



Joint Response to Public Comment Pursuant to DGO 3.01.04(D)

DGO 10.11 Body Worn Cameras

June 28, 2024

SFPD Department General Order (DGO) 3.01 requires that all policies under development be posted publicly to provide members of the public thirty (30) business days to submit policy recommendations.

Pursuant to DGO 3.01.04 (D), the Department and the Department of Police Accountability (DPA) jointly prepare a public response, which shall be posted on the Department's website, outlining the recommendations included and not included in the DGO draft submitted to the Police Commission.

Joint responses are captured in the following recommendation grid which captures the original recommendation, whether the recommendation was included or not included in the draft DGO, and the explanation relating to the decision to include or not include the recommendation into the draft DGO.

The Department reserves the right to remove or not respond to comments if they are:

- Unrelated to the subject of the DGO
- Include private personal information (whether the commenter's or someone else's), including home address, home or cell phone number, personal e-mail address, or personal identification.
- Include profanity or obscene language.

The Department received 26 recommendations for *DGO 10.11 Body Worn Cameras* from the public and reached a consensus with the DPA on 20 of the responses.

The Department and DPA extend gratitude to all who took the time to contribute recommendations to this policy.

DKO 10.11 Body Worn Cameras- Public Comment Responses (DKO 3.01.04(D))

