

CARNEGIE POLICE DEPARTMENT

ACCPA-CJAB-DA

Revised 09/10/2020

BODY WORN CAMERA POLICY

1. PURPOSE

The purpose of this policy is to provide law enforcement officers with guidelines on the use of Body Worn Cameras (BWC) as an effective tool to help audio/visually document events as they actually occur.

Recent changes to **Pennsylvania Law** allow uniformed law enforcement officers or clearly identifiable law enforcement officers on official duty such usage. Future changes in law and procedure, technology (e.g., facial recognition), as well as training provided on this procedure, may give rise to modifications of this policy. Violations of this policy subjects the officer to the department disciplinary policy.

2. POLICY

When permissible under **Pennsylvania Law**, officers shall activate the BWC to record contacts with citizens in the performance of their official duties, pursuant to this policy.

Officers and citizen safety shall be the primary consideration when interacting with citizens and/or suspects. There may be instances in which officers are unable to activate their BWC due to circumstances making it unsafe, impossible, or impractical to do so. In these exigent circumstances, officers shall begin recording with their BWC at the first reasonable opportunity to do so and document the reason for the delayed start in the incident report and/or as part of the recording.

The Department recognizes that video images cannot always show the full story nor do video images capture an entire scene. The Department also recognizes that the BWC video does not mirror the perspective of the officer at the time of an incident, nor does the video include other factors known to or perceived by the officer that could impact the officer's judgement and decision-making, such as events beyond the scope of the camera, the officer's "reactionary gap", or the difference between human vision and the camera's video recording abilities. Therefore, the use of body-worn cameras does not reduce the requirement to provide thorough written documentation of an incident.

This policy does not regulate the use and operation of Mobile Video Recording (MVR) equipment that is permanently mounted inside of some Department owned vehicles (Refer to Department MVR policy).

3. DEFINITIONS

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

Agency Administrator – Member of the Department who will be identified at the administrator level, with full access to user rights.

Body Worn Camera (BWC) System – A camera system worn on the person of a uniformed law enforcement officer, or clearly identifiable law enforcement officer on official duty, capable of recording events both audio and visually that is approved for use by the Pennsylvania State Police and published in the Pennsylvania Bulletin.

BWC Technician – Officers of the Department who are specifically trained in the maintenance and care of the BWC equipment, and who are trained to maintain and administer the storage of the recordings.

Confidential Information – Any of the following:

- (1) The identity of a confidential source.
- (2) The identity of a suspect or witness to whom confidentiality has been assured.
- (3) Information made confidential by law or court order.

Information Pertaining to an Investigation – An audio recording or video recording which contains any of the following:

- (1) Complaints or depictions of criminal conduct, including all actions or statements made before or after the criminal conduct that are part of or relate to the same incident or occurrence.
- (2) Upon disclosure, information that would:

- (i) reveal the institution, progress or result of a criminal investigation;
- (ii) deprive an individual of the right to a fair trial or an impartial adjudication;
- (iii) impair the ability of the Attorney General, a district attorney or a law enforcement officer to locate a defendant or codefendant;
- (iv) hinder the ability of the Attorney General, a district attorney or a law enforcement officer to secure an arrest, prosecution or conviction; or
- (v) endanger the life or physical safety of an individual.

Digital Evidence – BWC files, including photographs, audio recordings and video footage, captured by a BWC and stored digitally.

End User – Patrol officers of the Department who have been issued or assigned a BWC.

Evidence Transfer Manager (ETM) – A computer server with built-in, networked or wirelessly connected docking stations physically installed within the Department or a Department vehicle that simultaneously recharges the BWC equipment while digitally encrypting and uploading all data captured to the server.

Law Enforcement Agency – The Office of Attorney General, District Attorney's Office or an agency that employs a law enforcement officer.

Law Enforcement Officer – An officer of the United States, the Commonwealth or a political subdivision thereof, another state or political subdivision thereof or who is empowered by law to conduct investigations of or to make arrests for offenses enumerated in the Pennsylvania Consolidated Statutes or an equivalent crime in another jurisdiction, a sheriff or deputy sheriff and any attorney authorized by law to prosecute or participate in the prosecution of the offense.

