



Philadelphia Police Department Body-Worn Camera: Review of Policy, Practice, and Custom **July 2018**

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SOURCES OF INFORMATION

1. Review of Philadelphia Police Department Directive 4.21.
2. Meeting with body members of the Philadelphia Police Department Organizational Strategy and Innovations Division and Forensic Science Unit. Also present was a Director from the Philadelphia Office of Innovation & Technology.
3. Meeting with the Charging Unit of the Philadelphia District Attorney's Office.
4. Discussion with an officer leading efforts on Body Cameras from the City of Atlanta.
5. Discussion with officers leading efforts on Body-Worn Cameras in the City of San Francisco.
6. Meeting with leadership within the New Orleans Police Department.
7. Discussion with Chief Thomas Nestel of SEPTA.
8. Discussion with a civilian employee of the New York City Police Department who was involved in crafting the NYPD department policy.
9. Consultation with local and national advocates who focus on Body-Worn Cameras
10. Review of policies from 10 different jurisdictions.
11. Discussion with an investigator who investigates officer involved shootings in Philadelphia.
12. Review of available literature.

EXECUTIVE SUMMARY

The Police Advisory Commission (PAC) for the City of Philadelphia has completed a review of Philadelphia Police Department Directive 4.21, which outlines the Department's BWC Policy. In accordance with Section 4 A. of Executive Order NO. 2-17 issued by Mayor James F. Kenney on January 12th, 2017, we would like to propose a revision to this policy which would make it consistent with known best practices, increase transparency to the public and the legal community, and avoid future criticism from advocates. Our recommendations focus on issues which threaten the legitimacy of the BWC program. For instance, we recommend changes to the current policy which allows officers to review their footage before making statements or writing reports. Moreover, we recommend an extension to the current pre-event recording period. The PAC is also concerned about the current state of internal and external oversight related to the Philadelphia Police Department's BWC program. Finally, we express concern over the potential threats to civil liberties posed by existing and emerging technologies. Our goal is to work with the police department and other city departments to further unpack the concerns briefly outlined herein and work towards strengthening this policy and practice.

The use of Body-Worn Camera (BWC) programs is a trend that is being broadly adopted throughout the nation. In Philadelphia, this program has been introduced into two police districts with a stated plan to eventually expand them to the entire police department. Community advocates and police personnel have both reported they are eager to introduce BWCs. Advocates have framed BWCs as a tool to increase transparency and accountability. However, Police officers and policy makers within police departments highlight that in addition to increasing transparency and accountability, BWCs can improve accuracy, improve the behavior of both the public and the officer, can document evidence, and identify departmental training needs. Unofficially, the Police Department has suggested that the cameras can help highlight the complexities and pace of their work and decision making.

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Department and community advocates. However, advocates seem to focus on accountability as the most important outcome, whereas police seem to focus on the BWC as one tool in a comprehensive strategy to improve their performance and increase public awareness of the complexities of policing in Philadelphia. Further, Police identify accountability as one of many advantages and highlight that BWCs increase citizen *and* police accountability. This difference is possibly explained by a difference in the conceptualization of the depth, persistence and existence of police misconduct. This difference may also inform the Philadelphia Police Department's BWC Policy. Regardless, the difference in the conceptualization does not minimize the usefulness of this tool in gathering evidence, helping the public understand an officers' job and protecting officers from false accusations.

The Police Advisory Commission has considered the context of the conceptualization of the need of the purpose or need for body worn cameras as well as numerous sources of information. We believe that though the Philadelphia Police Department's BWC Program and policy show great promise, there are some issues which need further consideration or revision. It is our intent for this report to highlight those concerns and can encourage dialogue between the Police Advisory Commission, the Police Department, advocates and the community.

RECOMMENDATIONS

As a result of these sources of information, the PAC is recommending the following revisions to Directive 4.21 and 10.1

Recommendation 1: Acknowledge the purpose and the goals of the BWC Program.

1. **Currently, the policy does not acknowledge the purpose of the program. We recommend that a purpose which is reflective of the community's call for BWCs be included in the policy.**

Recommendation 2: Revise current policies to prohibit officers from viewing their BWC footage prior to the creation of written or verbal statements

Directive 4.21 Section 7-H states: Whenever an officer with a body-worn camera obtains a video statement, the fact that a statement was recorded will be listed on the 75-48. The Officer will:

- A. Currently, Section 7-H.2 states: *Review the video and then proceed to the Detective Division to complete processing the arrest. Inform the assigned detective that a recording of the arrest was made.*
 1. **We recommend that this be revised to: *Inform the assigned detective that a recording of the arrest was made and complete processing the arrest.***
- B. Section 7-I states: If an arrest is made and it is recorded on a body-worn camera, the Officer shall:
 - Currently, 7- I.2 states: *At this time, review the video and then proceed to the Detective Division to complete processing the arrest. Inform the assigned detective that a recording of the arrest was made.*
 - 1. **We recommend that this be revised to: *At this time, inform the assigned detective and or supervisor that a recording of the arrest was made. Complete processing the arrest and inform supervisor if officer would like to view the footage. If officer elects to review the footage, officer must note date and time of review and file an addendum to their initial report.***
- C. Currently, Section 7-I.3 states: *In those arrests that do not involve the Detective Divisions, (e.g., DUI arrests), after reviewing the video, officers will complete all necessary paperwork/data uploads at their district and advise the District Attorney's Office (DAO) Charging Unit that video evidence exists and has been made available to them.*

1. **We recommend that this be revised to: *In those arrests that do not involve the Detective Divisions, (e.g., DUI arrests), officers will complete all necessary paperwork/data uploads at their district. Officer can then elect to review their footage and advise the District Attorney's Office (DAO) Charging Unit that video evidence exists and has been made available to them.***
- D. Section 7-K states: If any body-worn camera video captures a police discharge, a seriously injured officer, a motor vehicle accident involving serious bodily injury, any death captured on video, or any use of force resulting in serious bodily injury or death, the officer's body-worn camera shall be taken to the district by the first available supervisor and uploaded into the DEMS.
- Currently, Section 7-K.1 states: *The supervisor shall immediately notify the DEMS Administrator of the incident and request the video footage be restricted from being viewed by all departmental personnel except the Police Commissioner, Deputy Commissioners, the appropriate investigative unit and the District Attorney's office. However, the Police Commissioner or their designee may approve access to other individuals or entities if necessary or required by court order.*
 - Currently, Section 7-K.2 states: *Once the recorded media is uploaded, stored, and restricted from view, the body-worn camera will be returned to the officer, as soon as possible.*
1. **We recommend that language be added which specifically prohibits officers from viewing footage until they have provided an initial statement.**
 2. **Additionally, we recommend that Directive 10.1-5C which states "The reporting officer may review their body-worn camera video of the incident prior to making a statement" also be changed to specifically prohibit an officer from viewing footage until they have provided an initial statement.**
 3. **At the very least, the PAC recommends that Directive 10.1 and 4.21 be reviewed so that they are clearly consistent with each other. Currently, they are not.**
- E. Currently, Section 9B.2 states: *Department personnel shall review their own digital recordings for report writing, court preparations, and/or training purposes (See also, Section 6-G). The following statement will be recorded on all police reports prepared after reviewing their body-worn camera video: "The contents of this document are based on my observations of the incident and a review of the recordings captured by a mobile video recording system."*

