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LED BULLETIN

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IN THIS ISSUE

Threesectionsinourbulletin: (1) key guidelines for Body Worn Cameras (BWCs); (2) warrantless home entry based on the “emergency aid exception”; and (3) new laws on the statute of limitations for rape, electronic signatures, wrong way driving, autism, and indecent assault on a child.

SECTION 1: BODY WORN CAMERAS (BWCs)

RECENT SJC CASE

Officers should notify citizens that they are being audio and visually recorded. However, if they do not, citizens cannot typically claim they were secretly recorded in violation of the wiretap statute. *Comm. v. Grimaldi*, ___ Mass. ___ (June 2, 2026).

- **Facts.** Scott Grimaldi was arrested at a State Police sobriety checkpoint. While undergoing sobriety screening, Grimaldi was videotaped by troopers wearing Body Worn Cameras (BWCs). They did not tell Grimaldi that he was being recorded. There was also no evidence that Grimaldi saw the sign with large letters: “Checkpoint, video and audio recording.”

Throughout the incident, the troopers’ BWCs were openly displayed on the outside of their jackets at chest level (with a red light that became visible during recording). One of the troopers even removed his BWC in front of Grimaldi and held it to film sobriety tests from a better angle. After Grimaldi was done, the trooper re-attached the BWC to his jacket.

The State Police policy on BWCs directs that troopers “inform civilians that they are being recorded at the earliest opportunity unless there is an immediate threat . . . making [BWC] notification impossible or dangerous.” No safety concern prevented troopers from informing Grimaldi about their BWCs.

- **Decision.** Initially, the trial judge suppressed the BWC recordings on the basis that they violated the wiretap statute, 272, § 99, which prohibits the police from intending to secretly record a citizen without legal authorization.

The SJC reversed the trial judge. While it would have been better if the troopers had informed Grimaldi that he was being recorded, their oversight would have violated the wiretap statute only if the troopers had intended to secretly record him. In the words of the SJC, “the troopers’ open use of [their BWCs] indicates that they did not intend to secretly record the defendant.” The large warning sign helped prove this as well.

The SJC also rejected Grimaldi’s other argument — the failure to follow the Department’s notification policy amounted to an automatic violation of the wiretap statute. However, policy noncompliance does not always result in the suppression of evidence. Here, the troopers’ behavior showed they had absolutely no intention of keeping their recording activities secret.

KEY BWC FIELD GUIDELINES¹

Officers should individually record all contact with civilians in the following situations:

- Emergency or pursuit driving;
- Vehicle stops;
- Investigative activities — including field encounters, detentions, or arrests;
- Dispatched calls for service involving civilian contact;
- Frisks and searches of people, possessions, and/or places;
- K-9 deployment, including searches and apprehensions;
- Crowd control incidents that may result in unlawful activity;
- Any contact that becomes verbally or physically adversarial;
- During transport of an individual in a police vehicle until they arrive inside the station or at another intended destination;
- Any other civilian contact or official duty that the officer reasonably believes should be recorded in order to enhance police transparency, increase public trust, or preserve potential evidence.

Officers should not record more than necessary during civilian contacts in a residence.

For example, they should not use the BWC in an exploratory manner to create an inventory of items in a home. *Comm. v. Yusuf*, 488 Mass. 379 (2021). Also see *Comm. v. Balicki*, 436 Mass. 1 (2002).

Officers should be aware of locations where recording may be considered insensitive, inappropriate, or prohibited by an organization's policy — including locker rooms, places of worship, religious ceremonies, certain areas in hospitals or clinics, law offices, and day care facilities. In these locations, officers may:

- Turn off their BWC;
- Direct their BWC away from subjects; or
- Audio record only.

When exercising discretion in these situations, consider:

- The extent to which the absence of a BWC recording may affect the investigation;
- The extent to which the officer observes or hears activities of a sensitive or private nature;
- The presence of individuals who are not the subject of the police interaction;
- The presence of minors; and/or
- A request by a civilian to stop recording.

