

City of Worcester Human Rights Commission Minutes
VIRTUAL & IN-PERSON MEETING – Monday, October 4, 2021, 6:00pm
District 2 Listening Session on Police Body Cameras
In person at St. Bernard’s Church, 236 Lincoln St, Worcester and Zoom
ASL and Spanish interpretation provided

Video available: <https://play.champds.com/worcesterma/event/982>

Members Present: Jacqueline Yang, Elizabeth O’Callahan, Guillermo Creamer Jr., Lilian Chukwurah, Edward G. Robinson, Jorge Lopez-Alvarez

Members Absent: Deidre Padgett, LaToya Lewis

Staff: Jayna Turcek

Guests:

Captain Carl Supernor, Worcester Police Department
Lt. Sean Murtha, Worcester Police Department
Attorney Janice Thompson, City of Worcester Law Department
Candy Mero-Carlson. District 2 Councilor

Background documents

- www.worcesterma.gov/uploads/05/50/05505ce4e1caaaeb8993a5e5daf65bdd/body-worn-cameras-pilot-report.pdf
- www.worcesterma.gov/wpd-policy-manual/operations/body-worn-cameras.pdf
- www.worcesterma.gov/agendas-minutes/boards-commissions/human-rights-commission/2021/20210712.pdf
- <https://play.champds.com/worcesterma/event/891>

1. Call to order and Introductions

A quorum was established, and Chairperson Yang called to order. The Chairperson welcomes members of the commission and those present and introductions of those in attendance as well as roll call were taken.

Chairperson Yang began with an acknowledgement of the traditional, ancestral, territory of the Nipmic Nation, the first people of Massachusetts and those who’s land we are convening on tonight. While the Nipmuc history predates written history, records from the 1600s inform us that the original inhabitants of Worcester dwelled principally in three locations: Pakachoag, Tatesset (Tatnuck), and Wigwam Hill (N. Lake Ave). It is important to make this acknowledgment and to honor the ancestors that have come before us. It is all too easy to live in a land without ever hearing the traditional names and the history of the people who first resided and prospered in these lands and continue to reside and prosper.

The Human Rights Commission was established to promote the city's human rights policies. It is the policy of the City to assure equal access, for every individual, to and benefit from all public services, to protect every individual in the enjoyment and exercise of civil rights and to encourage and bring about mutual understanding and respect among all individuals in the city. Our work requires us to address institutional racism so that as a community we can achieve racial equity. Our work also requires us to make visible the unheard, unearned, and unquestioned privilege enjoyed by some members of our community to the detriment of others. We take time to make this acknowledgement, to educate, so a path can be cleared for healing.

The term “**institutional racism**” refers specifically to the ways in which institutional policies create difference outcomes for different racial groups. The institutional policies may never mention any racial group, but their effect is to create advantages for whites and the oppression and disadvantage for people from groups classified as people of color.

The term “**racial equity**” is the active state in which race does not determine one's livelihood or success. It is achieved through proactive work to address root causes of inequalities to improve outcomes for all individuals. That is, through the elimination or shifting of policies, practices, attitudes, and cultural messages that reinforce differential outcomes by race or fail to eliminate them.

The term “**privilege**” describes the unearned social power and informal institutions of society to all members of a dominant group. For example: “white privilege” and “male privilege.” Privilege is usually invisible to those who have it because we are trained to not see it but nevertheless it puts them at an advantage against those who do not have it.