1. **We recommend that this be revised to: *After completing any necessary paper work and uploads Department personnel may review their own digital recordings for report writing, court preparations, and/or training purposes (See also, Section 6-G). If after viewing camera footage an officer wishes to add an addendum to their report or reports they may do so. However, the following statement will be recorded on all addendums to police reports prepared after reviewing their BWC video: “The contents of this addendum are based on my observations of the incident and a review of the recordings captured by a mobile video recording system.”***

Recommendation 3: Reconsider the length of the pre-event recording period.

- A. Currently, BWCs are set with a buffering period of 30 seconds.
 1. **We recommend that this be expanded to the maximum 2 minutes of buffering / pre-event recording time.**
- B. The PAC is not aware of any documented policy which identifies pre-recording time.
 1. **In the interest of transparency, we recommend that the Police Department consider clearly outlining the time period and stating it within its written policy.**

Recommendation 4: Revise existing policy to allow for proactive and robust internal and external oversight.

- A. Section 10. D states: Supervisors should not review recordings for the sole purpose of searching for violations of departmental policy not related to a specific complaint or incident; however, they may review video recordings for the purpose of:
 1. **Currently, 6 purposes are listed; we recommend that a 7th purpose, “conducting random audits,” and an 8th purpose “assessing procedural justice” be added to this list.**
- B. Section 9.B: Departmental Review / Access to Data
 - A. Currently, Section 9B.1 states: *Digital recordings from body-worn cameras shall not be randomly reviewed for the sole purpose of finding disciplinary infractions. However, supervisors may, upon good cause and with prior authorization from the commanding officer, review the digital recordings of specific officers to monitor their behavior.*
 1. **We recommend this be changed to: *Digital recordings from body-worn cameras may be randomly reviewed by supervisors or the office of professional standards in order to monitor professional conduct, performance and adherence to departmental policy and protocol. Additionally, supervisors may, upon good cause and with prior***

authorization from the commanding officer, review the digital recordings of specific officers to monitor their behavior.

2. **We also recommend that the Police Advisory Commission be granted similar access to randomly review footage with a focus on policy, practice and customs.**

Recommendation 5: Clearly identify what administrators who have access to BWC footage can do with their access.

1. **No current policy seems to be in place which directs administrators who have access to footage on how they can utilize footage and whom they can share it with.**
2. **We recommend that a policy be created which focuses on the rights of marginalized people and considers rules of evidence as well as potential harm which could befall someone if they are identified on BWC footage.**

Recommendation 6: Revise policy to guard against threats to civil liberties created by current and emerging technologies such as facial recognition or biometric data.

Recommendation 7: Revise the current policy regarding the retention of video to be congruent with the current practice.

A. Section 9A: Evidentiary and Right to Know Access to Data

- Currently, Section 9A.1 states: *Retention periods for the purpose of the Body-Worn Camera Program shall be no less than thirty (30) days, unless video is required for evidentiary purposes or further review. If the video is required as evidence, the retention period shall be the same as that required for evidence of that particular crime (PLEAC 2.4.2 d).*

1. **In interviews with members of the Digital Media Evidence unit for the Philadelphia Police Department, a 60-day retention period was said to exist. In fact, the PAC was told that video retention would exist for no less than 75 days so that the department could be sure that no timely requests were unfulfilled. We therefore recommend that the publicly published policy be updated to reflect this practice.**

Recommendation 8: Revise policy so that the Police Advisory Commission is added to the list of agencies with temporary access rights to BWC footage.

- A. Currently, Section 9A.3 states: *Temporary access rights may be given to the Philadelphia District Attorney's Office, the City of Philadelphia Law Department, or other prosecutorial agencies associated with any future prosecution or legal defense arising from an incident in which a body-worn camera was utilized.*
1. **We recommend that the Police Advisory Commission be added to this list of agencies.**

Recommendation 9: Reconsider the placement of the BWCs and attempt to make said placement officer specific.

Recommendation 10: Clarify to the public the plan and barriers to expanding the program more rapidly.

BODY-WORN CAMERAS: WHY DO THEY EXIST?:

RECOMMENDATION 1

Acknowledge the purpose and the goals of the BWC Program.

It is generally accepted that both the public and police personnel support the use of BWCs (Florida Atlantic University, 2017). Community advocates and police officers acknowledge that one of the reasons BWCs have been introduced into the

Philadelphia Police Department is to increase accountability and transparency of officers' interaction with community members. Several community leaders have stated their lack of trust in the statements made by officers and the need to corroborate those statements with video evidence. Community leaders have also stated that they believe that the presence of a BWC will have a chilling effect on officer behavior. Police officers have mentioned BWCs as one of many tools available to them. They have acknowledged that BWCs can identify officer misconduct, but have also attempted to strike a balance by suggesting that the presence of a camera can identify when community members act inappropriately and clarify decision-making in fast paced situations. Further, they state that the presence of a BWC can prevent officers *and* the public from misbehaving. Generally, Philadelphia police officers have broadly identified a rationale for BWCs that includes a need for public accountability and have seemed reluctant to suggest that BWCs exist in response to incidents of police misconduct and a deterioration of police-community relations.

Though the public versus police description of the need for BWCs is a seemingly small discrepancy, it suggests larger problems. For instance, the President's Task Force on 21st Century Policing, in Recommendation 1.2, states: "*Law enforcement agencies should acknowledge the role of policing in past and present injustice and discrimination and how it is a hurdle to the promotion of community trust.*" The public's response to BWCs and the public comment by then Commissioner Charles Ramsey (NBC News, 2017) suggest that the deteriorated relationship between police and the community is the core issue driving the program. Therefore, a description of the policy which acknowledges the impetus for BWCs and does not diffuse the need for the camera along six points may in-and-of-itself improve the relationship with the community.

RECOMMENDATION 2:

Revise current policies to prohibit officers from viewing their BWC footage prior to the creation of written or verbal statements.

VIEWING FOOTAGE: IMPLICATIONS ON LEGITIMACY AND PROCEDURAL JUSTICE:

The prevailing theory regarding police legitimacy is the Procedural Justice Theory.

