




2023 MPD Body Worn Camera Pilot

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Agenda

- Definitions
- Background
- Why Now?
- Goals
- Timeline
- Major Points
- Where to Start 
- Records Retention and Release
- Notification
- Mandatory Activation
- Prohibited Activation
- Officer Review and Reporting
- Supervisor Review
- Training
- Discipline
- 1st Amendment Events
- Release of OICI Footage



2023 MPD Body Worn Camera Pilot

Definitions

- *Body-Worn Camera*: An audio/visual recording device, issued and authorized by the Department, that is worn on the Officer's uniform, and is designed to record Officer actions and interactions with the public in the course of their duties. "Body-Worn Camera" may be abbreviated as "BWC" within this SOP.
- *Contact*: An encounter with a member of the public that has no criminal or investigative purpose (i.e.; stopping to say hello to someone or interacting with persons to obtain information that is non-criminal in nature).
- *Law Enforcement Agency (LEA)*: governmental unit of one or more persons employed full time by the state or a political subdivision of the state for the purpose of preventing and detecting crime and enforcing state laws or local ordinances, employees of which unit are authorized to make arrests for crimes while acting within the scope of their authority. (as defined by WI State Statutes)
- *Law Enforcement Function*: Any action which may only be performed by a person having the legal authority of a law enforcement officer.
- *Body Worn Camera Administrator*: An assigned member of the Department responsible for upkeep, troubleshooting, data collection, and administrative functions related to the BWC program.
- *Supervisor*: First line leadership assigned to a particular work unit. In this pilot, "supervisor" will generally refer to a Sergeant assigned to Patrol.



2023 MPD Body Worn Camera Pilot

Why Now?

- **2013 Wisconsin Act 348**
 - Incorporated into State Statutes as 175.47
 - Mandates that Officer Involved Death investigations be led by personnel from outside the involved Department.
 - For MPD, this will typically be DCI or DCSO
- **2014-Present**
 - National and local events which have caused concern for Police-Public interactions
- **2019 Wisconsin Act 108**
 - Incorporated into State Statutes as 165.87
 - Establishes required policies and guidelines for agencies fielding BWCs
- **2021 Quattrone Report**
 - Commissioned after 2020 protests
 - Report highlighted lack of BWCs as a hindrance to fact-finding/review process
- **2021 Wisconsin Act 185**
 - Incorporated into State Statutes as 165.98
 - Creates grant funding and stipulations for BWCs for Law Enforcement Agencies in the state



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Objectives

- Documentation of Police/Public contacts, arrests, and critical incidents.
- Enhance the specificity of Officer reports and testimony in Court.
- Audio and visual recording enhances the agency's ability to review probable cause for arrest, Officer and suspect interaction, evidence for investigative and prosecutorial purposes, and to provide additional information for Officer evaluation and training.
- The Body-Worn Cameras may also be useful in documenting crime and accident scenes, and other events that include the seizure of evidence or contraband.
- Body-Worn Cameras may be useful as a training tool, for coaching, and communication.



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Timeline

- 1 Officer field tested a BWC in Patrol (2007 or 2008)
- Sep 2015- Ad Hoc Committee votes against BWCs
- June 2020- City Ord. 23.63 takes effect (Use of Surveillance Technology)
- April 2022- Common Council votes to proceed with North District pilot for BWCs
- April-May 2023- MPD completes BWC SOP, engages with Dr. Broderick Turner with the Technology, Race, and Prejudice (TRAP) Lab to analyze the pilot
- Present- Since approx. 2015, only Body-Worn Cameras in Department are Motor Officers (due to lack of squad video) and SWAT Team members (when engaged in SWAT operations)

Future Plans

- Summer 2023- MPD pilot begins in North District



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Main Points: Activation

- Feasibility Committee:
 - 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.
- Proposed MPD Policy:
 - Officers shall activate the BWC to record all interactions with members of the public in the performance of official duties
 - The Body Worn Camera (BWC) shall be activated prior to arrival at a call for service, in anticipation of a self-initiated activity, or at the activation of emergency equipment (emergency lights and/or siren), whichever occurs first. This shall also include interactions that are related to or for the purpose of a law enforcement function
- In both policies, exceptions and prohibitions will apply to certain situations



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Main Points: Wear and Placement

