



# POLICY AND PROCEDURE NO. 403

## Body Worn Camera Policy

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8 Pages

### 1. GENERAL CONSIDERATIONS:

Body-Worn Cameras (BWCs) are an effective tool to preserve factual representations of officer/civilian interactions. BWCs are also effective in capturing video and audio evidence for use in criminal investigations, internal investigations, and officer training.

The BWC is intended to record anything that the BWC officer could have potentially heard and/or observed using their senses. This does not mean that the BWC officer is required or expected to have seen and/or heard everything captured in the footage. Likewise, there may be information the BWC officer obtains through their senses that is not captured by the BWC. As such, each incident should be based on the totality of the circumstances when reviewing the video for any purpose.

The purpose of this policy is to establish guidelines for the proper use, management, storage, and retrieval of video recorded by BWCs.

It is the policy of the Worcester Police Department (Department) to respect the legitimate privacy interests of all persons, while ensuring professionalism in its workforce.

### 2. PROCEDURES:

#### A. TRAINING:

All officers and supervisors of the Department shall attend department training on the operation of the BWC system and this policy.

Training on Body Worn Camera operation and related policy will be given to recruits in the Academy. Training will also be given when any Officer is transferred to a unit employing BWC's from a unit without BWC's.

All supervisors of the rank of Lieutenant and Sergeant will have BWC training.

#### B. ACTIVATION:

An officer equipped with a BWC shall activate its recording functions as soon as practicable under the following circumstances:

1. Police/civilian encounters which include all 911 emergency calls;
2. Non-emergent calls for service;
3. Police initiated investigations/stops; and
4. When ordered to by a supervisor.

**Exception: Officers are not required to record normal casual conversations/encounters with civilians that do not correspond with the above noted circumstances.**

BWC officers shall not compromise their safety or the safety of others to obtain BWC recordings when activation is not tactically feasible.

### **C. RECORDING WITHIN A RESIDENCE:**

In the event that a BWC officer seeks consent to enter and search a home, or other place where there exists a reasonable expectation of privacy, based on a justification of consent only, the officer should give verbal notice or otherwise make the individual[s] aware that the interaction is being recorded. The entirety of any search based on consent shall be recorded.

If an officer is dispatched to a residence to handle a call for service, the officer is permitted to record while lawfully inside the residence. If a resident asks police to cease recording while inside the residence, the BWC officer may not discontinue the recording, unless he or she obtains permission from a supervisor. If the supervisor grants permission, the officer will be authorized to de-activate the BWC. If circumstances change, officers will be permitted to turn their BWC back on. A police officer shall record when entering a residence under exigent circumstances.

### **D. RECORDING IN SENSITIVE AREAS:**

When recording in areas where there may be a reasonable expectation of privacy, BWC officers should be mindful of their location as BWC recording may be considered insensitive, inappropriate, or prohibited by privacy considerations. Locations may include locker rooms, places of worship, religious ceremonies, certain locations in hospitals or clinics, law offices, or day care facilities. Based on the circumstances encountered at such locations, the BWC may be turned off.

### **E. NOTICE OF RECORDING:**

BWC officers are not required to notify civilians that they are being recorded, but it is recommended that they do so during the BWC officer's interaction with the civilian. BWC officers may take into account tactical considerations as to if, or when, to notify a civilian of the recording. All BWCs will be conspicuously placed in the BWC officer's chest area to allow the camera to be immediately noticeable to those interacting with the BWC officer.

### **F. CONSENT TO RECORD:**

BWC officers are not required to obtain consent to record. If a civilian has requested the BWC officer to stop recording, BWC officers have no obligation to stop recording if the recording is pursuant to the circumstances identified in Section 2 Subsection B. When evaluating whether or not to continue recording, BWC officers should weigh the discretionary recording considerations specified in Section 2 Subsection D. The request to deactivate the BWC should be recorded, as well as the BWC officer's response to that request.

### **G. RECORDING OF VICTIMS / WITNESSES:**

If a BWC officer is aware that he or she is in range (visual or audio recording) of a victim or witness who is giving an account of a crime, the BWC officer may record the encounter but should be considerate of the privacy concerns of the victim or witness. If the individual is in any way unsure of the need for the recording to be made or is uncomfortable with being recorded, the BWC officer will determine if deactivation of the camera or muting of the audio is appropriate. Requests to deactivate the BWC should be recorded.

