

VIA ELECTRONIC MAIL

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The comments regarding the proposed rules for Statewide Policy for the Use and Operation of Body-Worn Cameras (BWCs) (110-RICR-10-00-2) are submitted on behalf of ACCESS/RI the state's freedom of information coalition. These comments are not meant to contradict in any way prior comments submitted by the Rhode Island ACLU and the New England First Amendment Coalition, both members of ACCESS/RI. We support all the suggestions made by the ACLU and NEFAC with respect to transparency of BWC footage. Because our coalition is focused exclusively on open government, our comments will not focus on issues of privacy.

We appreciate that some of our comments submitted in our letter dated September 21, 2021, during the Advanced Notice of Proposed Rulemaking were incorporated in these draft regulations. We are grateful for the opportunity to weigh in on these proposed rules.

Section 2.5.4(A)(1)(a-b) specifies the responsibilities of officers regarding BWCs at the beginning of their shifts. When there are problems with the BWCs it requires that officers deal with them "as soon as practicable." We believe the regulations should contain a specific time frame for resolving issues with BWCs, otherwise the lax standard in the proposed regulations may be abused.

Section 2.5.5(A) explains the responsibilities of supervisors with respect to BWC footage. We believe that when reporting an interruption in footage from the BWC the supervisor should report the length of the interruption. We also believe that the policy should spell out in greater detail the random auditing required in 2.5.5(C)(2). For instance, the audit should require that every officer using a BWC have an equal chance of being audited in a given month.

Section 2.5.6 deals with deadly force incidents. In 2.5.6(B)(3) an officer involved in a deadly force incident may stop recording when instructed to do so by a supervisor. Yet the proposed regulations provide no standard for the supervisor when making that decision.

We note that Section 2.5.10 contains an error, with two subsections labeled (3). In the second subsection (A)(3)(c) one of the factors an officer must weigh when considering whether to use a BWC is the “Presence of individuals who appear to be minors.” We believe this is too broad a criteria. Many police interactions with minors are fraught and subject to scrutiny and BWC footage would be of value to the public.

Section 2.5.13 deals with public access to BWC footage. In subsection 2.5.13(D)(3)(b) it states that footage should be released upon “substantial completion” of an investigation, and in (D)(4) it states that “Substantial completion is expected to occur within thirty (30) days.” We believe this gives too much discretion and the 30-day period should be a hard ceiling after which the footage is released.

Finally, we believe there should be two additions made to these regulations. First, they should include language prohibiting an officer from doing anything that would materially interfere with the public’s ability to consume BWC footage. There have been incidents in other states where officers have played copyrighted music so that video of an incident cannot be posted on a commercial website such as YouTube.

Second, we think that all departments should report annually to the Attorney General their compliance with the statute and regulations, including but not limited to, the number of requests received, the number of requests fulfilled, and the number of redactions made.

ACCESS/RI members:

ACLU of Rhode Island  
Common Cause Rhode Island  
League of Women Voters of Rhode Island  
New England First Amendment Coalition  
Rhode Island Press Association