [Regulations Manual](#). The latest available version of the Regulations Manual is dated March 15, 2016. The BWC policy is Chapter 41.3.10, starting on page 181, and was last revised November 22, 2015.

## ○ 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. (§34)

34. 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.

#### **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; 33)

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.

...

33. 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. . . .
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; 51)

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. . . .
51. 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: July 29, 2016. Is there a new version of this policy? [Let us know.](#)*

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## ✗ Makes the Department Policy Publicly and Readily Available

NYPD does not publish its BWC policy on its website. However, the department has released a draft of a new proposed policy and is actively soliciting feedback from the public. The [full text of the draft](#) is available from the [Policing Project](#) and is current through July 31, 2016.

## ✓ 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 (§6).

3. MANDATORY ACTIVATION: UMOS must activate BWC prior to initiating or assisting another uniformed member of service with:
  - a. Taking any of the following investigative or enforcement actions:
    - i. Arrests
    - ii. A summonses (only if the operator of the vehicle is present)
    - iii. A summonses (only if the operator of the vehicle is present) B and C summonses
    - iv. Vehicle stops
    - v. Investigative Encounters with suspects based on founded or reasonable suspicion, namely Level 2 (Common Law Right of Inquiry) and Level 3 (Terry Stops) Investigative Encounters, as described in P.G. 212-11
    - vi. Any search of a person or his or her property, excluding inventory searches
    - vii. Interactions with an Emotionally Disturbed Person
    - viii. Uses of force as defined in P.G. 221-03
    - ix. Pursuits
    - x. In-custody transportation of prisoners/arrested persons (including transportation to the stationhouse, hospital or any detention facility)
  - b. Responding to the scene of any in-progress calls for service, including 10-13, the 10-30 series, 10-85 (excluding administrative assistance), calls for service involving a weapon, and Shot Spotter activations.
  - c. Conducting an interior patrol of either a Housing Authority residential building (pursuant to P.G. 212-60)

or non-Housing Authority residential building enrolled in the Trespass Affidavit Program (pursuant to P.G. 212-59). BWCs must be activated immediately before entering the residential building and should not be deactivated until exiting the building and concluding any associated police action.

...

4. DISCRETIONARY ACTIVATION: UMOS may record other activities when, in the member's judgment, it would be beneficial to record, so long as recording is not prohibited by step 6.

...

6. PROHIBITED RECORDINGS: BWCs shall only be used while conducting official law enforcement duties. Do not record any of the following events or locations:

- a. The performance of administrative duties or non-enforcement functions
- b. Activities within the command or Department facilities, except for lodging a prisoner
- c. Departmental meetings or training
- d. Personal conversations of or between Department personnel without the recorded employees' knowledge
- e. Personal, off-duty activity, including paid details
- f. Interviewing a current or potential confidential informant
- g. Interviewing the victim of a sex crime
- h. Strip searches
- i. When present in a court facility, except for the immediate lodging of a prisoner
- j. When present in a medical facility
  - i. If present in an ambulance, however, refrain from recording medical treatment or patient/caregiver conversations, but the UMOS may continue to record if necessary, e.g., the aided individual is in custody and potentially combative or is a victim and consents to the recording
- k. Any individuals who are engaged in political activity (See P.G. 212-72). Political activity is the exercise of a right of free expression or association for the purpose of maintaining or changing governmental policies or social conditions.
- l. Report the recording of a prohibited event listed in this step to the Patrol/Unit Supervisor and make an ACTIVITY LOG entry describing the event.

## NYPD also spells out the circumstances in which officers may deactivate their cameras. (§5)

5. DEACTIVATION: Once the BWC has been activated, continue recording until the investigative or enforcement action is concluded. If the recorded event is an arrest, members should continue recording and not deactivate the BWC until the prisoner is lodged at a command for processing.

- a. The BWC may be deactivated upon a recorded request by a member of the public if in the judgment of the UMOS it is safe and advisable to do so and after considering all the circumstances, including the requester's right to privacy. If a suspect is present at the scene, do not deactivate the BWC.

## When officers fail to record required incidents, NYPD requires them to document and justify such failures. (§3.d)

d. Upon discovery of a failure to record or the interruption of a recording involving any event listed in this step, report such failure or interruption to the Patrol/Unit 3 Supervisor and make an ACTIVITY LOG entry describing the event and the reason the event was not recorded.

