

1 AMENDMENT IN THE NATURE OF A SUBSTITUTE

2 Engrossed Original

3 B21-0351

4 December 15, 2015

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7 A BILL

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9 B21-0351

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11 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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15 To amend the District of Columbia Administrative Procedure Act to allow public access to certain
16 body-worn camera recordings recorded by the Metropolitan Police Department; to amend
17 the Office of Citizen Complaint Review Establishment Act of 1998 to permit the Office of
18 Police Complaints to allow a potential complainant to view body-worn camera recordings
19 prior to the filing of a complaint; to amend the Fiscal Year 2016 Budget Support Act of
20 2015 to require the Mayor to collect additional data; to establish the Metropolitan Police
21 Department Body-Worn Camera Fund; and to adopt regulations governing the Metropolitan
22 Police Department's Body-Worn Camera Program.

23
24 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
25 act may be cited as the "Body-Worn Camera Program Amendment Act of 2015".

26 Sec. 2. Title II of the District of Columbia Administrative Procedure Act, effective March
27 25, 1977 (D.C. Law 1-96; D.C. Official Code § 2-531 *et seq.*), is amended as follows:

28 (a) Section 202 (D.C. Official Code § 2-532) is amended as follows:

29 (1) Subsection (b) is amended by striking the phrase "A public body may establish
30 and collect fees not to exceed the actual cost of searching for, reviewing, and making copies of
31 records." and inserting the phrase "A public body may establish and collect fees not to exceed the
32 actual cost of searching for, reviewing, redacting, and making copies of records." in its place.

33 (2) Subsection (c) is amended as follows:

34 (A) The existing text is designated as paragraph (1).

35 (B) The newly designated paragraph (1) is amended by striking the phrase
36 "A public body" and inserting the phrase "Except as provided in paragraph (2) of this subsection,
37 a public body" in its place.

38 (C) A new paragraph (2) is added to read as follows:

39 (2)(A) If the public record requested is a body-worn camera
40 recording recorded by the Metropolitan Police Department, the Department, upon request
41 reasonably describing the recording, shall within 25 days (except Saturdays, Sundays, and legal
42 public holidays) of the receipt of any such request either make the requested recording accessible
43 or notify the person making such request of its determination not to make the requested recording
44 or any part thereof accessible and the reasons therefor."

45 (B) A request for a body-worn camera recording may only
46 be submitted to the Metropolitan Police Department."

47 (3) Subsection (d) is amended to read as follows:

48 (d)(1) In unusual circumstances, the time limits prescribed in subsections (c)(1)
49 and (c)(2) of this section may be extended by written notice to the person making such request
50 setting forth the reasons for extension and expected date for determination. Such extension shall
51 not exceed 10 days (except Saturdays, Sundays, and legal public holidays) for records requested
52 under subsection (c)(1) of this section and 15 days (except Saturdays, Sundays, and legal public
53 holidays) for records requested under subsection (c)(2) of this section.

54 (2) For the purposes of this subsection, and only to the extent necessary for
55 processing of the particular request, "unusual circumstances" are limited to:

56 (A) The need to search for, collect, and appropriately examine a
57 voluminous amount of separate and distinct records which are demanded in a single request;

58 “(B) The need for consultation, which shall be conducted with all
59 practicable speed, with another public body having a substantial interest in the determination of
60 the request or among 2 or more components of a public body having substantial subject-matter
61 interest therein; or

62 “(C) For body-worn camera recordings covered by subsection (c)(2)
63 of this section, the inability to procure a vendor that is able to perform the redactions within the
64 25-day time period provided under subsection (c)(2).”

65 (b) Section 204(a) (D.C. Official Code § 2-534) is amended by adding a new paragraph
66 (2A) to read as follows:

67 (1) ~~Subsection (a)(2) is amended to read as follows:~~

68 ~~“(2A) Information of a personal nature where the public disclosure thereof would~~
69 ~~constitute a clearly unwarranted invasion of personal privacy, including, but not limited to, a~~Any
70 body-worn camera recordings recorded by the Metropolitan Police Department:

