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April 11, 2017

VIA ECF

Honorable Analisa Torres
United States District Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007-1312

Re: *Floyd, et al. v. City of New York*, 08-CV-1034 (AT),
Ligon, et al. v. City of New York, et al., 12-CV-2274 (AT),
Davis, et al. v. City of New York, et al., 10-CV-0699 (AT),
Memorandum Regarding Approval of Policies for NYPD
Body-Worn Camera Pilot Program

Dear Judge Torres:

For your information, I am docketing in the above-referenced cases the enclosed memorandum approving certain aspects of the NYPD's policy for its BWC pilot program.

Respectfully,

/s/ *Peter L. Zimroth*

Peter L. Zimroth
Monitor

Enclosure

MEMORANDUM

APPROVAL OF BODY-WORN CAMERA POLICIES

**Peter L. Zimroth,
Monitor**

April 11, 2017

The remedial order in the New York City stop and frisk case, *Floyd v. City of New York*, 959 F. Supp. 2d 668 (S.D.N.Y. 2013) (“Remedial Order”), calls for involvement by the court-appointed monitor in establishing policies and procedures for the New York City Police Department’s (“NYPD”) new body-worn camera pilot program. *Id.* at 685.

On April 7, 2017, the NYPD submitted to the monitor a draft operations order (*see* Attachment 1) specifying policies and procedures related to the pilot program. Some provisions require monitor approval because they deal with matters within the monitor’s assigned responsibilities. Those provisions are now approved as detailed below. (*See* pages 5-9.)

It is the monitor’s view that upon this approval, the draft operations order may be promulgated by the New York City Police Department without additional proceedings in court. This conclusion follows from the structure and text of the court’s remedial order governing the monitor’s work and from the nature of the pilot, which requires flexibility and the ability to respond quickly to circumstances as they arise.

Before delving into the specifics of the portions of the order now being approved, some background is in order.

Genesis of the Pilot

At the 2013 trial, the subject of body-worn cameras (or “BWCs”) was “inadvertently raised” during the testimony of the City’s policing expert. *Id.* at 684. The court then asked the expert what he thought of BWCs. He responded that he thought them a “good idea” generally while expressing no opinion on the *Floyd* case itself. 5/17/2013 Tr. at 7817-7818 (*Floyd* Dkt. No. 357). There was no other testimony on the subject.

In its remedial decision, the court opined that BWCs were “uniquely suited to addressing the constitutional harms at issue in this case” (Remedial Order at 685), but did not order the NYPD to utilize them. Instead, the NYPD was ordered to institute a one-year pilot to determine

the possible benefits and costs of deploying a BWC program. Ultimately, after extended proceedings, the NYPD agreed that it would implement the measures in the *Floyd* remedial order, including the one-year BWC pilot.

The Remedial Order's Structure

The court's remedial order specifies the monitor's responsibilities and which of his decisions require consultation with the parties and approval by the court. The third itemized responsibility charges the monitor with developing, "based on consultation with the parties," a set of "immediate reforms" outlined in Part II.B.2 of the remedial order. Those reforms will be implemented, the order states, "when they are approved by the Court." *Id.* at 677-78. The "immediate reforms" relate to policy, training, documentation of stops, supervision, monitoring and discipline. *Id.* at 678-84.

Body-worn cameras are not included as an "immediate reform" in Part II.B.2. Rather, the BWC pilot appears in a separate section of the remedial order, Part II.B.3. There is no mention of court approval or even of consultation with the parties, except that at the end of the one-year pilot, "the Monitor will work with the parties to determine whether the benefits of the cameras outweigh their financial, administrative, and other costs, and whether the program should be terminated or expanded." *Id.* at 685. With that exception, the remedial order says "the monitor will establish procedures" without making those procedures subject to either consultation or court approval. *Id.*

This distinction between Parts II.B.2 and II.B.3 of the remedial order was not inadvertent. A pilot requires flexibility and the ability to respond quickly to changed circumstances that would be undermined if every decision by the monitor were subject to formal judicial proceedings. Of course, should any party, including the plaintiff class, want to seek relief from a decision by the monitor, there is no prohibition on petitioning the court. But this is not the same

as subjecting the monitor's every decision regarding the pilot to the possibility of a formal court review process. It merits mention here that the monitor has consulted extensively with the parties and many outside groups and individuals about significant aspects of the pilot program, although there is no requirement to do so.

The Monitor's Responsibilities Under the Remedial Order

The remedial order sets out the monitor's responsibilities regarding the one-year pilot as follows:

The Monitor will establish procedures for the review of stop recordings by supervisors and, as appropriate, more senior managers. The Monitor will also establish procedures for the preservation of stop recordings for use in verifying complaints in a manner that protects the privacy of those stopped. Finally, the Monitor will establish procedures for measuring the effectiveness of body-worn cameras in reducing unconstitutional stops and frisks. At the end of the year, the Monitor will work with the parties to determine whether the benefits of the cameras outweigh their financial, administrative, and other costs, and whether the program should be terminated or expanded. The City will be responsible for the costs of the pilot project.

Id. at 685. The significance of this role, and its limitations, is discussed below at pages 5-9 where the memorandum describes which aspects of the NYPD's proposed camera policy fall within the court's mandate for the monitor and are being approved.

Development of the BWC Policy

The Department's initial BWC policy was developed for a small voluntary BWC program (not ordered by the court) that began in December 2014, in which 54 officers in five precincts and one housing Police Service Area ("PSA") volunteered to wear BWCs. This trial run, which ended on March 31, 2016, was intended to test BWC equipment, enhance understanding of the information technology infrastructure necessary to support BWCs, and gain insight on other matters of policy and practical implementation.

After the small voluntary BWC pilot program ended, and in preparation for the larger court-ordered pilot, the Department met with many stakeholders to obtain feedback on a

proposed BWC policy to govern the pilots' wider camera deployment. The Department held discussions with representatives of local elected officials, district attorneys' offices, defense bar organizations, victims' advocacy groups, civil liberties organizations, police reform advocacy groups and plaintiffs' counsel in the *Floyd v. City of New York*, *Davis v. City of New York* and *Ligon v. City of New York* litigations. (A list of those 2016 meetings with these organizations, most of them attended by the monitor team, is enclosed as Attachment 2.) The NYPD also shared a draft of the proposed BWC policy with representatives of its five unions. This outreach resulted in a new draft policy.

The NYPD subsequently decided to share this new draft more widely and to seek comments from its officers and the public before finalizing procedures to recommend to the monitor. The NYPD retained two separate groups connected with New York University (the Policing Project at the NYU School of Law and NYU's Marron Institute)—one to conduct a survey of public opinion, the other to survey police officers. The surveys were not designed to provide a representative snapshot of the City's eight million residents or of 35,000 NYPD officers. The aim, rather, was to provide an opportunity to be heard and potentially inform the draft camera policy. Supportive of this effort, the monitor participated in its planning, as did plaintiffs' counsel.

On June 29, 2016, the NYPD posted online a proposed BWC policy, a brief fact sheet and a survey seeking online responses. Among other issues, the survey posed questions about when cameras should be turned on and off, how long video footage should be kept and the circumstances under which footage should be publicly released. In addition to the online posting, paper copies of the survey were distributed at community meetings by plaintiffs' counsel and community organizations. A similar online survey was sent to all sworn NYPD

officers. At the close of the comment period, on August 7, 2016, more than 25,000 members of the public and more than 5,000 NYPD members had participated. Those are substantial numbers; but, again, the surveys were neither designed nor expected to capture responses representative of the much larger population of city residents or police officers.

In addition to these surveys, the NYPD continued to meet with interested groups and the *Floyd*, *Davis* and *Ligon* parties, and written comments were invited. Again, the monitor participated in many of the meetings and also met separately with community groups, public officials and others.

Following this consultative process, the NYPD revised its draft operations order. The NYPD submitted this revised draft to the monitor for approval on April 7, 2017, simultaneously making public the Department's analysis of the two NYU surveys and an explanation of why it accepted or did not accept certain of the recommendations. (*See Attachment 3, NYPD Response to Public and Officer Input on the Department's Proposed Body-Worn Camera Policy.*)

The Provisions Approved Today

The draft operations order approved today includes provisions directly relevant to the monitor's responsibilities concerning the pilot—establishing procedures for the review of stop recordings by supervisors, for the preservation of stop recordings for use in verifying complaints, and for measuring the effectiveness of body-worn cameras in reducing unconstitutional stops and frisks. But the draft order also includes requirements outside those areas. For example, the order prohibits recording interviews of sex crime victims. Attachment 1, Step 10.g. Obviously, this is an important matter, but it is unrelated to the court's remedial order. Today's approval covers only areas within the monitor's purview—the provisions dealing with which police-civilian encounters will be recorded, the circumstances in which a civilian will be told that an officer is

recording the interaction, supervisory review of recordings, and the documentation and retention of recordings.

1. Which Police-Civilian Encounters Will Be Recorded

The Department's draft operations order describes those situations in which recording is mandatory, those in which it is discretionary and those in which it is prohibited. Step 5 of the draft operations order lays out the circumstances in which an officer is required to turn on his or her body-worn camera ("mandatory activation").

a. Arrests and Investigative Encounters

Under the draft order, all arrests and *Terry* stops must be recorded. This requirement speaks directly to central issues for the monitor—measuring the effect of the cameras on the lawfulness of stops and trespass arrests. In addition, the draft order goes beyond the policy put in place in 2014 for the small voluntary camera pilot by mandating recording of any "interactions with persons suspected of criminal activity." Attachment 1, Step 5.d. This means that the officer must record interactions based on "founded suspicion" of criminality. This is a so-called Level 2 encounter under *People v. De Bour*, 40 N.Y.2d 210 (1976), the governing New York Court of Appeals case, in which the officer is permitted to ask pointed accusatory questions, but not allowed to detain the person even temporarily, as an officer is permitted to do when there is a *Terry* stop (Level 3).

Recording Level 2 encounters is useful for several reasons. First, a Level 2 encounter sometimes escalates to a Level 3 *Terry* stop, and it may be difficult for officers to activate their cameras in the midst of an interaction that becomes more adversarial. Second, reviewing body-worn camera videos of Level 2 encounters will allow the NYPD and the monitor to evaluate whether officers are confusing Level 2 encounters with Level 3 stops. Officers may believe that an encounter did not rise to the level of a *Terry* stop when it actually did (that is, when a

reasonable person would conclude that he or she had been detained and was not free to go). In that situation, an officer would not have submitted a stop report, under the mistaken belief that the interaction was a Level 2 encounter and not a *Terry* stop.

With respect to Level 1 encounters—situations in which an officer is requesting information from a civilian without suspicion of criminal activity—the monitor is satisfied with the approach taken in the draft order. Rather than extend mandatory camera activation to all Level 1 requests for information, the draft order leaves the recording of these encounters to the officer’s discretion.

Although the draft operations order does not mandate recording of all Level 1 encounters, there are some situations in which such recordings will take place. Specifically, the order requires officers to activate their body-worn cameras during interior patrols of NYCHA buildings and privately owned buildings. Attachment 1, Step 5.j. In those situations, the BWC must be activated when the officer enters the building and must not be turned off until the officer exits the building and ends the interior patrol and any associated police action. In the course of the year-long pilot, interior patrols inevitably will include some Level 1 encounters. The draft order also requires officers to activate their BWCs when responding to a radio call of a crime in progress. These, too, will involve some Level 1 requests for information. Finally, the Department has stated its intention to train officers to activate their cameras in Level 1 situations when recording is not mandated if they sense their level of suspicion might increase during the encounter. Attachment 3, p. 12.

It is the monitor’s judgment that a sufficient number of Level 1 encounters will be recorded under the draft order to determine whether, in practice, Level 1 encounters raise questions that need addressing by the Department or the monitor.

b. Searches

The draft operations order requires activation of body-worn cameras for all searches, except strip searches. Attachment 1, Step 5.e. This requirement includes the recording of consent searches, inventory searches, searches incident to arrest and searches of a person's belongings. Recording searches will allow the Department and the monitor to evaluate search activity to assess whether the use of cameras reduces unconstitutional stops and searches.

2. Notice of BWC Recording

The NYPD's draft operations order directs officers wearing BWCs to notify individuals with whom they are interacting that the officer is wearing a camera and that the interaction is being recorded "unless notification could compromise the safety of any person or impede an investigation." Attachment 1, Step 4.¹

Officers are not required to give notice if they believe their safety or the safety of others would be compromised or if informing the individual being recorded might compromise or hinder an investigation. Providing notice comports with one of the important possible benefits of cameras—knowing that they are being recorded will cause people to moderate their behavior, thus de-escalating an otherwise fraught confrontation.

3. Supervisory Review

The court's remedial order requires procedures for "the review of stop recordings by supervisors and, as appropriate, more senior managers." Remedial Order at 685. The draft

¹ The provision states:

As soon as reasonably practical, notify members of the public that an interaction is being recorded, unless notification could compromise the safety of any person or impede an investigation.

- a. Suggested notification: *"Sir/Ma'am, I am wearing a body-camera and this encounter is being recorded."*
- b. Consent is not required to start or continue recording.

operations order provides that supervisors will review BWC video “in conformance with the self-inspection program promulgated by the [NYPD’s] Quality Assurance Division.” Attachment 1, Step 26. In addition to the self-inspection program, supervisors are tasked in the draft order with periodic review of BWC video “to provide positive feedback and address any performance deficiencies observed.” *Id.* at Step 27. The NYPD has not yet completed development of a self-inspection program or settled on precisely how the supervisory review will be conducted and by whom. When completed, those plans will be submitted to the monitor for approval.

4. Documentation and Retention

The court’s remedial order calls for the monitor to establish procedures “for the preservation of stop recordings for use in verifying complaints.” Remedial Order at 685. The NYPD’s draft operations order makes reference to this issue but does not offer complete plans for categorizing recordings and tagging them for identification, or for how long each category will be retained. The Department is now working with the camera vendor on appropriate software customization for the pilot camera program. Once a full proposal is developed, it will be submitted to the monitor for approval.

Additional Required Steps

The draft operations order applies only to patrol officers and supervisors in their commands. Additional policies are needed—for example, governing the conduct of audits of officers’ compliance with the draft operations order.

Moreover, the NYPD’s Information Technology Bureau will need policies in place to facilitate easy identification of and access to relevant video footage so that the monitor and other agencies, like the Department of Investigation and the Civilian Complaint Review Board, can perform their roles.

The monitor looks forward to reviewing these additional policies when they are ready.

- Attachments:
- (1) NYPD Draft Operations Order: Pilot Program – Use of Body-Worn Cameras
 - (2) NYPD List of Body-Worn Camera Meetings as of April 26, 2016
 - (3) NYPD Response to Public and Officer Input on the Department’s Proposed Body-Worn Camera Policy

Attachment 1



DRAFT OPERATIONS ORDER

SUBJECT: **PILOT PROGRAM - USE OF BODY-WORN CAMERAS**

DATE ISSUED:

NUMBER:

03-22-17

DRAFT 16

1. The Department will be issuing “Body-Worn Cameras” (BWCs) to certain uniformed members of the service assigned to the 13, MTN, 25, 30, 34, 42, 43, 44, 47, 48, 60, 63, 67, 71, 72, 79, 102, 105, 115, and 121 Precincts. The BWC pilot program will serve to provide a contemporaneous, objective record of encounters, facilitate review by supervisors, foster accountability, and encourage lawful and respectful interactions between the public and the police. The program will be examined to determine whether BWCs contribute to officer safety, provide evidence for criminal prosecutions, help to resolve civilian complaints, reduce unconstitutional *Terry* stops, and foster positive relations with the community.

