

# Memorandum



**Date:** May 11, 2015

**To:** Honorable Chairman Jean Monestime  
and Members, Board of County Commissioners

**From:** Carlos A. Gimenez  
Mayor 

**Subject:** Police Body Worn Camera Update

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On December 2, 2014, the Board of County Commissioners (Board) adopted Resolution 1078-14 setting policy related to police officer body-worn cameras (BWC) and directing me, as Mayor, to conduct a study and to provide a report on the benefits and concerns associated with BWC, and to include guidelines for the use of video obtained by body cameras in disciplinary proceedings. In addition, the study of BWC was to be conducted in consultation with the Dade County Police Benevolent Association (PBA), the County's law enforcement bargaining unit.

During the discussion of this item, I made a commitment to inform the Board before any action was made by my administration regarding the procurement, implementation, and formulation of policy and procedures of BWC for officers in the Miami-Dade Police Department (MDPD). I agree with the statement in Commissioner Jordan's April 9, 2015 memorandum on the importance of BWC and its technology. Recent incidents throughout our country further emphasize my responsibility as Mayor to ensure the safety of law enforcement officers in the course of their duties and the protection of our citizens. I have always believed that the use of BWC by law enforcement officers offers potential advantages in keeping officers safe, enabling situational awareness, improving community relations and accountability, and providing evidence for trials.

As I have previously stated to the Board, the research conducted for BWC for the County has not been a recent initiative. In the Fall of 2012, I directed MDPD's Director J.D. Patterson to study the utilization of BWC for patrol officers. Numerous publications, studies, newspapers, and magazine articles have been reviewed. Market research of companies providing BWC has been studied including a 30-day test with three (3) different BWC companies. Contact was also made with other local, state, and out-of-state police departments that utilize BWC. Additionally, other law enforcement departments' policies were reviewed along with the International Association of Chiefs of Police Model Policy and the Police Executive Research Forum's recommendations and lessons learned about implementing BWCs.

Members of MDPD's Senior Command staff have met with representatives of the Miami-Dade State Attorney's Office, the Miami-Dade Public Defender's Office, the American Civil Liberties Union of Florida, and the PBA to discuss the use of BWC for our patrol officers. Since January 5, 2015, MDPD senior staff have been collaborating with the PBA to review, discuss, and develop procedures for the use of BWC. During calendar year 2015, MDPD and the PBA have met to discuss this matter on the following dates: January 5, January 28, March 12, and April 24. On May 4, 2015, MDPD and the PBA held their last meeting to finalize their draft policies. However, still pending, is the outcome of this year's legislative session regarding the retention and public release policies. I have attached a copy of MDPD's draft policies.

Honorable Chairman Jean Monestime  
And Members, Board of County Commissioners  
Page 2

The 2015 Florida Legislature has also been actively moving two (2) bills creating public records exemption legislation and BWC policies. SB248 – Police Body Camera Public Records Exemption – contains three (3) public records exemptions. SB248 passed the full Senate on April 22, 2015 and passed the full House on April 24, 2015. SB248 is now scheduled to be signed by the Governor.

SB7080/HB57 – Police Body Camera Policy/Two Party Consent – would create a new section of the statute requiring law enforcement agencies that permit law enforcement officers to wear body cameras to develop certain policies and procedures governing the proper use, maintenance, and storage of body cameras and recorded data. HB57 also exempts body camera recordings from the requirements of Chapter 934 related to two-party consent for recording. This exemption allows law enforcement officers to wear body cameras during patrol duties without having to inform each individual which they make contact that they are being recorded. This bill passed the full House on April 24, 2015; however, the companion bill, SB7080, did not pass in the Senate, therefore the bill will not become law unless the Senate is able to take up the bill during a special session.

I want to acknowledge the work by Assistant County Attorney Jess McCarty in keeping us informed of the progress on these bills and for working closely with staff to ensure that Miami-Dade County's interests and concerns are addressed.

