



**BODY-WORN
CAMERA**
TRAINING & TECHNICAL ASSISTANCE

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

Michael D. White, PhD
Michaela Flippin, MS
Arizona State University

Aili Malm, PhD
California State University, Long Beach

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Executive Summary

The CNA Corporation, Arizona State University (ASU), and Justice and Security Strategies, Inc. (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 the TTA provided to the PIP sites. The TTA team developed a policy review process and BWC Policy Review Scorecard to assess the comprehensiveness of BWC policies. This report describes the results of an analysis of 304 policies from FY 2015, FY 2016, FY 2017, and FY 2018 grantees that had their BWC policy scorecards approved through this process. Through review of the 304 agency policies, we have identified key BWC policy trends across ten important BWC issues. Several of the trends involve substantial policy differences between FY 2015, FY 2016, FY 2017, and FY 2018 grantees.

Activation

- Nearly all agencies mandate and prohibit activation for certain types of encounters.
- Most agencies (60–75 percent) allow for discretionary activation under certain circumstances. Discretionary activation has become more common over time.

Deactivation

- All agencies provide definitive guidance for BWC deactivation, both for encounters that have ended and for encounters where BWC recording is no longer permitted.
- Nearly all agencies give officers discretion in the deactivation decision under certain circumstances.

Citizen Notification

- Most agencies (80 percent) do not explicitly mandate citizen notification of the BWC.
- About 40 percent of agencies recommend, but do not require, citizen notification.

Officer Authority to Review

- Nearly all agencies allow officers to review their own BWC footage for routine report writing.
- With regard to a critical incident (e.g., officer-involved shooting), the vast majority of agencies (92 percent) allow officers to view video of the incident before making a statement.

Supervisor Authority to Review

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

- Most agencies give supervisors authority to review line officers' BWC footage to determine compliance with BWC policy and procedures (82 percent), and for general performance review (87 percent). This authority has become more common over time.

Off-Duty Assignment

- Just under half of agencies (43 percent) mandate BWCs during off-duty assignments. This trend has increased considerably over time.

Activation During Demonstrations

- Most agencies do not address BWC use during public demonstrations (69 percent). Those that do mandate activation (20 percent).

Temporary Deactivation (and Muting)

- Nearly all agencies allow for some form of temporary deactivation of the BWC during specific circumstances (e.g., during strip searches, during tactical discussions).
- Most agencies do not address muting of the BWC audio (80 percent).

Frequency of Supervisory Auditing

- The majority of agencies address how often (e.g., monthly, weekly) supervisors must review BWC footage of subordinate officers for policy compliance, performance review, and/or administrative investigations (62 percent). The most common interval for BWC supervisory review is monthly (45 percent).
- Most agencies do not specify how many videos are to be reviewed during each supervisory audit (72 percent). Most agencies also do not require the selection of videos to be random (69 percent), though random selection has become more common over time.

Mentions of Non-Patrol Units Wearing BWCs

- Just over one-half of agencies allow officers in non-patrol assignments to use BWCs (56 percent). About one-third (35%) mandate BWCs for some non-patrol assignments.

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 practices 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 new questions arise, as

states weigh in with policy requirements or recommendations, and as BWC technology changes.

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Introduction

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 Bureau of Justice Assistance (BJA) manages the BWC PIP. In October 2015, BJA announced the first round of awards. Altogether, BJA has awarded \$73 million to more than 400 agencies over the last five years, resulting in close to 100,000 BWCs being deployed across the United States.

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. Five decades' worth 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 submit a BWC administrative policy to the TTA team for review. The TTA team developed the BWC Policy Review Scorecard to assess the comprehensiveness of BWC policies (<https://www.bwctta.com/resources/bwc-resources/body-worn-camera-policy-review-process>). The scorecard rates an agency's BWC policy across 11 categories (see Table 1), though the specific items and scoring have changed over time. Once BJA approves a scorecard, the agency is able to proceed with their BWC program.

The BWC Policy Review Scorecard rates comprehensiveness of the policy development process and the policy itself, but it is not prescriptive. 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.