- Feasibility Committee:
 - 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 camera shall have as wide a field of view as can be practically achieved (preferably 180 degrees or wider)
 - Technology shall be employed, to the extent feasible, to stabilize video images and reduce the distortions caused by shaking and jostling from the officer's body movements, which can otherwise create a misperception of heightened confusion and chaos.
- Proposed MPD Policy:
 - Officers will wear the BWC mounted in one of the Department-approved methods, utilizing only the mounting equipment provided by the manufacturer of the BWC. It shall be the responsibility of the officer to ensure the BWC remains in a position to allow the recording of an encounter or incident that most closely replicates the perspective of the officer.
- Rationale:
 - Mounting should be based on best perspective, not necessarily as high as possible on the body –though that may be the case. This is also brand/product specific, and some attire may necessitate a different approach depending on weather.
 - High mounting may be less stable, become dislodged more easily, and may add an inadvertent sense of chaos, which the model policy attempts to reduce elsewhere.



Main Points: Prohibited Activation and Temporary Deactivation

- Feasibility Committee:
 - Places where privacy expectations are paramount, such as, but not limited to, hospital emergency rooms, locker rooms, and restrooms (with exceptions granted for arrests, use of force, and exigent circumstances)
 - On grounds of elementary or secondary schools
 - Situations in which Officer interaction is unrelated to a law enforcement interest
 - Upon request by an apparent crime victim, upon Officer notifying them that they are recording
 - When interacting with an informant, anonymous complainant, or undercover Officer
 - Within a private residence, upon request of those with standing, absent an arrest or other exigent circumstances. Officer obligated to inform and ask.
- Proposed MPD Policy:
 - Places where privacy expectations are paramount, such as, but not limited to, hospital emergency rooms, locker rooms, and restrooms (with exceptions granted for arrests, use of force, and exigent circumstances)
 - On grounds of elementary or secondary schools
 - Situations in which Officer interaction is unrelated to a law enforcement interest
 - Upon request by an apparent crime victim or witness, where non-recording is a condition of cooperation
 - When interacting with an informant
 - Within a Courtroom or Magistrate's Office, unless responding to a call for service, or asked to demonstrate as part of testimony
 - When interviewing juvenile victims or witnesses
 - When interviewing victims of "a crime of a sexual nature or medical professionals providing information pertaining to related examination(s) of the victim"
 - When conducting or attending a strip search (the location should be recorded, then the recording shall be audio only)
 - When on a static assignment with minimal contact with the public, such as traffic direction or maintaining standing in a safe scene



Main Points: Prohibited Activation and Temporary Deactivation- Private Residences

- Feasibility Committee:

- Except when officers are executing a search or arrest warrant, or when exigent circumstances permit officers to enter a home without a warrant, video recording should occur inside a private residence only subject to the following requirements and conditions:
 - As soon as possible upon entering a residence, in a manner that is captured on the audio recording, officers shall request permission to video record. If any apparent lawful occupant or resident of the dwelling, other than an apparent aggressor in a domestic violence situation, denies permission, the body-worn camera shall be de-activated, unless, subject to the limitation set forth in 3.a.vii, legitimate law enforcement objectives require recording, such as where important evidence related to the incident will be irretrievably lost unless recording occurs, or the situation between the police and the occupants becomes confrontational or violent.
 - If, at any time, a subject rescinds consent to record while in a residence, officers shall immediately, or as soon as practicable, deactivate their body- worn cameras, unless continued recording is justified or required by some other provision of this policy
 - Should officers continue to record inside a residence despite a subject's refusal to permit recording or a subject's request to discontinue recording, the officers shall document in their written reports, and if possible on the recording itself, the specific law enforcement needs that they relied upon to override the request to stop recording.
 - If recording is made over the objection of individuals in the residence, supervisory staff shall in all such instances promptly review the incident, including the recording, to determine if continued recording was warranted under this policy. If supervisory staff determine that the recording was made in violation of this policy, the recording shall be redacted to remove improperly recorded portions or the recording shall be deleted.

- Proposed MPD Policy:

- Whenever possible, officers should inform individuals that they are being recorded. In locations where individuals have a reasonable expectation of privacy, such as a residence, they may decline to be recorded unless the recording is being made in pursuant to an arrest or search of the residence or the individuals. The BWC shall remain activated until the event is completed in order to ensure the integrity of the recording unless the contact moves into an area restricted by this policy.
- When requested to do so by victims or witnesses as a condition of their cooperation prior to beginning an interview, taking a statement, or gathering information (this applies only once the scene is orderly and the situation is under control and NOT to the relaying of initial suspect information to be disseminated to other officers or for the purpose of initial alerts). The individual's request to deactivate the BWC shall be captured on the BWC recording prior to deactivation. Upon completion of the interview, the BWC should be reactivated until completion of the event.



