



TO: Edward M. Augustus, City Manager

FROM: Jayna Turчек, Director of Human Rights & Accessibility

DATE: November 8, 2021

RE: Report from the district listening sessions on police body cameras

Background:

On February 23, 2021 City Manager Edward M. Augustus, Jr., signed an Executive Order to Assess and Address Structural and Institutional Racism¹ and set forward recommendations to city council to acknowledge and affirm the City's ongoing commitment to address the role of structural and institutional racism. Among the recommendations were the following:

Engage community conversations about the Body Camera Program conducted by the Human Rights Commission and WPD. The Commission will conduct at least five, one in each Councilor District, public listening sessions to discuss the program and its impact, as we await further guidance from the State legislation.

In December 2020 the Massachusetts legislature passed *An Act Relative to Justice, Equity and Accountability in Law Enforcement in the Commonwealth*, commonly referred to as the Police Reform Act.² This Act established four permanent Commissions and ten special legislative commissions, one of whom is specific to Body Cameras, Establishment of the Law Enforcement Body Camera Taskforce, created by the Executive Office of Public Safety and Executive Office of Technical Services and Security to propose regulations for a uniform code for the purchase and use of body worn cameras. Report due by 7/31/2022.

Additionally the City Manager recommended an ordinance to ban all facial recognition technology and prohibit any City official from obtaining facial recognition data/information via any third party. He also recommended an ordinance that any surveillance technology moving forward proposed for acquisition shall be vetted through a public process and approved by City Council.

¹ City of Worcester (February 23, 2021). *City Manager Memo to City Council Item #9.39A*. Retrieved from www.worcesterma.gov/uploads/80/2a/802a292d17802850ac9721d0fe4df899/executive-order-addressing-structural-racism.pdf

² Ma Legislature, (December 31, 2020). *An Act Relative to Justice, Equity and Accountability in Law Enforcement in the Commonwealth*. Retrieved from <https://malegislature.gov/Laws/SessionLaws/Acts/2020/Chapter253>

On July 12, 2021 the Human Rights Commission held a public meeting and requested briefings from the Worcester Police Department (hereafter WPD), City Solicitor, MA Executive Office of Public Safety and the ACLU of Central Massachusetts. During that meeting the Commission announced the dates and times for five district listening sessions.

District 5- Monday August 23, 6-8pm, Int'l Brotherhood of Electrical Workers, 242 Mill St.

District 4- Monday September 13, 6-8pm, Chandler Elementary Community School, 114 Chandler St.

District 3- Monday September 27, 6-8pm, Worcester Senior Center, 128 Providence St.

District 2- Monday October, 4 6-8pm, St Bernard's Church, 228 Lincoln St.

District 1- Monday October 18, 6-8pm, MA League of Community Health Centers, Inc., 16 Brooks St.

All district public meetings were hybrid (in person as well as virtually over Zoom) and American Sign Language and Spanish interpreters were provided for all meetings.

A summary follows below of the presentations provided on July 12, 2021 from the WPD, City Solicitor, MA Executive Office of Public Safety and MA ACLU. The minutes and video from the briefing session were shared publically and posted on each of the agendas for the listening sessions as background information for public input. Additionally, the WPD memo to council and body camera pilot policy were also referenced as background documents for public review and comment.

Summary from briefing session July 12, 2021:

Daniel Nakamoto, MA Executive Office of Public Safety and Security, is the representative from the Office on the MA Law Enforcement Body Camera Taskforce. His office together with the Massachusetts Chiefs' Association surveyed police departments across the state. They received a response from two-thirds of the departments. Of those that responded, 10% of both small and large police departments had some sort of Body Worn Camera (hereafter referred to as BWC) program in place.

On July 1, 2021 the Baker-Polito Administration announced a new BWC grant program for Municipal Police Departments.³ It will provide \$20M in funding to purchases 9,000 cameras (\$4M) a year for 5 years. The responses are due by August 30. There is a \$250K limit per grant. It is a capital program, funded by capital dollars. This means that it will fund body-worn cameras, servers, and other accessories but things such as staffing or cloud-storage would not fall into that category. Even though the program is out, the Secretary is really concerned about non-capital costs such as video recordings, storage of those recordings and management of the recordings themselves. One of the things that he was

³ Commonwealth of Massachusetts, (July 1, 2021). *Press Release Baker-Polito Administration Announces New Body-Worn Camera Grant Program for Municipal Police Departments*. Retrieved from <https://www.mass.gov/news/baker-polito-administration-announces-new-body-worn-camera-grant-program-for-municipal-police-departments>



interested in looking into as a way to reduce future costs for municipalities was perhaps creating a regional cloud that could be shared by many local police departments. They have done some scanning in terms of what the industry offers and could not find anything so they issued a request for information and contacted the major body-worn camera companies, hoping to see if they can give them some insight to developing this kind of program. *Update from July meeting:* the City of Worcester applied for a grant of \$250,000 under this program. Awards announcement anticipated October 2021. No news received to date.