My administration will continue to keep you fully informed on our progress of purchasing and implementing BWC, and I will be asking for your approval prior to moving any items forward. My administration has developed a comprehensive agenda item, including an informational package on BWC, for the May Committee cycle. It is my intent to bring this item to the full Board in June. In the interim, I have directed MDPD's Director J.D. Patterson and his staff to meet with all of you prior to the June meeting.

If you have any questions, please feel free to contact Deputy Mayor Russell Benford at 305-375-5191, or me directly.

Attachment

c: Robert A. Cuevas, County Attorney  
Russell Benford, Deputy Mayor, Office of the Mayor  
Office of the Mayor Senior Staff  
J.D. Patterson, Director, Miami-Dade Police Department  
Charles Anderson, Commission Auditor  
Christopher Agrippa, Clerk of the Board

## CHAPTER 33 - PART 1 - BODY-WORN CAMERA SYSTEM

### I. PURPOSE:

The purpose of this policy is to establish guidelines for the use and management of the Body-Worn Camera (BWC) system. This policy is intended to create guidelines for the management and official use of the BWC system and provide officers with instructions for usage.

### II. BACKGROUND:

BWC systems are to be worn by assigned officers during their tour of duty. The Department recognizes that the BWC will not capture exactly what an officer sees and hears, or what an officer senses or experience conveys to him. It does not capture an officers' full knowledge of any particular situation. Footage captured by the BWC is only an image. It will not provide a totality of the circumstances. An officer's recollection of specific details may be different from what is captured in digital evidence. The footage captured by these cameras is only a portion of the encounters between law enforcement officers and citizens, and may range from informal conversations to official law enforcement action. It is not the intent of the Department to utilize the BWC system as a disciplinary tool. The footage will be used to document these encounters and may be used in furtherance of the law enforcement mission. The footage will also be considered during administrative and/or criminal review of events to determine if policy and/or law violations occurred and to further the transparency of officers when interacting with the general public.

III. **BWC ASSIGNMENT:** The Miami-Dade Police Department (MDPD) will equip members of the Department with a BWC system. This system will be used to capture data to be preserved in accordance with departmental policy and in compliance with applicable laws. Once captured, these original recordings cannot be altered in any way and are protected with multiple layers of security.

### IV. OBJECTIVES:

The MDPD has adopted the use of the BWC system to accomplish the following objectives:

- A. To enhance officer safety.
- B. To capture data and actions during the course of an event.
- C. To enhance the law enforcement officer's ability to document and review the data for both internal reporting requirements and for courtroom preparation/presentation.
- D. To preserve the data for use in current and future investigations.

E. To provide a tool for self-critique and field evaluation during officer training.

**V. DEFINITIONS:**

- A. Body-Worn Camera (BWC) System: is equipment worn on the person of an officer in a manner that allows for capturing data.
- B. Casual Encounter: an encounter where a law enforcement officer comes into contact with the general public, which may not be related to an official law enforcement matter.
- C. Compliance Review: a process by which authorized members of the Department conduct quarterly reviews of the data captured by the BWC systems.
- D. Data: audio, video, and metadata captured on the BWC.
- E. Evidentiary Data: Footage of an incident or encounter that could prove useful for investigative purposes, such as a crime, an arrest or citation, a search, a use of force incident, or a confrontational encounter with a member of the public. Evidentiary footage is usually further categorized by specific incident type, and the retention period is governed by evidentiary rules and applicable law.
- F. Non-Evidentiary Data: Footage that does not necessarily have value to aid in an investigation or prosecution, such as footage of an incident or encounter that does not lead to an arrest or citation or footage of general activities that an officer might perform while on duty (e.g., assisting a motorist or clearing a roadway).
- G. Official Law Enforcement Matter: an encounter where a law enforcement officer, acting in an official capacity, comes in contact with the general public. These contacts include response to calls for service, traffic enforcement, and self-initiated enforcement activities. Although every encounter that may result in an official law enforcement matter cannot be identified, officers are to use their training and experience when determining what may turn into an official law enforcement matter.

