
	Administrative General Order	77 Body Worn Cameras	<b>PAGE 1 OF 8</b>
	<b>City of Charleston Police Department Policy and Procedure Manual</b>		EFFECTIVE DATE: <b>01/01/20</b>
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BY THE AUTHORITY OF THE CHIEF OF POLICE: 			

This policy cancels the Body Worn Cameras Field Guide and associated memorandum.

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77.1 PURPOSE

The purpose of this policy is to set forth guidelines for the utilization, management, storage, and retrieval of audio-visual media recorded by a Body Worn Camera (BWC). The availability of BWCs enhances documentation of police-public contacts, arrests and critical incidents, improves public trust, and advances the departmental goal of transparency.

77.2 POLICY

It is the policy of the Charleston Police Department to utilize BWCs to document evidence and accurately record, through audio and video, interactions that occur between officers and the public. All personnel shall adhere to the procedures outlined within this policy to maximize effectiveness of the BWC and maintain integrity of evidence and related documentation.

77.3 DEFINITIONS

Body Worn Camera – An electronic device worn on a person’s body that records both audio and visual data.

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Officer – Sworn, transport or animal control officers issued a BWC.

Video Management System – The cloud-based system for organizing and storing audio and video recordings.

### 77.4 CONFIDENTIALITY

All recorded media, images, and audio are property of the Charleston Police Department and will not be copied, released or disseminated in any form or manner outside the parameters of this policy, except as required by law, without the express consent of the Chief of Police or his designee. Under no circumstances will any employee of the Charleston Police Department make a personal copy and/or upload any recorded event to public and/or social media platforms without prior written permission of the Chief of Police, or his designee.

### 77.5 PROCEDURE

#### **Equipment Use and Training**

1. Department issued BWCs will be utilized by:
  - a. All uniformed officers whose primary function is to answer calls for service and interact with the public or who have a reasonable expectation that they will.
  - b. All plain clothes officers who have a reasonable expectation that they will interact with the public.
  - c. All transport officers.
  - d. All animal control officers.
2. Officers and supervisors shall receive training on the use of BWCs prior to operating a BWC in the field.
3. Department issued BWCs are intended for official law enforcement duties only and are not to be used for frivolous or personal activities. Intentional misuse or abuse of the units will result in disciplinary action.
4. Officers will only use BWCs issued and approved by the Charleston Police Department.
5. The BWC will be attached to the front of the uniform shirt using the provided clip in a position designed to produce an effective recording.
6. The wearing and use of personally owned audio/video equipment is not authorized.

#### **Officer Inspection/Responsibility**

Officers issued a BWC will utilize the BWC in accordance with this policy. They will ensure its readiness by conducting an operational inspection. The procedure for this inspection is as follows:

1. Fully charge the assigned BWC prior to utilizing it in the field. It is recommended that officers utilize the wall charger for charging, as this method is the most efficient in terms of charge time. If the BWC needs charging while on shift, officers will charge the BWC during administrative tasks.
2. Turn the BWC on, record a brief pre-watch inspection recording and upload the recording. The recording should then be viewed to ensure that the video and audio are both functioning correctly.
3. Report any problems preventing the use of the unit during the shift to the on-duty shift supervisor immediately.
4. In the event the BWC becomes inoperable or lost, a replacement may be obtained from the Supply Office. If no one is available in the Supply Office (i.e. after business hours), a replacement may be obtained from the NCIC OPS duty officer.
5. Officers must immediately report any physical damage or loss of their BWC to their supervisor and complete an "Equipment" BlueTeam entry. The Special Projects Commander will be copied on the BlueTeam entry.
6. Damaged equipment shall not be utilized in the field until repairs have been completed.
7. Report any problems that cannot be remedied or repaired to the Special Project Commander.

