



Police Internal Audit Report

Body-Worn Camera Compliance Audit Part 1



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Contents

Auditor’s Conclusion	1
Audit Profile	2
City Manager Response.....	4
Issue Details	5
ISS.1 - Compliance.....	5
ISS.2 - Existence of videos	7
ISS.3 - Monitoring reviews.....	8
ISS.4 - BWC Policy Updates	9
ISS.5 - Refresher training.....	11
ISS.6 - Annual training documentation	11

Auditor's Conclusion

October 19, 2022

Internal Audit has completed APD Body-Worn Camera Compliance Part 1 engagement. We conducted this engagement as part of our 2022 Annual Police Audit Plan.

The audit objective was to determine if Aurora Police complies with policies and regulations regarding body-worn camera use.

To these ends, Internal Audit:

- Interviewed APD employees,
- Reviewed policy and related regulations,
- Evaluated officers' compliance with APD policy through a review of randomly selected videos, and
- Evaluated the existence of videos through a selection of calls for service.

Based on the results of our engagement procedures, we conclude that APD officers complied with some, but not all, policies. As a result, the Department needs additional controls to monitor compliance. We have detailed our issues and recommendations in the Issue Details section of this report.

Wayne Sommer

Wayne C. Sommer, CPA, CGMA
Internal Audit Manager

Audit Profile

Audit Team

Wayne Sommer, CPA, CGMA – Internal Audit Manager

Michelle Crawford, M.Acct, CIA, CFE, CRMA – Police Auditor

Scope

The scope of our work included videos from April 1, 2022, through July 30, 2022.

Background

The Aurora Police Department started its body-worn camera program in 2016. In 2020, Internal Audit completed an engagement of body-worn cameras (BWC.) In 2021, Aurora Police implemented a new BWC system, and in 2022 APD updated its BWC policy.

When appropriately used, body-worn cameras can contribute to the transparency that the public demands regarding encounters with law enforcement. They can also protect officers by providing critical context leading to acts of force. However, their effectiveness can depend on how well the officers and the Department comply with laws, policies, and best practices related to their usage.

The new body-worn camera system includes enhanced capabilities, such as the ability to mute and triggers that can activate cameras automatically. The triggers that the Department is using are a secondary activation, via the signal side arm device and vehicle activation. The signal side arm is a sensor within an officer's holster; when a weapon is drawn, the device should automatically trigger any BWC within a set distance to begin recording. The vehicle activation device is installed in APD vehicles; when an officer turns on their emergency lights, the device should automatically trigger any BWC close by to begin recording.

The Axon system includes a platform called Axon Performance which allows for dashboards, enhanced reporting, and documented supervisor reviews. The Department and the City Information Technology Department have been working on launching this platform for the past year. As of the end of September 2022, the system is nearing completion and the police department is starting the final stages of implementation.

Below are images of the body-worn camera currently in use.



The triangle in the middle with the ② is the event button; this starts and stops recording. To start a recording, an officer double presses the event button, and to stop a recording, an officer holds the event button for three seconds.



The display screen on top of the camera gives officers a glance at information, including battery life, recording status, if in stealth mode, and if muted.

City Manager Response

Police body worn cameras have become an increasingly important tool in advancing a number of aspects of modern policing. For the department, audio and video captured of officers in action can be useful in training, coaching, investigating, and documenting. For the public, the transparency provided with the use of cameras can help to show and explain officers' actions as they took place in real time.

With this in mind, the Police Auditor has been tasked with evaluating the department's compliance with laws, policies, and best practices for usage of body worn cameras so that the goals of having body worn cameras are met.

The Aurora Police Department deployed new Axon body worn cameras in 2021. Some of the issues noted in the audit, for example compliance with muting policy, can reasonably be attributed to adjusting to new devices. The department recognizes this and commits to further training to assure officers are comfortable with the new devices and can comply almost automatically when in the field.

One way the department can assure compliance with directives is through monitoring camera usage. Again, due to the continuing implementation of the system, only recently has the ability for supervisors to monitor been made available. The Police Auditor provides clear guidance on minimum criteria for the department on monitoring video, which the department agrees with.

Overall, the department has cooperated with the Auditor and has been in agreement with the recommendations provided. With the adjustment to new policies and new and better devices I expect the audio and video from officers' body worn cameras to fulfill the goals of the department in making the camera upgrade.