2. Therefore, effective immediately, when a uniformed member of the service has been issued a Body-Worn Camera, the following procedure will be complied with:

PURPOSE To visually and audibly record certain interactions between uniformed members of the service and the public for official law enforcement purposes.

SCOPE The Department is issuing Body-Worn Cameras (BWC) to certain uniformed members of the service. This procedure applies to all uniformed members of the service issued a BWC as well as personnel responsible for supervising, supporting and maintaining the use of BWCs.

PROCEDURE When a uniformed member of the service is assigned a “Body-Worn Camera” (BWC):

UNIFORMED MEMBER OF THE SERVICE

1. Prior to roll call:
 - a. Retrieve the personally assigned BWC from the docking station
 - b. Inspect the BWC to ensure that the battery is fully charged and the device is operational
 - c. Position the BWC to facilitate the optimal recording field of view. This will normally entail attaching it to the outermost garment in the center of the chest using the mounting hardware provided.
2. Utilize BWC only when personally issued and authorized by the Department to record official activity while on-duty.
 - a. The use of any non-Department issued recording device is strictly prohibited.
3. Notify the desk officer if a BWC is not functioning properly, becomes damaged or is otherwise unaccounted for at any point during the tour and document notification in **ACTIVITY LOG (PD112-145)**.

NOTICE OF BWC RECORDING

**UNIFORMED
MEMBER OF
THE SERVICE**

4. As soon as reasonably practical, notify members of the public that an interaction is being recorded, unless notification could compromise the safety of any person or impede an investigation.
 - a. Suggested notification: *"Sir/Ma'am, I am wearing a body-camera and this encounter is being recorded."*
 - b. Consent is not required to start or continue recording.

MANDATORY ACTIVATION OF BWC

**UNIFORMED
MEMBER OF
THE SERVICE**

5. Activate BWC prior to engaging in, or assisting another uniformed member of the service with, the following police actions:
 - a. Arrests
 - b. Summonses, except for a Notice of Parking Violation (parking violation summons) unless the owner/operator of the vehicle is present
 - c. Vehicle stops
 - d. Interactions with persons suspected of criminal activity
 - e. A search of an individual and/or his/her belongings, except for strip searches
 - f. Interactions with an emotionally disturbed person
 - g. Use of force as defined in *P.G. 221-03, "Reporting and Investigation of Force Incident or Injury to Persons During Police Action"*
 - h. Public interactions that escalate and become adversarial
 - i. Responding to the scene of crime-in-progress calls, including radio code signals 10-10, 10-13, 10-30 series, 10-85 (excluding administrative assistance), calls for service involving a weapon, and Shot Spotter activations
 - j. Interior patrols of New York City Housing Authority buildings as well as any privately-owned building. The BWC must be activated upon entering the building and will not be deactivated until exiting the building and terminating the interior patrol along with any associated police action, if any.
6. Notify patrol/unit supervisor when there is a failure to record a mandatory event as described in step "5."
 - a. Document notification in **ACTIVITY LOG**.

EXIGENT CIRCUMSTANCES

**UNIFORMED
MEMBER OF
THE SERVICE**

7. Activate the BWC as soon as it is feasible and safe to do so after taking necessary police action to preserve human health and safety. At no time should proper tactics be compromised to begin a recording.

DISCRETIONARY ACTIVATION OF BWC

**UNIFORMED
MEMBER OF
THE SERVICE**

8. Uniformed members of the service may record other official activities when, in the uniformed member's judgment, it would be beneficial to record, so long as it is not one of the prohibited recordings described in step "10."

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DEACTIVATION OF BWC

UNIFORMED MEMBER OF THE SERVICE

9. Once the BWC has been activated, continue recording until the investigative or enforcement action is concluded.
 - a. In the case of an arrest, continue recording until the prisoner is lodged at the command for arrest processing.
 - b. The UMOS may choose to deactivate the BWC upon the request of a member of the public if a suspect is not present, and it is safe and advisable to do so after considering all the circumstances, including the requester's desire for privacy or confidentiality.

PROHIBITED BWC RECORDINGS

UNIFORMED MEMBER OF THE SERVICE

10. Do not activate the BWC for any of the following:
 - a. Performance of administrative duties or non-enforcement functions
 - b. Routine activities within Department facilities
 - c. Departmental meetings or training
 - d. Off-duty employment including paid detail assignments
 - e. Interviewing a current or potential confidential informant
 - f. Undercover officers
 - g. Interviewing the victim of a sex crime, as soon as the nature of the offense becomes apparent
 - h. Strip searches
 - i. When present in a court facility, except for the immediate lodging of a prisoner
 - j. The inside of a medical facility unless engaging in a police action as listed under step "5."
11. Notify patrol/unit supervisor if a prohibited event as described in step "10" was recorded.
 - a. Document notification in **ACTIVITY LOG**.

DEMONSTRATIONS AND CIVIL DISOBEDIENCE

UNIFORMED MEMBER OF THE SERVICE

12. Record only if engaged in one of the actions listed in step "5" above (Mandatory Activation of BWC) and in uniform.
 - a. The Technical Assistance and Response Unit (TARU) remains solely responsible for documenting protests, demonstrations, political events, etc., by means of photos and/or video.

DOCUMENTATION, MAINTENANCE AND NOTICES FOR CASE USE

UNIFORMED MEMBER OF THE SERVICE

13. Use the video management system software to "categorize" or "tag" videos based upon the nature of the event utilizing the drop-down menu provided.
14. Document in **ACTIVITY LOG** and the appropriate caption or in the narrative of any Department report prepared (e.g., **STOP REPORT (PD383-153), THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET (PD370-154), AIDED REPORT,**

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**UNIFORMED
MEMBER OF
THE SERVICE
(continued)**

COMPLAINT REPORT (PD313-152), ON LINE BOOKING SYSTEM ARREST WORKSHEET (PD244-159), etc.) when an incident has been captured on a BWC recording.

- a. Include the identity of member(s) recording the event.
15. Insert the BWC into the docking station in the station house for transfer of data and to recharge the battery at the completion of the tour.
16. Notify the following when necessary:
 - a. Appropriate prosecutor when a member of the service has knowledge that any portion of an incident relating to an arrest, prosecution, or other criminal matter before the court is captured by a BWC
 - (1) Identify other members of the service who captured all or part of the event on their BWC
 - (2) Provide copies of related BWC video utilizing the appropriate features of the video management system
 - b. Legal Bureau any time a member of the service becomes aware of potential or actual civil litigation involving a matter captured by a BWC.

VIEWING OF BWC RECORDINGS

**UNIFORMED
MEMBER OF
THE SERVICE**

17. In the performance of their duties, members of the service may view the following BWC recordings:
 - a. Their own BWC recordings, subject to steps “17(c)” and “17(d)”
 - b. BWC recordings made by other members of the service, if the viewing is in furtherance of an investigation, preparation of a case or other official purpose, subject to steps “17(c)” and “17(d)”
 - c. When a member of the service is the subject of an official departmental investigation, or is a witness in an official departmental investigation, the member may view his/her own BWC recording of the incident prior to making a statement under the provisions of *P.G. 206-13, “Interrogation of Members of the Service,”* at a time and place deemed appropriate by the supervisor in charge of the investigation
 - d. When a recording is related to a police firearms discharge, a Level 3 use of force, or a serious injury/death in custody as defined in *P.G. 221.03, Reporting and Investigation of Force Incident or Injury to Persons During Police Action*, the member may view his/her own BWC recording of the incident prior to making a statement under the provisions of *P.G. 206-13, “Interrogation of Members of the Service,”* at a time and place deemed appropriate by the supervisor in charge of the investigation.

FIREARMS DISCHARGES, LEVEL 3 USE OF FORCE AND DEATH/
SERIOUS INJURY IN CUSTODY INCIDENTS

**PATROL
SUPERVISOR/
UNIT
SUPERVISOR**

18. Respond to police firearms discharges, Level 3 uses of force and serious injury/death in-custody incidents and assume command.
 - a. In addition to other necessary actions, obtain and secure BWCs that may contain relevant video from members of the service, documenting which officer had each camera.
 - b. Provide BWCs to Force Investigation Division, Internal Affairs Bureau, or other supervisor in charge of the investigation.
19. Instruct members of the service to deactivate BWC if enforcement action has terminated, the event has been stabilized and interaction with the subject(s) of the police activity has concluded.

SUPERVISORY AND ADMINISTRATIVE FUNCTIONS FOR BWC

**SUPERVISOR
CONDUCTING
ROLL CALL**

20. Provide members performing duty with the platoon sufficient time after the start of their tour but prior to roll call to retrieve their individually assigned BWC from the docking station.
21. Inspect members who are issued BWCs for their personally assigned BWCs and ensure that they are properly affixed to their uniform or outer most garment and functioning properly.

**PATROL
SUPERVISOR/
UNIT
SUPERVISOR**

22. Visit members of the service equipped with BWCs while on assignment and ensure they are recording events and activities as required.
23. Instruct members of the service to deactivate BWC if enforcement action has terminated, the event has been stabilized and interaction with the subject(s) of the police activity has concluded.
24. Conduct an investigation when notified that a member failed to record all or part of an encounter as mandated in step "5."
 - a. Make determination regarding the propriety of the circumstances surrounding the failure to record and notify the desk officer to document results in Command Log.
 - b. Ensure that any resulting failure to record is documented in the uniformed member's **ACTIVITY LOG**.
 - c. Prepare and forward a report on **Typed Letterhead** detailing the investigation, findings, and actions taken to the Chief of Department (through channels).
 - (1) Forward additional copies to the Deputy Commissioner, Information Technology and the Commanding Officer, Risk Management Bureau.
25. Notify the desk officer whenever notified that a member made a prohibited recording as described in step "10."
26. Review BWC video in conformance with the self-inspection program promulgated by the Quality Assurance Division.
27. Periodically review video in addition to the self-inspection program, as appropriate, to provide positive feedback and address any performance deficiencies observed.

- | | |
|--|---|
| DESK OFFICER | <p>28. Account for all BWCs assigned to the command at the start of the tour.</p> <p style="padding-left: 20px;">a. Enter details in the Command Log.</p> <p>29. Conduct an immediate investigation when notified that a BWC is not functioning properly, has become damaged, or is otherwise unaccounted for, and comply with <i>P.G. 217-10, "Accidents – Department Property"</i> or <i>P.G. 219-20, "Loss or Theft of Department Property,"</i> as appropriate, and record discrepancies in the Command Log.</p> <p style="padding-left: 20px;">a. Notify the Information Technology Bureau Service Desk and follow guidance for obtaining a replacement BWC.</p> <p>30. Ensure that all BWCs are returned to their docking station for video upload and/or recharging at the end of tour.</p> <p>31. Notify the commanding officer/duty captain whenever notified that a member made a prohibited recording as described in step "10."</p> |
| INTEGRITY
CONTROL
OFFICER | <p>32. Be responsible for the integrity and security of the BWCs, related hardware and the video management system.</p> <p>33. Supervise review of BWC video in conformance with the self-inspection program promulgated by the Quality Assurance Division.</p> |
| COMMANDING
OFFICER | <p>34. Designate a secure area within the muster room/desk area and under the control of the desk officer for storage of BWCs not being used.</p> <p>35. Conduct an investigation when notified of the recording of an event which is prohibited in step "10."</p> <p style="padding-left: 20px;">a. Prepare and forward a report on Typed Letterhead detailing the investigation, findings, and actions taken to the Chief of Department (through channels).</p> <p style="padding-left: 20px;">b. Forward additional copies to the Deputy Commissioner, Information Technology and the Commanding Officer, Risk Management Bureau.</p> |

***ADDITIONAL
DATA***

OPERATIONAL CONSIDERATIONS

The BWC and related hardware/software, as well as video, audio and data captured by the BWC, irrespective of the content, are at all times the property of the Department. Other than providing copies of BWC video to members of the Department for official purposes (e.g., detectives conducting criminal investigation, etc.) and prosecutors as described above, uniformed members of the service may not copy, publish, share or disseminate any audio, video, image or data to anyone unless authorized by the Police Commissioner. Furthermore, members of the service may not edit, delete or alter any video or audio captured by the BWC or stored on the Department's network or approved storage media.

The default preservation period for BWC video is one year, at which time it will be automatically deleted. Depending upon the "category" or "tag" assigned to the video, certain videos (e.g., arrests) may be retained for longer periods. Commanding officers may request that a BWC recording be retained beyond the prescribed retention period, if necessary. Requests should be submitted through channels to the Deputy Commissioner, Information Technology, detailing the reasons for the request and expected duration of the preservation.

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**ADDITIONAL
DATA
(continued)**

LEGAL CONSIDERATIONS

The Department is required by law to disclose certain information and material related to criminal and civil proceedings pursuant to the New York Criminal Procedure Law, People v. Rosario, rules governing discovery in civil cases, The Freedom of Information Law (F.O.I.L.), subpoenas, and court orders. The Legal Bureau's Document Production Unit will respond to subpoenas, court orders, and F.O.I.L. requests as per P.G. 211-17, "Processing Legal Bureau Requests for Department Records Including Requests Under the Freedom of Information Law." The Internal Affairs Bureau will process requests from the Civilian Complaint Review Board for body-worn camera video as per P.G. 211-14, "Investigations by Civilian Complaint Review Board." Arresting officers will provide the assigned prosecutor with access to all BWC video related to an arrest utilizing the BWC video management system.

Requests by a witness or victim to view a BWC recording must be declined and referred to the appropriate prosecutor handling the case. Confirmatory identifications ("show-ups") must be done in person and not by the witness viewing a BWC video of the suspect. Requests by civilians to view a BWC recording that is not related to a criminal case must be declined and referred to the Legal Bureau's Document Production Unit. Requests for BWC recordings can be made by emailing FOIL@NYPD.ORG or by making a request on New York City's FOIL website at <https://a860-openrecords.nyc.gov/new>

**RELATED
PROCEDURES**

*Accidents – Department Property (P.G. 217-10)
Firearms Discharge by Uniformed Members of the Service (P.G. 221-04)
Guidelines for the Use of Video/Photographic Equipment by Operational Personnel at Demonstrations (P.G. 212-71)
Guidelines for Uniformed Members of the Service Conducting Investigations Involving Political Activities (P.G. 212-72)
Interior Patrol (P.G. 212-59)
Interior Patrol of Housing Authority Buildings (P.G. 212-60)
Interrogation of Members of the Service (P.G. 206-13)
Investigations by Civilian Complaint Review Board (P.G. 211-14)
Investigative Encounters: Requests for Information, Common Law Right of Inquiry and Level 3 Stops (P.G. 212-11)
Loss or Theft of Department Property (P.G. 219-20)
Processing Legal Bureau Requests for Department Records Including Requests Under the Freedom of Information Law (P.G. 211-17)
Reporting and Investigation of Force Incident or Injury to Persons During Police Action (P.G. 221-03)*

**FORMS AND
REPORTS**

ACTIVITY LOG (PD112-145)
COMPLAINT REPORT (PD313-152)
ON LINE BOOKING SYSTEM ARREST WORKSHEET (PD244-159)
STOP REPORT (PD383-153)
THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET (PD370-154)
AIDED REPORT
Typed Letterhead

3. Operations Order 48, series 2014 is hereby **REVOKED**.

4. Commanding officers will ensure that the contents of this Order are immediately brought to the attention of members of their commands.

