

POLICY 14-02

BODY WORN CAMERA SYSTEM

I. PURPOSE

The purpose of this policy is to establish guidelines and limitations for the use and management of body worn audio/video camera systems by officers employed by the White Plains Department of Public Safety (WPDPS). It is the position of The White Plains Department of Public Safety to implement the use of body worn audio/video camera systems to obtain unbiased and objective views of officer encounters during interactions while in the performance of their duties. The use of the Body Worn Camera System will help to improve community trust through increased transparency and accountability. The use of this tool should prove to be very effective for documenting encounters of evidentiary value to criminal, civil, and administrative investigations. This policy will be reviewed annually in accordance with New York State Department of Criminal Justice Accreditation Standards.

II. POLICY

The White Plains Police Department shall utilize the AXON body worn camera system, to record video and audio of incidents involving law enforcement activity.

The use of body worn camera systems will accomplish several objectives to include:

- Enhancing officer safety,
- Documenting statements and events,
- Affording the officer the ability to review actions for documentation/reporting purposes and for courtroom preparation/presentation.
- Preserving visual and audio information for use in investigations.
- Providing an impartial measurement for self-critique and evaluation for training purposes.
- Preserving factual representations of officer-citizen contacts in the form of audio/visual recordings.
- Proving evidence for court and administrative proceedings.

All recordings / media are the property of the City of White Plains Department of Public Safety and shall not be copied, released, or disseminated in any form or manner outside the parameters of this policy without the written consent of the Chief of Police.

Unauthorized use, duplication and/or distribution of the recordings and files are prohibited. Officers shall not make copies of any recording or file for their personal use and are prohibited from using a recording device such as a camera phone or a secondary video camera to record any video file.

Officers may only use the Body Cameras issued by the Department. Privately owned cameras will not be used as per *Procedure 9707- Recording Devices*

III. DEFINITIONS

Body Worn Camera: A body worn audio/video recording system primarily consisting of a camera and a controller/battery pack.

Evidence.com: Online web-based digital media storage facility accessed at www.evidence.com. The virtual warehouse stores digitally encrypted data in a highly secure environment that is accessible to police personnel. Accessibility is limited based upon the level of security clearance assigned to the officer.

System Administrator: Evidence.com administrator with full access to website. Assigns and tracks equipment; controls passwords; conducts quality checks of uploaded data; coordinates data retention; provides copies of requested data to requesting officer.

End User: Body worn camera user with individual account access to Evidence.com.

Evidence Transfer Manager (ETM): A docking station that simultaneously recharges the controller/battery pack and uploads all data captured by the body camera. The ETM ensures that evidence handling is secured and that data is not altered.

Buffering Mode: The body worn camera continuously loops video recording for a 30 second period. No audio is recorded while buffering.

Event Mode: When placed in Event Mode, the body worn camera records audio and visual data. The previous 30 seconds of buffered video is also saved.

Digital Resource Officer (DRO): Assists with managing and maintaining the body worn camera systems, downloaded data/inventory, and various facets of digital technology that is in use throughout the WPDPS.

IV. PROCEDURES

- Training

1. All uniformed first responding officers will be trained in, issued and authorized to use body worn cameras.
2. The White Plains Department of Public Safety shall provide training for authorized users in testing and usage of the body worn camera system and the administration of data captured when testing the body worn camera system.

- Administration

1. Prior to each shift the officer shall inspect the body worn camera to ensure the camera is fully charged and operational. Only fully operation cameras shall be used.
2. Officers shall not attempt to make repairs to a body worn camera.

3. Malfunctions, damage, loss or theft of a body worn camera equipment shall be immediately reported to a supervisor and documented accordingly. This documentation shall be forwarded to the system administrator.

- Use

1. Body worn cameras shall be operated in accordance with the manufacturer's guidelines and White Plains Department of Public Safety policies, procedures and standards of training.
2. Body worn cameras shall be worn at all times by the assigned officer during that officer's tour of duty. It should be placed into Buffering Mode at the beginning of the officer's tour.
3. Body worn Cameras shall be placed into Event Mode as soon as practical once it has been determined in the officers' use of sound judgement that an incident is to be recorded in accordance with this order. As soon as it is safe to do so, the officer will announce that the body worn camera has been activated. Once activated, no recording shall be intentionally terminated until the incident has concluded.

Concluded shall mean:

- a) The arrested subjects have been transported and have arrived at the headquarters booking desk area, unless there is a need for further recording (i.e. combativeness, etc.)
- b) The unruly or adversarial conduct has ceased and the subjects have left the area.
- c) The incident as a whole has ended and law enforcement action is no longer necessary.

NOTE: Any intentional termination of a recording must be verbally announced and explained on the recording prior to the termination and again upon the reactivation of the camera. The verbal explanations can discredit any accusation of tampering with the recording.