The Police Reform Act that was enacted December 31, 2020, called for a taskforce on body-worn cameras. It is a legislatively mandated taskforce that has 20 identified members. Representatives from legislative caucuses, state agencies, associations and five Governor appointees. Its mission was to develop proposed legislation regarding the use of body-worn cameras and dash-cameras. Covering issues around procurement, what should be bought, conditions for its use, technology for redacting, storage, use of facial recognition technologies, sanctions for misuse, and reporting of its annual use to the general public. The taskforce was supposed to come up with an interim report by July 31st with a final set of recommendations for the legislature a year from then.

Update from July 12, 2021 meeting: The Taskforce has posted a public survey on their website.⁴ The Taskforce has also posted public input sessions on November 9 and 23. A description of their task and the questions they are seeking public input on are as follows:

Pursuant to Section 104 of Chapter 253 of the Acts and Resolves of 2020, the **Law Enforcement Body Camera Task Force** is responsible for proposing regulations and establishing a uniform code for the procurement and use of body-worn cameras by law enforcement to promote consistency throughout the Commonwealth, should law enforcement choose to use body cameras. The Task Force must propose minimum requirements for the storage and transfer of audio and video recordings collected by body-worn cameras. One of the charges of the Task Force is to conduct public hearings to collect and consider testimony from the public regarding implementation of law enforcement body worn cameras.

Q1: This task force in making recommendations, and by extension police departments who adopt body-worn camera programs, are likely to have to make difficult choices in setting rules as to which units in a department should wear body cameras. For what types of police officers, units, or in what types of circumstances are cameras most appropriate?

Q2: Storage expenses, privacy rights, and other concerns make police assigned body-worn cameras recording 24/7 prohibitively expensive and impractical. When, and for what types of police work, is it most important in your view for the recording to be on? When is it most important that they be kept off?

⁴ Law Enforcement Body Camera Taskforce. (n.d.). *Law Enforcement Body Camera Taskforce Request for Public Input*. Retrieved from <https://www.mass.gov/forms/law-enforcement-body-camera-task-force-request-for-public-input>



Q3: Some observers advocate that police officers should not be allowed to access their body-worn camera footage before submitting a report. Other observers say that police officers should be permitted or required to do so. What rule or policy would you want in this situation, and why? For example, a police officer could write a report, review the tape, then write an addendum. Should a police officer be required to disclose if they have or have not reviewed a tape prior to writing a report?

Q4: Some observers say that police officers should have the ability to choose under some situations whether and when to record, or stop recording, from their body-worn camera. Others say that such options create the suspicion that honest officers have something to hide because they elected not to record something, and so such choice must be limited or eliminated. There may be times where some locations such as hospitals, or situations such as domestic violence, minors present, or sexual assault could require a police officer to stop recording. What is your view, and why?

Q5: Footage captured from police worn body cameras will likely be considered public record. It is also highly likely that certain videos placing at risk the privacy of identified persons captured by the cameras, and others where an active criminal investigation would be jeopardized, would be exempt from disclosure as public records, at least in part. Determination of such cases, and redaction of video to follow these rules, is likely to be expensive to municipalities and may influence their decisions to require officers to wear cameras at all. For videos that may be requested as public records, who should be responsible for the time and resources used to sanitize and produce them? Would you support passing some or all of that cost to the requestor? What if the requestor's ability to pay were taken into account?

Michael Traynor, Worcester City Solicitor, confirmed that video recordings from BWC program are considered public records with regards to the Massachusetts Open Meeting Law.⁵ The Police Reform Act amended the public records law. One of the exemptions for public records is Exemption C, it pertains to medical, personnel files, information of a private nature that the disclosure of which would be an undue intrusion of someone's privacy. The Police Reform Act put a qualifier on that Exemption so that it no longer applies to any files related to police misconduct. All records from Internal Affairs investigative reports are now subject to being released. It is so broad it would also include not being able to redact names. A lot of times the law department would use the Privacy Exemption for people who were the subject of some altercation. But now, everything in those records is subject to disclosure. That is a large change in the Public Records Law moving forward. That will affect the public records on the body-worn

⁵ Ma Legislature. (n.d.). *M.G.L. Ch. 66, sec. 10: Inspection and copies of public records; requests; written responses; extension of time; fees*. Retrieved from <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleX/Chapter66/Section10>



cameras. **Video recordings are public records but there are still exemptions that would apply in regards to redacting or blurring out certain features in some of these records as they go forward.**

Exemption A is the statutory exemption. It is a mandatory withholding of information that is explicitly or by implication deemed not public by another statute. Within any public records request there may be more than one exemption that is applicable. Even though we have Exemption C for privacy as being no longer applicable, if the record involved domestic assault, sexual assault, or minors, there are statutory prohibitions to making that information public under Exemption A. For the body-worn cameras there will still be some privacy protections under certain circumstances and again each one has to be looked at on its own merits. It is a case by case determination as to what information might be in that tape that is subject to a mandatory exemption.