## 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. (§6)

6. PROHIBITED RECORDINGS: BWCs shall only be used while conducting official law enforcement duties. Do not record any of the following events or locations:

...

- g. Interviewing the victim of a sex crime
- h. Strip searches

...

- j. When present in a medical facility
  - i. If present in an ambulance, however, refrain from recording medical treatment or patient/caregiver conversations, but the UMOS may continue to record if necessary, e.g., the aided individual is in custody and potentially combative or is a victim and consents to the recording
- k. Any individuals who are engaged in political activity (See P.G. 212-72). Political activity is the exercise of a right of free expression or association for the purpose of maintaining or changing governmental policies or social conditions



NYPD advises officers to “consider the needs of victims and witness and the sensitive of the nature of the crime being reported” in deciding whether to record. (NOTE following §3)

NOTE: . . . The mandatory recording requirements in step 3 may cause the recording of initial accounts by victims or witnesses. Other than a victim of a sex crime, members should generally record initial encounters with witnesses or victims, such as a witness or victim’s initial report, spontaneous utterances, physical injuries, or any relevant physical observations of the scene. However, members must consider the needs of victims and witnesses and the sensitivity of the nature of the crime being reported in deciding whether and for how long the statement should be recorded (provided that any deactivation is in accordance with 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 never requires them to do so. The policy would be stronger if it said that officers “must” deactivate in such situations. (§5.a)

a. The BWC may be deactivated upon a recorded request by a member of the public if in the judgment of the UMOS it is safe and advisable to do so and after considering all the circumstances, including the requester’s right to privacy. If a suspect is present at the scene, do not deactivate the BWC.

Officers are encouraged to notify subjects that they are being recorded. (§2)

2. NOTICE OF RECORDING: Upon activating a BWC for recording, members are encouraged to advise members of the public that they are being recorded as soon as it is safe and practicable to do so. Consent from a subject is not required to start or continue recording.

a. Suggested notification: *Sir/Ma’am, I want to advise you that our interaction is being recorded by a body-camera.*

### ✘ 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. (§9)

#### 9. VIEWING OF BWC RECORDINGS:

- a. In the performance of their duties, members may view their own BWC recordings, except for recordings related to a Level 3 use of force.
  - i. Members who record events related to a Level 3 use of force must refrain from reviewing BWC recordings of the event and immediately surrender his or her BWC to the Force Investigation Division Supervisor or other designated supervisor. The UMOS [Uniformed Member of the Service] may review recordings related to the Level 3 use of force before giving an official statement but at a time and place set by the Force Investigation Division Supervisor.
- b. Except as prohibited in 9(a), members may view BWC recordings made by other members if the viewing is in furtherance of an investigation, preparation of a case or other official purposes. . . .

### ✘ Limits Retention of Footage

The proposed NYPD policy gives permission to the Risk Management Bureau to delete video “if appropriate.” However it does not specify, and thus does not require, a maximum retention period. (§34)

. . . Risk Management Bureau may purge video, if appropriate.

The discussion material attached to the proposed policy suggests a six month retention policy for unflagged footage. But this isn’t found in the policy itself, nor is it clear that six months is a *maximum* retention period. (page 10)

As a general matter, the NYPD intends to retain video for six months. . . .

✔ **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. (§§7-9)

7. PRESERVATION AND DOCUMENTATION OF BWC FOOTAGE:

e. Do not attempt to alter or delete BWC recordings. Members may correct or supplement the tags on their own recordings

8. RELEASE OF BWC RECORDINGS: BWC recordings are the property of the New York City Police Department and shall be treated as official records and handled pursuant to existing Department policies and procedures.

Do not duplicate, show, or release BWC recordings except for official purposes.

9. VIEWING OF BWC RECORDINGS:

...

b. ... All viewings will be recorded and monitored by the BWC audit system.

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

The discussion material attached to the proposed policy indicates that NYPD intends to give complainants access to recorded footage. (Page 9)

... The NYPD also believes that members of the public, in non-criminal cases, should be allowed to view video prior to making a formal CCRB complaint.