June 27, 2024

| # | Public Comment | DKO SEC | Date Received | Required Response | SFPD Explanation | DPA Explanation |
|-----|--|--|---------------|---|---|---|
| R1 | The department has several specialized units, specifically CSI. CSI uses state of the art still and video cameras to document evidence collection. Can there be a exception added for no BWC when collecting evidence at a crime scene. | | 9/7/23 | Recommendation will not be included in Draft DGO | BWC usage and activation ensures transparency and accountability of sworn members in the course of their duties, including when being recorded by additional devices. BWC footage is stored and maintained by external secure vendors that ensure security of footage. | DPA agrees with SFPD. |
| R2 | The requirement for BWC activation is not clear if it applies for evidence collection at crime scenes. If members are performing evidence collection, can the policy be as other departments and document evidence collection using fit for purpose tech. | | 9/7/23 | Recommendation will not be included in Draft DGO | Evidence collection is a job duty for all sworn members and as such would be covered under the under Section 10.11.05(B)(1) of the DGO, "response to any call for service, or activity with a potential to require law enforcement action." Further, Section 10.11.06(A)(2) (can return to buffering mode/de-activate) when on a perimeter post or static post where they are NOT in contact with members of the public, or involved in the initial incident or not actively part of the investigation". Evidence collection is part of the investigation and therefore the BWC cannot be returned to buffering/deactivated at this time. | DPA agrees with SFPD. |
| R3 | CSI is now a mix of professional and sworn members. As professional staff respond to scenes for evidence collection, they will not have BWC. Requiring sworn to use BWC for this purpose creates two tiers of service. | | 9/7/23 | Recommendation will not be included in Draft DGO | DKO 10.11 only applies to sworn employees. | DPA agrees with SFPD |
| R4 | Uniformed members continue to carry/hold the responsibility and burden of BWC compliance (while non uniformed members do not). The BWC either goes on all Superior Officers to include Captains rank or none of them. Any member, at any time, could spontaneously learn something of evidentiary value. | 10.11.04A | 9/8/23 | Recommendation has been included in draft DGO | The DGO 10.11 Working Group convened between April 2023- July 2023, included sworn officers, and discussed expanding BWC use to include all command staff members. However, in May 2023, the working group as a whole suggested a "task based expansion" while DPA suggested that the expansion include all members except the Chief of Police.(see R15 on DGO 10.11 WG Grid https://www.sanfranciscopolice.org/sites/default/files/2023-07/SFPDDGOWorkingGroup_10_11_DiscussionTracking20230713.pdf). In addition, the working group discussed the BWC policies of over 21 other law enforcement agencies(LEAs) where it was found that common practice is to assign BWC to Captain and below or are linked to duties/tasks where BWC usage is necessary. During the working group, it was decided to expand BWC use to include Captains as many Captains are assigned to the Field Operations Bureau, are in uniform and are routinely in public where mandatory recording circumstance may occur. During the concurrence process, Chief Scott determined that BWCs should be issued to all ranks, including the Chief of Police, and all members shall comply with the policies set forth in DGO 10.11. | DPA agrees w/ Chief Scott's determination |
| R5 | During community and police commission meetings, members of the public may have knowledge of criminal activity as a suspect, witness, or victim. Should BWCs be activated during community meetings and police commission meetings?? | 10.11 | 9/8/23 | Recommendation will not be included in Draft DGO | If a mandatory recording circumstance occurs, even at a public meeting, members are required to activate their BWC's as described in this policy. | DPA agrees w/ SFPD |
| R6 | BWC should not be assigned to Captain rank or higher. The cost to the department to purchase add'l cameras is not worth assigning these to Captains who mostly deal with administrative duties and not with the required activation incidents. | 10.11.04 | 9/8/23 | Recommendation will not be included in Draft DGO | See Department response to R4. | DPA disagrees with commenter. The DGO 10.11 Working Group investigated this issue and determined the cost was negligible. See DPA response to #4. |
| R7 | Delete "and protect its members from unjustified complaints of misconduct." The meaning of this phrase is subsumed within the concepts of "transparency" and "accountability" articulated earlier in the section making this redundant. Moreover, "unjustified" isn't a finding DPA/IAD can make and suggests that any complaint that is not sustained lacks merit. To the contrary, oftentimes the lack of evidence is the reason a complaint isn't sustained. And even though the underlying action might be legal, policing actions still create strong emotional reactions. Calling them unjustified is unfair to those emotional and psychological reactions. The language, without evidence, also paints officers of victims in need of protection from a torrent of false claims. | 10.11.01 (Purpose) | 9/27/23 | Recommendation has been included in draft DGO | The DGO 10.11 Working Group that convened between April 20, 2023 and July 13, 2023 crafted the language for the purpose statement. The Department is agreeable to changing the language to say: "fairly and objectively adjudicate complaints of misconduct" to align with the SF Admin Code 19B BWC Surveillance Technology Policy and Surveillance Impact Report. | DPA agrees with commenter that more neutral language is preferable. DPA accepts SFPD's proposed, alternate language that aligns with 19B. |
| R8 | Insert the following sentence: "Commanders who participate in enforcement activities or provide command support in the field shall be issued a BWC and wear it for the duration of their participation in the incident." Reasoning: it's important to record the events of an incident for additional policy improvement and policy violations. | 10.11.04 OFFICER RESPONSIBILITIES (Subsection A) | 9/27/23 | Recommendation will be modified and will be included in the draft DGO | See Department response to R4. | DPA agrees with commenter. See DPA response to #4. DPA approves of the commenter's proposed language. |
| R9 | Insert "as soon as practical" at the end of the sentence. Reasoning: no time requirement here means that an officer could be without a replacement for longer. | 10.11.04 OFFICER RESPONSIBILITIES (Subsection E.1) | 9/27/23 | Recommendation will not be included in Draft DGO | As written, the time requirement is based on when the member discovers their BWC as inoperable. Imposing a further temporal limitation is unnecessary. | DPA disagrees with SFPD and agrees with commenter that more specific language is needed to ensure officers promptly report inoperable BWCs |
| R10 | Insert "including how the item became inoperable or why the replacement was necessary" to the end of the sentence. Reasoning: Officers should explain how taxpayer funded, expensive equipment became inoperable. | 10.11.04 OFFICER RESPONSIBILITIES (Subsection E.1.b) | 9/27/23 | Recommendation will not be included in Draft DGO | When a BWC ceases or becomes inoperable, the cause may not be immediately apparent to the members. The cause of inoperation should be determined by a BWC technician. In cases where damage or tampering is evident, the Department will investigate. | DPA agrees with SFPD |

DO 10.11 Body Worn Cameras- Public Comment Responses (DO 3.01.04(D))