## **Operating Procedures**

### Activation of BWC

1. Officers will activate the BWC at the arrival of a call for service or at the initiation of any other law enforcement or investigative encounter with a member of the public, including, but not limited to, the following examples:
  - a. Documentation of evidence that can be used in the prosecution of criminal and traffic offenses.
  - b. Motor vehicle accident investigations when the parties to the accident are present
  - c. Calls for service related to public drunk and/or public disorderly conduct
  - d. Any use of force.
  - e. Arrest and transports.
  - f. Traffic stops.
  - g. Priority responses; to include scenes of violent crimes.
  - h. Vehicle and foot pursuits.
  - i. Suspicious situations/persons.
  - j. All searches (persons, vehicles, structures, effects), except strip searches.
  - k. Interviews.
  - l. Field Contacts
  - m. Mental health interventions.
  - n. Crowd control.
  - o. Calls for service where weapons are present or alleged to be present
  - p. Any conduct that becomes adversarial after the initial contact or is reasonably foreseeable to become adversarial, in a situation that would not otherwise require recording.
  - q. Any other time deemed appropriate by the operating officer.
  - r. Officers who are responding to a priority call, in-progress call, or critical incident will activate their BWC upon beginning their movement to the call. This will allow the BWC to provide background information, data on the response, and on what the officers observe or encounter while approaching the scene.
2. There may be situations 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, it is expected that once the immediacy of the situation is over, officers will activate their BWC at the first reasonable opportunity and document the reason for the delayed start in the incident report and/or as part of the recording.
3. Plain clothes officers issued a BWC will activate the BWC when taking any law enforcement action not related to their investigative duties.
4. If activating the BWC would compromise an investigation, the plain clothes officer will have the discretion of not activating the BWC. The plain clothes officer will explain the reason for not activating the BWC in a written report.
5. During tactical operations, to include search warrant entries, detectives and SWAT operators will utilize BWCs to capture the execution of any vehicle or person detention, arrest, or entry. Detectives and Operators are not required to activate the BWC during pre-execution activities such as surveillance, perimeter security or negotiations. Once the decision is made to execute a tactical option, the BWC will be activated and remain on until the tactical operation

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has concluded.

### Notice/Consent

1. Officers responding to hospitals will inform the attending physician, or their designee, that their BWC is activated prior to recording patients or medical personnel.
2. Officers are not required to obtain consent from victims or witnesses prior to using a BWC during an interview. If asked, officers will advise the person about its use. Officers will have discretion on whether or not to deactivate the BWC. If the BWC is deactivated, the officer will document the reason, either on the BWC or in a written report.

### Deactivation of BWC

1. Once the BWC is activated it should remain on until the incident has reached a conclusion, or the officer leaves the scene.
  - a. Once the situation has evolved beyond the immediate preliminary encounter and has stabilized, if it becomes necessary to discuss the specifics of the event, investigation, or case with another officer or supervisor in furtherance of the investigation, the officer will note this on the recording and end the recording. The intention to stop the recording will be noted by the officer verbally on the BWC.
  - b. In circumstances involving crime scenes, once the scene is secured, an officer wearing a BWC may deactivate the camera if he/she is in a role that is not investigative in nature and the chance of encountering a suspect is unlikely (e.g., securing the outer perimeter, traffic direction), or upon direction from the on-scene supervisor.
2. Officers transporting arrestees shall keep their BWC activated until the custody of the individual has been transferred to another officer or detention facility personnel.
3. Officers may deactivate the BWC during conversations with officers or supervisors during information sharing sessions or discussing tactics and strategy. The intention to stop the recording will be noted by the officer verbally on the BWC.

### **Documentation and Review**

1. Whenever a BWC is used in any incident, investigation or during a traffic stop, this fact will be documented on any citation and/or report prepared for the case.
2. Officers will upload recordings to the Video Management System upon completion of their shift, or as soon as practical immediately following a significant event. All recordings will be properly labeled and identified for uploading utilizing the appropriate meta-data forms provided. Upon the officer uploading and labeling the recordings, they will be automatically uploaded to Microsoft Cloud Storage.
3. Officers may review their own recordings prior to preparing written reports or statements of events or in preparation for court. The officer will be allowed to review the BWC recording of the incident in question if there is a hearing or other disciplinary matter involving the officer. Following a critical incident (as defined by the Officer Involved Critical Incident Field Guide), officers will not be allowed to review the recording until the independent investigating agency gives permission.
4. Officers may review their BWC to review/critique their own performance.
5. Officers may not review another officer's BWC recordings unless for a work-related reason which is authorized by a supervisor.
6. Officers will not have the ability or authority to edit or erase any BWC recordings.

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7. Officers shall report any unrecorded law enforcement encounter to their supervisor. The officer will annotate the reason that the encounter was not recorded or was partially recorded. If an incident report was not generated, the officer will submit a BlueTeam “Incident Call – BWC Not Activated” entry stating the reason for not having the BWC recording.
8. Any employee who reviews a BWC recording for a compliance check will submit a “BWC Review” BlueTeam entry and follow the same actions as a supervisor reviewing a BWC recording (77.10 #5).

