

 <div><div>Policy and Procedure</div></div>		<div>Policy Number</div> <div>11.07</div>
Chapter	Law Enforcement Operations	<div>Authorized By:</div> <div>Eric R. Stewart, Interim Chief of Police</div>
Article	Body Worn Cameras	
Effective Date: August 15, 2022		

PURPOSE

To provide guidelines for the use of Body Worn Cameras (“BWCs”) consistent with SB20-217 and HB21-1250.

POLICY

To use BWC equipment in a manner that is fair and equitable toward Department members and citizens. The Department seeks to utilize BWC equipment to enhance officer safety, provide Department transparency to the public, assist with officer reporting, document evidence collection, assist with court testimony, assist with officer training, and to protect the Department from false claims of impropriety. The Department also seeks to provide documentation of events, action, conditions, and statements made during arrests and critical incidents, and document the quality of service provided by the Department. <CALEA 41.3.8a>

DEFINITIONS

Administrative discussions include but are not limited to discussions with police administrative or professional staff; and, discussions regarding purely business or organizational matters.

A civilian is any person who is not an employee, administrative or professional staff member, sworn officer or volunteer of the Department; or, personnel of another law enforcement agency that are present at an incident in their official capacity.

BWC Administrator means a member of the Department’s staff, selected by the Chief, responsible for general oversight and maintenance of BWC equipment.

Contact means an in-person interaction with an individual, whether or not the person is in a motor vehicle, initiated by a peace officer, whether consensual or nonconsensual, for the purpose of enforcing the law or investigating possible violations of the law. Contact does not include routine interactions with the public at the point of entry or exit from a controlled area; a non-investigatory and consensual interaction with a member of the public, initiated by a member of the public, unless and until the interaction progresses into an investigation of a possible violation of the law; a motorist assist; undercover interactions; or routine interactions with persons detained in a jail or detention facility

End of an encounter means a point in time, as reasonably determined by an officer, where there is little or no meaningful evidentiary value in maintaining activation.

Law enforcement related activities mean those activities associated with any law enforcement function, including, but not limited to, traffic stops, pedestrian stops, calls for service, follow-up investigations, interviews, searches, crowd incidents, protests, and arrests.





Management discussions include but are not limited to discussions between a field training officer and a trainee related to an officer's training as determined by the field training officer; and, any supervisory consultation related to the direction received by an officer or provided to an officer by a supervisor.

Off-duty shall refer to all sworn officers whom are not in uniform and not performing their regular duties.

Present means that a person is physically at the scene or location of the incident, investigation or discussion.

Public safety statement means a statement made as a result of the first interaction with another officer, typically a supervisor, immediately subsequent to an officer-involved shooting or critical incident as defined by the Eighth Judicial District's most recent version of the *Critical Incident Protocol*, where the involved officer indicates whether there is any remaining risk to the public or other officers.

Tactical discussions mean discussions that involve case strategy or police and investigative tactics. This term includes but is not limited to discussions with undercover officers, active members of the Special Investigations Unit, active members of the Street Crimes Unit, active members of the Northern Colorado Drug Task Force (NCDTF), or any confidential informants; and, discussions relating to unit movement, unit approach or unit involvement in an incident.

Undercover shall refer to all sworn officers tasked with the covert investigation of individuals or groups, as an individual other than themselves, in order to ascertain information and evidence against the subject(s) of their investigation. This term includes but is not limited to active members of the Special Investigations Unit, active members of the Street Crimes Unit, or active members of the Northern Colorado Drug Task Force.

GENERAL GUIDELINES

Use of BWC Equipment <C.R.S 24.31.902>

The Loveland Police Department has equipped sworn officers with BWC equipment. The BWCs are designed to assist and compliment officers in the performance of their duties. The BWC equipment is used to record law enforcement related activities, thereby creating a visual and audio record of the incident to supplement the officer's report. All sworn staff members, including detectives, and Community Service Officers will be issued BWC equipment. All on duty officers, detectives, and Community Service Officers are expected to wear BWC equipment to record interactions with the public at-large as prescribed in this policy.

Officers shall acquire and prepare BWC equipment for use upon the start of each shift or special event. The S.W.A.T. team, and individual members of that team, are expected to acquire and prepare BWC equipment for use in the field prior to any team response. All officers must test the BWC equipment operation in accordance with manufacturer specifications and Departmental training at the start of each shift or special event. If at any time the BWC equipment is found by an officer to be malfunctioning, the BWC equipment is to be removed from service and the appropriate supervisor and BWC administrator notified as soon as reasonably possible. <CALEA 41.3.8e>

The BWC equipment will be secured for charging and downloading of recordings at a frequency in the officer's discretion, but no later than four full days from the beginning of the first recording or the end of the





work week. The BWC equipment will be secured and charged in accordance with manufacturer specifications and departmental training. Felony filings and other priority reports containing BWC equipment recordings shall be downloaded as soon as possible.