June 27, 2024

| # | Public Comment | DO SEC | Date Received | Required Response | SFPD Explanation | DPA Explanation |
|-----|---|--|---------------|--|--|--|
| R11 | Add "Once activated, members may not mute or disable the audio recording function of their BWCs." Reasoning: muting allows/encourages lawless policing. The policy doesn't explicitly prohibits muting. Officers may think its absence approves muting. Additionally, officers at the working group uniformly agreed that muting should not be allowed. | 10.11.05 ACTIVATION OF BODY WORN CAMERAS (Subsection A) | 9/27/23 | Recommendation will not be included in Draft DGO | Members are unable to mute their BWC as the mute function has been disabled by the Department at the direction of the Chief of Police and no individual member can override the function on an individual basis. This was explained to the DO 10.11 Working Group Members so a formal recommendation was not submitted as they understood this was not a function available to individual officers. | DPA disagrees with SFPD and agrees with commenter. Officers can still mute by putting a hand or jacket over the recording device. DPA disagrees with SFPD's response to this comment which is by the same commenter and merely a continuation of the comment above it in R15. The public comment portal gives commenter's inadequate space to finish their thought or fully explain their POV. Therefore, community members have to submit multiple comments to make one recommendation. Community members have complained that 255 characters is insufficient. DPA agrees with commenter that language prohibiting muting should be added. |
| R12 | Delete the phrase "except during emergency encounters that require immediate action to preserve life or safety." Instead "except as described in subsection C." Reasoning: As written, officers must activate their BWCs except in emergency encounters. Reasoning Cont: That doesn't seem like the correct result and is ill defined. Moreover, this exigency is covered in the following section. | 10.11.05 ACTIVATION OF BODY WORN CAMERAS (Subsection B) | 9/27/23 | Recommendation will be included in DGO draft. | The Department has included this revision. | DPA agrees with the commenter that this is a good edit. |
| R13 | Add "When asked, members shall indicate accurately if the BWC is active." Reasoning: surreptitious recording undermines public confidence in policing, may chill freedom of expression, and harm privacy interests, particularly for the unhoused. | 10.11.05 ACTIVATION OF BODY WORN CAMERAS (Subsection D) | 9/27/23 | Recommendation will not be included in Draft DGO | This section relates to whether officers require consent to record members of the public and clarifies that members of the public cannot require officers to deactivate or activate BWC. In addition, BWCs are required to be mounted in a prominent and conspicuous location on the member's external garment which works in opposition of the perception that surreptitious recording is occurring. | DPA disagrees with SFPD and agrees with commenter. Members of the public may not know what the lights mean on the BWC. If asked, officers should be truthful for the reasons stated by the commenter. |
| R14 | Replace "impede or limit" with "prevent." Reasoning: the terms are too vague & afford officers too much discretion. Officers may err on the side of deactivating their BWC, harming the ability of criminally accused to confront witnesses. | 10.11.06 DEACTIVATION AND EXCEPTIONS (Subsection (A)(6)) | 9/27/23 | Recommendation will not be included in Draft DGO | 10.11.06(A)(6) relating to when officers may deactivate BWC, reads as follows: "When respect for an individual's privacy or dignity outweighs the need to record an incident. Such circumstances may include natural death scenes, child or sexual assault victim interviews, and when the use of BWC would impede or limit the cooperation of a victim or witness." When considering an individual's privacy and/or dignity while maintaining the integrity of the investigation, an officer's discretion is paramount in making that determination as to whether they should activate or deactivate their BWC. That determination is based on the totality of the circumstances of the investigation. The words "impede or limit" allow that officer to use their discretion to make that determination while the word "prevent" would take away that ability. | DPA agrees with SFPD. |
| R15 | Replace "download" with "upload." Reasoning: download has the opposite meaning of upload and makes this section inapplicable to "members on an outside assignment." | 10.11.07 UPLOADING AND DOCUMENTATION (Subsection A) | 9/27/23 | Recommendation has been included in draft DGO | The Department has included this revision. | DPA agrees with commenter and SFPD. |
