



GOVERNMENT OF THE DISTRICT OF COLUMBIA OFFICE OF POLICE COMPLAINTS

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PCB POLICY REPORT #22-4: Enabling Sound During the Pre-Event Buffer on Body-Worn Cameras

Summary:

In December 2016 the Metropolitan Police Department (MPD) fully implemented its body-worn camera (BWC) program by deploying 2,800 BWCs to its member across the District. At the time, this was the largest deployment of BWCs by a police department in the United States.¹ MPD committed to its BWC program after the Office of Police Complaints (OPC) issued a policy recommendation in May 2014 advising them to do so and because, “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.”^{2 3} Thus far MPD’s BWC program has been successful in its mission to increase the public’s trust through greater accountability and transparency. However, a review by OPC of the technological specifications of the Axon cameras used by MPD reveal an opportunity for MPD to increase public trust, accountability, and transparency to a greater degree by enabling audio during the entire two-minute pre-event buffer. This report examines the various ways in which MPD can continue to increase public trust, accountability, and transparency by enabling audio during the entire two-minute pre-event buffer on its BWCs.⁴

Background:

Whenever MPD officers activate their BWCs, the camera begins recording audio and video, but it also preserves a two-minute segment of silent video that captures the events occurring before the officer activated the camera. This silent segment of video is the pre-event buffer. When MPD initially implemented its BWC program, the pre-event buffer was only thirty seconds in length. However, MPD extended the pre-event buffer for its BWCs to two minutes with the release of Teletype 05-068-17 on May 18, 2017.⁵ Axon, the manufacturer of the BWCs used by

¹ See <https://mpdc.dc.gov/page/bwc>

² “Enhancing Police Accountability through an Effective On-Body Camera Program for MPD Officers,” Office of Police Complaints, May 8, 2014, available at <https://policecomplaints.dc.gov/node/828122>

³ See <https://mpdc.dc.gov/page/bwc>

⁴ 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.

⁵ MPD does not publicly publish teletypes.

MPD, sets the default pre-event buffer length of its cameras to thirty seconds, but police departments have the flexibility to adjust the default settings after purchase. Not only can police departments adjust the length of the pre-event buffer, but they can also choose to enable sound during replay for the entire duration of the pre-event buffer.⁶ According to the Axon website, activating this feature will only preserve audio for the two minute pre-event buffer and will not affect any other audio or video settings.⁷ It will not cause the camera to continuously record audio or video while the camera is on but not actively recording. A separate feature, called Video Recall, preserves all audio and video captured by the camera while it is on but not actively recording.⁸ However, use of this feature is not part of this recommendation.

Why Should MPD Enable Sound During the Pre-Event Buffer?

In addition to the general benefits of improving accountability and transparency, the added advantages of enabling sound during the entire pre-event buffer are essentially the same reasons for instituting a BWC program in the first place. These benefits include but are not limited to: better documentation of evidence, resolving and reducing community complaints, improving police officer training, reducing civil liability, and providing a police officer's perspective on events.^{9 10}

- **Documenting evidence.** BWC footage has proved to be a useful tool with respect to documenting evidence used for criminal investigations and trials. A recent survey of prosecutors reported that 92.6% of all prosecutor's offices in jurisdictions with BWC programs have used BWC footage as evidence during the criminal trials of private citizens while 8.3% of these offices have used BWC footage as evidence to prosecute police officers.¹¹ Enabling sound during the entire pre-event buffer will enhance the evidence gathering function of MPD officers by capturing more data and by providing additional context for certain incidents. In addition, it is well known that the law enforcement profession is unpredictable and police officers often find themselves in unexpected situations. Enabling sound during the pre-event buffer would also provide a solution for moments when officers are late in activating their BWCs during a rapidly changing incident.

