

Committee Findings

- The research shows that BWCs produce few clear or consistent impacts on police or civilian behaviors. On almost all outcome measures, the studies show a mix of positive, negative, or neutral findings. (Exceptions: BWCs consistently reduce civilian complaints, and new research suggests a reduction in racial bias in police accountability determinations)
- “BWCs are not a panacea, and cannot alone be expected to ‘fix,’ or necessarily even improve, the perceived problems with policing and police/community relations, over-policing, or excessive uses of force.” Instead, they are merely a tool. “The positive or negative impact of a BWC program therefore depends more on the procedures and context under which they are deployed, and the uses that are made of them, than on the mere deployment of the cameras themselves.”

Preconditions to adopting a BWC program:

1. MPD must adopt the policies recommended by the Committee
2. All disclosures or releases of BWC footage must be accompanied by a statement warning viewers of the risks of perceptual bias that can be created by BWCs
3. Experts on cognitive and perceptual biases should periodically be consulted about steps that should be adopted to mitigate these perceptual biases
4. The PCOB and IM should be fully operational and should have full access to BWC footage
5. The City and MPD must have made substantial progress toward adopting other reforms recommended by Ad Hoc Review Committee
6. System must be created for sharing BWC video footage files with DA's office and Public Defender's Office
7. DA's office must have formally enacted a policy to review any relevant BWC video before making charging decisions
8. DA's office must have committed to measures to prevent overall increase in charging rates caused by BWC implementation (if any)
9. Plan must be implemented for randomized controlled study of the effects of BWCs.
10. Common Council must engaged in informed deliberation about whether resources are best used for BWC implementation or for other competing needs.

Policies & Underlying Rationales

1. Purpose

2. Use of Body-Worn Cameras

“d. The body-worn camera shall be worn in a location and manner that maximizes the camera’s ability to capture footage of the officer’s activities, including, to the greatest extent possible, the officer’s own body (e.g., legs and arms). The body-worn camera shall be worn as high on the officer’s body as feasible, but in no case lower than the shoulder level. The body-worn camera shall have as wide a field of view as can be practically achieved (preferably 180 degrees or wider”

“e. Technology shall be employed, to the extent feasible, to stabilize video images....”

“g. If multiple officers are involved in any event ... all such officers are required to activate their body-worn cameras so that the incident is recorded from as many perspectives as possible.”

Rationale: to minimize risks of perceptual bias

- “f. Body-worn cameras shall be activated immediately, or as soon as practicable, when responding to all calls for service and during all law enforcement encounters and activities involving the general public. To ensure compliance with this requirement, technologies shall be adopted that automatically engage the recording equipment whenever squad car lights are activated, squad car doors are opened, officers are dispatched to an incident by the dispatch center, the camera system detects that an officer is running, or other similar automatic systems offered by the technology. ...”
- “h. The body-worn camera system shall employ buffering technology in all instances in which the recording captures a minimum of 30 seconds of activity prior to the engagement of the recording system.”
- “j. Officers shall not disengage the body-worn camera or otherwise pause or interrupt the recording until the entire incident ... has concluded. ...”

Rationale: to reduce officer discretion about what to record, and to ensure that the full incident, including precipitating events, are recorded.

- “k. Officers must verbally state the justification for any disengagement of their body-worn camera before disengaging the body-worn camera. Additionally, if an incident report is completed, the officer must thoroughly document the justification for disengaging the body-worn camera in the narrative portion of the report.”
- “l. In the event an officer fails to record an incident ... the reason for such failure to act must be properly documented in the officer’s activity log and immediately reported to the desk officer” and must be documented “in the narrative portion of the officer’s incident report.”
- “m. If for any reason a recording is interrupted” the reason for the interruption must be similarly documented.
- “n. Appropriate disciplinary action must be taken against any officer who is found to have intentionally and without reasonable justification failed to adhere to the recording or retention requirements contained in this policy, or to have intentionally interfered with a body-worn camera’s ability to accurately capture footage. Since such infractions implicate integrity and compromise the validity of video evidence, they shall generally be deemed a violation of integrity. Notice of any violations of this policy and any documentation related to it shall be provided to the Office of Independent Monitor and the Police Civilian Oversight Board.”

Rationale: To limit officer discretion about what to record and to ensure appropriate transparency and accountability.

- “i. Body-worn cameras shall not be used covertly. Officers wearing a body-worn camera must notify any persons being recorded, as soon as practicable, that they are being recorded by a body-worn camera.”