You can have state actions that allow municipalities to go further but other times the state action will say this is as far as it can go and they set the limits. With redactions to public records, it is very prescribed to certain exemptions within the statute, and we cannot go beyond those. One of those must apply if we are going to redact or withhold information.

There is a municipal schedule for the destruction of public records that is published by the Secretary of the Commonwealth⁶ and there is a specific schedule for police records⁷. Depending on what information is contained within the video recording, it would have a different time period as to how long they need to be kept. For an example see Boston Police Department BWC program policy.⁸

Rahsaan Hall, MA ACLU Racial Justice Program Director shared that the push for body-worn cameras is really a function of activists looking for greater accountability in law enforcement and not so much as an evidence collection tool. There is a lot of concern within communities, particularly communities of color, where there are higher rates of policing and higher rates of police surveillance. There are a lot of advocates who have concerns about body-worn cameras being used as an additional surveillance tool. The ACLU has come up with a model policy that municipalities should consider when developing a body-worn camera policy and program.

According to Hall the most fundamental elements of a body-worn camera policy should govern (1) what events the officer should record, (2) what should be done with the video once it is created, and (3) what the consequences should be when officers violate the rules.

⁶ Secretary of State. (July 2021). *Massachusetts Statewide Records Retention Schedule*. Retrieved from https://www.sec.state.ma.us/arc/arcpdf/MA_Statewide_Records_Schedule.pdf

⁷ See Public Safety Agencies J Schedule (page 120). Secretary of State. (July 2021). *Massachusetts Statewide Records Retention Schedule*. Retrieved from https://www.sec.state.ma.us/arc/arcpdf/MA_Statewide_Records_Schedule.pdf

⁸ Boston Police Department (September 8, 2021). *Rule 405 Body Worn Cameras*. Retrieved from <https://bpdnews.com/rules-and-procedures>



The ACLU launched a campaign in 2016-2017 called “Do It Right”. The first element is participation. Whenever a municipality is considering body-worn cameras, and the policy creation, there should be participation. There must be engagement with the community to assess local priorities, particularly communities of color, communities that are directly impacted by over-policing, aggressive-policing, violent-policing. There should be a public process to shape and approve the policies. People should be able to weigh in around what the policies should be and how officers should conduct themselves while using this technology. The policies should be disclosed, as well as key footage which should be made available. That was discussed in regards to the Public Records Law and how that is impacted.

Another element of the “Do It Right” campaign is privacy. Policies should prohibit recording without notice and recording in private spaces without consent. The policies should prohibit the surveillance of activists or individuals engaged in political or protected speech and activities and it should ban the use of biometric analyses, face-recognition, technology including iris scanning and gate measuring.

The policy should also provide for the prompt deletion of video that does not involve the use of force or a complaint or detention and arrest. The policy should be clear on what is the earliest possible time that records can be deleted.

The last element is public accountability. There should be limits on officer’s discretion to turn off cameras. The policy should require officers to write the initial report before reviewing camera footage and the policy should clearly outline the discipline for officers who violate the policy.

Hall briefly reviewed the policy for Worcester’s pilot program:

1. It had the core elements regarding what should be recorded and what should happen to the recordings, but it was somewhat lacking on the last prong, accountability and discipline. Sections 2.3 & 2.4 put some restraints around recording in private areas and consent, but from the ACLU prospective, the recordings should be happening at the time that the consent is received or the declination to record happens. That should be recorded as part of the footage.
2. Section 4.1.1, from Hall’s reading, allows officers to access the video to draft incident reports. That is a significant concern for the ACLU. From their prospective, officers should write the reports based on their understanding and recollection of what happened and if there is a need for a supplement after having reviewed the recording, that can be filed. What civil rights and civil liberties activists are concerned about is officers curtailing the initial draft to fit the video.
3. Section 5 says that footage shall not be deleted for up to a year after the pilot program. Going back to the point earlier about the immediate deletion of things that have not been flagged, either as involvement in a criminal case, or a case of excessive force or some other type of violation or concern, then it should be deleted.



4. There was no description of the footage that must be retained. From the ACLU's prospective they would only want footage that is relevant to ongoing investigations, complaints of excessive force, or flagged footage to be retained. The policy should limit the duration of retention and identify what needs to be deleted.
5. The policy did not contain a ban on biometric technology.
6. The disciplinary measures were not clearly articulated for the violation of the policy, but only what would not constitute a violation of policy. From the ACLU's prospective, for a policy to be effective the disciplinary measures must be clearly articulated or at least pointed to if there are other disciplinary provisions within the department's overall policy. They should be cited to in the body-worn camera policy.
7. There was no prohibition of surveilling protected political activity or protected first amendment activity.
8. There was no prohibition on surreptitious recording, or secret recording, so using a body-worn camera in a secret way to record people's conversations. When an officer is prominently displaying and wearing their body-worn camera, the position of the ACLU is that it does not violate any confidentiality or privacy concerns, but if it is being secretive or hidden and turned on to capture information that would be inappropriate and arguably illegal.
9. There was no redaction requirement in the policy.

