

BOSTON POLICE CAMERA ACTION TEAM

Body Camera Policy and Procedures

For

The Boston Police Department



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We are astonished to be able to even write this letter to those of you who will peruse this document. The Boston Police Camera Action Team was the smallest of ideas shared between two good friends who were fed up with being fed up. Now, it has grown into a community organization of over fifty members and support from citizens all over the country.

The issue of putting body cameras on our police officers has been a delicate one over the last few months. With the recent non-indictment of the officer who choked Mr. Eric Garner to death on Staten Island despite there being video evidence of the incident, the issue has become even more difficult to show its effectiveness and use.

We continue to believe, however, that body cameras are a necessary tool for rebuilding trust between the community and the police department, creating an environment of accountability and adding another form of evidence gathering to make the job of the officer easier. Aside from a number of studies and anecdotal claims supporting this idea, we know that we ourselves, many of our friends and countless of our fellow citizens have had negative encounters with some members of the police force and would have rather had that officer wearing a body camera as opposed to not wearing one.

We are both very grateful for those who joined BPCAT and continued on to the point we are at now and contributed mightily to the rules and procedures spelled out before you. We all spent many days and nights, weeks and months debating, articulating and finally agreeing upon the best answers to questions we had, privacy groups had, the police department had, and members of the general public had. We did our best to balance all of our concerns with sensible, fair policies that allow for the best use of these body cameras.

Our hope now is that, with the publishing of this report, Mayor Walsh, the City Council and Commissioner Evans will see to it to answer the call of their constituents to make Boston the first major city in the nation to not only equip our public servants with body cameras, but adopt this set of policies and make the best police force in the nation also its model.

With high hopes,

Segun Idowu
Co-Organizer
Boston Police Camera Action Team

Shekia Scott
Co-Organizer
Boston Police Camera Action Team

Acknowledgements

This work would not be possible without the tireless dedication of the individuals who devoted countless hours to building up the infrastructure of BPCAT, researching various policies and issues related to crafting the following set of rules and procedures, and contributing to the publication of this report. All of these individuals sacrificed much of their free time to making this effort possible and have the deepest gratitude of the co-organizers of BPCAT.

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Mattapan residents Shekia Scott and Segun Idowu co-founded the Boston Police Camera Action Team –also known as BPCAT – on August 13, 2014.

BPCAT was born out of a frustration with a lack of solutions to systemic issues affecting communities of color. The co-founders decided talking and tweeting were not enough and BPCAT was formed.

The group is committed to, not only equipping all of Boston's police officers with body cameras, but also drafting the rules and procedures that officers would follow once they are outfitted with these body cameras.

BPCAT held its first meeting in the offices of the ACLU of Massachusetts with ten other committed Boston residents. Since its first meeting, BPCAT membership has grown to over 50 residents from all over Massachusetts and support from all over the nation. BPCAT has also partnered or become affiliated with several community organizations and coalitions committed to ensuring Boston's police officers are held accountable.

The issue of placing body cameras on police officers has exploded across the nation. President Barack Obama announced on Monday, December 1, 2014 that the federal government would be committing \$75 million to equipping state and local police with the devices. That same week, on December 5, 2014, Boston's mayor, Martin J. Walsh, voiced his support for equipping the city's police officers with body cameras as part of a pilot program.

BPCAT hopes to equip all of Boston's officers with body cameras and work with the Boston Police Department on sensible policies surrounding their use before the year 2016.

While the events and aftermath of the tragedy in Ferguson, Missouri highlighted nationally the issues between local police departments and the citizens of color with whom they interact, Boston residents and law enforcement officials have been grappling with these issues and subsequent solutions for many years.

Body cameras are not a new idea for the Boston Police Department. Former Commissioner

Edward Davis acknowledged in a WBZ interview that he had worked for many years to outfit police officers with the tools as its chief law enforcement official, in order to reform the department through various measures. His desire for equipping Boston Police officers with body cameras was picked up by current Boston Police Commissioner William Evans who, in the same interview, acknowledged the usefulness of the devices and has expressed interest in seeing the idea come to fruition.