Table 1 Policy Areas Addressed in the BWC Policy Review Scorecard

1. Policy Development
2. General Issues
3. Video Capture – Activation
4. Video Capture – Deactivation
5. Data Transfer/Download
6. Data Storage/Retention
7. BWC Viewing
8. BWC Training
9. Public Release
10. Policy and Program Evaluation
11. BWCs and Use of Force

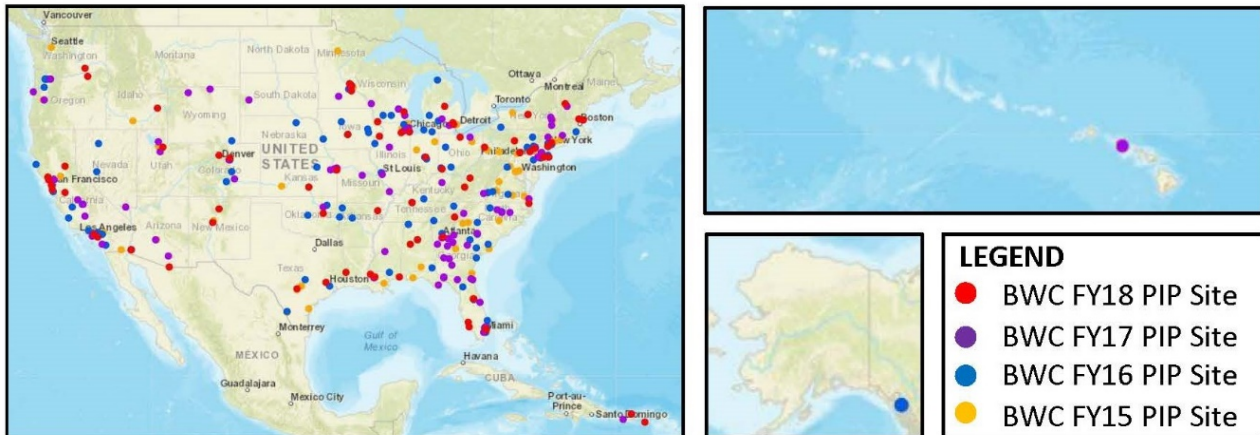
The Policy Analysis

The non-prescriptive approach employed in the Scorecard review process allows local input, which yields variation in how BWC PIP sites design their policies, and the differences in approach create 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 304 polices from agencies funded in FY 2015 (n=54), FY 2016 (n=75), FY 2017 (n=83), and FY 2018 (n=92). Figure 1 shows the locations of the more than 300 sites included in the policy analysis (note: Juneau, Alaska, and Municipio De Ponce, Puerto Rico, are 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 funded through the BJA PIP.

This report provides a four-year analysis of policy language regarding activation, deactivation, citizen notification, officer authority to review BWC footage, and supervisory review authority. The authors added five new policy issues for the FY 2016, 2017, and 2018 sites: off-duty assignments, activation during public demonstrations, temporary deactivation (and muting of audio), the specifics of supervisor auditing (how often, how many videos), and mention of non-patrol units wearing BWCs. Based on the policy analysis, we have identified 20 key policy trends related to the 10 major issues. The 20 policy trends provide important insights into emerging BWC policy and practice.

Figure 1. FY 2015, FY 2016, FY 2017, and FY 2018 grantees



Issue #1: Officer Activation

All FY 2015, FY 2016, FY 2017, and FY 2018 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 provide a detailed list of incident types in which recording is mandated (e.g., pedestrian stops, arrests).

