



Councilmember Kenyan R. McDuffie

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A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To adopt regulations governing the Metropolitan Police Department's Body-Worn Camera Program.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Body-Worn Camera Program Regulations Amendment Act of 2015".

Sec. 2. Title 24 of the District of Columbia Municipal Regulations is amended by adding a new Chapter 39 to read as follows:

"3900. GENERAL PROVISIONS

"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.

31 “3900.3. In addition to these regulations, the Chief of Police of the Metropolitan
32 Police Department (Department) may issue policy directives to members; those policy directives
33 can be found on the Department website: [http://mpdc.dc.gov/page/written-directives-general-](http://mpdc.dc.gov/page/written-directives-general-orders)
34 [orders](http://mpdc.dc.gov/page/written-directives-general-orders).

35 “3900.4. MPD officers may record First Amendment assemblies for the purpose
36 of documenting violations of law and police actions, as an aid to future coordination and
37 deployment of law enforcement units, and for training purposes; provided, that recording First
38 Amendment assemblies shall not be conducted for the purpose of identifying and recording the
39 presence of individual participants who are not engaged in unlawful conduct.

40 “3900.5. MPD officers shall not create BWC recordings when they are at or in
41 close proximity to a school and are engaged in non-critical contacts with students or mediating
42 minor incidents involving students.

43 “3900.6. The Mayor may, on a case-by-case basis in matters of significant public
44 interest and after consultation with the Chief of Police and the U.S. Attorney’s Office, release
45 BWC recordings that would otherwise not be releasable pursuant to a FOIA request. Examples
46 of matters of significant public interest include, but are not limited to, MPD officer-involved
47 shootings, significant use of force by an MPD officer, and assaults on an officer requiring
48 hospitalization.

49 “3901. RETENTION OF BODY-WORN CAMERA VIDEO

50 “3901.1. Unless subject to the requirements of § 3901.2, a BWC recording shall
51 be retained by the Department for not more than ninety (90) calendar days from the date the
52 recording was created.

53 “3901.2. The Department shall, through a policy directive, establish retention
54 schedules for a BWC recording that contains the following types of footage:

55 “(a) Criminal investigations;

56 “(b) Conduct by an MPD officer or civilian employee that is under
57 investigation;

58 “(c) Death investigations;

59 “(d) Other categories of footage that the Chief of Police believes should be
60 retained; and

61 “(e) BWC recordings that the Department has actual or constructive
62 knowledge may be:

63 “(1) Subject to civil litigation;

64 “(2) Subject to a Freedom of Information Act request; or

65 “(3) Used for training purposes by the Department.

66 “3902. ACCESS TO BODY-WORN CAMERA VIDEO

67 “3902.1. The Department shall make unredacted BWC recordings available to the
68 United States Attorney’s Office, the Office of the Attorney General, and the Office of Police
69 Complaints.

70 “3902.2. The Department shall make BWC recordings available to law
71 enforcement officers or investigatory agencies, such as the Office of the Inspector General and
72 the Office of the District of Columbia Auditor, when necessary for the discharge of the officers’
73 or agencies’ current official duties; provided, that the cost of any redactions required to protect
74 an individual’s privacy, ongoing criminal investigations, or law enforcement sources and
75 methods shall be borne by the Department.

76 “3902.3. The Department shall make BWC recordings available for viewing at a
77 District police station in the following situations:

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

82 “(1) The person shall not make a copy of the BWC recording; and

83 “(2) The unredacted BWC recording would not violate the
84 individual privacy rights of any other subject(s) of the recording.

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

88 “(1) The person shall not make a copy of the BWC recording; and

89 “(2) The unredacted BWC recording would not violate the
90 individual privacy rights of any other subject(s) of the recording.

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

95 “3902.4. The Department shall, through a policy directive, develop procedures to
96 implement this chapter and District law.

97 “3902.5. An individual seeking to obtain a copy of BWC footage not covered by the
98 provisions of §§ 3902.1, 3902.2, or 3902.3, may submit a FOIA request to the Department for a

99 copy of the footage, which may be provided in redacted form in accordance with applicable law
100 and regulation.

101 “3902.6. The Department may form research partnerships with academic institutions and
102 organizations to examine the impact of the BWC program on community-law enforcement
103 interactions; provided, that any such partnerships shall require the protection of any information
104 or unredacted BWC recordings received by the researchers.

105 “3903. BODY-WORN CAMERA AUDITS AND DATA PROTECTION

106 “3903.1. The Department shall conduct audits of the BWC program to assess the
107 following:

108 “(a) Officer compliance with these regulations and any policy directives issued by
109 the Department;

110 “(b) Impact of the BWC program on reports submitted by officers;

111 “(c) Officer training and equipment needs;

112 “(d) Individuals’ privacy rights are being properly protected; and

113 “(e) Proper and secure access is being maintained to the shared or retained BWC
114 recordings.

115 “3903.2. The Department shall regularly monitor the business practices of any third-party
116 entity providing services to the BWC program to ensure individuals’ privacy rights are protected.

117 “3903.3. The Department may enter into agreements with other government agencies to
118 provide access to the BWC recordings; provided, that any such agreement shall require the other
119 agency to adhere to the individual privacy protections contained in these regulations or any
120 policy directives issued by the Department.

121 “3903.4. The Department shall strictly control access to the BWC recordings and shall
122 use technology that logs the identity of each user who accesses the BWC recordings.

123 “3903.5. The individual who makes a BWC recording shall not have access to delete the
124 recording.

125 “3903.6. The deletion of any BWC recording shall be tightly restricted and shall require
126 justification for the deletion.

127 “3903.7. The Department shall regularly monitor its BWC recordings data protection
128 policies.

129 “3999. DEFINITIONS

130 “3999.1. When used in this chapter, the following terms and phrases shall have the
131 meanings ascribed:

132 “BWC – means the Metropolitan Police Department’s body-worn camera
133 program.

134 “Department – means the Metropolitan Police Department.

135 “FOIA – means the Freedom of Information Act of 1976, effective March 31,
136 1977 (D.C. Law 1-96; D.C. Official Code §§ 2-531 *et seq.*.)”

137 Sec. 3. Fiscal impact statement.

138 The Council adopts the fiscal impact statement in the committee report as the fiscal
139 impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,
140 approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

141 Sec. 4. Effective date.

142 This act shall take effect following approval by the Mayor (or in the event of veto by the
143 Mayor, action by the Council to override the veto), a 30-day period of congressional review as

144 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
145 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
146 Columbia Register.