



**NEW CASTLE COUNTY
POLICE**

Body-Worn Camera Policy

DIRECTIVE 41
Appendix 41-B

(DRAFT APRIL 21, 2015)

Purpose:

The purpose of this Standard Operating Protocol is to provide written policy and procedure concerning use, management, storage and retrieval of audio-visual media recorded by the Body-Worn Camera (BWC). BWC is defined as a departmentally issued Body-Worn Video Camera the Officer wears on or about their uniform. The BWC allows for hands-free audio and video recording of incidents. The Division recognizes that BWC's cannot always show every aspect of an event or everything that is being sensed or seen by the Officer. Those viewing recordings at a later time and in a less dynamic atmosphere must also be cautious and objective before drawing conclusions of the actions of those involved. Even when an event is recorded, Officers must continue to provide complete and detailed written documentation of the incident. Officers shall only use BWCs issued and approved by the Division. Wearing personal video recorders is not authorized. The BWC may be used in conjunction with other recording equipment such as in-car or dashboard cameras. This policy does not govern the use of covert recording devices such as those used in undercover operations.

It is important to understand that while the Body-Worn Camera recordings depict audio/visual information from the scene, the human eye and brain are highly likely to perceive some things in stressful situations differently than a camera records them, so this photographic record may not reflect how the involved Officer actually perceived the incident.

The recording may depict things the Officer did not see or hear. The Officer may have seen or heard things that were not recorded by camera. Depending on the speed of the camera, some action elements may not have been recorded or may have happened faster than the Officer could perceive and absorb them. The camera has captured a 2-dimensional image, which may be different from an Officer's 3-dimensional observations. Lighting and angles may also contribute to different perceptions. Additionally, the camera did not view the scene with the Officer's unique experience and training.

The recording should help to enhance one's understanding of the incident. Keep in mind, though, this recording is only a piece of evidence to be considered in reconstructing and evaluating the totality of the circumstances. Some elements may require further exploration and explanation before an investigative conclusion can be reached.

Policy:

BWCs shall be used to assist Divisional personnel in the performance of their duties by providing a recorded account of an incident. Additionally, to maximize the effectiveness of the BWC and maintain the integrity of

evidence and related documentation, all personnel assigned a BWC shall adhere to procedures outlined within this policy.

The availability and use of Body-Worn Cameras assist Officers in accomplishing the following objectives:

- To enhance Officer safety.
- To document statements and events during the course of an incident.
- To enhance the Officer's ability to document statements and actions for both internal reporting requirements and for court preparation/presentation.
- To preserve visual and audio information for use in current and future investigations.
- To provide an impartial measurement for self-critique and field evaluation during Officer training.
- To present an account of interactions with the public and protect Officers from false misconduct allegations.
- To decrease use of force incidents by informing all parties that their actions are being recorded.
- To enhance the public's trust by preserving factual representations of citizen-Officer interactions in the form of video and audio recordings.

Procedure: The following are the operating guidelines:

A. Training

1. Officers shall participate in a mandatory training class to familiarize themselves with the BWC and show proficiency in its use. Only Officers who have received training and demonstrated proficiency in the appropriate use of a BWC shall be authorized to utilize a BWC.
2. Officers shall agree to comply with this Internal Operating Procedure prior to having a BWC issued.

Deployment

1. BWCs will be assigned to officers in the following Units, additional units can be added or removed at the direction of the Chief of Police or designee. BWCs will be deployed in a yet to be determined number during the initial phase. The initial deployment allocation has not yet been determined.