## **H. BWC DEACTIVATION:**

Generally, once a BWC is activated, recording will continue until the event has concluded or until the officer is ordered to deactivate the BWC by a supervisor. For example, when an officer's interaction with a civilian has ended, an officer has left the scene of a call, or an arrestee has been loaded into the prisoner transport van, the officer will end his or her BWC recording. If an officer deactivates his or her BWC before the end of the incident, the officer shall note the reason why in his or her incident report.

## **I. BWC REPORT WRITING:**

To help ensure accuracy and consistency, BWC officers may review the BWC recording prior to preparing reports in all cases EXCEPT when officers used force, not a display, at Levels 4 or 5 of the Use of Force Model (Policy 400.) In those cases, the BWC officer is required to write their initial report first and then review their recording. It is imperative for the officer to distinguish and delineate the following information in their report:

1. Facts that are recalled independently of a recording;
2. Recollections that are refreshed by viewing a recording; and
3. Facts that were not previously known but that are learned by viewing a recording.

BWC officers should continue to prepare reports in the same manner as prior to the implementation of the BWCs. Officers should continue to submit detailed and thorough reports.

## **3. BWC DEPLOYMENT:**

### **A. BWC OFFICER RESPONSIBILITIES:**

At the beginning of each shift, the BWC officer will:

1. Ensure the issued BWC has a fully charged battery and is functioning properly.
2. Notify a supervisor if the BWC is malfunctioning or damaged.

During shift, the BWC officer will:

1. Activate the BWC as outlined in Section 2 Subsection B above.
2. Document the existence of a BWC recording in all appropriate documents.
3. Ensure the incident number, officer code, and a category is assigned to every recording.
4. Utilize a personalized key fob to enter the secure room in which all BWC devices will be stored/ docked.
5. Ensure each BWC device is returned at the end of each officer's shift. Examine the BWC to ensure the device is properly functioning and is returned to the base station. Ensure the BWC is in the uploading stage by verifying indicator lights, and leave the device in uploading status in the base station. Officers will ensure that their assigned BWC is returned to the proper docking device within the assigned, secure area for storage of BWC equipment.

6. If a BWC officer becomes aware that he or she failed to activate the BWC, failed to record the entirety of an interaction, interrupted the recording, or the BWC malfunctioned or is damaged, the BWC officer shall document the circumstances in an incident report.
7. If during a tour of duty a BWC officer becomes aware that the BWC's battery has become depleted, the BWC officer shall notify their supervisor. The supervisor will have the option of issuing a spare camera, if available, or sending the officer back on duty while the camera charges.

#### **B. SUPERVISOR RESPONSIBILITIES:**

Supervisors assigned to units whose officers are assigned BWCs have the following responsibilities:

1. When an officer notifies a supervisor that his or her BWC is not working properly, the supervisor shall remove the BWC from service and issue a spare BWC unit, if available.
2. Ensure the camera is properly affixed and placed correctly on the BWC officer's uniform.
3. The supervisor responsible for signing officers' reports shall review BWC recordings during the course of duty when an officer has any display of force or utilizes a level of force classified as Level 3 through level 5 of the Use of Force Model (Policy 400).
4. The precinct/unit commander or their designee will review every use of force incident Level 4 or higher.

#### **C. OFFICER USE OF BWCs WHILE WORKING OFF-DUTY ASSIGNMENTS:**

Officers who are assigned BWCs will be required to wear them while working overtime shifts and non-traffic off-duty assignments, such as assignments in bars. When feasible, at the conclusion of the shift, officers will return the BWCs to their docking stations. If this is not feasible at the conclusion of the shift, then the officer shall return the BWC to its docking station no later than the officer's next tour of duty.

