

# City of Minneapolis

## Minneapolis Police Department Body Worn-Camera Policy: Response to Community Concerns

*This document addresses commonly expressed concerns that community and others have raised about the policy for body-worn cameras, and explains how those concerns were considered and addressed in formulating the current policy.*

*The full Minneapolis Police Department policy on body-worn cameras is available here, at section 4-223:*

[http://www.ci.minneapolis.mn.us/police/policy/mpdpolicy\\_4-200\\_4-200.](http://www.ci.minneapolis.mn.us/police/policy/mpdpolicy_4-200_4-200)

### **Officer viewing of body cam video**

**Issue:** Should officers be allowed to view BWC video before writing reports?

**Community Concern:** Officers should not be allowed to view BWC video before writing reports or giving a statement. Concerns were expressed that allowing officers to view BWC video provides officers with an opportunity to alter their reports to match the video or withhold details of negative interactions unless they know it is recorded on the video.

**City Considerations:** It is important that police reports, which are used as evidence and for charging in criminal prosecutions, be as accurate as possible to protect defendants and the integrity of the criminal justice system. Allowing officers to view BWC video prior to writing reports, helps serve this goal.

Critical Incidents – incidents involving use of deadly force by or against officers or that result in great bodily harm or death – are often the types of incidents that are of the most significance to our community, receive the most public attention, and typically involve review for potential criminal violations by the involved officer. In these cases, it is logical to limit officer access to BWC video, leaving the

decision of whether and when to show an officer this video to the investigating agency. The MPD has adopted a practice of seeking an independent investigation by an outside agency (most recently, the Minnesota Bureau of Criminal Apprehension [BCA]) in the most serious Critical Incidents.

**Result:** In cases involving Critical Incidents, the policy was changed so that officers are not allowed to view BWC video before writing a report or providing a statement unless it is specifically approved by the investigating agency: “In any Critical Incident, video and audio data shall not be accessed unless approved by the assigned investigating agency.” (Policy Section IV.J.3).

In situations that do not involve Critical Incidents, the policy allows officers to review video: “To ensure the accuracy of reports, an officer should review audio and video data before making a report or statement. (Policy Section IV.G.1).

### **Obtaining consent to record**

**Issue:** Should officers be required to obtain consent before activating their BWC equipment?

**Community Concern:** Community members expressed concern about privacy rights and being recorded by law enforcement without their permission. The request was made to require officers to obtain consent before activating a BWC.

**City Considerations:** There are a number of situations where it is either impractical or inadvisable to obtain consent. For example, it can be impractical when a large number of people are involved. Or, for example, it can be inadvisable when responding to a domestic-violence situation: in that case, the perpetrator of the violence should not be able to dictate whether the officer activates a BWC.

In addition, allowing members of the public to have exclusive control over whether officers are allowed to activate a BWC does not serve the BWC program’s goals of transparency and accountability. These goals are best served when there is a consistent set of circumstances when officers are required to record interactions, such as traffic stops, suspicious-person stops, and vehicle stops, and when there is a use of force and other similar circumstances. Requiring officers to activate BWCs in these circumstances preserves evidence of

what occurred during the interaction, promoting accountability and allowing for compliance and use of force reviews. It also protects against circumstances where individuals might refuse consent only to use that opportunity to engage in unlawful or other inappropriate actions, knowing that the officer won't be recording the interaction.

**Result:** The BWC policy seeks to strike a balance between obtaining consent to record and requiring BWC activation to insure that appropriate interactions are being recorded for legitimate accountability and law enforcement purposes. The policy provides that 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." (Policy Section IV.E.2.a).

### **Notice that a BWC is activated**

**Issue:** Should officers be required to notify members of the public that they are being recorded by a BWC device?

**Community Concern:** For privacy considerations, members of the public wanted notice that they are being recorded by a BWC device.

**City Considerations:** It can be impractical for an officer to provide this notice in many situations, such as where there is a crowd or an interaction involving criminal activity.