- a. Patrol Division
- b. M.E.T. Units

- c. Mounted Patrol Unit
- d. Traffic Services Unit
- e. Westover Hills

C. Officer Responsibility

1. Officers assigned a BWC shall ensure its readiness by conducting an operational inspection prior to the start of the applicable shift. Any problems associated with the BWC shall be reported to the Officer's immediate supervisor.
2. Officers are to ensure that the BWC is not obstructed by items such as clothing or equipment.
3. Officers who are issued a BWC shall record official activities pursuant to this directive, including Extra Duty assignments.
4. **Officers shall activate the BWC at the beginning of any enforcement action, traffic or pedestrian stop and each call for service listed below. at the beginning of each citizen call for service, enforcement action, traffic or pedestrian stop and/or police service.** (Officers performing specialized assignments (K-9, SWAT) that are assigned BWCs are expected to utilize the BWC in accordance with this policy.) The BWC shall remain activated until the completion of the entire incident. The BWC shall be used to record all calls for service and contacts with citizens in the performance of official duties, including, but not limited to:
 - a. Crimes or events in-progress or just have occurred, where fleeing subjects or vehicles may be captured on video leaving the scene.
 - b. Driving Under the Influence (DUI) cases.
 - c. Traffic stops.
 - d. Pedestrian stops.
 - e. Disorderly individuals.
 - f. Civil disturbances.
 - g. Acts of physical violence.
 - h. Foot pursuits.
 - i. Encounters with mentally or emotionally disturbed subjects.
 - j. Vehicle pursuits.
 - k. Searches and seizures.
 - l. Domestic violence situations
 - m. Field interviews.
 - n. Knock and talks.
 - o. Search warrants.
 - p. Drug interdiction activities.

- q. Use of force incidents.
- r. Advising an individual of his/her Miranda rights.
- s. Obtaining consent from person(s).
- t. At crime or accident scenes or other events where video and audio evidence can be captured to help document, enhance and support Officers, written reports, evidence collection, investigations and court testimony.
- u. Any law enforcement activity that the Officer deems appropriate.
- v. **Any incident in which an arrest is likely to occur.**

The BWC will remain activated until the conclusion of the incident. "Conclusion" shall mean that the Officer(s) equipped with a BWC has released the subject(s) and/or has completed the call for service, enforcement action, traffic or pedestrian stop or if an assisting Officer, has left the scene thus ending their involvement in any of the above duties. The BWC does not have to be activated during report writing. A Supervisor may authorize an Officer to stop a BWC recording when the Officer is on an assignment of an extended duration. An example of such would be when an Officer is assigned to a security post at a crime scene and the situation is under control. The Officer shall document same in a report along with the name of the Supervisor.

5. Prohibited Recordings

- a. Officers shall not record personal **or non-work related** activity with the BWC.
- b. The BWC shall not be activated in places where a reasonable expectation of privacy exists, such as locker rooms or restrooms.
- c. When conducting strip searches, Officers shall video and audio record the location where the strip search is taking place. Officers should only record the audio portion of the actual strip search by positioning the camera away from the person on whom the strip search is being conducted.
(Refer to the Turnkey IOP for strip-search procedures)
- d. The BWC should not be actively recording while inside departmental vehicles, in Court or in any government building unless engaged in direct interaction with a member of the public or a prisoner. The BWC will be activated in the event of a vehicle pursuit.
- e. Officers shall avoid capturing sensitive human areas when possible, such as exposed breast, groin, etc.
- f. The BWC shall not be intentionally activated to record conversations of fellow employees without their knowledge during routine, non-enforcement related activities.

