



**GOVERNMENT OF THE DISTRICT OF COLUMBIA
POLICE COMPLAINTS BOARD
OFFICE OF POLICE COMPLAINTS**

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**PCB POLICY REPORT #18-3:
Viewing Body-Worn Camera Footage On-Scene**

Summary of Issue:

On May 8, 2014, the Police Complaints Board (PCB) issued “Enhancing Police Accountability Through An Effective On-Body Camera Program for MPD Officers.” In this report the PCB recommended the implementation of body-worn cameras (BWC) for the Metropolitan Police Department (MPD). The PCB found many compelling reasons for BWC, including that the footage the cameras capture could be used to resolve complaints and train officers on proper procedures, and as evidence in criminal and civil litigation. In addition to these benefits, a recent study at the time showed that the mere presence of body-worn cameras could serve to prevent negative interactions by changing officer and community member behavior.¹ As a result, the use of these devices could lead to enhanced police accountability as well as improved police-community relations.

In October 2014, MPD began a BWC pilot program, beginning with only a few dozen cameras.² The pilot was considered a success. On December 15, 2015, the District of Columbia Council passed the "Body-Worn Camera Program Amendment Act of 2015 (B21-0351)," after consulting with a variety of District stakeholders.³ In December 2016, the MPD completed deployment of approximately 2,800 body worn cameras (BWCs) across the District.⁴ This was the largest deployment of body-worn cameras for any police department in the country, at the time. From the beginning of the BWC pilot program, through full deployment, and since then, the PCB has seen its expectations for BWCs come to fruition. Specifically, at the Office of Police Complaints (OPC), investigators have been able to utilize BWC footage as a neutral

¹ Barak Ariel and Tony Farrar, Police Foundation, Self-Awareness to Being Watched and Socially Desirable Behavior: A Field Experiment on the Effect of Body-Worn Cameras on Police Use-of-Force, available at <http://www.policefoundation.org/content/body-worn-camera>.

² See <https://mpdc.dc.gov/node/1055062>.

³ Available at <https://www.open-dc.gov/sites/default/files/B21-0351%20%28As%20Amended%20Dec.%2015%2C%202015%29.pdf>.

⁴ See <https://mpdc.dc.gov/page/bwc>.

observer of complaint incidents, which allows investigations to proceed more expeditiously, and for fewer decisions to rest on officer and complainant credibility determinations.

Now that BWCs have been fully deployed with MPD for over a year and a half, it is a good opportunity to examine aspects of the program that can be improved. This report looks specifically at the issue of viewing BWC footage on-scene through an Axon⁵ smartphone application.⁶

Viewing BWC Footage On-Scene:

While an officer viewing BWC footage on-scene has not been the basis for complaints filed with OPC, investigators have viewed this happening in the course of their reviews of BWC footage for complaints. Some examples below illustrate the issues that can arise when an officer views BWC footage at the scene of an incident, and how that can impact community trust.

Example 1: While on the scene of an incident, an officer witnessed a community member engage in conduct that he found humorous. When other officers arrived at the scene of the incident the officer showed them the BWC footage that captured the community member's conduct.

Example 2: An officer was involved in an incident where a community member needed to be transported to the hospital. In the ambulance transport to the hospital, and at the hospital, the community member began making several allegations of misconduct about other officers. The officer told another officer at the hospital that he was going to turn off his BWC to review the statements of the community member. At a later point the officer's BWC was back on, and it recorded the community member stating that she knew he had turned his camera off, and questioning why.

It is important to note that these are not the only occurrences of viewing BWC on-scene that OPC investigators have observed, but these incidents exemplify some of the concerns that the PCB has with officers viewing BWC on-scene.⁷ In the first example, if the community member saw officers sharing video of her, she could have been greatly embarrassed, and would likely not want to cooperate with the officers. If other community members saw the officers doing this it would at the very least negatively affect their view of MPD's professionalism. In the second example, while the officer may have thought he had a permitted reason for viewing the BWC on-scene, it still impacted the community member's trust in the officer.