| R16 | Add "star number" to the requirements for uploading BWC. Reasoning: The City wastes resources when defense teams spend time watching BWC just to figure out who the recording officer is. Reasoning cont: It's cheaper to have the officer add their star number at the beginning. It also makes it easier for supervisor or Risk Management to identify videos they should review. | 10.11.07 UPLOADING AND DOCUMENTATION (Subsection B) | 9/27/23 | Recommendation will not be included in Draft DGO | BWC footage is provided to defense teams via the District Attorney's Office in accordance with relevant discovery laws. The footage contains the title and full name of the member, and the A# which is unique to that member. The A# is prominently displayed on the screen throughout the members' BWC recordings. This recommendation would not more accurately identify SFPD members as star numbers are often re-issued upon member retirement and/or hiring. Including a member's star number would be a manual process that would only result in an increased administrative burden/cost to SFPD without more accurately identifying a member's footage. | DPA disagrees with SFPD and agrees with commenter. SFPD should to identify BWC footage in a way that readily connects it to the officer who wore it. Star number plus first three letters of last name would suffice. SFPD provides BWC recordings to DPA in a way we can easily identify the recording officer. SFPD should do the same for the Public Defender to protect City resources and to be fair to the accused. SFPD's administrative burden argument is not persuasive. Only one officer is assigned a Star number at any given time. Given that the SFDA and SF Public Defender also have access to related SFPD Incident Reports with a date to cross-reference with the BWC, no one will be confused as to whether a Star number refers to a retired person. |
| R17 | Delete "or ensure that it is documented by another member." Reasoning: this is unnecessary and confusing. The member who used their BWC should document that use in their incident report. | 10.11.07 UPLOADING AND DOCUMENTATION (Subsection D) | 9/27/23 | Recommendation will not be included in Draft DGO | There are many instances when a member activates his or her BWC during a police action but does not author an incident report. This policy ensures every member BWC activation is documented even if a member does not individually author an incident report. | DPA agrees with SFPD |
| R18 | If member declines to give a statement in the criminal investigation, the administrative investigator shall not show the BWC until the administrative interview concludes. Best practices is to conduct a cognitive interview before viewing BWC. | 10.11.08 REVIEW OF BWC RECORDINGS (Subsection B) | 9/27/23 | Recommendation will not be included in Draft DGO | The following language is in the draft DGO that will be submitted to the commission for consideration: "Administrative investigators shall not show BWC recordings to involved or witness members or PSAs unless (1) the criminal investigation has concluded; or (2) the criminal investigator has consented to sharing the footage. Involved members who have not already seen their BWC recording during the criminal investigation shall be required to give an initial statement prior to viewing their recording in the administrative investigation." Cognitive Interview: As discussed at the DO 10.11 WG, a cognitive interview is a specific technique which aids memory retrieval by reinstating the context of the event, recalling the event in a different sequence, and looking at the event from different perspectives. There are three psychological processes to a cognitive interview: cognition, social dynamics and communication. This technique would require specific training, not offered by POST, and may require specifically tailored scripts for investigators. POBAR allows the officer rights to all administrative investigation materials(including BWC) if they are interviewed more than once. In covered incidents a member is likely to be subject to multiple interviews by multiple investigators assigned to both SFPD and outside agencies. These factors make implementing "cognitive interviews" challenging. | DPA disagrees with SFPD. The commenter is simply reviving language the DO 10.11 Working Group agreed to and was deleted, without explanation, from the draft DGO 10.11 publicly posted. DPA agrees that the below language should be re-inserted into 10.11.08: "If member declines to give a statement in the criminal investigation, the administrative investigator shall not show the BWC footage until the administrative interview concludes. SFPD acknowledges that it is best practices to conduct a cognitive interview before viewing BWC and SFPD will do so when feasible.") This position was supported by the Working Group after a presentation by memory expert, Dr. Kathy Pezdek, and is not outside the scope of this DO since 10.11 already discusses post-OIS and covered incident procedures. DPA recommends that if the working group agrees to proposed language, that the SFPD personnel include that language in the draft that gets forwarded to Concurrence. DPA believes that cognitive interviews are in the best interest of the involved officers and the community. because they are most likely to ascertain the truth, and that SFPD investigators and DPA should undertake the appropriate training which is readily available. |