This theory suggests that if the interaction with the justice system is proportionate, respectful, and is perceived to be fair, individuals and communities are more likely to cooperate and defer to law enforcement (Department of Justice, 2013). However, should these elements not be present, individuals and communities will not have faith in law enforcement, will view it as illegitimate, and will be less likely to cooperate. Numerous academic studies regarding high profile police actions suggest that they have led to lower levels of public trust and less engagement with the police (Papachristos, 2016). From a public policy standpoint, BWCs were introduced to provide transparency and therefore increase trust and encourage engagement. Allowing officers access to footage may limit transparency and therefore delegitimize the program

A less discussed, but increasingly relevant discussion on police legitimacy, deals with the concept of special exceptions for law enforcement (Department of Justice, 2018). Essentially, the

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concept of special exceptions refers to actions which are outside the procedure of a law enforcement investigation. One example of a special exception involves the process of interviewing an officer after he or she discharges their weapon at another human being. Advocates, including the newly elected District Attorney, have suggested that this process--which allows for a 48-hour waiting period and the mandatory presence of an attorney--is a gross departure from how civilians, who discharge their weapons at other

human beings, are treated. This example highlights how officers are treated differently and how this difference is often framed as unfair.

Another special exception which is more salient to this report is the viewing of footage by officers when they are considered witnesses or the subject of an investigation. A civilian witness is not

automatically offered footage of what they witnessed prior to giving a statement, and if they discharge their weapon, they cannot view any footage of that prior to being asked for a statement. Moreover, the police will seek a statement from that person immediately, regardless of how traumatizing the event might have been for them. This special exception does not seem to currently be a major part of the public discourse. However, advocates such as the ACLU and Upturn, have introduced it as a major failing which is inconsistent with investigative practice, cross contaminates evidence, induces or enables false statements, and decreases legitimacy (Bibring, 2015, Yu, 2017). In general, special exceptions for law enforcement seem to erode their legitimacy because of the implication that there is a different standard for police officers compared to regular citizens.

The central concern regarding viewing BWC footage focuses on whether or not footage should be viewed by officers before they formally document their recollection of the event. The Philadelphia Police Department, like police departments nationwide, has grappled with this issue and decided that police officers should view their own footage. Policy makers and influencers within the department have stated that they have shaped the policy to allow for officers wearing BWCs to view their footage in advance of writing a report or making any statements. They suggest that this is done to ensure accuracy and in the case of possible mistaken identity, avoid wrongful arrest of citizens. Jurisdictions around the country have similar policies. However, other jurisdictions do restrict the viewing of BWC footage in some scenarios.

On this issue, the PAC interviewed numerous individuals within the Philadelphia Police Department. These included members of the team which helped to launch the BWC pilot program, supervisors from Civil Affairs and the 22nd District, a detective from the Officer Involved Shooting Team, and high-ranking officers from the Office of Professional Standards. Finally, the PAC met with six patrol officers from the 22nd and 25th Districts, and had informal conversations with numerous other officers. Almost uniformly, the officers that were interviewed suggested that the viewing of footage was necessary. Most referenced the role of a defense attorney and the collective fear that defense attorneys would seize upon discrepancies to create a “gotcha” moment for officers. In fact, almost all officers mentioned defense attorneys and stated that BWCs are not meant to be used to contradict officers or as a “gotcha,” so officers should be able to view their footage beforehand. In response, officers were asked how BWCs differed from other video evidence, which officers are not given access to prior

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to filing a report. Specifically, officers agreed that they were not allowed access to the footage of other officers and were not offered access to surveillance or cell phone camera footage. Officers often dismissed this comparison by suggesting that public surveillance or cell phone videos are not readily available as quickly as BWC footage is available. However, outside of this response, no officer could offer a clear or cogent argument regarding why footage recorded on BWCs warranted this particular special exception. Other comparisons related to the difference between how an officer might be treated when they are the subject of an investigation (in Philadelphia, officers are automatically the subject of an investigation when they discharge their weapon and or are accused of misconduct (Philadelphia Police Department Directive 10.1, 2018) and how a civilian might be treated were uniformly dismissed as improper or unfair comparisons. Further, when dismissing the idea of a policy change, police leaders consistently retreated to the concept of cameras not being a “gotcha” for officers and insisted that accuracy would suffer if they could not view their own footage. Notably, in interviews with patrol officers, more than one officer noted that they would feel comfortable if a policy existed which prohibited them from viewing their own BWC footage until after they had already given or written an initial statement. However, they suggested this would need to be related to a major incident and the policy would need to allow for them to add an addendum to their statement after viewing their footage.

In these interviews, the PAC asked if any special consideration might be offered to police shootings, use of force, and the loss of life caused by police action. The majority of officers stated

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that, in these scenarios, there is no difference. However, as mentioned, some officers, with various levels of experience, stated they did understand how these might be treated differently. Additionally, one investigator, with experience investigating police actions, stated that they have, in their experience and training, come to be able to quickly understand when a police action is a “bad job”. They suggested that in these scenarios, if they suspect that a police discharge is problematic, out of policy and possibly criminal in nature, they would support that

an officer not be allowed to view their footage. The PAC questioned what special skills this investigator has that could be transferred into the formulation of policy. The investigator described their assessment as a product of their extensive training, experience and career long attention to policing. This investigator unknowingly touched on a LAPD policy which requires a Force Investigation Division Investigator to first view the BWC footage and then grant access to the officer if they deem it suitable (LAPD Special Order No. 12, 2015). Presumably, in this scenario, if an

investigator observed something which indicated a use of force incident was problematic they would not grant access to the officer who had discharged. As a follow up to this, the PAC questioned if the investigator was suggesting that they may not have even trusted themselves to assess whether a police action was troublesome at earlier points in their career. This investigator confirmed that they could think of times in their career, as an investigator, officer or supervisor, where they lacked the ability to assess this as well as they can currently. Despite this caveat, this investigator stated that in many, if not most cases they saw a benefit to officers viewing their BWC footage. They further stated that this footage was likely to jog their recollection and increase accuracy. However, they also highlighted that if an officer was in the wrong, it would be better practice to not grant them access to footage.

During the interviews with police personnel, each member of the department was asked if they believed that viewing video could cause an officer to conform their report to the video and therefore decrease, rather than increase, accuracy. The officers offered a thoughtful, consistent, and nuanced response. They suggested that high stress, complicated, or fast paced situations often blurred their recollection of an event. Some officers referenced specific instances where they were not even aware that backup had arrived or had otherwise not understood an aspect of the situation as they dealt with a problem. The officers mentioned that in these instances, it may be difficult for them to separate what they remembered or what they believed they remembered after viewing BWC footage.