James Twombly
Aurora City Manager

Issue Details

We performed three reviews for our audit. The first review focused on compliance with the policy. We randomly selected 100 videos, ensuring the final sample included only one video per officer and included videos from all divisions. The second review focused on whether the categorization of “test” was appropriate; it included twenty videos categorized as test videos. The third review focused on if a video existed for a call; it included ten videos from our compliance review and a random selection of twenty calls for service.

We want to acknowledge that in our 100-video review, APD complied or substantially complied in several areas. These areas included:

Compliance area	Percentage of videos in Compliance
Video footage was clear and unobstructed.	100%
Camera stayed attached.	100%
Access to video was appropriate.	100%
Officer deactivated camera in accordance with policy.	99%
Video uploaded within 24 hours.	97%
Video correctly categorized.	94%

Below are the finding and recommendations from our reviews.

ISS.1 - Compliance

The Aurora Police Department (APD) did not always comply with its directives for body-worn camera use.

Muting

Directive 16.4.8 states:

If a situation warrants non-recording, the camera will be muted. Prior to muting the camera, **the member will verbally record on their camera the reason or purpose for muting the camera.** The following are situations when the BWC should be muted:

- General conversations with peers or supervisors.
- Tactical and/or intelligence-related conversations outside of the direct presence of civilians.
- Private conversations unrelated to the contact or incident.
- Verbal medical information not related or relevant to the contact or incident.

[Emphasis added]

Out of 100 videos reviewed, 26 videos included muting. Of those, 80% did not comply with the directive. Examples of non-compliance included repetitive muting, not stating a reason for muting (62% of videos), or the officer never unmuted the video. As a result, the department may face questions from the legal system or individuals about why the audio was not captured on the video.

Buffer mode

Directive 16.4.2 states, "The camera's status should be in buffering mode during normal carry. The LCD will say 'READY' with a green flashing light, and the 30-second buffer is active." The buffer period captures the 30 seconds before an officer activates their camera, but with no audio.

We reviewed 100 videos for the existence of a 30-second buffer; 37% of videos did not have the required buffer. The thirty seconds before activation could be critical for some incidents. Missing that portion could impact investigations or lead to uncertainty regarding officer actions. It also could impact whether signal activations occur.

Activation

Directive 16.4.5:

BWC activation is guided by C.R.S. § 24-31-902 and department policy. A member shall activate their BWCs record mode when responding to a call for service, responding to assist in a police capacity including a welfare check, or during any interaction with the public, whether consensual or nonconsensual, for the purpose of enforcing the law or investigating possible violations of the law. At a minimum, the BWC must be recording prior to the contact or arriving on the scene at the incident location.

Other mandatory BWC record mode activations include:

- Actively looking for a subject related to an incident or call for service.
- Actively involved in a pursuit.
- When in contact with an arrestee or subject in a detention center facility regardless of whether cameras are in the facility. The BWC may only be placed in standby or sleep mode when the member is completing administrative tasks and no longer in the presence of their arrestee or subject.
- Conducting an authorized strip search for the collection of evidence or contraband.

Members are strongly encouraged to activate their BWCs record mode during any citizen interaction.

Out of 100 videos reviewed, officers did not activate their cameras in compliance with this directive in 11% of videos.

Recommendation

We recommend that APD complies with its directives.

Management Response

We agree with this recommendation. We are conducting divisional training in October with follow up electronic training for the organization. With the implementation of Axon Performance going live, we will have better auditing tools to come into compliance.

Estimated Implementation Date: December 31, 2022

Issue Owner: Electronic Support Section Lieutenant

Issue Final Approver: Professional Standards and Training Division Chief

ISS.2 - Existence of videos

We could not locate videos for three calls for service. Directive 16.4.5 requires officers to activate their BWC when responding to a call for service, responding to assist in a police capacity, or during any interaction with the public to enforce the law or investigate possible violations of the law.

We randomly selected twenty calls for service and reviewed each to determine if a video should exist. Twelve calls for service should have had videos based on call notes and remarks. Two calls for service did not have a related video and it was unclear if a third call for service should have had a video. We describe the three calls for service below.

- 1) Call for service was for an individual outside not fully dressed, and the reporting party requested an officer respond. An officer responded and made contact; notes include the individual refused assistance from police or fire and did not meet the criteria for an involuntary hold.
- 2) Call for service was for an abandoned stolen vehicle, to which an officer responded.
- 3) Call for service for an individual talking to themselves and refusing to leave. An officer called the reporting party, the reporting party advised that the individual had left. The policy does not outline if a video is required when an officer makes contact via phone, such as above, see ISS. 4.