Oral Communication – Any oral communication uttered by a person possessing an expectation that such communication is not subject to interception under circumstances justifying such expectation. The term **does not** include the following:

- (1) An electronic communication.
- (2) A communication made in the presence of a law enforcement officer on official duty who is in uniform or otherwise clearly identifiable as a law enforcement officer and who is using an electronic, mechanical or other device which has been approved under section 5706(b)(4) (relating to exceptions to prohibitions in possession, sale, distribution, manufacture or advertisement of electronic, mechanical or other devices) to intercept the communication in the course of law enforcement duties.

Storage Server – Digital media storage that can be accessed by End Users and Administrators. This virtual evidence warehouse stores digitally encrypted data in a highly secure environment that is only accessible to approved personnel based upon their security clearance.

Victim – An individual who was subjected to an act that was committed by another individual, including a juvenile, which constitutes any of the following:

- (1) An offense committed under any of the following:
 - (i) The act of April 14, 1972 (P.L.233, No. 64), known as The Controlled Substance, Drug, Device & Cosmetic Act.
 - (ii) 18 Pa.C.S. (relating to crimes and offenses).
 - (iii) 30 Pa.C.S. § 5502 (relating to operating watercraft under influence of alcohol or controlled substance).
 - (iv) 30 Pa.C.S. § 5502.1 (relating to homicide by watercraft while operating under influence).
 - (v) 75 Pa.C.S. § 3732 (relating to homicide by vehicle).
 - (vi) 75 Pa.C.S. § 3735 (relating to homicide by vehicle while driving under influence).
 - (vii) 75 Pa.C.S. § 3735.1 (relating to aggravated assault by vehicle while driving under the influence).
 - (viii) 75 Pa.C.S. § 3742 (relating to accidents involving death or personal injury).
 - (ix) 75 Pa.C.S. Ch. 38 (relating to driving after imbibing alcohol or utilizing drugs).
 - (x) Any other Federal or State law.
- (2) An offense similar to an offense listed under paragraph (1) committed outside of this Commonwealth.
- (3) An offense which would constitute grounds for the issuance of relief under Chapter 62A (relating to protection of victims of sexual violence or intimidation) or 23 Pa.C.S. Ch. 61 (relating to protection from abuse).
- (4) An offense against a resident of this Commonwealth which is an act of international terrorism.

Victim Information - Information that would disclose the identity or jeopardize the safety of a victim.

4. PROCEDURES

A. Officer Responsibilities

- 1. Officers must successfully complete department BWC training.

2. Officers shall only use BWC equipment in the performance of their official duties.
3. Officers shall only use Department issued BWC equipment.
4. During BWC use, officers shall ensure that they are on official duty, in uniform or clearly identifiable as a law enforcement officer. This requirement is satisfied if the officer is in uniform and operating a properly equipped police vehicle, or is otherwise clearly identifiable as a Law Enforcement Officer.
5. Officers shall wear body-worn cameras in a manner consistent with department training.
6. The BWC shall be worn for the entire shift and maintained in a constant state of operational readiness.

7. When the BWC has been activated to record an incident, it shall not be deactivated until the incident has been completed, unless otherwise authorized per policy.
8. Although notice is not required by law, in certain circumstances it may prove beneficial to provide notice of the recording, using a phrase such as, "Our actions and words are being recorded," or "Our interaction is being recorded on my Body Camera". Such notice may assist an officer to deescalate confrontational situations.
9. When safe and practical to do so, officers may narrate the video recording contemporaneously (i.e., at the same time) with a recorded incident, to assist with accurate documentation of events.
10. Officers will note in the incident, arrest, and any related reports if BWC recordings were made during the incident in question.

