



2015 SEP 21 AM 9:55  
OFFICE OF THE  
SECRETARY

MURIEL BOWSER  
MAYOR

SEP 21 2015

The Honorable Phil Mendelson  
Chairman, Council of the District of Columbia  
John A. Wilson Building  
1350 Pennsylvania, NW, Suite 504  
Washington, DC 20004

Dear Chairman Mendelson:

Attached please find the "Metropolitan Police Department Body-Worn Cameras Approval Resolution of 2015."

This resolution will approve rules regulating the release of video recorded as a result of police interaction. The rulemaking provides standards for public access to the Metropolitan Police Department (MPD) body-worn camera (BWC) recordings; policies for retaining BWC recordings; procedures for auditing the BWC program; and policies for protecting the security and integrity of the BWC data. In addition to this rulemaking, the MPD has issued a policy directive to its members with requirements on their usage of body-worn cameras.

I urge the Council to take prompt and favorable consideration of this resolution.

Sincerely,

A handwritten signature in black ink, appearing to read "Muriel Bowser".

Muriel Bowser

  
Chairman Phil Mendelson  
at the request of the Mayor

A PROPOSED RESOLUTION

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Chairman Phil Mendelson, at the request of the Mayor, introduced the following resolution, which was referred to the Committee on \_\_\_\_\_.

To approve the proposed rules to amend Title 24 (Public Space and Safety) of the District of Columbia Municipal Regulations.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Metropolitan Police Department Body-Worn Cameras Approval Resolution of 2015.”

Sec. 2. Pursuant to Section 3003(c) of the Fiscal Year 2016 Budget Support Emergency Act of 2015, effective July 27, 2015 (D.C. Act 21-127; 62 DCR 10201 (July 31, 2015)), the Council approves the proposed rules, published at 62 DCR \_\_\_\_\_, to amend Title 24 of the District of Columbia Municipal Regulations.

Sec. 3. The Council adopts the fiscal impact statement contained in the committee report as the fiscal impact statement required by section 603(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. The Secretary of the Council shall transmit a copy of this resolution, upon its adoption, to the City Administrator and the Chief of Police of the Metropolitan Police Department.

Sec. 5. This resolution shall take effect immediately.

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Office of the Attorney General



Legal Counsel Division

**MEMORANDUM**

**TO:** Lolita S. Alston  
Director  
Office of Legislative Support

**FROM:** Janet M. Robins  
Deputy Attorney General  
Legal Counsel Division

**DATE:** September 11, 2015

**SUBJECT:** Legal Sufficiency Review of Draft Bill, the "Metropolitan Police Department Body-Worn Cameras Approval Resolution of 2015"  
(AE-15-581)

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**This is to Certify that** this Office has reviewed the above-referenced resolution and that we have found it to be legally sufficient. If you have any questions in this regard, please do not hesitate to call me at 724-5524.

A handwritten signature in cursive script, appearing to read "JMR/a. Parker", is written over a horizontal line.

Janet M. Robins

## OFFICE OF THE CITY ADMINISTRATOR

### NOTICE OF PROPOSED RULEMAKING

The City Administrator, on behalf of the Mayor, pursuant to the authority under section 3003 of the Fiscal Year 2016 Budget Support Emergency Act of 2015, effective July 27, 2015 (D.C. Act 21-127; 62 DCR 10201 (July 31, 2015)) (the Act), and Mayor's Order 2015-36, dated January 9, 2015, hereby gives notice of the intent to adopt a new Chapter 39 (Metropolitan Police Department Body-Worn Cameras) of Title 24 (Public Space and Safety) of the District of Columbia Municipal Regulations (DCMR) in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

This rulemaking provides standards for public access to the Metropolitan Police Department (MPD) body-worn camera (BWC) recordings; policies for retaining BWC recordings; procedures for auditing the BWC program; and policies for protecting the security and integrity of the BWC data. In addition to this rulemaking, the MPD has issued a policy directive to its members with requirements on their usage of body-worn cameras. The MPD General Order 302.13 (Body-Worn Camera Program) is publicly available at: <http://mpdc.dc.gov/page/written-directives-general-orders>. Legislation will be submitted by the Mayor to the Council of the District of Columbia to further supplement this rulemaking's provisions related to public access to BWC recordings.