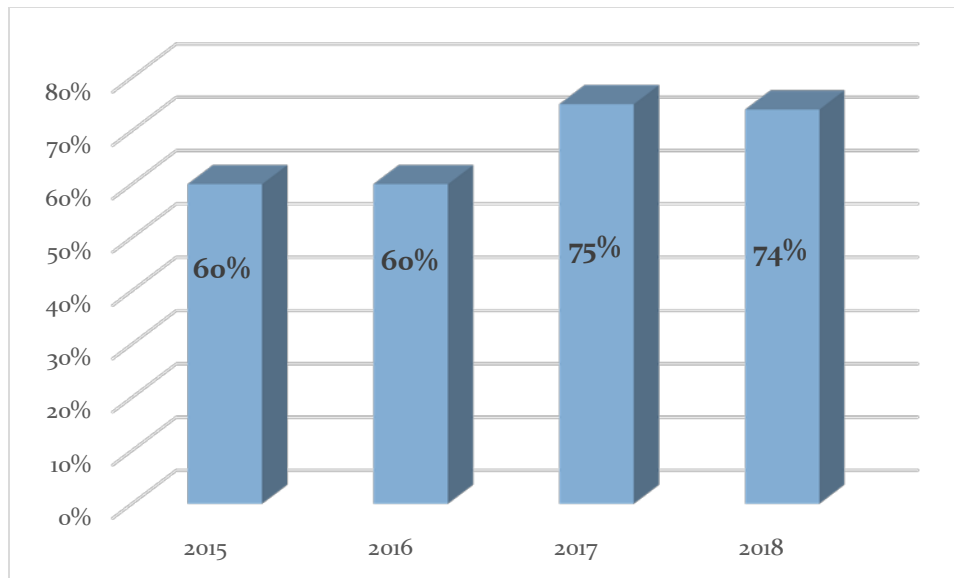
Similarly, nearly all FY 2015, FY 2016, FY 2017, and FY 2018 policies also identify circumstances where activation is NOT to occur (restricted). Examples include privileged conversations (e.g., attorney, spouse, confidential sources), and places where there is an expectation of privacy (e.g., locker rooms).

Approximately 60 percent of 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;” Dinwiddie County Sheriff’s Office [VA]). Comparatively, 75 percent of FY 2017 and 74 percent of FY 2018 policies permit discretion in activation. See Figure 2.

Key BWC Policy Trends

- (1) Nearly all agencies mandate and prohibit activation for certain types of encounters.
- (2) Most agencies (60–75 percent) allow for discretionary activation under certain circumstances. Discretionary activation has become more common over time.

Figure 2. Discretionary activation permitted under certain circumstances



Issue #2: Officer Deactivation

Similar to activation, guidance on deactivation varies based on the degree of officer discretion permitted. For example, 83 percent of FY 2015 and 84 percent 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;” Evesham Township Police Department [NJ]). The remaining 16 to 17 percent 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;” Albuquerque Police Department [NM]).

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. Approximately 67 percent of FY 2015 policies allow for discretionary deactivation through specific circumstances language. Such language is much more common in FY 2016 (99 percent), FY 2017 (98 percent), and FY 2018 (98 percent) policies.

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.
- (4) Nearly all agencies give officers discretion in the deactivation decision under certain circumstances.

Issue #3: Citizen Notification

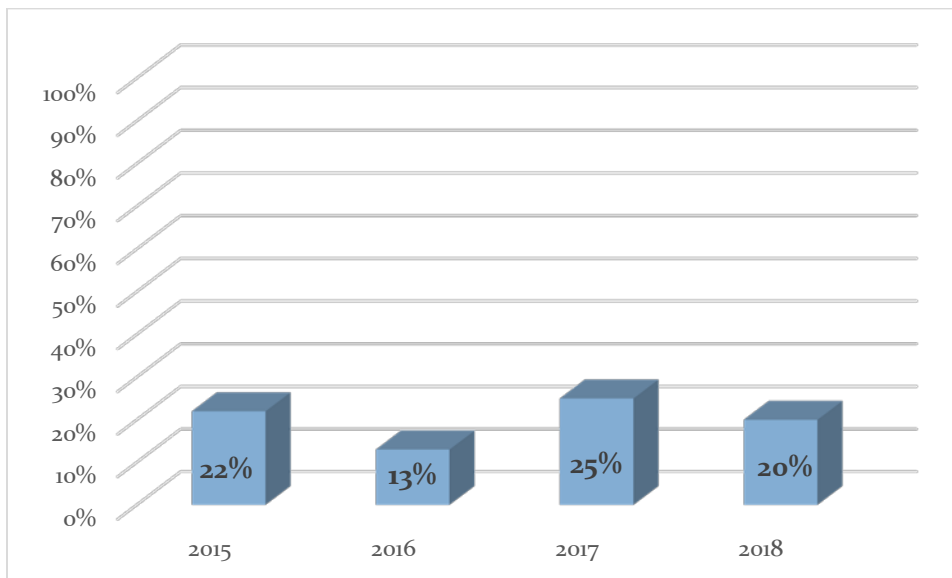
Our review indicates that 22 percent of FY 2015 policies have a mandatory statement on citizen notification (e.g., “Member shall inform all individuals identifiably present as soon as reasonably practical, that their oral/video communications will be or have been intercepted and recorded;” Pittsburgh Police Bureau [PA]). Mandatory notification is less common in FY 2016 policies (13 percent), but the prevalence returned to prior levels in FY 2017 (25 percent) and FY 2018 policies (20 percent). Many of these policies prioritize officer safety and/or the practicality of the notification, but advisement of the BWC is mandatory (e.g., “shall”). See Figure 3.

