



THE VISUAL RECORD

BEST PRACTICES FOR POLICE USE OF BODY WORN CAMERAS AND
GUIDELINES FOR ENCOUNTERS WITH SMART-PHONE WIELDING CIVILIANS



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- The California chapter of the American Civil Liberties Union (ACLU) is the latest among a number of states to provide citizens with the organization's app, Mobile Justice, for recording police activity.
- The software automatically sends the video file to the ACLU when the recording ends so that it is not confiscated or tampered with once the recording is done.
- Meanwhile, the U.S. Department of Justice will be spending \$20 million to equip police departments with body worn cameras to enable them to film their interactions with citizens while on duty.



Bottom Line: It is increasingly likely that if you aren't doing the digital recording, someone else is. Today, we want to talk about smart ways to operate in this environment.

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- BENEFITS OF BWCs:
- **Transparency:**
- BWCs increase transparency by maintaining an accurate record of events.
- They help civilians who have been wronged obtain relief.
- They help police departments defeat false claims.
- “We’ve actually had citizens come into the department to file a complaint, but after we show them the video, they literally turn and walk back out” – Ron Miller, Chief of Police, Topeka, KA PD.
- In San Diego, they monitored 600 officers with BWCs. Complaints against police fell 40.5%, use of "personal body" force by officers was reduced by 46.5% and use of pepper spray by 30.5%.



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- **Police-Public Interactions**

- BWCs prevent negative interactions between officers and civilians.
- Rialto Study: A randomized controlled trial conducted by the Rialto, CA PD found that officers equipped with BWCS were involved in 87.5% fewer use of force incidents, and subject to 59% fewer complaints than other officers.
- “When our officers encounter a confrontational situation, they’ll tell the person that the camera is running. That’s often enough to deescalate the situation” – Harold Rankin, Lieutenant, Mesa, AZ PD
- “Everyone is on their best behavior when the cameras are running. The officers, the public – everyone.” – Ron Miller, Chief of Police, Topeka, KA PD.

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- **Training and Internal Review:**
- BWCs facilitate officer training.
- They allow supervisors to provide realistic, scenario-based instruction.
- BWCs help police departments investigate officers who engage in problematic practices.
- BWCs can expose otherwise hidden patterns of misconduct.

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- **Preservation of Officer's View of Events**
- As portable camera technology improves, third party video of police conduct will become increasingly common.
- BWCs ensure that interactions are recorded from the officer's perspective.

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- **Possible BWC Activation Policies:**
- **Constant Filming:** Best for oversight, but strips officers of all privacy. Also expensive because it produces so much video. No organization seriously advocates this approach.
- **Filming all civilian interactions:** Mitigates officers privacy concerns, but somewhat reduces oversight by introducing possibility officers will fail to film. Presents potential privacy concerns for civilians caught in compromising situations. ACLU advocates this approach.
- **Filming enforcement actions and at officer discretion:** Mitigates all privacy concerns, but greatly weakens oversight. Allows many instances of potentially problematic conduct to go un-filmed. PERF advocates this approach.
- **Filming all civilian interactions, but with discretion for homes, and indisposed individuals:**
Good middle ground. Ensures effective oversight, while allowing officers the discretion to discontinue filming in homes, around nude individuals, and during victim and informant interviews.

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- **Possible BWC Activation Policies**

- **Notifying Civilians:**

- Because Georgia is not a two-party consent state, officers are not required to notify civilians that BWCs are recording.
- Even though Georgia law does not require officers to notify civilians, protocols should instruct officers to do so whenever possible.
- Notifying civilians protects civilian privacy.
- Notifying civilians ensures that BWCs will have a deescalating effect.

- **When to Upload Video:**

- Most departments that employ BWCs follow an end-of-shift uploading protocol.
- Some also require immediate turnover of BWCs to supervisors at scenes of shootings.

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- **How to Store Data:**

- Data can either be stored onsite or on offsite third party servers.
- Offsite servers tend to be logistically easier, but steps need to be taken to ensure privacy when third parties are employed.

- **Duration of Data Retention:**

- Departments that employ BWCs code footage as pertinent or non-pertinent, depending on whether or not footage includes evidence of criminal activity and potential officer misconduct.
- Pertinent video is retained for the duration of an investigation.
- Department practices vary depending on financial constraints, but most departments retain non-pertinent video for a 6-12 of weeks.
- Protocols need to be in place to ensure that video of potential officer misconduct is not coded as non-pertinent.