2023 MPD Body Worn Camera Pilot

Main Points: Officer Review and Reporting

- Feasibility Committee:
 - Not permitted until initial reports have been completed
 - Prohibition on altering or editing footage
- Proposed MPD Policy:
 - Officer Review is permitted
 - Exception: “If an officer is suspected of a violation of Code of Conduct or an SOP, or involved in an officer-involved critical incident or other serious use of force, the Department reserves the right to limit or restrict an officer from viewing the video file.”
 - Prohibition on altering or editing footage
 - Prohibition on sharing footage without permission (Chief or Records Custodian)
 - Officers are encouraged to identify footage that may be beneficial for training purposes (Policy outlines process)
 - Officers are required to identify and report footage that may contain evidence of violation of law or SOP, or excessive use of force



Main Points: Release of Critical Incident Footage

- Feasibility Committee:
 - Notwithstanding any time periods established for acknowledging and responding to records requests under the Wisconsin Open Records Law, responses to requests for video footage that is subject to a minimum three (3) year retention period pursuant to Department policy, where a subject of the video footage is recorded being killed, shot by a firearm, or grievously injured, shall be prioritized and the requested video footage shall be provided as expeditiously as possible, but in no circumstances later than five (5) days following receipt of the request.
 - 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.
- Proposed MPD Policy:
 - BWC footage associated with open and active criminal investigations and/or open and active Internal Affairs investigations shall not be released to the public prior to the completion of that investigation.
 - BWC footage associated with Officer-Involved Critical Incidents or other incidents which are investigated by an outside Law Enforcement Agency may only be released upon consultation with that agency which has investigative responsibility.
 - Regardless of the final decision, the Chief of Police, or designee, shall issue a public update on the status of any such OICI within six hours, with a second update to follow twelve hours after the first.
 - In addition, The Chief of Police, or designee, may release BWC footage as soon as reasonably prudent.



Main Points: Deletion of Unintentional Footage

- Feasibility Committee:
 - In the event of an unintentional activation of a body-worn camera during a nonenforcement or non-investigative activity, including but not limited to, restroom breaks, meal breaks, or other situations where a reasonable expectation of privacy exists, the officer may request the recording be permanently deleted. A memorandum detailing the circumstances of the unintentional recording will be forwarded via the chain of command to the Chief of Police or his or her designee. If approved, the actual deletion requires two-party authorization. One of these parties will be the Chief of Police or his or her designee and the other party will be the Captain of Specialized Services. The following subsection c is inapplicable to deletions made under this section.
- Proposed MPD Policy:
 - Draft policy allows any video that is not tagged as evidence, relevant to a lawsuit or complaint, or responsive to a Public records request to be deleted after 180 days if left untagged.
 - Non-tagging for eventual deletion is preferable in case one of the examples above arises within 180 days.
 - WI Statute 165.87(2) requires all footage be retained for 120 days minimum



Main Points: Original Footage to Be Maintained

- Feasibility Committee:
 - When redaction is performed on video footage, an unedited, original version of the video footage shall be retained.
 - Except pursuant to the rules for the redaction of video footage set forth above or where it is otherwise expressly authorized by this Policy, no other editing or alteration of video footage, including a reduction of the video footage's resolution, shall be permitted.
- Proposed MPD Policy:
- Redaction
 - Redactions of Madison Police Department body camera records shall be done in accordance with State and Federal law under Wis Stat. 19.35 and corresponding laws. Additionally, MPD will follow state law regarding law enforcement body camera usage as defined in Wis. Stat. 165.87.
 - MPD will retain original, unedited, un-redacted versions of any record released, in accordance with MPD Records Retention/Disposition Authorization, and current State and Federal laws.