Ferguson made brighter, bolder and fiercer a fire that was already burning inside young people all over the nation. It was this event that pushed today's activist-leaders to come together and create groups and organizations dedicated to ensuring that the nation listen to and heed the calls for justice.

At the outset of the formation of the Boston Police Camera Action Team (BPCAT), the belief was held that the issue of putting body cameras on police officers was self-evident and easily understood. With further investigation and research, this assumption was shown to be shortsighted, at best.

The issue, it was discovered, was not as simple as answering the questions of where a police officer should wear

such a device or which company to reach out to. What mattered most was what happened *after* the officer clipped the body camera onto their uniform.

Questions such as: "Should an officer have autonomy over control of the body camera, or should the camera be turned on for the duration of an officers shift without the ability to

turn in off?" "If the officer has control over whether or not to turn on the body camera, what situation demands that s/he turn it on or off?" "Where will video data be stored?" "Will the recording be automatically uploaded or will the officer be tasked with uploading the data?" "What steps will be taken to ensure an officer or other police personnel cannot tamper with video data?" "Who has access to the video data after being uploaded?" "What happens to an officer who does not wear their body camera and is involved in an incident where the



device could have answered pertinent questions?" "What disciplinary actions will be taken if an officer turns their body camera on or off against departmental policy?"

None of these questions was easy to answer. BPCAT's Policy Committee spent several months studying different body camera programs in cities across the country, from Rialto, CA to Daytona, FL to Las Vegas, NV and Greenville, NC. These programs have ranged as much in the reasoning behind their initiation as the size of the city or town in which they were begun.

While there were many differences in the scope of these programs, the majority had one thing in common: they did not have any written policy to guide the use of body cameras on officers. For the few cities and towns that *did* have written policy and procedures for the use of body cameras, none of them contained any disciplinary action for failure to use the device and other major misuses.

The Policy Committee sought to create rules and procedures for the Boston Police Department to adopt that addressed as many of the aforementioned questions as possible. Missing in these guidelines are answers to questions of how video is uploaded, where data is stored and how this program would be paid for.