71 ~~“(A) Inside a personal residence; or~~

72 ~~“(B) Related to an incident involving domestic violence as defined in~~
73 ~~section 3032(1) of the Domestic Violence Hotline Establishment Act of 2013, effective December~~
74 ~~24, 2013 (D.C. Law 20-61; D.C. Official Code § 4-551(1)), stalking as defined in section 503 of~~
75 ~~the Omnibus Public Safety and Justice Amendment Act of 2009, effective December 10, 2009~~
76 ~~(D.C. Law 18-0088; D.C. Official Code § 22-3133), or sexual assault as defined in D.C. Official~~
77 ~~Code § 23-1907(a)(7).~~

78 ~~Sec. 3. Section 8 of the Office of Citizen Complaint Review Establishment Act of 1998,~~
79 ~~effective March 26, 1999 (D.C. Law 12-208; D.C. Official Code § 5-1107) is amended by adding~~
80 ~~a new subsection (d-1) to read as follows:~~

81 ~~“(d-1) The Executive Director may allow a potential complainant to view unredacted body-~~
82 ~~worn camera recordings prior to filing a complaint; provided that:~~

83 ~~“(1) The potential complainant shall not be allowed to make a copy of the~~
84 ~~recording; and~~

85 ~~“(2) The unredacted recording would not violate the individual privacy rights of~~
86 ~~any other subject of the recording.”~~

87 Sec. 43. Section 3004(a) of the Fiscal Year 2016 Budget Support Act of 2015, effective
88 October 22, 2015 (D.C. Law 21-0036; 62 DCR 10905) is amended as follows:

89 (a) Paragraph (6) is amended by striking the phrase “and”.

90 (b) Paragraph (7) is amended to read as follows:

91 ~~“(7) How many Freedom of Information Act requests the Metropolitan Police~~
92 ~~Department received for body-worn camera recordings during the reporting period, the outcome~~
93 ~~of each request, including any reasons for denial, and the cost to the Department of for complying~~
94 ~~with each request, including redaction; and”~~.

95 (c) A new paragraph (8) is added to read as follows:

96 ~~“(8) How many recordings were assigned to each body-worn camera recording~~
97 ~~category.”~~

98 Sec. 54. Establishment of Metropolitan Police Department Body-Worn Camera Fund.

99 (a) There is established as a special fund the Metropolitan Police Department Body-Worn
100 Camera Fund (“Fund”) which shall be administered by the Metropolitan Police Department.

101 (b) Funds from the following sources shall be deposited into the Fund:

102 (1) All fees that are paid as part of Freedom of Information Act requests for body-
103 worn camera recordings recorded by the Metropolitan Police Department;

104 (2) All monies appropriated to the Fund;

105 (3) Federal grants to the Fund; and

106 (4) Private monies donated to the Fund.

107 (c) Money in the Fund shall be used for the purpose of procuring a vendor to perform any
108 necessary redactions of the recordings.

109 (d)(1) The money deposited into the Fund, and interest earned, shall not revert to the
110 unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal
111 year, or at any other time.

112 (2) Subject to authorization in an approved budget and financial plan, any funds
113 appropriated in the Fund shall be continually available without regard to fiscal year limitation.

114 Sec. 65. Title 24 of the District of Columbia Municipal Regulations is amended by adding
115 a new Chapter 39 to read as follows:

116 ~~3900~~ GENERAL PROVISIONS

117 ~~3900.1~~. The purposes of this chapter are to establish rules for the Metropolitan Police
118 Department's ("MPD" or "Department") Body-Worn Camera ("BWC") Program and to
119 implement section 3003 of the Fiscal Year 2016 Budget Support Act of 2015, effective October
120 22, 2015 (D.C. Law 21-35; 62 DCR 10905).

121 "3900.2. The intent of the BWC program is to promote accountability and transparency,
122 foster improved police-community relations, and ensure the safety of both MPD officers and the
123 public.

124 "3900.3. In addition to these regulations, the Chief of Police of MPD may issue policy
125 directives to members; those policy directives shall be published on the Department's website at
126 <http://mpdc.dc.gov/page/written-directives-general-orders>.

127 “3900.4. Members shall successfully complete MPD-offered or approved BWC training
128 prior to being issued a BWC.

129 “3900.5. When practicable, members shall inform contact subjects that they are being
130 recorded at the beginning of the contact and shall provide language access services to all limited
131 and non-English proficient persons in a timely and effective manner.