However, the actual policy does not reflect that intention. In fact, it states that requests should always be declined and referred to prosecutors. (§9.c)

c. Requests by witnesses or victims to view a BWC recording should be handled pursuant to the note after step 3.

In the note after step 3:

Requests by a witness or victim to view a BWC recording that depicts a suspect should be declined and referred to an Assistant District Attorney.

✘ **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 15, 2015. Is there a new version of this policy? [Let us know.](#)*

## ✓ **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.

## 🟡 Addresses Personal Privacy Concerns

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: July 18, 2016. 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 version is from October 2015.

## ✔ **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: July 8, 2016. Is there a new version of this policy? [Let us know.](#)*

## ✓ 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 policy was issued on May 26, 2016, and was current as of June 27, 2016.

## ○ Limits Officer Discretion on When to Record

Omaha PD requires officers to record “all law enforcement-related encounters” but provides relatively wide discretion by beginning the section with “when feasible” — a distinction it does not define. (§§V.E-F; V.K)

E. When feasible, officers shall activate the BWC when they arrive in the area of the call for service and during all law enforcement-related encounters and activities that occur while officers are on duty.

1. Examples of law enforcement-related activities 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 audible and visually recorded.

F. When feasible, backup/assisting officers shall activate their BWC’s, regardless of whether or not other officers’ BWC’s are activated or other recording devices are recording an incident.

...

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 “Force - Use of Force” policy). The BWC shall NOT be deactivated until a supervisor determines the

incident is completed.

The policy also allows officers to deactivate the camera “if they do not reasonably believe that deactivation will result in loss of critical documentary information,” but before they do, officers must verbally record the reason on camera. (§§V.L; V.O)

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 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.

...

O. 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.).

When officers fail to record a required incident, they must provide a written justification in their Daily Report. (§V.G)

G. If officers do NOT activate the BWC during an incident they would be expected to record, they shall document their reason(s) for not recording in the comments field of the Daily Report under the “Camera” category and “BWC” section.

## ○ Addresses Personal Privacy Concerns

Omaha PD prohibits officers from recording in places where “a reasonable expectation of privacy exists.” The policy allows officers to choose to deactivate their cameras if — “in the officer’s judgement” — it would be “inappropriate” to record the victim in certain “sensitive” circumstances. However, the policy does allow these victims to affirmatively opt out of recording. (§§V.L.4; VI)

V. 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.

...

VI. Privacy Considerations and Prohibitions

1. To respect the dignity of others, officers will try to avoid recording videos of person 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.

Officers are not required to notify subjects that they are being recorded. (§V.D)

D. When feasible, officers will inform subjects that they are being recorded via BWC.

### ✘ Prohibits Officer Pre-Report Viewing

OPD allows officers to view recordings when preparing their reports. (§VII.E)

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. (§IV.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.
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 “Force - 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.

### ✘ 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. (§§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, tablets, 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 complaintants to view footage, and forbids employees from playing back or disseminating footage outside the agency without prior authorization. (§§V.I; VII.A)

V. Body Worn Camera Operational Guidelines

. . .

I. Employees shall not play back BWC recordings to members of the public.

. . .

VII. Recording, Duplication 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.

# 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: July 21, 2016. 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 May 6, 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.
- 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. (§§3.25.4; 3.25.5.G.3; 3.25.6; 3.25.7.F-G)

[3.25.4] 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 media 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. 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. 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. (§3.25.9.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. 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.

# 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: January 14, 2016. 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 pilot [BWC policy](#) on its website, linked from the Department's [manual of Directives](#). Directive 4.21 on "Body-Worn Cameras — Voluntary Pilot Program" was issued and effective on April 20, 2015.

## ✓ **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. (§§4-A, B)

- 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 handling a disturbance or crisis related incident,
  6. When handling any protest or demonstration, and
  7. When confronted by any member of the general public that is or may become confrontational, antagonistic or hostile.
- 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. . . .

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 location 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,
3. When the recording would capture gruesome images, persons nude or when sensitive human areas are exposed and there is no legitimate law enforcement need to capture the images,
4. When entering a religious institution, during services, and
5. When entering a hospital room or private patient area in a hospital.

4-C. PROHIBITED RECORDING

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. To record conversations with confidential informants and undercover officers,
- d. During any strip searches, . . .