2. Public Comment

Daniel Arnold: I wanted to comment on a couple of things. One being on the report submitted by Chief Sargent. My question regarding that is: there was no control group within that, only the officers that volunteered to wear cameras and I would like to enter the in as why there was no control group used and what are we going to do to understand the actual impact of the pilot? The second question I have is what other academic or scientific research is going to be used in conjunction with Chief Sargent's admissions to understand better how body cameras are best utilized in a community? I would submit that there are a number of other cities in the country of the same size and demographic makeup as Worcester and would like to see us look for some of those cities who may be ahead of us in regards to having a body camera program and see what types of results they are having. Last but not least, I would like to submit that the cost, as submitted by Chief Sargent, seems exceedingly high for the return on investment and would prefer to see those funds, which if I read correctly, approximate 2 million dollars per year over a five-year period. I feel this could be better used for police training such as implicit bias training, de-escalation training, etc. I would also suggest that the money could be better utilized for bringing in other paraprofessionals to support the police such as mental health crisis clinicians, domestic violence experts, etc. to respond to certain types of calls where their education or

expertise is needed above and beyond enforcing a criminal act. I think my last point was going to be that if we are going to implement a body worn camera program, I would really want to see that police officers ability to turn on and off the cameras is highly regulated. Of the few research studies I have read recently that was one of the chief problems. where they did not find improvement with the body worn cameras was where the officers could control very easily whether they turned their cameras on or not. Thank you for your time.

Captain Supernor: For your questions, I think most of what you said were statements or recommendations, I took down some notes. Were any of them specific as far as a question?

Daniel Arnold: I was curious about what we would do, I don't know if it is possible to go back and have a control group, who are we comparing the group who piloted to, either in our own force or to a comparable police force? Really what we got in Chief Sargent's presentation was really quasi-experimental, mostly antidotal and really the research now a-days is getting away from that to get into randomized control studies. So that did not happen for our pilot. Is there a way to do another pilot or, not being an expert researcher I am not sure exactly how that would be accomplished, but to really understand the impact of the pilot. I don't think we can do that without a control group. Would there be any appetite for an additional pilot program to go back and do it again except in a more scientific manner? Perhaps bringing in academic researchers to help design a study that would give us more accurate information.

Lt. Murtha: I think one of the problems with doing that is we had a very small sample size. We had 20 officers. Our goal with the pilot program was not to conduct a scientific study but was to see what the cameras were like, to try them out and to see how the effected operations in our department. When I say small study size, for example, we had no complaints in the pilot program so if we were looking at the effect on complaints, we had zero. It wouldn't be particularly effective for looking at things like that. In terms of an additional pilot, the plan was to get this program off the ground next year so I don't think there would be time to do another pilot. We are looking into different companies and different ways of deploying the cameras, which officers would have them, which ones won't. As I have said before, that does depend on the budget that the Manager and the Council would like to pay in terms of how many officers get cameras. I don't think there is time for another full pilot program given that the cameras are planning on launching in 2022.

Daniel Arnold: Thank you for that answer. My follow up question would be what other academic or scientific research are we going to refer to since we did not do a controlled study in our pilot? What other pieces of research are out there that we are considering using to bolster the argument for doing this or not doing this. My conclusion from reading the Chief Sergeant's submission is in favor of it and in general so are the volunteers who did it but that does not necessarily mean the community of the police force, at large, are in favor of this. I will finish with my question: what else are we looking at to see if this is the right decision for Worcester at this time?

Captain Supernor: There is academic research out there that I have personally looked at, I cannot cite it at this moment as I do not have it written down, but I think at this point, similar to the concept of the control group, we are beyond that now. Those in the public have asked the councilors and the councilors have asked the Manager to go forward with body-cameras and that is the avenue that we are pursuing now. I don't think we are going to be taking steps backward to see if this is something that we want to do. I think the council and the Manager have made the decision to move forward so I think we would just be slowing things down looking at other academic research out there of whether or not body cameras are a viable option. I think the decision has been made to go forward with them regardless.

Daniel Arnold: If I may, I would encourage the group to, despite the opinion that we are going forward, and I may have studied this a little too late perhaps, but I would encourage us to not ignore academic research as we implement. There seems to be a lot of good information out there as to how to do this well and have really good outcomes and to avoid some of the pitfalls of some of the departments that have gone before us.

Captain Supernor: We agree with that statement. We are not going to be naïve and not continue to look at the data and research that is out there. As we continue to move forward we will continue to look at that stuff.