BY DIRECTION OF THE POLICE COMMISSIONER

DISTRIBUTION

All Commands

OPERATIONS ORDER NO. DRAFT 16

Attachment 2

Body-Worn Camera Meetings as of April 26, 2016
List Provided by NYPD

- Office of Court Administration
- Office of the Special Narcotics Prosecutor
- New York County District Attorney's Office
- Queens County District Attorney's Office
- Brooklyn District Attorney's Office
- Bronx County District Attorney's Office
- Richmond County District Attorney's Office
- New York City Law Department
- Legal Aid Society
- Bronx Defenders
- Queens Law Associates
- Neighborhood Defender Service of Harlem
- New York County Defender Services
- Brooklyn Defender Services
- Administrators of the 18-b Panel in the First and Second Departments
- Civilian Complaint Review Board
- Mayor's Office of Criminal Justice
- Mayor's Office to Combat Domestic Violence
- New York Civil Liberties Union
- NAACP Legal Defense and Educational Fund
- Citizens Crime Commission
- LatinoJustice
- Demos
- Communities United for Police Reform
- Center for Constitutional Rights
- NYPD Citizen's Advisory Council
- NYU Policing Project
- NYU Marron Institute
- NYC Public Advocate
- NYPD Inspector General
- NY City Council
- FDNY
- NY HHC

Attachment 3



NYPD Response to Public and Officer Input on the Department's Proposed Body-Worn Camera Policy

APRIL 2017

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INTRODUCTION

At the request of the NYPD, on June 29, 2016, the Policing Project at New York University School of Law launched an online questionnaire to get input from New Yorkers on the Department's proposed body-worn camera policy. On the same day, the Marron Institute of Urban Management at New York University launched a separate but similar online questionnaire to get input from police officers. The online questionnaires remained open for 40 days. Our academic partners provided invaluable guidance on crafting the questionnaires, made exhaustive efforts to promote the questionnaires to achieve maximum participation, and did an extraordinary job of organizing the questionnaire results and summarizing participants' open written comments in two comprehensive reports. We are grateful for their exceptional work and for the time officers and members of the public spent completing the questionnaires and providing comments. The Department made several changes¹ to its proposed policy based on the feedback received through this process, including the following:

- Guidance about where on an officer's uniform the body-worn camera should be worn was added.
- The procedure now directs officers to give notice to individuals being recorded but allows for some reasonable exceptions, while the previous draft merely *encouraged* them to give notice.
- The ban on body-worn cameras at demonstrations was lifted.
- Inventory searches are now included among the "Mandatory Activation" events. They were excluded in the previous draft.
- "Public interactions that escalate and become adversarial" are now included among the "Mandatory Activation" events.
- Lengthy "NOTES" content of the body worn camera procedure, as originally written, was either integrated into the steps of the procedure or moved to the "Additional Data" section to streamline the procedure.
- The recording of undercover officers was added to the list of "Prohibited Recordings."
- Additional direction was provided regarding the circumstances when an officer may view a recording related to a serious use of force or an allegation of misconduct.
- The standard retention period for untagged footage was increased from six months to one year.
- The procedure now calls for periodic inspections/audits to ensure that the cameras and the footage are being used in compliance with the Department's procedure.

¹ In addition to the changes highlighted here, the Department made other changes based on ongoing research and internal deliberations. We also reformatted the document to comport with the standard structure of the NYPD Patrol Guide.

Summaries of the aggregate results for both questionnaires appear in Appendix A. The Policing Project's report on the public's feedback may be viewed [here](#). The Marron Institute's report on officers' feedback may be viewed [here](#).

The public was advised of the online questionnaire through various means, including social media, community meetings, and print, online, and TV news outlets. Over 25,000 members of the public participated and responded with overwhelming support for body-worn cameras:

- 92% said that NYPD officers should use body-worn cameras.
- 73%, or more, believed the cameras would improve police/community relations, public safety, officer safety, and the conduct of both officers and members of the public when they are interacting with each other.²
- 80% said they would feel comfortable reporting a crime to an officer wearing a body-worn camera.

Respondents to the public questionnaire were disproportionately white relative to New York City's population. However, a notable observation reported in the Policing Project's report was that for the public responses, "on many of the key policy questions, there was virtually no difference in the responses by race."³

Officers were advised of the online questionnaire by direct emails. About 15%⁴ or 5,419 of the NYPD's uniformed members participated. Participation may have been impacted by a letter⁵ from Pat Lynch, the President of the Patrolmen's Benevolent Association ("PBA"), which was distributed to members of the union and posted on the PBA's website within days of launching the online questionnaire.

The Department's next body-worn camera pilot will involve the deployment of approximately 1,200 cameras to all police officers assigned to the 4 p.m. to midnight shift in 20 different precincts.⁶ The Department will not be asking officers to volunteer to wear cameras because the pilot's design preselects the officers who will be issued cameras. However, the officer questionnaire asked officers whether they would volunteer to wear a camera as a way gauge officer support for body-worn cameras.

² For disaggregated responses, See Policing Project, *Report to the NYPD Summarizing Public Feedback on its Proposed Body-Worn Camera Policy*, 37

³ See Policing Project Report, 8.

⁴ NYPD has a funded peak headcount of 36,734 uniformed officers. The department reaches this twice a year when its Police Academy graduates a class. The average uniform headcount in January 2016 was 36,613.

⁵ See the letter at: <http://us7.campaign-archive1.com/?u=32027216b5955c36da689903e&id=8ec4d6fb6c&e=1ecec4b99d>

⁶ Body-worn cameras will be placed in the following commands: Manhattan: 13, Midtown North, 25, 30, and 34. The Bronx: 42, 43, 44, 47, and 48. Brooklyn: 60, 63, 67, 71, 72, and 79. Queens: 102, 105, and 115. Staten Island: 121

Of the more than 5,000 officers who participated:

- 44% said they were either “very likely” or would “definitely” volunteer to wear a body-worn camera.
- 27% said they would be “somewhat likely” to volunteer to wear one.
- 29% said they would not volunteer to wear a body-worn camera.
- 85% to 91%⁷ of the officers said they believed the cameras would either have no effect or would improve police-community behavior and relations, public safety, and officer safety.
- 10% to 15 % said the cameras would worsen behavior, relations, and safety.

Because the NYPD thus far has not used body-worn cameras, save for a small group of approximately 50 officers who helped test various technologies between 2014 and 2016, 95% of the officer participants reported that they had no first-hand experiences with body cameras.

In addition to questions that pertained to body-worn cameras or the body-worn camera policy, both questionnaires included questions that addressed participants’ opinions about police/community relations. For example, both questionnaires asked whether police officers treat members of the public with respect. Of the public participants, 7% said officers “*always*” treat people with respect, 44% said officers “*mostly*” do, while another 40% said officers “*sometimes*” do. Police officers rated their respectfulness much higher. Eighty-eight percent said they agreed or strongly agreed that officers treat members of the public with respect.

Officers were also asked about how the community treats them, and 50% disagreed or strongly disagreed with the statement: “*In general, members of the public treat police officers with respect.*” The race of the officers who participated in the online questionnaire process appeared to be a significant factor in the way they answered some of the questions in the officer questionnaire, as did the rank of the officer.⁸ In particular, African-American officers were more likely than white officers to agree that members of the public treated police officers with respect. Similarly, African-American officers were less likely than white officers to agree that police officers treated members of the public with respect.

Peter Zimroth, the court-appointed federal monitor in the “Stop and Frisk” litigation, will monitor and assess the upcoming body-worn camera pilot. The Department voluntarily engaged in this public/officer feedback process; it was not required by the court or the federal monitor. Mr. Zimroth supported and assisted in our efforts, as did all the parties to the litigation. The revised procedure that appears in Appendix B is the Department’s *recommendation* to the federal monitor. Portions of this procedure, particularly those that relate to Stops and Frisks and arrests

⁷ For disaggregated responses, See Marron Institute of Urban Management, *Report on the NYPD Officer Body-Worn Camera Questionnaire*, 4.

⁸ See Marron Institute Report, 3-4.

made during interior patrols in NYCHA developments or TAP⁹ buildings, are subject to his approval.

In Part I of this response, we address the questionnaire topics that we plan to include in the patrol guide procedure that will govern how body-worn cameras and body-worn camera footage will be used by officers who wear the cameras and the supervisors who supervise them. We also sought input on other issues through the questionnaires, issues that go far beyond the officer wearing the camera or the supervisors in his or her immediate chain of command, including the release and retention of body-camera footage. These are broader, institutional policy considerations, and they are addressed in Part II. Finally, the opportunity to provide open comments on both questionnaires allowed participants to raise other issues not covered by the questionnaires or included in the draft policy. We could not address all of the more than 20,000 comments that were submitted to, and summarized by, our academic partners, but we tried to address major or reoccurring themes in Part III of this response.

PART I: RULES FOR THE OFFICER WEARING THE CAMERA

When officers or members of the public visited one of the NYU websites, they had the opportunity to view our draft body-worn camera procedure and a summary of key provisions before completing their respective questionnaires. They also had the opportunity to provide supplemental narrative comments on the draft policy. As noted above, the responses we received led to changes in our proposed body-worn camera procedure.

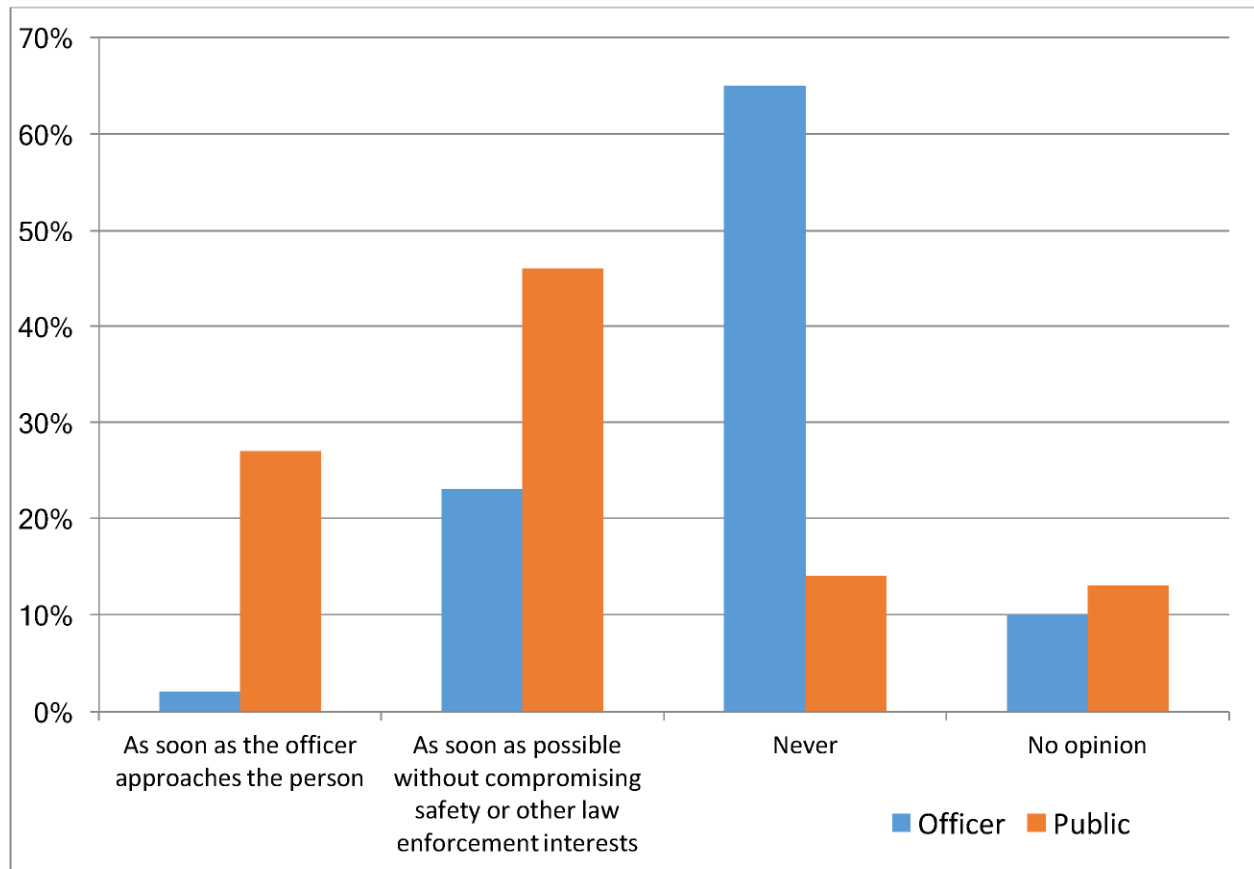
CAMERA PLACEMENT

The Hispanic Bar Association commented that our posted policy was vague regarding the placement of cameras. The prior draft merely noted that the camera should be affixed in a manner that maximizes the camera's field of view. The revised policy clarifies that the camera should usually be placed on an officer's outermost garment at the center of his or her chest using mounting hardware that will be provided by the NYPD. This recommendation allows for some officer discretion in circumstances where it makes less sense for the officer to have the camera facing forward at chest level, such as transporting a prisoner in the back of a police vehicle.

⁹ Residential buildings enrolled in the City's "Trespass Affidavit Program."

NOTICE OF RECORDING

The questionnaires presented officers and the public with the following statement: “An officer who approaches a person in a public space, like a store or on the sidewalk, should be required to tell that person that the camera is recording” ... and then participants were given different options for the timing of the notice of recording. Here is how they responded (the blue bars reflect officers’ responses and the orange bars reflect the public’s):



A majority of the public participants felt that an officer who approaches a person in a public place should be required to give notice that the encounter is being recorded, with 27% saying that notice should be given “as soon as the officer approaches,” and 46% saying that notice should be given “as soon as possible, without compromising officer safety or other important law enforcement interests.” The officers who participated had a different view, with 65% saying that officers should never be mandated to give notice.

The prior draft of our procedure – which was posted online along with the questionnaires – did not require officers to give notice that they were recording; rather, it merely encouraged them to do so.

Given the responses we received on this issue, we reexamined how other police departments around the country were managing notification in their policies. Some departments are silent on the issue of notice in their policies. The Los Angeles Police Department encourages police officers to notify members of the public. Others, such as the Washington D.C. Metro Police Department, the Philadelphia Police Department, and the Las Vegas Metro Police Department require officers to notify the public that they are recording when practicable or feasible. The Chicago Police Department requires notification, unless exigent circumstances exist. Others, like the Boston Police Department, are stricter, requiring that officers notify citizens unless there is an immediate threat to the officer's life or safety that makes notification impossible. In sum, while they define exceptions somewhat differently, a good number of major police departments require notification.

In light of our research and the feedback we received on the issue of notification, we changed our proposed procedure. The notice provision in the procedure now reads as a directive rather than as a best practice, but it also allows for some reasonable exceptions.

It's important to note that the body-worn cameras will be prominently displayed on officers' uniforms, and NYPD officers will only be permitted to record events that they have the legal authority to see and hear. Even so, we were persuaded to change the procedure based on both the public's strong desire to receive notice and our belief that, in the majority of cases, giving notice will help to deescalate an encounter and thus make everyone, including our officers, safer.