### 77.6 RESTRICTED USE

1. BWCs are to be used only for official law enforcement duties.
2. BWCs will not be used to record areas, such as locker rooms, dressing rooms or restrooms, unless part of a criminal investigation.
3. To respect the dignity of others, unless articulable exigent circumstances exist, officers will try to avoid recording persons who are nude or when sensitive human areas are exposed.
4. Officers should use discretion where there is a victim of rape or sexual assault.
5. BWCs will not be used during a strip search.
6. BWCs will not be used to record police personnel surreptitiously, during routine administrative activities or general communication with other police personnel, unless for a direct law enforcement purpose and with the express permission of the Chief of Police or his designee.
7. Officers will not intentionally record undercover officers or confidential informants without their consent.
8. Officers will not record non-work-related personal activity.

### 77.7 BWC USE IN SCHOOLS

1. School Resource Officers (SROs) will record whenever the officer has developed reasonable suspicion or probable cause that a criminal act has occurred or is currently taking place. They may also utilize the cameras to document physical evidence of a crime or to document interviews conducted relating to a criminal investigation.
2. SROs will not activate their BWC when present during meetings between students and school personnel that are of an administrative nature not involving criminal activity or the potential for disruptive behavior.
3. An officer other than an SRO, who receives a call for service in or upon school property, shall employ the guidelines of the policy as they would for any call for service.

### 77.8 BWC USE DURING OFF-DUTY ASSIGNMENTS

All officers will wear BWCs as outlined within the Equipment Use section of this policy.

1. Officers will wear the BWC for all off-duty assignments where the officer is in uniform and is expected to take law enforcement action.
2. Officers will ensure that their BWC is charged prior to reporting for the off-duty assignment.
3. Officers will upload any recordings during their next regularly assigned on-duty shift. However, if the recorded encounter was a result of enforcement resulting in criminal charges/citations or a response to a significant event, the recordings will be uploaded prior to the conclusion of their off-duty shift.

### 77.9 SPECIAL TASK FORCE OFFICERS

During Special Task Force operations, officers will comply with applicable Federal policy when operating the BWC.

### 77.10 SUPERVISOR RESPONSIBILITY

1. It is incumbent on all supervisors to ensure officers utilize BWCs according to policy guidelines.

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2. The BWC monthly activity reports will be used to monitor compliance.
3. All BWC recordings associated with a BlueTeam entry for use of force will be reviewed. The review will be completed by the approving supervisor, Team Commander and Captain. The appropriate retention categorization will be ensured, and the review will be notated within the BlueTeam routing. The Captain will ensure that the steps are completed by their personnel.
4. All BWC recordings associated with a BlueTeam entry (Pursuit, Supervisory Complaint Intake, Vehicle Collision, and Equipment Damage) will be reviewed. This review will be completed by the approving supervisor and Team Commander, appropriate retention categorization will be ensured and the review notated within the BlueTeam routing. Commanders will ensure the previous steps are completed by their personnel.
5. The Patrol, Community Oriented Policing, and Special Operations Divisions' Chain of Command (Division Commander, Team Commanders, Team Administrative Sergeants, and Team Sergeants) will conduct, at a minimum, two (2) monthly reviews of randomly selected recordings (traffic stops, citizen contacts, etc.), in addition to any BlueTeam Use of Force recordings. The front desk supervisor and the animal control supervisor are also required to conduct the monthly BWC reviews. The purpose of these reviews will be administrative to ensure policy compliance, to assess officer performance, ensure proper labelling of recordings and flag recordings that may be appropriate for training purposes. The supervisor doing the review should check under "History" to see if the selected recording has already been reviewed by another supervisor. This will allow for a greater percentage of recordings being reviewed. The reviews will be documented in BlueTeam as a "BWC Review" and the following action steps will be taken, as appropriate:
  - a. Positive employee feedback;
  - b. Recommendation that the recording will be used in training;
  - c. Corrective employee feedback;
  - d. Retraining;
  - e. Discipline procedures; and/or
  - f. No further action.
6. If at any point during a review of a randomly selected recording the supervisor observes a point of concern or policy violation, they will immediately notify their commander, who will forward the recording appropriately for review.
7. If a complaint is associated with a recorded event, or an officer believes an incident may generate a complaint, the supervisor will ensure the recording is flagged for indefinite retention and, if necessary, restrict access to the recording.
8. Following a critical incident (as defined by the Officer Involved Critical Incident Field Guide), supervisors will ensure that the recording is restricted, and officers will not be allowed to review the recording until the independent investigating agency gives permission.