Lt. Murtha: Another point you made, quickly, about discretion to turn the cameras on. During the pilot program, and what I expect to happen for the program in full implementation, our officers had limited discretion to turn their cameras off. There were certain circumstances, like being at the hospital and sensitive issues like sexual assault, where the officers did have discretion to turn the camera off, but they were limited. For the most part, if the officers interact with the public on any type of police call or stop, or anything like that, the cameras were expected to be on. So, we agree with that, there should not be a lot of discretion as to whether the officers can choose to turn the camera on or off for a call. We think that would be a bad idea to have a policy like that so we won't pursue that.

Commissioner O'Callahan: I just wanted to respond, as a member of the Commission to Mr. Arnold, if possible. This is feedback that we are taking into account as we are developing the report to the city Manager. We appreciate your recommendations and insight on this. One of the things that has come up, and I don't know if it is in the specific research out there on body cameras but could be a possibly we might be recommending, or at least discussing, as being part of the report, is looking at a design that could include something like an A-B Design. Whereby we collect baseline data, sometimes passively, so we might look at the year before body cameras were implements and then look at the data following that. In that case, the participants in that study would then be their own control group. Overtime, you start at the baseline phase and then you go on to the intervention phase. That is something I have seen in adjacent literature and maybe something that the city could consider. It is something that we hope to discuss in the report. I certainly don't want to speak for the entire commission but that would be something that I would support to give us some more objective information as we move forward with the body cameras.

Daniel Arnold: Thank you for saying that. The little bit that I read, the current literature is really saying that the effectiveness of body cameras is really contextual. Worcester is a city that has really professional police. We have relatively few problems with overuse of force, etc. and early studies that really made the desirability of body cameras take off in 2015, in conjunction with some very high profile shoots as well as a case study out of California, really drove home how effective these could be. However, those were in places where they had a lot of much needed improvement and I don't see Worcester as a place, as an example, if you could ever have a perfect police department I would rate ours as coming very close and only needing a little bit more work. I am not totally sure that body cameras are the answer. I really do prefer the idea of training and getting some additional support for police so that they can do police work and other folks can do mental health work, DV work, Substance abuse work, etc. Thank you.

Matthew Whitlock: I just have two comments, kind of questions. One of the suggested questions to talk about is: what type of instances should be public record? At least how I understand the legal definition of "public record" is that any record created by a public institution is a public record, but only certain records are exempt from being released under the Freedom of Information Act request. That seems right to me that there is already a law and definition in place for what kinds of things would be available to the public and what can be requested that we shouldn't be creating new laws around this. It's already been taken care of from what I understand. My next comment was just on a bit about the use. One thing we talked about previously, in the way that cameras were used, was that officers would be able to review the footage before making a police report. I just want to add the recommendation that that seems wrong to me. If the videos and police reports are legally admissible sources of evidence, then they should be separate sources of evidence. They should be independent sources on what happened and they can be matched against each other to see if they corroborate each other. You would get the best kind of evidence that way. My recommendation would be that officers not be able to review the footage before filing their reports. That's it. Thank you.

Attorney Janice Thompson: I can address the comment about public records and public records requests. Yes. Body camera footage is considered public record under the current state public records law. Individuals, or entities, can submit requests for body camera footage and those requests are considered and footage is provided in accordance with the request unless it is one of the exemptions under the public records law. Examples of an exempt record would be domestic violence or a domestic call or if there was footage related to sexual assault. There may also be instances where information would be redacted from the record also pursuant to the records under the law. The most common reason for the redaction would be the privacy exemption. There may be images blurred out or audio that is redacted from the footage. There may be other exemptions that apply but those are the most common reasons. During the pilot program and since the pilot program we have had some requests for the footage that was captured and we responded with those requests either providing the footage or providing a response explaining why the footage was exempt and during full implementation we plan to proceed with the same.

Chairperson Yang: I just wanted to go back to the question posed last week, as well, regarding the record requests and how many requests you get in a month or a week.