Other Law Enforcement in Philadelphia

The PAC engaged Chief Thomas Nestel of the South Eastern Transportation Authority (SEPTA) for his input on BWC Policy. For context, the SEPTA policy has been lauded as a model policy by the ACLU and other community groups. The Chief reported that he made a deliberate effort to ensure his policy and program were viewed as legitimate in the eyes of people outside of his department. To do this, he stated that he met with various advocacy groups--including the ACLU--to receive external input; the Chief stated that this input provided him with a great deal of useful insight. Chief Nestel commented publicly about his policy and echoed those comments during his conversation with the PAC. He stated that he believed allowing officers to view their footage before creating a report was a poor practice and would be inconsistent with the use of other video, such as surveillance video. Chief Nestel stated that his experiences as a police officer and police supervisor helped him to recognize the need for a policy which safeguards

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against the rare but important instances where an officer might alter their actions or statements because they had viewed their BWC footage. Conversely, he stated that he was confident that Judges and juries could be relied upon to not focus on minor discrepancies between officer's statements and what occurred on camera. In fact, Chief Nestel suggested that in his experience, it is more suspicious when discrepancies between two police officers do not exist because it is unlikely that both officers could recall any incident identically. He stated that he feels the same logic should apply to officers viewing footage. That is, it would be unusual for an officer to remember something exactly as it occurs on his camera. In our conversation, the Chief highlighted specific examples where officers' BWCs helped expeditiously clear them of false accusations. He also highlighted the less common but important instances where a review of BWC footage identified officer misconduct. He stated he was not always sure that the officers in question would have escaped discipline if they had seen their footage. However, he stated that because of the potential to alter subsequent steps such as the processing of arrests or the creation of reports, he preferred to remain consistent with the policy of not allowing officers to view their footage. Finally, the Chief spoke of the fact that officers may observe many things that cameras cannot detect. Therefore, he preferred to understand their perceptions and observations without any contamination from the video footage.

The PAC also communicated with Chief Nestel regarding his auditing of BWC utilization. The Chief commented that there were ongoing efforts to audit if cameras were utilized. The chief stated, "I don't think we would have as good a compliance rate if we didn't do periodic audits. Oversight changes behavior"

Officer Viewing in Other Cities

In other jurisdictions, the concept of pre-report viewing is considered in the same lens. The PAC interviewed a sergeant who is the department lead of the BWC initiative for another major city.

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This sergeant also referenced that accuracy is important. However, they suggested that in the case of police discharges and use of force, the viewing of camera footage before offering an initial statement would *decrease* accuracy. They stated that policing is a 4-dimensional activity and cannot be accurately assessed via BWC footage. Therefore, they proposed that an interview regarding what an officer's complete recollection was, including what their instincts told them, what they heard, what they smelled, what tactile factors they

observed, and what their human eyes appreciated should not be tainted by the viewing of footage. The sergeant was asked if there was any concern about inconsistencies between videos and an officer's statement. They stated that inconsistencies are not inherently problematic and are in fact expected in the high stress situations officers face. They stated that for the most part, insignificant or routine inconsistencies were not problematic and that it was important to identify major inconsistencies. This sergeant stated that they were in favor of officers viewing their BWC footage after they had already offered their initial recollection.

Legal Professionals and Officer Viewing of BWC Footage:

A group of defense attorneys who focus on indigent defense in the City of Philadelphia were asked about their opinion regarding the viewing of BWC footage. Unequivocally, they stated that they were opposed to the pre-report viewing of footage by a police officer. They first offered their experiences in successfully advocating for their clients who have had their rights violated by the Philadelphia Police Department. They highlighted that, for the most part, these people were poor people of color. According to these attorneys, in cases where police may have acted improperly, the viewing of footage can make the pursuit of justice far more difficult. The defense attorneys were asked about their opinion on how discrepancies between an officer's account and the video might affect their practice. They suggested that, throughout their careers defending indigent people who have had contact with the police, they have had almost no success swaying Judges and or juries over minor discrepancies. They also suggested that they have ample experience with officer's statements not matching those of their fellow officers, not matching cell phone camera video, and not matching surveillance video. However, they stated that efforts to build a foundation of police maleficence on such discrepancies were usually dismissed by triers of fact. Conversely, they stated that significant discrepancies they uncovered often led to cases being withdrawn or dismissed.

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The PAC interviewed a Judge of the Philadelphia Court of Common Pleas. This Judge reported having extensive experience in trying cases where discrepancies existed between officers' accounts of incidents and video evidence, but not BWC video evidence. The Judge was asked if they

felt that a defense attorney could build a valid foundation for impropriety using discrepancies between officer's accounts and BWC footage. The Judge wished to parse their answer carefully. They stated that, based on their experience, Judges are not swayed by minor discrepancies. However, they believed that juries are ultimately unpredictable and there was no way to accurately predict their actions or behavior. The Judge expanded on their experience, which was consistent with defense attorneys' accounts of how trials are processed. The Judge stated that minor discrepancies between two officers' accounts of an event, or between an officer's account and surveillance video or cell phone video, were rarely seized upon by any trier of fact. The Judge was then asked if they felt it was good practice for officers to be allowed access to their BWC footage prior to providing a written report. The Judge stated that they found the argument around accuracy and footage not being used as a "gotcha" somewhat compelling. However, they stated that they were most concerned that this access was not equitable. They suggested that, the idea that video footage should be used to increase accuracy suggests that video footage should be offered to witnesses and suspects of crimes as well. The Judge also suggested that there was nothing necessarily unique about BWC footage when compared to other video evidence. Therefore, when asked if the policy that an officer is allowed access to only their footage and not those of their fellow officers or of surveillance footage made sense to them, the Judge suggested that if the true reason was purely about officer accuracy, it did not make sense that officers would not be offered all available video evidence. The Judge stated that the layman and legal argument which was most compelling was that the public, whether a witness or a suspect, should also have access to BWC video at the same time and concern with the speed that an officer might have access to it. The Judge stated that a policy which was a departure from that standard did seem to favor officers, especially officers discharging their weapon who are therefore immediately the subject of both criminal and administrative investigations.

BUFFERING/ PRE-EVENT RECORDING

RECOMMENDATION 3:

Reconsider the length of the pre-event recording period.

Most BWCs, including the Axon BWCs provided to Philadelphia police officers, are constantly recording when

they are powered on. The activation of a camera by an officer will capture a set period of time, up to 2 minutes, before the activation and will continue to record until it is deactivated. As a privacy measure, the pre-event recording is video only, as audio is muted. Currently, the pre-event recording for the Philadelphia Police BWC Program is set to 30 seconds. The concept of buffering and / or pre-event recording was discussed with the same professionals listed in other areas of this report, specifically police personnel of various ranks and responsibilities and legal professionals.