We declined to adopt any of the stricter exceptions that excuse the delay or failure to give notice only in the event of an emergency or life-and-death situation. Instead, we adopted exceptions that closely track the exceptions used by many other departments and account for situations when notice may not be feasible. Step 4 of the proposed procedure now reads:

- 4. As soon as reasonably practical, notify members of the public that an interaction is being recorded, unless notification could compromise the safety of any person or impede an investigation.**
 - a. Suggested notification: *"Sir/Ma'am, I am wearing a body-camera and this encounter is being recorded."***
 - b. Consent is not required to start or continue recording.**

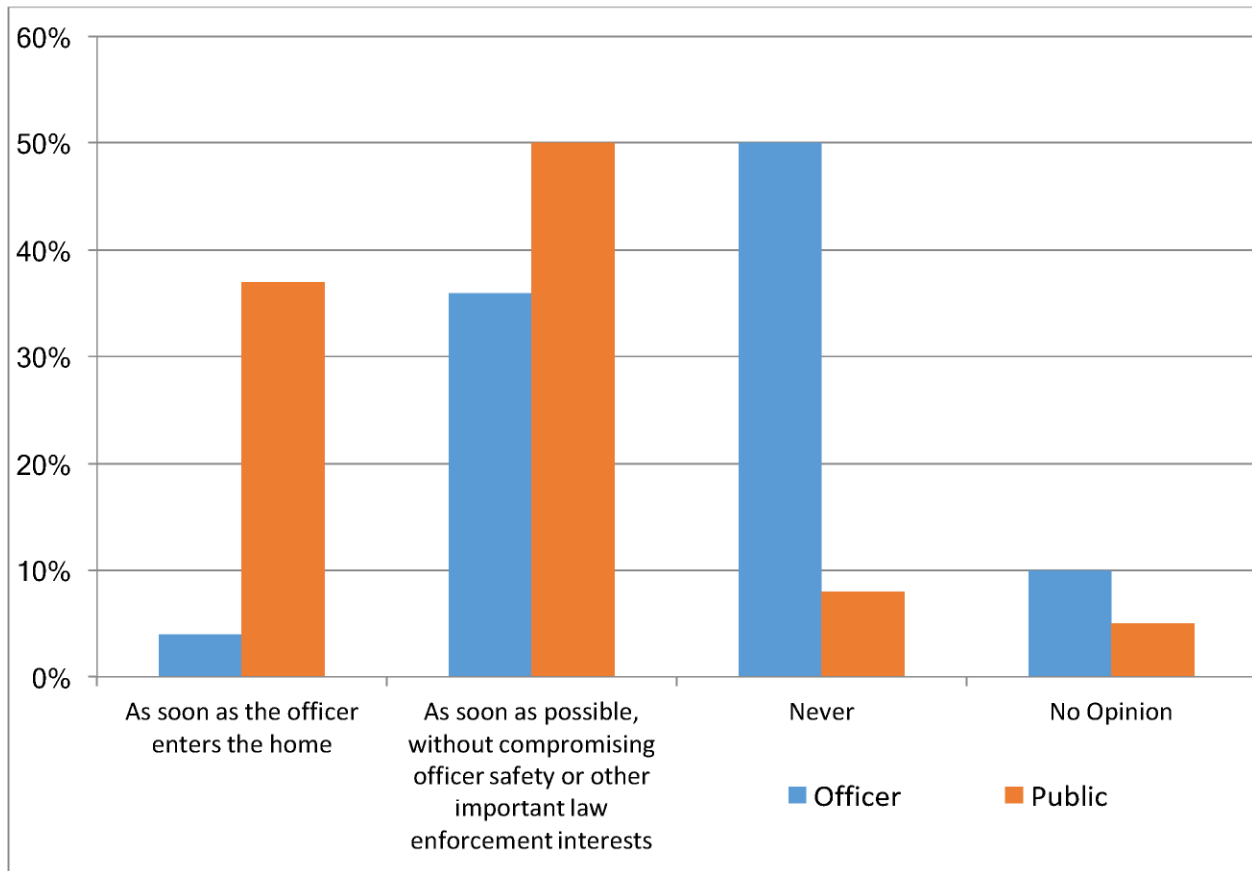
Officers will now be trained that prompt notice is the rule, and that notice of recording should in most cases accompany their introduction. The exceptions are not intended to water down the notice requirement, but rather account for situations when immediate notice is not possible. A

few examples may shed light on the meaning of these exceptions. For example, it would not be “reasonably practical” to require officers responding to a domestic dispute at a home in Queens to immediately provide notification of recording to a suspect, who they encounter sitting on the outside steps of the home, ranting about how his wife “deserved it.” If upon their approach, the officers know from the central dispatcher that the victim was struck in the face, but is now safe and stable and at her sister’s house next door, at that moment, there may not be an “exigency” or life-threatening situation that would excuse notice, but immediate notice would certainly deter the suspect’s further admissions, impede the investigation and not be reasonably practical.

And, for example, if officers are called by relatives to respond to a home in Staten Island because a family member with a severe mental illness has stopped taking his medication and is becoming violent, officers may assess upon arrival that telling this particular individual they are taping him would only serve to agitate the individual. They may conclude that prompt notice may not be “safe” for those present.

We believe the safety and investigative exceptions as currently written – exceptions that were supported by a significant number of public participants – account for those kinds of exceptional situations.

Officers and the public were presented with the statement: *“An officer who enters a person’s home should be required to tell that person that the camera is recording”* ... and were given the same set of options. Here is how they responded:



When the recording takes place in a person's home as opposed to a public place, the questionnaire responses reflected an increase in both officers' willingness to give notice and the public's wish to receive it.

As described in the next section below, officers entering a person's home generally will be recording encounters that are enforcement actions or situations where they believe they are likely to take an enforcement action. Officers have the right to use their body-worn cameras in a private home as long as they have a legal right to be there, in response, for instance, to a 9-1-1 caller reporting a crime and requesting officers respond to their residence.

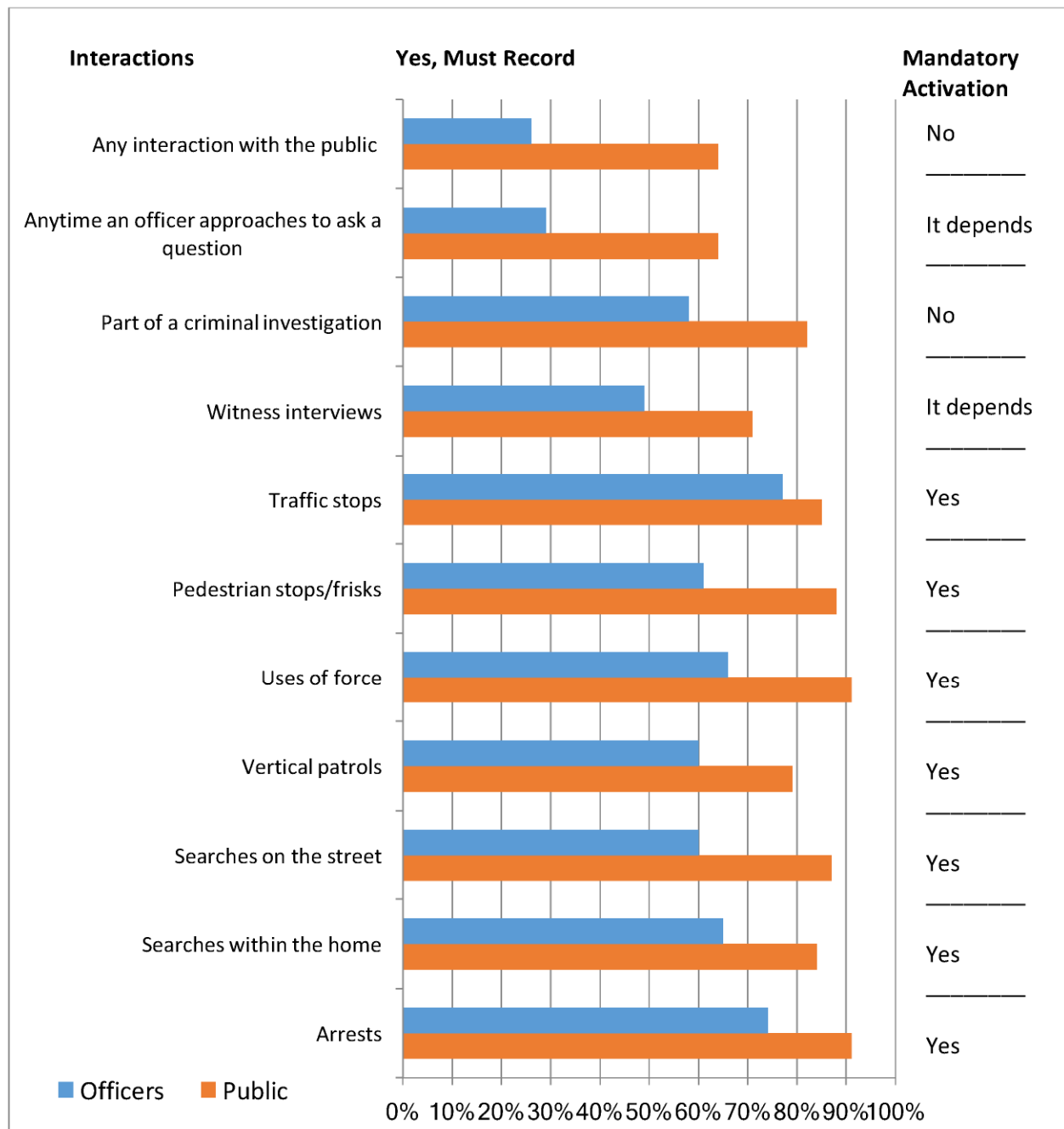
We know that a home can often be a crime scene. An all-too-common example is a domestic violence incident when the perpetrator may still be inside the residence. Officers entering a potentially chaotic scene with ongoing violence must be able to assess the situation before giving notice.

Most of the policies we reviewed from other police departments that do contain notice provisions do not differentiate between notice in a person's home and notice in a public place, and we declined to differentiate in the NYPD procedure as well. Our notice provision, as now written, is a directive to give notice rather than merely encouraging officers to give notice. It will

protect the interests of a person wishing to be informed that he or she is being recorded in a residence. The investigative and safety exceptions are no less necessary simply because the encounter occurs in a home.

MANDATORY ACTIVATION

Officers and the public were presented with a range of 11 possible police encounters and asked whether an officer wearing a body-worn camera should be required to record each of these encounters. The graph below indicates the percentage of officers (blue) who answered “yes” for each type of encounter and the percentage of public participants (orange) who answered “yes.” The column on the far right indicates whether our proposed policy requires the recording of each type of encounter.



The proposed procedure requires officers to record the last seven of the 11 types of encounters listed in the chart above: arrests; searches in the home; searches in the street; vertical patrols; uses of force; stops and frisks; and traffic stops.

Officer support for the mandatory recording of these events ranged from 60% to 77%, while public support ranged from 79% to 91%. The newly proposed procedure also requires the

recording of events that were not included in the questionnaire, such as summons encounters and responses to certain “in progress” calls. [See Appendix B, Step 5 for the full list].

In response to online comments critical of the exclusion of inventory searches in our initial draft,¹⁰ the revised procedure now requires the recording of any search of a person or his or her property without an exception for inventory searches. The only remaining exception applies to strip searches.

The first four types of encounters listed on the chart above require further discussion. Both officers and members of the public were asked if an officer should be mandated to record “*Any interaction with members of the public,*” and 64% of the public participants agreed that officers should be mandated, while only 26% of the officers agreed that they should.

In addition to the questionnaire responses, there were a significant number of public comments supporting continuous recording, requiring officers to *always* be recording while on patrol.

Our proposed procedure does not mandate the recording of *any and all* interactions with the public, nor does it require an officer to be continuously recording while on patrol. Non-stop recording is impractical both because it would require a vast increase in long-term data storage capacity and because it would represent an invasion of the privacy of many people whom the police encounter. To mandate the recording of *any and all* interactions with the public would require that an officer record, for example, someone asking for directions, a casual conversation with a member of the public, or situations where the officer is rendering aid, including performing CPR on someone who may not wish to be recorded and is not conscious or object to it.

In their comments, the NYCLU urged the NYPD to “limit recording to interactions with the public that have an investigative or law enforcement purpose.” They noted that, “community members need to be able to trust that they can speak with officers privately and not have every casual interaction or mere observation by officers be recorded.”¹¹ We agree and declined to recommend a mandatory activation procedure that would capture every interaction.

Sixty-four percent of the public participants said an officer should be mandated to record “any time an officer approaches someone to ask a question,” while only 29% of the officer participants agreed. For the same reasons that we declined to mandate recording *any and all* interactions between officers and members of the public, we have also declined to mandate the recording of *any and all* questions an officer might put to a member of the public. Such a rule would require an officer to record every occasion when he approaches a possible eyewitness,

¹⁰ See Policing Project Report, 16.

¹¹ See Policing Project Report, 13.

including situations where confidentiality may be vital, or any situation where he approaches a person to ask whether the person needs assistance.

Rather than mandating the recording of *any and all* questioning, our proposed policy mandates the recording of questions officers put to people they suspect of criminality [see Step 5(d)]. Barring an applicable exception, pursuant to the proposed procedure, officers will already be recording questioning that flows from a response to a call regarding a crime in progress, and they will already be recording what are known in “Stop and Frisk” parlance as “Level 2” and “Level 3”¹² investigative encounters.¹³ These levels of investigative encounters are based on some degree of suspicion of criminality. “Level 1” encounters may or may not relate to criminality and were excluded so that officers would not be mandated to record “public service” types of Level 1 encounters, such as rendering aid to a sick person. NYPD officers will be encouraged through training to exercise the discretion afforded to them in the proposed procedure and record “Level 1” encounters they believe are likely to elevate to “Level 2” or “Level 3” encounters, and the phrasing of the mandate to record “interactions with persons suspected of criminality” should buttress that training guidance.

The fourth and final questionnaire category related to the topic of mandatory activation that requires discussion here is witness interviews. Seventy-one percent of public participants and 49% of officer participants said that officers should be required to record witness interviews.

In the NYPD’s judgment, and based on many of the views shared with us not only through the comment process but also in smaller meetings with criminal justice stakeholders, including victim advocates and prosecutors, the procedure should not mandate officers to record all witness interviews.

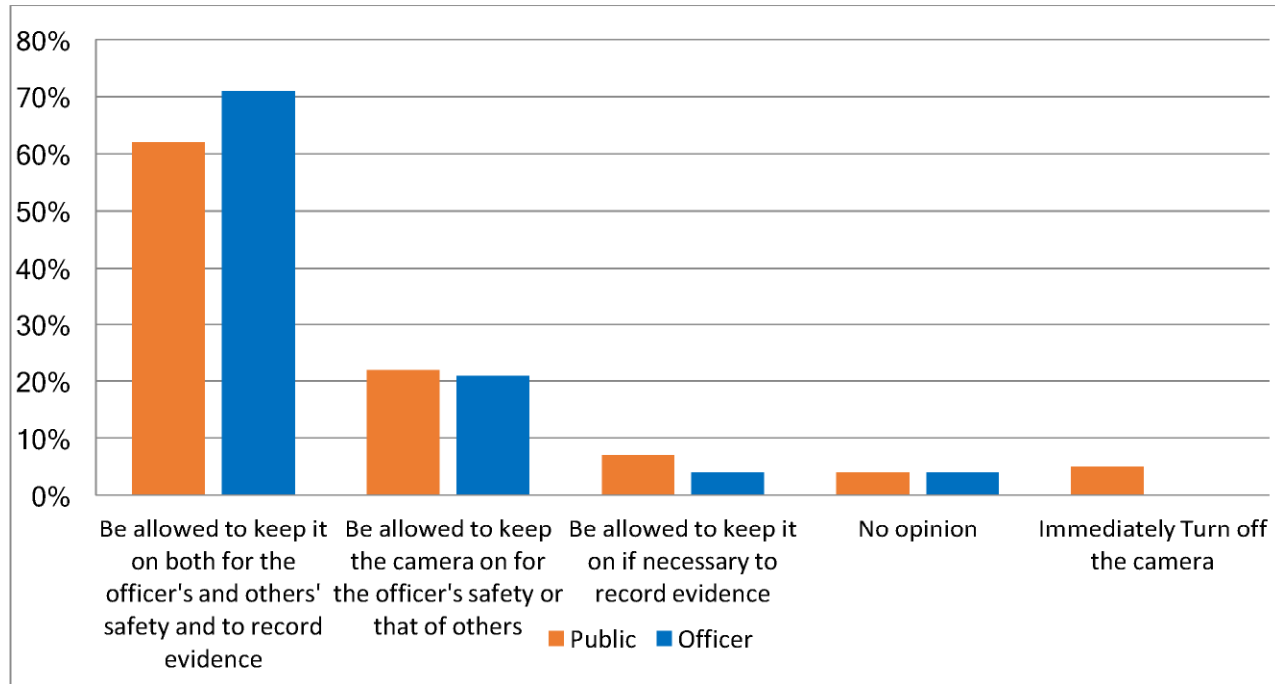
Certain witnesses may feel uncomfortable being recorded, such as sex crimes victims, confidential informants, child victims, or witnesses who simply feel too fearful to have their statements recorded and ultimately made available to the accused as required by criminal procedure laws. The NYPD proposed procedure bars the recording of confidential informants, undercover officers, and sex crimes victims [Appendix B, Steps 10(e) through 10(g)]. It otherwise allows for, and in some applications will call for, officers to record a witness’s initial report, spontaneous utterances, physical injuries, and other relevant observations at the scene. Beyond that, the proposed procedure gives the officer the discretion to discontinue recording upon the request of a victim or witness. [Appendix B, Step 9(b)].