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.

**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 and may view shared digital recordings from other officers on scene for report writing, court preparations, and/or training purposes.

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, seriously injured officer, a motor vehicle accident involving serious bodily injury or death, 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.

1. The supervisor shall immediately notify the Body-Worn Camera System Administrator of the incident and request the video footage be locked from view from all departmental personnel except the Police Commissioner, Deputy Commissioners, the assigned investigator, 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 video footage is uploaded, stored, and locked, the Body-Worn Camera will be returned to the officer, if possible, as soon as practical.

### ✘ Limits Retention of Footage

Philadelphia PD specifies a retention period of 15 days for unflagged footage, but that appears to be a minimum retention period. 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, digital recordings captured by Body-Worn Cameras shall be retained for fifteen (15) 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 Voluntary Pilot Program shall be fifteen (15) days, unless video is required for evidentiary purposes. 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-5)

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-5. In no event shall any digital recording captured by a Body-Worn Camera be used for the purposes of officer ridicule or embarrassment. This includes submission of any portion of a digital recording from a Body-Worn Camera to a media organization.

### ✘ 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/ Body-Worn Camera System Administrator 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 15, 2015. Is there a new version of this policy? [Let us know.](#)*

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## ✘ **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: July 20, 2016. Is this policy now publicly available? [Let us know.](#)*

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

According to the Pittsburgh Bureau of Police's [grant application](#) in 2015 for body worn cameras, at least 35 officers on motorcycles and bicycles have worn cameras while on patrol. In September 2015, the Department of Justice [awarded](#) the department a \$250,000 grant to expand its body camera program.

While body worn cameras are worn by officers on the streets of Pittsburgh, we have not been able to locate a public version of the department's policy.

# 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: July 22, 2016. Is there a new version of this policy? [Let us know.](#)

## ✓ Makes the Department Policy Publicly and Readily Available

Rochester PD publishes its most recent publicly available BWC policy online on the [Project Updates](#) section of its website. The most recent policy is the [RPD BWC Manual](#), which was issued on June 15, 2016.

## ○ 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** (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.
- ...
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. However, RPD’s policy does not require officers to provide concrete justifications for failing to record required events. (§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.

## 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. (§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; VII.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.**

...

VII.A Members will document the existence of pertinent BWC recordings in various departmental reports and forms in accordance with training.

- 1. Some departmental reports and forms include a specific field members will utilize to note the existence of BWC recordings. This includes the Incident Report, Investigative Action Report, Field Interview Form (FIF), Grand Jury Referral Form, Subject Resistance Report (SRR), and 8A-6 Claim Form.

### ⊗ 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, policy does not indicate whether 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.



# 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
  - ✗ Makes Footage Available to Individuals Filing Complaints
  - ✗ Limits Biometric Searching of Footage

*Last updated: July 12, 2016. 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 132, titled "III-535 Mobile Video Recorders." The policy was current as of July 7, 2016.

## ✓ **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. 132-133)

### **Mobile Video Recordings**

The body camera is utilized to record law enforcement encounters, as defined above, which is to include, but not be limited to, the following types of events: traffic stops; pursuits; vehicle searches; confrontational citizen contacts; use of force situations; statements made by subjects, victims and witnesses; advising an individual of their Miranda rights; during interrogations.

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, with the exceptions noted below.

Officers who are found to have a pattern of not recording interactions will be subject to disciplinary action.

### **Prohibited Mobile Video 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 camera or fail to record an event, SLCPD requires them to document and justify their actions either on camera or in a written report. (p. 133-134)

#### **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 or street check 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. 132-133)

#### **Prohibited Mobile Video 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 during conversations with sensitive crime victims/witnesses and members of the community who wish to report or discuss criminal activity but 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. 133, Camera Use Procedures)

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: (1) wearing a body camera in a clearly visible manner, or (2) 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. 134, Review of Body Camera Media)

#### Review of Body 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. Only footage recorded accidentally seems to be limited to a 60 day retention period. (pp. 133-134)

#### Camera Use Procedures

...

Recorded media captured by the camera will be retained according to the Department's retention schedule.

...