### 77.11 RETENTION AND RELEASE OF DATA

1. The Video Management System may be utilized for administrative investigations and/or for periodic reviews.
2. Recordings may be used for training purposes. Efforts will be made to inform involved officers prior to utilizing BWC recordings in training.
3. Recordings needed by officers for evidence in court may be requested through the Team Lieutenants, Team Administrative Sergeants, or the Special Projects Commander.

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4. All BWC recordings shall be securely stored and retained according to the Department's retention schedule and consistent with state law and existing evidence protocols unless a specific request is made for a longer period of time by a person authorized by the Department. It shall be the responsibility of supervisors and administrative sergeants to ensure that all BWC recordings associated with pending Municipal, General Sessions or Federal Court cases be retained in accordance with GO 35.15 Disposal of Evidence. This may necessitate extending the retention period for certain BWC recordings where the disposition of the case extends beyond the Department's retention schedule.
5. Recordings that are non-investigative, non-arrest, and are not part of any internal investigation will be retained for not less than four hundred (400) days. If it becomes necessary to maintain any of these recordings beyond the four hundred (400) day retention schedule, the reason for the extended retention will be noted in the meta-data of the specific recording.
6. Recordings of any arrests or violations of offenses listed in the S.C. Preservation of Evidence Act, S.C. Code 17-28-320, the expungement statute of S.C. Code 17-1-40, or any other statute, regulation, or case law will follow the retention requirements outlined therein.
7. If an officer activates a BWC generating a recording of a personal nature (restroom, on the phone, at home, etc.), the officer shall notify his or her supervisor promptly and email the Special Projects Commander. The officer will not label the recording when uploading to the cloud and the Special Projects Commander will lock the recording. Recordings of a personal nature will be reviewed by Internal Affairs or a designee selected by the Commander of Professional Standards Division. The employee that reviews the recordings will be of the same gender as the officer who made the recording to respect privacy. Once the recording has been reviewed, the recording will be tagged as accidental activation of a personal nature and set to purge within thirty (30) days.
8. Recordings for all other interactions and/or offenses will be retained on a regular prescribed schedule, as published on the Video Management System or in accordance with applicable state and local laws.
9. Pursuant to S.C. Code 23-1-240, data recorded by a body worn camera is not a public record subject to disclosure under the Freedom of Information Act. However, disclosure may be made under the following circumstances:
  - a. At the request of the State Law Enforcement Division, the Attorney General, or a circuit solicitor for any legitimate criminal justice purpose;
  - b. A law enforcement agency, the State Law Enforcement Division, the Attorney General, or a circuit solicitor may release data recorded by a body worn camera at its discretion;
  - c. A law enforcement agency may request and must receive data recorded by a body worn camera if the recording is relevant to an internal investigation regarding misconduct or disciplinary action of a law enforcement officer;
  - d. The following are also entitled to request and receive such data pursuant to the South Carolina Rules of Criminal Procedure, the South Carolina Rules of Civil Procedure, or a court order:
    - i. A person subject to the recording;
    - ii. A criminal defendant if the recording is relevant to a pending criminal action;
    - iii. A civil litigant if the recording is relevant to a pending civil action;
    - iv. A person whose property has been seized or damaged in relation to, or is otherwise involved with, a crime to which the recording is related;
    - v. A parent or legal guardian of a minor or incapacitated person described in sub item (i.) or (ii.); and

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- vi. An attorney for a person described in sub items (i.) through (v.).

77.12 REFERENCES

S.C. Code 17-1-40, 17-28-320, 23-1-240

South Carolina Law Enforcement Council Guidelines

APPENDIX A

RETENTION SCHEDULE

<u>TYPE</u>	<u>LENGTH OF RETENTION</u>
Accidental Activation	400 days
Accidental Activation of Personal Nature	30 days
All Other Interviews (Non-Homicide)	30 years
All Other Recordings	400 days
Body Cam Pre-Watch Equipment Check	400 days
Citizen Contact	400 days
Civil Lawsuit/Notice of Lawsuit	5 years
Consent Search	400 days
Criminal Sexual Conduct	Indefinite
Death Investigation	1 year
Driving Under the Influence	5 years
Evidence Destruction	10 years
General Sessions or Federal Criminal Case	10 years
Homicide	Indefinite
Homicide Interviews	Indefinite
In-Car Pre-Watch Equipment Check	400 days
Municipal Criminal Case	5 years
Municipal Traffic Case	5 years
Protest	3 years
Van Transport	3 years
Vehicle Collision	1130 days
Vehicle Collision – Police	1130 days
Vehicle Collision – Serious Injury/Fatality	7 years