

	WEST ORANGE POLICE DEPARTMENT WRITTEN DIRECTIVE SYSTEM	12:13
	BODY WORN CAMERAS	
	Effective Date: 03/18/20	Supersedes: 01/6/2018

12:13-1 PURPOSE

The purpose of this directive is to establish the policy and procedures for the proper use of Body Worn Cameras and personal recording equipment by members of this department.

12:13-2 POLICY

It is the policy of this department to utilize body worn camera technology to its fullest extent. All members shall use the equipment consistent with this directive and consistent with the NJ Attorney General Guidelines. It should be taken into consideration that use of Body Worn Cameras by police officers will open many discussions concerning the privacy rights of the public and of victims. Personnel shall make every effort to stay current on policy and case law regarding this new and changing technology.

12:13-3 GENERAL PROVISIONS

- a. The Chief of Police shall determine which personnel are to utilize Body Worn Cameras.
 - All Operations personnel and first line supervisors assigned to a patrol assignment shall utilize the BWC during their tour of duty. All officers assigned to an extra duty assignment shall utilize a BWC when inventory of accessible cameras allows.
 - Personnel in specialized units such as CSU or Traffic shall utilize the BWC upon the discretion of their Division Commander or Chief of Police, based upon their assignment or expected duties for that day.
 - Personnel assigned to CID, Juvenile Bureau, Internal Affairs or Special Investigations Unit shall utilize the BWC upon the discretion of their Division Commander or Chief of Police, based upon their assignment or expected duties of that day.

It should be noted that any personnel whom is wearing a BWC, for whichever assignment or duty, is bound by the procedures and circumstances of use dictated by this Directive and the AG Guideline.

- b. Body Worn Cameras (BWC) have great value in providing protection to police officers, the agency and the public at large. BWC records information related to personal contacts, arrests and other patrol related activities. Additionally, this equipment will provide valuable instructional material that can be utilized for in-service training exercises.

- c. This directive shall guide personnel in the use of Body Worn Cameras. It shall be provided that a law enforcement officer of this agency may only use a BWC system that has been issued and approved by this agency.
- d. An officer may only utilize a BWC in performance of official police duties and not for personal use. Officers should be aware that captured recordings will precede approximately 15 seconds in the past for both audio and video. Whatever audio or video that is captured will be considered part of the event if pertinent, barring unforeseen privacy issues.
- e. While visual and audio evidence may be captured on the recordings, the use of BWC is not intended as a device to document all evidentiary material relevant to court or administrative proceedings; but, it can serve to supplement the officer's senses and eyewitness account. BWC has the following benefits:
 - BWC provides protection to officers against frivolous complaints.
 - BWC augments the department's ability to evaluate its basic police practices and procedures and interactions between its members and the general public; and enhances the agency's ability to train members in proper police procedures.
 - BWC provides enhanced documentation of events, actions, conditions and statements made during incidents and to corroborate investigations.
 - BWC provides accurate documentation for possible criminal prosecution of persons making purposeful or willful false claims against police officers.
 - The agency has the opportunity to positively impact on an officer's individual interpersonal skills by reviewing their behavior as they interact with members of the public.

12:13-4 PROCEDURES

a. Equipment Condition:

1. BWC equipment shall be adjusted or repaired only at the direction of the Administrative Commander or designee.
2. Damaged BWC equipment shall be immediately reported to the immediate supervisor. A CAD entry shall be made whether the damage renders the BWC inoperable or not. The damage shall also be documented on a miscellaneous report and forwarded through the chain of command to the Administrative Commander for disposition. Installation, removal or repairs shall only be performed under the direction of the Administrative Commander or designee.
3. An inoperable BWC will not result in the automatic dead-lining of a BWC for repair. If a trained supervisor or BWC trainer can fix the issue, then the BWC shall be put immediately back into service.