132 “3900.6. Members may record First Amendment assemblies for the purpose of
133 documenting violations of law and police actions, as an aid to future coordination and deployment
134 of law enforcement units, and for training purposes; provided, that recording First Amendment
135 assemblies shall not be conducted for the purpose of identifying and recording the presence of
136 participants who are engaged in lawful conduct.

137 “3900.7. Members shall not create BWC recordings when they are at or in close proximity
138 to a school and are engaged in non-critical contacts with students or mediating minor incidents
139 involving students. For purposes of this section, “school” does not include a college or university.

140 “3900.8. When reviewing BWC recordings, members shall immediately notify Department
141 officials upon observing, or becoming aware of, an alleged violation of Department policies, laws,
142 rules, regulations, or directives.

143 “3900.9. (a) Members may not review their BWC recordings or BWC recordings that have
144 been shared with them to assist in initial report writing.

145 “(b) The Department shall not assume an adverse inference when members amend
146 or supplement their initial reports if a review of the BWC recording prompts further recollection
147 of incident details.

148 “3900.10. The Mayor may, on a case-by-case basis in matters of significant public interest
149 and after consultation with the Chief of Police, the Office of the United States Attorney for the

150 District of Columbia, and the Office of the Attorney General, release BWC recordings that would
151 otherwise not be releasable pursuant to a Freedom of Information Act request. Examples of matters
152 of significant public interest include officer-involved shootings, serious use of force by an officer,
153 and assaults on an officer requiring hospitalization.

154 "3901 RETENTION OF BODY-WORN CAMERA RECORDINGS

155 "3901.1. Unless subject to the requirements of § 3901.2, a BWC recording shall be retained
156 by the Department for not more than ninety (90) calendar days from the date the recording was
157 created. All metadata shall be retained by the Department for not less than five (5) years.

158 "3901.2. The Department shall, through a policy directive, establish and make available on
159 its website retention schedules for a BWC recording that contains the following types of
160 recordings:

- 161 "(a) Related to a criminal investigation;
- 162 "(b) Conduct by an MPD officer or civilian employee that is under investigation or the
163 subject of a complaint;
- 164 "(c) Related to a death investigation;
- 165 "(d) BWC recordings that the Department has actual or constructive knowledge may be:
 - 166 "(1) Subject to a civil litigation hold;
 - 167 "(2) Subject to a FOIA request; or
 - 168 "(3) Used for training purposes by the Department; and
- 169 "(e) Other categories of recordings that the Chief of Police believes determines should be
170 retained.

171 "3902. ACCESS TO BODY-WORN CAMERA VIDEO.

172 “3902.1. The Department shall make unredacted BWC recordings available to the Office
173 of the United States Attorney for the District of Columbia, the Office of the Attorney General, and
174 the Office of Police Complaints.

175 “3902.2. The Department shall make BWC recordings available to law enforcement or
176 investigatory agencies, such as the Office of the Inspector General and the Office of the District
177 of Columbia Auditor, pursuant to the officers’ or agencies’ official duties. Nothing in this section
178 shall be construed to limit those entities’ authority under existing law. The cost of any required
179 redactions shall be borne by the Department.

180 “3902.3. A FOIA request for a BWC recording shall only be submitted to MPD.

181 “3902.4. The Office of the District of Columbia Auditor is authorized to share body-worn
182 camera recordings obtained by the Office from the Department with the Council of the District of
183 Columbia.

184 “3902.5. (a) Pursuant to policy directives adopted under the authority of subsection 3900.3
185 of this chapter, the Department shall make schedule a time for any person who is the subject of
186 a BWC recordings available for viewing, his or her legal representative, and the subject’s parent
187 or legal guardian if the subject is a minor, to view the BWC recording at a the District police station
188 in the following situations the police district where the incident occurred:

189 ~~“(a) A person alleging misconduct related to an interaction with an MPD officer,~~
190 ~~such as rudeness or unprofessionalism on the part of the officer, shall be able to schedule a time to~~
191 ~~view unredacted BWC recordings of the incident at the police station in the police district where~~
192 ~~the alleged misconduct occurred; provided, that:~~