Directive 16.4.5 states, "Members are reminded that if they fail to activate their BWC to record as required by C.R.S. § 24-31-902, there is a permissive inference in any investigation or legal proceeding that the missing footage would have reflected misconduct by the member. Any statements sought to be introduced in prosecution through the member related to the incident that was not recorded create a rebuttable presumption of inadmissibility."

The lack of BWC footage for the calls in this limited view is concerning; it is unclear if this is a department-wide issue. Without procedures to ensure videos exist for calls for service, the department faces legal and reputational risks when an incident occurs and there is no footage.

The Axon Performance platform includes a dashboard that measures the percentage of videos to calls for service. As of the end of September 2022, the platform is nearing completion and the Department is in the final stages of implementation.

Recommendation

We recommend that APD establishes a minimum percentage of videos to calls. APD should then determine a responsible party to then monitor that information monthly, investigating any significant deviations.

Management Response

We intend to collect data within Q4 2022 to establish a baseline percentage of videos to be monitored and determine significant deviations. We will clarify policy with regard to expectations of BWC use during phone calls and other calls for service that lack clarity. If we identify an appropriate ratio sooner, we can close this early. Supervisors are responsible for monitoring the Axon dashboard for their subordinates for any significant deviations. Axon performance will be configured to randomly select a to be determined quantity of BWC footage per officer to review in line with recommendations.

Estimated Implementation Date: June 30, 2023

Issue Owner: Electronic Support Section Lieutenant

Issue Final Approver: Professional Standards and Training Division Chief

ISS.3 - Monitoring reviews

The Aurora Police Department does not have procedures to monitor compliance with body-worn camera directives. Our September 2020 BWC audit recommended that APD implement a supervisor review wherein BWC videos are randomly selected and reviewed for compliance. This recommendation has been pending while APD obtained and implemented a new BWC system.

In August 2022, APD received the necessary licenses to utilize the module within the BWC system for supervisor reviews. As of September 2022, the platform is in the final stages of implementation and APD is training supervisors on the system through October 2022. This current audit reiterates the need for APD to implement periodic compliance assessments of BWC videos.

According to *Audits and Compliance Reviews Can Strengthen Body-Worn Camera Programs*,

BWC user compliance reviews check for the existence and content of BWC videos to determine whether officers are using the cameras in compliance with policy. While audits are typically conducted periodically at an agency level, compliance reviews should be ongoing and take place at a supervisory level or, in the case of larger agencies, by a unit dedicated to compliance review. BWC user compliance reviews, especially when coupled with BWC program audits, will ensure a healthy and defensible BWC program that can provide the accountability and transparency that the public and courts expect.

To allay officers' fears of supervisors using BWC video reviews to discover instances of an officer's poor performance, many agencies ask supervisors to look for and highlight examples of exemplary performance and use them as training examples. Many agencies refrain from disciplining officers based on video review, except in cases of egregious behavior. Instead, agencies use BWC review as a coaching approach to improve performance with a minimum criticism.

In departments where supervisors routinely provide cover on calls, video review is emphasized as simply an extension of that supervisory responsibility.¹

Recommendation

We recommend that APD implement supervisor reviews and that they include, at minimum, the following areas:

- Officer verbally recorded the reason or purpose for muting.
- Officer muted audio follows Directive 16.4.8.
- The officer activated BWC following Directive 16.4.5.
- Officer deactivated BWC following 16.4.5.
- Officer uploaded the video within the time frames established by Directive 16.4.9.
- Officer's camera was in buffer mode and captured a buffer period specified by Directive 16.4.2.
- Officer categorized the video within time frames established by Directive 16.4.9.
- Video categorization is accurate.
- Camera dislodged.

We also recommend that APD consider adding whether access to the video was appropriate as a review item.

Management Response

We will update the BWC policy now that there is an audit function. This is dependent on when Axon Performance is implemented, tested, and training is provided. ESS is prepared to learn the system and provide training to supervisors by Divisional on October 4th, but we anticipate the need for additional time in order to work through the process of utilizing a new system. We will add language in the policy regarding appropriate reasons to access body worn camera and the importance of consistency in supervisory review.

Estimated Implementation Date: November 30, 2022

Issue Owner: Electronic Support Section Lieutenant

Issue Final Approver: Professional Standards and Training Division Chief

ISS.4 - BWC Policy Updates

Policy updates may be needed to reflect current practices and to ensure consistent use of body-worn cameras.