4. All BWC's shall be recorded and distributed through use of the VISTA computer program. Supervisors and trained personnel will assign the BWC to the specific officer through the program. No BWC shall be worn without properly assigning that camera to the specific officer who will be utilizing such.
5. At the end of a shift or after any critical incident, the BWC shall be placed back on to the Vista charger to download all footage recorded to the server.

b. Operation:

1. At the beginning of each shift, officers shall determine whether their BWC equipment is working satisfactorily. An officer shall ensure that the camera is fully charged and has no recordings still on the camera. The BWC shall read "No Recordings" to ensure the previous recordings have been downloaded onto the system. Operational problems with BWC equipment shall be reported to an immediate supervisor who should then attempt to troubleshoot the problem. Problems that cannot be fixed should be logged as an Administrative Event **905 DAMAG/EQ**, noting the BWC number and a detailed description of the problem.
2. Officers may manually activate the BWC by depressing the 'Record' button and performing an "Officer Test". Officers should ensure to categorize that recording as a TEST.
3. In all circumstances where a person will be video or audio recorded in the radio car, the officer shall advise the suspect unless it is unsafe or infeasible to make such a notification.
4. Officers who capture evidence or critical incidents shall bring it to the attention of their supervisor as soon as possible.
5. In instances when the BWC has documented an event that is criminal in nature involving loss of life, serious injury, or catastrophic property damage, the officer(s) recording the incident shall not deactivate the recording. Continue recording the incident until the incident is over. The on-scene supervisor shall make the determination when to deactivate the BWC. If there is still a chance of continued contact with the public, it should be considered that the incident is still active. Good judgment shall be used.
6. Officers using BWC shall record the following incidents whenever possible. The BWC shall be manually activated by depressing the record button. *This should be done when it is practical and safe to do so.* This list is not intended to be all inclusive:
 - Traffic stops, criminal enforcement stops, and any investigative detention;
 - In-progress vehicle or criminal code violations;
 - Pursuits;
 - Fatal crash or major crime scenes;
 - When responding to a call for service and the officer is at or near the location;
 - During a motorist aid or community caretaking check;

- Interviewing a witness in the course of an investigation of a criminal offense;
 - If the officer is conducting a custodial interrogation of a suspect, unless the interrogation is otherwise being recorded in accordance with station house interrogations policy;
 - If the officer is making an arrest;
 - If the officer conducting a protective frisk for weapons;
 - If the officer is conducting any kind of search;
 - If the officer is engaged in a police response to any type of civil disorder in circumstances where the officer is engaged with or in the presence of civilians and the officer or any officer on the scene may be required to employ constructive force;
 - If the officer uses constructive authority or force, or reasonably believes that constructive authority or force may be used in any encounter or situation not otherwise listed based on specific and articulable facts warranting heightened caution that are documented by narration on the recording and/or any investigation or report;
 - If the officer is transporting an arrestee to a police station, county jail, or other place of confinement, or a hospital or other medical care or mental health facility;
 - Any applicable special operation as determined by the duty supervisor that should be documented on videotape. These may include pickets, demonstrations, strikes, etc. Under normal circumstances, these events shall not be recorded unless the duty supervisor determines such recording is warranted.
 - If the officer reasonable believes that any other officer on the scene has undertaken or is engaged in any of the foregoing police actions.
 - If the officer is involved with a mental health crisis (also known as EDP). If the incident involves an involuntary commitment of a patient or the incident involves the use of any force that results in a Use of Force Report being completed (physical force, mechanical force, deadly force or constructive authority with display of a firearm), the officer shall use the BWC classification of 'EDP'.
7. In most circumstances, the BWC should be facing forward. Intentionally tampering with or otherwise manipulating video equipment to prevent the recording of an incident is prohibited.
 8. Officers shall not deactivate the BWC *until the logical and safe conclusion of the event*. Officers shall verbally state their justification for halting a recording so that the reason can be documented on the tape prior to turning it off. The reason for the deactivation should also be documented on the report if pertinent.
 9. Officers may de-activate the BWC in the presence of other means of official video AND audio recording (*i.e. recording of interrogations, statements etc.*)
 10. When an officer is requested to provide information regarding an event that has been recorded on a BWC, the officer should be given the opportunity to review the recording(s) prior to making any statements. This includes reviewing the BWC footage before completion of an incident report. However, no BWC recording shall be accessed, viewed, copied, disseminated or otherwise used by

a sworn or civilian employee except for an official purpose as stated in this directive.