3. Prohibited Recording

- a.i. In places where privacy expectations are paramount, such as hospital emergency rooms, locker rooms, and restrooms, except when specific conditions apply (e.g., consent, while executing warrants, during any uses of force, etc.)
- ii. While on school grounds (again, subject to some exceptions)
- iii. Activity that is unrelated to a response to a call for service or a law enforcement/investigative encounter between an officer and a member of the public
- iv. Gruesome photos or images of nude persons, “but only if the privacy considerations attendant to such images cannot adequately be accommodated by subsequent redaction or pixilation and are so significant that they justify compromising the integrity of the recording by interrupting continuous record
- v. Intelligence-gathering efforts related to protected First-Amendment activities

Rationale: To find a balance between the interests in transparency and accountability on one hand and privacy on the other

3. Prohibited Recording

- a.vii. When an apparent victim of a crime declines consent to recording or requests that recording be stopped
- a.x. & xi. Conversations with confidential informants and undercover officers, unless the recording is conducted specifically for the purpose of documenting an operation, and, upon request, when interacting with a person seeking to anonymously report a crime or assist in an ongoing law enforcement investigation.
- b. When police are inside a private residence, unless the residents consent to recording (subject to a few limited exception, such as when executing a valid warrant).

Rationale: To find a balance between the interests in transparency and accountability on one hand and privacy on the other

4. Community-Created Cell Phone and Other Video Recordings

- “For any incident that is subject to recording via police body-worn cameras pursuant to this policy (whether the body-worn cameras were actually activated or not), the Department shall permit members of the public to submit or otherwise upload recordings of the same incident. Such footage shall be treated as if it were also body-worn camera footage, in accordance with all other policies outlined within this document.”

Rationale: to mitigate risk of perceptual bias and increase transparency and accountability

5. Officer Viewing of Recordings

- “a. No law enforcement officer shall review or receive an accounting of any electronic recording of an incident prior to completing any required initial reports, statements, and interviews regarding the recorded event, unless doing so is necessary, while in the field, to address an immediate threat to life or safety.
- b. Once any required initial reports, statements, and interviews are completed, involved officers may then view the video file or other electronic recordings of the recorded incident. If, based on their review of the electronic recording(s) the officers determine that their written reports or statements were inaccurate or incomplete, they may then submit supplemental reports, making the needed corrections and additions, but must note that the corrections or additions were based on their view of the video file; the initial written report or statement itself may not be altered in any way after viewing the recordings.

Rationale: To ensure that officer reports are based originally on their memory and perceptions of the event, and not on any tailoring of their account to what would be permitted by the video

6. Security of Body-Worn Camera Footage

- A variety of technical provisions to ensure that no one can tamper with or alter the footage.
- Notable element:
- “c. Accessing, copying, or releasing files for non-law enforcement purposes are strictly prohibited. All access to the body-worn camera system, other than by the Office of the Independent Police Monitor and Police Civilian Oversight Board, must be authorized in writing by the Chief of Police or their designee.”

Rationale: to protect the integrity of the footage, while enhancing this Board’s oversight and accountability capacities

7. Retention of Body-Worn Camera Footage:

- “a. Body camera video footage shall be retained ... for six (6) months from the date it was recorded, after which time such footage shall be permanently deleted.
- b. Notwithstanding the retention and deletion requirements set forth above: i. Video footage shall be retained for no less than three (3) years if the video footage captures an interaction or event involving: 1. Any use of force; or 2. An encounter about which a complaint has been registered by a subject of the video footage or a witness to the incident.
- c. Body camera video footage shall also be retained for no less than three (3) years if a longer retention period is voluntarily requested by: i. The law enforcement officer whose body camera recorded the video footage, if that officer reasonably asserts the video footage has evidentiary or exculpatory value;”
- d. Footage can also be retained longer if deemed to have ongoing evidentiary or exculpatory value or, among other things, if a member of the public who is a subject in the video requests it

Rationale: To ensure footage is retained long enough to fulfill its evidentiary, accountability, and oversight purposes, but not routinely kept so long that it can be misused (by, for example, subpoena from immigration officials)

8. Release of body-worn camera footage:

- a. The MPD must promptly disclose footage when required under the Open Records Law
- b. In any videos in which “a subject of the video footage is recorded being killed, shot by a firearm, or grievously injured,” the MPD must expedite Open Records disclosure and shall release the footage “as expeditiously as possible, but in no circumstances later than five (5) days following receipt of the request.”
- “c. Body camera video footage may not be withheld from the public on the basis that it is an investigatory record or was compiled for law enforcement purposes where any person under investigation or whose conduct is under review is a police officer or other law enforcement employee and the video footage relates to that person’s on-the-job conduct.”
- “d. All unedited footage shall be made available to the Independent Police Monitor (IM) and/or the Police Civilian Oversight Board (COB) promptly upon request.”

