

ARTICLE 23

TWENTY-THIRD ARTICLE

Submitted by: Donelle S. O'Neal Sr., TMM4/AC

To see if the Town will adopt the following:

**RESOLUTION PERTAINING TO THE ADOPTION OF AN IN-CAR VIDEO AND BODY WORN CAMERA POLICY FOR THE BROOKLINE POLICE DEPARTMENT.**

WHEREAS, In-Car Video (“ICV”) and Body Worn Cameras (“BWC”) are considered to be effective law enforcement tools that reinforce the public's perception of police professionalism and preserve factual representations of officer-civilian interactions; and

WHEREAS, ICV and BWC may be useful in documenting crime and accident scenes or other events that include the confiscation and documentation of incidental evidence or contraband; and

WHEREAS, ICV and BWC are expected to enhance the Police Department’s ability to document and review statements and events during the course of an incident, and preserve video and audio information and evidence for investigative and prosecutorial purposes; and

WHEREAS, although ICV and BWC recordings may provide only a limited perspective of encounters and incidents, and thus should be considered with all other available evidence, such as witnesses' statements, officer interviews, forensic analysis, and documentary evidence, studies have shown that ICV and BWC are a contributing factor in reducing complaints against police officers, increasing police accountability, and enhancing the public trust; and

WHEREAS, the policy of the Brookline Police Department is to respect the legitimate privacy interests of all persons in Brookline, while ensuring professionalism in its workforce, and therefore, Brookline Police Officers should only use ICV and BWC within the context of existing and applicable federal, state, and local laws, regulations, and the Department’s rules and policies;

NOW THEREFORE, be it resolved, that Town Meeting requests the Select Board, along with the Town Administrator and Human Resources Director or their designees, to work promptly, constructively, and collaboratively with the appropriate members of the Brookline Police Department to adopt a policy pertaining to the use of ICV and BWC by Brookline Police Officers, and that the use of such equipment be implemented as soon as practicable. Be it further resolved that funding for the purchase, maintenance, and storage of ICV, BWC and recordings from such equipment be included in the Brookline Police Department Fiscal Year 2023-2024 Budget.

Or act on anything relative thereto.

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PETITIONER’S ARTICLE DESCRIPTION

This is not just a local issue. This is part of the discussion on all three levels and is currently being addressed locally, statewide and nationally.

This Article calls for the expedient development and adoption of a policy pertaining to the use of In-Car Video and Body-Worn Cameras by Brookline Police Officers and the implementation of such equipment in the Brookline Police Department. Which is needed and wanted by our Brookline Police Department. The current tension in regards to Police and Citizen interactions across our nation makes it imperative that we “Boost Transparency” and Accountability within the Police Department and Community.

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SELECT BOARD’S RECOMMENDATION

Article 23, as amended by the Advisory Committee, is a resolution calling for the Select Board, in consultation with the Police Commissioners Advisory Committee (“PCAC”), to “work promptly, constructively, and collaboratively” with the Police Department and its union to implement a policy for the use of police-worn body cameras and in-car video.

In debating Article 23, the Select Board noted the issues of adopting body-worn cameras and in-car video were then the subject of pending contract arbitration between the union and the Town.<sup>1</sup> They further noted that money to implement the adoption of the technology had been set aside in the Capital Improvements Plan (“CIP”) for the coming fiscal year. The Board expressed its own desire to move expeditiously on implementing the technology as soon as the arbitration concluded.

With the above discussion, and following a prior public hearing on the matter, at a meeting held on April 25, 2023, the Select Board voted 4-0 to recommend FAVORABLE ACTION on Article 23 as amended by the Advisory Committee.

**ROLL CALL VOTE:**

Aye:  
Greene

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<sup>1</sup> A determination on this arbitration was issued on May 2, 2023, subsequent to the Select Board’s vote on the subject. The determination permits the Town to implement recording technology policies.

Aschkenasy  
 VanScoyoc  
 Sandman

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ADVISORY COMMITTEE’S RECOMMENDATION

**Recommendation:** The Advisory Committee recommends FAVORABLE ACTION on Warrant Article 23, as amended, by a vote of 14-1-6.

