KEY TRENDS IN BODY-WORN CAMERA POLICY AND PRACTICE:
A TWO-YEAR POLICY ANALYSIS OF US DEPARTMENT OF JUSTICE-FUNDED LAW ENFORCEMENT AGENCIES

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Executive Summary

The CNA Corporation, Arizona State University (ASU), and Justice and Security Strategies (JSS) provide training and technical assistance (TTA) to law enforcement agencies who have received funding for body-worn cameras (BWCs) through the US Department of Justice, Bureau of Justice Assistance (BJA) BWC Policy and Implementation Program (PIP). Administrative policy review is a central feature of TTA. The TTA team developed a BWC policy review process to assess the comprehensiveness of BWC policies, which is assessed through a BWC Policy Review Scorecard. This report describes the results of a analysis of policies from both FY 2015 and FY 2016 grantees. More specifically, the analysis includes all FY 2015 grantees which had their Scorecards approved by BJA from January 1, 2016 (the inception of the PIP program) through September 10, 2016 (n=54). The analysis also includes all FY 2016 grantees which had their Scorecards approved by BJA from November 1, 2016 through July 1, 2017 (n=75).

Through review of the 129 agency policies, we have identified 17 key BWC policy trends across seven important BWC issues. Several of the trends involve substantial policy differences between FY 2015 and FY 2016 grantees.

Activation

1. All FY 2015 and FY 2016 agencies mandate and prohibit activation for certain types of encounters. No agency allows full officer discretion on BWC activation.
2. Most FY 2015 and FY 2016 agencies (60%) allow for discretionary activation under certain circumstances.

Deactivation

3. All FY 2015 and FY 2016 agencies provide definitive guidance for BWC deactivation, both for encounters that have ended and for encounters in which BWC recording is no longer permitted. However, officer discretion is a more prominent feature of deactivation than activation.
4. A comparison of FY 2015 and FY 2016 policies indicates that officer discretion in the deactivation decision has become much more prevalent over time. Nearly all FY 2016 policies give officers discretion to deactivate under certain circumstances (compared to 67% for FY 2015 policies).

Citizen Notification

5. Most agencies do not mandate citizen notification of the BWC (22% for FY 2015; 13% for FY 2016).
6. About 40% of agencies recommend, but do not require, citizen notification of the BWC.
A comparison of FY 2015 and FY 2016 policies indicates mandatory notification has become much less common. FY 2016 agencies more commonly left the notification decision to the officer (not mandated or recommended).

**Officer Authority to Review**

The vast majority of FY 2015 (95%) and FY 2016 agencies (98%) allow officers to review BWC footage for routine report writing and court preparation.

Most agencies do not allow an officer unrestricted access to BWC footage during an administrative investigation (31% for FY 2015; 23% for FY 2016). Common stipulations include first completing an interview or report, or requiring additional personnel be present (union representative, investigator, etc.).

A comparison of FY 2015 and FY 2016 policies indicates that officers’ unrestricted access to BWC footage has become less common. With regard to a critical incident, the percentage of agencies that prohibit officer viewing of BWC video until AFTER a statement is given has doubled: from 5% for FY 2015 to nearly 10% for FY 2016.

**Supervisor Authority to Review**

Nearly all FY 2015 (94%) and FY 2016 agencies (99%) permit supervisors to review BWC footage for administrative purposes, such as investigation of citizen complaints and use of force.

A comparison of FY 2015 and FY 2016 agencies indicates that supervisor authority to review line officers’ BWC footage to determine compliance with BWC policy and procedures has become much more common. Nearly all FY 2016 agencies (93%) allow for BWC policy compliance checks by supervisors (50% for FY 2015).

A comparison of FY 2015 and FY 2016 agencies indicates that supervisor authority to review line officers’ BWC footage for general performance evaluation has become much more common. Nearly all FY 2016 agencies (93%) allow supervisors to access BWC footage to assess officer performance (67% for FY 2015).

**Off-Duty Assignment**

The majority of FY 2016 agencies (69%) do not address BWC use during off-duty assignments.