Video footage of interactions where no arrest or citations were made shall be kept for 1 year. Accidental camera activations will only be retained for 60 days. 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 Evidence.

### ✘ Protects Footage Against Tampering and Misuse

SLCPD prohibits unauthorized copying and dissemination of footage — but it does not expressly prohibit footage tampering (i.e., modification and deletion). (p. 134, 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. Officers are also prohibited from retaining a recording of any activity or information obtained while on duty or acting in an official capacity as a law enforcement officer, duplicating or distributing a recording except as authorized by the employing law enforcement agency, and altering or deleting a recording.

The policy requires the purpose and approving authority for downloads to be noted in the system, but does not indicate that access to recorded footage is logged.

Video may be downloaded and copied for training purposes, but must be approved by the officers Lieutenant. The reason for download and approving authority's name shall be noted in the notes section in the on-line storage system. No further copies should be made and all copies should be destroyed once no longer needed.

### ✘ Makes Footage Available to Individuals Filing Complaints

SLCPD does not expressly allow individuals who are filing police misconduct complaints to view footage. (p. 134)

#### Review of Body 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

Requests 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 135 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
  - 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: July 15, 2016. 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 does not publish its policy on Body Worn Cameras on its website, but provided a copy upon request. The policy was revised on November 10th, 2015 and became effective on February 12, 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, and does not require informed consent from vulnerable individuals. SAPD also does not require officers to inform citizens that they are being recorded. (§§.06.A; F)

- 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.  
...
- 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).

### ⊗ 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
---	---------------	----------

...

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" but does not indicate that access is logged automatically in any way. (§.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 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 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: July 14, 2016. 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 March 9, 2016.

## ○ Limits Officer Discretion on When to Record

SDPD requires all officers to record all "enforcement related contacts. . .and continue recording until the contact is concluded[,]" and requires officers to provide concrete justifications for intentionally deactivating their BWC during events that officers are required to record. The policy has specific requirements for when to record during circumstances including enforcement related contacts; arrests; searches; transporting prisoners; suspect interviews; and special events. The policy also expressly states when officers can turn off their BWCs and lists specific prohibited recordings. (§V.I.1-7)

1. Enforcement Related Contacts The BWC should only be activated for law enforcement purposes.

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.

...

d. 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.
- e. Officers will always document why the BWC was intentionally deactivated during an enforcement contact.

However, the policy does not appear to require justification for failure to record required incidents.

## 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.C)

- c. 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)

- 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, 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.
- 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.

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.1,4)

- 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.4)

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.

It is unclear whether Evidence.com logs or audits access to the footage, and the policy does not indicate that 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)

- 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: July 15, 2016. 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. The group publishes the latest iteration of the draft policy for each meeting. The most recent publicly available [draft policy](#) is dated May 27, 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.I.1.c; III.J.5)

I. Duplication and Distribution.

...

1. 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.[c] 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.1.2.a)

2. 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
  - 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: July 13, 2016. 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

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 15, 2015. 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 16.091, effective April 1, 2015.

## ✓ Limits Officer Discretion on When to Record

Seattle PD requires officers to record a clearly defined set of police activity. (§4)

### 4. Officers Will Record Police Activity

Officers will record the following police activity:

- \* Response to 911 calls, starting when the officer begins travel to the call and ending consistent with paragraph 5 below
- \* Terry stops
- \* Traffic stops
- \* On-View Criminal Activity
- \* Arrests and seizures
- \* Searches and inventories of vehicles or persons
- \* Transports (excluding ride-alongs and passengers for meetings)
- \* Vehicle Eluding/Pursuits
- \* Questioning suspects or witnesses

If circumstances prevent recording with BWV at the beginning of an event, the officer shall begin recording as soon as practical.

Employees will activate the BWV to record the above, even if the event is out of view of the camera.

Officers must record the entire event, and if they stop recording prematurely, they must document the reason in their report. (§5)

#### 5. Once Recording Has Begun, Employees Shall Not Stop Recording Until the Event Has Concluded

Once BWV recording has begun, officers will record the entire event. An event has concluded when all of the following apply:

- \* The employee has completed his or her part of the active investigation;
- \* There is little possibility that the employee will have further contact with any person involved in the event; and
- \* The employee is leaving the area of the event

...

