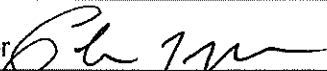


**THE PENNSYLVANIA STATE UNIVERSITY
POLICE AND PUBLIC SAFETY**

POLICY AND PROCEDURAL ORDER

SUBJECT 7.10 Body Worn Cameras		
CALEA REF. 41.3.8	EFFECTIVE DATE 4/21/21	REVISED DATE 2/7/22
Approved By Associate Vice President Charles Noffsinger 		ASSIGNED TO GROUP(S): 5

I. PURPOSE

The purpose of this directive is to establish policy and procedures to document incidents involving police officers and the public, while also protecting the privacy rights of all parties being recorded in accordance with Pennsylvania state law. This policy establishes procedures for the training and utilization of body-worn camera (BWC) equipment, and the retention, duplication, storage, and purging of recordings made from BWC equipment. Pursuant to state law, this policy is available to the public.

II. POLICY

It is the policy of University Police and Public Safety (UPPS) department to use BWC equipment to promote accountability and transparency by creating a video record of applicable police activity. Additionally, video obtained will be used for gathering recorded evidence for applicable court proceedings. The use of video equipment may also assist the department as a training aid, investigative tool for resolution of citizen complaints against officers, quality assessment of officer-citizen contacts, officer performance evaluations, and officer safety (41.3.8a).

III. DEFINITIONS

- A. **Body Worn Camera (BWC)** – A Department approved, and authorized recording device issued to officers to record audio and video consistent with Department policy and procedure.
- B. **BWC Recording or BWC Footage** - Any recording, whether audio or video, made by a BWC pursuant to this Policy.
- C. **BWC Program Administrator** - This is an administrative position responsible for the oversight and management of the Body Worn Camera Program, which includes policy and procedure development, records management, and system software maintenance.
- D. **Incident** – An event requiring some degree of law enforcement action or response.
- E. **The Act** - Act of July 07, 2017, P.L. 304, No. 22, including amendments to the Pennsylvania Wiretapping and Electronic Surveillance Control Act (18 Pa.C.S. 5701, *et seq.*) and 42 Pa.C.S. Section 67A01, *et seq.*

IV. TRAINING (41.3.8F)

- A. All personnel who may use or otherwise be involved with BWCs will receive initial training on BWC usage and protocols and prior to use, with annual refresher training thereafter. Such training will include the following:
 - 1. All practices and protocols covered by this BWC policy.
 - 2. An overview of relevant state laws governing consent, evidence, victim and witness privacy, and public disclosure.
 - 3. Best practices in responding to crime victims, including the privacy considerations included under §67A07 (a)(2), obtaining informed consent to record, and a trauma informed response.