Muting videos

We observed inconsistencies in using the muting function during our video reviews. For example, some officers frequently muted throughout the videos, while others appeared to have forgotten to unmute, resulting in portions of the video having no audio. Another example is inconsistency in muting during administrative or incident-related discussions. As a result, APD should review Directive 16.4.8 for current practices and clarify when muting is allowed for officers.

¹ Haug, Scott; <https://bwctta.com/resources/commentary/audits-and-compliance-reviews-can-strengthen-body-worn-camera-programs>

Activation

Several videos were reviewed, including contacting parties via phone. Out of our review of calls for service and looking for the corresponding video, one call was to a reporting party, but no video existed. Directive 16.4.5 states that a member shall activate their BWC's record mode during any interaction with the public, whether consensual or nonconsensual, for the purpose of enforcing the law or investigating possible violations of the law.

Conversations with ESS employees revealed there may be a lack of clarity on whether videos are required when contacting via phone. An additional concern we heard from officers is the lack of department-issued cell phones for officers. We understand there is an IT project underway regarding department-issued cell phones. Still, the timeline for the phone project is not clear. Policy needs clarity from the APD legal advisors on whether this directive section applies to phone calls.

Buffering

Directive 16.4.2 addresses buffer mode during normal carry, however, this is in the definitions section. Section 16.4.20 on Failure to utilize the BWC system references using sleep mode when operating in the field, however, the Policy does not address this area outside of definitions. Policy needs to be updated to give additional guidance on when cameras should be in buffer mode.

Non-Owner viewing videos

Directive 16.4.11 states, "Members will not access, browse, or view video or digital evidence unless there is a legitimate law enforcement purpose of investigation. Members viewing a video should document the reason for viewing in the video notes section."

Out of 100 videos, three had been viewed by non-owners, and two did not document a reason for access. A support specialist and a detective viewed the two videos. Conversations with ESS employees revealed a need for additional direction on whether detectives or members associated with the case should not have to document their reason for viewing.

No policy update is necessary if the intent is that anyone other than the owner should document their reason for viewing. However, if the intention was that any member directly investigating the case does not need to document a reason, the policy needs to be updated. During our review, we spent additional time trying to identify several individuals who accessed videos that were no longer with the City. With personnel turnover, noting the reason for video access and viewing ensures that any future reviews can determine if access was appropriate with a minimum of effort.

Recommendation

We recommend APD evaluates the current policy and updates sections identified above as needed.

Management Response

We agree with the recommended policy changes. Policy changes and training will be conducted by 12/31/2022. We will work with the Academy on how it will be documented.

Estimated Implementation Date: January 31, 2023

Issue Owner: Electronic Support Section Lieutenant

Issue Final Approver: Professional Standards and Training Division Chief

ISS.5 - Refresher training

Our review identified several areas of non-compliance, including buffer mode, muting, and activation. The levels of non-compliance indicate a need for refresher training.

Officer's initial training on the new BWC system was in July and August 2021. Refresher training ensures that all officers understand the functions of the cameras and the requirements for use within policy. Future refresher training should focus on areas identified during monitoring reviews.

Recommendation

We recommend that APD conducts refresher training for all employees assigned body-worn cameras addressing the use of buffer mode, verbalizing the reason for muting, use of muting, and activation.

Management Response

We agree that annual refresher training is needed to assist in and maintain policy compliance.

Estimated Implementation Date: December 31, 2022

Issue Owner: Electronic Support Section Lieutenant

Issue Final Approver: Professional Standards and Training Division Chief

ISS.6 - Annual training documentation

APD provided annual training on BWC as required by Directive 16.4.3 to all officers in our review; however, training documentation was lacking for some officers.

The training was documented using manual sign-in sheets. We reviewed over fifty sign-in sheets to verify that the 100 officers in our review had received the training. We could not locate seven officers on the sign-in sheets. ESS confirmed that the seven officers had either attended a training session or received one-on-one training.

Using manual sign-in sheets for training is inefficient. Annual training is required, but APD has no efficient method for verifying that all officers have received this training. Using a system to document attendance and track training is more efficient and effective.

Recommendation

We recommend that ESS works with the Training Academy to identify an electronic method to track future BWC training, including possible use of the city's new learning management system.

Management Response

We anticipate documenting the training through the Benchmark training module.

Estimated Implementation Date: June 30, 2023

Issue Owner: Electronic Support Section Lieutenant

Issue Final Approver: Professional Standards and Training Division Chief