Attorney Janice Thompson: I did go back because I was not able to respond to that with specificity, because we do anticipate an increase in the volume of requests during full implementation. Last week we did discuss that there is currently a very high volume of public records requests in the city. Our average in a month is just over 1100 in the city. That comes out to an average weekly of 259 requests, between 256 and 259 per week. A majority of those are police department requests. One request might be for a report, say an incident report, which would be considered a straightforward request, that still involves a substantial amount of work to retrieve the report, review it and redact it if applicable. A request may also involve a list of 30 items across a several departments, various categories, surveillance footage, technical services searches, professional standards requests, 100s of profession standards reports and various other categories of records all encompassed and that only counts as one request as well. Those are the numbers but it is significantly over 1000 requests a month, we went back the last five months to look for those averages.

Chairperson Yang: Thank you. What is the turnaround time on those requests?

Attorney Janice Thompson: We are required by statute to provide an initial response within 10 business days and then, if necessary, we are permitted by statute to take an additional 15 business days beyond that. In cases where the requests are extremely large and burdensome I can file a petition with the state to request up to an additional 30 business days beyond that. I can in some cases work with the requester if they are cooperative to ask for extensions and to provide records on a rolling basis. The maximum permitted, if we are granted by the state, is 55 business days. That is the most extreme cases and I file petitions rarely.

Winnie Octave: I just want to ask questions to the police officers. I would like them to answer on some of my concerns. The one concern we have, and people keep asking me, is what is the sole purpose of the body camera and will it be on all the time, or specific times on and off? What do you think is good about body cameras and what do you think is bad about the body camera? I want the answers so when people in the community ask me I can tell them what I heard from the police officers.

Lt. Murtha: The cameras will be on when officers are interacting with the public. We have not written the policy for the full implementation of cameras but I expect that part will be very similar to the pilot program policy in which any time there is a police interaction the cameras will be activated with few exemptions such as walking through a hospital, sexual assault, interviewing a witness for gang crime or something like that. We might turn the cameras off as a matter of discretion to keep that person from being in danger. For the most part, if a police officer is called to a scene or does a stop, the cameras should be on, except for a few narrow exceptions. There are several purposes. I think that the most important one is to capture critical incidents whether it be a foot pursuit or a person resisting arrest or anything that involves dramatic action. We would like to be able to see what is on it and have an objective record of

that. One way or the other we will be able to know if the officer acted appropriately. We will have a good idea of what happened. Other reasons to have it are the de-escalation potential where a person knows they are on camera they are less likely to raise the stakes and get physical. Occasionally during the pilot, people did calm down when they told they were on camera when they were getting worked up. They calmed down when they realized the camera would be potentially used in court and potentially people they knew might see them. It tends to put people on better behavior. Another good reason is for training purposes, to have more professional police. We can go back and look at what happens in these videos and we can adjust our training accordingly. During the pilot program we had an active shooter training and the officers who had the cameras used them during that training and we able to go back and see how they preformed under stress giving them realistic stress training. They were able to go back and see that there were certain things they missed and say "I'll do better with this next time" or "I did this part well." It just gives us another tool to be able to analyze how our officers are doing and be able to adjust accordingly. And complaints too. So if we get complaints, a lot of which are about rudeness, it makes the investigation much easier to go look at camera footage of that and see exactly what happened. The complaint can either be sustained or not sustained very quickly if we have camera footage. Transparency too. People want to know that the police department is acting appropriately. This is one way we can show people exactly what we do on a daily basis and people can make their own judgments.

Elyse Waksman: Thank you for having this listening session today. I have a couple of questions. I would think that, with having a large number of officers wearing cameras regularly, the amount of footage would go pretty quickly. I am wondering the cost of storing that data. Will certain footage be deleted after a certain amount of time or I believe it said everything needed to be kept for one year? Will that come as a cost to tax payers or is it coming out of some other funding source? I believe that in a previous meeting an officer mentioned that in emergency situations, during the pilot, the officers did not always have the chance to ask permission before entering a residence to turn off the camera or to record. I would just be concerned about, and maybe this would be for the legal experts here, individual's rights to have their privacy. After the fact, if they have been recorded during an emergency situation and they did not have a chance to say no in the moment. For example, a domestic violence victim or something like that were they would not want that to be recorded.

