

Implementing a Body-Worn Camera Program

Recommendations and Lessons Learned



COPS

Community Oriented Policing Services
U.S. Department of Justice



POLICE EXECUTIVE
RESEARCH FORUM

Chapter 3. Body-Worn Camera Recommendations

The list of recommendations beginning on page 38 is intended to assist law enforcement agencies as they develop body-worn camera policies and practices. These recommendations, which are based on the research conducted by PERF with support from the COPS Office, reflect the promising practices and lessons that emerged from PERF's September 2013 conference in Washington, D.C., where more than 200 police chiefs, sheriffs, scholars, and federal criminal justice officials shared their experiences with body-worn cameras and their perspectives on the issues discussed in this publication. The recommendations also incorporate feedback gathered during PERF's interviews of more than 40 law enforcement officials and other experts, as well as findings from PERF's review of body-worn camera policies submitted by police agencies across the country.

Each law enforcement agency is different, and what works in one department might not be feasible in another. Agencies may find it necessary to adapt these recommendations to fit their own needs, budget and staffing limitations, state law requirements, and philosophical approach to privacy and policing issues.

When developing body-worn camera policies, PERF recommends that police agencies consult with frontline officers, local unions, the department's legal advisors, prosecutors, community groups, other local stakeholders, and the general public. Incorporating input from these groups will increase the perceived legitimacy of a department's body-worn camera policies and will make the implementation process go more smoothly for agencies that deploy these cameras.

PERF recommends that each agency develop its own comprehensive written policy to govern body-worn camera usage. Policies should cover the following topics:

- Basic camera usage, including who will be assigned to wear the cameras and where on the body the cameras are authorized to be placed
- The designated staff member(s) responsible for ensuring cameras are charged and in proper working order, for reporting and documenting problems with cameras, and for reissuing working cameras to avert malfunction claims if critical footage is not captured
- Recording protocols, including when to activate the camera, when to turn it off, and the types of circumstances in which recording is required, allowed, or prohibited
- The process for downloading recorded data from the camera, including who is responsible for downloading, when data must be downloaded, where data will be stored, and how to safeguard against data tampering or deletion
- The method for documenting chain of custody
- The length of time recorded data will be retained by the agency in various circumstances
- The process and policies for accessing and reviewing recorded data, including the persons authorized to access data and the circumstances in which recorded data can be reviewed

- Policies for releasing recorded data to the public, including protocols regarding redactions and responding to public disclosure requests
- Policies requiring that any contracts with a third-party vendor for cloud storage explicitly state that the videos are owned by the police agency and that its use and access are governed by agency policy

In summary, policies must comply with all existing laws and regulations, including those governing evidence collection and retention, public disclosure of information, and consent. Policies should be specific enough to provide clear and consistent guidance to officers yet allow room for flexibility as the program evolves. Agencies should make the policies available to the public, preferably by posting the policies on the agency website.

General recommendations

1. **Policies should clearly state which personnel are assigned or permitted to wear body-worn cameras and under which circumstances.**

It is not feasible for PERF to make a specific recommendation about which officers should be required to wear cameras. This decision will depend on an agency's resources, law enforcement needs, and other factors.

Lessons learned: Some agencies have found it useful to begin deployment with units that have the most frequent contacts with the public (e.g., traffic or patrol officers).

2. **If an agency assigns cameras to officers on a voluntary basis, policies should stipulate any specific conditions under which an officer might be required to wear one.**

For example, a specified number of complaints against an officer or disciplinary sanctions, or involvement in a particular type of activity (e.g., SWAT operations), might result in an officer being required to use a body-worn camera.

3. **Agencies should not permit personnel to use privately-owned body-worn cameras while on duty.**

Rationale: Most of the police executives whom PERF interviewed believe that allowing officers to use their own personal cameras while on duty is problematic. PERF agrees with this position. Because the agency would not own the recorded data, there would be little or no protection against the officer tampering with the videos or releasing them to the public or online. In addition, chain-of-custody issues would likely prevent the video evidence from being admitted as evidence in court.