#### **D. SPECIAL CONSIDERATIONS FOR PLAIN CLOTHES PERSONNEL:**

1. Plain clothes officers engaged in primarily information gathering activity (i.e. neighborhood canvas, interviewing of witnesses/victims, retrieving video evidence, routine licensing checks, conducting searches of electronic devices) may not be required to activate their BWC. The activation of an officer's BWC during these circumstances shall be at the discretion of the officer and or the unit supervisor based on the nature and needs of the particular investigation. Officers will not be required to wear BWC's during the course of their shift if the assignment involves acting in an undercover capacity. This includes covert surveillance, undercover buys, meeting with informants or any other activity where the need to protect the integrity of the investigation exists.
2. Officers who are assigned a BWC will activate the camera during the execution of a search warrant. Officers shall keep the BWC activated during the initial securing of the scene. Officers may deactivate their BWC's at the discretion of the unit supervisor once the scene is secure and the likelihood of any use of force scenarios has subsided. Interactions in which the search warrant or Miranda rights are presented should be recorded.

3. Plain clothes officers shall activate their BWC when engaging in law enforcement activities as detailed in Section 2 Subsection B unless an exception previously mentioned can be identified. Special consideration shall be given to plain clothes officers regarding the manner of placement of the BWC on their uniform of the day, at the discretion of the unit commander.
4. Special consideration shall also be given to plain clothes officers assigned to a federal task force. The decision to wear and activate a BWC during task force operations shall be made at the discretion of the officer, unit supervisor, and task force supervisor, taking into consideration any cooperation agreement that exists between the Department and the outside agency.

#### **E. BWC TECHNOLOGIES:**

Livestreaming (watching real-time camera footage remotely): Livestreaming shall be permitted under the following conditions:

1. Preplanned event – With an operations plan approved by the Chief of Police or his designee, members of the command staff shall have the ability to livestream from one or more BWCs during a preplanned event.
2. Critical incident – During a critical incident, the Incident Commander or a member of the command staff shall have the ability to authorize livestreaming from one or more BWCs if doing so would enhance situational awareness and officer safety.

Mute feature: Officers may utilize the camera’s “mute” function instead of turning off the BWC when sensitive conversations are taking place, but the incident is still ongoing.

#### **4. INTERNAL ACCESS/REVIEW:**

##### **A. BWC OFFICER ACCESS TO FOOTAGE:**

BWC officers may review their own BWC recording as it relates to:

1. Their involvement in an incident for the purposes of completing an investigation, preparing official reports and any supplemental reports required.
2. Preparation for possible testimony in court or other legal proceedings to refresh recollection.
3. Providing a statement (oral or written) pursuant to a Bureau of Professional Standards investigation or a Commander’s investigation.
4. Any officer involved in a call will be permitted to watch all BWC footage of the call. Officers will be allowed to view BWC footage before providing any statement pursuant to officer involved shootings or other critical incidents as outlined in Section 4 Subsection C below.
5. If a BWC officer is rendered incapacitated/unresponsive while on duty, other officers may view the BWC video in order to identify a possible suspect or aid in the apprehension of a possible suspect.
6. It is recommended that officers make a notation in Evidence.com when viewing other officers’ videos.

## **B. SUPERVISOR ACCESS TO FOOTAGE:**

Any supervisor within the BWC officer's direct chain of command will have access to their officers' footage. A supervisor outside the direct chain of command may request to see footage. It may be allowed with the permission of a supervisor that has access to said video or a Program Administrator. When the Bureau of Professional Standards receives any complaint about an officer, they shall have full access to all video footage that would be helpful to their investigation of the complaint. The Training Division will be permitted to request access to footage for training purposes. Detectives will have access to footage for investigative purposes.

## **C. BWC OFFICER ACCESS TO FOOTAGE FOLLOWING AN OFFICER INVOLVED SHOOTING:**

Following an officer involved shooting, or other use of deadly force, involved officers, including supervisors, shall not view the BWC recording on any device prior to the designated Detective Bureau supervisor viewing the footage and uploading it into the system. However, if exigent circumstances exist, such as BWC officer being rendered incapacitated/unresponsive while on duty, other officers may view the BWC video in order to identify a possible suspect and aid in the apprehension of a possible suspect. BWC officers involved in an officer involved shooting and BWC officers who witness an officer involved shooting or other deadly force shall be allowed to view all incident BWC recordings after writing their initial report and before providing any additional statement/supplemental report. This policy does not nullify the verbal notification compliance that is outlined in policy 400, Use of Force section 10.