Due to Detectives more limited interaction with the public, Detectives may not be required to use their BWC equipment on a regular basis. Detectives will charge and download BWC equipment recordings as soon as practicable after use, but no later than four days from that use. However, Detectives should acquire and prepare BWC at the start of each shift in the event that they will be required to use their BWC during that shift.

In an effort to maintain the high professional standards of the Department, officers should be cognizant of the following:

- Officers shall not alter, remove, dismantle or tamper with any hardware and/or software component or part of the BWC equipment, nor shall any digital evidence obtained be deleted or altered in any manner.
- All digital evidence collected using the BWC equipment is considered a record of the Loveland Police Department and is for official use only.
- Accessing, copying, forwarding or releasing any digital evidence for any purpose other than official law enforcement use and contrary to this policy is strictly prohibited.
- Personal computer equipment and software programs shall not be utilized when making copies of digital evidence. Using a personal recording device such as video camera, cell phone or other device to record or capture digital evidence from a BWC device and/or digital evidence storage is strictly prohibited.
- Officers will prepare reports and shall not substitute “refer to video” for a detailed and thorough report. Each officer utilizing BWC equipment for any required recording is expected to produce at least a supplemental report when a case report number is generated.
- Officers must ensure that the BWC equipment assigned to them matches the Evidence.com software. When an officer is assigned new BWC equipment, a supervisor must verify that the prior user has been changed to reflect the new user. BWC equipment users are responsible for verifying that the BWC equipment is assigned to them.

Officers do not need to wear or activate the BWC when the officer is working undercover.

Officers shall maintain activation of BWC equipment until an encounter has ended; however, BWC equipment may be deactivated when the officer is subsequently performing crime scene investigation duties. Officers who are solely engaged in the collection of or search for evidence, and are not in contact with members of the public, may activate the BWC equipment at their discretion during the collection or search.

Required Recordings <CALEA 41.3.8b>

Officers shall wear and activate the BWC equipment to record contacts with the public when responding to a call for service, entering into a premises for the provision of law enforcement services, during a welfare check, except for a motorist assist, or during any interaction with the public *initiated by the officer*, whether consensual or nonconsensual, for the purpose of enforcing the law or investigating possible violations of the law. Officers do not need to activate the BWC when the officer is enroute to a call for service, but the





officer should activate the BWC shortly before the vehicle approaches the scene. If an incident is initiated by a member of the public, the officer should activate the BWC if and when the interaction progresses into an investigation of a possible violation of the law.

Officers may, but are not required to, wear and activate their BWC equipment to record telephone conversations with victims, witnesses, and suspects during the course of an investigation, when no other means of recording the call is available, in order to preserve statements for potential prosecution.

Failure to wear and/or activate an officers BWC creates a permissive inference of officer misconduct under Colorado law, therefore an officer must activate the BWC when required. Officer safety takes precedence over recording events. An officer's safety shall always be the primary consideration, not the ability to record an event utilizing the BWC equipment. In the event an officer fails to activate the BWC equipment based on the belief that doing so would jeopardize an officer's safety, the officer shall articulate, in a report, the reasoning and justification for a failure to activate.

Officers will maintain activation of BWC equipment through the end of an encounter as listed above and will only deactivate both audio and video components of the BWC equipment under circumstances listed in the "Permissible BWC Deactivation" section of this policy. The "end of an encounter" should be interpreted broadly to mean a point in time, as reasonably determined by an officer, where there is little or no meaningful evidentiary value in maintaining activation.

Officers who possess an in-car video camera may deactivate BWC equipment during the transportation of suspects, defendants, or others so long as the in-car video camera is facing the subject being transported. Officers must reactivate BWC equipment upon reaching the destination or when exiting the vehicle.

Officers are required to activate BWC equipment when interviewing suspects and/or witnesses at the Loveland Police Department even in designated rooms that have been properly set-up with functioning video and audio recording devices designed to capture these interactions.

Permissible BWC Deactivation

Officers may turn off or mute the BWC to avoid recording personal information that is not case related; when working on an unrelated assignment; when there is a long break in the incident, and in administrative, tactical, and management discussion *when civilians are not present*. The immediately preceding phrase, "when civilians are not present" means a circumstance where law enforcement personnel are of such a distance from civilians that any verbal statements by law enforcement personnel cannot be reasonably heard by a person or civilian of ordinary hearing.

Officers should avoid activation of the BWC equipment in the following scenarios:

- The BWC equipment shall not be used to record non-work related personal activity.
- The BWC equipment shall not be intentionally activated to record conversations of fellow employees without their knowledge during routine, non-enforcement related activities.
- The BWC equipment shall not be activated while on break or otherwise engaged in personal activities.