11. When an officer equipped with a BWC is required to activate the device during an encounter 1) with a civilian occurring inside the person's residence, or 2) with a person reasonably believed to be a victim of a criminal offense, the officer shall verbally notify the person(s) with whom the officer is conversing that the BWC has been activated unless it is unsafe or infeasible to do so. Also, if a civilian asks an officer if a BWC is activated, the officer shall answer truthfully unless the County Prosecutor has expressly authorized the officer to make a covert recording. This does not apply to undercover officers.
12. In any incident involving police deadly force or a reasonable expectation of seriousness in nature (officer in distress, shots fired, etc), all officers on scene shall activate their BWC and shall not de-activate their BWC unless instructed by an assistant prosecutor.
13. An officer may de-activate a BWC when a civilian requests. The officer shall not suggest that the BWC be de-activated or ask the civilian if they would like the BWC de-activated. The request must be self-initiated. Procedures include 1) The request itself must be recorded, 2) the officer must narrate the circumstances on the recording, 3) the officer shall report this to a supervisor as soon as practicable, and 4) The request must be also documented on the incident report. Once the encounter with the requesting civilian is complete, the BWC should be re-activated.

The aforementioned steps shall also be adhered to if an Officer chooses not to de-activate the BWC upon a civilian's request to do so.

14. Officers must be aware of circumstances where de-activation of the BWC is necessary. (The examples below do not include instances of crimes in progress, such as active shooter threats or burglaries in progress.) These include:
 - The officer is entering a school or youth facility under circumstances where minor children would be in view. The BWC shall be re-activated when officer is out of view of children.
 - The officer is in a patient care area of a healthcare facility, medical office, or substance abuse facility where patients would be in view of the BWC.
 - The officer is in a place of worship with worshippers would be in the view of the BWC.
 - Any instance of these protected persons being caught on the BWC recordings shall be noted in the reports and that video shall be tagged. The release of this video will require authorization from the County Prosecutor.

- Officers shall make every effort not to video any protected information in Central Communications such as NCIC screens or other criminal databases. If plausible, and if not in violation with other mandates of this policy, the BWC may be turned off when entering Central Communications to protect such information.
- The BWC shall be de-activated while in the area where an electronic alcohol breath testing device is being used, or, as necessary, shall be removed from the area where such device is being used. Nothing herein shall be construed to preclude the use of a BWC to record the behavior of a person arrested for driving while intoxicated other than while the person is in the breath-testing area while the electronic breath testing device is being operated.

If an officer de-activates a BWC under this section,, the officer shall narrate the reasons for de-activation (*i.e. "I am de-activating the BWC because the suspect is about to take a breath test."*), and the BWC shall be re-activated when safe and practicable to do so following the completion of the breath testing operation.

15. The Administrative Commander must ensure the safe storage of the BWC Recordings. This includes the following:

- Ensure that all recordings are uploaded to a secure data system in a timely manner
- Prevent tampering with or deletion of recorded data both before and after downloading from BWC to storage system.
- Prevent unauthorized access to stored BWC recordings.
- Document all instances where BWC recordings are accessed, viewed, copied, disseminated, or deleted.
- Permit audits of all instances where BWC recordings are accessed, viewed, copied, or deleted.

16. Supervisors responsibilities include:

- Ensure that all personnel adhere to the tenets of this directive;
- Ensure that the BWC equipment is being fully and properly used;
- Identify material or incidents that may be appropriate for training;
- Ensure that requests for repairs, maintenance or replacement for non-functional BWC equipment are promptly made;
- Random review of recordings to assist in performance appraisals;
- Ensure that BWC control procedures are followed.

17. Extra-Duty Assignments:

- All officers assigned to extra-duty assignments shall be issued a BWC, unless the assignment includes an undercover or plain clothes element to it.
- Officers on extra-duty shall activate the BWC in accordance with all mandates and situations mentioned above. The BWC is not intended to be recording during an entire extra-duty assignment unless special

circumstances dictate. This should be determined by the Tour or Division Commander in command during that shift.

- Operations and special unit personnel on active duty shall be given priority to available cameras. There shall always be consideration given to ensure that there are sufficient cameras being charged in the Vista charger for the next incoming operations tour of duty.
- Once a sufficient number of cameras are placed aside for the next shift, all other available cameras shall be distributed to personnel working extra-duty assignments. This determination shall be done by the Communications Supervisor.
- Cameras distributed to personnel working extra-duty assignments shall take into consideration the type of assignment. The discretion for this decision is given to the Communications Supervisor. Although this list of priority assignments may change due to unforeseen circumstances, cameras should be given to personnel in the following order:
 1. MV Enforcement details such as DWI Details, Pedestrian Safety Program, Seat Belt Enforcement, etc.
 2. Security assignments where large groups are expected, such as high school sporting events, dances, music festivals, town fairs, etc.
 3. Road jobs or traffic assignments.
 4. Basic security jobs such as Essex Green, Kmart, Walter Bauman Jewelers, etc.
 5. Any other assignment that the Communications Supervisor deems necessary for a BWC.