**Result:** Provisions were added to the policy so that "when feasible, officers are encouraged to inform members of the public that they are being recorded" and further providing that "if asked, officers should inform those inquiring that audio-video recording equipment is in use," unless doing so would be unsafe for the officer or members of the public. (Policy Section IV.A.12).

### **Editing/ altering/ deleting BWC video**

**Issue:** When, who and why should members of the Police Department have authorization to edit, alter or delete BWC video?

**Community Concern:** Concern was expressed about the potential for officers to be able to alter, delete or redact portions of BWC video. A request was made for the policy to be specific about who, why and when members of the department could take such actions.

**City Considerations:** The new section of the Minnesota Government Data Practices Act (MGDPA) relating to BWC equipment requires that certain private data be redacted or an individual's identity blurred in accordance with requirements of the Act. It is important to note, however, that when redactions or blurring of images occurs, it is only a copy that is altered and an original is still retained in original form.

The new section of the MGDPA also sets limits on how long certain types of BWC data must be retained (from 90 days to 1 year), requiring that the data be destroyed according to the Department's records retention schedule as per the state records law. To comply with the MGDPA and criminal and civil law discovery obligations, copies of BWC video must be made and provided to other parties as applicable.

BWC video is stored in the cloud with security protections and back-up and, therefore, is not susceptible to manipulation. In addition, an audit trail is maintained by the system of those accessing the data.

**Result:** Provisions were added to the policy to clarify who is authorized to duplicate, redact or otherwise alter or delete BWC data and when. The BWC policy only allows "authorized personnel" to engage in these activities.

The term "authorized personnel" is now defined in the body of the policy. The definition makes clear that "authorized personnel" only includes individuals "designated by the Chief or his or her designee to manage data recorded by a BWC." "Authorized personnel are limited to designees such as Crime Lab personnel and employees responsible for responding to public data requests. No one else has authority to undertake these types of activities.

Section III.B.4. of the policy also states as follows:

Disabling BWC equipment, intentionally interfering with audio or video recording capabilities, and altering, duplicating, deleting or destroying BWC recordings are prohibited, except by Authorized

Personnel in the course and scope of their lawful job duties and in accordance with record retention laws and policies and the provisions of this policy. Only the Chief or his or her designee can designate such Authorized Personnel.

**Disciplinary consequences for violating the BWC Policy should be clearly set out in the policy**

**Issue:** Should the BWC policy include a specific disciplinary consequence for violation of the policy?

**Community Concern:** To enhance compliance with the BWC policy, requests were made to include specific disciplinary consequences for violations of the policy and to include these consequences in the MPD's discipline matrix.

**City Considerations:** Depending on the circumstances, a violation of a policy provision may constitute an offense warranting suspension or termination, whereas for other violations, only coaching or a written warning may be warranted. To allow the Department the greatest opportunity to hold officers accountable for policy violations commensurate with the seriousness of the offense, a broader statement regarding consequences seemed the most advisable approach. The provision in the policy allows for coaching or discipline ranging from Level A (coaching or training) through Level D (termination from employment).

**Result:** The policy includes a clear statement that violations of the policy will be subject to disciplinary action, while reserving the level of discipline to depend on the particular section of the policy that was violated and related circumstances. Section II.C. of the policy now provides that employees who violate the BWC policy or applicable laws "will be subject to discipline, up to and including termination."

**BWCs not to be used to intimidate public**

**Issue:** Can provisions be added to the policy to prohibit the use of BWC equipment to intimidate members of the public or interfering with protected First Amendment activity?

**Community Concern:** Concerns were expressed that officers might use BWC equipment to intimidate members of the public from observing police activity or as a means of surveillance of individuals engaged in lawful protest activity.

**City Considerations:** It is an important value of the City that people be protected in their right to engage in lawful protest and to observe and record interactions with law enforcement.