**VI. OPERATIONAL GUIDELINES:**

- A. The BWC and accessories will be assigned to BWC trained officers. Individual officers will be responsible for the care and custody of the BWC.
- B. Officers shall follow existing officer safety policies when conducting enforcement stops as outlined in Department policies and procedures. Officer safety shall not be compromised in order to record an event.

- C. At the beginning of each tour of duty, the officer will inspect the BWC system for any physical damage, ensure it is fully charged, and in proper working order.
- D. Prior to going into service with a BWC system, officers will ensure they are wearing an authorized uniform, clearly identifying them as an MDPD police officer, unless otherwise authorized by the Department Director or his designee.
- E. Officers will make every effort to place the BWC system in the "Record Mode" as soon as practicable when involved in an official law enforcement matter, as defined in this policy. Officers who fail to activate the BWC system when involved in an official law enforcement matter are required to immediately notify their supervisor and explain the reason for the non-activation. Additionally, the officer will document the incident and reason for non-activation via memorandum to the element commander by the end of the officer's shift.
- F. All BWC system data, including police involved shootings, shall be the sole property of MDPD and will be used for official purposes only.
- G. At the end of each tour of duty, the BWC will be downloaded, placed in the charger, and secured into the proper storage area within the Desk Operations Center or other secured area of the District/Bureau.
- H. The Video Forensics Unit (VFU) will be responsible for the assigning and maintenance of the BWC system. Additionally, the VFU, in consultation with the Police Legal Bureau, will be responsible for all duplication and redaction of data, and will process all requests for public records related to BWC.
- I. BWC operators shall receive hands-on training prior to being issued and deployed with the system. BWC operators will also complete annual refresher training to be provided by the Miami-Dade Public Safety Training Institute.
- J. The VFU will ensure BWC operators, supervisors, and investigators have "view only" access to the recorded events for legitimate law enforcement purposes or other official reasons.

## **VII. USER GUIDELINES:**

- A. Officers assigned a BWC system have the discretion to wear the device as approved by the Department and consistent with the vendor recommendations. Approved areas are as follows:
  - 1. Attached on the lapel of the uniform
  - 2. Attached to a hat or other head worn device
  - 3. Attached to glasses

4. Attached to the chest area of the officer
  5. Other approved location that provides an unobstructed view
- B. Officers should activate the BWC system prior to exiting their assigned vehicles, or as soon as practicable, when responding to a call for service or prior to engaging in any official law enforcement matter, as defined in section V. (G) and as outlined below.
1. Traffic stops
  2. Citizen contacts related to official law enforcement matters
  3. Impaired driver investigations
  4. Vehicle pursuits/foot pursuits
  5. All Calls-For-Service
  6. Transportation of any prisoner(s) or citizen(s) for any reason
  7. All searches (persons, vehicles, structures, etc.)
  8. Statements made by subjects, victims, and witnesses
  9. Arrest situations
  10. Other legitimate law enforcement contacts when the officer believes it is in the best interest of the Department and the community
  11. Public encounters that become adversarial
- C. Once the BWC is turned on, officers will continue to record until the conclusion of the event.
- D. Additional arriving units dispatched to a scene who are assigned a BWC system, will begin recording, and continue to record until the conclusion of the event.
- E. Officers, supervisors, and investigators may use data captured via the BWC system to assist with the investigation and/or completion of the appropriate reports.
- F. Officers and supervisors may use data captured via the BWC system for training purposes, with proper and prior authorization from the District/Bureau Commander of the investigative entity assigned to the case or the

District/Bureau Commander of the assigned BWC operator, if there is no investigator assigned to the case.