Responsibilities of the BWC Administrator

The BWC Administrator is tasked with general oversight of BWC equipment. Those responsibilities include:

- Maintenance of and troubleshooting the BWC equipment.
- Coordinate the BWC equipment manufacturer or distributor agreements.
- Maintain a record of assigned BWC equipment.
- Be proactive and able to complete minor repairs quickly.
- Arrange for the warranty and non-warranty repair of the BWC units.
- Repair or replace BWC components (cameras, docking stations, etc.).
- Maintain BWC equipment repair and maintenance records.
- Update software and system settings as necessary.
- Train officers on current policy and proper use of BWC equipment.

Training <CALEA 41.3.8f>

All staff members authorized to use BWCs must complete mandatory training to familiarize themselves with the BWC equipment and Departmental policy prior to utilization of any BWC equipment. Additional training may be required at periodic intervals to ensure the continued effective use and operation of the BWC equipment and address any revisions in policy.

Maintenance and Control of Recordings <CALEA 41.3.8d>

All BWC equipment recordings may be evidence and are the property of the Department and will be treated as such.

Officers will download all BWC equipment recordings to the appropriate and relevant database for storage as noted in the “Use of BWC Equipment” section of this policy. Officers are responsible for classifying any recording involving an arrest, any use of force incident, a pursuit, a search, or any contact or event that possesses any evidentiary value as determined by the officer. Officers are responsible for stating in their report that a BWC recording exists. Officer are responsible for attaching a case/incident number when applicable. Officers are responsible for the classification of all BWC equipment recordings consistent with the categories provided by the Evidence.com software. Restricted recordings may contain the following:

- Restricted - Any BWC equipment recording that documents an incident which is deemed sensitive in nature, whether evidentiary or of mutual accountability in nature. Access may be restricted to select individuals. A supervisor may designate the “Restricted” status and said status must be coordinated by the BWC administrator. Examples could include cases involving the use of force, officer-involved shootings, SWAT incidents, interactions with Northern Colorado Drug Task Force members, interactions with confidential informants, allegations of criminal actions by an officer or by a citizen with an officer as a victim, and investigations alleging internal misconduct.

Records will determine the best and most appropriate way to store the BWC equipment recordings and the recordings will be retained according to the Department’s state-approved records retention schedule related to in-car video cameras.





Authority for Reviewing Recordings <CALEA 41.3.8g>

Relevant supervisors and the Professional Standards unit are authorized to review the BWC equipment recordings for purposes of BWC equipment functionality, BWC equipment performance, addressing complaints against officers, and for any other supervisory purpose. Supervisors are expected to periodically review one random BWC equipment recording, for each officer, twice per year. Supervisors shall document this periodic BWC equipment recording review as part of the required line inspection report. Officers may review their own BWC equipment recordings for purposes of case building or otherwise refreshing their recollection for purposes of a criminal trial unless the BWC equipment recording is classified as “Restricted” under the “Maintenance and Control of Recordings” section of this policy.

Detectives and members of the Street Crime Unit are authorized to review their own and other officers’ BWC equipment recordings for investigatory purposes.

Any circumstance that meets the criteria for any critical incident as defined by the Eighth Judicial District’s most recent version of the *Critical Incident Protocol*, triggering activation of the Critical Incident Response Team (CIRT), the Department will adhere to the standards for sequestration provided in the most recent version of the *Critical Incident Protocol* and the CIRT may temper the requirements of sequestration based upon the facts and circumstances of a particular incident in accordance with the *Critical Incident Protocol*. Supervisors are expected to advise involved officers, as soon as possible subsequent to a critical incident, on the appropriate time for involved officers to deactivate BWC equipment. No BWC recordings shall be reviewed by an officer prior to CIRT arrival on scene.

Officers shall be permitted to review BWC equipment recordings prior to making a statement during an investigation for any circumstance that falls short of meeting the criteria for a critical incident as defined by the Eighth Judicial District’s most recent version of the *Critical Incident Protocol*.

The Chief may restrict or limit access in reviewing BWC equipment recordings consistent with local, state, and federal laws or regulations, at any time, at the Chief’s discretion.

Public Release <C.R.S 24.31.902>

Public release of BWC equipment recordings will be in accordance with current departmental records release policies as well as the rules set forth in the Colorado Criminal Justice Records Act (CCJRA) and the cases interpreting the CCJRA. Release may occur at the discretion of the Chief of Police or an authorized designee after due consideration of the CCJRA, cases interpreting the CCJRA, or any other local, state, or federal law involving the dissemination of criminal justice records. However, all BWC, dash camera, and audio recordings must be released publicly within 21 days of when a request is made after a formal complaint of misconduct is filed by another peace officer, civilian, or nonprofit organization, subject to blurring, or limited disclosure to a victim (or lawful representative if victim is deceased), when substantial privacy interests cannot be protected by blurring.