Moving forward, if the program rolls out to the full department and a new policy is written, it is the ACLU's hope that some of the concerns Hall raised and some of the recommendations in the ACLU's Model Policy will be adopted.⁹

Lt. Sean Murtha and Captain Carl Supernor provided a summary of the Worcester Police Department's six month (May- November 2019) pilot of a BWC program.¹⁰ Twenty police officers volunteered to wear the cameras. They were supervised by twenty sergeants who also went through the training for body worn cameras. The twenty officers were from three different divisions, sixteen were from the Operations Division (Patrol), two from the Traffic Division, and two from the Neighborhood Response team. The officers from the Operations Division were from all three shifts. They wanted to see

⁹ ACLU Massachusetts. (n.d.). *Body Worn Cameras: Let's Do It Right*. Retrieved from www.aclum.org/en/police-body-worn-cameras-lets-do-it-right

¹⁰ City of Worcester (July 21, 2020). *Body Worn Camera Pilot Report*. Retrieved from www.worcesterma.gov/uploads/16/dd/16dd19f492bd61b39ac00e129f558a68/body-worn-cameras-pilot-report.pdf



how the cameras worked during the day, during the night, different hours, different divisions. All participants were uniformed officers. At the time Lt. Supernor, who is now a Captain, and Lt. Murtha were in charge of the program. Everyone involved received 16 hours of training in the equipment on the policy and use.

The six month program generated over 8,000 videos, approximately 1,000 total hours of video, about 43 videos a day. Of those, 489 depicted arrests and 24 showed a use of force. A lot of them were more mundane, just routine calls, neighbor disputes, traffic stops and the like.

The pilot vendor was Axon body camera 2. Axon has about 90% of the market share. Motorola is number two in the industry and there are other companies who are trying to aggressively enter the market. Axon uses evidence.com, a secure website, to hold all of the footage. The police department did not hold any of the footage. It is all held in the cloud of this third party, Axon, who has top level security personnel.

The camera worn by the officer records a video. At the end of the officer's shift, they returned back to the station and put the camera in a docking station. The footage would then be uploaded, everything on that camera, would be uploaded to the cloud at evidence.com. The original video, at that point, cannot be altered or deleted. Once it is in the cloud, that is where it is and it is going to stay there.

If the Department were to do a public records request with redaction, for example to get rid of children's faces in the video, the records administrator would blur out the faces, but the original video would never be touched. The Department would send out the altered video based on the redactions.

Overall, officers were generally satisfied with the equipment and the online interface. The website worked well. The camera itself worked well. It is mounted on the officer's chest, once or twice it did come off, but that was rare. It is a simple system, a push of the button activates the camera. One helpful feature is when the officer manually activates the camera, it actually catches the 30 seconds (video only) prior to when the officer pushed the button. This is possible because the camera is actually always recording, just on a 30 second loop. So it is always deleting and recording all the time so it is able to get that 30 seconds before you push the button.

Officers were required to activate their cameras for all police encounters whether it was a 911 call, a non-emergency call for service, or if the police initiated an investigation or a stop. Before entering a private residence for a non-emergency, officers were required to ask the residents for consent to record inside. The officer would meet the resident at the door and before they walked in they would say something to the effect of "Excuse me Sir/Ma'am, I have a body camera recording, would you like me to continue recording or would you like me to turn it off." At times people had no problem with recording, but others did have a preference not to be recorded inside their houses. This did not apply to emergencies. If there was a domestic in progress or something serious going on, the officer would just get in there as soon as possible and not ask the question about the camera.



In areas where people have a reasonable expectation of privacy such as churches, schools, daycare centers, hospitals, and there was not an emergency, the officers would generally use their judgment and would generally not record. For example, if you are on a hospital guard with a prisoner, the officer would not be recording everything going on in the hospital at that point. If the prisoner decided to try and escape or something, at that point, it would be different, that would be an emergency. This also applies to witnesses and victims of a crime. If a witness wanted to remain anonymous or a victim felt uncomfortable talking about their experience on camera, then the officer would turn off the camera.

Officers were allowed to watch all their own videos. Anything they were involved with, they could watch. For things like arrests, they were encouraged to watch the video and make sure they did not leave anything out, to make sure they were as thorough as possible. Other officers who would be on scene, not wearing cameras, could watch any footage they were involved with. Officers who were not there could not watch the footage. If they were not involved with it, they were not able to watch it. Of course, the chain of command could watch what their people were up to. If officers were involved in a serious use of force incident, they were required to write the report before viewing the video. After the report was done, they would watch the video and add whatever the video showed, writing a second narrative to add in what the video added. Every arrest and every use of force was watched by an official either a Sergeant or someone in the body camera unit. Sergeants performed random audits of calls to ensure that officers were turning their cameras on. They would look at random incidents, even mundane ones to make sure the officers had their cameras on when they were supposed to.