12:13-5 RETENTION

- a. BWC recordings are considered business records of this department. Except for recordings being stored for criminal, civil or administrative proceedings, recordings should be retained for a minimum of 90 days.
- b. BWC recordings that are being stored for criminal, civil, or administrative purposes are subject to discovery, R. 3:13-3 et seq. and R. 7:4-2 et seq.
- c. BWC recordings being stored for criminal, civil, or administrative purposes must be maintained until the conclusion of the case. BWC recordings maintained for these purposes can only be erased in accordance with New Jersey Bureau of Archives, Record Retention Schedule.
- d. When a BWC records an arrest that did not result in an ongoing prosecution, or records the use of police force, the recording shall be kept until the expiration of the statute of limitations for filing a civil complaint against the officer and/or agency.
- e. When a BWC records an incident that is the subject of an internal affairs complaint, the recording shall be kept pending final resolution of the internal affairs investigation and any resulting administrative action.
- f. If this agency receives a subpoena, court order, or OPRA request for a BWC recording, the department shall, within one business day of receipt of such

request, notify the County Prosecutor. Such notice shall clearly state the deadline by which a response is necessary.

12:13-6 REVIEW

- a. The Chief of Police, or designee, may conduct random reviews of BWC recordings to assess the training needs of the department and to ensure compliance with current safety precautions.
- b. An officer shall not utilize a BWC unless he/she has received departmental training in the legal and proper use, storage, departmental directives, and operational procedures of the camera itself. The Department shall designate one or more training officers and shall establish a training program.
- c. The Patrol Commander, or designee, is responsible to ensure videos of critical incidents are permanently saved for investigative/review purposes.
- d. The Office of Professional Responsibility shall conduct biweekly random reviews of BWC recordings to augment the formal performance evaluation process, to identify officer specific training needs as well as for generalized teaching purposes. The OPR Commander and staff shall be responsible to thoroughly review the BWC footage of ten officers whom have been randomly selected via the approved method of randomization employed in the *WOPD Drug Screening Guidelines Directive 1:11*. One recent recording from each randomly selected officer shall be reviewed during each COMPSTAT period. The OPR Commander or designee shall be prepared to discuss the results of these review(s) at the ensuing COMPSTAT meeting. Nothing in this section shall preclude supervisors from periodically reviewing an employee's BWC footage to ensure a high level of professionalism and adherence to standards or for the purposes of advancing any bona fide investigation.
- e. Officers are entitled to review BWC recordings depicting their own activity to evaluate their own performance. (This does not apply to BWC recordings being preserved for investigative purposes.)
- f. Requests to obtain copies of BWC recordings shall be made utilizing an Agency Document on the in-house CAD System. The request must articulate the reason for the request. The officer should also follow this request up with an email or phone call to the Administrative Commander or designee, especially if timeliness is an issue. It should be noted that officers are only permitted to request recordings of their own videos. Supervisors may request multiple videos or the personnel under the purview or associated with an incident that the supervisor is investigating or currently supervising. Requests for other recordings shall be made directly to the Administrative Commander with special circumstances noted.
- g. Requests for Discovery and requests for copies for criminal or civil court purposes or Open Public Records Act shall be forwarded to the Records Bureau Commander, or designee for action. All requests for copies or review of BWC recordings are subject to the fee requirements of Municipal Ordinance 2-66.3 et

seq. These requests may need to be forwarded through the County Prosecutor or designee prior to release.

- h. Requests for copies of BWC recordings shall require a Duces Tecum subpoena or requested under the Rules for Discovery. All requests must contain the requisite specificity for the incident or event. Only that portion of the recording pertinent to the request shall be provided.
- i. Requests for copies of the entire contents of any BWC recordings or tapes shall be provided upon issuance of an order by a superior court judge.
- j. The Chief of Police may release portions of a video recording to other law enforcement agencies, or to the public for compelling reasons. This will need to be in accordance with the New Jersey Attorney General Guideline, and possibly with the approval of the County Prosecutor.