



Body Worn Camera Programs

POLICY ESSENTIALS AND ISSUES TO CONSIDER

Opening Caveat

- ▶ No “one-size fits all” policy
- ▶ Many good policies in place to use as models
- ▶ Policy will necessarily be driven by state laws, labor agreements and community standards
- ▶ Good policies cover a range of approaches and take into account the goals of the CLEO
- ▶ Should seek to balance the interests of management, officers and community

HOWEVER, there are elements that a sound policy should contain...the particular requirements and the level of specificity are up to you.

Policy Requirements



- ▶ Every sound policy must address key issues:
 - ▶ When to turn it on and off (triggers and discretion)
 - ▶ Where it is appropriate OR NOT to record
 - ▶ When to turn it off
 - ▶ Who can turn it off and under what circumstances
 - ▶ Who can view recordings and under what circumstances
 - ▶ Retention
 - ▶ Redaction (Public availability, privacy and the COST!)

Necessary Elements of a Policy:

- ▶ A strong policy/purpose statement
- ▶ Requirements regarding use of the BWC
- ▶ Restrictions on use of the BWC
- ▶ Requirements for storage and integrity of recordings
- ▶ Requirements for inspection and auditing
- ▶ Use of recordings for training and supervisory functions
- ▶ Production of records

Policy Statements

- ▶ Should provide the rationale for use of the system
- ▶ Should spell out the purpose of the system and intended uses
 - ▶ Safety
 - ▶ Accountability and transparency
 - ▶ Accuracy and preservation of evidence
 - ▶ Complete and unbiased documentation
- ▶ Opportunity to explain the value of BWC to department members and the public

Use of the Device

- ▶ Must establish criteria for activation
 - ▶ What are triggers for the officer?
 - ▶ Citizen contacts (“law enforcement” vs. any contact)
 - ▶ Stops, detentions, arrests and searches
 - ▶ Uses of force and adversarial interactions
 - ▶ Dispatched calls
 - ▶ Emergency driving, accidents and pursuits
 - ▶ Advisement of Miranda warnings and taking of statements
 - ▶ K-9 deployments and warrant service
 - ▶ Catch all for situations the officer deems appropriate
 - ▶ How much discretion should the officer have?
- ▶ Must establish criteria for deactivation
 - ▶ When can the officer stop recording?
 - ▶ Who can stop the recording? (Ex. Critical incidents may warrant the involvement of a supervisor/IC)

Use of the Device

- ▶ Must contain requirements for wear (at all times? particular positioning? which personnel?)
- ▶ Must specify that any use of the BWC shall be for department use only (and recordings are Dept. property)
- ▶ Must specify whether Department equipment must be used
- ▶ Must require documentation of any deviation from the policy and provide notice regarding discipline for failure to follow policy
- ▶ Must contain a requirement that officers routinely inspect equipment for proper functioning, ensure proper functioning, and report problems for correction

Restrictions/Prohibitions on Use

- ▶ Must address situations and circumstances wherein recording is not appropriate and restrict such recording
 - ▶ Undercover operations
 - ▶ Private homes or places protected by the 4th Amendment?
 - ▶ Juveniles, within medical facilities, victims
 - ▶ Interactions and communication with other department members (Ex. Surreptitious recording of department members)
 - ▶ On breaks or during non-enforcement situations like briefing
 - ▶ First Amendment activity without a criminal violation

Retention—Storage, Retrieval and Recording Integrity

- ▶ Must prohibit officers from deleting, altering, copying or sharing recordings except for a legitimate law enforcement purpose (audit trail)
- ▶ Must specify who may control the recordings
- ▶ Establish a means of retrieval and disclosure for prosecution
- ▶ Mechanism to request deletion of files where deemed appropriate (Ex. Unintentional recordings)
- ▶ Must comply with state record retention requirements

Redaction and Public Availability

- ▶ Transparency v. privacy—the great debate
 - ▶ Protection of citizens?
 - ▶ Protection of officers?
- ▶ Must comport with state law requirements for freedom of information requests
- ▶ Redaction technology (how to do it, and how much to do it)
- ▶ Cost \$\$\$

Supervisory/Training Issues



- ▶ Must specify what uses may be made by supervisory personnel
- ▶ Must establish requirement for oversight of subordinate use of equipment and adherence to policy
- ▶ Must establish criteria for use of recordings in training capacity

Inspection and Auditing



- ▶ Should establish an “administrator” to oversee the program
- ▶ Establish responsibility for overall proper operation of the system
- ▶ Consider requiring supervisors to conduct periodic audits to ensure proper operation of equipment and compliance with policy

Additional Concerns: Officer viewing

- ▶ Must decide under what circumstances officers may view their own or other sources of BWC video
- ▶ In use of force and OIS situations, agencies may treat viewing differently

Additional Concerns: Citizen Privacy

- ▶ May require advising citizens that they are being recorded and/or require consent
- ▶ May allow for discontinuing recording at the request of a citizen
- ▶ May provide latitude for vulnerable victims (sex assault, juveniles, DV, etc.)
- ▶ Must provide guidance on whether citizens should be allowed to view recordings (Ex. Investigatory need or to resolve citizen complaint)

Additional Concerns: Use in Discipline

- ▶ Must contain notice regarding failure to follow requirements of BWC policy
 - ▶ Mistake vs. intentional tampering, disabling or misusing
- ▶ Agency must decide whether video will be reviewed for policy violations
- ▶ Should cameras be assigned to “problem” officers?



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- ▶ Presented at the IACP LOS Annual Conference by Bill Amator, Tempe Police Department