Approximately one-quarter of FY 2016 agencies (28%) mandate BWC use among officers on off-duty assignments.

**Activation during Demonstrations**

The majority of FY 2016 agencies (71%) do not address BWC use during public demonstrations.

Just under 20% of FY 2016 agencies require activation and recording during public demonstrations.
Caveats and Conclusion

The authors undertook this analysis to assess the contours of BWC policy development among participants in BJA’s BWC Policy and Implementation (PIP) grant program. While this analysis provides a unique window into BWC policies, we recognize that our sample may not be representative of national practice or trends. Nevertheless, the report does provide insights into the direction of trends in key policy areas, as well as some benchmarks for agencies involved in BWC policy development and assessment.

This analysis reinforces the tenet that BWC policy should be responsive to local circumstances, as well as the needs of local stakeholders. Moreover, BWC policies should not remain static. BWC policies should continue to evolve as the technology develops, as states weigh in with policy requirements or recommendation, and as BWC technology changes.
Introduction

Over the last four years there has been widespread scrutiny of police use of deadly force against citizens, frequently resulting in public (and sometimes violent) protest. Police body-worn cameras (BWCs) have emerged as a mechanism that many believe can alleviate the police-community relations difficulties that police departments may face (White, 2014), perhaps best demonstrated by strong support from the federal government. In 2015, the US Department of Justice (DOJ) initiated a funding program called the Body-Worn Camera (BWC) Policy and Implementation Program (PIP), whereby law enforcement agencies could seek funding to purchase and deploy police BWCs. The BWC PIP is managed by the Bureau of Justice Assistance (BJA), and in October 2015, BJA awarded more than $19 million to 73 agencies to support the development and implementation of BWC programs. In September 2016, BJA awarded grants to 106 agencies, totaling more than $20 million. In October 2017, BJA announced a third round of awards to more than 80 agencies, totaling approximately $14 million.

As part of the BWC PIP, DOJ created a Training and Technical Assistance (TTA) support system that is available to all grantees (as well as non-funded agencies). The TTA team is led by the CNA Corporation, Arizona State University (ASU), and Justice and Security Strategies (JSS). The TTA team provides a wide range of services and support to PIP grantees, such as webinars, national and regional meetings, on-site support, a speaker’s bureau, best practices technical assistance guides, and access to national experts.

One of the core features of the TTA is a BWC administrative policy review process. Four decades of research clearly demonstrates the importance of administrative policy in guiding police officer discretion across a wide range of field activities, including use of force (deadly and less-lethal), automobile pursuits, and arrest activity (Fyfe, 1988; Walker and Katz, 2013; White and Fradella, 2016). BJA and the TTA team recognize the importance of administrative policy for effective planning, deployment, and management of a BWC program. As a result, the policy review is a critical element of the BWC PIP program.

The BWC PIP Policy Review Process

As part of the PIP grant award process, agencies must submit a BWC administrative policy to the TTA team for review. The TTA team –CNA, ASU, and JSS– developed the BWC Policy Review Scorecard to assess the comprehensiveness of BWC policies (http://www.bwctta.com/resources/bwc-resources/body-worn-camera-policy-review-scorecard). The scorecard rates the comprehensiveness of an agency’s BWC policy across eleven categories (see Table 1). FY 2015 grantees were scored across 17 mandatory and 28 non-mandatory items. For a Scorecard to be approved, each policy had to address the seventeen mandatory items, in addition to receiving an overall score of 36/45, or 80 percent. The scorecard was modified slightly for FY 2016 grantees to include 17 mandatory and 24 non-mandatory items. Policies for FY 2016 grantees had to address the 17
mandatory items, in addition to receiving an overall score of 33/41, or 80 percent. Once a Scorecard is approved by BJA, the agency is able to proceed with their BWC program planning and implementation.