V. PROCEDURE

- A. Operating and Utilizing BWC systems

1. BWCs will be managed in accordance with the manufacturer's instruction and training.
2. Uniformed officers will wear all supplied components of the BWC system and verify the BWC is properly positioned to clearly record police activities. Plainclothes officers will only deploy BWCs when directed to do so by their immediate supervisor.
3. Officers will inspect and conduct a field test of the BWC before each shift or special event assignment to verify the device is functioning properly (41.3.8e).
4. Officers will not use a BWC assigned to another officer.
5. Officers will immediately report a malfunctioning BWC to a supervisor.
 - a. Each station will be issued additional BWC devices designated to be temporarily assigned to an officer if an officer's assigned device is inoperable.
 - b. In the event a BWC is temporarily assigned to an officer, the supervisor will notify the BWC program administrator by the next business day with the pertinent information to allow for proper video and audio tracking in the records management system.
6. At the end of every shift or event assignment, devices will be placed into an appropriate docking station for the transfer of video footage to cloud-based storage.
7. Officers will keep their BWC powered on during their assigned shifts and will intermittently inspect their BWC for proper functioning.
8. If an officer fails to activate or deactivate their BWC according to policy, or fails to upload their BWC promptly, whether intentionally or accidentally, they will report the incident to their supervisor.
9. Pursuant to state law, officers will only use BWC equipment that has been approved for use in accordance with equipment standards published in the Pennsylvania Bulletin. The use of personally- or privately-owned recording equipment for documentation purposes is prohibited.
10. Officers will conduct proper identification as a law enforcement officer when utilizing BWC equipment and must inform all individuals identifiably present, as soon as reasonably practicable, that the BWC is being utilized to record the encounter/incident. Officers will not lead a person to believe the BWC has been deactivated when in fact, the BWC is left active.
11. Officers are required to activate their BWC system during all law enforcement-related encounters and activities as defined in this procedure, where the recordings are consistent with this policy and Pennsylvania statutes. Officers will not use BWCs unless acting in the performance of their official duties.
12. Subject to paragraphs 13, 14, and 15 below, officers should begin BWC recordings in the following circumstances unless doing so would be unsafe, impossible, or impractical (41.3.8b):
 - a. At the initiation of a call for service or other activity that is investigative or enforcement in nature, or an encounter between the officer and a member of the public that is investigative or enforcement in nature. Examples of these types of encounters may include, but are not limited to:
 - (1) When the officer initiates response to an incident or emergency;
 - (2) When performing police emergency response driving;
 - (3) During traffic or pedestrian stops, including the investigation of a vehicle

and occupants already stopped or parked. Officers equipped with the BWC will continue to record until the stopped vehicle departs or officers leave the scene;

- (4) During the entirety of vehicle or foot pursuits;
 - (a) Activate the BWC before initiating a vehicle or foot pursuit
 - (b) Deactivate the BWC when there is a failure to apprehend the vehicle or subject, with permission from a supervisor;
 - (5) While conducting field interviews, interrogations, and intoxication testing;
 - (6) While conducting or participating in traffic safety and sobriety checkpoints;
 - (7) When seeking consent to search without a warrant, including searches of persons, buildings, or vehicles, including the request and consent when practical;
 - (8) While transporting prisoners or others in any Department vehicle to any location;
 - (9) When taking a statement or information from a victim or witness;
 - (10) When assigned to monitor or provide crowd control at a protest or demonstration; or
 - (11) Any encounter that becomes confrontational after the initial contact.
13. If officers are unable to begin recording with the BWC due to circumstances making it unsafe, impossible, or impractical to do so, officers should begin recording with the BWC at the first reasonable opportunity to do so. Officers should document, in writing, the circumstances preventing them from activating the BWC and provide that documentation to their supervisor.
14. Upon conclusion of the incident involving circumstances giving rise to the recording in paragraph 11 above, the officer will record a short statement that the incident has concluded, and then deactivate the recording. If, after deactivation that is authorized or required under this policy, the BWC is reactivated, upon reactivation of the BWC, the officer will state that the recording will resume.
15. Notwithstanding the activation requirements in paragraph 11, the following are circumstances wherein BWCs should be deactivated (41.3.8b):
- a. When victims, witnesses or other individuals wish to make a statement or share information, but refuse to do so while being recorded, or request that the camera be turned off, officers should turn off the BWC in order to obtain the statement or information. If the encounter begins when the BWC is not actively recording, the law enforcement officer should, but is not required to, temporarily activate the BWC for the sole purpose of documenting the person's refusal to be recorded.
 - b. Prior to recording an interview of a sexual assault or trauma victims, officers must request and obtain consent before recording and document the consent on the recording. If the encounter begins when the BWC is not actively recording and consent is requested but not obtained, the officer should, but is not required, to temporarily activate the BWC for the sole purpose of documenting that the victim declined consent to be recorded.
 - c. If directed to deactivate or not to record by a supervisor, unless the officer believes the order to be illegal, unethical, or in conflict with department policy. Officers should seek clarification from the supervisor as to the reason for deactivation according to Sections IV(A)(e) & (g) of this policy. Officers will

record the name and position of the supervisor in their statement before deactivation.