The public records law largely determines who has access to the footage outside the department. Under the current law, the vast majority of the footage generated would be available to the public. The footage is shared with the DA's office for court purposes as well.

Benefits of body cameras:

1. By far the most important reason to have body cameras is objective recordings of critical incidents. The camera is a major piece of evidence in determining what happened. They worked as intended. The video quality was good. They stayed on the officer's chest, mounted in the right position. They were simple enough to be managed during tense situations. It was not a complicated system, you just have to push a button.
2. The benefit to police training that the cameras potentially have is huge. Just like any field, music, athletics, if you can watch video of yourself you can do a much better job of accessing where your strong, where you are weak, that sort of thing. You can also have other people watch the video, whether it be your Sergeant, Lieutenant, or others on the chain of command. People can be brought in for re-training if necessary. WPD used the camera during training to do some active shooter training. That is a realistic scenario stimulating an active shooter environment while wearing cameras. They found that when officers went back and watched what they did there were all kinds of things that they were picking up that they did not notice when they were there, both in terms of things they did well and did not do well.



3. Another benefit is potential for de-escalation. If people know they are on camera the chances of an escalating situation, whether verbally or physically is much lower. If people know they will have to go in front of a court, a judge, and explain their behavior because it is on camera, there is a chance that people will change their attitude a little. And that did happen. Certainly, not for everybody. It depends on the person but any situation where we can calm people down just by the presence of a camera is huge because it is better for everyone.
4. Another big benefit of cameras is resolving complaints quickly and efficiently. WPD did not receive any complaints involving any officers in the pilot program. Looking forward, it is likely that a lot of complaints for things like rudeness, if there is a video of it, could very easily be adjudicated and figured out very quickly.

Drawbacks of body cameras:

1. Increased work. One is just that there is a lot of extra work required. If an officer is watching their video, it means they are not out on the street forming relationships or dealing with crimes.
2. Expense. We have to pay for the storage and the cameras and add extra officers to administer them.
3. Potential privacy concerns for citizens involved in police incidents. Video recordings are public records and there are very limited reasons for them not to go out if requested.
4. Cameras might reduce the officer's ability to resolve things informally or to use their discretion in exercising creative problem solving and form relationships.

Lessons learned:

1. If the goal is to capture these critical events and have cameras with a record of them then the cameras do very well.
2. Officers became more comfortable with the cameras as the program progressed. In the beginning there was some uncertainty as to when they would turn them on or off in one of those sensitive situations. Over the course of the program, the officers became comfortable.
3. The cameras have the potential to be the best police training tool to date (the ability to self-critique, ability to watch the people who work for you in action- created a record of people's performance.)



4. Administration of the program was more time consuming than anticipated. The equipment problems were minimal, but there were many questions about the policy. Public records requests required review and redactions.

Summary from District Listening Sessions

Members of the public were asked to provide comment, ask questions, and pose recommendations during hybrid (in-person and virtual) district listening sessions as well as submit electronically to humanrights@worcesterma.gov by October 22, 2021. All comments, questions, and recommendations related to a BWC program were entertained. The Commission also requested the public respond to the following guiding questions:

- What are the benefits of a Body Camera Program?
- What officers should use them?
- When should body cameras be used?
- Who in the Police Department should have access to video footage?
- What kind of access should the public have to view footage?
- What types of instances should be public record?
- What recommendations for providing notice to the community when the Body Camera Program is implemented?

Q1: What are the benefits of a Body Camera Program?

During all the district sessions, but in particular the D2 and D4 sessions, Lt Murtha and Captain Supernor reiterated benefits of a BWC program that were given during the July 12 briefing session. The goal of police work is to articulate the facts that they respond to. During high stress incidents the attention of officers may be focused and the camera permit best factual representation. The WPD wants an objective record capturing all critical incidents as well as anytime there is a potentially adverse interaction which include all pursuits. The cameras enhance transparency and increase confidence in the police department. De-escalation benefits was underscored. When put on notice that they are being recorded the public more often than not calm down. It's potential as a training tool is enormous. The main drawback is cost.

Members of the public generally agreed that the cameras are great for transparency, record keeping, and objectivity:

- All officers, animal control, officers at window, all interactions with public should be recorded.
- Just like athletes, self-assessment for officers is very helpful.
- Cameras protect police officers against unnecessary accusations that may be false and important tools for public to keep everyone safe.

Questions were raised about objectives and measuring effectiveness against cost and other impacts of future implementation:

Effect on complaints during the six month pilot? No complaints received from officers wearing BWC



During the six month pilot officers completed a pre and post survey. WPD acknowledged that the anecdotal survey done anonymously with the 20 officers with no follow up. Goal of questions was to see how officers' perceptions/attitudes changed beginning, midpoint and end of pilot.