193 ~~“(1) The person shall not make a copy of the BWC recording; and~~

194 ~~“(2) The unredacted BWC recording would not violate the individual~~
195 ~~privacy rights of any other subject(s) of the recording.~~

196 ~~“(b) A person who is the subject of a BWC recording and his or her legal~~
197 ~~representative shall be able to schedule a time to view unredacted BWC recordings of the incident~~
198 ~~at the police station in the police district where the incident occurred; provided, that:~~

199 ~~“(1) Neither the person nor his or her legal representative shall ~~not~~ make~~
200 ~~a copy of the BWC recording; and~~

201 ~~“(2) Access to the unredacted BWC recording would not violate the~~
202 ~~individual privacy rights of any other subject(s) of the recording; and~~

203 ~~“(3) Access to the unredacted BWC recording would not jeopardize the~~
204 ~~safety of any other subject.~~

205 ~~“(e)(1) To receive a copy of the a BWC recording viewed pursuant to, a person~~
206 ~~under subsections (a) or (b) of this section, a person shall file a FOIA request with the Department;~~
207 ~~provided, that there shall be no cost to the person for the production of the FOIA request BWC~~
208 ~~recording.~~

209 ~~“(2) Upon receipt of the copy of the BWC recording, the person may further~~
210 ~~copy or distribute the BWC recording.~~

211 ~~“3902.6. An individual seeking to obtain a copy of BWC recordings not covered by~~
212 ~~subsection 3902.5 this section may submit a FOIA request to the Department for a copy of the~~
213 ~~recordings.~~

214 ~~“3902.7. The Department shall engage academic institutions and organizations to analyze~~
215 ~~the BWC program; provided, that any such relationships shall require the protection of any~~
216 ~~information or unredacted BWC recordings.~~

217 “3902.8. The Department shall, through a policy directive, develop procedures to
218 implement this chapter and District law.

219 “3903 BODY-WORN CAMERA AUDITS AND DATA PROTECTION

220 “3903.1. The Department shall conduct audits of the BWC program to assess the
221 following, at a minimum:

222 “(a) Officer compliance with these regulations and any policy directives
223 issued by the Department;

224 “(b) Impact of the BWC program on reports submitted by officers;

225 “(c) Officer training and equipment needs;

226 “(d) Proper protection of individuals’ privacy rights;

227 “(e) The impact of BWCs on the number and type of citizen complaints
228 filed with MPD;

229 “(f) The impact of BWCs on the number of use of force incidents;

230 “(g) The total number of contacts between police and the public; and

231 “(h) Maintaining proper and secure access to shared or retained BWC
232 recordings.

233 “3903.2. The Department shall regularly monitor the business practices of any
234 third-party entity providing services to the BWC program to ensure individuals’ privacy rights are
235 protected.

236 “3903.3. The Department may enter into agreements with other government
237 agencies to provide access to BWC recordings; provided, that any such agreement shall require
238 the other agency to adhere to the individual privacy protections contained in these regulations or
239 any policy directives issued by the Department.

240 “3903.4. The Department shall strictly control access to BWC recordings and shall
241 identify each member who accesses BWC recordings. The Department shall perform quarterly
242 audits of member access to BWC recordings.

243 “3903.5. The individual who makes a BWC recording shall not have access to
244 delete the recording.

245 “3903.6. The deletion of any BWC recording shall be tightly restricted and shall
246 require written justification for the deletion.

247 “3903.7. If it is discovered through review, audit, or inspection that an individual
248 did not record a required event, the Department shall require the officer to provide written
249 justification for the failure to record.

250 “3903.8. The Department shall regularly monitor its BWC recordings data
251 protection policies.

252 “3999. DEFINITIONS.

253 “3999.1. When used in this chapter, the following terms and phrases shall have the
254 meanings ascribed:

255 “Body-worn camera (BWC) – means a camera system with secured internal
256 memory for storage of recorded audio and video that is designed to be worn on the clothing of or
257 otherwise secured to a person.

258 “Department – means the Metropolitan Police Department.

259 “FOIA – means Title II of the District of Columbia Administrative
260 Procedure Act, effective March 25, 1977 (D.C. Law 1-96; D.C. Official Code § 2-531 *et seq.*).

261 “Metadata – means descriptors which identify the time, date, location,
262 badge number linked to the creation of the record and officer interaction/offense categorization of
263 BWC video recordings.