Pursuant to section 3003(c) of the Act, the proposed rulemaking will be submitted to the Council of the District of Columbia for a forty-five (45) day period of review, and final rulemaking action will not be taken until the later of thirty (30) days after the date of publication of this notice in the D.C. Register or Council approval of the amendment.

**A new Chapter 39 (METROPOLITAN POLICE DEPARTMENT BODY-WORN CAMERAS) is added to Title 24 (PUBLIC SPACE AND SAFETY) of the DCMR to read as follows:**

#### **CHAPTER 39 METROPOLITAN POLICE DEPARTMENT BODY-WORN CAMERAS**

<b>Sec.</b>	<b>Title</b>
<b>3900</b>	<b>General Provisions</b>
<b>3901</b>	<b>Retention of Body-Worn Camera Video</b>
<b>3902</b>	<b>Access to Body-Worn Camera Video</b>
<b>3903</b>	<b>Body-Worn Camera Audits and Data Protection</b>
<b>3999</b>	<b>Definitions</b>
 <b>3900</b>	 <b>GENERAL PROVISIONS</b>
 3900.1	 The purpose of this chapter is to implement section 3003 of the Fiscal Year 2016 Budget Support Emergency Act of 2015, effective July 27, 2015 (D.C. Act 21-127; 62 DCR 10201 (July 31, 2015)), regarding the Metropolitan Police Department's body-worn camera (BWC) program.



- 3900.2 The intent of the BWC program is to promote the public trust, enhance service to the community by accurately documenting events and any interactions and statements made during encounters between MPD officers and the public, and ensure the safety of both MPD officers and the public.
- 3900.3 In addition to these regulations, the Chief of Police of the Metropolitan Police Department (Department) may issue policy directives to members; those policy directives can be found on the Department website: <http://mpdc.dc.gov/page/written-directives-general-orders>.
- 3900.4 MPD officers may record First Amendment assemblies for the purpose of documenting violations of law and police actions, as an aid to future coordination and deployment of law enforcement units, and for training purposes; provided, that recording First Amendment assemblies shall not be conducted for the purpose of identifying and recording the presence of individual participants who are not engaged in unlawful conduct.
- 3900.5 MPD officers shall not create BWC recordings when they are at or in close proximity to a school and are engaged in non-critical contacts with students or mediating minor incidents involving students.
- 3900.6 The Mayor may, on a case-by-case basis in matters of significant public interest and after consultation with the Chief of Police and the U.S. Attorney's Office, release BWC recordings that would otherwise not be releasable pursuant to a FOIA request. Examples of matters of significant public interest include, but are not limited to, MPD officer-involved shootings, significant use of force by an MPD officer, and assaults on an officer requiring hospitalization.

### **3901 RETENTION OF BODY-WORN CAMERA VIDEO**

- 3901.1 Unless subject to the requirements of § 3901.2, a BWC recording shall be retained by the Department for not more than ninety (90) calendar days from the date the recording was created.
- 3901.2 The Department shall, through a policy directive, establish retention schedules for a BWC recording that contains the following types of footage:
- (a) Criminal investigations;
  - (b) Conduct by an MPD officer or civilian employee that is under investigation;
  - (c) Death investigations;
  - (d) Other categories of footage that the Chief of Police believes should be retained; and
  - (e) BWC recordings that the Department has actual or constructive knowledge may be:

- (1) Subject to civil litigation;
- (2) Subject to a Freedom of Information Act request; or
- (3) Used for training purposes by the Department.

**3902 ACCESS TO BODY-WORN CAMERA VIDEO**

3902.1 The Department shall make unredacted BWC recordings available to the United States Attorney's Office, the Office of the Attorney General, and the Office of Police Complaints.