¹ This section is an excerpt from *LED's Model Policy on Body Worn Cameras (BWCs)* drafted for and published by the Massachusetts Interlocal Insurance Association (MIIA) on August 13, 2021. Email askLED@ledimensions.com if you wish to receive a copy.

Unless there is an immediate threat to their safety, officers should inform civilians, at the earliest opportunity, that they are being recorded. A simple statement is sufficient — e.g., “Mr. Jones, I want to let you know that our conversation is being audio and visually recorded.”

Officers are not required to obtain consent to record, and they are not obligated to turn off their BWC simply because a civilian requests it. *Comm. v. Yusuf, supra. Comm. v. Grimaldi, supra.*

- With this basic rule in mind, officers may, depending on the situation, use these responses when a victim, witness, or even suspect objects to being recorded.
 - *Simple BWC defense (often sufficient for anyone).* “Yes, I can understand how you feel. But the video protects you from later mistaken comments about what you said or did.”
 - *BWC is efficient (effective for victims and witnesses).* “These recordings help me collect the information up front so you don’t have to worry about people calling and asking you to fill in the details.” [You can add if it makes sense: “Hey, no guarantees, but these videos are the best way to help you avoid having to come to court later on.”²]
 - *BWC is fair (effective for suspects).* “I record so that I don’t later say you said something that you didn’t, or you did something that you didn’t. You also can explain anything you want on camera.” [This appeals to people’s “reality show” experience, where “misunderstood” contestants get to explain their behavior or motivations on camera!]

Typically, once officers calmly provide a reason, they should immediately transition to discussing the situation — e.g., “So, were you the one who called 911?” or “The reason I pulled you over is you turned onto Sherman Street without signaling” or “Where are you and your friend coming from?” or “What did the man look like who ran from the store?”

- **Sometimes, officers may need to more thoroughly assess whether to continue recording.** For this evaluation, officers should consider the factors previously outlined for recording in sensitive locations. See pg. 2.

Officers should record a civilian’s initial request to turn off the BWC and their response. Again, the decision belongs to the officer. *Comm. v. Yusuf, supra.*

Once the BWC is activated, recording should continue uninterrupted until the event concludes. An event typically concludes when:

- Victim or witness contact ends;
- All persons stopped have been released or left the scene;
- An arrestee or subject in protective custody has arrived inside the station at the booking desk;
- The event is of a sensitive nature and the officer decides to deactivate the BWC;
- The incident concluded prior to the officer’s arrival;
- The incident or event is of such duration that deactivating the BWC is necessary to conserve available recording time; or
- The officer is directed to turn off the BWC by a supervisor.

² This is true because the BWC footage (often more compelling than a police report narrative) can encourage defendants to plead guilty, saving the victim and witnesses from the need to come to court and possibly testify.

Officers should only use department-issued BWC technology.

- **At the beginning of each shift, the officer should:**
 - Ensure that the BWC has a fully charged battery and is functioning properly;
 - Notify a supervisor whenever there is a malfunction or damage to the BWC; and
 - Affix the BWC properly on the uniform.
- **While on duty, the officer should:**
 - Activate the BWC whenever proper;
 - Document the existence of a BWC recording in related reports;
 - To the extent practicable, notify individuals present — including law enforcement personnel — when the BWC is recording; and
 - Document the reason in a report if the officer fails to activate the BWC; fails to record the entire contact; interrupts the recording; or becomes aware of a BWC malfunction.
- **Prior to the end of shift, the officer should:**
 - Place the BWC in the assigned docking station, which will charge the battery and transfer footage to the storage system; and
 - Ensure, if the charging or storage process is not occurring, that the supervisor is immediately notified.