264 “Subject – means a person who is not an on-duty law enforcement officer
265 at the time of the BWC recording and who has been recorded by a BWC.

266 “Use of force – means any physical contact used to effect, influence, or
267 persuade an individual to comply with an order from an officer. The term shall not include
268 unresisted handcuffing or hand control procedures that do not result in injury.”.

269 Sec. 76. Fiscal impact statement.

270 The Council adopts the fiscal impact statement in the committee report as the fiscal impact
271 statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved
272 December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

273 Sec. 87. Effective date.

274 This act shall take effect following approval by the Mayor (or in the event of veto by the
275 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
276 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24,
277 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
278 Columbia Register.



Chairman Phil Mendelson

AN AMENDMENT #1
Bill 21-351, "Body-Worn Camera Program Amendment Act of 2015
(Amendment in the Nature of a Substitute)
December 15, 2015

RE: Prohibition of Recordings at or in close proximity to a School

Section 5, Page 6, Lines 137-139 (proposed Rule 3900.7) is amended to read as follows:

"3900.7. Members shall not create BWC recordings when they are at ~~or in close proximity to~~ a school and are engaged in non-critical contacts with students or mediating minor incidents involving students. For purposes of this section, "school" means a facility devoted to primary or secondary education ~~does not include a college or university.~~"

Rationale:

The term "school" is undefined in the ANS, other than that "school" does not include a college or university. Is it intended to cover only grades K-12, all schools public and private, trade schools, facilities like the YMCA that offer classes, etc.?

Generally, the bill provides for the robust use of body-worn cameras, with a few exceptions such as provided by this section. This amendment clarifies that the limitation on using body-worn cameras applies only at K-12 schools. Note also: the limitation applies only when two conditions are both met: (1) at a K-12 school and (2) when the officer is engaged in non-critical contacts with students or mediating minor incidents involving students.

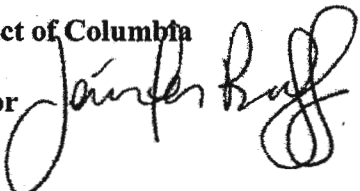
**COUNCIL OF THE DISTRICT OF COLUMBIA
Office of the Budget Director**



Jennifer Budoff
Budget Director

FISCAL IMPACT STATEMENT

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jennifer Budoff, Budget Director 

DATE: December 15, 2015

SHORT TITLE: B21-351 "Body-Worn Camera Program Amendment Act of 2015"

TYPE: Amendment #1

REQUESTED BY: Chairman Phil Mendelson

Conclusion

This amendment will not have an adverse impact on the District's budget and financial plan because there is no cost to the District associated with implementing this amendment.

Background

This amendment clarifies that the limitation on using body-worn cameras applies only at or adjacent to K-12 schools. Also, this amendment clarifies that the limitation applies only when two conditions are both met: (1) at or adjacent to a K-12 school and (2) when the officer is engaged in non-critical contacts with students or mediating minor incidents involving students.

Analysis of Impact on Spending

These amendments will not impact spending.

Analysis of Impact on Revenue

These amendments will not impact revenue.



OFFICE OF THE GENERAL COUNSEL

Council of the District of Columbia
1350 Pennsylvania Avenue NW, Suite 4
Washington, DC 20004
(202) 724-8026

MEMORANDUM

TO: Chairman Phil Mendelson

FROM: Ellen Efros, General Counsel *EAE*

DATE: December 15, 2015

RE: Legal sufficiency determination for Amendment to the Amendment in the Nature of a Substitute to Bill 21-351, the Body-Worn Camera Program Amendment Act of 2015

The measure is legally and technically sufficient for Council consideration.

The amendment makes changes to the Amendment in the Nature of a Substitute to Bill 21-351, the Body-Worn Camera Program Amendment Act of 2015 by clarifying in new section 3900.7 of the District of Columbia Municipal Regulations that the limitation on creating body-worn camera recordings near a school applies only "at or adjacent to" a facility devoted to primary or secondary education.

I am available if you have any questions.