Comment during the D2 listening session referenced that in 2015 nationally there was a rise in BWC programs in response to high profile cases. Resident emphasized that effectiveness is contextual (Worcester historically has low use of force instances and complaints). Where do we need improvement if not in use of force? What will we measure to determine effectiveness/impact/and benefit for costs?

What specific objectives do you achieve with this equipment and what other means do other communities utilize without body cameras?

WPD responded that most important thing cameras provides is objective recording. Other benefit is de-escalation; sometimes being on camera calms people down. During pilot WPD witnessed cameras often had effect of cooling off emotions. Third benefit is for training purposes and provides opportunity for watching performance while under stressful experiences. It provides confidence and transparency; public can see what Department does. Lastly, video footage reduces waste, many complaints could easily be dismissed after viewing camera footage. Common complaint of rudeness at traffic stop can be easily reviewed.

Nothing is as comprehensive and objective as camera. Many investigators have a lot of techniques but at the end of day a lot comes down to he said she said and memory is not always objective.

Regarding cameras effects on de-escalation, there are other methods that are effective, such as verbal cues.

Q2: What officers should use BWC?

At every district session funding was given as the determinative factor in how many in the department will wear a camera. WPD shared there is some benefit to every officer to having a camera. At the very least WPD recommends all officers on patrol responding to 911 (Operations) as well as special units that make arrests.

- Uniformed officers only?
- Specialty units like gang also? (D4)
- Would like goal to have BWC in all public transactions. Use video routinely internally for training and for supervisors review with their officers. (D4)
- Would predictive software be used to allocate who gets cameras? WPD replied no.
- Uniformed patrol officers citywide (D4)
- Officer responding to 911 most important, officers behind desk in headquarters would make less sense. (D4)
- For some would it be optional and other be a requirement? (D4)
- Cameras should be issued piece of equipment just like sidearms (D1)
- Every officer wear as issued equipment every time in uniform.



- The pilot program put the number of BWC officers at 456. What criteria did the WPD use in establishing this number and does it cover all police officer interactions with residents or transactions on the streets and on patrol?
- Crime occurs in all communities. If have to limit issue of cameras do you have a formula for where crimes normally occur so evened out throughout the city? (D4). WPD agreed, entire division would have cameras that patrol entire city.
- Should body cameras be worn on details and when off duty responding to calls?

A sub-question was when could officers turn camera off?

WPD recommends that cameras should be on when officers interacting with public. This includes any time police interaction with few exceptions (walking through hospital, interviewing member of gang etc). If a police officer is called to a scene then a camera must be on.

- Would an officer get in trouble if they recorded other officers (for example harassment or bullying of other officers) and brought incident to attention to supervisor? (D4)
- There is no proposed appropriate disciplinary action for the violation of BWC protocols. The discipline should be specific in the protocols.
- The policy needs to include clearly defined disciplinary procedures for policy violations by officers such as deactivating the camera when it should be activated, recording outside of the purposes outlined in the policy, deleting or accessing footage outside of the purposes outlined in the policy, etc.

Another sub-question addressed additional equipment to be purchased with cameras (cell phones and tasers):

- All officers who have body cameras should be issued city owned cellphones. (D1)
- Why are cellphones needed? WPD: All features of the cameras can be utilized best in coordination with app from cell phones. Personal cell phones would be subject to public records search/seizure.
- Recommendation to write the budget without the costs of tasers.
- WPD: some leases for tasers within the department will be ending. There is a significant discount in bundling but that is a separate issue that can be debated separately. WPD got quotes without tasers.
- Resident argued tasers are de-escalation tool and WPD should improve taser program. Not every officer has a taser but should. Axon package has next generation tasers. (D1)
- Tasers have lifespan, once phased out, no longer supported. Need to phase to new to continue battery life and cover against liabilities. Many tasers in department are on lease programs. Most in 3 out of 5 year lease. Almost all tasers are assigned independently. Exception may be out of



detective bureau: if detective trained and certified they can sign out taser if going to execute a search warrant. (D1)

Note: Dashboard cameras on police vehicles were not specifically addressed during the listening sessions but are a part of other BWC programs in other cities/towns in Massachusetts.

When should body cameras be used?

- Officer ability to turn off camera should be highly regulated. (D2)
- When is resident permission needed to turn on camera? When is resident notice required to turn on camera? No requirement for police officer to announce they are wearing BWC. They are visible. (D2)
- Privacy and consent are critical considerations in developing and implementing policies for this program.
- Domestic violence calls: if incident exigent, ongoing emergency, officers would go in residence with cameras on. Domestic violence usually would be emergency. If and when situation calmed down they would ask individuals if wanted to continue to record while in home.
- In pilot officer notified resident prior to entering home. Depending on resident response PO would/would not record. In emergency there wouldn't be pause. Once exigency under control PO could return to resident to ask if camera ok.
- Recent MA Supreme Judicial Court case, *Commonwealth v. Yusuf*¹¹: if officer lawfully present in home notice of camera not needed. Not permitted later review of video for investigative purposes.
- Mental health crisis: record anytime violent. Physical action would want camera on. (D4)
- Privacy: Mental health/substance abuse calls: if officer responds and then calls program to have someone come in, would officer still record then? WPD response: Peer recovery program not implemented yet. Sensitive incident would be turned off, consult with counselor. Case by case. If section 12 that has not calmed down but still safety concerns then camera would still record. (D4)

Who in the Police Department should have access to video footage?