¹² Also known as *Terry stops*.

¹³ The four levels of investigative encounters are based on a case decided by the New York State Court of Appeals. *People v. DeBour*, 40 N.Y.2d 210 (1976).

DEACTIVATION

The questionnaires presented officers and the public with the following statement: *"If a person asks an officer to turn off the camera, the officer should"* ... and then participants were given a series of possible actions by an officer. Here is how they responded:



Sixty-two percent of the public participants said an officer, upon receiving a request to turn off the camera, should be allowed to keep the camera on for the officer's safety, the safety of others, or to record evidence. An additional 22% of the public participants said officers may keep recording for the officer's safety or the safety of others, while excluding the collection of evidence as a motivating factor to continue to record.

In all, 91% of public respondents felt that officers should be permitted to have some discretion about when to turn off the camera. The responses from the officer participants closely tracked the public's responses. The NYPD draft procedure is in accord with these views. The procedure requires continued recording of an arrest or if a suspect is present. For other interactions, officers are afforded discretion to deactivate. Step 9 of the department's procedure states:

9. **Once the BWC has been activated, continue recording until the investigative or enforcement action is concluded.**
 - a. **In the case of an arrest, continue recording until the prisoner is lodged at the command for arrest processing.**
 - b. **The UMOS may choose to deactivate the BWC upon the request of a member of the public if a suspect is not present, and it is safe and advisable to do so after considering all the circumstances, including the requester's desire for privacy or confidentiality.**

PROHIBITING RECORDINGS/DEMONSTRATIONS

Step 10 of the proposed procedure (Appendix B) lists individuals and events an officer is prohibited from recording, such as confidential informants, strip searches, and personal conversations among colleagues in the stationhouse.

The draft policy posted with the questionnaires included among its prohibitions the recording of any activity whatsoever at protests or demonstrations. The procedure was drafted with an absolute ban to comply with the *Handschu* guidelines¹⁴ that govern the circumstances under which NYPD personnel may record individuals at protests or demonstrations. The Police Executive Research Forum (PERF) and the Brennan Center for Justice urged the NYPD to revise this provision to allow for the recording of enforcement activities at demonstrations in a manner that would still protect an individual's right to exercise his or her constitutionally-protected rights free from surveillance.¹⁵ While still adhering to the *Handschu* guidelines, we revised the provision to follow this recommendation. We also moved this provision out of the "Prohibited Recordings" section and created a stand-alone Step for demonstrations. Step 12 now reads:

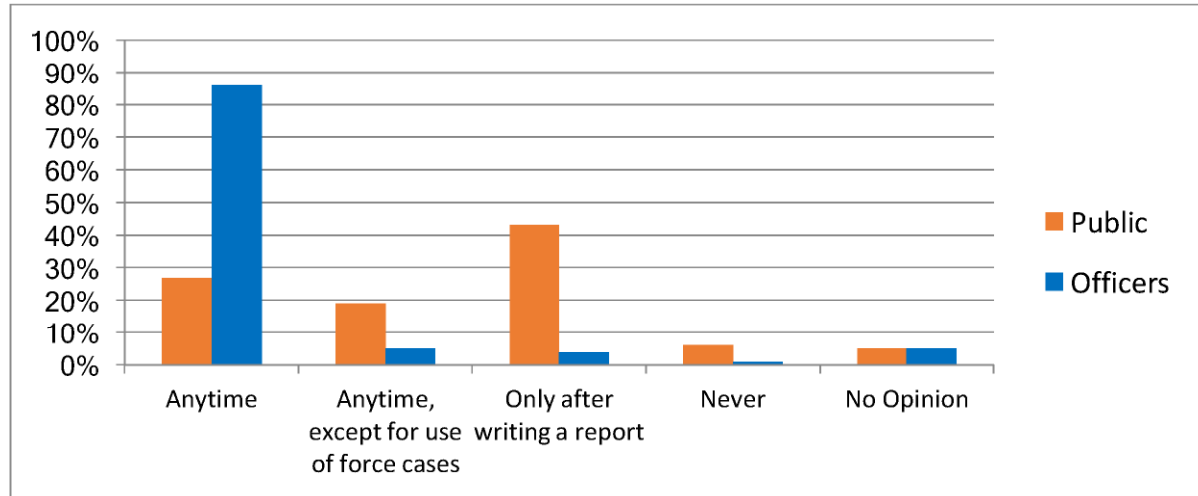
12. **DEMONSTRATIONS AND CIVIL DISOBEDIENCE: Record only if engaged in one of the actions listed in step 5 above (Mandatory Activation of BWC) and in uniform.**
 - a. **The Technical Assistance and Response Unit (TARU) remains solely responsible for documenting protests, demonstrations, political events, etc., by means of photos and/or video.**

¹⁴ The *Handschu* guidelines were created as a result of a lawsuit against the NYPD during the 1970s.

¹⁵ Policing Project's Report, 16.

OFFICERS VIEWING BODY-WORN CAMERA FOOTAGE

Officers and the public were asked whether, and under what circumstances, officers should be permitted to view recordings from their own body-worn camera recordings. Here is a breakdown of when each group said officers should be able to view their own footage:



An overwhelming majority of the officer participants said they should be able to view their own footage anytime, including before preparing a report or making a sworn statement. The public opinions were more varied:

- 27% of the public said that officers should be able to view their footage at any time.
- 19% of the public said that officers should be able to view their footage at any time, unless there is an incident involving the use of force.
- 43% of the public said that officers should only view video after first writing their report.
- 6% said officers should never be able to view their video.

Based on the supplemental comments submitted on this topic, it seems that some portion of the 43% who said officers should view video only after writing their first reports, and/or the 6% who said an officer should *never* be able to view the video, were concerned that an officer could tamper with or alter a body-worn camera recording. The proposed procedure strictly prohibits officers from attempting to tamper with or alter original recordings. Furthermore, the technology the Department will be using prevents officers from tampering with original recordings. Beyond the concern that officers would alter recordings, other comments conveyed a concern that officers would tailor their statements to fit events depicted on video if they were able to view the footage before writing reports or making sworn statements.

It is a police officer's duty to accurately report the events he or she observes. The Department and prosecutors expect that an arresting officer will review the documentation and available

evidence associated with a case *before* preparing reports or swearing out a criminal complaint. Body-worn camera footage is simply another form of documentation, and possibly an additional piece of evidence, just like an officer's notes or a transcript of a 9-1-1 call. Prosecutors often demand to see body-worn camera recordings (if they exist) *before* they will draw up charges in a case. It surely would be impractical for the prosecutor to view the video in the complaint room while the arresting officer would be prohibited from contemporaneously viewing it to answer the prosecutor's questions.

The NYPD body-worn-camera working group has reviewed the body-worn camera policies of nearly 30 police departments. All of them allow officers, without restriction, to review body-worn camera video prior to filling reports when there has not been a significant use of force. Forty-six percent (46%) of the public participants would support the approach taken by these other departments while 49% of them would not (5% had no opinion), a near-equal split of opinion.

We have concluded the best course is for the NYPD procedure to follow the approach overwhelmingly taken by the other departments we surveyed, one that is consistent with the views of 46% of the public participants and aligned with the views of 91% of the officer participants.

Accordingly, in cases where there is no allegation of a significant use of force or officer misconduct related to a recording, our proposed policy allows the recording officer to view his or her own footage and the footage of other responding officers before completing reports or making sworn statements about the recorded event. This would permit an arresting officer who, for example, meets with a prosecutor to prepare a felony complaint for a robbery case, to view and discuss all the relevant body-worn camera recordings with the prosecutor before charges are filed. It should be noted that when an officer views a recording through the Department's video management system – whether it is his or her own or that of another responding officer – the system will automatically make a record of each viewing.

The prior draft of the procedure that was posted online permitted officers involved in a significant use of force to see their own body-worn camera recordings before making sworn statements. The timing of the viewing, however, was to be controlled by a supervisor conducting the force investigation.

In our review of the policies of other police departments, we found that while most allow officers involved in a significant use of force to view their body-worn camera recordings of the event prior to making their first statements, some do not.¹⁶

¹⁶ Atlanta, Oakland, San Francisco, San Jose, and Washington DC are major cities that prohibit officers who are involved in shootings from reviewing their footage prior to making an initial report or submitting to an initial

PERF prepared a comprehensive report on best practices for police departments implementing body-worn camera programs, and they too recommend permitting officers “to review video footage of an incident in which they were involved prior to making a statement about the incident.”¹⁷

After receiving the questionnaire results, the NYPD revised the officer-viewing provisions in the proposed procedure. The revisions provide more detail and more direction. They now address not only use-of-force incidents but any incident for which there is an allegation of misconduct, while still affording officers the opportunity to view their own body-worn camera recordings before making compelled statements about an incident. [See Step 17.]

The propriety of this approach requires some understanding of how serious use-of-force investigations proceed in New York City. This example, while somewhat simplistic, conveys the main principles. Assume two officers respond to a 9-1-1 call about a robbery. The officers see a male matching the description provided by the victim, they pursue him and he runs from them. The male then stops and turns to face the officers with a small, shiny object in his raised hand. One officer fears it is a weapon and fires his gun at the suspect striking him in the leg but he survives. The other officer does not discharge his weapon at all. For purposes of this example, assume the individual who was shot was not the robber, and the item in his hand was not a gun. Two investigations will flow from this event. There will be a criminal investigation into the discharging officer’s use of his weapon. There will also be an administrative/disciplinary investigation into the incident that will address the one officer’s use of his firearm but both officers compliance with general procedures. In the criminal investigation, the discharging officer has the same 5th Amendment right anyone in the United States has, and he cannot be *compelled* to make a statement. That is not the case in the internal disciplinary investigation. NYPD internal procedures do not allow an officer to remain silent in connection with an internal disciplinary investigation. He must submit to an administrative interview. Because prosecutors fear that leads from a compelled administrative interview may spillover and “taint” the criminal investigation, they direct the Internal Affairs Bureau and Force Investigation Division NOT to subject officers who may be criminally liable to compelled administrative interviews until the criminal investigation into that officer’s conduct is concluded.

interview. Cincinnati and Denver do not state when an officer may view the video, leaving it to the discretion of the investigator. Most other departments, including Chicago, Los Angeles, Houston, Charlotte-Mecklenburg, Cleveland, Rochester, San Diego, Seattle, Boston, Baltimore, Dallas, Las Vegas, Miami, Phoenix, New Orleans, and San Antonio permit officers to review video prior to making an initial statement or giving an initial interview.

¹⁷ See Recommendation #20, Police Executive Research Forum, and Community Oriented Policing Services, *Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned*, 62.

<https://www.justice.gov/iso/opa/resources/472014912134715246869.pdf>

Accordingly, in our example, a supervisor will respond to the scene and collect the officers' cameras, and the Department will lock the recordings of both officers so they may not be viewed. The discharging officer will be investigated for possible criminal charges by the District Attorney's Office and/or the State Attorney General's Office with the assistance of NYPD investigators, but the officer will not be compelled to make a statement in the administrative case, which will be stayed as to him until the criminal investigation or case concludes. The administrative investigation will proceed as to the non-discharging officer, and he will be required to submit to a compelled administrative interview, before which he will be afforded an opportunity to see his own body-worn camera recording at a time deemed appropriate by the investigating supervisor. The goal of the administrative/internal investigation is not only to determine whether the individual officer should be subject to discipline or an adverse employment action. It is also to determine if the investigation reveals a gap in the officer's (or the Department's) training in a particular area.

The Department will not compel the discharging officer to make a statement until it is advised by the appropriate prosecuting authority that the criminal investigation as to that officer is over (either because the prosecutor or the grand jury determined there was insufficient evidence or the criminal case has concluded). Then and only then will the administrative/disciplinary case proceed against the discharging officer and he too may see his own recording at a time set by the investigating supervisor, but before being compelled to make a statement. At this point in the investigation, the risk that the officer can tailor his testimony and mislead investigators is low. They already know a great deal about the case. Furthermore, events may be recorded by multiple officers from multiple vantage points, further reducing the possibility of tailoring or misleading. Moreover, any risk is outweighed by a) the best practice of viewing all the evidence before making sworn statements and b) the fairness inherent in allowing an officer to see the video *he made* for the Department before being made to make a compelled statement for use in the disciplinary case.

Pursuant to the proposed procedure, the protocols described above would apply not only to serious use-of-force incidents but to any investigation of misconduct for which the officer is compelled to make a statement.

It should be noted that if our city encounters something like what we have seen in other cities around the country, that is, there is police-involved shooting of a civilian that is followed by protests and a demand for the release of body camera recordings, the above restrictions are effectively moot.

SUPERVISORY ACCESS TO OFFICERS' BODY-WORN CAMERA RECORDINGS

This topic was covered in the officer questionnaire only. Officers were asked: *"How much access should supervisors have to the video footage of the officers they supervise?"* The respective ranks of the participants appeared to have influenced their responses.

Participants with the rank of sergeant or above tended to be more permissive on supervisory review.

The results below are aggregated (not broken down by rank):

- 22% of all ranks said supervisors should be able to view any video they select.
- Another 30% agreed, provided the reviews were tracked and were not conducted only to address performance deficiencies but also to provide positive comment.
- 32% said that supervisors should only be able to review videos related to civilian complaints or uses of force.
- 8% said that supervisors should only be able to see videos that were selected by a third-party supervisor, like the precinct's Integrity Control Officer.
- 8% said supervisors should never be able to review a subordinate's body-worn camera recordings.

The version of our policy that was posted online has now been revised with respect to supervisory review and reflects a blend of some of the views described above. The policy permits discretionary supervisory review not only for addressing performance deficiencies, but also to make positive comments. Such reviews will be tracked electronically.

In addition, supervisors will be required to conduct specific reviews pursuant to set auditing guidelines that are still under development. These viewings will also be tracked electronically. The proposed procedure describes the immediate supervisor's duties at Steps 26 and 27:

- 26. Review BWC video in conformance with the self-inspection program promulgated by the Quality Assurance Division.**

27. Periodically review video in addition to the self-inspection program, as appropriate, to provide positive feedback and address any performance deficiencies observed.