## **D. PUBLIC ACCESS TO FOOTAGE:**

The City will respond to public records requests in accordance with all applicable laws and regulations. Under the public records laws in Massachusetts BWC footage is considered a public record, subject to applicable exemptions and statutes which restrict or prohibit the dissemination of certain information.

## **E. COLLECTING AND STORAGE OF VIDEO FROM OFFICER INVOLVED SHOOTING OR OTHER USE OF DEADLY FORCE INCIDENTS:**

Following an officer involved shooting, or other use of deadly force, Detective Bureau supervisory personnel or their designee will be responsible for collecting and securing BWCs from all involved officers at the earliest opportunity. Detective Bureau supervisory personnel will be responsible for uploading all appropriate videos and will notify the officer's supervisor when complete.

## **F. AUDIT AND REVIEW:**

Each precinct/unit commander or his or her designee will be responsible for conducting random audit and review of BWC footage. Through the use of the BWC Performance Software, these reviews will be standardized for all commanders with the approval of the Chief or his designee.

The Bureau of Professional Standards' (BOPS) function is to assist the Chief in maintaining professionalism through audit and review. Its purpose is to identify deficiencies in adhering to policies, procedures, rules, regulations, and directives implemented by the Department or by the City of Worcester. The Bureau of Professional Standards' Commander or their designee

shall perform a monthly audit and review from randomly selected footage using the BWC Performance Software.

#### **G. PROPERTY RIGHTS:**

All BWC recordings/footage is the sole property of the City of Worcester. The recordings obtained from agency body worn camera systems are the property of the Worcester Police Department, are not owned by the vendor, and cannot be used by the vendor for any purpose inconsistent with the policies and procedures of the Worcester Police Department.

#### **Axon Cloud Services Terms of Use Appendix #3:**

**Agency Owns Agency Content. Agency controls and owns all right, title, and interest in Agency Content. Except as outlined herein, Axon obtains no interest in Agency Content, and Agency Content is not Axon's business records. Agency is solely responsible for uploading, sharing, managing, and deleting Agency Content. Axon will only have access to Agency Content for the limited purposes set forth herein. Agency agrees to allow Axon access to Agency Content to (a) perform troubleshooting, maintenance, or diagnostic screenings; and (b) enforce this Agreement or policies governing use of the Axon products.**

#### **5. BWC FOOTAGE RETENTION:**

The Department shall retain all BWC recordings indefinitely, unless otherwise required by law or the retention schedule for municipalities established by the Office of the Commonwealth of Massachusetts.

No BWC recordings shall be deleted/destroyed while any related investigation, including criminal, civil, administrative investigation, or court proceeding is still open/pending, or for the same period of time that evidence is retained in the normal course of the investigation, or for the same period of time that evidence is retained in the normal course of the court's business for a recording related to a court proceeding. Similarly, no BWC recordings shall be destroyed until all appeals and/or related litigation is exhausted and closed.

BWC recordings shall be stored in evidence.com software and secured with password protection.

BWC equipment will be used for training purposes. BWC footage of internal police training may be deleted at any time.

#### **6. RESTRICTIONS:**

##### **A. IMPROPER RECORDING:**

BWCs shall not be activated to record:

1. Breaks, lunch periods, or time periods when an officer is not responding to a call, or when not in service (code 4).
2. Personal conversations of or between other department employees without the recorded employee's knowledge.
3. Non-work-related personal activity, especially in places where a reasonable expectation of privacy exists, such as locker rooms or restrooms.

4. Investigative briefings.
5. Encounters and/or communications over secured radio channels with undercover officers or confidential informants.
6. Departmental meetings, in-service training, or assignments of an administrative nature. The use of BWC's for training is not a violation of this provision.
7. First Amendment-protected political activity, for the sole purpose of identifying protestors when no crime has been committed.

**B. IMPROPER USE OF BWC FOOTAGE:**

BWC recordings/footage shall not be:

1. Used for the purpose of ridiculing or embarrassing any individual depicted on the recording.
2. Randomly reviewed for any purpose not consistent with this policy.
3. Disseminated by any department employee unless approved by the Police Chief or his designee, or disseminated in the course of their official duties.
4. Copied by any employee (i.e. use their iPhone, iPad or any other electronic device to copy).

Per:

*Paul B. Saucier*  
Chief of Police