16. Officers will not use the BWC to record the following:

- a. Confidential informants or undercover officers.
 - (1) Officers may record any enforcement action (e.g., traffic or investigatory stop) requested by a plainclothes officer.
- b. Department personnel during routine, non-enforcement related activities, unless the recording is required by a court order or is authorized as part of an administrative or criminal investigation.
- c. In any place where there is a reasonable expectation of privacy (e.g., restroom, locker room) except during an active incident (e.g., foot pursuit that leads into a locker room).
- d. During meals, unless approached by a citizen, or a situation meriting activation occurs.
- e. On break, or otherwise engaged in personal activities or conversations.
- f. In any detention facility or hospital facility (when confidential patient information may be recorded) except during an active incident (e.g., disorderly person).
- g. While conducting body cavity or strip searches.
- h. During a response to, and in an area where an explosive device is or is suspected to be present.
- i. During discussions/briefs regarding operational tactics and/or strategies.
- j. Attendance and participation in University or public meetings unless authorized by the guidance provided in section V(A)(11) of this policy.
- k. Conversations of fellow employees or supervisors during routine activities not related to those incidents or events listed in Section V(A)(11) of this policy. Officers will not be required to activate BWCs when engaged in conversations with individuals with whom the officer is in a privileged relationship (e.g., spouse, attorney, police peer counselor, labor representative, minister, etc.).
- l. Supervisory counseling or other supervisor/employee conversations that occur outside the scope of a law enforcement activity.
- m. Media captured on a BWC to another recording device i.e., cell phone.

B. Viewing, Altering, and/or Sharing BWC Recordings

1. The Department will preserve video for at least 180 days after the last recorded event. After the 180-day retention period, recordings not categorized for retention will be deleted consistent with the approved retention schedule.
2. Recorded events necessary to the investigation and prosecution of criminal offenses will be uploaded and redacted by the Records Unit.
3. All access to BWC footage is automatically logged to create an electronic audit trail, which will document any time that the footage is viewed, for what length of time and by whom, as well as any copying or editing of the footage.
4. Officers will not edit, alter, erase, duplicate, copy, share, or otherwise distribute in any manner BWC recordings without prior approval from the BWC Administrator.
5. Requests to delete portions of a BWC recording (e.g., in the event of an accidental personal recording) must be submitted for approval to the BWC

Administrator, who will review in accordance with state record retention laws. All requests and final decisions will be kept on file. Officers will complete UPPS Form A011; Request to Delete BWC Footage.

6. Officers will be allowed to review the recordings from their officer-worn body cameras for the following purposes (41.3.8c):
 - a. Investigation, report writing or preparation of other official documents.
 - (1) To support accuracy and consistency, officers are encouraged to review recording prior to preparing reports.
 - b. Court preparation, review of prosecution evidence, and review or analysis of crime scenes.
 - c. Training, policy compliance, and professional standards investigations.
 - (1) If the officer is giving a statement about the use of force or if the officer is the subject of a disciplinary investigation, the officer will:
 - (a) Have the option of reviewing the recordings in presence of the officer's attorney or labor representative; and
 - (b) Have the right to review recordings from other body-worn cameras capturing the officer's image or voice during the underlying incident.
 - (2) When an officer is involved in an incident resulting in a professional standards investigation, review of their BWC Video will be subject to the process outlined in the UPPS Policy 2.3 (Citizen Commendation or Complaints Against Employees).
 - (3) Officers will complete the UPPS Form A012; Request for BWC Footage for any recorded sequences that may be of value for training purposes.
7. Officers may view BWC footage utilizing approved software and equipment, or on any department computer with internet capability. Viewing of BWC footage is for official use only.
8. Officers will only use department equipment or devices to record or download videos from BWCs.
9. It is the responsibility of any officer/supervisor to categorize recordings beyond the 180-day retention period, if necessary (41.3.8d). Such recordings categorized for retention beyond the 180-day retention period include, but are not limited to:
 - a. BWC footage that may contain evidence relating to a suspected or alleged crime;
 - b. footage of individuals suspected of committing alleged crimes;
 - c. information that is the subject of a request for disclosure to which either a response has not been made or that has been denied but that is or could be the subject of a petition under the Act; and
 - d. BWC footage that is, or may reasonably be, relevant to, or discoverable in, a legal proceeding.