The topic of supervisory access is related to officers' concerns about Department discipline. Of the more than 5,000 officers who completed the online questionnaire, 81% either agreed or strongly agreed with the statement *"I am concerned that the department will use body-worn*

camera video to penalize officers for minor violations, even when the video shows that their police work was handled appropriately.”

Supervisory review of a fair sampling of an officer’s videos has the potential to be a highly beneficial management tool. Logistically speaking, supervisors cannot be present with their officers for every enforcement or investigative encounter. Viewing a supervisee’s recordings gives the supervisor an opportunity to provide positive and corrective guidance. The Department is concerned, however, that if supervisory reviews are routinely used to “nitpick” officers for minor transgressions depicted in recordings that reflect otherwise good police work, such a practice will negatively impact officer acceptance of, and compliance with, the body-worn camera program. This does not mean that officers should not be disciplined for violations that are observed on body-worn camera footage; but rather that supervisors should be trained to use their best judgment and bear in mind the goals of supervisory review. The procedure itself reminds them of the goals in Step 27 (see above).

If an NYPD officer violates a mandatory provision of the body-worn camera procedure, he or she faces possible discipline after the conclusion of a 90-day period of field training.¹⁸ During the 90 days of field training, mistakes will be handled as a training matter at the officer’s precinct. Thereafter, non-compliance with any of the mandatory provisions of the Department’s body-worn camera procedure will subject an officer to possible discipline.

Some comments from organizations and citizens suggested the policy should specifically describe the discipline officers will face for particular breaches of the procedure.

In the NYPD, the severity of discipline escalates based upon the frequency and/or the seriousness of the infraction: for example, an officer who, for the first time, forgets to activate his camera during a routine traffic stop may be warned and admonished or retrained; but the officer who deactivates his camera during an illegal use of force may ultimately face the most severe penalty. The variables relevant to the appropriate level of discipline, including mitigating and aggravating factors, do not lend themselves to a predetermined discipline “schedule.”

¹⁸ See page 25 of this report for full description of the 90 day field training.

PART II: RETENTION AND RELEASE OF RECORDINGS

As noted in the introduction, both the public and the officer questionnaires contained questions related to two topics that go beyond the duties of the officer wearing the camera: the retention of body-worn camera videos and the release of those videos to the public. These topics involve other NYPD bureaus, including the Information Technology Bureau and Legal Bureau, and will be addressed in this section.

RETENTION PERIODS FOR BODY-WORN CAMERA RECORDINGS

The Department's goal is to devise categorization and retention protocols that will ensure that relevant body-worn camera footage is preserved for any related investigation, prosecution, civilian complaint, or lawsuit. The Department seeks to balance these needs against legitimate concerns over both long-term storage costs and the privacy implications associated with a law enforcement agency maintaining unneeded video records for lengthy periods of time.

But how long is "too long"? In our first 54-camera experiment, we used a one-year default retention period for untagged video, but privacy groups have since recommended shorter default retention periods for untagged videos.¹⁹ As a result, we proposed reducing the default storage time to 6 months.

The public questionnaire summarized some key aspects of our proposed retention policy and invited comments. Only 20% of the public participants (approximately 5,000) answered the retention question and, overall, they disagreed with what we have heard from privacy advocates: the public participants favor longer retention periods.

The public questionnaire asked participants:

"Under the proposed policy, the NYPD will keep all video recordings for a minimum of 6 months. Certain videos must be kept longer:

Arrests or civilian complaints: until the case is over

Use of Force: 3 years

Adversarial police-citizen encounter: 18 months

Any other encounter (e.g. stops/witness interviews): 6 months"

A clear majority of the public participants, including the New York State Black, Puerto Rican, Hispanic, and Asian Legislative Caucus, said that our retention periods should be longer, and a re-occurring comment was to keep all footage for a minimum of one year.

¹⁹ See ACLU's report: *Police Body-Mounted Cameras: With Right Policies in Place, a Win for All*, Jay Stanley https://www.aclu.org/sites/default/files/assets/police_body-mounted_cameras-v2.pdf

Based on this feedback, we plan to revert to a one-year default retention period.

The proposed procedure²⁰ directs officers to “categorize” or “tag” recordings so that the recordings will be preserved and retrievable for future use. Officers will identify recordings related to arrests so that the recordings will be available for the prosecution of those cases. All stops and interior patrols will be tagged for the court-ordered pilot. Additionally, if a complaint is made or a lawsuit is filed, the NYPD will administratively tag the video for further retention. We also plan to work collaboratively with the Civilian Complaint Review Board to make access to body-worn camera recordings of events related to complaints available to both officers and witnesses.

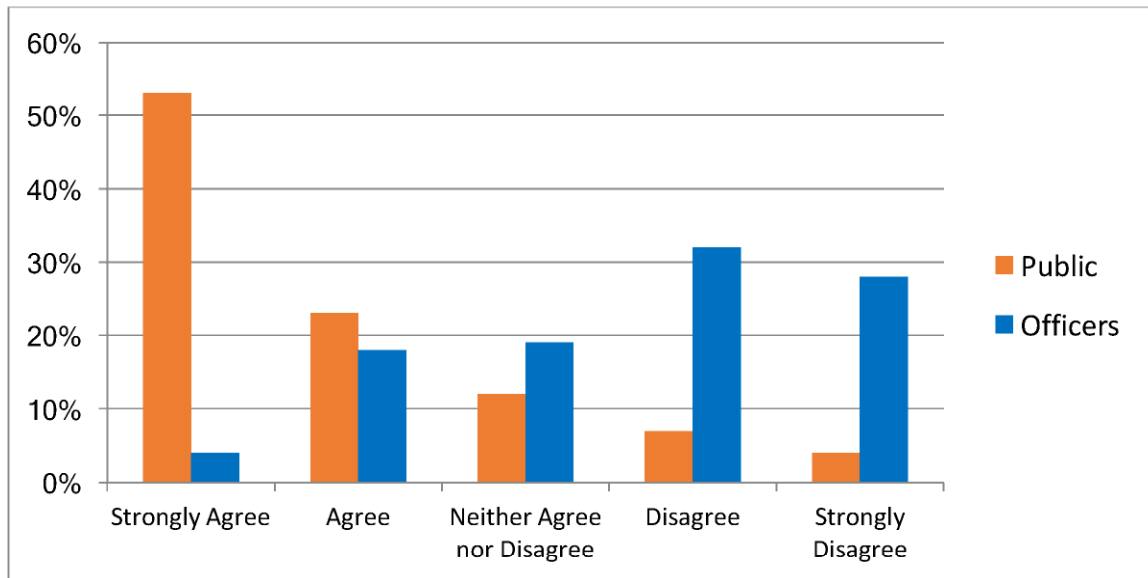
We anticipate developing tags for other events, but developing a tagging matrix requires consultation with the Department’s body-camera vendor. The Department’s contract with the vendor, VieVu, was approved and registered on February 8, 2017, thus allowing meetings to begin with VieVu to customize a video management system, including a tagging matrix.

The Leadership Conference and Color of Change organizations submitted comments urging the NYPD to promptly delete footage once it has surpassed the retention period. The technology that NYPD will use automatically deletes footage when the retention period has expired. No further action by NYPD is required.

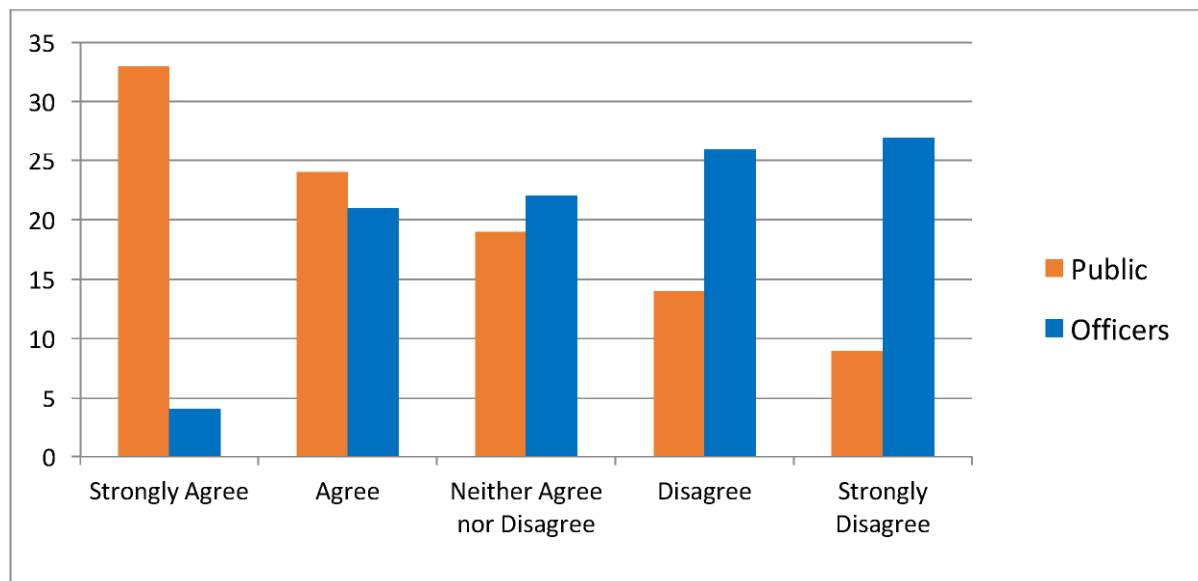
RELEASE OF BODY-WORN CAMERA RECORDINGS:

Officers and the public were asked whether they agreed or disagreed with this statement: *“If a person has an interaction with an officer wearing a body-worn camera, the NYPD should be required to show that person the footage upon request.”* Here is how they responded:

²⁰ Appendix B, Step 13.



Participants were then presented with a similar question, this time concerning a media or advocacy group request. They were asked whether they agreed or disagreed with this statement: *“If a person has an interaction with an officer wearing a body-worn camera, and a news reporter or advocacy group requests the footage, the department should be required to give it to them.”* Here is how they responded:



Overall, the public favored release of the videos, particularly when the requests were from “first party requesters” seeking videos of their own personal interactions with the police. The officer participants expressed much less support for disclosure.

There is an important exception with respect to release of body-worn camera footage: if a person is arrested and has a pending criminal case, and seeks body camera footage related to his or her arrest, he or she may not come to the NYPD to circumvent the standard discovery process between the prosecution and the defense. Discovery is governed by New York State Criminal Procedure Law. Criminal defendants are entitled to these recordings under the law, but such requests are handled by prosecutors in accordance with existing criminal discovery practices and procedures.

But if someone is, for example, stopped and frisked but *not arrested*, and thereafter seeks to obtain a copy of the body-worn camera recording of the encounter, he or she may do so by filing a first-party Freedom of Information Law (FOIL) request. If the release of the recording is not otherwise precluded by law,²¹ the individual will receive a copy of the recording.

As we prepare to launch our first large-scale deployment of body-worn cameras, we intend to operate within the framework of the Freedom of Information Law. Some commenters and criminal justice stakeholders have expressed a concern that the FOIL process is slow and cumbersome. But it is the law and offers a process with privacy controls that, in our view, is far superior to the live-streaming of NYPD policing online, as some departments have tried to do with sometimes extremely harmful consequences.²²

There were several comments emphasizing the importance of providing clear instructions on how to submit a FOIL request. The NYPD has a standard FOIL request letter that has long been posted on the Department's website.²³ In response to the comments the Department received, we have proposed to adapt this form to facilitate its submission for requesters seeking body camera videos. The proposed revised form is attached as Appendix C. In addition, FOIL requests may be made by email at FOIL@NYPD.ORG and NYC has created a centralized portal, located at <https://a860-openrecords.nyc.gov/new>, where members of the public can request records from any city agency, including BWC footage from the NYPD.

The release analysis can be more complicated when there is a third-party requester. The law requires the Department to perform an analysis of the potential consequences of release of any requested record. That analysis must include an assessment of whether the release would constitute an unwarranted invasion of a person's privacy, or be subject to any legal exceptions.²⁴

²¹ See Public Officers Law § 87. Examples of when NYPD would not be able release video include video of arrests where a criminal case has been dismissed or video that includes a victim of sexual assault.

²² www.nytimes.com/2016/10/23/magazine/police-body-cameras.html?_r=1

²³ http://www.nyc.gov/html/nypd/html/legal_matters/dclm_doc_production_foil.shtml

²⁴ See Public Officers Law § 87

The NYPD performs this type of careful assessment in relation to any third party request, including one from the media or an advocacy group.

The decision to release a body camera video is arguably the most complex when it involves an officer-involved shooting.

The public questionnaire included the question, *"If a body-worn camera captures a high-profile incident of interest to the public, the department should make the footage public ..."* and then the public was given a range of possible responses:

- About half of the public participants (51%) wanted the footage released as soon as possible.
- 25% said the NYPD should release it after it completes an internal investigation.
- 17% said the NYPD should release it at the end of any related court case or judicial proceeding.
- 3% said it should never be released.
- 5% had no opinion.

If an officer uses deadly force against a member of the public, as described above, units within the NYPD are engaged, including the Force Investigation Division and the Internal Affairs Bureau, and a complete internal investigation is conducted. In addition, often the local District Attorney's Office or the New York State Attorney General's Office conducts an investigation into the incident.

When an officer's use of force appears to be clearly unjustified, there may be a summary arrest, or a grand jury may be convened immediately. In such situations, the ethical Rules of Professional Conduct that bind prosecutors may prohibit the release of the footage.²⁵

However, in many cases, the internal and external investigations may take weeks or months. The NYPD is studying the various approaches²⁶ that other police departments take when releasing

²⁵ See RPC 3.6(b)(5) at <http://www.nycourts.gov/rules/jointappellate/NY-Rules-Prof-Conduct-1200.pdf>

²⁶ Most police departments do not have set policies. A few have formal policies or consistently followed informal policies. In Chicago, an independent agency must release video footage within 60 days, unless the Chicago Police Department asks for an additional 30 days in writing. Los Angeles will not publicly release any video, unless it is needed in a court proceeding. Police in San Diego County will release video after the San Diego County District Attorney's Office has reviewed the incident and provided its findings to the police agency. If criminal charges are filed, then release will be delayed pending the criminal trial. In Washington D.C., the Mayor may, in matters of public interest, after consulting with the Chief of Police and the U.S. Attorney's Office, release body-worn camera recordings that would not otherwise be releasable under FOIA. Las Vegas releases video of fatal police shootings approximately 3-5 days after the incident, along with additional details about the shooting. In New Orleans, within 48 hours of critical incident, the Public Integrity Bureau (PIB) provides recordings to partner agencies. Within 7 days, PIB makes a recommendation on the release of video. Partner agencies may submit objections. Within 9 days of incident, the Superintendent makes a determination on the release of recordings.

video of police shootings. In Ferguson, Charlotte, New York and elsewhere, we have seen how civilian deaths caused by an officer's use of deadly force can cause significant pain and disruption in a community. It may be appropriate in some cases to release a recording of the event in an effort to be transparent, answer questions, and ease unrest. But body-worn cameras are not a panacea, and will not necessarily answer all questions in the wake of an officer-involved shooting. We must confront these situations with our partner criminal justice agencies with the goals of being transparent and fair – to everyone.

PART III: OTHER ISSUES

As noted in the introduction, many individuals and organizations submitted supplemental comments on the proposed policy that raised issues not covered by the questionnaire itself or the posted procedure. More than 20,000 comments were submitted and our academic partners did an exceptional job of summarizing the major themes that emerged through these comments. We attempt to address some of them in this section.