About 40 percent of FY 2015, FY 2016, FY 2017, and FY 2018 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 percent; FY 2016: 45 percent; FY 2017: 37 percent; FY 2018: 37 percent); 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;” United Independent School District [TX]).

Key BWC Policy Trends

- (5) Most agencies (80 percent) do not explicitly mandate citizen notification of the BWC.
- (6) About 40 percent of agencies recommend, but do not require, citizen notification of the BWC.

Figure 3. Mandatory citizen notification



Issue #4: Officer Review of BWC Footage

Our policy review indicates that nearly all FY 2015 (95 percent), FY 2016 (98 percent), FY 2017 (99 percent), and FY 2018 (89 percent) agencies allow routine officer review of BWC footage for report writing and court preparation (e.g., “Officers shall generally be permitted to review their own BWC footage for routine report writing and court preparation;” Espanola Police Department [NM]). See Figure 4.

Following a use of force incident, a complaint against an officer, or a critical incident (e.g., police shooting of a civilian, a vehicle pursuit), there is significantly less consensus across departments. Approximately one-third (31 percent) 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;” Kansas State University [KS]). This type of unrestricted access is less common among FY 2016 (23 percent), FY 2017 (23 percent), and FY 2018 (20 percent) agencies. Many agencies allow officers to access their BWC footage, but only after certain stipulations have been met (FY 2015: 66 percent; FY 2016: 56 percent; FY 2017: 55 percent; FY 2018: 30 percent). The most common stipulations are that a union representative is present, a command staff or investigator is present, or an initial statement is given.

Critical incidents, such as officer-involved shootings or incidents resulting in serious injury, are typically addressed separately in BWC policy. The vast majority of FY 2015 policies (95 percent) state that an officer is permitted to view their BWC footage before a statement is given. That is, the officer can view the video first—then he or she can give a statement. This policy position has remained steady among FY 2016 (91 percent), FY 2017 (92 percent), and FY 2018 (88 percent) agencies. See Figure 5.

Key BWC Policy Trends

- (7) Nearly all agencies allow officers to review their own BWC footage for routine report writing.
- (8) Most agencies (76 percent) do not allow an officer unrestricted access to BWC footage during an administrative investigation. Common stipulations include first completing an interview or report, or requiring additional personnel be present (e.g., union representative, investigator).
- (9) With regard to a critical incident (e.g., officer-involved shooting), the vast majority of agencies (92 percent) allow officers to view video of the incident before making a statement.