4. In sensitive situations such as Domestic Violence Incidents, Child Abuse and Sexual Assaults the officer will announce that the recording is deactivated once order has been restored and it is safe to do so for all parties.
5. In situations other than domestic violence, sexual assault or other sensitive matters, an officer may only terminate a recording as per a citizen's request if the officer is confident that order and civility on all parties' part has been restored.
6. In public or private - While it is generally implied that words and/or actions performed in the presence of a police officer have no expectations of privacy, when practical and safe under the circumstances to do so, officers shall verbally announce when the body worn camera is activated and in Event Mode.
7. It is not the intent of this policy to describe EVERY possible circumstance of camera activation. There will be many various situations where it may be deemed inappropriate for camera activation as described above. The Event Mode should generally be used during incidents which create reasonable suspicion in the mind of the officer that a crime has been committed, is being committed or will be committed in the near future.

However, officers should also use the Event Mode to record any encounter that is probable to result in a citizen complaint or civil action.

8. Upon activating Event Mode the officer **MUST** alert other members that the device has been activated in Event Mode. Once the body worn camera Event Mode has been activated it shall remain on until the incident has reached a conclusion or the officer leaves the scene. The intention to stop recording shall be verbally announced by the officer prior to stopping any recording or noted within a written report.
9. In any incident, investigation, or traffic stop that results in a Report, Personal Summons, Uniform Traffic Ticket, or other WPDPS document being generated **and** the body worn camera was used, the officer shall note its use on the appropriate document.
10. Whenever an officer records an incident or any portion of an incident, which that officer reasonably believes will likely lead to a citizen complaint or civil action, the officer shall immediately bring it to the attention of his or her supervisor.
11. The recording of confidential informants and undercover officers must be authorized by a supervisor.
12. Officers shall not allow citizens to view the recordings unless authorized by a supervisor. In the event that a citizen is allowed to view the recording, the officer will document the viewing accordingly.
13. For report writing purposes, officers may review their own video recording. Except for incidents involving an officer's use of deadly physical force, i.e. officer involved shooting. Officers shall not review another officer's video recording unless authorized by a supervisor.
14. Whenever there is accidental camera activation or an unintentional recording, the recording is never to be deleted or altered. Any request for deletion must be made in writing. Authorization for deletion is granted through the expressed written permission of the Chief of Police and will be handled by the system administrator.
15. All camera activations must be documented in the appropriate submitted reports noting the date, time, subjects' information, and the reason for the camera activation.
16. Failure to activate the body worn camera when legitimate law enforcement interest is present or the premature termination of a recording must be investigated and documented by a supervisor and forwarded to the Chief of Police.

- **Audio/Visual Recording**

1. In keeping the Department's value of respecting the dignity of all persons, officers will use sound judgement in when and how body worn cameras will be used. Officers should record the following types of incidents:
 - a) Pedestrian and vehicular investigative detentions and stops;
 - b) Observed unlawful conduct;
 - c) Use of force;

- d) High risk situations;
- e) Advising an individual of Miranda rights;
- f) Statements made by suspects, victims, or witnesses;
- g) Motor vehicle searches;
- h) Area canvasses or K-9 Unit searches;
- i) Physical arrest and transport of persons;
- j) Serious or fatal motor vehicle accidents;
- k) Property damage regarding motor vehicle accidents;
- l) Observed items of evidentiary value; and
- m) Any other legitimate law enforcement activities.
- n) At domestic incidents, child abuse and sexual assault investigations, officers may record up to the point at which order is restored and it is safe to do so for all parties.

- **Prohibited Recordings**

1. Whenever possible, officers will avoid capturing video media or sensitive exposures of private body parts;
2. Events which occur in Departmental locker or dressing rooms, restrooms or any other place where there would be a reasonable expectation of privacy.
3. To record conversations of fellow employees without their knowledge during routine, non-law enforcement related activities, such as on meal periods and or breaks in service.
4. Non-work related personal activity shall not be recorded;
5. Individuals who are lawfully engaged in a public civil action, or another First Amendment-protected right of speech or demonstration, unless there is at least reasonable suspicion of criminal activity, or to serve any other legitimate law enforcement purposes.
6. Officers are reminded that they **MUST** alert other members that the device has been activated in Event Mode.
7. Officers will avoid recording in medical settings (such as hospital emergency department) in which a citizen is receiving medical treatment and/or diagnosis is being discussed. Exceptions would be crime scenes, auto accident investigations, or a disturbance or crime in a hospital.

- **Data Download/Media Storage**

1. Body worn cameras shall be placed in the ETM docking station at the end of shift for re-charging and downloading captured data to Evidence.com. Body worn cameras shall not be removed from the ETM docking station until all data has been downloaded and the battery has been fully re-charged.
2. Data shall only be downloaded to Evidence.com.