The BWC Policy Review Scorecard rates comprehensiveness of the policy development process and the policy itself, but it is not prescriptive. That is, the policy itself is not approved since the Scorecard is not designed to impose policy prescriptions on an agency. BJA and the TTA team believe the specific content of the policy should be determined locally by the law enforcement agency in consultation with relevant internal and external stakeholders. For example, the Scorecard requires that a policy provide officers with guidance on citizen notification or advisement of the BWC, but it does not dictate the nature of that guidance. A policy may mandate officers to advise citizens of the BWC. Or the policy could recommend (but not require) citizen advisement. Alternatively, the policy may simply state that officers are not required to notify citizens of the BWC. In each of these three examples, the policy would receive a passing grade on the element of the Scorecard because guidance on citizen advisement is provided.

Table 1  
Policy Areas Addressed in the BWC Policy Review Scorecard

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The Policy Analysis

The non-prescriptive approach employed in the Scorecard review process yields variation in how BWC PIP sites design their policies, and creates an opportunity for a BWC policy analysis (e.g., what guidance do agencies provide their officers on key policy issues?). Arizona State University’s Center for Violence Prevention and Community Safety evaluated all FY 2015 PIP sites which had their policies approved by BJA between January 1, 2016 and September 10, 2016 (n=54), and all FY 2016 PIP sites which had their policies approved between November 1, 2016 and July 1, 2017 (n=75). Figure 1 shows the locations of FY 2015 (red) and FY 2016 (blue) sites included in the policy analysis (note: Juneau, Alaska is included in the policy analysis but not pictured in Figure 1). The purpose of the policy analysis is to identify common themes in BWC policy, with an eye toward identifying trends that could serve as a guide for law enforcement agencies nationwide.
The results presented here may not be reflective of national trends, as the analysis relies on a convenience sample of agencies.

This report provides a two-year analysis of five mandatory items on the BWC Policy Review Scorecard, including activation, deactivation, citizen notification, officer authority to review their BWC footage, and supervisory review authority. The authors added two new policy issues for the FY 2016 sites: off-duty assignment and activation during demonstrations. The BWC Policy Review Scorecard assesses administrative policy on many different issues, but for the purposes of this report, we selected issues that we believe are some of the most widely discussed and controversial topics related to BWCs. Based on the policy analysis, we have identified 17 key policy trends related to the seven major issues. The 17 policy trends provide important insights into emerging BWC policy and practice.

**Figure 1 FY 2015 and FY 2016 Grantees**

![Map of FY 2015 and FY 2016 Grantees](image)

**Issue #1: Officer Activation**

One of the most important features of a BWC policy is the guidance given to officers regarding when to activate the camera. Our review of PIP grantee policies uncovered a significant amount of variation in how departments address the activation issue. The source of variation is the degree of discretion departments give their officers on the activation decision. We classified the degree of discretion permitted in activation on a three-level scale: mandatory (no discretion), discretionary, and restricted.
All FY 2015 and FY 2016 policies detail specific circumstances in which an officer shall activate (i.e., mandatory activation) a BWC. Some departments include a general statement mandating that officers shall record all formal encounters with citizens (e.g., “Officers will activate the BWC to record all contacts with citizens in the performance of calls for service”). Alternatively, some departments actually provide a discrete list of incident types in which recording is mandated (e.g., pedestrian stops, car stops, arrests, etc.).

Similarly, nearly all FY 2015 and FY 2016 policies also identify circumstances where activation is NOT to occur (restricted). Examples include privileged conversations (e.g., attorney, spouse, confidential sources), and places where there is an expectation of privacy (e.g., locker rooms).

Approximately 60% of both FY 2015 and FY 2016 policies allow officer discretion in activation if mandatory or restricted criteria are not met (e.g., “The BWC may also be activated whenever the deputy feels its use would be beneficial to his/her sheriff’s office duties”).

Notably, there is remarkable consistency across FY 2015 and FY 2016 grantees in terms of how they address activation in their policies.

**Key BWC Policy Trends**

1. All law enforcement agencies both mandate and prohibit activation for certain types of encounters. No agency allows full officer discretion on BWC activation.
2. Most law enforcement agencies allow for discretionary activation under certain circumstances.