Almost all police personnel stated that the pre-event recording period of approximately 30 seconds was sufficient. Most police officers in leadership positions stated that they were not aware of any specific incidents where any change to this would have been useful. However, all officers interviewed stated that they have on occasion, because of stress and not yet being used to the camera, forgotten to turn on their BWCs. As a follow up, the PAC asked if anything crucial had been lost as a result. The officers reported that in some cases it would have been extremely useful and in other cases only marginally useful to have had some additional pre-event recording. In contrast, officers were asked what the harm might be in extending the recording period. Most officers referenced privacy and the potential for their camera to capture them in the bathroom. Other officers incorrectly suggested that extended pre-event recording might capture private conversations. Naturally, the PAC highlighted that pre-event recording was of video only and therefore did not include audio recording until the pre-event period had ended. As mentioned, several officers referenced that it took time to develop the “muscle memory” or otherwise become accustomed to wearing and activating their BWCs. The PAC questioned if perhaps a longer pre-event recording period might be necessary during an officer’s first six months wearing a camera. Some officers agreed that this would be logical. However, most insisted that this would not be necessary.

As noted, the current policy for pre-event recording is that the setting is for 30 seconds. It is understandable that in most cases, this is sufficient. However, as the program is

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expanded into new districts, user error will likely increase. Moreover, the PAC is aware of several cases involving BWC evidence that is lacking or non-existent because the officer failed to activate their camera. In these cases, the failure to activate cameras earlier did impact what evidence was collected, and this was framed as problematic by defense attorneys. The list of cases which involve a problem related to BWC footage is attached to this report as Addendum A. Another case, [REDACTED], identifies a police officer who discharged his weapon after a sudden interaction with an armed suspect. A review of the facts of the case seem to indicate that his failure to activate his camera was reasonable to police officers. Specifically, the interaction was sudden and the officer needed to utilize his hands to control his weapon and flashlight. Ultimately, the officer involved discharged his weapon and wounded a suspect. However, the weapon was not found near the suspect and a subsequent analysis of the weapon could not conclusively link the weapon to the man. During this incident, a crowd formed in protest of the shooting of what they believed was an unarmed man. As of July 2018, it is unclear if this matter has gone to trial or has otherwise been disposed of. However, it does seem clear that the response of the community could have quelled and the case built against this individual could have been strengthened if the BWC footage had captured the discharge. If this officer had had a pre-event recording of 2 minutes, it is likely that this discharge would have been captured.

The PAC is also aware of footage of a police discharge in Baltimore on February 6, 2017. In this shooting, the pre-event recording of a BWC captured the end of a high stress situation which resulted in an officer's discharge. The very end of this interaction was captured and was able to accurately support the officer in his assertion that he had no other choice but to discharge his weapon. Had this officer waited 5-10 seconds longer before activating his camera, he may not have captured a discharge.

INTERNAL AND EXTERNAL OVERSIGHT

RECOMMENDATION 4:

Revise existing policy to allow for proactive and robust internal and external oversight

Within government, internal and external oversight exists in many different forms. The goal of oversight is to understand

what problematic issues might exist by both being proactive and reactive. It is clear that the Philadelphia Police Department will react if an officer wearing a BWC is accused of misconduct. However, it is equally clear that the Philadelphia Police Department is not proactive to ensure that officers are turning their cameras on, keeping their cameras on, and acting within policy while their cameras are on. Currently, the PAC is not aware of any random audit of police activity which ties calls to service and BWC footage. Other jurisdictions have employed--or are discussing the deployment of--audit programs which seek to ensure that video exists for each citizen interaction and allows for a random review of an officer's footage to assess their interaction absent a complaint. Further, in conversations with police supervisors, they have referenced the idea that they consider it their duty to observe seemingly innocuous differences in their officers' behavior and make efforts to assess if there are larger issues occurring which they cannot see. Should this be true, then certainly supervisors should be empowered to review an officer's BWC footage to assess if they are in need of some intervention. Regardless, internal affairs should be able to randomly review footage as a quality control measure. This failure to proactively ensure that cameras are utilized amounts to a false promise of accountability.

“the failure to proactively ensure that cameras are utilized amounts to a false promise of accountability”

Though accountability is a laudable endeavor, capitalizing on the existence of a record which at the very least, captures more of the nuance of the verbal interaction between officers and citizens is something other jurisdictions have utilized. The potential to assess, on a large scale, issues related to procedural justice, communication and pre-cursors for use of force or other negative outcomes are possible via a review of BWC footage. Jurisdictions such as

“The potential to assess, on a large scale, issues related to procedural justice, communication and pre-cursors for use of force or other negative outcomes are possible via a review of body- worn camera footage”

New Orleans and San Francisco have both used footage to assess the nuance of the interactions. Of course, procedural justice and police legitimacy are often best assessed by understanding the process of an interaction rather than understanding the overall outcome. Therefore, the Philadelphia Police department should seek to increase review of footage to assess officer interaction for procedural justice.

Of course, the Philadelphia Police Department, like many law enforcement agencies, receives some criticism for not rigorously investigating itself. The PAC does not suggest that this is fair or unfair criticism. Rather, it is a reality in the public perception of internal investigations. Therefore, upon request, the Philadelphia Police Department should make all BWC footage requested available to the Police Advisory Commission, regardless of if a complaint or criminal charges exist or are pending. This type of transparency can increase legitimacy.

INFORMAL VIEWING

RECOMMENDATION 5:

Clearly identify what administrators who have access to BWC footage can do with their access.

The current Philadelphia Police Department policy clearly delineates who can request access to video and for what reason. It outlines that supervisors, detectives, Internal Affairs investigators, and members of the

DA's office and / or Law Department may be granted access of specific incidents. However, during the review of this policy, the PAC became aware of several incidents of informal viewing. In sum, these instances seem to be a byproduct of a lack of policy outlining what administrators, who already have access to footage, can do with their access. These administrators exist at the district level and in the Digital Media and Evidence Unit. It is not suggested that any incidents of informal viewing have been malfeasant. Rather, they highlight some practices and customs which, if they are to exist, should be codified and limited to avoid problematic viewing in the future. Currently, the PAC is not aware of any Philadelphia Police Department policy which governs or directs how those who have access to footage may distribute that footage and who may be granted access without an established reason. Moreover, the PAC is not aware of steps taken by the Police Department to ensure that video is not being informally viewed at the district level. However, during the course of the PAC's conversations about BWCs, the PAC did become aware of at least two incidents where persons unauthorized to view BWC footage were given access to view footage for a non-investigatory reason. Again, these incidents do not seem to have been nefarious in their motivation or outcome. However, they highlight the need for policy revision which guides those who do have access to footage on who they can grant access to and how that access is documented.