C. Records Requests/Redactions

1. Retention and dissemination of video will be done in accordance with UPPS Policy 3.1.1 (Release of Law Enforcement Records) and University Policy AD35 (University Archives and Records Management)
2. The Records Unit will redact the video file and forward a copy, in an authorized format, to the officer.
3. Video files are to be used for official business only.

4. UPPS Form A012 will be submitted to Records for internal request for video footage.
 5. Release of Department BWC recordings for criminal prosecutions will be coordinated with the applicable district attorney's office. This will include the release of any recording to defense counsel.
 6. Public requests for BWC recordings will be managed in accordance with the provisions of the Act.
 7. BWC recordings are not subject to the Pennsylvania Right-to-Know Law, according to the provisions of the Act.
 8. The Records Unit will handle public requests for audio/video recording disclosure in accordance with Pennsylvania law and UPPS policy and procedure for the fulfillment of record requests, including completing redactions required by law.
 9. When a video file is released pursuant to a request from outside the Department, a second disc copy of the video file will be made by the Records Unit and maintained for one year.
 10. Pursuant to the Act, any such requests will be made within 60 days of the date the BWC recording was made. Requests will be in writing to the Program Administrator by personal delivery or certified mail with proof of service. Requests must specify with particularity the incident or event that is the subject of the BWC recording, including the date, time and location of the incident or event. The request must include a statement describing the requester's relationship to the incident or event that is the subject of the BWC recording. If the incident or event that is the subject of the audio recording or video recording occurred inside a residence, the request will identify everyone who was present at the time of the audio recording or video recording unless not known and not reasonably ascertainable, in which case the request must state with particularity why this information is not reasonably ascertainable.
 11. The UPPS will deny the request in writing within 30 days if it determines that a BWC recording contains: potential evidence in a criminal matter; information pertaining to an investigation or a matter in which a criminal charge has been filed; confidential information or victim information and the reasonable redaction of the audio or video recording would not safeguard potential evidence; information pertaining to an investigation; confidential information; or victim information. The written denial will state that reasonable redaction of the audio recording or video recording will not safeguard potential evidence, information pertaining to an investigation, confidential information, or victim information.
 12. The UPPS will respond to the request within 30 days of receipt of the request unless the requester and law enforcement agency agree to a longer time period. In the absence of a written response within 30 days, or an agreement to extend the time to respond, the request will be deemed denied as unauthorized under the Act and this Policy.
 13. If a request is granted, the requesting party will pay all reasonable fees relating to the costs incurred to disclose the BWC recording at the time of disclosure of the BWC recording.
- D. Personal Privacy and Confidentiality
1. BWC recordings containing sensitive and/or private situations (e.g., interview of a victim of sexual assault; an individual who is partially or completely unclothed) will not be released pursuant to this Policy, unless it can be reasonably redacted before being released.

2. Nothing in this Policy will be construed to prohibit the withholding of BWC recording, in whole or in part, in order to protect potential evidence in a criminal matter, information pertaining to an investigation, confidential information or victim information.
 3. Nothing in this Policy will authorize the release of a BWC recording, in whole or in part, that is otherwise prohibited or protected from disclosure under any other Federal or State law, including information that is confidential pursuant to any other law, including The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99).
- E. Media requests for video files will be subject to (C) above and referred to the Public Information Office (PIO), the Chief of Police, and the AVP. The Records Manager and PIO will coordinate on the release of a disc copy of video files if approved by the University Strategic Communications, the AVP, and any relevant prosecutor. In instances of active criminal investigations, additional consultation with the appropriate district attorney's office will occur.
- F. Release of BWC recordings in connection with any litigation, subpoena, or legal process, will be governed by this policy, University policy, regarding subpoenas, the Act, and in coordination with the Office of General Counsel.
- G. When a matter that is the subject of BWC footage is referred to the University Office of Student Conduct (OSC), any request that BWC footage will be made available to the OSC will be made by the OSC to the Body Worn Camera Program Administrator. BWC footage will be made available, subject to any applicable limitations of disclosure pursuant to a public request under the Act, any other applicable law, and Section (e), above, of this Policy.