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| # | Public Comment | DGO SEC | Date Received | Required Response | SFPD Explanation | DPA Explanation |
|-----|--|---|---------------|---|--|--|
| R19 | Replace "the policy" with "all policies." Reasoning: RMO should be empowered to investigate all policy violations when it audits BWC footage. | 10.11.11 ADMINISTRATIVE INFORMATION Subsection (B)(5) | 9/27/23 | Recommendation will not be included in Draft DGO | The purpose of this policy is to empower the BWC unit to audit compliance with the BWC policy. If policy violations are observed, a mandatory reporting requirement is already in place. This policy mandates that employees refer the matter to the Internal Affairs Division for possible investigation. | DPA agrees with SFPD. |
| R20 | Superior Officers above the rank of captain should also be required to wear a BWC since this is a requirement of police officers. Why are they exempt when they are in full uniform on a daily basis and are also required to take law enforcement action? | | 9/28/23 | Recommendation has been included in draft DGO | The DGO draft that will be submitted to the commission for consideration applies to all ranks, including the Chief of Police. | DPA agrees with commenter. See DPA response to #4. |
| R21 | There are 28 "shall"s, 10 "will"s, and 2 "must"s. None of this is life/death. Unless it's a legal requirement, make it "should or may," especially since you allow exemptions granted by Supervisors | | 9/28/23 | Recommendation will not be included in Draft DGO | Upon review of this comment, it has been determined that the procedures outlined in DGO 10.11 indicate mandatory actions on specified events where using a "shall" is appropriate. | DPA agrees with SFPD. Commenter did not suggest any specific "shall" that would be proper as a "should." The BWC Working group, SFPD officer panellists, and Command Staff have reduced this policy to the fewest "shall" for mandatory actions. |
| R22 | How can you expect an Officer to remember eight pages of this? Too verbose! Not concise at all! | | 9/28/23 | Recommendation will not be included in Draft DGO | This recommendation does not provide a specific recommendation for the DGO and therefore cannot be incorporated into the draft DGO, however, it is the goal of the SFPD Policy Development Division (PDD) to consider all public and member feedback in order to create clear, concise general orders going forward, that do not overly burden sworn members with time consuming administrative duties. | DPA disagrees with SFPD's response which is an overly narrow interpretation of the public comment portion of DGO 3.01. DPA appreciates the input and would like the commenter to know that the WG 10.11 had a panel of patrol officers review and provide input on the DGO to make sure it is concise and readable for the end users. Approximately 5 pages was cut from the draft DGO 10.11 as a result of these discussions. The current DGO 10.11 is 7 pages so this version is relatively consistent in length. If there are specific portions of the DGO that are confusing, and you are an officer, please reach out to your supervisor and go up the chain to A/Commander Mark Im for resolution. If you are a member of the public, please reach out to DPA Policy Unit. |
| R23 | Why are Superior ranks not required to wear a camera? I saw an X posting where the Police Chief was dealing with an unhooded person. Why was he not wearing a camera? | DGO 10.11.04 (A) | 9/28/23 | Recommendation will be modified and will be included in the draft DGO | The DGO draft that will be submitted to the commission for consideration applies to all ranks, including the Chief of Police. | DPA agrees with commenter. See DPA response to #4. |
| R24 | If conducting a active investigation, why is a Sgt prohibited from capturing an image from BWC on a Dept issued cellphone for possible disbursement in a BOLO? Eg. 852 Suspects fleeing from initial Officers. | 10.11.09 (A)(1) Ownership and Distribution | 9/28/23 | Recommendation has been included in draft DGO | The section relates to releasing BWC footage to the public. BOLOs are circulated for law enforcement use and are not generally released to the public. Nothing in this section is intended to limit the release of BWC footage to outside law enforcement agencies in connection with an active investigation. This comment highlights the need to clarify this language to make clear that personal use or distribution to the public is not allowed but sharing with law enforcement partners in accordance with applicable regulations relating to the release of investigative materials is allowed. The Department has further revised this section to clarify that this section does not apply to BWC footage sharing for law enforcement purposes. | DPA Concur with SFPD's post-concurrence draft. |
| R25 | Section E sounds redundant to F... as the reviewing Supervisor is "conducting an administrative or criminal investigation." What exactly does "evaluate professional conduct or performance" mean? | 10.11.10 (E) Supervisor Responsibilities | 9/28/23 | Recommendation has been included in draft DGO | This recommendation has been integrated by restructuring sections 10.11.10(E) and 10.11.10(F). Section 10.11.10(E) identifies circumstances when a supervisor MAY NOT review a member's BWC. Section 10.11.10(F) identifies circumstances when a supervisor MAY review a member's BWC. The restructuring does not substantively change the policy itself and is likely to decrease potential confusion as to when a supervisor may or may not review a member's BWC. It is the responsibility of a supervisor to regularly monitor the performance and conduct (behavior) of the officers they supervise by identifying patterns, behaviors, deficiencies, and successes in an effort to develop strategies to improve overall performance. Periodic review of a member's BWC is one tool that a supervisor has to accomplish this task. | DPA Concur with SFPD's post-concurrence draft. |
| R26 | What's the definition of "personal activities?" | 10.11.06 (B)(7) Deactivation and Exceptions | 9/28/23 | Recommendation has been included in draft DGO | The Department has removed 10.11.06(B)(7) as 10.11.06(A)(3) more clearly defines personal activities where an officer may deactivate their BWC, like meal breaks, or restroom breaks. | DPA Concur with SFPD's post-concurrence draft. |