ARTIFICIAL INTELLIGENCE

RECOMMENDATION 6:

Revise policy to guard against threats to civil liberties created by current and emerging technologies such as facial recognition or biometric data

A central theme present in the PAC's conversation with advocates and activists was the fear of somewhat Orwellian possibilities that surveillance can lend itself toward. To

its great credit, the City of Philadelphia and the Philadelphia Police Department are very aware of and sensitive to issues related to civil liberties. It was not suggested by any officer that they might attempt to utilize BWC footage for biometric facial recognition. However, when asked, several department officials acknowledged that it was possible to use footage to make biometric identifications. Currently, the PAC is not aware of any instances of this actually occurring. However, it seems generally accepted by the police department that such a request, by any police officer, would ultimately need to be approved by the Police Commissioner. Should this be the case, this seems reasonable for the short term. However, this should be codified so that no officer with access mistakenly makes it available to other law enforcement. Given the current climate which exists in this country, and at the federal level, special consideration should be offered to craft a policy which focuses on the potential negative impact that biometric technology can have on undocumented people living in the city. Further, equal attention should be paid to the potential for biometric technologies to disproportionately affect the civil liberties and policing of poor and / or minority communities.

“if facial recognition is currently possible, the Police Department should consider a more rigorous and documented process to seek authorization to utilize the footage”

Finally, if facial recognition is currently possible, the Police Department should consider a more rigorous and documented process to seek authorization to utilize the footage. Specifically, they should consider seeking judicial approval or another rigorous and diversified approval process to use footage in this way.

This is especially important as Axon/Taser publicly discuss the development of facial recognition technology, which can store and search for faces of people who come in contact with the police, or exist in a public database such as a motor vehicle department. To date, Axon has referenced

their acquisition of two artificial intelligence and machine vision / learning companies, Dextro and Misfit, in efforts to help their consumers proficiently store and sort through data. Further, they have been present at conferences and trade shows to discuss this pending technology. They suggest that they would like their cameras to produce actionable feedback to officers as they are in the field. AXON/Taser representatives have communicated with the PAC regarding this issue. They have reported that they believe that artificial intelligence can improve policing but understand that they have an obligation to ensure that the development and utilization of this technology is done so responsibly. They reported that they have created an Artificial Intelligence Ethics Board. The ethics board will apparently provide both guidance and advice but will not have veto power or final decision-making ability.

Though AXON/Taser seems to be attempting to prevent unintended consequences from adversely affecting the public it is also a private company with competing obligations. Therefore, as this emerging technology becomes available, the Police Department should enlist the input and assistance of academic experts, advocates, the City Solicitor, and the Police Advisory Commission to craft a policy which guards against the possible threat to civil liberties posed by this company and this technology. Special attention should be paid to the potential for biometric technologies to disproportionately affect the civil liberties and policing of poor and / or minority communities.

BWC FOOTAGE RETENTION

RECOMMENDATION 7:

Revise the current policy regarding the retention of video to be congruent with the current practice.

In interviews with members of the Digital Media Evidence unit for the Philadelphia Police Department, a 60-day retention period was said to exist. In fact, the PAC was told that video retention would exist for no less than 75 days so that the department could be sure that no timely requests were unfulfilled. We therefore recommend that the publicly published policy be updated to reflect this practice.

RECOMMENDATION 8:

Revise policy so that the Police Advisory Commission is added to the list of agencies with temporary access rights to BWC footage.

FOOTAGE AVAILABILITY

The Police Advisory Commission has, in the last 6 months, made inquiries to view

BWC footage. In one instance the PAC was able to view footage, but was required to do so in an interview room at the headquarters of Internal Affairs in North East Philadelphia. This process was burdensome and a strain on Philadelphia Police Department and PAC resources. Moreover, it limits the PAC's ability to digest the footage. The PAC invites the Philadelphia Police Department to work together on creating a process which allows the Police Advisory Commission to review BWC footage with the same guidelines and restrictions afforded to Internal Affairs.

RECOMMENDATION 9:

Reconsider the placement of the Body Worn Cameras and attempt to make said placement officer specific.

CAMERA PLACEMENT:

The Philadelphia Police

Department directs officers to mount the

camera at the center mass of the chest. The officers who were interviewed indicated that they did not find this to be problematic. However, many also acknowledged that this placement could block the view of an interaction regarding a police discharge. The Police Advisory Commission is not aware of an established best practice. However, some consideration should be given to piloting camera placement in other areas of the uniform and perhaps considering camera placement based on officers' duties and heights.

RECOMMENDATION 10:

Clarify to the public the plan and barriers to expanding the program more rapidly.

COMMUNICATION REGARDING PROGRAM EXPANSION

The Philadelphia Body Worn Camera Program has reportedly

experienced some delays in its planned expansion. Each time a high-profile incident has occurred, community members who engage the PAC and the media question why the officers in question did not have Body Worn Cameras on. The PAC has been able to receive some information from the Police Department which indicates that issues related to technology infrastructure and physical storage of the cameras have resulted in delays. This information should be communicated directly to the public from the Police Department. Further, regular updates regarding the status of the program should be offered to the public as well. This type of communication with the public will increase the legitimacy of the program and help residents of the city understand that delays are not nefarious or otherwise purposeful. The Police Advisory Commission offers its assistance in communicating this message on an ongoing basis.

CONCLUSION:

Body-Worn Camera programs have changed policing and have created the opportunity to increase empathy, legitimacy, transparency, and accountability. However, the policies which guide the use of BWCs can also delegitimize the program and the police department. BWC policy that focuses on evidentiary benefits are logical and practical, but are flawed in the spirit of the initiative. If cameras were needed for this reason alone, they would not have come to the fore in this era and there would not likely be a divide as to their purpose. That said, the benefits offered by the manufacturer and the Police Department are seemingly accurate and worthy. Regardless, an acknowledgement that BWCs have been introduced to the public as a tool of accountability may help to avoid confusion.

As noted, the question of if-and-when an officer should be allowed to review their own footage is perhaps the most hotly contested issue regarding BWCs. Most law enforcement officers who were spoken to directly, or whose opinions were publicly available, mention two distinct reasons why officers *should* be allowed to review their own footage. They suggest that an officer might face disciplinary action if their statement is inconsistent with their BWC footage and suggest that defense attorneys would successfully argue that benign inconsistencies were proof of misconduct. More overtly, all officers identified that policies which allow officers to view their BWC footage prior to writing an official report or giving an official statement increase accuracy. Departments who limit an officer's ability to review footage tacitly or directly point to the concept of legitimacy and perceived fairness. However, others such as Chief Thomas Nestel suggest that officers viewing their own footage would be an inconsistent practice because they are not allowed to view footage of their activity captured on surveillance cameras. When asked, all Philadelphia Police Department officers who were interviewed acknowledged that officers who do not wear BWCs are not routinely granted access to other video, such as surveillance camera video or cell phone camera video. Further, officers acknowledged that they are not granted access to another officer's BWC footage, even if it is footage of the same incident.