Chairman Phil Mendelson

AN AMENDMENT #2
Bill 21-351, "Body-Worn Camera Program Amendment Act of 2015
(Amendment in the Nature of a Substitute)
December 15, 2015

RE: Availability of Body-Worn Camera Video to the Council

Section 5, Page 8, Lines 181-183 (proposed Rule 3902.4) is amended to read as follows:

"The Department shall make unredacted BWC recordings available to the appropriate oversight committee or committees of the Council of the District of Columbia upon request of the committee(s). BWC recordings in the possession of the Council shall not be publicly disclosed. The Office of the District of Columbia Auditor is authorized to share body-worn camera recordings obtained by the Office from the Department with the Council of the District of Columbia."

Rationale:

The ANS suggests that the only way the Council can obtain a video is through the District of Columbia Auditor, and even then it may be redacted. This amendment clarifies that the videos may be shared directly, upon request of a committee – e.g., in the course of an investigation.

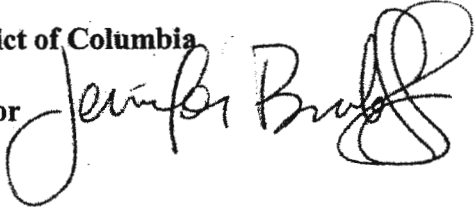
**COUNCIL OF THE DISTRICT OF COLUMBIA
Office of the Budget Director**



Jennifer Budoff
Budget Director

FISCAL IMPACT STATEMENT

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jennifer Budoff, Budget Director 

DATE: December 15, 2015

SHORT TITLE: B21-351 "Body-Worn Camera Program Amendment Act of 2015"

TYPE: Amendment #2

REQUESTED BY: Chairman Phil Mendelson

Conclusion

This amendment will not have an adverse impact on the District's budget and financial plan because there is no cost to the District associated with implementing this amendment.

Background

This amendment clarifies that body-worn camera video footage may be shared directly with the Council by request of a committee in the course of an investigation. It also makes clear that a member of the public cannot use the Council to circumvent the FOIA procedures set forth in the bill.

Analysis of Impact on Spending

These amendments will not impact spending.

Analysis of Impact on Revenue

These amendments will not impact revenue.



OFFICE OF THE GENERAL COUNSEL

Council of the District of Columbia
1350 Pennsylvania Avenue NW, Suite 4
Washington, DC 20004
(202) 724-8026

MEMORANDUM

TO: Chairman Phil Mendelson

FROM: Ellen Efros, General Counsel *EAE*

DATE: December 15, 2015

RE: Legal sufficiency determination for Amendment to the Amendment in the Nature of a Substitute to Bill 21-351, the Body-Worn Camera Program Amendment Act of 2015

The measure is legally and technically sufficient for Council consideration.

The amendment makes changes to the Amendment in the Nature of a Substitute to Bill 21-351, the Body-Worn Camera Program Amendment Act of 2015 by clarifying in new section 3902.4 of the District of Columbia Municipal Regulations that: 1) the Metropolitan Police Department shall make unredacted body-worn camera recordings available to the appropriate oversight committee or committees of the Council of the District of Columbia upon request by that committee or committees; and 2) body-worn camera recordings in the possession of the Council shall not be available for public disclosure under FOIA.

I am available if you have any questions.



Councilmember Jack Evans

AN AMENDMENT

1

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Date: December 15, 2015

To: Bill 21-351, the "Body-Worn Camera Program Amendment Act of 2015" Amendment in the Nature of a Substitute

Section 4 is amended as follows:

Subsection 3900.9 of the District of Columbia Municipal Regulations is repealed.

Fiscal impact statement: The amendment will have no fiscal impact.

Rationale: This amendment is necessary to ensure that officers may view body-worn camera recordings before writing an initial report. Proposed subsection 3900.9 would prohibit officers from taking such action; however viewing video before filling out an initial report enhances policing and is a best practice recommended by the Police Executive Research Forum. Officers frequently complete their reports hours after an incident has occurred and are trained to review their notes before filing a report to ensure that details are as complete and accurate as possible. Viewing the body-worn camera recording of an incident achieves the same goal of ensuring an accurate accounting of what occurred. Moreover, officers may review video before making an arrest in order to verify that the arrest is appropriate. The video may reveal that the suspect is not the individual in the video or that the facts do not support a criminal charge. Thus the review can help eliminate an inappropriate arrest and benefit the individual that was arrested.