Figure 4. Officer routine review of BWC footage permitted

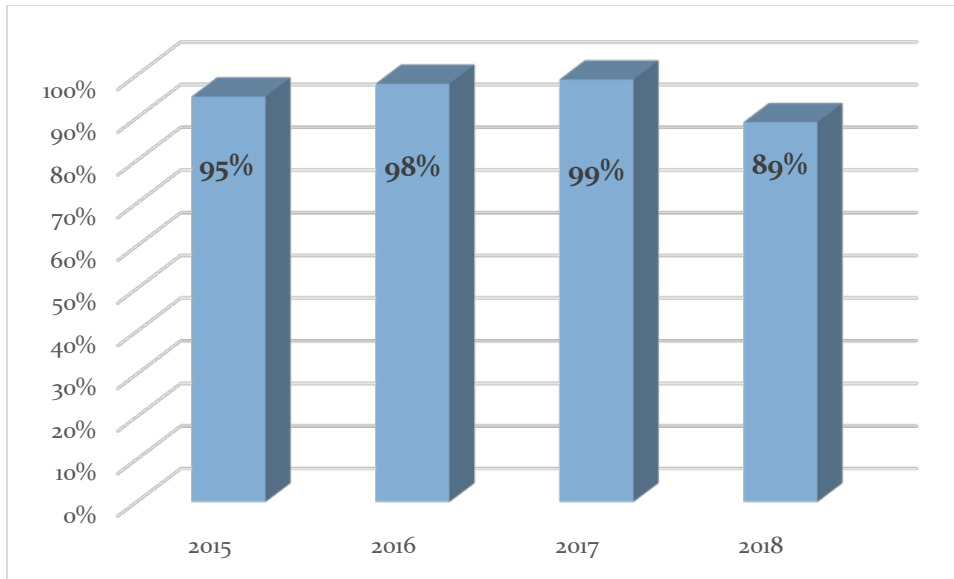
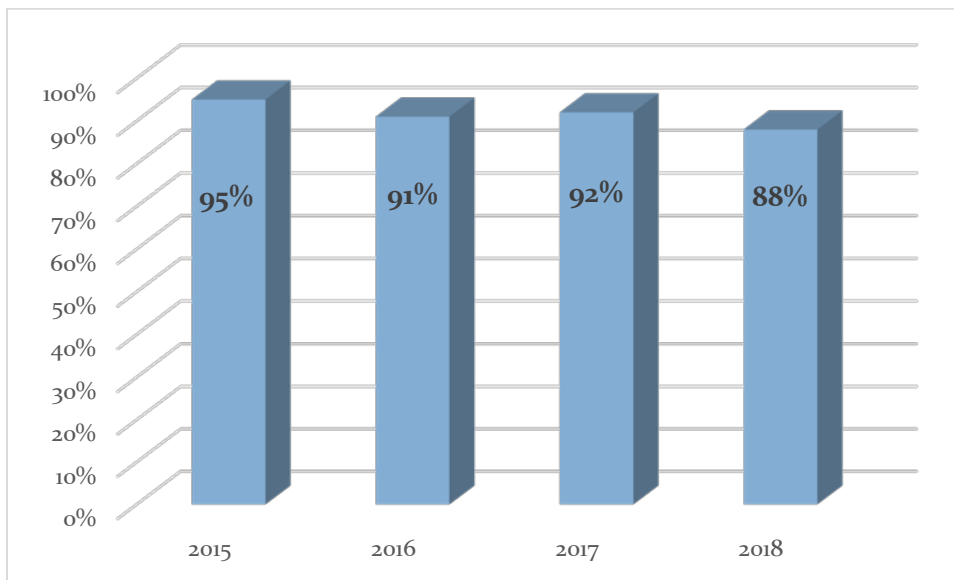


Figure 5. Officer permitted to review video first after critical incident



Issue #5: Supervisor Review of BWC

Our policy review identified three mechanisms of supervisor review: administrative review (e.g., citizen complaints, use of force incidents); compliance review (e.g., compliance with the BWC policy); and performance review.

Nearly all FY 2015 (94 percent), FY 2016 (99 percent), FY 2017 (99 percent) and all FY 2018 (100 percent) agencies 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., “All supervisors shall have access to BWC footage for administrative investigations;” Allentown Police Department [PA]).

Half of FY 2015 agencies (50%) allow supervisors to review BWC footage, usually on a random or periodic basis, to insure compliance with BWC policy and procedures (e.g., “Superintendent shall randomly review video recordings to ensure the equipment is operating properly, that officers are using the devices appropriately and in accordance with policy, and to identify any additional training or guidance required;” Georgia Department of Corrections [GA]). This type of compliance review is much more common among FY 2016, FY 2017, and FY 2018 agencies (93 percent).