Based on the many conversations with police, advocates, and concerned citizens not affiliated with any organization, the PAC believes that the legitimacy of the BWC program seems to be most at risk when high profile incidents are either not caught on BWCs, or when they are caught but an officer is granted a special exception and is allowed to view the footage. This exception is highlighted by the fact that a citizen in the same interaction is not required to view BWC footage or other video evidence which might exist. This is especially true when a citizen is the subject of an investigation. Citizens who

are aware of this topic and have engaged the PAC suggest that officer viewing is the most disappointing and disheartening aspect of the Philadelphia BWC program. These citizens echo the concern of national and local advocates who highlight the difference in how a civilian witness or suspect is asked to relay their recollection of a crime and how a police officer might be asked to (FBI Law Enforcement Bulletin, 2013). Additionally, police personnel interviewed for this report acknowledged that civilians would rarely, if ever, be given access to BWC footage or other surveillance footage prior to offering a statement.

Most of the citizens who discussed this matter shared the same concern of civil rights, privacy, and media rights groups. Specifically, they expressed concern that pre-report viewing could cause an officer to conform the report to what the video appears to show, rather than what the officer actually saw.

The police leaders who were not in favor of officer viewing consistently pointed to the idea that it was a generally poor investigative practice that may induce a reputable officer to conform their statement to video and that may help a nefarious officer cover up their actions. Moreover, these police leaders rejected the notion that minor discrepancies would lead to disciplinary issues or would lead to a trial of fact doubting an officer's credibility.

“The police leaders who were not in favor of officer viewing consistently pointed to the idea that it was a generally poor investigative practice that may induce a reputable officer to conform their statement to video and that may help a nefarious officer cover up their actions”

Though officer viewing of BWC footage stands out as especially problematic, other issues such as oversight, or a lack thereof, can also delegitimize the program. Efforts should be made to ensure confidence is not lost because existing policy and practice limit internal and external assessment of officers. This could include more communication with the Police Advisory Commission, the media, and partnership with the PAC and academic institutions which can utilize police data to understand and solve problems. As noted, other jurisdictions have embraced the unique ability to, for the first time in history, assess the nuanced and complicated communication between officers and the public. They have used the footage to help officers understand their communication style and identify needed adjustments to said style. Moreover, they have coded the mass review of camera footage to identify macro and systemic issues which can be addressed. All of these efforts by other jurisdictions exist to improve their legitimacy and improve the relationship with the community. The Philadelphia Police Department should utilize footage towards the same goal.

As noted, Axon / Taser has indicated they plan to create synergy between their machine learning / artificial intelligence divisions and their current BWC division. They have indicated that they would like to ease the ability to store and sort through data, which includes criminal background and facial recognition of persons who are on camera. As mentioned, this issue may betray the public's notion of why BWC programs exist and may infringe upon the civil liberties of the residents of Philadelphia. Therefore, a proactive policy which clearly defines how current technology can be utilized and which limits the expansion of facial recognition and machine learning technologies should be considered.

Overall, the Body-Worn Camera program for the City of Philadelphia is promising. However, as noted, if the policy is not crafted carefully, the program may be delegitimized in the eyes of the public. Efforts toward transparency, oversight, community and academic partnerships, and partnership with the Police Advisory Commission, could help ensure the legitimacy of the program.



CITY OF PHILADELPHIA

Police Department

HEADQUARTERS, FRANKLIN SQUARE
PHILADELPHIA, PENNSYLVANIA

RICHARD J. ROSS, JR.
Commissioner

August 29, 2018

Hans Menos
Executive Director
Police Advisory Commission
1515 Arch Street 11th Floor
Philadelphia, PA 19107

RE: Philadelphia Police Department Body Worn Camera Report

Dear Director Menos:

I would like to thank you for the time and effort invested in your review of the Philadelphia Police Department Body Worn Camera policy. Your report and your willingness to personally present your recommendations to me and the Executive Command of the Police Department was greatly appreciated. While we may not always agree on specific policy recommendations, I do believe that this report is a great step towards the new mission of the Police Advisory Commission to work collaboratively with the Police Department to create or improve policies and procedures that will maximize the trust between the Police and the communities we serve.

That said, please let me respond to each of your recommendations.

Recommendation #1

The PPD must disagree with the statement that the Body Worn Camera (BWC) policy does not acknowledge the purpose of the Body Worn Camera (BWC) program. Section 1(A)(1) through (6) states the purposes of the program, but we do agree there is room for improvements.

Further, this recommendation infers that the PPD's development and implementation of this program was responsive to the community's call for a BWC program. This is incorrect. When the PPD decided to implement this program there was no outcry from the public to implement such a program. On the contrary, this program was the result of forward thinking by former Commissioner Ramsey, along with recommendations from the voluntary Collaborative Reform Process with the Department of Justice. In fact, as soon as the necessary amendments to the Pennsylvania Wiretap Act became law authorizing Body Worn Cameras, the PPD began researching and developing policy and testing the utility of certain cameras in the 22nd Police District. As a part of this initiative, the PPD collaborated with Temple University to engage with both officers as well as the community on the implementation of the program.

Despite these issues, the PPD does recognize, as mentioned above, that there is room for improvement. The source of any confusion or lack of clarity is rooted in the structure of the current policy and the titles of certain section headings. Therefore, in response to your recommendation the PPD will merge Section 1, "*Background*" and Section 2, "*Purpose*" into a single section and clarify the goals of the program. Additionally, in this section we will address the legitimate concerns of the community for both police accountability and individual privacy.

Recommendation #2(A)(1)

Recommendation #2(B)(1)

With regards to the timing wherein an officer can review his or her BWC footage of recorded statements and arrests found in sections 7(G)(2) and 7(H)(2), the PPD respectfully disagrees with your recommendations. As you know, BWC footage cannot be altered or deleted by any officer. Therefore, the PPD believes it is in the best interest of justice for officers to have the ability to immediately identify any mistakes or misidentifications, prior to entering an individual into the criminal justice system. Restricting an officer's ability to review BWC footage under these scenarios fails to recognize that the video footage cannot be altered or deleted, but also fails to recognize the fact that, until a statement can be provided, individuals will be entered into the criminal justice system and it could take many hours until any mistakes or misidentifications can be identified. The current policy allows officers to review their BWC video under these scenarios and this, in turn, allows officers the opportunity to immediately intervene or correct any issues that may become apparent when viewing the video. The PPD believes this is in the best interest of the public as well as the Department.