- g. Officers may use the BWC while in patient care areas of a hospital only when the recording is for official police business such as a criminal investigation i.e., dying declaration, Horizontal-Gaze-Nystagmus (HGN) on injured motorists, etc.
 - h. Officers shall not intentionally utilize the BWC to make recordings of a citizen's private residence to review at a later date for the purpose of obtaining a search warrant or arrest warrant based on the content of the video.
 - i. No video may be uploaded or converted to be used in any form of social media or for training purposes without the approval of the Chief of Police.
 - j. Accessing, copying, or releasing any BWC recording for anything other than official business is strictly prohibited.
 - k. Officers shall not use other devices (e.g., cell phones, cameras, etc.) to record video or audio from the BWC.
6. Personnel are encouraged to inform their supervisors of any recordings that may be of value for training purposes.
 7. Officers shall note all incidents recorded with a BWC in their LEISS report, traffic citation, Impaired Driver Report (IDR), or other official documentation.
 8. Whenever a recording is intentionally stopped by an Officer, the Officer is to make the verbal comment "stopping the recording" and state the reason, so it is captured by the BWC and note the reason for discontinuing a recording in any accompanying report.
 9. If an Officer fails to activate the BWC, fails to record the complete incident or interrupts the recording, the Officer shall document the reason in the respective LEISS/E-Crash/IDR/Blue Team report.
 10. Officers can use discretion in recording when interacting with confidential informants, witnesses or those that wish to remain anonymous when providing information to the police.
 11. Officers have the discretion to activate the BWC at any time if their contact with a member of the public becomes adversarial or if the Officers determine that a recording is necessary. This may be done regardless of the wishes of the subject being contacted.
 12. In an effort to avoid potentially adversarial situations, Officers are encouraged to inform other parties present that their actions are being recorded, when it is safe and practical.

13. The BWC systems and associated equipment and databases are authorized for official public safety purposes. Misuse of this equipment and associated databases or data, may be subject to sanctions and/or disciplinary action.

14. Downloading of Video

- a. Officers shall download video to the storage software upon indication that the device is nearing capacity or after a significant event.
- b. Officers shall download the BWC before the end of the last day of their shift.
- c. Officers involved in any use of force incident or are witness to same, will download the BWC prior to the end of their scheduled workday.
- d. Off-loading of the video shall be dependent upon the BWC being utilized. Specific off-load instructions shall be provided during the mandatory training session.
- e. Officers shall make notes on the downloaded video including the case number and tag the incident with the appropriate incident designation.
- f. The incident tag shall determine how long the recording of an incident is retained.
- g. The retention schedule shall be in accordance with the state retention policy, unless otherwise noted within this policy. Criminal events shall be saved for a minimum of the statute of limitations. Homicide, rape, Officer injury, shootings, and use of force incidents shall be saved indefinitely and may only be deleted by the system administrator. Cases tagged "Civil" shall be held for 910 days.

The following table is an example of retention times. This table is not all inclusive. Incident tags may be added as needed by the system administrator.

Incident Tag	How long to Keep Video (in days)
Traffic Warning	60
Traffic Citation	365
Traffic Accident	365
Assault	1825
Burglary	1825
Civil	910
Criminal Mischief	730
Domestic	1095

Drug Charge/Seizure	1825
D.U.I.	730
Evading	730
Homicide	Manual deletion only
Officer Injury	Manual deletion only
Suspicious Vehicle/Behavior	60
Shooting	Manual deletion only
Rape	Manual deletion only
Resisting Arrest	1095
Robbery	1825
Test Recording	30
Misdemeanor	730
Felony	1825
Use of Force	Manual deletion only

State Retention Requirements:

LGPOL-051

POLICE VIDEOS

Video tapes of police actions taken from patrol car video cameras.

ROUTINE:

Retain at agency 30 days; re-use/destroy.

EVIDENTIARY:

Retain at agency 30 days after close of case; destroy.

15. The Officer is responsible for checking the status of his or her cases to ensure no video is deleted if needed for appeal or any other case proceeding that may be scheduled after the statute of limitations expire.
16. Officers may extend the retention time or burn a DVD copy of any incident and log it into evidence if needed. Officers are required to make a DVD copy and submit into evidence all incidents related to, homicide, rape, shootings, use of force and Officer injury.
17. Officers may view video from the storage software or cell phone application for official purposes only, but shall not be able to delete or alter the video.
18. Officers shall view only video captured by his or her own device for report writing and/or training purposes. Non-official use or viewing of video is strictly prohibited.

19. In the event of a recording of personal/private and/or privileged conversations or occurrences that are unrelated to any criminal/traffic or internal investigation, or an accident activation of the BWC where the recording has no evidentiary or investigative value, the Officer may request to have the specific recording deleted by submitting a written request through their chain of command to the BWC Administrator. If approved, the video will be deleted by the Administrator after 14 days with written notice sent to the Officer confirming the deletion.
20. If after reviewing video, the Officer determines new or additional charges or a search warrant are appropriate, the Officer **must review** the charges or probable cause for a search warrant with a supervisor prior to obtaining any warrants.

