



Police Commissioner's Special Order

Number: SO 16-023
Date: July 12, 2016
Post/Mention: Indefinite

SUBJECT: BODY-WORN CAMERA PILOT PROGRAM POLICY

Sec. 1. GENERAL CONSIDERATIONS:

The Boston Police Department will conduct a six (6) month pilot program of the use of Body-Worn Cameras (BWC) by police officers to determine their effectiveness in enhancing policing transparency and increasing public trust and police-community relations. BWC's are an effective tool to preserve factual representations of officer-civilian interactions. BWC's are effective in capturing video and audio evidence for use in criminal and internal investigations and officer training.

The purpose of this policy is to establish guidelines for the proper use, management, storage, and retrieval of video and audio data recorded by BWC's during the Boston Police Department Pilot Program.

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

Sec. 2. PROCEDURES:

Sec. 2.1. Training: All BWC officers and all supervisors who may supervise BWC officers shall attend Department approved training on the operation of the system and this policy.

Sec. 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.

Sec. 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.

Sec. 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.

Sec. 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.

Sec. 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.

Sec. 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.

Sec. 2.8. BWC Deactivation: 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.

Sec. 3. BWC DEPLOYMENT:

Sec. 3.1. Officer Responsibilities:

1. At the beginning of each shift, the officer will:
 - a. Ensure that the issued equipment has a fully charged battery and is functioning properly; and
 - b. Notify a Supervisor whenever there is a malfunction or damage to the BWC.
2. During shift, the officer will:

- a. Activate the BWC and record as outlined in Section 2 above;
 - b. Document the existence of a BWC recording in all of the appropriate documents, i.e. Incident Report, Citation, FIO, Administrative Reports, etc;
 - c. Notify investigative or specialized unit personnel, including the Crime Scene Entry Scribe, of the existence of BWC recording; and
 - d. If an officer fails to activate the BWC, fails to record the entire contact, interrupts the recording, or the BWC malfunctions, document the circumstances and reason in the incident report or any other applicable report.
3. Any and all additional responsibilities contingent upon technology requirements.

Sec. 3.2. Supervisor Responsibilities: The Supervisor will:

1. Ensure all officers assigned a BWC utilize the BWC in accordance with this policy;
2. During roll call, ensure each BWC is working properly and any malfunction or damage to a BWC is documented. The Supervisor will remove the BWC from service, report the malfunction or damage, and issue the officer a spare BWC unit, where available; and
3. Access BWC recordings during the course of duties in accordance with the Internal Access/Review section of this policy.

Sec. 4. INTERNAL ACCESS/REVIEW:

Sec. 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.

Sec. 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.

4.3. Collecting and Securing BWC Footage following an Officer Involved Shooting or Other Use of Deadly Force: FDIT personnel will be responsible for collecting and securing the BWC’s from all involved and witness officers at the earliest opportunity. FDIT personnel will transport the cameras to the involved officer’s district commands for upload into the system. The BWC will be returned to the officer once the video is uploaded into the system.

Sec. 4.4. Non-BWC Officer Access to Footage: Non-BWC officers shall only access footage with permission of a supervisor.

Sec. 4.5. Supervisor Access to Footage: Any supervisor within the recording officer's chain of command, and any Bureau Chief, may review the footage. If a supervisor outside of the chain of command requests to see footage, it shall only be allowed with the permission of the recording officer's commanding officer.

Sec. 4.6. Audit and Review Access to Footage: Audit and Review shall conduct periodic checks to ensure BWC's are being used appropriately.

Sec. 4.7. Use of Footage for Training: Any officer can forward a recommendation to the Bureau of Professional Development to use a BWC recording for training purposes.

Sec. 5. EXTERNAL ACCESS:

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.

Sec. 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.

Sec.7. RESTRICTIONS:

Sec. 7.1. Improper Recording: BWC's shall not be used to record:

1. During breaks, lunch periods, or time periods when an officer is not responding to a call, or when not in service;
2. Any personal conversation of or between other department employees without the recorded employee's knowledge;

3. Non-work related personal activity, especially in places where a reasonable expectation of privacy exists, such as locker rooms, dressing rooms, or restrooms;
4. Investigative briefings;
5. Encounters with undercover officers or confidential informants; or
6. Departmental meetings, workgroups, in-service training, or assignments of an operational or administrative nature. Using BWC's for training purposes is not a violation of this restriction.

Sec. 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).

Sec. 7.3. Employee Accountability and Sanctions: Officers will not be disciplined for minor violations of this policy.

William B. Evans
Police Commissioner