Officers should not use BWCs to record:

- Breaks, lunch periods, or time periods when not “in service;”
- Any personal conversations unrelated to the performance of duty or without the recorded subject’s knowledge;
- Non work-related personal activity, especially in places where a reasonable expectation of privacy exists, such as locker rooms or restrooms;
- Investigative briefings or encounters with undercover officers or confidential informants — unless explicitly authorized by a separate written policy, or by the highest ranking commander or supervisor in attendance;
- Departmental meetings, workgroups, assignments of an operational or administrative nature, or training — *unless* explicitly authorized by a separate written policy, or by the highest ranking commander or supervisor in attendance;
- Telephone conversations — *unless* in accordance with the provisions of state and federal law while in the performance of official duties;
- Strip searches — *unless* explicitly authorized by a separate written policy, or by the highest ranking commander or supervisor available;
- Civilians based *solely* upon their political or religious beliefs or upon the exercise of their constitutional rights (including freedom of speech, religious expression, and lawful assembly). BWC footage shall *not* be reviewed to identify the presence of individual participants at such events who are not engaged in unlawful conduct.

Officers should be aware that their BWCs may unintentionally capture private information such as door codes, phone codes, and/or personal information displayed on a computer screen. If the officer knows that the BWC captured sensitive information, the officer should submit a written request to redact the video and/or audio footage prior to its distribution to outside parties.

BWC footage shall not be:

- Used for the purpose of ridiculing or embarrassing any employee or other person depicted in the recording;
- Randomly reviewed for disciplinary purposes; and/or
- Disseminated or copied without proper authorization.

The Department is the sole owner and custodian of all BWC equipment, footage, and data recorded, edited, or otherwise produced. BWC footage or equipment should not be released without the authorization of the chief or designee.

SECTION 2: EMERGENCY AID ENTRY

Minor missing for three days possibly located in unknown Boston apartment. Police wisely entered without a warrant under the emergency aid exception. *United States v. Rowell*, No. 24-1136 (1st Cir. 2026): A father reported to the Belmont Police that his minor daughter was missing. Three days later, Belmont officers learned the minor's SnapChat account was being accessed from a Boston IP address. Boston police officers were dispatched to investigate.

At the apartment building, a resident refused to allow officers to enter. Another resident from a different apartment admitted them into the common area, which enabled officers to approach the door to the apartment linked to the IP address. The officers opened the unlocked door, stepped inside and then asked the occupants if they could search for the minor. The occupants refused. At this point, Keion Rowell entered the room holding a cell phone.

A conversation with Rowell and subsequent search led to the discovery of the minor. Rowell was later convicted in federal court of sex trafficking a minor. The court rejected his motion to suppress the police entry.

- **The “emergency aid exception” justified the warrantless entry here.** Officers had an objectively reasonable basis to believe that the minor — who had been missing for three days and was linked to an unfamiliar IP address in Boston — might be in danger.
- **Commentary.** This kind of case is all too common — at-risk teen falls into the orbit of a sexually exploitive adult. Fortunately, it had a successful outcome because the Belmont police immediately interviewed the worried father; initiated a technological search of his daughter's social media; and engaged the Boston police, who quickly dispatched officers to the suspect's address for the apprehension and rescue.

SECTION 3: LAW TIDBITS

Issue 1: Forcible rape and other offenses now have an unlimited statute of limitations period — provided there is DNA evidence. 277, § 63 established a 15-year statute of limitations to prosecute rape and aggravated rape (265, § 22). Section 63 also established a 27-year statute of limitations for forcible rape of child under 16 (§ 22A); aggravated rape of child under 16 (§ 22B); forcible rape of child by previously convicted offender (§ 22C); sexual intercourse with patient or client by health care provider or clergy (§ 22D); statutory rape (§ 23); aggravated statutory rape based on age difference or mandated reporter (§ 23A); and statutory rape by previously convicted offender (§ 23B).

Now, based on recent legislation³, all of these crimes may be “filed at any time after the date of commission . . . if the [offender] . . . was identified after the [particular] limitation period . . . through DNA analysis . . . using evidence collected at the time [the offense was committed].”

To facilitate the use of DNA to identify unknown perpetrators, 41, § 97B½ states that:

- **Hospitals** must notify police within 24 hours of collecting a sexual assault evidence kit.
- **Police** must:
 - *Take possession of evidence kit* within 3 business days of notification by a hospital; and
 - *Submit it to the crime lab* within 7 business days.
 - However, *noninvestigatory evidence kits* — these come from a victim who refuses to submit a report to police — do *not* need to be submitted to the crime lab. The kits must be safely stored by police to preserve the evidence for the duration of the statute of limitations in case the victim wishes to go forward at a later time. Whatever the crime alleged, all evidence kits must be kept for at least 15 years.
- **Crime labs** must test all evidence kits within 30 days of receipt from the police (regardless of the statute of limitations for the crime alleged). If the testing results in a DNA profile, the profile must be entered into CODIS and the state DNA database.
- **Tracking system.** All evidence kits must be entered into a statewide tracking system. 6A, § 18X.