<p><b>Executive Summary:</b></p>	<p>WA 23, if passed, would serve as Town Meeting affirmation for the Brookline Police to establish and implement a policy for the use of In-Car Video (“ICV”) and Body-Worn Cameras (“BWC”). \$200,000 in funding for the deployment of cameras is already included in the proposed Capital Improvements Program (“CIP”) for FY24. At this time, the Town Administration and the Brookline Police Union are in arbitration, which is addressing, among other issues, establishing terms for the deployment of cameras.</p>
<p><b>Voting Yes will...</b></p>	<p>Voting Yes will demonstrate Town Meeting support for the use of ICV and BWC by the Brookline Police. This showing of support will encourage the Town Administration and the Brookline Police Union to agree to a policy for using cameras, and also encourage its implementation.</p>
<p><b>Voting No will...</b></p>	<p>Voting No will send a message to the Town Administration and the Brookline Police that ICV and BWC is not supported by many members of the community, and so may dissuade the Town from continuing to work on developing this law enforcement tool.</p>
<p><b>Financial impact</b></p>	<p>If the Town Administration and the Police Union can agree to the terms for the use of ICV and BWC, their deployment is expected to cost the Town approximately \$200,000/year.</p>
<p><b>Legal implications</b></p>	<p>By its very nature as a new tool of law enforcement, it has legal implications. Recordings will be used in trials and investigations. Implementation of an ICV/BWC system needs to be crafted in accordance with State regulations as well as compliance with constitutional guidance, especially as developed under the 4<sup>th</sup> amendment. Given the role of cameras as a tool of our law enforcement, it has the potential to result in civil litigation for a variety of reasons, for example, inadequate redaction of private information when footage is provided in response to a public records request or improper handling of video while it is in storage.</p>

### **Introduction**

Usage of cameras as a law enforcement tool is already widespread in the United States. About half of all local police departments in the country use some form of body cameras, while an even greater percentage use some form of dashboard cameras. Several states require all local law enforcement agencies within their jurisdiction to use body cameras. The police killing of George Floyd in 2020 has resulted in greater interest in the use of cameras to provide increased transparency and accountability by municipalities that had previously not approved cameras for police departments.

In Massachusetts, the Legislature established the Law Enforcement Body Camera Task Force as part of the police reform law passed in 2020. The Task Force was charged with developing regulations for the use of body cameras by local law enforcement departments. The Task Force submitted its Recommended Regulations in August 2022. See <https://www.mass.gov/doc/law-enforcement-body-camera-final-report/download>. Boston has been using body cameras for several years already, and in Cambridge, the City Manager announced in February that the City will be implementing body cameras in the near future, a decision spurred by a fatal police shooting in January.

In Brookline, the implementation of body and dashboard cameras has been a subject of discussion for several years. In September 2020 the Town Administration and the Police Union entered a Memorandum of Agreement that provided a one-year retroactive cost-of-living increase for police employees. The MOA also explicitly committed the Union to accepting without negotiations the Town's authority to deploy, at its discretion, body cameras, dashboard cameras, and GPS, with the union reserving the right to bargain over the terms and conditions.

Currently the Town and the union are in arbitration to once again obtain an agreement for a retroactive wage increase, and, among other matters, to develop the terms and conditions for the implementation of ICV/BWC, with the arbiter's decision expected within a few weeks. The Police Department has identified a vendor that will provide the system for approximately \$200,000/year for a four year period. The Capital Improvements Program includes the \$200,000 in funding for the first year of the contract in its proposed FY24 budget.

The Petitioner has filed this warrant article because a Town Meeting vote to endorse the use of ICV and BWC will support implementation of their use by the Police Department. He believes that cameras are an important tool of law enforcement for the following reasons:

1. To increase accountability and transparency, which has become more urgent given the current climate of tensions between the Brookline police and the public following the George Floyd incident in 2020.

2. To both foster and demonstrate the professionalism of the Town's Police Department, which in turn will improve police/community relations; with studies showing a reduction in complaints against the police in other municipalities when camera deployment is implemented.
3. To provide a useful tool for investigations and evidence collection, serving to preserve documentation of what has occurred at crime and accident scenes.

### **Discussion**

Several concerns were raised during the Advisory Committee meeting on this warrant article:

- The impact on individuals' right to privacy. For instance, police officers often must enter people's homes. This will be documented on video. Also, bystanders and witnesses could unwittingly be caught on camera.
- As the capacity to alter videos increases, there is a risk that police footage might be hacked and altered.
- Cameras are not always able to accurately capture what has occurred during an event. A camera might document what has occurred from one angle, but how the incident actually played out may only be obvious from another angle.
- Studies have shown that cameras are used for prosecutions more than for police oversight.
- Our society has deeper and more fundamental issues with regard to crime and policing, which the use of cameras by the police will not resolve.

In addressing these concerns, the following points were made:

- Regarding footage of bystanders, State law requires that such footage be redacted to protect such individuals from being identified.
- Regarding the possibility that footage from police cameras could be hacked and altered, that risk exists for others who might have an interest in showing an alternative story, and at least police footage is stored by a third party with security precautions in place.
- Regarding the possibility that cameras might not accurately capture what occurred or who the involved parties are; the recollections of eye witnesses, if they are present, are susceptible to both inaccuracy and bias.
- Camera footage also reduces the need to rely on judging who is telling the truth in "he said, she said" situations when only the parties in dispute are present.

A committee member questioned whether the \$200,000 annual amount budgeted in the CIP would cover all costs of implementing the program. According to information provided by Acting Police Chief Paster and Deputy Superintendent Campbell, the four year contract with the vendor they have identified is all-inclusive, covering the cost of the equipment and associated software, digital storage, redaction work, training, maintenance

and equipment replacement. The Town will own all the rights to the data that is collected.