This recommendation applies regardless of whether the agency has deployed body-worn cameras.

4. Policies should specify the location on the body on which cameras should be worn.

The most appropriate camera placement will depend on several factors, such as the type of camera system used. Agencies should test various camera locations to see what works for their officers in terms of field of vision, comfort, functionality, and ease of use.

Lessons learned: Police executives have provided feedback regarding their experiences with different camera placements:

- **Chest:** According to the results of PERF's survey, the chest was the most popular placement location among agencies.
- **Head/sunglasses:** This is a very popular location because the camera "sees what the officer sees." The downside, however, is that an officer cannot always wear sunglasses. Some officers have also reported that the headband cameras are uncomfortably tight, and some expressed concern about the potential of injury when wearing a camera so close to the eye area.
- **Shoulder/collar:** Although some officers like the perspective that this placement offers, others have found the camera can too easily be blocked when officers raise their arms. One agency, for example, lost valuable footage of an active shooter incident because the officer's firearm knocked the camera from his shoulder.
- **Shooting side:** Some agencies specify that officers should wear cameras on the gun/shooting side of the body, which they believe affords a clearer view of events during shooting incidents.

5. Officers who activate the body-worn camera while on duty should be required to note the existence of the recording in the official incident report.

Rationale: This policy ensures that the presence of video footage is accurately documented in the case file so that investigators, prosecutors, oversight boards, and courts are aware of its existence. Prosecutors may need to give potentially exculpatory materials to defense attorneys.

6. Officers who wear body-worn cameras should be required to articulate on camera or in writing their reasoning if they fail to record an activity that is required by department policy to be recorded. (See recommendations 7–13 for recording protocols.)

This may occur, for example, if an officer exercises recording discretion in accordance with the agency's policy because he or she cannot record due to unsafe conditions or if a person does not give consent to record when consent is required.

Rationale: This holds officers accountable and helps supervisors investigate any recording irregularities that may occur.

Recording protocols

7. As a general recording policy, officers should be required to activate their body-worn cameras when responding to all calls for service and during all law enforcement-related encounters and activities that occur while the officer is on duty. Exceptions include recommendations 10 and 11 below or other situations in which activating cameras would be unsafe, impossible, or impractical.

7a: Policies and training materials should clearly define what is included in the description “law enforcement-related encounters and activities that occur while the officer is on duty.” Some agencies have found it useful to provide a list of examples in their policies, such as traffic stops, arrests, searches, interrogations or interviews, and pursuits.

7b: Officers should also be required to activate the camera during the course of any encounter with the public that becomes adversarial after the initial contact.

Rationale:

- The policy affords officers discretion concerning whether to record informal, non-law enforcement-related interactions with members of the community, such as a person asking an officer for directions or officers having casual conversations with people they see on patrol. If officers were always required to record in these situations, it could inhibit the informal relationships that are critical to community policing efforts.
 - The policy can help to secure officer support for a body-worn camera program because it demonstrates to officers that they are trusted to understand when cameras should and should not be activated. Protocols should be reinforced in officer training.
 - The policy is broad enough to capture the encounters and activities that, because they are the most likely to produce evidence or lead to complaints from community members about the police, are most in need of accurate documentation. However, the policy is narrow enough to help keep the amount of recorded data more manageable. This can help reduce the costs associated with storing data, reviewing and tagging data, and responding to public records requests.
8. Officers should be required to inform subjects when they are being recorded unless doing so would be unsafe, impractical, or impossible.

Some states have two-party consent laws that require a person making a recording to obtain the consent of the person or persons being recorded. In this case, officers must obtain consent unless the law provides an exception for police recordings. Most states have one-party consent policies, which allow officers to make recordings without obtaining consent.