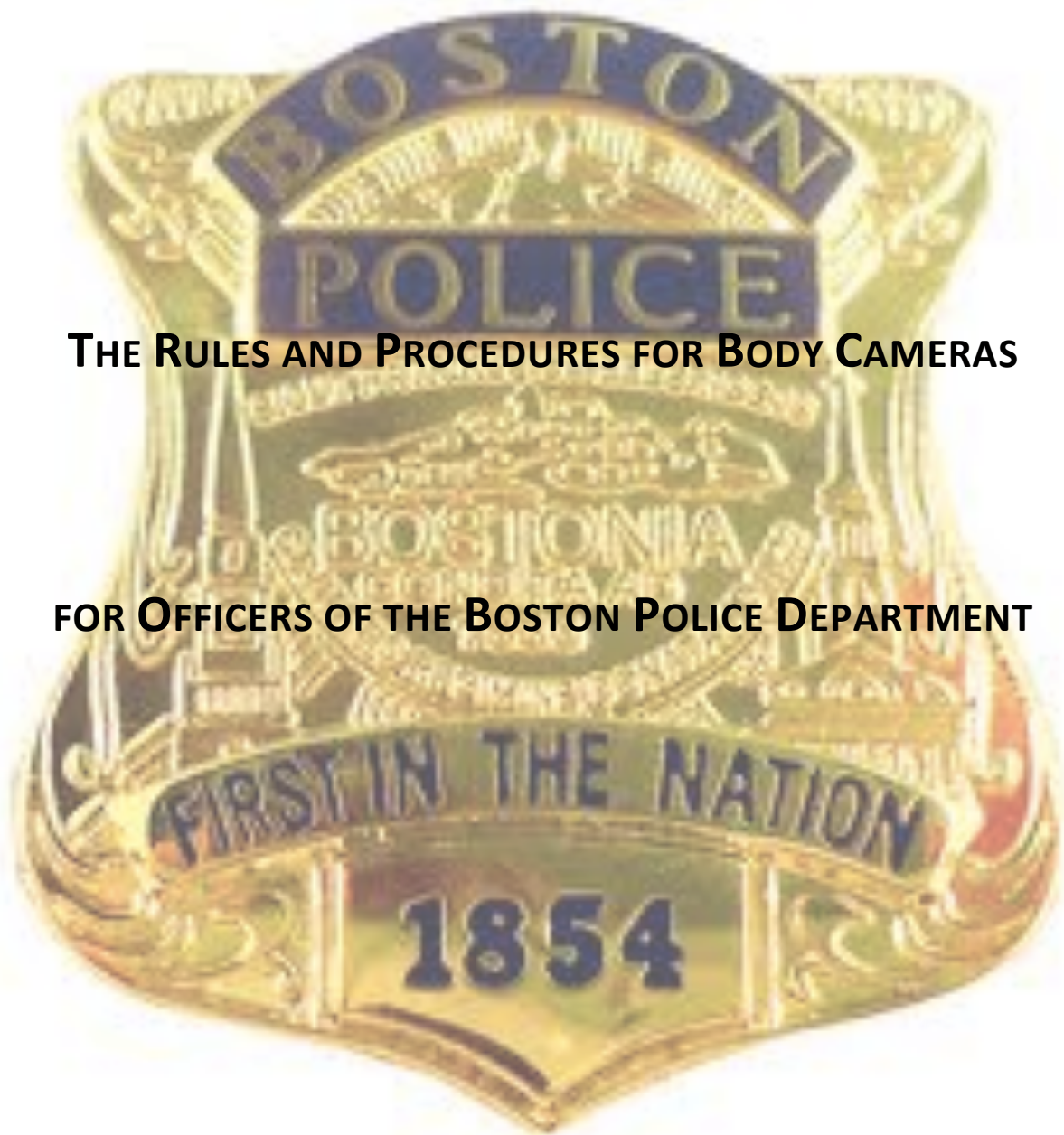
Until a company, or selected companies, are chosen by the Boston Police Department, the Mayor, the City Council or a combination of the three parties, the question of how video is uploaded cannot be answered since

each company has different options. Some companies have created body cameras that automatically upload video data to a third party once the camera is shut off. Others do not upload data until the camera is returned to its "docking station."

One cannot definitively lay out where the data will be stored either. While BPCAT feels a third party should be tasked with maintaining and protecting all video data, this is a detail that must be discussed by officials within the Department, debated by the City Council and weighed by the Mayor. Should the final decision be to keep this duty within the Department, the city must use existing Department funding or search for and use existing grants. New funding must not be granted to the Department in order to finance the program.

This must also be applied toward funding the body camera program entirely. BPCAT does not support the Mayor or City Council introducing new allocations of resources to equip officers with body cameras, but rather the use of existing funds or the application of grants.

The following policy seeks to be as fair to and create enough flexibility for the officer to do their job effectively as well as ensure that the body camera becomes an effective tool for the safety and protection of the residents of Boston.



*****PLEASE NOTE: The following rules and procedures are created to look exactly as it would appear in the current Rules and Procedures of the Boston Police Department which can be found on their website at www.bpdnews.com/rules-and-procedures/***

Rules and Procedures

Rule [Number] [Month Day, Year]

Rule [Number] - Body Camera Usage

This rule is issued to provide Officers and Supervisors with guidelines for the use, management, access, retention, handling of evidence, storage, and retrieval of recorded media captured by body cameras as well as sanctions for failing to abide by the specified procedures of this rule. It is effective as of [INSERT DATE].

