

Advocacy Group Pushes for Body Camera Policy Discussion in Buffalo, N.Y.

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(TNS) — As the Buffalo Police Department gets closer to equipping officers with body-worn cameras, a local advocacy group and think tank has urged the department to engage the community before finalizing its internal policy surrounding body-camera use. So far, police brass don't appear interested.

With the department saying it's on track to start deployment of body cameras to all patrol officers [early next year](#), police officials have written a draft policy that still leaves some questions and uncertainties.

Body cameras are being implemented, in part, to help improve the public's trust of police, said Sarah Wooton, policy analyst for the Partnership for the Public Good.

"Body cameras can go a variety of ways in terms of what the outcome is and whether the public is really pleased with their implementation," Wooton said.

A four-month pilot program for the body cameras involving about 20 officers started in April. The department is trying out two cameras made by different companies.

The department has not posted its draft policy on its website. Buffalo police in September allowed The Buffalo News to review a copy of [the draft policy](#).

Buffalo Police Capt. Jeffrey D. Rinaldo said in a recent interview he doesn't see that a process involving the public would end up with any changes in the policy, calling what the department has in draft form so far "very comprehensive."

"I don't know what more could be added into the policy," Rinaldo said. "...[T]he policy is based on what the law requires. The only real requirements that the law at this point takes into consideration is when you can't record."

The situations when a body-camera is turned on by an officer to record, and the discretion granted the officer, is one of the key issues in the policy.

The existing draft policy is clear, according to Rinaldo, about when an officer would be required to activate the camera – any "enforcement-related" activity, including during calls for service, traffic stops, executing search warrants, arrests, "investigatory activities" and "confrontational/adversarial citizen contacts."

"Our policy is basically 'you will record unless' and then it spells out what the unless is – juvenile victim, sex crime victim, church, locker room, hospital or a person that is nude or somehow compromised and it's not part of an ongoing criminal event," Rinaldo said.

Officers also would not be required to activate the cameras when there is "an immediate threat to the officer's safety," when turning it on "would delay an officer's response to the safety needs of a citizen or fellow officer during a critical incident" or when it "would be impractical and place the officer in a tactical disadvantage."

"I'm never going to jeopardize an officer's safety to turn on a piece of recording equipment," Rinaldo said. "Our officers' safety is the number one priority, first and foremost, above and beyond any type of technology or anything to that extent."

The reason why "tactical disadvantage" was included in the policy was to accommodate models of body cameras where a light displays when the camera is recording. An officer would not want the camera light on when searching for an armed suspect in a dark area, Rinaldo said.

But the Partnership for the Public Good still sees a bit of wiggle room in the draft policy, saying what's written is too broad to ensure that cameras are activated in situations when they would be most needed.

Public disclosure

Buffalo police propose treating any video footage taken by body cameras as evidence, which would then be treated like any other items of evidence in any other criminal case. That means police would withhold them from public disclosure during an open investigation.

"If there's a criminal investigation, we're not going to try these cases in the media by showing body-camera footage," Rinaldo said. "As great as it could be for us in cases where there's questionable acts on behalf of police, it's also there's rights of not only the suspects but the officers that we have to take into consideration."

That being said, Police Commissioner Byron C. Lockwood and the Erie County District Attorney's Office may decide in specific cases that there's a public safety need that requires a more expedient release of footage, Rinaldo added.

That could include releasing images taken by body cameras that could help identify a suspect or a vehicle being sought by police.

The department also has not decided whether body-camera footage would be considered part of the "personnel record" of an officer – a distinction that, by law, would prevent disclosure. Personnel records of law enforcement officers in New York state are specifically kept secret under the state Civil Rights Law.

Classifying the footage outright as personnel records would be a mistake, according to Wooton, of the Partnership for Public Good, because the footage is created for a variety of purposes, not just the evaluation of an officer's performance.

The Partnership for the Public Good is also calling for Buffalo to enact an "automatic deletion" policy. Footage that's not considered evidence or doesn't involve a complaint should be deleted after a designated period of time, Wooton said.

Storage of video footage is expected to be a significant expense for the department, which has estimated total annual costs for the body-camera program to be roughly \$1 million to \$2 million. The department estimates it may produce up to 500 hours of video a day. The department expects to use a cloud-based storage system, so the more video it stores, the more it will pay, according to Rinaldo.

When there's no footage

What happens to an officer who doesn't record when he or she is supposed to?

The department's draft policy calls for an officer to fill out a form if the camera isn't turned on, is turned off or malfunctions when it is supposed to be recording. The officer will be required to explain why it happened. The policy does not spell out what discipline an officer faces if the administration determines he or she improperly used the body camera.

"Any officer who is deemed to be intentionally not activating the body camera when the policy dictates that they should be is subject to disciplinary actions," the draft policy states.

Rinaldo said potential discipline would depend at least in part on whether the failure to record was intentional and would have to follow what's known as "progressive discipline," a process with increasingly severe penalties for offenses over time. There are some union rules involved, as well, he said.

"We can't spell out the penalty phase," he said.

In Daytona Beach, Fla., police officers who turn body-cameras off when they aren't supposed to are let go from their position, the Partnership for Public Good said [in a policy brief](#), citing work by [the Police Executive Research Forum](#).

The Partnership for the Public Good pointed to an analysis of departmental policies on body-worn cameras from across the country done by the Leadership Conference on Civil and Human Rights and Upturn, another D.C.-based non-profit organization. In [an analysis](#), Buffalo fares poorly in six of eight categories.

The Partnership for the Public Good would like to see at least one public meeting in each police district to allow the public to comment, as well as an opportunity to submit further comments, Wooton said.

"Body cameras hold real potential," the advocacy group says on its website, "but ... simply adding body cameras may do nothing unless good policies are created governing their usage."

Rinaldo said he doesn't believe the use of body cameras will bring significant changes to the way officers do their jobs.

"I just think that people need to keep their expectations in check," he said. "As I've said all along, it's not an end-all be-all technology. It's not going to suddenly change the nature of how police departments operate."

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