2023 MPD Body Worn Camera Pilot

Main Points: Supervisor Review

- Feasibility Committee:
 - 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.
- Proposed MPD Policy (Pilot-specific):
 - Supervisors
 - Ensure Officers are equipped and that equipment is functioning
 - Ensure Officers abide by SOP and training
 - Arrests and non-arrests may be reviewed and countermanded in the event of a potential violation of SOP or State law (Domestic incidents and overt bias)
 - Auditing
 - Double-check on Officer video labeling
 - 2 videos per Officer (minimum 10 minute footage each), once per month
 - All Use of Force and foot/vehicle pursuit footage (and reports)



2023 MPD Body Worn Camera Pilot

Main Points: Training

- Feasibility Committee:
 - Only law enforcement officers with the authority to conduct searches and make arrests shall be permitted to wear a body camera.
 - Officers shall use their body-worn camera and all other recording and imaging devices in compliance with the manufacturer's operational guidelines, Department training, and this policy.
 - All officers and supervisors will be provided adequate training in the use of body-worn cameras prior to using the equipment. Annual retraining will be provided to all authorized users of the body-worn cameras.
 - Only officers who have successfully completed body-worn camera training and possess valid body-worn camera system log-in credentials are authorized to view body-worn camera footage.
- Proposed MPD Policy:
 - Body Worn Cameras (BWC) will be utilized only by personnel who have been properly trained in their use. All officers and supervisors will be provided training in the use of body-worn cameras prior to using the equipment. Refresher or remedial training will be provided as determined by the Chief of Police.
 - The BWC issued by the Department will be the only BWC authorized for use.
 - Recordings created during training or orientation of the BWC program will be retained for no longer than 30 days.



2023 MPD Body Worn Camera Pilot

Main Points: Discipline

- Feasibility Committee:
 - 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.
- Proposed MPD Policy:
 - To facilitate proficiency with the BWC, for the first 60 calendar days of any Department member first entering an assignment that requires the wearing of a BWC, that/those member(s) shall not be subject to discipline for errors in applying this policy that are not intentional. Subject to approval by the unit commander, a member who is being reassigned to an assignment covered by this directive may request the 60-day period to facilitate proficiency with the BWC. Such approval by shall not be unreasonably denied.
 - The Department shall use existing systems for coaching and counseling to address non-intentional errors in applying this policy during the 60-day period.
 - Intentional violations of this policy shall be subject to discipline during any time period.



2023 MPD Body Worn Camera Pilot

Main Points: First Amendment Activity

- Feasibility Committee:
 - Body cameras shall not be used for any intelligence-gathering efforts involving activities in which subjects are engaging in First Amendment protected speech, associations, or religion, such as but not limited to participation in peaceful protests, attendance at religious services or ceremonies, engaging in normal daily social activities that raise no reasonable suspicion of criminal activity, or delivering or attending a lecture, presentation, debate, or similar events;
- Proposed MPD Policy:
 - Body cameras shall not be used for any intelligence-gathering efforts involving activities in which subjects are engaging in First Amendment protected speech, associations, or religion, such as but not limited to participation in peaceful protests, attendance at religious services or ceremonies, **attending neighborhood or community engagement events or meetings**, engaging in normal daily social activities that raise no reasonable suspicion of criminal activity, or delivering or attending a lecture, presentation, debate, or similar events;



Main Points: Use of Facial Recognition Software and Use in Immigration Law Enforcement

- **Feasibility Committee:**
- **Limit on the Use of Biometric Techniques to Search Footage:**
 - The Madison Police Department shall strictly abide by MGO 23.63 and 23.64 restricting facial recognition software.
 - Images from body-worn camera footage shall not be used to create a database of mug shots or used as fillers in photograph arrays and shall not otherwise be used except for those purposes expressly permitted under MGO 23.63 and 23.64.
 - 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.
- **Proposed MPD Policy:**
- Officers shall not edit, alter, erase, duplicate, copy, share, or otherwise distribute BWC recordings in any manner without prior written authorization and approval of the Chief of Police or their designee.
 - Department members are not permitted to compile videos, screenshots, or still images based off of BWC footage, in order to create a standing database of suspects for future use. The use of such screenshots to identify unknown individuals related to open investigations is permitted.
 - In accordance with Madison General Ordinances 23.63 and 23.64, facial recognition technology will not be used with BWC footage
- Madison General Ordinances prohibit the use of facial recognition software
- MPD's enforcement of immigration laws and cooperation with federal authorities pertaining to immigration laws is restricted by both a Code of Conduct as well as an SOP.



2023 MPD Body Worn Camera Pilot

Where to Start

- Where?

NORTH DISTRICT

District based, so all Officers have same chain of command, and equipment can be kept at a single location

Enough personnel to run study without being too large

District Population is diverse (race, age, income)

Residential, industrial, commercial, recreational, educational, and commuter spaces

- When?

SUMMER 2023

Call Volume

Officers not wearing coats

No COVID restrictions