Sec. 1 GENERAL CONSIDERATIONS

The Department has adopted the use of body cameras on police Officers to improve relations with the local community, foster better accountability of its personnel, capture digital audio-video evidence for criminal, civil, and traffic-related court cases; assist officers with recalling facts or other details captured by the equipment that will help them accurately articulate a chain of events when writing reports; be used as a training tool for Officer safety and best practices in the Boston Police Department (BPD); assist in the assessment of contacts between officers and the public by reviewing procedures and interpersonal actions; and provide useful tools for training of new recruits. All provisions laid out in this rule shall be reflected in all related rules and procedures of the BPD.

Sec 2. DEFINITION

- a) "Body camera" shall refer to that device which can record both audio and video of an interaction between an Officer and a Civilian
- b) "Officer" shall refer to that which is defined in Rule 103¹ of the BPD Rules and Procedures.
- c) "Undercover" shall refer to all Officers who are commissioned to investigate individuals or groups throughout the city as an individual other than themselves in order to ascertain information and evidence against the subject(s) of their investigation

¹ Rule 103, Section 1. General Considerations: "A patrol officer, in carrying out the functions of the department, including but not limited to, the preservation of the public peace, the protection of the life and property, the prevention of crime, the arrest and prosecution of violations of the law, the proper enforcement of all laws and ordinances and the effective delivery of police services shall constantly direct his best efforts to accomplish that end intelligently and efficiently and shall hold himself in readiness at all times to answer calls and obey the orders of his superiors. He shall be held in strict accountability for the good order of the sector, beat or post to which he has been assigned to duty."

- d) "Off-duty" shall refer to all Officers that are not in uniform and not performing their regular duties as a detail for a municipal or private project.

Sec. 3 TRAINING AND QUALIFICATIONS

All uniformed and plainclothes Officers who work in the field who are not considered "undercover" or "off-duty" shall be expected to wear a body camera to record all interactions with the public at-large. The Department will be responsible for ensuring authorized personnel adequately train each Officer in the use of body cameras.

Before body cameras are mounted on the Officers, Department personnel are required to participate in a Department-sponsored training period hosted by the selected body camera distributor(s) in the use and operation of the equipment.

Body camera training will be mandatory for all Officers, Supervisors, Record Management/Evidence personnel, and all other personnel who may use or otherwise be involved with body cameras.

Sec. 4 AUTHORIZATION OF USE OF BODY CAMERA

Each Officer that is required to wear a body camera must sign out the equipment before the beginning of their shift and must return it to the same location at the end of their shift, signing their name on the same list indicating this action has been taken. The Shift Supervisor must also affix their signature to the same list, approving the use of the body camera by the Officer.

Officers are expected to check the functionality of their device periodically during their shift. If a body camera is to malfunction in any way during an Officer's shift, the Officer must immediately inform their Supervisor. Any body camera that fails to operate properly in the course of an Officer's shift must immediately be returned to the originating precinct and replaced with a functioning body camera before an Officer can return to their shift.

Sec. 5 PLACEMENT AND OPERATION

All Officers equipped with a body camera must place the device on their lapel. Before signing the body camera out of its storage location, each Officer must ensure the equipment works and is not faulty in any way.

The body camera is to be turned on whenever responding to a call or before an Officer interacts with a civilian. The Officer must inform the civilian of the presence of the body camera and must, while recording, obtain the consent of the civilian to continue recording the interaction. If a civilian verbally requests on camera that the camera be shut off, the Officer must do so.