Overall, the majority of Advisory Committee members were supportive of the warrant article, agreeing that the use of cameras is a useful tool for the reasons provided by the Petitioner. Funding is already included in the CIP and no opposition to cameras has been expressed by either the Union or the Acting Police Chief. It will be important, however, to develop a comprehensive policy to address the numerous complications and concerns that come along with the use of ICV/BW. As Deputy Superintendent Campbell noted in the subcommittee hearing, the Town will be able to make use of already-existing policies from other municipalities in the State and an ACLU prototype, as well as the standards and procedures identified in the Recommended Regulations of the State's Police Reform Task Force.

The Advisory Committee made two minor amendments to the Article, and the Petitioner has approved of both:

1. The Article's "Therefore" clause directs that funding for the implementation of cameras "be included in the Brookline Police Department Fiscal Year 2023-2024 Budget." The FY24 budget will already be approved before this resolution is voted on, however. The amendment thus removes that directive in the "Therefore" clause and instead adds the following Whereas clause: WHEREAS, funding for the purchase, maintenance, and storage of ICV, BWC and recordings from such equipment is included in the FY 24 CIP budget for the Brookline Police Department;
2. The Article's "Therefore" clause requests that the Select Board, Town Administrator, Human Resources Director, and Police Department work together to draft the ICV /WBC. Given the advisory role of the Police Commissioners Advisory Committee (PCAC) to the Select Board, the amendment explicitly calls for PCAC participation in an advisory capacity to the Select Board as it drafts the policy.

### **Recommendation**

The Advisory Committee recommends FAVORABLE ACTION on the following amended motion, by a vote of 14 in favor, 1 opposed, with 6 abstentions.

(New language appearing in **bold/underline**, deleted language appearing in ~~strikeout~~.)

**VOTED:** That the Town adopt the following resolution:

WHEREAS, In-Car Video ("ICV") and Body Worn Cameras ("BWC") are considered to be effective law enforcement tools that reinforce the public's perception of police professionalism and preserve factual representations of officer-civilian interactions; and WHEREAS, ICV and BWC may be useful in documenting crime and accident scenes or other events that include the confiscation and documentation of incidental evidence or contraband; and

WHEREAS, ICV and BWC are expected to enhance the Police Department’s ability to document and review statements and events during the course of an incident, and preserve video and audio information and evidence for investigative and prosecutorial purposes; and

WHEREAS, although ICV and BWC recordings may provide only a limited perspective of encounters and incidents, and thus should be considered with all other available evidence, such as witnesses' statements, officer interviews, forensic analysis, and documentary evidence, studies have shown that ICV and BWC are a contributing factor in reducing complaints against police officers, increasing police accountability, and enhancing the public trust; and

WHEREAS, the policy of the Brookline Police Department is to respect the legitimate privacy interests of all persons in Brookline, while ensuring professionalism in its workforce, and therefore, Brookline Police Officers should only use ICV and BWC within the context of existing and applicable federal, state, and local laws, regulations, and the Department’s rules and policies;

**WHEREAS, funding for the purchase, maintenance, and storage of ICV, BWC and recordings from such equipment is included in the FY 24 CIP budget for the Brookline Police Department;**

NOW THEREFORE, be it resolved, that Town Meeting requests the Select Board, **with the advice of the Police Commissioners Advisory Committee (PCAC)**, along with the Town Administrator and Human Resources Director or their designees, to work promptly, constructively, and collaboratively with the appropriate members of the Brookline Police Department to adopt a policy pertaining to the use of ICV and BWC by Brookline Police Officers, and that the use of such equipment be implemented as soon as practicable. ~~Be it further resolved that funding for the purchase, maintenance, and storage of ICV, BWC and recordings from such equipment be included in the Brookline Police Department Fiscal Year 2023-2024 Budget.~~

ARTICLE 23 ADVISORY COMMITTEE VOTES

Article Description	Establish policy for Body Worn Cameras
AC recommendation (Favorable Action unless indicated)	14-1-6
Ben Birnbaum	Y
Harry Bohrs	Y
Cliff Brown	
Patty Correa	Y
John Doggett	A
Katherine Florio	
Harry Friedman	A

May 23, 2023 Annual Town Meeting

23-8

David-Marc Goldstein	Y
Neil Gordon	Y
Susan Granoff	Y
Kelly Hardebeck	
Amy Hummel	N
Anita Johnson	A
Alisa Jonas	Y
Janice Kahn	Y
Pam Lodish	Y
Joslin Murphy	A
Donelle O’Neal, Sr.	Y
Linda Olson Pehlke	Y
Markus Penzel	Y
David Pollak	Y
Stephen Reeders	A
Carlos Ridruejo	
Lee Selwyn	A
Alok Somani	
Carolyn Thall	
Christine Westphal	
Dennis Doughty *	
* Chairperson does not vote except to break a tie	