Officers who stop recording with the BWV during an event must document the reason(s) for doing so in the GO report. If there is no GO created, the officer will document the reason(s) in an update to the call.

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, lack of video, or delay of the start of video in a call update and any related [reports].

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.

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.

### ○ Addresses Personal Privacy Concerns

Seattle PD prohibits officers from intentionally recording "places where a heightened expectation of privacy exists," but does not address specific categories of vulnerable people. (§4)

4. . . . Unless there is reasonable suspicion to believe that criminal activity is occurring or will occur, employees shall not intentionally record:

...

- \* Places where a heightened expectation of privacy exists, such as restrooms, jails, or hospitals, unless for a direct law enforcement purpose such as a crime in progress or the recording of the location is material to a criminal investigation.

Officers must notify all subjects that they are being recorded, but no consent is required unless the recording would take place in a residence or other private area. (§§4, 6)

4. . . . For residences or other private areas not open to the public, officers will ask for consent to record with BWV. The request and any response will be recorded. If the request is denied, officers will stop recording with BWV during the time that they are in the private area.

#### 6. Officers Shall Notify Persons of Recording

Officers using BWV shall notify persons that they are being recorded as soon as practical, and the notification must be on the recording.

Officers shall repeat the notification, if practical, for additional people that become involved in the recording.

### ⊗ Prohibits Officer Pre-Report Viewing

Seattle PD allows officers to view recorded footage for a wide range of purposes, including for investigations. (POL-2 §2)

#### 2. Employees May Review Recorded Video

Employees may view body-worn video for the following purposes:

- \* Complaint
- \* Criminal investigation
- \* Officer-involved collision, including Collision Review Board investigations
- \* Vehicle Pursuit investigation or review
- \* Force Review Board
- \* Public Disclosure request

- \* Use of Force review or investigation
- \* Performance appraisal
- \* As part of the Early Intervention System (EIS)
- \* Training purposes, with the permission of the involved officers.
- \* Audit and Quality Control/Troubleshooting

### ✘ **Limits Retention of Footage**

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

### ✘ **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, 5)

#### **1. All Body Worn Videos and Related Data are the Property of the Seattle Police Department**

Department policy governs all access, review, and release of body-worn video.

...

#### **5. Employees Shall Not Make Copies of Recorded Video Without Written Authorization From a Captain**

Promisingly, each time footage is viewed, Seattle PD employees must state the reason they are doing so. (POL-2 §4)

#### **4. Users Shall Note the Purpose for Viewing Video**

Any employee viewing a video shall manually make an entry in the application stating the purpose for viewing the video.

Each vendor’s viewing application automatically logs the identity of a user who accesses a particular video, as well as the date and time of access.

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

Seattle PD does not expressly allow individuals who are filing police misconduct complaints to view footage.

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

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



# 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: July 29, 2016. 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

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##### 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.

# 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: July 14, 2016. 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 does not publish its BWC policy on its website. However, Tampa PD's most current publicly available BWC policy was found on the [Bureau of Justice Assistance's Body Worn Camera Toolkit](#). This policy is dated March 2015.

## ○ 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. Use of force 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 use of force incident or other confrontational citizen contact is absolutely forbidden[.]

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 119.021(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](#). The office’s [records schedule for law enforcement](#), effective February 19, 2015, does not appear to include a schedule for body worn camera video. 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. 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: July 14, 2016. 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 May 11, 2015 and was current as of July 7, 2016.

On March 9, 2016, a representative of the Tucson Police Department informed us that the policy is currently being reviewed, and a new policy might be unveiled in about six months.

## ○ 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." The policy requires officers to begin recording these events "as soon as practical." (§3764.1)

Users shall activate the BWC to record the following events as soon as practical:

- On calls for service (upon arrival for priorities below Level 2; upon dispatch for priorities of Level 1 or Level 2).
- Upon Code 3 activation.
- During citizen contacts 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 Board of Inquiry 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.

However, the policy requires neither a concrete justification for turning the camera off nor for failing to record a required event.

### ○ 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.

...

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 interim period defined in this chapter. 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, but 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.

# 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: July 20, 2016. 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 June 29, 2015), 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.8 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 the member deems it 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.b)

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. At the completion of their shift, members 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.

## 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  
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