A. Scenarios where an Officer must turn their body camera on include:

1. Responding to a call
2. Traffic violations;
3. Motor-vehicle accident scenes;
4. During all interrogations of suspected criminals, victims, witnesses or persons of interest;
5. In the pursuit of a suspect;
6. While in the process of an arrest;
7. Crime scenes;
8. Traffic stops;
9. Suspicious vehicle stops;
10. Suspicious person stops;
11. Priority responses;
12. Vehicle pursuits;
13. Work-related transports;
14. Vehicle searches;
15. Physical confrontations;
16. Crimes in progress;
17. When advising an individual of their Miranda rights;
18. When ordered to do so by a supervisor

B. Scenarios where an Officer may not use their body camera:

1. Instances of civil disobedience, except if the use of force is permitted or in the case of the arrest of a participant;
2. Lawful protests and approved marches, except in the case of the provision set forth in Rule [NUMBER] Section 6 B-1b;
3. A civilian is partially or fully unclothed;
4. During the course of a trial inside of a courtroom;
5. To protect the identity of an officer in an undercover capacity;
6. To protect the identity of a confidential reliable informant;
7. The incident or event is such duration that the body camera is deactivated to conserve power and/or storage;
8. The Officer reasonably believes that the stopping of the recording will not result in the loss of critical evidence;
9. If the Officer is requested to stop filming;
10. When ordered by a Supervisor to cease recording

Officers are expected to use general wherewithal to determine if a situation warrants the use of the body camera that is not enumerated above or throughout the rest of this document. Officers are encouraged to record all interactions rather than fail to record an interaction that may have required its usage in the final analysis.

Officers must use their discretion to not record in scenarios where doing so would threaten harm to the Officer, is impossible to do or is impractical. A reason for not using the body camera must be articulated in a written report or expressed verbally on camera before turning it off. Use of the body camera must be included in all incident reports.

Body cameras are not to be used for the purpose of surveillance of Officers or Department employees, or for initiating an investigation or initiating disciplinary action against an Officer or Department employee. However, data captured by the body camera may be accessed and/or used as evidence: relating to a complaint of misconduct made against an Officer; or in situations where evidence of Officer misconduct is discovered during the course of authorized access or review of video data with regard to pending administrative, criminal, civil, or traffic matters.

Officers must not use their body camera for personal reasons, any other reason which is not consistent with those defined in this policy above or without the approval of the Commissioner.

Sec. 6 WRITING A REPORT

To ensure the accuracy of written reports regarding an incident, an Officer should review audio and video data before making a report or statement. An Officer shall note the following in his/her report:

- a) Whether audio or video evidence was gathered relating to the events described in the report;
- b) If the body camera was deactivated prior to the conclusion of the event, the fact that the body camera was deactivated and the basis for deactivation;
- c) Any malfunction occurring during the situation that is the subject of the report

Officers shall classify recorded events as appropriate based on the options available under the classification/storage software. This classification should be done shortly after the recorded incident is concluded, but must be done prior to upload at the end of the Officer's shift.

Sec. 7 STORAGE AND MAINTENANCE OF DATA

All video data is to be stored in a third-party facility contracted by BPD through the City of Boston. This data is to remain stored for no longer than thirty (30) calendar days after which it will be permanently deleted.

Video that is considered to be useful for upcoming court cases or in the pursuit of identifying, detaining, charging and trying a suspect or suspects shall remain stored until such time as the investigation, subsequent court case and appeals shall be resolved.

Sec. 8 ACCESSING VIDEO DATA

Only designated data management personnel shall have access to the video data. Custody of this data shall only be temporarily released outside of storage in the following scenarios:

- a) Suspect interrogation;
- b) Court cases;
- c) Appeal cases by defendants;
- d) BOLO public alerts;
- e) Disciplinary hearings for an Officer

Video data will be subject to the Freedom of Information Act with the written approval of the Commissioner.

Video data may be released to any civilian who is a subject of a particular video file. A civilian may fill out a form at their local precinct to request a copy of the video file for their own purpose. The Commanding Officer and the Commissioner must approve this request. Video must be released unless doing such would cause the harm of an Officer or other civilians; would impede an ongoing investigation; or the video is being used in an ongoing court case.