B. Supervisor Responsibilities

1. Supervisors shall ensure officers use the body worn camera equipment.
2. Supervisors shall review the following recordings:
 - a. Recordings of any officer injury.
 - b. Recordings of any actor injury.
 - c. Recordings of any use of force incident.
 - d. Recordings of any vehicle pursuit and actions taken following the pursuit.
 - e. Recording of any citizen complaint.
 - f. Random recordings as designated by the Chief of Police.
3. Supervisors will utilize the information from the recordings during the completion of performance evaluations.
4. Supervisors shall take appropriate administrative action if an officer is found to have failed to properly use or care for the body worn camera equipment.
5. In a critical incident (such as an officer involved shooting, in-custody death or other officer involved incident that results in serious injury or death), a supervisor or their designee shall immediately take custody of involved BWC(s) and, in such case, will assume responsibility for the upload.

C. Use and Maintenance

1. BWC-equipped Officers
 - a. Are responsible for the proper use and care of their assigned BWC at all times and are reminded that BWC recordings do not replace written reports.
2. Prior to deployment, officers shall:
 - a. Inspect and test their BWCs to ensure that they are operational and functioning properly. If a BWC is damaged or inoperable, officers shall immediately notify a supervisor who will immediately test the camera and, if inoperable, place the camera out of service and notify the Chief or his/her designee.
 - b. Make every effort to ensure that they begin their shift with a fully charged BWC that does not contain data from a prior shift.
3. Lost or damaged BWC:
 - a. Officers who discover at any time during their shift that their BWC is lost, shall immediately notify a supervisor.
 - b. Officers who discover at any time during their shift that their BWC is damaged, malfunctioning, or that it contains data from a previous shift shall immediately notify a supervisor who will immediately test the camera and, if inoperable, place the camera out of service and notify the Chief or his/her designee.
4. Officers, including primary, secondary and assisting officers, shall start their BWC recordings as soon as a call is initiated via radio or communication from 911 on their mobile data computer (MDC), or at the beginning of any self-initiated police action.
5. In addition, when reasonable and safe to do so, officers operating the BWC equipment will ensure all dispatched and self-initiated calls-for-service are recorded including but not limited to the following:
 - a. all enforcement/investigation related citizen contacts (e.g. domestics, assaults, disturbances);
 - b. all stops (e.g., traffic and pedestrian), frisks and searches;
 - c. vehicle and foot pursuits;
 - d. all traffic crash scenes;
 - e. DUI investigations, to include Field Sobriety Testing;
 - f. high-risk encounters (e.g., barricade situations, active shooter);
 - g. mental health encounters;

- h. suspicious activities;
 - i. use of force situations;
 - j. investigative detentions or arrests;
 - k. encounters that require the advising of Miranda rights;
 - l. all transports of prisoners and citizens (unless in a MVR equipped car);
 - m. any contact that becomes adversarial after the initial contact, in a situation that would not otherwise require recording;
- n. any of the following searches of a person or property:
 - 1) consent searches (record consent);
 - 2) warrantless searches;
 - 3) vehicle searches;
 - 4) searches conducted incident to arrest;
 - 5) inventory searches;
 - 6) cursory searches;
 - 7) probable cause searches;
 - 8) execution of search or arrest warrants;
 - 9) frisks;
 - 10) field searches;
 - 11) full-custody searches;
 - 12) during initial inventorying of seized money/high value property;
 - 13) deployment of drug detection dogs;
 - 14) any incident when the member deems it appropriate to activate the BWC in accordance with this policy or upon direction from a supervisor.
6. Officers who are on the scene of an incident and are not the primary reporting officer shall inform the reporting officer of their BWC recording(s) so that the primary officer may include this information in his or her report.
 7. BWCs may also be used to record initial interviews of victims, complainants and witnesses.
 8. Once activated in accordance with this policy, officers shall not deactivate their BWC until:
 - a. they have cleared the assignment or, in the case of arrest, have transferred custody of the arrestee to another member;
 - b. their involvement in the citizen contact or detention has concluded;
 - c. they receive an order from a supervisor (in these cases, officers shall document the order via a BWC recording prior to deactivation);
 - d. the incident requiring activation has concluded, and the officer has returned to service.
 9. Exceptions:
 - a. In situations when community members, witnesses, crime victims or other parties wish to share information related to criminal activity, but refuse to do so while being recorded, officers will have the discretion to turn off their BWC during the interview. In such situation, the officer must record a brief verbal explanation for the deactivation prior to turning off the recording.
 - b. The BWC may be deactivated during conversations among/with officers or supervisors during information sharing sessions or discussing tactics and strategy. The same notification of cessation shall be noted as in #8.
 - c. Officers shall use appropriate discretion when recording confidential informants or undercover officers.
 10. When officers activate their BWCs and such activation was not required by policy, and the circumstances no longer need to be recorded, they may deactivate their BWC.
 11. After officers deactivate their BWCs, it is their responsibility to ensure they reactivate their BWC should circumstances require.
 12. Any delay or failure to activate their BWC required by this policy, as well as any interruption of a BWC recording required by this policy, shall be documented in the narrative section of any related report and shall be reported to a supervisor.
 13. At the completion of their shift, officers shall:
 - a. Inspect his/her BWC and ensure that it is operational and functioning properly, and that the battery is recharged. If the camera is damaged or inoperable, officers shall immediately notify a supervisor who will immediately test the camera and, if inoperable, shall place the camera out of service and notify the Chief of Police or his/her designee.
 - b. BWC recordings shall only be stored on a Department approved server or on a Department approved storage device. Officers shall ensure all BWC data is uploaded at the end of their shift, and when necessary, during their shift, to ensure storage capacity is not exceeded.
 - c. Charge the camera in an approved BWC charging device.
 - d. Officers will ensure BWC devices are securely stored in authorized locations when devices are not in use.
 14. Officers shall not:

- a. Remove, dismantle, or tamper with any hardware or software component or part associated with BWCs.
- b. Erase, destroy, disseminate, edit, alter, or otherwise use BWC recordings without the written permission of the Chief of Police, except for approved annotation in accordance with the training and capabilities of the BWC system (e.g., flagging a location in the retrieval video for use in court at a later date).
- c. Copy, convert, record, or disclose the contents of a BWC recording including posting to any public and/or social media site without written approval of the Chief of Police. BWC recordings shall only be shared for official law enforcement purposes.
- d. Allow unauthorized personnel to view the BWC recordings without permission from his/her immediate supervisor. Governmental employees who are directly involved in the investigation and/or prosecution of a criminal case related to the digital evidence, or who are previously authorized to interact with Department evidence, are exempt from this restriction.
- e. Delete any BWC recording except as specified in Section D, Accidental Recordings.
- f. Download or convert any BWC recording for personal use.
- g. Use Department-issued BWCs while off-duty.
- h. Record images or conversations of officers without their knowledge during routine, non-enforcement related activities such as in Department locker rooms, restrooms or any other place where there would be a reasonable expectation of privacy.
- i. Record gratuitously violent or obscene images, unless necessary for evidentiary documentation or required by this policy.
- j. Record a particular person based solely on the person's race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, physical disability status, or political affiliation.
- k. Record strip searches
 - l. Use any other electronic device or other means in order to intentionally interfere with the capability of the BWC.
 - m. End a recording based solely on a citizen's request/demand.
 - n. View recordings for other than official law enforcement purposes.

15. Facial Recognition Software or Programs

If Facial Recognition Software or Programs are developed which interface with BWCs, their use will be utilized in accordance with applicable law and approved by the Chief of Police or his designee.

D. Officer Access and Review

- 1. Officers may review BWC recordings prior to documenting an incident, arrest, search, interview, or other enforcement or investigative activity to ensure that their reports, statements, and documentation are accurate and complete.
- 2. Deadly Force or In-Custody Death/Near Death Incident: In an attempt to determine the unadulterated thought process and feelings perceived by the officer at the time of the incident, the officer shall not be provided, nor shall they review BWC recordings of the incident prior to giving an initial statement to an investigator. Once the initial statement is provided, the involved officer may view BWC recordings of the incident prior to providing any additional statements to investigators.

E. BWC Technician Responsibilities

- 1. BWC Technicians shall be responsible for the retention, duplication and purging of BWC recordings. BWC Technicians shall also ensure recordings of incidents are maintained in accordance with this policy and department evidence retention procedures.
- 2. BWC Technicians shall ensure that the recordings are identified and retained in accordance with this policy. Electronically retained recordings shall be retained until the case is adjudicated or there is a court order, unless otherwise indicated.