PERF recommends that police in all states inform subjects that they are being recorded, aside from the exceptions stated already. This policy does not mean that officers in one-party consent states must obtain consent prior to recording; rather, they must inform subjects when the camera is running.

Rationale: The mere knowledge that one is being recorded can help promote civility during police-citizen encounters. Police executives report that cameras improve both officer professionalism and the public’s behavior, an observation that is supported by evaluations of body-worn camera programs.

9. **Once activated, the body-worn camera should remain in recording mode until the conclusion of an incident/encounter, the officer has left the scene, or a supervisor has authorized (on camera) that a recording may cease.**

Officers should also announce while the camera is recording that the incident has concluded and the recording will now cease.

See further discussion in recommendation 11b, “Lessons learned.”

10. **Regardless of the general recording policy contained in recommendation 7, officers should be required to obtain consent prior to recording interviews with crime victims.**

Rationale: There are significant privacy concerns associated with videotaping crime victims. PERF believes that requiring officers to obtain consent prior to recording interviews with victims is the best way to balance privacy concerns with the need to accurately document events.

This policy should apply regardless of whether consent is required under state law.

Crime victims should give or deny consent in writing and/or on camera.

11. **Regardless of the general recording policy contained in recommendation 7, officers should have the discretion to keep their cameras turned off during conversations with crime witnesses and members of the community who wish to report or discuss criminal activity in their neighborhood.**

11a: When determining whether to record interviews with witnesses and members of the community who wish to share information, officers should always consider both the evidentiary value of recording and the subject’s comfort with speaking on camera. To better capture evidence, PERF recommends that officers record statements made by witnesses and people sharing information. However, if a person will not talk unless the camera is turned off, officers may decide that obtaining the information is more important than recording. PERF recommends allowing officers that discretion.

11b: Policies should provide clear guidance regarding the circumstances under which officers will be allowed to exercise discretion to record, the factors that officers should consider when deciding whether to record, and the process for documenting whether to record.

Situations in which officers may need to exercise discretion include the following:

- When a community member approaches an officer to report a crime or share information
- When an officer attempts to interview witnesses, either at a crime scene or during follow-up interviews

Rationale: Some witnesses and community members may be hesitant to come forward with information if they know their statements will be recorded. They may fear retaliation, worry about their own privacy, or not feel comfortable sharing sensitive information on camera. This hesitancy can undermine community policing efforts and make it more difficult for officers to collect important information.

Lessons learned: Agencies have adopted various approaches for recording conversations with witnesses or other people who want to share information:

- Record unless the subject requests otherwise; after receiving such a request, the officer can turn the camera off.
- Require officers to proactively obtain consent from the subject prior to recording.
- Allow officers to position the camera so they capture only audio, and not video, of the person making the statement.
- Instruct officers to keep their cameras running during the initial response to an ongoing/live crime scene to capture spontaneous statements and impressions but to turn the camera off once the scene is controlled and moves into the investigative stage. Officers may then make a case-by-case decision about whether to record later interviews with witnesses on the scene.

If an officer does turn the camera off prior to obtaining information from a witness or informant, the officer should document on camera the reason for doing so.

12. Agencies should prohibit recording other agency personnel during routine, non-enforcement-related activities unless recording is required by a court order or is authorized as part of an administrative or criminal investigation.

Under this policy, for example, officers may not record their partner while they are patrolling in their vehicle (unless they are responding to a call for service), are having lunch at their desks, are on breaks, are in the locker room, etc.

Rationale: This policy supports officer privacy and ensures officers feel safe to engage in routine, informal, non-law enforcement-related conversations with their colleagues.