V. TAGGING

1. Officers may view downloaded data at www.evidence.com.
2. Downloaded data shall be maintained at Evidence.com for a minimum of 6 months in accordance with WPDPS Policy and Procedures. Data that has evidentiary value in criminal cases and/or citizen complaints against officers shall be retained in accordance with existing policy and procedures and New York State Education Department section CO-2 Public Safety using the following schedule:

Case investigation record – homicide, suicide, arson 1, 2, 3 Missing Persons (until located), active warrants, stolen or missing firearms (until recovered or destroyed)	Permanent
Case Investigation for all felonies (except above)	25 years after case closed
Case Investigation for arson 4 and non-fatal accidents	10 years after case closed
Case Investigation for misdemeanor	5 years after case closed
Offenses involved violation or traffic infraction	1 year after case closed
Domestic Incident Report, when case investigation is created	4 years or as long as rest of case investigation
Domestic Violence records when no case is created	4 years
Video tape or other recording of booking or arrest processing. When litigation and/or criminal proceedings have commenced	3 years, but not until any individual has attained age 21, and not until 1 years after any litigation or criminal proceedings have concluded.
Video tape or other recording taken from mobile unit – when recording relates to specific case investigation	As long as the case it is related to is retained
Video tape or other recording that does not relate to specific case, such as a routine traffic stop *May want to keep longer upon evaluation	6 months

3. Videos that are deemed by an officer to contain footage of evidentiary value should be tagged using the White Plains police report incident number. This number should be entered in to the “ID” form field by the officer who recorded the video or a supervisor.
4. If there is no incident number that correlates to the Body worn camera video, as in a traffic stop, officers may use a summons number or other unique qualifier. Videos that are not tagged will be deleted automatically by the system after 6 months as dictated by

the NYS Education Law.

5. The DRO (Digital Resource Officer) will ensure that tagged videos are categorized by the appropriate retention period.

VI. AGENCY REVIEW OF RECORDED DATA

- A. The Office of Professional Standards designee will review recorded data for administrative and/or criminal purposes at the direction of the Chief of Police or her designee.
- B. The Chief of Police or her designee will assign Lieutenants to review randomly selected recorded data. This random audit process will ensure proper use and compliance with Departmental policies, guidelines and procedures for the Body Worn Camera System.
 1. This random audit will be conducted on a weekly basis.
 2. Each reviewing supervisor will receive a different video to review. Each Lieutenant will review videos of personnel that they DO NOT personally supervise.
 3. The Digital Resource Officer (DRO) will randomly select the videos for review. A link for each video will be sent through Evidence.com to each reviewing supervisor. The link will allow them temporary access to the video for the audit process.
 4. The DRO will keep a log of each week's audits, indicating the dates the links were sent for review, an ID/description of each video, and the recording officers' name.
 5. The Lieutenants will be responsible for the following:
 - 1) Identifying and correcting procedural errors in terms of activation and tagging issues. The Lieutenants should then initiate a plan of action to address their findings which would include documented discipline, creating and implementing a training plan or immediate referral to the Patrol Division Commander.
 - 2) Identifying good practices by officers, officer deficiencies and policy derelictions.
 - 3) Preparing a monthly written report (due on the last day of the month) to the Chief of Police on the findings and follow-up.
 - 4) The Lieutenants will be expected to give a quarterly presentation to Command Staff members on reviewed videos of note and what actions were taken as a result of the review process.
 6. Supervisors may review a specific incident recording for the purpose of training, critique, early intervention inquiries or for investigative purposes.
 7. The Chief of Police or a member of the Office of Professional Standards may review specific incidents recorded when participating in an official Departmental investigation of agency personnel.

8. If any violation of Department policy or procedures or any potential issues are found during the discovery process, the reviewing officer shall refer the incident to the Data Management supervisor for further review. When warranted, the Data Management supervisor shall notify the appropriate supervisor and the Chief of Police. (See Section VIII.)
9. Under no circumstances shall any recordings be used or shown for the sole purpose of bringing ridicule or embarrassment upon any person.

VII. RELEASE OF RECORDINGS

1. The release of recordings to any person shall be made in accordance with WPDPS Policy and Procedures, and pursuant to requirements as established by operation of applicable law, including but not limited to, the Freedom of Information Act (“F.O.I.A.”) with the approval of the Chief of Police or his/her designee.
2. Requests from the Westchester County District Attorney will be made by subpoena or a confirmed e-mail address. The requesting Assistant District Attorney will be given the option to use the prosecutor’s component of Evidence.com or receive the requested recording on a CD, DVD or other media storage device.
3. Recordings that are not be released to the public are those involving open investigations, sex crime victims and juvenile arrests and other exceptions as per New York State FOIA Law requirements. Exceptions will only be made with the authorization of the Chief of Police.
4. Prior to the release of any recording, the Data Management Unit supervisor or his designee will review and redact images in accordance with NYS FOIA.

VIII. WHISTLEBLOWER PROTECTION

All personnel shall be aware of certain protections offered under the NYS Civil Service Law which states as follows:

CVS § 75-b. 2(a) A public employer shall not dismiss or take other disciplinary or other adverse personnel action against a public employee regarding the employee's employment because the employee discloses to a governmental body information: (i) regarding a violation of a law, rule or regulation which violation creates and presents a substantial and specific danger to the public health or safety; or (ii) which the employee reasonably believes to be true and reasonably believes constitutes an improper governmental action. “Improper governmental action” shall mean any action by a public employer or employee, or an agent of such employer or employee, which is undertaken in the performance of such agent's official duties, whether or not such action is within the scope of his employment, and which is in violation of any federal, state or local law, rule or regulation.