**Issue #2: Officer Deactivation**

It is equally important that BWC policy gives officers clear guidance on when to deactivate the camera. Similar to activation, guidance on deactivation varies based on the degree of officer discretion permitted. For example, 83% of FY 2015 and 84% of FY 2016 policies mandate deactivation when the event has concluded (e.g., “BWCs shall remain activated for the entire duration of an event/encounter/episode and shall not be deactivated until it is concluded”) The remaining 16%-17% of policies are discretionary and avoid the “shall” or “must” language (e.g., “Department personnel may cease recording when he/she reasonably determines that the incident has concluded”).

In addition to a general statement on deactivation, many policies also identify specific circumstances in which officers have discretion to deactivate. Discretionary deactivation clauses address the need to protect persons (e.g., privacy of a crime victim), places (e.g., hospital locations) and information (e.g., tactical or operational discussions) during a police-citizen encounter. In these circumstances, officers may weigh the value of the video against the evidentiary value of information gathered from persons (e.g., if a person will only provide information if the BWC is turned off).
Approximately 67% of FY 2015 policies have discretionary deactivation language. Such language is much more common in FY 2016 policies, as all but one (99%) have discretionary deactivation language.

**Key BWC Policy Trends**

3. All agencies provide definitive guidance for BWC deactivation, both for encounters that have ended and for encounters where BWC recording is no longer permitted. However, officer discretion is a more prominent feature of deactivation than activation.

4. A comparison of FY 2015 and FY 2016 policies indicates the inclusion of discretionary deactivation language has become much more prevalent over time. Nearly all FY 2016 policies give officers discretion to deactivate.

**Issue #3 Citizen Notification**

There are persuasive arguments in favor of notifying a citizen that he or she is being recorded by a BWC. Many of the perceived benefits of BWCs (e.g., transparency, enhanced legitimacy, civilizing effect on behavior) are short-circuited when citizens are unaware of the technology.

Our review indicates that 22% of FY 2015 policies have a mandatory statement on notification (e.g., “Member shall inform all individuals identifiably present as soon as reasonably practical, that their oral/video communications will be or have been intercepted and recorded”). Mandatory notification is less common in FY 2016 policies (13%). Nearly all of these policies prioritize officer safety and/or the practicality of the notification, but advisement of the BWC is mandatory (“shall”).

About 40% of FY 2015 and FY 2016 policies recommend notification but do not require it (e.g., “Officers should inform subjects when they are being recorded, unless doing so would be unsafe, impractical, or impossible”). The remaining policies do not mandate or recommend notification (FY 2015: 37%; FY 2016: 45%); rather the policy simply states that officers are not required to notify (e.g., “Officers are not required to advise citizens they are being recorded”).

**Key BWC Policy Trends**

5. Most agencies do not mandate citizen notification of the BWC.

6. About 40% of agencies recommend, but do not require, citizen notification of the BWC.

7. A comparison of FY 2015 and FY 2016 policies indicates mandatory notification has become much less common. FY 2016 agencies more commonly left the notification decision to the officer (not mandated or recommended).
Issue #4 Officer Review of BWC Footage

The degree to which officers are permitted to review their own BWC footage is a controversial topic. Advocates of officer review point to the fact that BWC footage will increase the accuracy of reports and court testimony, as officers can use video and audio to support or refresh their memory of what has transpired. Critics argue that the BWC footage can color or alter an officer’s memory of an event. This debate is especially contentious in the wake of a critical incident, such as an officer-involved shooting.

Our policy review indicates that nearly all FY 2015 (95%) and FY 2016 (98%) agencies allow routine officer review of BWC footage for report writing and court preparation (e.g., “Officers assigned a BWC are encouraged to review BWC media prior to completing any investigative reports”).

Following a use of force incident, a complaint against an officer, or a critical incident (e.g., police shooting a civilian, or a vehicle pursuit), there is significantly less consensus across departments. Approximately one-third (31%) of FY 2015 agencies allow officers unrestricted access to their BWC footage during an administrative investigation (e.g., “An officer is permitted to review video footage of an incident in which she/he was involved, prior to making a statement regarding the incident. This can occur, for example, if an officer is involved in a shooting and has to give a statement about the shooting that may be used in an administrative review or a criminal or civil court proceeding”). This type of unrestricted access is less common among FY 2016 agencies (23%).

