

CITY OF ATLANTA



Atlanta Citizen Review Board (ACRB)

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September 11, 2015

Chief George Turner
City of Atlanta Police Department
226 Peachtree Street, S.W.
Atlanta, Georgia 30303

RE: APD BWC Policies

Dear Chief Turner:

Thank you for including the Atlanta Citizen Review Board (ACRB) in the July 27, 2015 Atlanta Police Department's Body-Worn Camera (BWC) Information Session. It was evident that the APD invested considerable time and energy to examine BWC issues in order to create a good foundational BWC policy.

While the session was informative and answered some of the ACRB's questions concerning the BWC policies, the session ended before the ACRB could address several critical policy components that, if discussed with broad community input during the policy development stage, would place the APD in a greater position to address citizens' concerns when questions arise about the APD BWC program. This letter is to continue the conversation with regard to the BWC policies.

As you know, transparency is one of the core benefits of BWCs. The program must be transparent throughout the planning, implementation, and review stages. Including citizens in the development of policies and reviews of the program would support the goal of improving community and police relations.

One of the most difficult challenges for the development of a BWC policy is to ensure that the BWC policies maintain a balance of building trust and providing transparency. Because of the difficulties involved in changing established policy, the ACRB advocates for greater citizen participation to ensure that citizens' concerns are discussed and meaningfully considered before establishing a permanent (or temporary) BWC policy.

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Several of the concerns addressed below should be elevated to a larger discussion before a permanent BWC policy is established. ACRB has not received a copy of the actual draft policy for review; therefore, the below concerns are based on the APD's PowerPoint presentation that was provided during the information session. The below APD positions are the ACRB's recollection of the presented policies and PowerPoint. We hope that this letter will be a continuation of the conversation started on July 27, 2015. With that spirit in mind, the ACRB request that if any of the below ACRB recommendations are rejected by the APD, please provide an explanation for the rejection.

ACRB Concerns with the APD BWC Program

Officer Viewing of Recordings to Write Reports

APD Position: The issue is whether officers should be allowed to review their recordings before writing incident reports or providing statements. Some departments prohibit officers from viewing their recordings, while other departments allow the officers to view their recordings. Under the current APD draft policy, officers would have the ability to view recordings prior to writing reports and providing statements. The APD asserts that allowing officers to view recordings would assist officers in writing reports that are more accurate and reduce inconsistencies between officers' statements and their recordings, which may lead to questions about officers' credibility.

ACRB Position: The above policy will lead to doubts about the officers' credibility, "What did the officer see, not the camera." The ACRB believes that officer viewing of recordings is contrary to officers' providing an honest account based on their actual observations and state of mind at the time of the incident. BWCs should be used as a tool for enhancing trust with the public, not officer's recall. The risk of allowing officers to review footage before the writing the report places an overreliance on the video recordings, which will present issues when video is not present or there is a malfunction. The overreliance on recordings may create expectations that will place less emphasis on the officers' statements and other evidence, such as eyewitness accounts. Moreover, recordings only show a partial perspective of what occurred during an incident and may be subject to biases and interpretations. BWCs should be used as a tool when there is a question regarding an officer's conduct to assist the department in recognizing and addressing training issues and to aid in evidentiary proceedings.

There is also the question of fundamental fairness between the officer and the citizen, since citizens are not able to review recordings prior to providing statements during investigative interviews. **The ACRB recommends that officers should not be allowed to review recordings prior to completing written statements or providing statements.**

If officers are allowed to view their recordings, it should be done during an investigative inquiry where the officer is asked to respond during the review of the recording.

Retention Period of Recordings and ACRB Timelines

APD Position: The APD BWC policy contains the following retention times for recordings.

Incident	Retention Period
Traffic stops	45 days
Traffic citation	90 days
Citizen contact	45 days
Criminal investigation	60 days
Use of force w/o arrest	90 days
Arrest	5 years
Homicide	Until manually deleted (indefinite)

The retention periods were based on the average time between the incident and when a citizen filed an OPS complaint.

ACRB Position: Video retention targets less than 180 days are contrary to the 180-day ACRB complaint filing time limit. While the need to limit the amount of recordings to be stored may be fiscally sound to reduce costs of storage, the short retention period does not allow citizens who file complaints against officers after the 45 – 90 days to have benefit of the potential recordings for evidence. Without longer retention periods, the citizen is left to rely on the department to tag or flag an incident for longer retention. This policy may have the appearance of the APD attempting to limit citizens' use of the BWC recordings as evidence in citizen complaints. **The ACRB recommends that the proposed APD timelines for retention periods should have a minimum of 180 days to correspond to the ACRB 180-day complaint filing time limit.**

External Auditing of the APD BWC Program

APD Position: During the information session, auditing of the APD BWC Program was not discussed.

ACRB Position: Nearly every study and report on BWCs recommends auditing of BWC programs to measure the efficacy of the program. **The ACRB recommends that the BWC policy address external auditing and a provision for the ACRB to conduct ongoing auditing of the BWC program.** External auditing would encourage and support the officers' and department's conformance with BWC policies. It would also communicate how well the department is meeting citizens' expectations. **Establishing an auditing program is a best practice.**

Discipline Associated with the APD BWC Program

APD Position: During the informational session, discipline was discussed in general terms that officers would be disciplined when violations of BWC policy occur. The policies discussed in the PowerPoint presentation did not specifically address discipline of BWC policies.