13. Policies should clearly state any other types of recordings that are prohibited by the agency.

Prohibited recordings should include the following:

- Conversations with confidential informants and undercover officers (to protect confidentiality and officer safety)
- Places where a reasonable expectation of privacy exists (e.g., bathrooms or locker rooms)
- Strip searches
- Conversations with other agency personnel that involve case tactics or strategy

Download and storage policies

- 14. Policies should designate the officer as the person responsible for downloading recorded data from his or her body-worn camera. However, in certain clearly identified circumstances (e.g., officer-involved shootings, in-custody deaths, or other incidents involving the officer that result in a person's bodily harm or death), the officer's supervisor should immediately take physical custody of the camera and should be responsible for downloading the data.**

15. Policies should include specific measures to prevent data tampering, deleting, and copying.

Common strategies include the following:

- Using data storage systems with built-in audit trails
- Requiring the supervisor to physically take custody of the officer's body-worn camera at the scene of a shooting or at another serious incident in which the officer was involved and to assume responsibility for downloading the data (see recommendation 14)
- Conducting forensic reviews of the camera equipment when questions arise (e.g., if an officer claims that he or she failed to record an incident because the camera malfunctioned)

16. Data should be downloaded from the body-worn camera by the end of each shift in which the camera was used.

Rationale: First, many camera systems recharge and clear old data during the downloading process, so this policy helps to ensure cameras are properly maintained and ready for the next use. Second, events will be fresh in the officer's memory for the purpose of tagging and categorizing. Third, this policy ensures evidence will be entered into the system in a timely manner.

17. Officers should properly categorize and tag body-worn camera videos at the time they are downloaded. Videos should be classified according to the type of event or incident captured in the footage.

If video contains footage that can be used in an investigation or captures a confrontational encounter between an officer and a member of the public, it should be deemed "evidentiary" and categorized and tagged according to the type of incident. If the video does not contain evidence or it captures a routine, non-confrontational encounter, it should be considered "non-evidentiary" or a "non-event."

Rationale: Proper labeling of recorded data is critical for two reasons. First, the retention time for recorded data typically depends on the category of the event captured in the video. Thus, proper tagging is critical for determining how long the data will be retained in the agency's system. Second, accurate tagging helps supervisors, prosecutors, and other authorized personnel to readily identify and access the data they need for investigations or court proceedings.

Lessons learned: Some agencies report that reviewing and tagging recorded data can be a time-consuming process that is prone to human error. One agency addressed this issue by working with the camera manufacturer to develop an automated process that links the recorded data to the agency's records management system. Some camera systems can also be linked to electronic tablets that officers can use to review and tag recorded data while still in the field.

18. Policies should specifically state the length of time that recorded data must be retained. For example, many agencies provide 60-day or 90-day retention times for non-evidentiary data.

Agencies should clearly state all retention times in the policy and make the retention times public by posting them on their websites to ensure community members are aware of the amount of time they have to request copies of video footage.

Retention times for recorded data are typically subject to state laws and regulations that govern other types of evidence. Agencies should consult with legal counsel to ensure retention policies are in compliance with these laws.

- For evidentiary data, most state laws provide specific retention times depending on the type of incident. Agencies should set retention times for recorded data to meet the minimum time required by law but may decide to keep recorded data longer.
- For non-evidentiary data, policies should follow state law requirements when applicable. However, if the law does not provide specific requirements for non-evidentiary data, the agency should set a retention time that takes into account the following:
 - Departmental policies governing retention of other types of electronic records
 - Openness of the state's public disclosure laws
 - Need to preserve footage to promote transparency and investigate citizen complaints
 - Capacity for data storage

Agencies should obtain written approval for retention schedules from their legal counsel and prosecutors.

19. Policies should clearly state where body-worn camera videos are to be stored.

The decision of where to store recorded data will depend on each agency's needs and resources. PERF does not recommend any particular storage method. Agencies should consult with their department's legal counsel and with prosecutors to ensure the method for data storage meets any legal requirements and chain-of-custody needs.

Common storage locations include in-house servers (managed internally) and online cloud databases (managed by a third-party vendor). Some agencies burn recorded data to discs as part of the evidence file folder.