More commonly, agencies allow officers to access their BWC footage, but only after certain stipulations have been meet (FY 2015: 66%; FY 2016: 56%). The most common stipulations are: a union representative is present, a command staff or investigator is present (e.g., “If the officer is involved in, or witness to, a critical incident such as a police shooting, an in custody injury resulting in death or other critical incident, the officer is authorized to view their BWC recording only after the approval of the commander of the Investigations Division or his/her designee”).

Critical incidents are typically addressed separately in BWC policy. Less than 5% of FY 2015 policies state that an officer is NOT permitted to view their BWC footage until AFTER a statement is given. That is, the officer must give the statement first –then he or she can view the BWC footage. This policy position is more common among FY 2016 agencies. Approximately 9% of FY 2016 policies make this same stipulation.

Key BWC Policy Trend

8. The vast majority of agencies allow officers to review BWC footage for routine report writing and court preparation.

9. Most agencies do not allow an officer unrestricted access to BWC footage during an administrative investigation (e.g., complaint, use of force, critical incident). Common stipulations include first completing an interview or report, or requiring additional personnel be present (union representative, investigator, etc.).

10. A comparison of FY 2015 and FY 2016 policies indicates that officers’ unrestricted access to BWC footage has become less common. Less than one-quarter of FY 2016
agencies allow their officers unrestricted access following a use of force, complaint, etc. With regard to a critical incident, the percentage of agencies that prohibit officer viewing of BWC video until AFTER a statement is given has doubled: from 5% for FY 2015 to nearly 10% for FY 2016.

Issue #5: Supervisor Review of BWC

Supervisor review of BWC footage from line officers can occur for a variety of reasons. Our policy review identified three mechanisms of supervisor review: 1) Administrative Review (e.g., citizen complaints, use of force incidents), 2) Compliance Review (e.g., compliance with policy regarding use of BWC) and 3) General Performance Review.

Nearly all FY 2015 (94%) and FY 2016 agencies (99%) allow first line supervisors to access and review the BWC footage of their officers as part of administrative investigations, such as in response to a citizen complaint or use of force (e.g., “Supervisors may review all captured media related to a complaint or incident resulting in a supervisory investigation”). The few policies that do not allow for supervisory review under these circumstances specifically assign the task to other personnel (e.g., internal affairs).

About half of FY 2015 agencies allow supervisors to review BWC footage, usually on a random or periodic basis, to insure compliance with BWC policy and procedures (e.g., “The Inspections Division will conduct random audits to ensure compliance with the policy and procedures of this directive”). This type of review is focused specifically on individual officers’ use of BWCs and whether that use complies with BWC policy. This type of compliance review is much more common among FY 2016 agencies, as 93% allow supervisors to access officer’s footage for BWC compliance checks/audits.

Nearly two-thirds of FY 2015 agencies allow supervisors to access BWC footage of line officers for the purposes of performance review, independent of organizational BWC compliance with policy. This type of review is focused on an officer’s general performance, not specifically on the use of the BWC. Like compliance review, supervisor authority to review BWC footage for officer performance is much more common among FY 2016 agencies (93%). In some cases, supervisors are given full authority to review for performance (e.g., “BWC digital recordings shall be reviewed by supervisory staff for purposes of performance review and performance management”), and in other cases, the review is periodic or random (e.g., “Conduct random weekly reviews of selected recordings in order to assess deputy performance as well as identify videos that may be appropriate for training”).

A handful of agencies limit the performance review to specific officers such as those who are probationary or who have been flagged by an early intervention/warning system (e.g., “Supervisors are permitted to review a deputy’s BWC recordings under the following circumstances... C. When Department members are probationary police officers”).
Key BWC Policy Trends

11. Nearly all agencies permit supervisors to review BWC footage for administrative purposes, such as investigation of citizen complaints and use of force.