⁵ Axon is the company that provides BWCs to MPD.

⁶ The Police Complaints Board (PCB) is issuing this report pursuant to D.C. Code § 5-1104(d), which authorizes the Board to recommend to the District of Columbia Mayor, Council, MPD Police Chief, and the Director of District of Columbia Housing Authority reforms that have the potential to improve the complaint process or reduce the incidence of police misconduct.

⁷ MPD indicated to OPC that based on these descriptions, the members in both examples were acting outside policy.

Applicable Directives:

MPD outlines the policies and procedures for members to follow with regards to BWCs in General Order 302.13: Body Worn Camera Program.⁸ Section IV.G states “The viewing of BWC recordings at the scene of an incident is prohibited.” The Order continues with:

1. Requests by subjects of BWC recordings shall be handled in accordance with Part V.F of this order.
2. Requests by all other members of the public shall be referred to the Freedom of Information Act (FOIA) Office.

This is the only section of the General Order that references the possibility of viewing the BWC at the scene. While at first look this appears to be an explicit ban on such viewing, officers have pointed out to OPC that they can read it otherwise. Specifically, there have been differing views on what is the “scene of an incident.” In example two for instance, the officer may have thought the scene of the incident was only the original location where the community member first encountered law enforcement, even though his interaction with the community member continued as they changed locations. In addition, subsections 1 and 2 both refer to members of the public viewing BWC. This could cause a reader to think that the prohibition on viewing on-scene from the first sentence is modified by the two subsections, and thus only applies to the public, and not MPD members.

Section IV.L.18 of the General Order states that members **shall not** “View recordings for anything other than official law enforcement purposes” (emphasis from the original). While it is clear that in example one there was not an official law enforcement purpose, it does appear that the officer in example two thought he did have one. And although viewing the BWC to accurately document allegations of police misconduct is an “official law enforcement purpose” it is not clear why the officer decided it needed to be done on-scene, and could not wait for the officer to return to the station.

It should be noted that the General Order at no point makes any reference to the Axon smartphone application that allows members to view the BWC footage on-scene. Or any way that members would be able to view BWC from a mobile device.

As MPD members are now familiar with operating the BWCs, it allows MPD to focus less on the basic functions of the BWCs, and take the time to address pieces of the program that could be improved. While the General Order is detailed and expansive, only through time could it become apparent that there were provisions that might cause confusion for the members, particularly as the technology advances.

⁸ Available at https://go.mpdconline.com/GO/GO_302_13.pdf.

Policy Concerns:

MPD explains that “The use of BWCs can benefit members of the community and the MPD by improving police services, *increasing accountability and transparency* for individual interactions, and *strengthening trust* among law enforcement and the communities they serve” (emphasis added).⁹ The advantages of having BWC are clear, but to ensure they reach their full potential MPD must ensure that the directives for use are clear and that officers follow those directives. While MPD cites accountability, transparency, and trust as benefits of BWC, the examples above both illustrate how all of those can be hampered by improper use of BWC.

While the BWC camera program is only a few years old, with how quickly technology advances there have already been several aspects of the BWC equipment and software that have changed in this time. It is incumbent upon MPD to stay abreast of the technological changes, and constantly evaluate the guidance for officers to ensure it stays current. Not every update will call for a revision to the General Order, but MPD has other means of providing guidance to members that can be utilized to ensure consistent use of BWCs.

Recommendations

To help improve and facilitate better relations and increase trust between MPD officers and community members, the PCB recommends that:

1. MPD should clarify for members the intention of General Order 302.13: Body Worn Camera Program, Section IV.G., which states, “The viewing of BWC recordings at the scene of an incident is prohibited.” MPD must ensure that members understand what “the scene of the incident” includes, and that members are aware that this section applies to them as well as the public.
2. MPD should remind all members of General Order 302.13: Body Worn Camera Program, Section IV.L.18 to ensure that BWC recordings are only used for official law enforcement purposes.

⁹ See <https://mpdc.dc.gov/page/bwc>.