Lessons learned: Factors that agency leaders should consider when determining storage location include the following:

- Security concerns
- Reliable methods for backing up data
- Chain-of-custody issues
- Capacity for data storage

Lessons learned: Police executives and prosecutors report that they have had no issues to date with using a third-party vendor to manage recorded data on an online cloud, so long as the chain of custody can be properly established. When using a third-party vendor, the keys to protecting the security and integrity of the data include the following:

- Using a reputable, experienced third-party vendor
- Entering into a legal contract that governs the vendor relationship and protects the agency's data
- Using a system that has a built-in audit trail to prevent data tampering and unauthorized access
- Using a system that has a reliable method for automatically backing up data
- Consulting with prosecutors and legal advisors

Recorded data access and review

20. Officers should be permitted to review video footage of an incident in which they were involved, prior to making a statement about the incident.

This can occur, for example, if an officer is involved in a shooting and has to give a statement about the shooting that may be used in an administrative review or a criminal or civil court proceeding.

Rationale:

- Reviewing footage will help officers remember the incident more clearly, which leads to more accurate documentation of events. The goal is to find the truth, which is facilitated by letting officers have all possible evidence of the event.
- Real-time recording of the event is considered best evidence. It often provides a more accurate record than an officer's recollection, which can be affected by stress and other factors. Research into eyewitness testimony demonstrates that stressful situations with many distractions are difficult even for trained observers to recall correctly.
- If a jury or administrative review body sees that the report says one thing and the video indicates another, this can create inconsistencies in the evidence that might damage a case or unfairly undermine the officer's credibility.

21. Written policies should clearly describe the circumstances in which supervisors will be authorized to review an officer's body-worn camera footage.

Common situations in which supervisors may need to review footage include the following:

- To investigate a complaint against an officer or a specific incident in which the officer was involved
- To identify videos for training purposes and for instructional use

PERF also recommends that supervisors be permitted to review footage to ensure compliance with recording policies and protocols, specifically for the following situations:

- When officers are still in a probationary period or are with a field training officer
- When officers have had a pattern of allegations of verbal or physical abuse
- When officers, as a condition of being put back on the street, agree to a more intensive review
- When officers are identified through an early intervention system

22. An agency's internal audit unit, rather than the officer's direct chain of command, should periodically conduct a random review of body-worn camera footage to monitor compliance with the program and assess overall officer performance.

Rationale: PERF recommends that an agency's internal audit unit (e.g., the Staff Inspection Unit) conduct these random footage reviews to avoid undermining the trust between an officer and his or her supervisor.

The internal audit unit's random monitoring program should be governed by a clearly-defined policy, which should be made available to officers.

23. Policies should explicitly forbid agency personnel from accessing recorded data for personal use and from uploading recorded data onto public and social media websites.

Rationale: Agencies must take every possible precaution to ensure body-worn camera footage is not used, accessed, or released for any unauthorized purpose. This prohibition should be explicitly stated in the written policy.

Written policies should also describe the sanctions for violating this prohibition.

24. Policies should include specific measures for preventing unauthorized access or release of recorded data.

Some systems have built-in audit trails. All video recordings should be considered the agency's property and be subject to any evidentiary laws and regulations.

25. Agencies should have clear and consistent protocols for releasing recorded data externally to the public and the news media (a.k.a. Public Disclosure Policies). Each agency's policy must be in compliance with the state's public disclosure laws (often known as Freedom of Information Acts).

Policies should state who is allowed to authorize the release of data and the process for responding to public requests for data. PERF generally recommends a broad disclosure policy to promote agency transparency and accountability.

However, there are some videos—such as recordings of victims and witnesses and videos taken inside private homes—that raise privacy concerns if they are publicly released. These privacy considerations must be taken into account when deciding when to release video to the public. The policy should also identify any exemptions to public disclosure that are outlined in the state Freedom of Information laws.