12. A comparison of FY 2015 and FY 2016 agencies indicates that supervisor authority to review line officers’ BWC footage to determine compliance with BWC policy and procedures has become much more common. Nearly all FY 2016 agencies allow for BWC policy compliance checks by supervisors.

13. A comparison of FY 2015 and FY 2016 agencies indicates that supervisor authority to review line officers’ BWC footage for performance evaluation has become much more common. Nearly all FY 2016 agencies allow supervisors to access BWC footage to assess officer performance.

Additional FY 2016 Policy Issues

Issue #6: Off-Duty Assignment

During 2017, the issue of off-duty wearing of BWCs drew significant attention. Additionally, several of the PIP sites asked for guidance regarding this issue during their policy development. As a result, the authors examined FY 2016 policies for direct mention of BWC use during off-duty, extra duty, or secondary employment. Examples of these assignments include city overtime assignments, uniformed departmental overtime, special events, detail assignments, traffic details, security details, etc. Further, of the sites that discuss BWC use off-duty, many specify certain ranks that are (or are not) required to use BWCs off-duty. In most cases, Lieutenants and Commanders are not required to use BWCs off-duty. Moreover, the Chief of Police is commonly cited as the decision maker regarding who is assigned BWCs during off-duty assignments.

Of the 75 policies, 69% made no mention of BWC use off-duty. Approximately one-quarter (28%) of agencies require officers in off-duty assignments to use a BWC. The remaining few policies (3%) either dictated that off-duty wear was not required, prohibited, or discretionary.

Key BWC Policy Trends

14. The majority of the FY 2016 agencies do not address BWC use during off-duty assignments.

15. Approximately one-quarter of FY 2016 agencies mandate BWC use among officers in off-duty assignments.

Issue #7: Activation during Demonstrations

Recent events in Charlottesville (VA), Berkeley (CA), and other jurisdictions have highlighted the sensitive issue of deploying BWCs at public demonstrations. The authors searched FY 2016 policies for any mention of BWC use when police are responding to or
handling protests, public events, First Amendment protected events, civil disorder, and crowd control.

Of the 75 policies, 71% did not make any mention of BWC use regarding demonstrations. Approximately 17% of FY 2016 agencies indicate the BWC recording during such events is mandatory. Alternatively, 5% of agencies prohibit BWC recording during demonstrations, protests, etc. The remaining policies (7%) allow supervisors on scene to make determinations regarding the use of BWCs.

**Key BWC Policy Trends**

16. The majority of FY 2016 agencies do not address BWC protocols during public demonstrations.
17. Just under 20% of FY 2016 agencies require activation and recording during public demonstrations.

**Caveats and Conclusion**

The authors undertook this analysis to assess the contours of BWC policy development among participants in BJA’s BWC Policy and Implementation (PIP) grant program. The BWC-PIP program was designed to ensure deliberate and comprehensive policy development as a prerequisite to BWC purchase and implementation. While this analysis provides a unique window into BWC policies and the mechanisms used to implement policies, we recognize that our sample of policies is opportunistic and is not necessarily statistically representative of national practice or trends. It does, however, provide some insights into the prevalence of key practices, the direction of trends, and provides some benchmarks for agencies involved in assessing their own policies.

This analysis reinforces the principles that undergird the BWC-PIP grant program. Foremost, it reinforces the tenet that BWC policy should be responsive to local circumstances and the needs and demands of local stakeholders. BWC policies within individual departments will and should continue evolve as the technology develops, as states weigh in with policy requirements or recommendations, and as BWC technology changes. Technological “advancements” being marketed with increasing frequency include facial recognition, speech-to-text capabilities, and wireless upload of digital footage. BWC technology and practices will evolve continually, so a department’s policy must not remain static. We look forward to working with our partners at BJA to provide future analysis of BWC policies.

**References**


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http://cvpcs.asu.edu/products/evaluating-impact-officer-worn-body-cameras-phoenix-police-department. He recently served as one of two primary authors of the US Department of Justice Body-Worn Camera Toolkit (https://www.bja.gov/bwc/) and currently serves as a senior advisor to the Bureau of Justice Assistance on its Body-Worn Camera Training and Technical Assistance Team.