Recommendation #2(C)(1)

Again, with respect to the timing wherein an officer can review his or her BWC footage, the PPD respectfully disagrees with your recommendation concerning section 7(H)(3) that involves arrests that are not processed by divisional detectives, such as, DUI arrest. Based upon the rationale stated above, the PPD believes it is in the best interest of both the public and the Department to identify any mistakes or misidentifications prior to entering an individual into the criminal justice system. This requires the officers to review BWC footage prior to processing an arrest.

Recommendation #2(D)(1)

With regard to your recommendation concerning BWC footage capturing serious incidents, such as, police discharges, seriously injured officers, uses of force resulting in bodily injury or death found in section 7(K), the PPD agrees with your recommendation. These incidents are distinguishable from routine arrests. Therefore, the necessary changes will be made instructing officers that whenever the officer records a serious incident, such as a police discharge or use of force resulting in serious bodily injury or death, they will upload the BWC video as soon as possible. They will then inform the assigned detective/investigator that a recording was made of the incident and will then provide their statement to the detective/investigator. After a statement is provided, the officer will be given the opportunity to review any BWC footage and may supplement or clarify his or her statement. The investigative report shall indicate the date and time the officer reviewed his or her BWC footage. After the officer reviews the footage, the detective/investigator shall ask the officer,

“Now that you have had an opportunity to review your video, would you like to clarify or supplement your statement?”

Recommendation #2(D)(2)

Recommendation #2(D)(3)

Please note that these two sections make the same recommendation. The PPD agrees with your recommendation with respect to Directive 10.1 and 4.21 and will review these directives and make any necessary changes to remove any ambiguities and to ensure consistency.

Recommendation 2(E)

With regards to your recommendation regarding the general access by an officer to his or her BWC footage for report writing, court preparation or training purposes found in section 9(B)(2), the PPD disagrees with your recommendation to clearly state such access to this footage may only occur after all reports or statements have been made regarding the underlying incident. As indicated above, the PPD believes that that it is in the best interest of the public and the Department to allow officers to view BWC footage prior to allowing an arrest to proceed or be processed.

Recommendation #3(A)

Concerning the BWC buffering period, the PPD agrees in part and will extend the buffering period to one (1) minute from the existing period of thirty (30) seconds. The PPD does not agree that the buffering period should be extended to two (2) minutes.

Recommendation #3(B)

With regards to clearly outlining the time period (for buffering) and stating such within the written policy, the PPD believes this is properly addressed in section 4(A)(10)(Note). Therefore, no changes will be made except to the buffering time from thirty (30) seconds to one (1) minute as mentioned above.

Recommendation #4(A)(1)

Your recommendation to expand the scope and intent of the supervisory review process of BWC footage found in section 10(D) to conduct random audits and to assess for procedural justice is respectfully, denied. It is the responsibility of supervisors to monitor and manage the actions of subordinates to ensure compliance with Departmental policies and procedure. Section 10(D) currently authorizes a supervisor with good cause to review BWC footage to address behavioral or performance deficiencies. Therefore, the current policy provides sufficient safeguards for supervisors to view the behavior of their subordinates, which focuses on the way in which police interact with the public. How personnel interact with the community and how the characteristics of those interactions shape the public's view of the police, their willingness to obey the law, and actual crime rates is the essence of procedural justice. Thus, the PPD believes the issues raised in this recommendation are adequately addressed in current policy.

Recommendation #4(B)(1)

Your recommendation regarding section 9(B)(1) thereby expanding the authority of the Office of Professional Responsibility to conduct random audits of BWC footage for police misconduct must be denied. The role of the Office of Professional Responsibility is to investigate allegations of misconduct. As mentioned above, it is the responsibility of supervisors to monitor and manage officer behavior and compliance with policies and procedures. However, the issue of whether and how often personnel are activating their BWC is a concern to the Department and beyond the scope of the front line supervisors. For this reason, the PPD agrees that the Audits and Inspections Unit should have the ability to conduct random audits regarding the activation and usage of the Body Worn Cameras that are deployed so that corrective action can be taken if necessary. Changes will be made to policy to authorize such audits.

Recommendation #4(B)(2)

Your recommendation to have independent access to BWC footage is, respectfully, denied. Nonetheless, the Police Advisory Commission will be granted access to specific BWC footage at the sole discretion of the Police Commissioner. This has been the current practice between our agencies and will continue.

Recommendation #5(1)

Please note that subsection (1) of this recommendation is a statement as opposed to an actual recommendation. However, the PPD agrees that the policy should clearly restrict the use of BWC footage for legitimate law enforcement purposes. The appropriate amendments will be made.

Recommendation #5(2)

The PPD believes your recommendation for a specific policy to focus on the rights of marginalized people and considers rules of evidence as well as the potential harm which could befall someone if they are identified in BWC footage is beyond the scope of Departmental policy. However, we believe these issues have been adequately addressed by the state legislature in the enabling statute and the amendments made in 2017. Accordingly, no actions will be taken on this recommendation.

Recommendation #6

Your recommendation to revise the existing policy to guard against threats to civil liberties created by current and emerging technologies such as facial recognition or biometric data is denied. The PPD does not currently have access to such technology. However, the PPD will revisit this recommendation should such technology become available.

Recommendation #7

With respect to the retention period for BWC footage, Pennsylvania state law was amended in 2017 extending the retention period from twenty (20) days to sixty (60) days. The PPD policy was amended accordingly. However, to ensure compliance with state law, the PPD instituted an additional buffer period of fifteen days to ensure that the Department could, in fact comply,

with state law. The PPD intends to comply with the state mandated sixty (60) day retention period when responding to any request for BWC footage. The PPD understands how the public may be confused by the existing policy. Therefore, the PPD agrees to amend the existing policy to remove any confusion.

Recommendation #8

Your recommendation that Police Advisory Commission be provided temporary access rights to view BWC footage, is respectfully denied. Nonetheless, as mentioned above, the Police Advisory Commission will continue to have access to specific BWC footage at the discretion of the Police Commissioner.

Recommendation #9


Your recommendation to reconsider placement of BWC is, respectfully, denied. The current location of center mass on the chest for patrol operations has proven to be a best practice from the PPD's own experience during the pilot period in the 22nd District as well as other jurisdictions.

Recommendation #10

Your recommendation that the PPD clarify to the public the plan for BWC expansion and the barriers for that expansion have been accepted. The PPD will be looking to relay this information to the public via the Departmental website in the near future.

Again, thank you for all the work invested into this report. All your recommendations were discussed and debated among the executive command. While not every recommendation will be accepted, we do believe the changes being made to our BWC policy as a result of your help will improve the overall quality of our policy.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard J. Ross, Jr.", written in a cursive style.

Richard J. Ross, Jr.
Commissioner