**Result:** Policy provisions are included to address these concerns. For example, the first paragraph of Section II.A. of the policy states:

The BWC shall not be used for the purpose of intimidating or discouraging an individual from observing police activity, making appropriate inquiries to the police or making a complaint.

Section IV.E.3. of the policy further provides:

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.

A separate provision was added to the Police Department's Policy and Procedures that expressly recognizes the rights of the public to observe and record police interactions so long as it does not interfere or obstruct officers from performing their lawful duties. See MPD Policy 9-202.

### **Use of BWC equipment to conduct surveillance of officers**

**Issue:** Should the policy prohibit use of the BWC equipment for surveillance of officers by the Department?

**Community Concern:** Once concern from the community was the inclusion of the word surveillance in this policy. Another concern was that this statement prohibited the department from addressing officer misconduct captured on video.

**City Considerations:** Because one of the purposes of the BWC program is to build trust and legitimacy with the community, as well as document police interactions with the public, the city considered the meaning and the intention of the word surveillance.

**Result:** The following sentence was deleted from the BWC policy: “The BWC equipment is not to be used for the purpose of surveillance of officers.”

### **Required activation of BWC equipment, use of BWC equipment by officers working on off-duty assignments**

**Issue:** When should officers be required to wear and activate BWC equipment? What if the equipment malfunctions or the battery runs down?

**Community Concerns:** Requests were made for BWC equipment to be activated throughout an officer’s shift, recording the whole time an officer was on duty. Concerns were expressed that officers might be able to pick and choose when the BWC was to be activated to place members of the public in a bad light and avoid filming negative police conduct.

Concerns were also expressed about the lack of a protocol in the policy for malfunctioning equipment or loss of battery power.

**City Considerations:** Due to the extremely high cost of data practices and storage management, concerns about battery life, and other practical and privacy considerations if BWCs were to be activated throughout the entirety of an officer’s shift, the City did not adopt that recommendation. Instead, the Department included a list of the types of interactions that are most likely to be of concern to the community and required that BWC equipment be activated at all times during these listed types of interactions. Provisions were also added to the policy setting out limitations on when officers are allowed to deactivate the equipment and further added the requirement for officers to record the reason they are deactivating the camera and to include in their police reports (or, if no report, note in the computer aided dispatch [CAD] system) the reason for deactivation.

The original draft policy did not require officers who are working off-duty assignments to wear their BWC equipment and to follow the BWC policy.

Provisions were also added to the policy setting out the requirement that officers are responsible for making sure that their BWC equipment is in operating condition at the start of their shift and that they are to remove themselves from duty to recharge their BWC equipment in the event of low battery power.

**Result:** The BWC policy now applies to officers who have been assigned a BWC while working an off-duty assignment in a Minneapolis Police Department uniform

Officers are *required* to activate a BWC in the following situations (Policy Section IV.E.):

- 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 a ride-along or another City employee in their official capacity as a City employee.
- Any search, including but not limited to searches of vehicles, persons, 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 forced entry into a 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.



The BWC policy requires officers to (Policy Section IV.A.):

- Wear equipment while on shift – including off-duty assignments
- Make sure it is functioning properly at the start of each shift
- Remove themselves from service if there is a loss of battery power during a shift so that the BWC can be recharged.

### **Goal of accountability**

**Community Concern:** A common theme running through community input and listening sessions was the desire of the community for the policy to reflect the goal of accountability as the central reason for adopting a BWC policy.

**Response:** Edits were made in the policy to highlight the importance of accountability as a guiding principle for the BWC policy. Specifically, the following changes were made in Section I of the policy:

- The Purpose statement of the policy was revised to set out the policy’s goal: “enhancing accountability and public trust;”
- The top bullet of the list of purposes of the BWC policy states that the policy is: to “[e]nhance accountability and public trust by preserving evidence of officer interaction with citizens.”

The purpose section also lists the purposes of the policy as:

- To enhance public trust by preserving evidence of officer-citizen interactions;
- Assisting in the “assessment of contacts between officers and the public by reviewing procedures and interpersonal actions.”