Issue 2: Electronic signatures for all criminal complaints are now permissible. Signatures no longer have to be handwritten.⁴

Issue 3: Wrong way driving. The tragic death of Trooper Kevin Trainor — whose cruiser was struck by a deeply impaired, wrong way driver — served as the catalyst for legislation to reduce wrong way driving.⁵ In the coming year, the Massachusetts Department of Transportation (DOT) must research and develop a program that includes improved signage and roadway design; a detection system for wrong way drivers; multi-sensory warning devices aimed at drivers; and a real time notification system for police and other drivers.

DOT, the Registry, and the Executive Office of Public Safety & Security (EOPSS) will collaborate on public service announcements and, by January 2027, a police training program on the issue.

³ See Section 89 (a so-called “outside section”) of the recently signed FY 2027 Budget of the Commonwealth (hereinafter FY 2027 Budget).

⁴ See Sections 87 to 88 of FY 2027 Budget. This is true for criminal complaints for threats under 275, § 2.

⁵ See Sections 105 to 108 of FY 2027 Budget.

Issue 4: Program for autistic drivers. In Chapter 112 of the Acts of 2026, the legislature enacted 6C, § 56A, which requires that the State Police — in consultation with the Registry, Massachusetts Chiefs of Police Association, and Advocates for Autism of Massachusetts — design a “blue envelope” that can be attached to the driver’s side sun visor. The envelope will hold an autistic person’s license and registration and provide information on effective communication between police officers and people with autism spectrum disorder.

Once designed, the Registry will distribute the blue envelopes to any autistic person or to their parent or guardian.

Issue 5: A child under 18 may not consent to sexual intercourse or indecent A&B involving a mandated reporter with authority over that child.⁶ There is a new statute, 265, § 23A½, which prohibits:

- **Type 1: Sexual intercourse.** A mandated reporter (defined by 119, § 21)⁷ from having any type of sexual intercourse with a child who is age 16 but not yet 18; provided that the mandated reporter exercised “custodial or supervisory authority” at any time over the specific child. Penalty: SP NMT 20 years.⁸ Right of Arrest: Felony; or
- **Type 2: Indecent A&B.** A mandated reporter, who exercised “custodial or supervisory authority” at any time, from committing an indecent A&B on a child who is age 14 but not yet 18. Penalty: SP NMT 10 years, or HC NMT 2½. Right of Arrest: Felony.
- **Notes:**
 - **No consent by child.** A child under 18 is deemed “incapable of consenting” to the mandated reporter’s sexual behavior.
 - **Mandated reporter’s authority.** It is not a defense under 265, § 23A½ that the mandated reporter’s custodial or supervisory authority over the child ended, as long as the child was under 18 at the time of the intercourse and/or indecent A&B.
 - **No charge if 4-year or less age difference.** If the mandated reporter was no more than 4 years older than the child at the time of the alleged offense, he or she may not be charged under 265, § 23A½.
 - **Classification as sex offender.** Under 6, § 178C, conviction as a mandated reporter of sexual intercourse or indecent A&B in violation 265, § 23A½ results in the offender’s evaluation and possible classification as a sex offender.⁹

Hope this helps you on the street,

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⁶ See Sections 4 and 86 of FY 2027 Budget.

⁷ A complete list of mandated reporters for children appears in LED’s 2025 *Juvenile Law*, Chapter 3 or review 119, § 21.

⁸ No prosecution for sexual intercourse may be continued without a finding (CWO) or placed on file. This same limitation does not apply to a prosecution for indecent A&B.

⁹ For more on sex offenders, see LED’s 2025 *Juvenile Law Manual*, Chapter 5.