EVALUATING THE PILOT

Several organizations commented on the need for a comprehensive and transparent assessment of our body-worn camera program to determine whether the benefits of body-worn cameras do in fact outweigh the costs. Communities United for Police Reform and the Data and Society Research Institute noted that there should be an independent, evidence-based evaluation of the program's efficacy.

The Department's new pilot will undergo a robust evaluation. Professor Anthony Braga, an expert on the federal monitor's team, has designed a randomized control trial that will inform the monitor and our Department whether the presence of cameras affects the quality of stops, the number of civilian complaints, uses of force, officer injuries, resisting arrest charges, arrests, summonses, outcomes of CCRB complaints, lawsuits, and other important metrics.²⁷

AUDITING

The Legal Aid Society commented that "there should be mechanisms for auditing when footage has been accessed and by whom." The New York State Black, Puerto Rican, Hispanic, and Asian Legislative Caucus, The Brennan Center for Justice, and the Hispanic Bar Association noted that the proposed policy posted online had insufficient auditing protocols. And as noted above, many participants commented that they were concerned officers would alter the recordings.

²⁷ Readers can learn more about the next pilot's design by going to the federal monitor's website at nypdmonitor.org

The technology the Department will use addresses some of these concerns. It will not allow an officer to alter the original recording, and it will create an “audit trail” of any viewings of any recording.

We have also added audit provisions to our policy: supervisors will be tasked to review a certain number and kind of events pursuant to a “self-inspection” plan now being developed.

TRAINING

The Brennan Center for Justice noted that nothing in our policy addresses training for officers. Plans for training are not normally covered by the wording of an NYPD procedure itself, but NYPD officers will certainly receive training on the final procedure and the equipment before they are outfitted with body-worn cameras.

The NYPD is planning to provide a full day of training to the officers before they receive the cameras. This training will cover the content of the procedure and will also familiarize them with how to use the cameras and with the video management system. We plan to deliver this training through both lecture-based instruction and hands-on, scenario-based exercises.

This one-day training at the Police Academy will be followed by 90 days of field training. Training sergeants will review any mistakes made by officers, issue corrective instructions and provide general guidance as to the proper use of body-worn cameras.

BIOMETRIC TECHNOLOGIES

Some commenters urged the NYPD to make a commitment not to use biometric technologies in conjunction with stored body-worn camera recordings. In our next pilot, the NYPD does not plan to include biometric technologies, such as facial-recognition software, as a feature of our video management system. The cameras that the NYPD will use in our upcoming pilot will not have capabilities that significantly differ from the human eye: they will not have night vision, infrared, x-ray, or other such capabilities.

CONCLUSION

The comments we received from the public and officers were carefully considered and made a difference.

We have made changes to the proposed procedure based on the comments we received. We are aware that in some cases our proposed procedure differs from a majority opinion. In the cases where we differ, we have attempted to explain our reasoning. Ultimately we are seeking a policy that is fair and reasonable for everyone. We now await approval of our proposed procedure from the monitor and will continue to evaluate our final procedure as the pilot progresses.

APPENDIX A

RESULTS OF THE POLICE OFFICER QUESTIONNAIRE:

1) Have you or an officer you've worked with worn an NYPD issued body-worn camera?

Yes	5%
No	95%

2) If you were offered an opportunity to volunteer to wear a body-worn camera, would you volunteer?

Yes, Definitely	25%
Very Likely	19%
Somewhat Likely	27%
No, Definitely Not	29%

3) In general, members of the public treat police officers with respect:

Strongly Agree	2%
Agree	27%
Neither Agree nor Disagree	21%
Disagree	31%
Strongly Disagree	19%

4) In general, police officers treat members of the public with respect:

Strongly Agree	24%
Agree	64%
Neither Agree nor Disagree	9%
Disagree	2%
Strongly Disagree	1%

5) Will police use of body-worn cameras cause the following it improve or worsen?

	Police-Community relations and public trust	Public Safety	Officer Safety	Conduct of members of the public when interacting with officers	Conduct of officers when interacting with members of the public
Improve	40%	36%	49%	45%	55%
No Change	49%	55%	36%	40%	37%
Worsen	11%	10%	15%	15%	8%

6) Officers should be required to use body-worn cameras to record²⁸:

Arrests	74%
Searches within the home	65%
Searches on the street	60%
Vertical patrols of public housing buildings	60%
Uses of force	66%
Pedestrian stops/frisks	61%
Traffic stops	77%
Witness interviews	49%
Anytime an officer approaches someone as part of investigating criminal activity	58%
Anytime an officer approaches someone to ask a questions	29%
Any interactions with members of the public	26%

7) An officer who approaches a citizen in a public space like a store or on the sidewalk should be required to tell that person that the camera is recording:

As soon as the officer approaches the person	2%
As soon as possible, without compromising officer safety or other important law enforcement interests	23%
Never	65%
No Opinion	10%

²⁸ When responders chose "Any interaction with members of the public," they were assumed to have indicated all other areas as well.

- 8) An officer who enters a person's home should be required to tell that person that the camera is recording:

As soon as the officer enters	4%
As soon as possible, without compromising officer safety or other important law enforcement interests	36%
Never	50%
No Opinion	10%

- 9) If a person asks an officer to turn off a camera, the officer should:

Immediately turn off the camera	0%
Be allowed to keep the camera on for his own safety or that of others	21%
Be allowed to keep the camera on to record evidence	4%
Be allowed to keep it on for both his and others' safety and to record evidence	71%
No opinion	4%

- 10) I am concerned that the department will use body-worn camera video to penalize officers for minor violations, even when the video shows that their police work was handled appropriately.

Strongly Agree	57%
Agree	24%
Neither Agree nor Disagree	10%
Disagree	7%
Strongly Disagree	1%

- 11) If a person has an interaction with an officer wearing a body-worn camera, the NYPD should be required to show that person the footage if that person requests to see it at a later date following the interaction.

Strongly Agree	4%
Agree	18%
Neither Agree nor Disagree	19%
Disagree	32%
Strongly Disagree	28%

- 12) If a person has an interaction with an officer wearing a body-worn camera, and a news reporter or advocacy group files a freedom of information request to view the footage, the NYPD should be required to give it to them.

Strongly Agree	4%
Agree	21%
Neither Agree nor Disagree	22%
Disagree	26%
Strongly Disagree	27%

- 13) An officer should be permitted to view a recording from his own body-worn camera:

Any time, including before he prepares a report or makes a sworn statement	86%
Any time unless there is a use of force incident, in which case the officer must first submit a report	5%
Only after first submitting a report about the incident, whether or not there is a use of force by the officer	4%
Never	1%
No opinion	4%

- 14) How much access should supervisors have to the video footage of the officers they supervise? A supervisor should be able to review:

Any video that he or she selects	22%
Any video that he or she selects, provided the reviews are tracked and are done to not only address performance deficiencies by also to provide positive feedback	30%
Only videos randomly selected by a neutral NYPD manager	8%
Only videos of incidents involving a civilian complaint or use of force	32%
No videos of officers they supervise	8%

15) In which Patrol Borough/Bureau do you work?

Patrol Borough Bronx	11%
Patrol Borough Brooklyn North	8%
Patrol Borough Brooklyn South	9%
Patrol Borough Manhattan North	7%
Patrol Borough Manhattan South	9%
Patrol Borough Queens North	6%
Patrol Borough Queens South	6%
Patrol Borough Staten Island	2%
Transit	7%
Transportation	2%
Detective	11%
Housing	6%
Other	17%

16) What is your current rank?

Police Officer/Detective	67%
Sergeant	18%
Lieutenant	9%
Captain or above	6%

17) What is your gender?

Male	87%
Female	13%
Other	2%

18) What is your race?

White	55%
Black	10%
White Hispanic	17%
Black Hispanic	4%
American Indian/Alaskan Native	0%
Asian/Pacific Islander	6%
Middle Eastern/Southwest Asian	1%
Other	7%

19) How long have you been a police officer?

Less than 2 years	9%
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2-5 years	15%
6-10 years	20%
11-20 years	39%
20+ years	16%

RESULTS OF THE PUBLIC QUESTIONNAIRE

1) New York City police officers should use body-worn cameras

Strongly Agree	74%
Agree	18%
Neither Agree nor Disagree	4%
Disagree	2%
Strongly Disagree	2%

2) Will use of body-worn cameras cause the following to improve or worsen?

	Police-Community relations and public trust	Public Safety	Officer Safety	Conduct of members of the public when interacting with officers	Conduct of officers when interacting with members of the public
Improve	82%	82%	77%	73%	89%
Worsen	3%	3%	3%	3%	2%
No Change	14%	16%	19%	24%	9%

3) Officers should be required to use body-worn cameras to record:

Arrests	91%
Searches within the home	84%
Searches on the street	87%
Vertical patrols of public housing buildings (NYCHA)	79%
Uses of force	91%
Pedestrian stops/frisks	88%
Traffic stops	85%
Witness interviews	71%
Anytime an officer approaches someone as part of investigating criminal activity	82%
Anytime an officer approaches someone to ask a questions	64%
Any interactions with members of the public	64%

- 4) I would feel comfortable reporting a crime to an officer is recording with a body-worn camera.

Strongly Agree	56%
Agree	24%
Neither Agree nor Disagree	13%
Disagree	4%
Strongly Disagree	3%

- 5) An officer who approaches a person in a public space like a store or on the sidewalk should be required to tell that person that the camera is recording:

As soon as the officer approaches the person	27%
As soon as possible, without compromising officer safety or other important law enforcement interests	46%
Never	14%
No Opinion	13%

- 6) An officer who enters a person's home should be required to tell that person that the camera is recording:

As soon as the officer enters	37%
As soon as possible, without compromising officer safety or other important law enforcement interests	50%
Never	8%
No Opinion	5%

- 7) If a person asks an officer to turn off a camera, the officer should:

Immediately turn off the camera	5%
Be allowed to keep the camera on for the officer's safety or that of others	22%
Be allowed to keep the camera on if necessary to record evidence	7%
Be allowed to keep it on for both the officer's and others' safety and to record evidence	62%
No opinion	4%

- 8) If a person has an interaction with an officer wearing a body-worn camera, the NYPD should be required to show that person the footage upon request.

Strongly Agree	53%
Agree	23%
Neither Agree nor Disagree	12%
Disagree	7%
Strongly Disagree	4%

- 9) An officer should be permitted to view a recording from his own body-worn camera:

Anytime, including before writing a report or giving a sworn statement	27%
Anytime, unless there is an incident involving the use of force, in which case the officer must first write a report	19%
Only after first writing a report about the incident, whether or not there is a use of force by the officer	43%
Never	6%
No opinion	5%

- 10) If a person has an interaction with an officer wearing a body-worn camera, and a news reporter or advocacy group requests the footage, the NYPD should be required to give it to them.

Strongly Agree	33%
Agree	24%
Neither Agree nor Disagree	19%
Disagree	14%
Strongly Disagree	9%

- 11) If a body-worn camera captures a high-profile incident of interest to the public, the department should make the footage public:

As soon as possible	51%
After it completes and investigation	25%
At the end of any court case or judicial proceeding	17%
Never	3%
No opinion	5%

12) When was your most recent interaction with a New York City Police Officer?

Within the past month (30 Days)	21%
More than 1 month ago but within the last year	23%
More than 1 year ago, but less than 5 years	25%
More than 5 years	11%
Never	20%

13) I believe that NYPD officers treat members of the public with courteousness and respect:

Always	7%
Mostly	44%
Sometimes	40%
Rarely	1%
Never	8%

14) What is your race?

White	60%
Black	15%
White Hispanic	8%
Black Hispanic	3%
American Indian/Alaskan Native	<1%
Asian/Pacific Islander	6%
Middle Eastern/Southwest Asian	1%
Other	7%

15) What is your gender?

Male	50%
Female	49%
Other	1%

16) How old are you?

Under 13	<1%
13-17	1%
18-25	18%
26-34	39%
35-54	29%
55-64	8%
65 or over	6%

17) Which borough do you live in?

Brooklyn	34%
Bronx	8%
Manhattan	28%
Queens	19%
Staten Island	3%
Not a New York City Resident	8%

18) Do you live in a New York Housing Authority (NYCHA) or Trespass Affidavit Program (TAP) building?

Yes, NYCHA	3%
Yes, TAP	1%
No	92%
I'm not sure	4%

APPENDIX B



DRAFT OPERATIONS ORDER

SUBJECT: **PILOT PROGRAM - USE OF BODY-WORN CAMERAS**

DATE ISSUED:

NUMBER:

03-22-17

DRAFT 16

1. The Department will be issuing “Body-Worn Cameras” (BWCs) to certain uniformed members of the service assigned to the 13, MTN, 25, 30, 34, 42, 43, 44, 47, 48, 60, 63, 67, 71, 72, 79, 102, 105, 115, and 121 Precincts. The BWC pilot program will serve to provide a contemporaneous, objective record of encounters, facilitate review by supervisors, foster accountability, and encourage lawful and respectful interactions between the public and the police. The program will be examined to determine whether BWCs contribute to officer safety, provide evidence for criminal prosecutions, help to resolve civilian complaints, reduce unconstitutional *Terry* stops, and foster positive relations with the community.

2. Therefore, effective immediately, when a uniformed member of the service has been issued a Body-Worn Camera, the following procedure will be complied with:

PURPOSE To visually and audibly record certain interactions between uniformed members of the service and the public for official law enforcement purposes.

SCOPE The Department is issuing Body-Worn Cameras (BWC) to certain uniformed members of the service. This procedure applies to all uniformed members of the service issued a BWC as well as personnel responsible for supervising, supporting and maintaining the use of BWCs.

PROCEDURE When a uniformed member of the service is assigned a “Body-Worn Camera” (BWC):

UNIFORMED MEMBER OF THE SERVICE

1. Prior to roll call:
 - a. Retrieve the personally assigned BWC from the docking station
 - b. Inspect the BWC to ensure that the battery is fully charged and the device is operational
 - c. Position the BWC to facilitate the optimal recording field of view. This will normally entail attaching it to the outermost garment in the center of the chest using the mounting hardware provided.
2. Utilize BWC only when personally issued and authorized by the Department to record official activity while on-duty.
 - a. The use of any non-Department issued recording device is strictly prohibited.
3. Notify the desk officer if a BWC is not functioning properly, becomes damaged or is otherwise unaccounted for at any point during the tour and document notification in **ACTIVITY LOG (PD112-145)**.

NOTICE OF BWC RECORDING

**UNIFORMED
MEMBER OF
THE SERVICE**

4. As soon as reasonably practical, notify members of the public that an interaction is being recorded, unless notification could compromise the safety of any person or impede an investigation.
 - a. Suggested notification: *"Sir/Ma'am, I am wearing a body-camera and this encounter is being recorded."*
 - b. Consent is not required to start or continue recording.

MANDATORY ACTIVATION OF BWC

**UNIFORMED
MEMBER OF
THE SERVICE**

5. Activate BWC prior to engaging in, or assisting another uniformed member of the service with, the following police actions:
 - a. Arrests
 - b. Summonses, except for a Notice of Parking Violation (parking violation summons) unless the owner/operator of the vehicle is present
 - c. Vehicle stops
 - d. Interactions with persons suspected of criminal activity
 - e. A search of an individual and/or his/her belongings, except for strip searches
 - f. Interactions with an emotionally disturbed person
 - g. Use of force as defined in *P.G. 221-03, "Reporting and Investigation of Force Incident or Injury to Persons During Police Action"*
 - h. Public interactions that escalate and become adversarial
 - i. Responding to the scene of crime-in-progress calls, including radio code signals 10-10, 10-13, 10-30 series, 10-85 (excluding administrative assistance), calls for service involving a weapon, and Shot Spotter activations
 - j. Interior patrols of New York City Housing Authority buildings as well as any privately-owned building. The BWC must be activated upon entering the building and will not be deactivated until exiting the building and terminating the interior patrol along with any associated police action, if any.
6. Notify patrol/unit supervisor when there is a failure to record a mandatory event as described in step "5."
 - a. Document notification in **ACTIVITY LOG**.