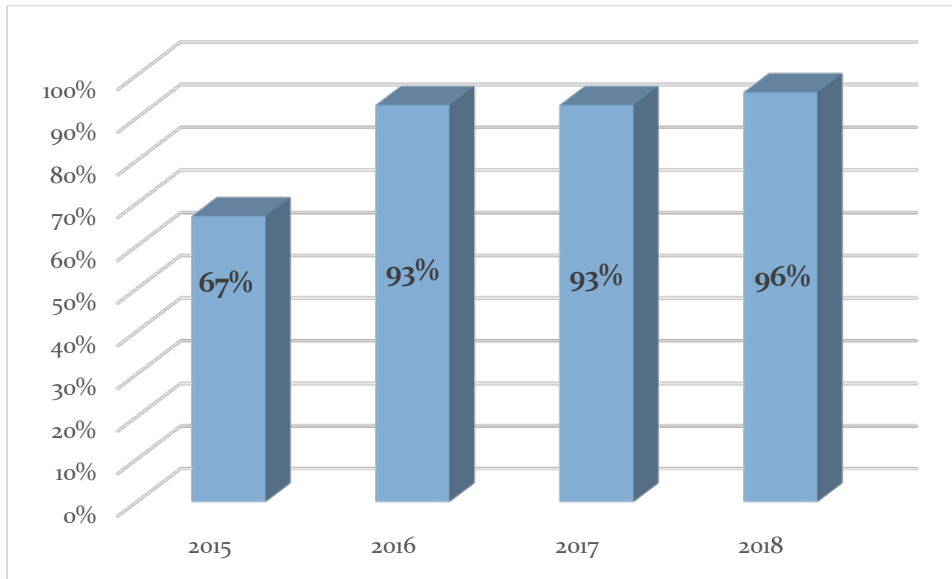
Two-thirds of FY 2015 agencies (67%) allow supervisors to access BWC footage of line officers for the purposes of performance review, independent of compliance with the BWC policy. This type of review is focused on an officer’s general performance. Like compliance review, supervisor authority to review BWC footage for officer performance is much more common among FY 2016 (93 percent), FY 2017 (93 percent), and FY 2018 (96 percent) agencies. See Figure 6. 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;” Lynchburg Police Department [VA]), and in other cases, the review is periodic or random (e.g., “Immediate Supervisors shall—e. Performing documented random audits of BWC images/audio/video/data on a monthly basis;” Newport Police Department [RI]).

Key BWC Policy Trends

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

(11) Most agencies give supervisors authority to review line officers’ BWC footage to determine compliance with BWC policy and procedures (82%), and for general performance review (87 percent). This authority has become more common over time.

Figure 6. Supervisor review of BWC footage for general performance



Additional FY 2016, FY 2017, and FY 2018 Policy Issues

Issue #6: Off-Duty Assignment

Several PIP sites asked for guidance regarding off-duty use of BWCs. As a result, the authors examined FY 2016, FY 2017, and FY 2018 policies for direct mention of BWC use during off-duty, extra duty, or secondary employment.

The utilization of BWC during off-duty assignments has become much more common. Of the FY 2016 policies, 69 percent made no mention of off-duty BWC use. Comparatively, only 16 percent of FY 2017 and 20 percent of FY 2018 policies failed to mention off-duty use. Of those policies that do reference off-duty use, the majority require officers to use the BWC while off duty (28 percent for FY 2016 policies; 52 percent for FY 2017 policies; 49 percent for FY 2018 policies).

Key BWC Policy Trends

(12) Just under half of agencies (43 percent) mandate BWCs during off-duty assignments. This trend has increased considerably over time.

Issue #7: Activation during Demonstrations

The authors searched FY 2016, FY 2017, and FY 2018 policies for any mention of BWC use when police are responding to or handling demonstrations, protests, public events, First Amendment-protected events, civil disorder, crowd control, and political rallies. The majority of FY 2016 (71 percent), FY 2017 (67 percent), and FY 2018 (70 percent) policies did not make any mention of BWC use regarding demonstrations. Some agencies indicate that BWC recording during such events is mandatory (FY 2016: 17 percent; FY 2017: 23

percent; FY 2018: 23 percent). Alternatively, some agencies prohibit BWC recording during demonstrations, protests, etc. (FY 2016: 5 percent; FY 2017: 4 percent; FY 2018: 5 percent).

Key BWC Policy Trends

(13) Most agencies do not address BWC use during public demonstrations (69 percent). Those that do mandate activation (20 percent).