Rationale: to ensure prompt disclosure, to ensure transparency and accountability, and to remove the decision about whether and when to disclose from police control—that is, to make such footage a tool of the community, not just a tool of the police

8. Release of body-worn camera footage:

- e.-g. Require disclosure of footage to prosecutors along with initial referrals for prosecutions, and immediate disclosure to defense lawyers and public defenders promptly upon charging, along with annotations to help them locate the relevant portions of the footage promptly
- “Any footage disclosed to the accused and/or counsel must be unabridged and unedited, except to the extent that pixilation or redaction or deletion is otherwise permitted by this policy prior to release to the public, and in any event only to the extent that such pixilation or redaction does not undermine or detract from the evidentiary value of the recording or obscure any potentially exculpatory information.”

Rationale: To facilitate use of the footage equally by prosecution and defense, and to make sure charging decisions are made based upon review of footage, given that research suggests that procedure might prevent the increase in charging that some research shows can result from the presence of cameras.

9. Deletion, Editing, or Redaction of Video Footage:

- “a. Whenever doing so is necessary to protect personal privacy, the right to a fair trial, the identity of a confidential source or crime victim, or the life or physical safety of any person appearing in video footage, redaction technology may be used to obscure the face and other personally identifying characteristics of that person, including the tone of the person’s voice, provided the redaction does not interfere with a viewer’s ability to fully, completely, and accurately comprehend the events captured on the video footage.”
- “c. When redaction is performed on video footage, an unedited, original version of the video footage shall be retained.

Rationale: to protect privacy while still retaining the evidentiary value of footage

10. Limit on the Use of Biometric Techniques to Search Footage:

- a. & b. Bans use of facial recognition technology or use of videos to generate images for photo lineup procedures
- “c. If good cause arises to believe that body-worn camera footage is being used by any governmental agency or entity, federal or state, for a purpose that is impermissible under this policy, such as ICE issuance of administrative subpoenas to utilize facial recognition software to search for undocumented residents, the Chief of Police or the Independent Police Monitor or the Police Civilian Oversight Board should promptly notify the Council of this use and request a prompt decision by the Council as to whether to continue or end the body-worn camera program.

Rationale: to prevent misuse of the footage for potentially biased investigative purposes and for impermissible immigration purposes

12. Discipline for Violations.

- a. Should any law enforcement officer, employee, or agent fail to adhere to the recording or retention requirements contained in this policy, intentionally interfere with a body camera's ability to accurately capture video footage, or otherwise manipulate the video footage captured by a body camera during or after its operation appropriate disciplinary action shall be taken against the individual officer, employee or agent.
- b. Supervisory staff shall periodically review body-worn camera footage for evaluation of officer performance and training purposes. **No officer, however, may be disciplined or reprimanded for failing to issue a citation or make an arrest, in circumstances where supervisor review of footage alerted the supervisory staff to facts suggesting that grounds for citation or arrest were present in an encounter. The Department shall broadly publicize to officers, through training and periodic updates, that no officer will be subject to discipline or reprimand for failure to make an arrest or issue a citation in circumstances where body camera footage suggests there were grounds for citation or arrest.**

Rationale: to prevent misuse of the recording system and footage, and to remove pressures on police to charge more crimes

13. Data Collection and Reporting

- a. Requires the MPD to maintain data on the uses and impacts of the BWC system, including, among other things, the extent of usage of the system, the number and nature of use-of-force incidents captured on video, the number and nature of officer violations of the BWC rules and technical malfunctions, the outcomes of incidents capture on camera, the number of times that charging decisions are changed after viewing footage, the race of subjects captured by the cameras, etc.
- “b. The data collected by this section shall be provided to the Independent Monitor and Civilian Oversight Board on at least an annual basis, or at an earlier interval upon request of either the Independent Monitor or the Civilian Oversight Board. This report shall also include metrics on aspects of impact, such as criminalization rates, charging decisions, and uses of force.”

Rationale: To facilitate ongoing assessment of the program, and to support the oversight work of the IM and PCOB