EXIGENT CIRCUMSTANCES

**UNIFORMED
MEMBER OF
THE SERVICE**

7. Activate the BWC as soon as it is feasible and safe to do so after taking necessary police action to preserve human health and safety. At no time should proper tactics be compromised to begin a recording.

DISCRETIONARY ACTIVATION OF BWC

**UNIFORMED
MEMBER OF
THE SERVICE**

8. Uniformed members of the service may record other official activities when, in the uniformed member's judgment, it would be beneficial to record, so long as it is not one of the prohibited recordings described in step "10."

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DEACTIVATION OF BWC

UNIFORMED MEMBER OF THE SERVICE

9. Once the BWC has been activated, continue recording until the investigative or enforcement action is concluded.
 - a. In the case of an arrest, continue recording until the prisoner is lodged at the command for arrest processing.
 - b. The UMOS may choose to deactivate the BWC upon the request of a member of the public if a suspect is not present, and it is safe and advisable to do so after considering all the circumstances, including the requester's desire for privacy or confidentiality.

PROHIBITED BWC RECORDINGS

UNIFORMED MEMBER OF THE SERVICE

10. Do not activate the BWC for any of the following:
 - a. Performance of administrative duties or non-enforcement functions
 - b. Routine activities within Department facilities
 - c. Departmental meetings or training
 - d. Off-duty employment including paid detail assignments
 - e. Interviewing a current or potential confidential informant
 - f. Undercover officers
 - g. Interviewing the victim of a sex crime, as soon as the nature of the offense becomes apparent
 - h. Strip searches
 - i. When present in a court facility, except for the immediate lodging of a prisoner
 - j. The inside of a medical facility unless engaging in a police action as listed under step "5."
11. Notify patrol/unit supervisor if a prohibited event as described in step "10" was recorded.
 - a. Document notification in **ACTIVITY LOG**.

DEMONSTRATIONS AND CIVIL DISOBEDIENCE

UNIFORMED MEMBER OF THE SERVICE

12. Record only if engaged in one of the actions listed in step "5" above (Mandatory Activation of BWC) and in uniform.
 - a. The Technical Assistance and Response Unit (TARU) remains solely responsible for documenting protests, demonstrations, political events, etc., by means of photos and/or video.

DOCUMENTATION, MAINTENANCE AND NOTICES FOR CASE USE

UNIFORMED MEMBER OF THE SERVICE

13. Use the video management system software to "categorize" or "tag" videos based upon the nature of the event utilizing the drop-down menu provided.
14. Document in **ACTIVITY LOG** and the appropriate caption or in the narrative of any Department report prepared (e.g., **STOP REPORT (PD383-153)**, **THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET (PD370-154)**, **AIDED REPORT**,

OPERATIONS ORDER NO. DRAFT 16

**UNIFORMED
MEMBER OF
THE SERVICE
(continued)**

COMPLAINT REPORT (PD313-152), ON LINE BOOKING SYSTEM ARREST WORKSHEET (PD244-159), etc.) when an incident has been captured on a BWC recording.

- a. Include the identity of member(s) recording the event.
15. Insert the BWC into the docking station in the station house for transfer of data and to recharge the battery at the completion of the tour.
16. Notify the following when necessary:
 - a. Appropriate prosecutor when a member of the service has knowledge that any portion of an incident relating to an arrest, prosecution, or other criminal matter before the court is captured by a BWC
 - (1) Identify other members of the service who captured all or part of the event on their BWC
 - (2) Provide copies of related BWC video utilizing the appropriate features of the video management system
 - b. Legal Bureau any time a member of the service becomes aware of potential or actual civil litigation involving a matter captured by a BWC.

VIEWING OF BWC RECORDINGS

**UNIFORMED
MEMBER OF
THE SERVICE**

17. In the performance of their duties, members of the service may view the following BWC recordings:
 - a. Their own BWC recordings, subject to steps “17(c)” and “17(d)”
 - b. BWC recordings made by other members of the service, if the viewing is in furtherance of an investigation, preparation of a case or other official purpose, subject to steps “17(c)” and “17(d)”
 - c. When a member of the service is the subject of an official departmental investigation, or is a witness in an official departmental investigation, the member may view his/her own BWC recording of the incident prior to making a statement under the provisions of *P.G. 206-13, “Interrogation of Members of the Service,”* at a time and place deemed appropriate by the supervisor in charge of the investigation
 - d. When a recording is related to a police firearms discharge, a Level 3 use of force, or a serious injury/death in custody as defined in *P.G. 221.03, Reporting and Investigation of Force Incident or Injury to Persons During Police Action*, the member may view his/her own BWC recording of the incident prior to making a statement under the provisions of *P.G. 206-13, “Interrogation of Members of the Service,”* at a time and place deemed appropriate by the supervisor in charge of the investigation.

FIREARMS DISCHARGES, LEVEL 3 USE OF FORCE AND DEATH/
SERIOUS INJURY IN CUSTODY INCIDENTS

**PATROL
SUPERVISOR/
UNIT
SUPERVISOR**

18. Respond to police firearms discharges, Level 3 uses of force and serious injury/death in-custody incidents and assume command.
 - a. In addition to other necessary actions, obtain and secure BWCs that may contain relevant video from members of the service, documenting which officer had each camera.
 - b. Provide BWCs to Force Investigation Division, Internal Affairs Bureau, or other supervisor in charge of the investigation.
19. Instruct members of the service to deactivate BWC if enforcement action has terminated, the event has been stabilized and interaction with the subject(s) of the police activity has concluded.

SUPERVISORY AND ADMINISTRATIVE FUNCTIONS FOR BWC

**SUPERVISOR
CONDUCTING
ROLL CALL**

20. Provide members performing duty with the platoon sufficient time after the start of their tour but prior to roll call to retrieve their individually assigned BWC from the docking station.
21. Inspect members who are issued BWCs for their personally assigned BWCs and ensure that they are properly affixed to their uniform or outer most garment and functioning properly.

**PATROL
SUPERVISOR/
UNIT
SUPERVISOR**

22. Visit members of the service equipped with BWCs while on assignment and ensure they are recording events and activities as required.
23. Instruct members of the service to deactivate BWC if enforcement action has terminated, the event has been stabilized and interaction with the subject(s) of the police activity has concluded.
24. Conduct an investigation when notified that a member failed to record all or part of an encounter as mandated in step "5."
 - a. Make determination regarding the propriety of the circumstances surrounding the failure to record and notify the desk officer to document results in Command Log.
 - b. Ensure that any resulting failure to record is documented in the uniformed member's **ACTIVITY LOG**.
 - c. Prepare and forward a report on **Typed Letterhead** detailing the investigation, findings, and actions taken to the Chief of Department (through channels).
 - (1) Forward additional copies to the Deputy Commissioner, Information Technology and the Commanding Officer, Risk Management Bureau.
25. Notify the desk officer whenever notified that a member made a prohibited recording as described in step "10."
26. Review BWC video in conformance with the self-inspection program promulgated by the Quality Assurance Division.
27. Periodically review video in addition to the self-inspection program, as appropriate, to provide positive feedback and address any performance deficiencies observed.

- | | |
|--|---|
| DESK OFFICER | <p>28. Account for all BWCs assigned to the command at the start of the tour.</p> <p style="padding-left: 20px;">a. Enter details in the Command Log.</p> <p>29. Conduct an immediate investigation when notified that a BWC is not functioning properly, has become damaged, or is otherwise unaccounted for, and comply with <i>P.G. 217-10, "Accidents – Department Property"</i> or <i>P.G. 219-20, "Loss or Theft of Department Property,"</i> as appropriate, and record discrepancies in the Command Log.</p> <p style="padding-left: 20px;">a. Notify the Information Technology Bureau Service Desk and follow guidance for obtaining a replacement BWC.</p> <p>30. Ensure that all BWCs are returned to their docking station for video upload and/or recharging at the end of tour.</p> <p>31. Notify the commanding officer/duty captain whenever notified that a member made a prohibited recording as described in step "10."</p> |
| INTEGRITY
CONTROL
OFFICER | <p>32. Be responsible for the integrity and security of the BWCs, related hardware and the video management system.</p> <p>33. Supervise review of BWC video in conformance with the self-inspection program promulgated by the Quality Assurance Division.</p> |
| COMMANDING
OFFICER | <p>34. Designate a secure area within the muster room/desk area and under the control of the desk officer for storage of BWCs not being used.</p> <p>35. Conduct an investigation when notified of the recording of an event which is prohibited in step "10."</p> <p style="padding-left: 20px;">a. Prepare and forward a report on Typed Letterhead detailing the investigation, findings, and actions taken to the Chief of Department (through channels).</p> <p style="padding-left: 20px;">b. Forward additional copies to the Deputy Commissioner, Information Technology and the Commanding Officer, Risk Management Bureau.</p> |

***ADDITIONAL
DATA***

OPERATIONAL CONSIDERATIONS

The BWC and related hardware/software, as well as video, audio and data captured by the BWC, irrespective of the content, are at all times the property of the Department. Other than providing copies of BWC video to members of the Department for official purposes (e.g., detectives conducting criminal investigation, etc.) and prosecutors as described above, uniformed members of the service may not copy, publish, share or disseminate any audio, video, image or data to anyone unless authorized by the Police Commissioner. Furthermore, members of the service may not edit, delete or alter any video or audio captured by the BWC or stored on the Department's network or approved storage media.

The default preservation period for BWC video is one year, at which time it will be automatically deleted. Depending upon the "category" or "tag" assigned to the video, certain videos (e.g., arrests) may be retained for longer periods. Commanding officers may request that a BWC recording be retained beyond the prescribed retention period, if necessary. Requests should be submitted through channels to the Deputy Commissioner, Information Technology, detailing the reasons for the request and expected duration of the preservation.

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**ADDITIONAL
DATA
(continued)**

LEGAL CONSIDERATIONS

The Department is required by law to disclose certain information and material related to criminal and civil proceedings pursuant to the New York Criminal Procedure Law, People v. Rosario, rules governing discovery in civil cases, The Freedom of Information Law (F.O.I.L.), subpoenas, and court orders. The Legal Bureau's Document Production Unit will respond to subpoenas, court orders, and F.O.I.L. requests as per P.G. 211-17, "Processing Legal Bureau Requests for Department Records Including Requests Under the Freedom of Information Law." The Internal Affairs Bureau will process requests from the Civilian Complaint Review Board for body-worn camera video as per P.G. 211-14, "Investigations by Civilian Complaint Review Board." Arresting officers will provide the assigned prosecutor with access to all BWC video related to an arrest utilizing the BWC video management system.

Requests by a witness or victim to view a BWC recording must be declined and referred to the appropriate prosecutor handling the case. Confirmatory identifications ("show-ups") must be done in person and not by the witness viewing a BWC video of the suspect. Requests by civilians to view a BWC recording that is not related to a criminal case must be declined and referred to the Legal Bureau's Document Production Unit. Requests for BWC recordings can be made by emailing FOIL@NYPD.ORG or by making a request on New York City's FOIL website at <https://a860-openrecords.nyc.gov/new>

**RELATED
PROCEDURES**

*Accidents – Department Property (P.G. 217-10)
Firearms Discharge by Uniformed Members of the Service (P.G. 221-04)
Guidelines for the Use of Video/Photographic Equipment by Operational Personnel at Demonstrations (P.G. 212-71)
Guidelines for Uniformed Members of the Service Conducting Investigations Involving Political Activities (P.G. 212-72)
Interior Patrol (P.G. 212-59)
Interior Patrol of Housing Authority Buildings (P.G. 212-60)
Interrogation of Members of the Service (P.G. 206-13)
Investigations by Civilian Complaint Review Board (P.G. 211-14)
Investigative Encounters: Requests for Information, Common Law Right of Inquiry and Level 3 Stops (P.G. 212-11)
Loss or Theft of Department Property (P.G. 219-20)
Processing Legal Bureau Requests for Department Records Including Requests Under the Freedom of Information Law (P.G. 211-17)
Reporting and Investigation of Force Incident or Injury to Persons During Police Action (P.G. 221-03)*

**FORMS AND
REPORTS**

ACTIVITY LOG (PD112-145)
COMPLAINT REPORT (PD313-152)
ON LINE BOOKING SYSTEM ARREST WORKSHEET (PD244-159)
STOP REPORT (PD383-153)
THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET (PD370-154)
AIDED REPORT
Typed Letterhead

3. Operations Order 48, series 2014 is hereby **REVOKED**.

4. Commanding officers will ensure that the contents of this Order are immediately brought to the attention of members of their commands.

BY DIRECTION OF THE POLICE COMMISSIONER

DISTRIBUTION

All Commands

OPERATIONS ORDER NO. DRAFT 16

APPENDIX C

DATE: _____

REQUESTOR'S NAME: _____

ADDRESS: _____ APT # _____

CITY: _____ STATE: _____ ZIP: _____

PHONE: (_____) _____

UNDER THE FREEDOM OF INFORMATION LAW, I AM REQUESTING THE FOLLOWING:

(FOR SEALED RECORDS SUBMIT A NOTARIZED REQUEST OR NOTARIZED AUTHORIZATION FOR RELEASE FROM THE ACCUSED IN WHOSE FAVOR A CRIMINAL ACTION OR PROCEEDING WAS TERMINATED)

COMPLAINT REPORT #: _____ **DATE:** _____

PRECINCT # _____ **TIME:** _____

ADDRESS OF COMPLAINANT: _____

VICTIM/COMPLAINANT NAME: _____ **OFFENSE:** _____

ARREST REPORT #: _____ **PRECINCT #** _____ **NAME:** _____

DATE OF ARREST: _____ **D.O.B.:** _____

S.S.# _____ **NYSID#** _____

VICTIM/COMPLAINANT NAME: _____ **CHARGE:** _____

AIDED CARD #: _____ **NAME:** _____

PRECINCT # _____ **DATE:** _____

TIME: _____ **LOCATION:** _____

NATURE OF ILLNESS/INJURY: _____

SPRINT REPORT: (911 CALL) **DATE:** _____ **PRECINCT #** _____ **TIME:** _____

ADDRESS OF CALL: _____ **PHONE (_____)** _____

NAME OF CALLER: _____ **NATURE OF CALL:** _____

PERSONNEL FILE: (SUBMIT A NOTARIZED REQUEST OR NOTARIZED AUTHORIZATION FOR RELEASE) (ONLY FOR RETIRED OR SEPARATED MEMBERS OF THE NYC POLICE DEPARTMENT)

NAME: _____ **TAX#:** _____ **SS#:** _____

DOCUMENT(S) NEEDED: _____

BODY-WORN CAMERA FOOTAGE: **Officer Name (if known):** _____ **Date:** _____

Time: _____ **Location:** _____ **Precinct #:** _____

OTHER (TYPE OF REQUEST): _____ **REPORT #** _____

NAME: _____ **PRECINCT #** _____ **DATE(S):** _____

LOCATION: _____

NAME: (PRINT) _____ **SIGNATURE:** _____