

Policy Considerations

When to record using body-worn cameras

Once a law enforcement agency decides to use body-worn cameras, the fundamental question is “when to record.” There are two general policy options:

1. The first option is to record everything – to have the camera on for every contact with civilians and all calls for service, only turning it off when an officer is on break, using the restroom or otherwise not performing official duties.
2. The second option for “when to record” is a policy that provides officers discretion to turn the camera on and off. Such a policy might give wide discretion to officers or narrow discretion based upon certain specified circumstances. However, once discretion is allowed, the policy no longer relies on the bright-line standard like “record everything.” Some events simply will not be recorded.

Most police departments, statewide and nationally, are opting for discretionary policies. The Castle Rock Police Department’s draft policy requires officers to turn on their body-worn cameras during most calls for service and contacts such as traffic stops. Officers would not be required to turn on their body-worn cameras during informal contacts such as giving directions to a citizen or non-law enforcement related contacts such as simply stopping to talk to an individual walking down the street. The policy also allows officers the discretion to turn off the camera when investigating sensitive cases such as interviewing a victim of a sexual assault or incidents involving nudity.

Privacy concerns

The job of a police officer is to interact with the public, often during the most difficult, stressful and unhappy moments of people’s lives. Many of the interactions do not involve criminal incidents or other enforcement activities. Now that body-worn cameras can record all police interactions with the public, inherent questions about the privacy rights of the people in the video footage are raised.

When the recorded events involve a criminal, traffic or other official investigation, these questions are more easily answered. If the footage is potential evidence, it needs to be preserved, secured and otherwise treated as any other evidence would be. However, when the recordings do not involve enforcement of a law or regulation, more difficult policy questions arise, such as:

- Will the agency retain copies of body-worn camera footage that is not potential evidence?
- If the recordings are retained, for how long?

The current draft policy of the Castle Rock Police Department addresses these questions. The policy allows for the capture and retaining of footage that is not potential evidence. Examples include video of an officer providing directions or a video of spectators lining a parade. However, that particular footage is only retained for a period of 90 days and then it is automatically deleted. Footage that is potential evidence such as footage connected to an investigation, arrest, traffic violation or other type of official matter is generally held between 90 days and 10 years, depending on the type of incident. For example, a felony case is held for 10 years while a minor traffic violation is only held for 90 days. Use of force and cases involving potential civil litigation will be held indefinitely.

Open record requests

The Colorado Open Records Act (CORA) governs the availability, inspection and disclosure of government records. CORA is divided into several parts. Part three, the Colorado Criminal Justice Records Act (CCJRA), provides guidelines for the disclosure of “criminal justice records.”

A balancing test will be conducted for each and every request to determine if release of video footage fit within CCJRA’s “contrary to public interest” exception.

Data storage

Storage of the digital recordings can be one of the most complex and costly aspects of adopting body-worn cameras. The recordings are a form of digital data that must be uploaded and stored in a tamper-proof manner. In addition, the storage method must be secure, so as to prevent unauthorized access to the digital data. Some smaller agencies handling a lesser number of recordings have opted for using DVDs to store recordings in a physically-secured location. Midsize and larger agencies must use in-house servers or contract with a private vendor who provides offsite, “cloud” storage. Cloud storage is the least labor intensive method from both an IT and police perspective.

Members from DoIT have researched and evaluated both the server and cloud options for data storage related to body-worn cameras. DoIT staff has recommended cloud storage as the preferred storage solution citing cost, staff time as well as ease of such functions as locating and redacting video.