Issue #8: Temporary Deactivation (and Muting)

BWC policies typically permit temporary deactivation for numerous reasons: significant periods of inactivity, during discussions involving tactics with other officers/supervisors, during conversations with undercover officers or confidential informants, to protect the privacy of a victim of crime, during strip searches, or other special circumstances.

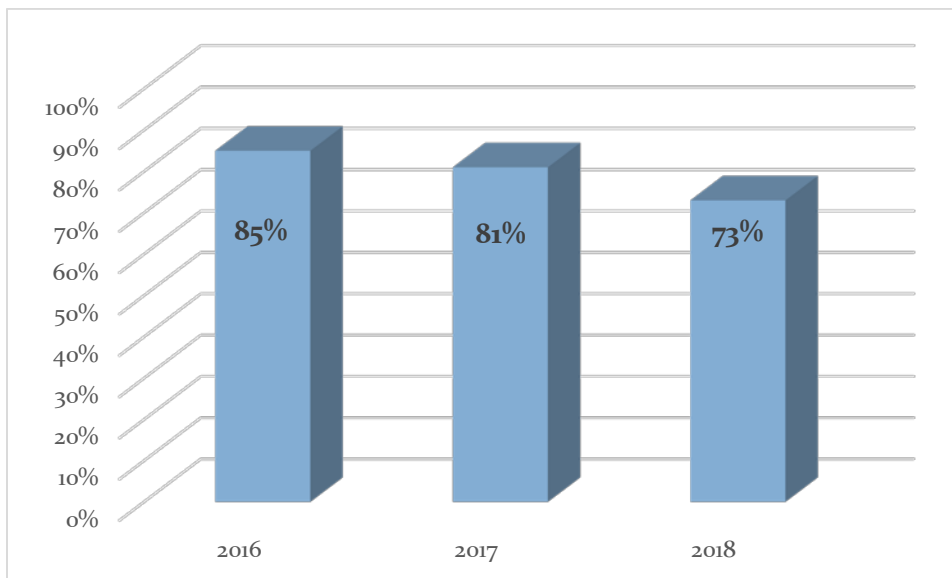
All FY 2016 and FY 2017 policies, and the majority of FY 2018 policies (84 percent), addressed temporary deactivation and listed permissible reasons for doing so. Conversely, the majority of FY 2016 (85 percent), FY 2017 (81 percent), and FY 2018 (73 percent) policies do not address muting or disabling the audio of a BWC. See Figure 7.

Key BWC Policy Trends

(14) Nearly all agencies allow for some form of temporary deactivation of the BWC during specific circumstances (e.g. during strip searches, during tactical discussions).

(15) Most agencies (80 percent) do not address muting BWC audio.

Figure 7. Muting of audio not addressed in BWC policy



Issue #9: Frequency of Supervisory Auditing

Over half of FY 2016 (61 percent), FY 2017 (63 percent), and FY 2018 (61 percent) agencies specifically addressed how often supervisors may audit officer BWC footage for policy compliance, performance review, and administrative reasons. For FY 2016, FY 2017, and FY 2018 agencies that addressed how often supervisors should carry out audits, monthly supervisory review was the most common interval (33 percent, 41 percent, and 61 percent, respectively).

Regarding the quantity of reviewed footage, most of the policies for FY 2016 (76 percent), FY 2017 (66 percent), and FY 2018 (75 percent) did not specify how many videos were to be viewed during a supervisory audit. For those that did, the most common requirement for both FY 2016 and FY 2017 agencies (18 percent) was five videos per month. The most cited requirement for FY 2018 agencies was one video recording per month (18 percent). Last, most policies do not specify how supervisors are to select videos for audit. Only one-quarter of FY 2016 (28 percent) and FY 2017 (25 percent) policies require the video selection to be random. Random review is more common for FY 2018 agencies (40 percent).

Key BWC Policy Trends

(16) The majority of agencies address how often (e.g., monthly, weekly) supervisors must review BWC footage of subordinate officers for policy compliance, performance review, or administrative investigations (62 percent).

(17) The most common interval for BWC supervisory review is monthly (45 percent).

(18) Most agencies do not specify how many videos are to be reviewed during each supervisory audit (72 percent).