In certain cases, an agency may want to proactively release body-worn camera footage. For example, some agencies have released footage to share what the officer's video camera showed regarding controversial incidents. In some cases, the video may support a contention that an officer was in compliance with the law. In other cases, the video may show that the department is taking appropriate action against an officer. Policies should specify the circumstances in which this type of public release is allowed. When determining whether to proactively release data to the public, agencies should consider whether the footage will be used in a criminal court case, and the potential effects that releasing the data might have on the case.

Lessons learned:

- While agencies that have implemented body-worn cameras report that responding to public disclosure requests can be administratively complicated, departments must implement systems that ensure responses to these requests are timely, efficient, and fully transparent. This process should include reviewing footage to locate the requested video, determining which portions are subject to public release under state disclosure laws, and redacting any portions that state law prohibits from disclosure (e.g., images of juveniles' faces).
- The most important element of an agency's policy is to communicate it clearly and consistently within the community.

Training policies

- 26. Body-worn camera training should be required for all agency personnel who may use or otherwise be involved with body-worn cameras.**

This should include supervisors whose officers wear cameras, records/evidence management personnel, training personnel, Internal Affairs, etc.

Agencies may also wish to offer training as a courtesy to prosecutors to help them better understand how to access the data (if authorized), what the limitations of the technology are, and how the data may be used in court.

- 27. Before agency personnel are equipped with body-worn cameras, they must receive all mandated training.**

- 28. Body-worn camera training should include the following:**

- All practices and protocols covered by the agency's body-worn camera policy (which should be distributed to all personnel during training)
- An overview of relevant state laws governing consent, evidence, privacy, and public disclosure
- Procedures for operating the equipment safely and effectively
- Scenario-based exercises that replicate situations that officers might encounter in the field

- Procedures for downloading and tagging recorded data
- Procedures for accessing and reviewing recorded data (only for personnel authorized to access the data)
- Procedures for preparing and presenting digital evidence for court
- Procedures for documenting and reporting any malfunctioning device or supporting system

29. A body-worn camera training manual should be created in both digital and hard-copy form and should be readily available at all times to agency personnel.

The training manual should be posted on the agency's intranet.

30. Agencies should require refresher courses on body-worn camera usage and protocols at least once per year.

Agencies should also require ongoing monitoring of body-worn camera technology for updates on equipment, data storage options, court proceedings, liability issues, etc.

Policy and program evaluation

31. Agencies should collect statistical data concerning body-worn camera usage, including when video footage is used in criminal prosecutions and internal affairs matters.

Statistics should be publicly released at various specified points throughout the year or as part of the agency's year-end report.

Rationale: Collecting and releasing statistical information about body-worn camera footage helps to promote transparency and trust within the community. It also allows agencies to evaluate the effectiveness of their body-worn camera programs and to identify areas for improvement.

32. Agencies should conduct evaluations to analyze the financial impact of implementing a body-worn camera program.

These studies should analyze the following:

- The anticipated or actual cost of purchasing equipment, storing recorded data, and responding to public disclosure requests
- The anticipated or actual cost savings, including legal fees and other costs associated with defending lawsuits and complaints against officers
- Potential funding sources for a body-worn camera program

33. Agencies should conduct periodic reviews of their body-worn camera policies and protocols.

Evaluations should be based on a set standard of criteria, such as the following:

- Recording policies
- Data storage, retention, and disclosure policies
- Training programs
- Community feedback
- Officer feedback
- Internal audit review discoveries
- Any other policies that govern body-worn camera usage

An initial evaluation should be conducted at the conclusion of the body-worn camera pilot program or at a set period of time (e.g., six months) after the cameras were first implemented. Subsequent evaluations should be performed on a regular basis as determined by the agency.

Rationale: Body-worn camera technology is new and evolving. In addition, the policy issues associated with body-worn cameras are just recently being fully considered and understood. Agencies must continue to examine whether their policies and protocols take into account new technologies, are in compliance with new laws, and reflect the most up-to-date research and best practices. Evaluations will also help agencies determine whether their policies and practices are effective and appropriate for their departments.