3902.2 The Department shall make BWC recordings available to law enforcement officers or investigatory agencies, such as the Office of the Inspector General and the Office of the District of Columbia Auditor, when necessary for the discharge of the officers' or agencies' current official duties; provided, that the cost of any redactions required to protect an individual's privacy, ongoing criminal investigations, or law enforcement sources and methods shall be borne by the Department.

3902.3 The Department shall make BWC recordings available for viewing at a District police station in the following situations:

(a) A person alleging non-criminal misconduct related to an interaction with an MPD officer, such as rudeness or unprofessionalism on the part of the officer, shall be able to schedule a time to view unredacted BWC footage of the incident at the police station in the police district where the alleged misconduct occurred; provided, that:

- (1) The person shall not make a copy of the BWC recording; and
- (2) The unredacted BWC recording would not violate the individual privacy rights of any other subject(s) of the recording.

(b) A person who is the subject of a BWC recording in a non-criminal case shall be able to schedule a time to view unredacted BWC footage of the incident at the police station in the police district where the incident occurred; provided, that:

- (1) The person shall not make a copy of the BWC recording; and
- (2) The unredacted BWC recording would not violate the individual privacy rights of any other subject(s) of the recording.

(c) To receive a copy of the BWC recording, a person under subsections (a) or (b) of this section shall file a FOIA request with the Department; provided, that there shall be no cost to the person for the production of the FOIA request footage. Upon receipt of the copy of the BWC recording, the person may further copy or distribute the BWC recording.

- 3902.4 The Department shall, through a policy directive, develop procedures to implement this chapter and District law.
- 3902.5 An individual seeking to obtain a copy of BWC footage not covered by the provisions of §§ 3902.1, 3902.2, or 3902.3, may submit a FOIA request to the Department for a copy of the footage, which may be provided in redacted form in accordance with applicable law and regulation.
- 3902.6 The Department may form research partnerships with academic institutions and organizations to examine the impact of the BWC program on community-law enforcement interactions; provided, that any such partnerships shall require the protection of any information or unredacted BWC recordings received by the researchers.

### **3903 BODY-WORN CAMERA AUDITS AND DATA PROTECTION**

- 3903.1 The Department shall conduct audits of the BWC program to assess the following:
- (a) Officer compliance with these regulations and any policy directives issued by the Department;
  - (b) Impact of the BWC program on reports submitted by officers;
  - (c) Officer training and equipment needs;
  - (d) Individuals' privacy rights are being properly protected; and
  - (e) Proper and secure access is being maintained to the shared or retained BWC recordings.
- 3903.2 The Department shall regularly monitor the business practices of any third-party entity providing services to the BWC program to ensure individuals' privacy rights are protected.
- 3903.3 The Department may enter into agreements with other government agencies to provide access to the BWC recordings; provided, that any such agreement shall require the other agency to adhere to the individual privacy protections contained in these regulations or any policy directives issued by the Department.
- 3903.4 The Department shall strictly control access to the BWC recordings and shall use technology that logs the identity of each user who accesses the BWC recordings.
- 3903.5 The individual who makes a BWC recording shall not have access to delete the recording.
- 3903.6 The deletion of any BWC recording shall be tightly restricted and shall require justification for the deletion.

3903.7 The Department shall regularly monitor its BWC recordings data protection policies.

**3999 DEFINITIONS**

3999.1 When used in this chapter, the following terms and phrases shall have the meanings ascribed:

**BWC** – means the Metropolitan Police Department’s body-worn camera program.

**Department** – means the Metropolitan Police Department.

**FOIA** – means Title II of the District of Columbia Administrative Procedure Act, effective March 25, 1977 (D.C. Law 1-96; D.C. Official Code §§ 2-531 *et seq.*).

All persons interested in commenting on this proposed rulemaking action may submit comments in writing to Helder Gil, Office of the City Administrator, 1350 Pennsylvania Avenue, NW, Suite 513, Washington, DC 20004, or via e-mail at [Helder.Gil@dc.gov](mailto:Helder.Gil@dc.gov). Comments must be received no later than thirty (30) days after publication of this notice in the *D.C. Register*. Copies of the proposed rules can be obtained from the address listed above. Copies of this proposal may be obtained, at cost, by writing to the above address.