(19) Most agencies also do not require the selection of videos to be random (69 percent), though random selection has become more common over time.

Issue #10: Mentions of Non-Patrol Units Wearing BWCs

Just over half (52 percent) of FY 2016 agencies made mention of non-patrol units wearing BWCs, and that percentage increased slightly among FY 2017 (59 percent) and FY 2018 agencies (58 percent). Among those policies that mention non-patrol use of BWCs, the most common category of use is mandatory (31 percent for FY 2016; 40 percent for FY 2017; 34 percent for FY 2018) and discretionary/chief's decision (21 percent for FY 2016; 19 percent for FY 2017; 24 percent for FY 2018).

Key BWC Policy Trends

(20) Just over one-half of agencies allow officers in non-patrol assignments to use BWCs (56 percent). About one-third (35%) mandate BWCs for some non-patrol assignments.

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Caveats and Conclusions

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 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 and 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 respond to local circumstances and the needs and demands of local stakeholders. BWC policies within individual departments will and should continue to evolve as new questions arise, as states weigh in with policy requirements or recommendations, and as BWC technology changes. 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.

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About the Authors

Dr. Michael D. White is a Professor in the School of Criminology and Criminal Justice at Arizona State University, and is Associate Director of ASU's Center for Violence Prevention and Community Safety. He is also co-Director of Training and Technical Assistance for BJA's Body-Worn Camera Policy and Implementation Program. He received his PhD in criminal justice from Temple University in 1999. Prior to entering academia, Dr. White worked as a deputy sheriff in Pennsylvania. Dr. White's primary research interests involve the police, including use of force, technology, and misconduct. His recent work has been published in *Criminology*, *Justice Quarterly*, *Criminology and Public Policy*, and *Criminal Justice and Behavior*. Dr. White has commented extensively in the media on police issues, especially body-worn cameras, including in *Scientific American*, *The Wall Street Journal*, *The New York Times*, *The Washington Post*, *TIME Magazine*, NPR, and MSNBC. He also testified about body-worn cameras before the President's Task Force on 21st Century Policing and served as one of two primary authors of the US Department of Justice Body-Worn Camera Toolkit (<https://www.bja.gov/bwc/>). Dr. White recently completed a multi-site randomized controlled trial (RCT) testing the impact of police officer body-worn cameras in Tempe, Arizona, and Spokane, Washington, and he is the co-principal investigator of an RCT studying the impact of BWCs in the Loudoun County, Virginia, Jail.

Michaela Flippin is a doctoral student in the School of Criminology and Criminal Justice at Arizona State University. In 2015, she graduated magna cum laude and as a member of Phi Beta Kappa from the University of South Carolina with a Bachelor of Arts degree in sociology. Ms. Flippin worked as a TTA analyst from 2016 to 2018 and served multiple police agencies and sheriff's offices in the BJA BWC grant process. Currently, she works as a research analyst for Phoenix Police Department on its Crime Gun Intelligence Center (CGIC) project with Arizona State University. Her research interests include procedural justice, perceptions of the criminal justice system, crime and public policy, and the role of technology in crime and policing.

Dr. Aili Malm is a Professor in the School of Criminology, Criminal Justice, and Emergency Management at California State University, Long Beach. She is also a subject matter expert for BJA's Body-Worn Camera Policy and Implementation Program. Dr. Malm is interested in the assessment and evaluation of policing strategies and intelligence. In this capacity, her research requires an ability to blend theory with advanced methodologies, including social network analysis (SNA). She was one of the pioneers in applying SNA to help understand illicit networks and has used social network analysis to examine several different types of markets, including arms, drugs, art, and human trafficking. She routinely trains law enforcement in the use of SNA for intelligence analysis. She has worked as a PI or Co-PI for over \$5 million in grants. Currently, along with Dina Perrone, she is the external evaluator for the Law Enforcement Assisted

Diversion (LEAD) pilot in Los Angeles County and San Francisco. She is also currently leading grants researching drugs on the darknet and human trafficking networks. She has published over 40 research articles and two books, including *Disrupting Criminal Networks* with Gisela Bichler and the forthcoming *Cops, Cameras and Crisis* with Michael White.