Captain Supernor: Thank you for your questions. For the first question about the expense and the cost of storage. The majority, if not all, of the companies we researched, it is kind of like a Netflix package, everything comes in a bundle. The prices in the body camera program report give an example of that. So, you would pay for the physical hardware and the software and the storage of the videos. Our department our size, with the companies we have looked at, we would be looking at package that would include unlimited storage use. The company would be responsible for all the storage but the cost would reflect everything included, if that answers your question. I'll move on to the recording inside a home. During the pilot program we had, within our policy, that the officer would notify the resident that they were wearing a body camera a if they had an issue with the officer entering their home with the camera recording. Depending on the citizen's response would be whether or not we would record inside the home. The part about

the emergency is that if an officer arrives on a scene and they have to make entry quickly into the home to save someone from being harmed or to save life, they would not pause to take those precautions. They would enter the home, deal with the exigency in front of them and once they could get the exigency under control then they could go back to notifying the resident that they in fact have a body camera on and they wish them to continue to record. Just recently there was a new case law that came out through the Massachusetts Supreme Court and their ruling basically was, even though this was not went forward with the body camera pilot, said if the officer is lawfully invited into the home they did not even need to notify the resident of the body camera recording and if they were lawfully present, what they were lawfully seeing in plan view would be no different then what they were recording on the body camera. I do not have the case name in front of me but it was a recent case. Moving forward we will take the recommendations of this committee, the Councilors and the community in how they want to proceed going forward. That is how we did the body camera and some of where the state case law is moving or has weighed in on.

Elyse Waksman: I wanted to follow up if I may. If I am understanding correctly it sounds like the law is moving towards it being acceptable to record in the home as long as there is consent for the officer to be present. Should I assume that that means that, just to use the example, a domestic violence victim later on learns that they had been recorded and is not comfortable with that. What are their rights to privacy and what could be done with that footage?

Attorney Janice Thompson: with respect to domestic violence victims specifically, those records are exempt from public disclosure so the city would be prohibited from disclosing those records. There is a specific statute that addresses those records. That is separate from the privacy exemption. So, whether or not that incident took place in a home or another circumstance, domestic violence records are exempt from public disclosure. The case that was mentioned, the recent S.J.C. case the name I believe is Yusuf, spoke about the officer's presence in the home and recording in the home but also addressed the later review of the footage for investigatory purposes. That is what that case really turned on. Officers were permitted to record in the home but not permitted to later review the footage for investigatory purposes. There is a bit of a distinction there. I think our policy, we are looking forward to some of the recommendations that will hopefully be promulgated next year by the state with respect to all of these issues and with respect to recording in the home and use of body worn cameras in general.

Captain Supernor: That is the point I was trying to make is our policy during the pilot program was more restrictive than the law is stipulating in that case.

Chairperson Yang: I just wanted to highlight something that Matt Whitlock discussed in regard to the reviewing of a video. If you look back at our July 12th meeting minutes, we had Rahsaan Hall from the ACLU, on page 9, he did say that it is a significant concern for him that officers should base their reports on their understanding and recollection of what happened and if there is a need for a supplement after having reviewed the recording that could be filed. What we are concerned about as civil liberties activists is officers curtailing the initial draft to fit what the video shows. That was from Rahsaan Hall from the ACLU during our meeting on July 12th.

These are best practices from the ACLU regarding the body cameras. I also want to recognize Senator Michael Moore who has come to the meeting and Mr. Colman. Nice to see you.