F. Duplication/Retention of BWC Recordings

- 1. The recordings produced on the BWC equipment are property of the Department, and will be subject to applicable law and Department policies regarding the viewing, release, retention and destruction of such recordings.
- 2. Mandatory Retention: The following types of incidents recorded on BWC equipment shall be retained and processed as evidence:
 - a. Incidents which may result or have resulted in the filing of criminal charges.
 - b. Incidents which are likely to become the subject of civil litigation against the Department or its personnel, including but not limited to, patrol vehicle crashes, pursuits, critical incidents, incidents involving the use of force, and incidents involving verbal complaint(s) against the Department or its personnel.
 - c. Incident involving injuries to officers and injuries incurred or alleged to have been incurred as the result of police actions.
 - d. Recordings which have been properly requested shall be retained pursuant to the Act.

- e. Recording shall be retained for no less than 75 days to accommodate any delays in processing a request.
- f. If a request is denied additional retention time is necessary.

3. Other Requests for Retention:

- a. Any member who believes that the retention of a recording not specifically required by this regulation is advisable (e.g., for use in a summary proceeding involving a traffic violation or training), shall notify the BWC Technician as soon as possible. The BWC Technician shall evaluate each request in accordance with this regulation. Officers are advised, per this regulation, that all recordings collected by the BWC equipment which are not regulated by a regular retention schedule will be purged no later than 120 days from the date of the last recording. All requests for duplication/retention are to be requested on a Department Form, "BWC Video/Audio Recording /Request Form." The completed form must be sent to the BWC Technician.
- b. When properly requested and approved, the BWC Technician will duplicate the recording of the incident from the Storage Server system and ensure its delivery to the requesting officer in a timely manner. The Department BWC Request Form will specify the reason that the recording is requested (e.g., court), and the date that the recording is needed.
- c. Additional requests for retention of BWC recordings may be made of the evidence custodian:
 - 1) Recordings requested to be preserved by an officer on the recording, a supervisor, or the Office of the Chief, where the recording may be necessary for use in any criminal or forfeiture proceeding. The recording shall be retained until destruction is authorized by the Office of the Chief.
 - 2) Recordings requested to be preserved by an officer on the recording or a supervisor, where the recording may be necessary for use in any summary proceeding involving a traffic violation. The retained recording shall be purged no later than 120 days from the conclusion of all proceedings related to the citation.
 - 3) Recordings requested to be preserved by a supervisor or solicitor where the recording may be necessary for use in any civil, administrative, or disciplinary proceeding. The recording shall be retained until destruction is authorized by the Chief of Police.
 - 4) Recordings that are the subject of a subpoena or court order shall be retained until destruction is authorized by the Chief of Police.
 - 5) **In criminal cases, notice shall be provided to the prosecuting attorney of any request for BWC recordings.**
 - 6) BWC Evidence Custodians shall ensure that all recordings are purged no later than 120 days from the date of the last recorded incident, after all properly requested and approved duplications have been made, unless otherwise regulated by this policy.

G. **BWC Media Categorization, Notation and Use in Reports**

- 1. Each event must be categorized according to event type, to ensure proper retention periods are applied.
- 2. The use of the BWC shall be recorded in the appropriate section of Department reports, and in the remarks section of citations.
- 3. Officers may use media captured via the BWC to assist with investigations and the completion of required reports. Officers may also use the media captured by the BWC to assist investigators and supervisors in evaluating on-going situations.
- 4. Using the capabilities of the storage server, officers may add markers and/or create clips in order to assist investigators and/or prosecutors.
- 5. Officers may use media captured on the BWC for training purposes, with proper authorization from the Chief of Police. Additionally, Field Training Officers may use media captured via the BWC to provide immediate training to recruits and to assist with the completion of the Daily Observation Report (DOR).

H. **Storage and Erasure**

- 1. Storage and Erasure of audio and video recordings will be in accordance with Pennsylvania law and will be the responsibility of the Supervisor in charge of Property and Evidence.

I. **Dissemination**

Dissemination of audio and video recordings shall be in accordance with Pennsylvania Law.