- G. In locations where victims have a reasonable expectation of privacy, such as a residence, an officer may honor a victim's request to turn off the BWC unless the recording is being made pursuant to an arrest or search of the residence or the individuals.
- H. Officers should balance the need to capture data of non-evidentiary value with the dignity of individuals who may be experiencing matters of a personal nature.
- I. Officers may turn off the BWC for intelligence gathering or to obtain information for a criminal investigation when a citizen will not provide said information on video.
- J. BWC data may only be disseminated for official purposes or as otherwise permitted by applicable law.
- K. Employees assigned a BWC system will advise other Department members and/or other criminal justice personnel when a BWC is recording.

#### **VIII. PROHIBITED CONDUCT:**

- A. The BWC system will not be utilized to record under the following circumstances:
  - i. To record other Department members unless it is during the course of an official law enforcement matter as defined in this policy.
  - ii. During employee meal and restroom breaks
  - iii. While completing reports
  - iv. During case discussions with other officers
  - v. During other administrative functions
  - vi. During general or performance related discussions with employees/supervisors
  - vii. During any court related matter, to include pre-file conferences, depositions, or any other activity within a courtroom. Only officers assigned to the Court Services Bureau are authorized to record inside a courtroom and only when handling an official law enforcement matter
  - viii. While inside any police or County owned facility, unless the officer is in the process of handling an official law enforcement matter

- B. Officers assigned a BWC shall not knowingly record confidential informants or officers working in an undercover capacity.
- C. Officers will not allow citizens to review recordings on the scene. A supervisor shall be notified if a citizen insists on viewing the recording on the scene. The supervisor will explain the procedure to obtain or view a copy of the footage.
- D. Employees will not access, review, copy, or facilitate the release of any recording obtained via the BWC, other than for official law enforcement purposes.
- E. Employees will not make copies of any recordings for personal use and are prohibited from using any recording device (such as a phone, camera, or secondary video camera) to record any data captured by the BWC system.
- F. Employees will not use any other electronic devices or other means in order to intentionally interfere with the capability of the BWC system.
- G. Employees will not post BWC footage to ANY social media site, without prior written approval from the Department Director or his designee.
- H. Employees shall not erase, alter, modify or tamper with any original BWC data.
- I. Employees are not permitted to utilize any personal video recording device to capture any event while on duty.

**IX. MEDIA UPLOADING, STORAGE/EVIDENTIARY VALUE:**

- A. All BWC data shall be retained for at least the minimum period of time required by law, as provided in section XIII.
- B. All BWC data may be considered as evidence.
- C. The BWC system will be placed in the proper charging receptacle at the end of each shift.
- D. If the BWC system has uploading capabilities, the unit will be placed in the appropriate docking station to facilitate the transfer of recordings.
- E. Once the data has been uploaded, the BWC operator shall be responsible for reviewing the footage and assigning data into categories in accordance with the data management system and departmental policies.
- F. If applicable, the officer will tag the segments of the recordings that have evidentiary value and label them according to event number, case number, officer's name, and badge number.

G. Identification (ID) for the footage shall be the:

1. MDPD case or event number where no case number was issued.
2. Officer's name, badge number, and date.

H. Each data file shall be appropriately titled (i.e., date and time of the incident). Officers shall add the incident location after the date and time, and if applicable, the subject's name and date of birth (i.e., 2014/01/01 / 2215 / 129 Valor Boulevard / Doe, John / 01/01/1970).

I. All footage shall be properly marked and identified as soon as practical.

J. If evidentiary copies of BWC data are required, the VFU will be notified.

**X. SUPERVISORY INSPECTION AND AUDIT RESPONSIBILITIES:**

A. Supervisors are responsible to ensure that the BWC is operated in accordance with established departmental policy.

B. When feasible, supervisors should review data captured via the BWC prior to the completion of any MDPD administrative reports, such as crash reports, Supervisor's Report of Response to Resistance, etc., where a BWC was utilized by any of the employees on the scene.

C. BWC data will not be utilized indiscriminately for disciplinary purposes.

D. Supervisors may access applicable BWC data to verify and address complaints received in response to an internal (from the Department) or external (from the public) source and prepare a memorandum to the PCB Commander documenting the action taken and disposition.