ACRB Position: Without strict enforcement and meaningful discipline for BWC violations, the BWC cameras will quickly become expensive uniform adornments. Discipline specifically related to BWC policies should be explicitly provided in the APD Discipline Matrix. Explicitly providing the consequences of BWC violations indicates to citizens and officers that the APD takes violations of BWC policy seriously. **The ACRB recommends that the discipline range should include A-to-D because violations of the policy could range from minor violations (e.g., failing to upload recording) to more serious prohibited violations (e.g., deleting unauthorized recordings, tampering with or destroying, or improper use of camera).**

Role of Supervisors

APD Position: The APD policy requires officers to obtain supervisor approval to turn off a camera during a recording. The ACRB and APD did not discuss additional responsibilities that the APD supervisors should be required to perform with regard to the APD policy.

ACRB Position: Supervisors are the first line of compliance, accountability, and training issues. The ACRB recommends that all APD supervisors should be required to randomly review recordings for training issues, proper tagging/flagging of recordings, and compliance to BWC policy. To ensure fairness, the supervisors should be prohibited from reviewing the recordings of direct reports and forward all concerns to OPS, Training, or the officer's supervisor. Records of supervisor reviews should be maintained for auditing and performance evaluation. APD supervisors are also in the best position to ensure that all recordings from an incident are properly tagged to the correct incident. A supervisor above the rank of Sergeant should be responsible for reviewing.

The ACRB once again recommends that the discipline range should include A-to-D because violations of the policy could range from minor violations to more serious prohibited violations.

Notification and Consent

APD Position: The camera model that the APD was considering at the time of the information session did not have a recording light indicator. On that model, how does the officer know when the device is recording? The APD asserted that a recording light indicator could pose an officer risk during nighttime encounters. The APD stated that an officer would be required to inform a citizen when he is recording when asked by a citizen.

The APD policy makes allowance for victims and confidential informants, limiting the recording of those individuals. Officers are expected to use their discretion to record in private areas where there is an expectation of privacy.

ACRB Position: **The ACRB recommends that the APD require officers to notify citizens that the officers are recording, without citizens asking, unless there is a credible threat of harm to an officer or another citizen.**

Privacy of Non-Involved Citizens

APD Position: The APD presentation did not mention non-involved citizens in BWC recordings. The policy provides that an officer have the discretion to turn off the camera if the privacy concern outweighs the legitimate interest of law enforcement.

ACRB Position: **The ACRB recommends that the APD policy should state explicitly how a citizen should make a request for redaction or image blurring.** The policy should provide timelines for response and APD action to redact or blur the image.

Redacting or Blurring of Recordings

APD Position: *Not known at this time.*

ACRB Position: **The ACRB recommends that the APD BWC policy provide guidance for the redacting or blurring of sensitive images or images of uninvolved citizens who happen to be in the area of a police action. The ACRB recommends that this be in place before a BWC rollout.**

Preservation of Recordings

APD Position: The APD policy allows officers to upload recordings and flag or tag portions of the recordings. Officers also have the ability to delete recordings. According to the presentation, only a few individuals within the police department will have the ability to delete recordings. While the recording may be deleted, the record of the recording cannot be deleted.

ACRB Position: **The ACRB recommends that the deletion capability be removed from the policy.** The ability to delete or alter recordings will be a cause of controversy on recordings, especially recordings where a camera malfunctions or the officer started recording late during an encounter. Records of access and deletion should be maintained and available for auditing.

Public Access to Recordings

APD Position: The APD acknowledges that BWC recordings are accessible under the Georgia Open Records Act. The draft policy provides that the exceptions to the Open Records Act include open investigations (criminal and civil) and where a person has a reasonable expectation of privacy (home business).

ACRB Position: There will be demand by people to see the police recordings if there is a “newsworthy” incident. There should be some flexibility in the policy to make those public. That would go a long way to preventing civil unrest resulting from a tragic incident.

Lastly, the ACRB is requesting inclusion in any existing BWC policy workgroup. We believe that inclusion of the ACRB in the discussion of BWC policy would allow the APD to anticipate citizen complaints and create policy that would allay some concerns during the development and review stages of BWC policy.

The Atlanta Police Department is embarking on a very significant program that will have a profound impact on relations between law enforcement and the greater community. I sincerely hope that you will support ACRB's involvement in the BWC initiative and allow us to work together in ensuring a successful rollout of this important new technology. Can you designate a contact for us to have that dialog?

Best regards,

A handwritten signature in blue ink, appearing to read 'S. Lee Reid II', with a stylized flourish at the end.

Samuel Lee Reid II

cc: ACRB Board Members
Veronica Hoffler, COA Law Department
ACRB Staff
Assistant Chief Shawn L. Jones
Major Byron K. Martin
Major Barbara Cavender