Mr. Colman: The weather was so much nicer last time we met but that's alright its going to be a nice weekend. I just wanted to come down, I was in the neighborhood this week, talking with a lot of people and trying to encourage them to come down to this meeting and telling them that this is a great opportunity to voice your questions, concerns and observations. Some of the stuff that I happened to hear, is do we happen to know the oldest city in Massachusetts where body cams have been used on a regular basis? Are we familiar with if Springfield had it for awhile or Boston? The footage from the first time we had the pilot program for the body cams, is it possible to do a PSA with some of that footage that could be made available as you are trying to introduce this to the public saying the Worcester Police Department is going to be using bodycams, this is what has happened in the past and this is what they are going to see. Otherwise people are going to be looking at police programs that are on tv where they are actually showing some of the bodycams. Of course the most famous bodycam footage has been shown the last couple of years has been the bodycam footage of George Floyd. That makes people think about what is going to go on. I am kind of curious to know about the history of Massachusetts. I know that this could be extensive training for the police department, especially for the new police officers coming in because they are going to be exposed to this and the other officers. So that footage from the pilot program, is there any way that could be turned into a PSA introduction for public safety, police safety, for the safety of the whole community that we are embracing this whole bodycam thing. The other programs, the community policing program, was a great step, it really put people together other then just here they come and we are happy to embrace them. But I am kind of curious if you have any knowledge about this history of Massachusetts and bodycams? Or New England in general?

Lt. Murtha: Thank you for the questions. New England, generally, has been slower to adopt the body cameras then other parts of the county. I know major departments like Los Angeles and others have had them for several years now. Massachusetts has not been an early adopter for the most part. There are some cities that have gotten programs going over the last year or two. I don't think any of the major cities in Massachusetts have full implementation. I know Boston is in the process and Springfield and we are in the process too. Providence has had them for a couple of years. Being a fairly similar city in size to Worcester we have reached out to them. A few of the people who are dealing with the body cameras in Worcester took a trip out there for the officers in the program there and got some tips from them. The other question was about PSA footage. I think we do plan on having an introduction to the public on body cameras. I think it is important to let people know that when we do have them, they will be out there. It is a change and it's important to let the public know that. I would be hesitant to put out footage that we had from the pilot if it involved other people. To put out somebody's incident with the police is kind as a PR thing or an educational thing for the public, generally, the one reason we would release footage proactively is if there was some type of critical incident, if it was demanded, or if it was a public records request. We generally would not pick and choose random videos to share. If there is a video that does not show anybody else... I am trying to imagine a scenario that we

would do that, but generally the videos would not be something we would release proactively like that because of the privacy concerns.

Chairperson Yang: Does the state of Massachusetts have exceptions to the eavesdropping law for police officers wearing body cameras? Also, does it require officers to announce that they are wearing cameras?

Attorney Janice Thompson: No. They are wearing the cameras on their uniforms. There is no requirement that they announce. Normally they are in a public space, for the most part, and so it is visible. There is not an explicit exemption to the Wiretapping law they are referencing. No there is not a written exemption to that law, but the circumstances permit the operation of body cameras legally.

Winnie Octave: In the future when you have meetings like this in the community you should at least let the community neighborhood holders know about it so they can tell others. I only found out about this today when I looked at my computer and saw it. If I had known about it before maybe I would have told people in my community. So, in the future, just let us know.

Chairperson Yang: Ok, thank you. I agree with that statement. We typically do post it. We actually posted it on the city of Worcester website, however, we need to do a better job of getting it out into the community.

Commissioner O’Callahan: In thinking about Winnie’s recommendation, I have a question for the Worcester Police Department. I am wondering if the person who is heading the NRT is still in contact with all of the neighborhood meeting organizers and is able to distribute that information to them for our next meeting?

Lt. Murtha: Yes. I believe that is possible. I can talk to the end of the NRT.

3. Adjournment

The next listening session will be held in **District 1**, on **October 18th** at the Massachusetts League of Community Health Centers, Inc., 16 Brooks St.

Link: <https://zoom.us/j/96245321500>

Call In: 1 929 205 6099 US (New York)

Meeting ID: 962 4532 1500

Comments may also be submitted to humanrights@worcesterma.gov. The deadline for public comment is Friday, Oct. 22.