VI. SUPERVISORY RESPONSIBILITIES (41.3.8F)

- A. Supervisors will:
1. At a minimum of once per week, inspect and conduct a five-second test recording of each officer's BWC to verify the BWC is properly functioning and positioned to record police activities (41.3.8g).
 2. Confirm officers follow established procedures for the use and maintenance of the BWC equipment including inspecting the docking stations to confirm BWC's are properly docked.
 3. Follow the process outlined in Section V(A)(5) for malfunctioning BWC or usage of a temporary BWC.
 4. Investigate and document all incidents involving an officer who fails to activate or deactivate the BWC per procedure, or fails to upload their BWC footage promptly, including any recommendation for a professional standards investigation to be initiated.
 5. Supervisors are encouraged to review content with officers to identify events with training value.
 6. While conducting a professional standards investigation, supervisors are not required to activate their BWC.
 7. Review this procedure at roll call annually. Supervisors must complete UPPS Form A0009 (Standardized Training Event) to verify all officers reviewed the procedure in its entirety.
- B. Each deputy chief will verify that the appropriate supervisory reviews are conducted each week to monitor compliance with department policy and for training purposes.

1. During these reviews, specific incidents will be identified and reviewed in their entirety and the results will be documented on UPPS Form 013; BWC Supervisory Review.
 2. Supervisors will not review incidents known to have been previously reviewed.
 3. Supervisors will not include the review of any incident occurring during their current shift, which was reviewed in accordance with procedure, e.g., vehicle pursuits, use of force, etc.
- C. Supervisors will review any relevant BWC footage and verify BWC footage is uploaded and categorized for proper retention for all incidents involving:
1. Use of Force
 2. Injury to Officers
 3. Vehicle Pursuits
 4. Citizen Complaints
 - a. According to state statute, any member of the public, parent or legal guardian of a minor, or a deceased subject's next of kin or legally authorized designee who is a subject of video footage, may request to review that specific video footage during a citizen complaint investigation per the process outlined Section V(B)(6)(c)(3) in this policy. Non-department personnel will not be allowed to review the recordings unless provided written consent of the Chief or AVP/Designee.
 - b. BWC footage used in administrative department investigations will be retained in compliance with the current records retention schedule as approved by BWC Administrator.

VII. COMPLIANCE

- A. Deputy Chiefs will be responsible for confirming the BWC supervisory reviews are being completed in compliance with this policy.
- B. Deputy Chiefs will assign a supervisor within their district/unit to conduct BWC video reviews as established in section (V)(D)(a) of this policy.
- C. The assigned supervisor will complete UPPS Form A013; BWC Supervisory Review forwarding the completed document to the Deputy Chief.
- D. Deputy Chiefs will provide the number of BWC video supervisory reviews conducted for their district on their district monthly report for analysis by the Chief of Police and the AVP.
- E. Failure to assign, conduct, or report out on these reviews will be considered a violation of the policy.

VIII. BIOMETRIC SEARCHES

- A. Stored video and audio from a BWC will not:
 1. Be used to create a database or pool of mug shots.
 2. Be used as fillers in photo arrays.
 3. Be searched using facial recognition software unless there is reasonable suspicion that a specific suspect or person in need of assistance may be a subject of a particular recording.

IX. VIOLATIONS

- A. Violations of this policy are subject to corrective measures set forth in the collective bargaining agreement and UPPS Policy 2.4 (Corrective Action and Disciplinary Procedures)