WPD shared that during the pilot program officers were encouraged to watch video for arrests and certain uses of force. Officers write reports first, watched video and then could write a supplement to their report. Officers never had editing permissions to the video. Once in cloud video can not be altered. Assistant City Solicitor Janice Thompson stated that whomever does preparation for public records requests will be the only person to redact but originals retained and copies made.

¹¹ *Commonwealth v. Yusuf*, 488 Mass.379 (2021)



The City of Worcester is the owner of the video footage. During the pilot the cameras recorded all incidents during day. During the shift officers would go back to docking bay at station, and upload footage to cloud. Cloud for Axon is called Evidence.com and uploaded video can not be changed by anyone. Footage held and secured by company according to contractual obligations. City considered to legally possess record. Not accessible to public once uploaded. In order for record to be produced, an individual needs to make public records request. At no point once a video is created can a video be accessed without a trail.

- Concur with Rahsaan Hall of the ACLU from July 12 minutes: if need for supplement after writing and submitting can view and write supplemental. (D1)
- Officers should not be able to view video footage until after they write their report (D2)
- Many residents were mixed about whether the practice of viewing footage by officers after writing initial report and submitting supplemental reports should be continued. Question centered largely on timing and purpose. Some said ok to view only during deposition to refresh memory.
- Officers' review of footage before/while writing a report could be problematic and should not be permitted.
- Others said ok to view for training purposes during training modules outside of (and after) submission in court/ case closed.

What kind of access should the public have to view footage?

All video will be disclosed as dictated by the Massachusetts public records law. Through public records request even a person in the case would receive a redacted version (if redactions necessary under exemptions and privacy grounds). Nature of record not status of requester. If anyone else has a right to record outside of public records they can pursue those means.

No reason need be cited for records request and city not allowed to inquire for reason. Broad and burdensome requests for public requests are and could be made. Requests can be made written (mail, email), phone, and/or in person but City needs a manner to deliver response (for example an email address). City staff responsible for responding to public records requests include the Records Access Officer for the city and an Attorney who assists (Janice Thompson) who has other duties. The Law Department receives a high volume of complex request. Clerks within the WPD records bureau also process more straightforward requests (accident reports etc) as part of their duties.

There is typically no charge for public records requests. Under state statute there are few records that can be charged: only redactions required by law (for example domestic violence) and time spent to locate records only up to first two hours of time. Privacy redactions are discretionary and not required by law so would not be covered. For videos they would have to be viewed multiple times for accuracy. Potential for need for additional staffing to respond to public records requests. Through city's public records portal a requestor downloads from site. Can also burn a cd and mail if needed.

WPD and Law Department anticipate an increase in volume of requests during full implementation. Currently there is a very high volume of public records requests. Attorney Janice Thompson reported the city received 1,100 average requests/month. This breaks down to approximately



259/week. The majority of public records requests are currently police department requests. One request may be for one incident report. That still requires substantial work (retrieve, review, redact). Another request could have hundreds of records encompassed in one request. They are required by statute to provide original response within 10 business days. They are permitted by statute to take an additional 15 business days to process and respond. In burdensome cases they can petition the state for an additional 30 business days. Total is 55 days in most extreme cases. Petitions for extensions with state are rarely filed. They can work with requestor as well to provide records on rolling basis.

What types of instances should not be public record?

Please see A Guide to the Massachusetts Public Records Law Cite MA Public records law for a list and explanation of exemptions.¹²

When a public records request is made there are statutory requirements that dictate what is and is not a public record and if there are grounds for delay to produce record (for example and ongoing investigation). Records Access Officers need to evaluate if the city possesses a record and whether record subject to disclosure within first 10 days. The circumstances surrounding the incident would indicate whether it needs to be held indefinitely or for some discreet period of time. If redaction needed they do not delete the record. Instead they just copy and redact for release. Requestor is given a link to view.

WPD and the law department expect upcoming guidance from the state regarding different types of incidences and how long they need to be stored. The Axon system allows for coding by incident types and can be set up to purge after set period of time.

- How soon after an incident could the public receive a copy of a video? What if a high profile case where public want to see?
- Could public view BWC footage for civil matter, for example car accident? Response: Yes. Basis for request irrelevant. If record subject to open investigation or applicable exemption then record not subject to disclosure and would be accessible as public record. Sometimes records can not be sufficiently redacted to protect witness identify. (D4).
- Does MA have exceptions to Eavesdropping Act? Wiretapping law? (D2)

What recommendations for providing notice to the community when the Body Camera Program is implemented?