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- **WHEN CITIZENS ARE FILMING POLICE**
- **THE CHALLENGE TO LAW ENFORCEMENT**
- Civilian videotaping of officers presents a new challenge to law enforcement.
- The filming of interactions may make officers feel uncomfortable.
- It may produce a record of events that is unfavorable to officers.
- It may present officers with an added and seemingly unfair concern in already difficult situations.

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- This man was arrested for videotaping police. The officer here shot his dog. Someone else had a video camera, too. [It went viral.](#)

[More on this story](#)



Police shoot a man's dog in front of him, arrest him for video recording

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- **THE LAW:**
- Civilians “have a right to videotape police activities.” *Smith v. City of Cumming*, 212 F.3d 1332, 1333 (11th Cir. 2000).
- The First Amendment permits “the filming of government officials engaged in their duties in a public place, including police officers.” *Glik v. Cunniffe*, 655 F.3d 78, 82 (1st Cir. 2011).
- “In a democracy, public officials have no general privilege to avoid publicity and embarrassment by preventing public scrutiny of their actions.” *Walker .v City of Pine Bludd*, 414 F. 3d 989, 992 (8th Cir. 2005).
- Even though it may inconvenience officers, or make them uncomfortable, civilians are legally permitted to film officers.

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- **SPECIFIC EXAMPLES:**

- When an officer pulls over a car for a traffic stop, a passenger may videotape the officer as the officer questions the driver.
- Even if the filming makes the officer uncomfortable, it is still legal.
- If such a situation arises, the officer should continue with the traffic stop as if the passenger were not filming.
- When an officer engages a suspect in a public place, a bystander may film the interaction from a safe distance.
- Even if the officer is concerned the video will produce a biased record of the event, it is still legally permitted.
- If such a situation arises, an officer may direct the bystander to stand a safe distance from the scene, but may not order the bystander to stop filming.
- Civilians may not interfere with police activities through their filming.
- They may not get in an officer's way in order to get a better angle for their video.
- If a civilian gets in the way of police officers in the course of filming, officers may order that civilian to move, and arrest him if he does not.
- However, merely filming an interaction from a safe distance does not constitute interference.
- Because an officer may not legally order a civilian not to film, filming officer conduct against an officer's request cannot constitute Failure to Obey.
- It is illegal to arrest civilians for filming officer conduct.

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- RESEARCH FOR THIS PRESENTATION WAS COMPILED BY MICHAEL WADDEN AND GERALD WEBER OF THE SOUTHERN CENTER FOR HUMAN RIGHTS
- EXPERTS:
- **Jim Bueerman:** President, Police Foundation: Bueerman testified before the Presidential Task Force on 21st Century Policing on the issue of BWCs. As President of the Police Foundation, he has run studies and issued policy reports regarding BWC issues and implementation.
- **Jim Farrar:** Executive Fellow, Police foundation. Farrar was the Chief of Police of the Rialto Police Department. Farrar oversaw the implementation of BWCs in Rialto, and also helped run the groundbreaking Rialto study which tested their efficacy. He has a Masters in Criminology from Cambridge and has worked on BWC issues extensively.
- **Scott Greenwood:** ACLU attorney. Greenwood produced the ACLU report on BWCs. He was invited to testify before the 21st Century Task Force as a representative of reform organization views of BWCs, and discussed successful implementation efforts in departments across the country.
- **Michael White:** Professor at Arizona State University. White has written studies on the issues surrounding BWCs. He worked on the implementation of BWCs in Phoenix, Arizona and was invited to testify before the 21st Century Task Force.
- **Tracie Keese:** Project director of the National Initiative for Building Community Trust and Justice at DOJ. Keese is the co-founder and a director of the Center for Policing Equity. She works on policing issues and was invited to testify before the 21st Century Task Force regarding the legal considerations surrounding BWCs.
- RESOURCES:
- **DSRI Working Paper: Police Body-Worn Cameras:** Produced in February 2015, this paper provides the most up-to-date available review of national BWC policies.
- **PERF Report: Implementing a Body Worn Camera Program:** This report includes a survey of departments that have implemented BWC programs, and looks at BWC implementation from the departmental perspective.
- **ACLU Report: Police Body-Mounted Cameras:** This report explores some of the potential civil rights issues with BWCs, and looks at implementation from the civilian perspective.
- **OJP Report: Police Officer Body-Worn Cameras:** This report provides a broad overview of BWCs with a focus on determining which purported effects have and have not been scientifically demonstrated.
- **Presidential Task Force on 21st Century Policing Testimony:** Testimony includes the statements of many of the foremost experts on BWCs.