⁶ See https://my.axon.com/s/article/Body-Camera-Settings?language=en_US

⁷ *Id.*

⁸ *Id.*

⁹ Nembhard, Susan and Robin, Lily, "What Can Policymakers Expect of Body-Worn Cameras in Law Enforcement after a Decade of Use?" July 14, 2022, available at <https://www.urban.org/urban-wire/what-can-policymakers-expect-body-worn-cameras-law-enforcement-after-decade-use>

¹⁰ The PCB acknowledges that MPD must balance its duty to preserve the privacy rights of officers and community members who appear in publicly released BWC videos with its goal of promoting greater transparency and accountability. MPD's current practice is to redact publicly released BWC videos to protect the privacy rights of those involved. A review of MPD's publicly released BWC videos indicated that its redaction procedures included footage captured during the pre-event buffer. *See* https://mpdc.dc.gov/sites/default/files/dc/sites/mpdc/publication/attachments/BWC_report_2016October.pdf and <https://mpdc.dc.gov/page/community-briefing-videos>

¹¹ Merloa, Linda; Lum, Synthia; Koper, Christopher; and Sherer, Amber, "Body Worn Cameras and the Courts: A National Survey of State Prosecutors," available at <https://cebcp.org/wp-content/technology/BWCProsecutors.pdf>

- **Resolving and reducing community complaints.** It has been well documented that BWC footage is an important and useful tool in resolving complaints from community members. BWC footage expedites the complaint resolution process by reducing the need to interview certain witnesses and by providing additional context to the accounts provided by police officers and community members during the complaint process. In fact, studies in Phoenix, Arizona and Las Vegas, Nevada have indicated that BWCs have reduced the number of complaints from community members in those jurisdictions.¹² Enabling sound during the pre-event buffer would provide additional evidence for resolving complaints while providing additional context for these interactions from the officer’s point of view, specifically for the understanding how the interaction started. Enabling sound on the two-minute buffer may also have the added effect of reducing the number of complaints levied against MPD officers.
- **Improving police officer training.** Many police departments are now finding that BWC footage is a cost-effective training tool that provides officers with examples of real scenarios that occurred in their own jurisdictions. In addition to scenario-based training, BWC footage can be used to evaluate the performance of officers in the field and identify potential defects in their department’s training process.¹³ Enabling sound during the entire pre-event buffer would provide MPD with the opportunity to continue to raise its standards of performance when it comes to tactics, communications, and customer service. These benefits would come at a minimal cost to the agency and could help increase “the perceived legitimacy and sense of procedural justice that communities have about their police departments.”¹⁴
- **Reducing civil liability.** The three benefits discussed above should eventually result in a decrease in the number of lawsuits filed against the District and MPD based on police officer actions. In addition, lawsuits could be more quickly resolved through settlements in cases where the two-minute pre-event buffer eliminates disputes about the facts of a case. Furthermore, the addition of sound to the two-minute pre-event buffer could deter individuals from filing frivolous claims against MPD since there would be no opportunity for them to mischaracterize an interaction captured on video because there was no sound.
- **Providing a police officer’s perspective of events.** Many of the publicized negative police interactions with community members are often recorded by bystanders using cellular phones or other recording devices, whereas BWC footage can show the incident

¹² Nembhard and Robin, “What Can Policymakers Expect”

¹³ United States Department of Justice Community Oriented Policing Services, “Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned” (2017), available at: <https://cops.usdoj.gov/RIC/Publications/cops-p296-pub.pdf>

¹⁴ *Id.*

from the officer's perspective. Since most published videos of negative police-community interactions tend to only consist of short video snippets of the alleged bad behavior of the officer, enabling sound during the entire pre-event buffer would enable MPD to provide the public with the officer's perspective of a publicly perceived negative interaction and would also help to provide additional context that might better explain the incident.

Recommendation:

To help improve and facilitate better relations and increase trust between MPD officers and community members, the PCB recommends that MPD enable sound during the entire two-minute pre-event buffer on all department issued BWCs. By merely changing the sound settings on its BWCs, MPD could potentially enhance its officers' ability to gather and document evidence, reduce and more quickly resolve the complaints against its officers, improve the training of its members, reduce civil liability, and better provide its officers' perspective of events that may be misconstrued by the general public. Furthermore, since the silent pre-event buffer is the standard and default setting for BWCs in most police departments, MPD has the opportunity to become a nationwide leader and model agency with respect to best practices when it comes to using BWC technology.