- What is timeline for implementation and marketing? Are there marketing plans to help public understand this is going to happen? WPS stated 2022 is the year program will be implemented. Would have press conference, share on public media, open to other ideas. (D3)
- Banner or billboard with message: police body worn cameras are in effect (D4)

¹² MA Secretary of State. (March 2020). *A Guide to the Massachusetts Public Records Law*. Retrieved from <https://www.sec.state.ma.us/pre/prepdf/guide.pdf>



- Create PSA with footage from pilot to announce body cameras in use? (D2) WPD agrees public awareness important. Would not put out real footage. Would release if critical incident, public request, wouldn't generally proactively release because of privacy concerns for people involved.

Next steps questions/comments:

Councilors Wally, Bergman, Russell, Mero-Carlson and Rose were all asked to speak to city council's role with a BWC program. All had similar responses regarding council's role in the budget: under our city charter the city manager comes up with the budget, Council votes up or down. Council can cut whole budget by "X" amount and give reasoning for what preference is for what is to be cut but ultimately that is city manager's call. Councilors also shared that they expected the administration would come up with a budget and policy for a BWC program that would be discussed at council moving forward.

WPD shared that the cost comes in a bundle (equipment, storage, software). They are looking for unlimited storage and having the company be responsible for secure storage.

Many residents had questions about the budget and would like to know what the administration proposes and comment. Specific questions and comments:

- Increase staffing to WPD and creation of new administrative division for program needed; need to adequately fund program (D5)
- What is cost of storing video?
- Where do funds come from to pay for this? (D2) *Response: City Manager is working with CFO and others to review and put budget together*
- Compensation for officers has always been negotiable through unions in collective bargaining process. A body worn camera is a new piece of equipment. This is the biggest change to work conditions in a long time. 8 hour workday audio and video recording everything you say and do. (D1)
- If equipment helps officers' do their jobs, why do officers' get paid more? (D1)
- Cost too high for return on investment. \$2million/year over 5 year period? Prefer anti-bias and de-escalation training as well as bringing in other paraprofessionals to respond (mental health counselors, domestic violence advocates) (D2)
- Would reallocation of funding in budget be considered if there weren't enough money for cameras? (D4) *Councilor Bergman response: If priority of city council, which BWC are, we*



would work with Chief Sargent. As city councilor I would do what I can to make sure lack of funds will not be an issue.

- Separate out equipment in bid process so different companies can bid based on what equipment is needed (taser guns, cell phones, cameras etc). Prepare bid so as not to exclude. Companies can still put bid in as a package but bid doesn't need to exclude companies who aren't able to provide.
- Additional research needed. Why no control group used in pilot, how do we actually understand impact of pilot? Who are we comparing to? Randomized control study didn't happen for pilot. Can we do another pilot to really understand impact with control group and bring in academic researchers to design a study to provide more accurate information? (D2)
- What other academic and/or scientific research will be used to understand impact of body cameras? Wants to see what other cities of comparable size have done and what their results are. (D2)
- Process is important- taxpayers want to know money is being used is most objective
- Las Vegas had a randomized control study- use of force and citizen complaints by citizens reduced by 50% and 90% respectively. In same study officers generated fewer use of force complaints. Higher numbers of arrests/citations. Citizen study portion: 87% agreed police should wear.¹³ (D1)
- How do we know community and police force at large is in support of BWC program? (D2)
- Don't ignore academic research when we implement. Avoid pitfalls from departments who have gone before. WPD says will continue to look at data and research out there. (D2)
- What city in Massachusetts has had BWC program the longest? History of use in MA? (D2) *WPD response: New England slower to adopt BWC than other cities. Not early adopter. Some cities just got into last year or two. Providence has had a couple years. Boston and Springfield working on full implementation right now.*
- Can body camera footage be used to educate public? (D3)
- Pilot policy wasn't specific what disciplinary actions would be taken by officers who don't comply with BWC protocols. (D4)
- Other budget costs important to consider like WPD headquarters built in 1970s is old. (D3)

¹³ Braga et al. (2017, November, 2017). *The Las Vegas Body-Worn Camera Experiment: Research Summary*. Retrieved from http://www.cna.org/cna_files/pdf/LV-BWC-RIB-2017.pdf



- Need to address promotional opportunities for officers of color. The first black police officer hired in 1948. There was a 20 year absence of not hiring persons of color (1954-1974). Then WPD hired a few. We are down 50-60 police officers, need to think about inclusive culture. (D3)
- Program is only as good as its policy. (D5)
- State body camera taskforce looking at evidence based national best practices. Will City wait until state submits their reports and recommendations at end of July 2022? (D4)

Respectfully submitted on behalf of the Human Rights Commission,

Jayna Turcek
Director of Human Rights & Accessibility