Video data may be released for the purposes of research to study the effects of using body cameras or all such research for which the study of such video would prove essential. This would require the explicit consent of the Commissioner, the Commanding Officer and any person(s) who may be recorded in such video. All video data which is used for research purposes will be done so without the personal information of subject(s) in the video or pertinent details of the case related to such video being made available to the researcher(s) or general public.

Any subject of a video must be made aware that their video has been requested and receive a form with the name of the Officer or any Third Party who requested it. Consent of the subject must be given before such video be made available to the Officer or Third Party.

Any copy of video data which is released to a subject of such video, or used for the purposes of a court case or appeal, or given up for research, or any other scenario where video data is shared outside of its storage facility must be signed out by said Party at the Precinct that claims ownership of video data or the Boston Police Department Headquarters. Video data will be made available on a Universal Serial Bus (USB) flash drive.

Sec. 9 DISCIPLINARY MEASURES FOR IMPROPER USE OF BODY CAMERA

Failure to wear a body camera while on duty shall result in the use of discipline found in Rule 109, Section 32, Rule 102 s.10(d) of the BPD Rules and Procedures.²

Failure to properly maintain the body camera during a shift shall result in the use of discipline found in Rule 109, Section 32, Rule 102 s.4(c) of the BPD Rules and Procedures.³

Failure to keep the body camera on during an interaction with a civilian where consent has been given and no acceptable written or verbal reasoning is given for the turning off of the body camera shall result in the use of discipline found in Rule 109, Section 32, Rule 102 s.4(f) of the BPD Rules and Procedures.⁴

Failure to produce written or verbal communication for not turning the body camera on or turning the body camera off in the course of an interaction with a civilian, found in Rule 109, Section 32, Rule 102 s.8 of the BPD Rules and Procedures.⁵

Failure to turn off the body camera when a civilian does not give consent to being recorded shall result in the use of discipline found in Rule 109, Section 32, Rule 102 s.17 of the BPD Rules and Procedures.⁶

Sec. 10 EVIDENTIARY EXCLUSION AND PRESUMPTION FOR UNRECORDED ENCOUNTER:

Any evidence obtained in an unrecorded encounter of one of the types listed in Section 5A of this policy.

² Rule 109, Section 32, Rule 102 s.10(d): The following offense [is] subject to the Five-Day rule, and may be disciplined by imposition of immediate suspension of not more than five days. If an employee commits [this] offense, that offense may not form the basis of an immediate suspension: Failure to be in proper uniform and properly equipped.

³ Rule 109, Section 32, Rule 102 s.4(c): The following offense [is] subjected to the Five-Day rule, and may be disciplined by imposition of immediate suspension of not more than five days. If an employee commits [this] offense, that offense may not form the basis of an immediate suspension: Failure to properly care for assigned equipment, damaging or losing same due to carelessness.

⁴ Rule 109, Section 32, Rule 102 s.4(f): The following offense [is] subjected to the Five Day rule, and may be disciplined by imposition of immediate suspension of not more than five days. If an employee commits [this] offense, that offense may not form the basis of an immediate suspension: Improperly turning off police radio.

⁵ Rule 109, Section 32, Rule 102 s.10(d): The following offense [is] subject to the Five-Day rule, and may be disciplined by imposition of immediate suspension of not more than five days. If an employee commits [this] offense, that offense may not form the basis of an immediate suspension: Failure to obey and comply with all rules, orders and other directives of the Department and of superior officers, whether written or oral.

⁶ Rule 109, Section 32, Rule 102 s. 17: The following offense [is] subjected to the Five-Day rule, and may be disciplined by the imposition of immediate suspension of not more than five days. If an employee commits [this] offense, that offense may not form the basis of an immediate suspension: Failure to respond to a radio call or to the request of a civilian.

In any instance in which an officer wearing a camera is accused of misconduct, a failure to record that incident would create an evidentiary presumption against the officer.