E. Supervisors will also review BWC data in response to an observed performance deficiency.

F. The review of the data contained in the BWC system shall be to assess training needs and to ensure quarterly compliance with departmental policy. Each entity commander with BWC systems will select supervisors to conduct compliance reviews. Supervisors will not conduct arbitrary compliance reviews of their own personnel.

G. District/Bureau Commanders shall ensure the following:

1. Quarterly Compliance Reviews are conducted on BWC systems under their respective command.

2. Appropriate notifications are made when there a departmental concern is discovered.

## **XI. CRITICAL INCIDENTS AND SPECIAL CIRCUMSTANCES:**

- A. During the course of a shift, officers equipped with BWC systems may encounter situations where critical incidents or special circumstances are captured on video. Those situations require an immediate response from investigative units and include, but are not limited to, the following:
  1. Contact Police Shootings
  2. Non-Contact Police Shootings
  3. In-custody Deaths
  4. Officer Involved Traffic Crashes with Fatalities or Serious Injuries
  5. On-scene Complaints of Excessive Force
  6. Officer suffers serious injury or death in the line of duty
- B. During these circumstances, officers equipped with BWC systems that captured the incident will stop recording, by powering down the device at the conclusion of the event. The BWC system will remain affixed to the officer(s) in the same position as it was affixed throughout the event and shall not be handled in any fashion unless emergency medical attention is necessary, requiring that the device be removed. The lead investigator from the investigative unit or agency will retrieve the BWC device from the officer(s) and process it according to agency standards for the handling of evidence. In addition, the lead investigator or designee will also coordinate the response of a VFU detective, who will be responsible for the recovery and storage of all data evidence captured on the device.
- C. Officers equipped with BWC devices should be cognizant that any conversations following the event will be captured on the device. Therefore, protected conversations with the appropriate counsel should not take place until the device is removed or completely powered down.

## **XII. DOCUMENTATION AND RECORDING:**

- A. When the BWC is used in any investigation it shall be documented in an Offense-Incident Report, Field Interview Report, or Uniform Traffic Citation. All other citizen contacts captured on the BWC will be documented on the Officer's Daily Activity Report.

- B. When preparing an Offense/Incident Report, Field Interview Report, or Uniform Traffic Citation, in connection with an investigation or police event, the following details of the recording shall be included in that report:
1. An indication that a recording was made
  2. The date and time of the recording
  3. The person(s) recorded
  4. The reason for the recording (i.e., traffic stop, field interview, criminal investigation)
- C. Data recordings are intended to supplement departmental reports. Submitted written reports are still required to comprehensively capture the totality of events.

**XIII. RETENTION AND PUBLIC RELEASE: (Pending end of legislative session)**

- A. BWC data captured as part of a Department member's duties shall be the property of the MDPD and be considered an official public record of the Department.
- B. The release of BWC data through a public records request or other legal authority shall be governed by applicable law.
- C. Prior to releasing any BWC recordings, VFU staff will ensure that any and all redactions are in compliance with Florida Public Records laws.
- D. Non-evidentiary data shall be retained for at least as long as needed to comply with applicable law or for defense of claims against MDPD officers or the County.
- E. All data will be retained in compliance with the retention schedules published by the Department of State, Division of Library and Information Services.
- F. Officers are responsible for the proper care of all departmental property and/or equipment assigned to them. Officers will immediately report any loss of, or damage to, any part of the BWC equipment via their respective chain-of-command. Reports of damaged or lost BWC system will be forwarded to the PCB and a copy to the VFU.

**XIV. ISSUANCE OF EQUIPMENT:**

- A. BWC systems will be issued to individual officers who have completed the approved BWC training.

- B. A record of the inventory will be maintained by the VFU and the appropriate entity.
- C. Proper documentation will be required to include the date, time, and reason for the transfer when removing a BWC system from one user to another or between Department entities.

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