D. Supervisor Responsibility

1. Supervisors shall ensure that Officers are maintaining and utilizing BWC's in accordance with policy.
 - a. Supervisors will conduct random reviews of selected recordings in order to assess Officer performance as well as flag videos that may be appropriate for training purposes.
2. In order to afford citizens the expectation of privacy within their own residences, supervisors **must review** any and all additional or new charges or search warrants that are a result of an Officer reviewing video from the BWC.
 - a. Supervisors must complete this review prior to any additional enforcement actions occurring.
 - b. The supervisor must review the video with the Officer and ensure the additional enforcement actions are not a violation of search and seizure policy.
3. If a complaint against an Officer is associated with a recorded event, or an Officer believes an incident may generate such a complaint, the supervisor shall have the video flagged for indefinite retention.
4. The Chief of Police, Command Staff, a supervisor or the Professional Standards Unit may review a specific video for the purpose of training, critique, early intervention inquiries, civil claims or other articulable reason. The New Castle County Office of Law may review any video relating to a case under investigation by

the County Attorney after notification to the Chief of Police or other appropriate personnel.

5. Members of the Professional Standards Unit shall have the authority to change an event tag for the purpose of retaining video or restricting the viewing of the video. The New Castle County Attorney shall have the authority, through the Chief of Police, to change an event tag for the purpose of retaining video or restricting the viewing of the video.
6. In the event of an Officer involved shooting, in-custody death, or other incidents involving the Officer that result in a person's serious bodily injury or death, the Officer's BWC shall be collected by the Evidence Detection Unit. Downloading of the BWC will be conducted under the direction of the Criminal Investigation Unit Commander

E. Evidence

1. Officers shall have the ability to create a DVD copy of the recording to log into evidence or for the Attorney General's Office as needed. Nothing in this policy prevents Officers from providing copies to the Attorney General's office as a part of normal intake/prosecutive procedures.

Officers should create a DVD copy of all videos flagged for indefinite retention and place the DVD into evidence per Divisional policy. Officers are required to make a DVD copy and submit into evidence all incidents related to, homicide, rape, shootings, use of force and Officer injury. Officers are strictly prohibited from creating copies of any video for his or her personal use or personal records.

2. The Division reserves the right to limit or restrict personnel from viewing BWC video, including serious use of force or video related to internal/criminal investigations.
3. As a part of an internal investigation, supervisors may review any available BWC video with the principal Officer, witnesses and/or complainant. A copy will not be provided and the date, time, locations and parties viewing of any recording shall be documented by the investigating supervisor.
4. Recordings will be released in compliance with any Court order or FOIA mandate. In those instances where there is no Court order

or FOIA mandate, the Chief of Police or his/her designee must authorize any release of a BWC recording.

5. Only the portion of recording which contains specific contact or event in question shall be released.
6. Before the public release of any BWC recording, efforts must be made to notify the Officers involved of the pending release.
7. Before any non-Court ordered public release, the Division may redact video to protect the identity, privacy and/or safety of any uninvolved person, potential witness, HIPAA information, personal identifiers (DOB's, SSN's, etc.).
8. Any recording captured by a BWC is to be treated as evidence and protected accordingly.
9. Requests for video by Defendants at the Justice of the Peace Court Level:
 - a. A defendant contesting a traffic citation or minor criminal offense at the JP Court level may request to view the in car video or BWC video related to their offense, prior to trial. They may also request a copy of the BWC video or in car video. A minimum of seven (7) business days will be required to process any request for BWC video or in car video.
 - b. The request must be made in writing and directed to the Chief of Police. These requests will then be forwarded to the Technology and Special Projects Executive Officer for processing.
 - c. All appointments to view video must be scheduled between the hours of 0700-1500, Monday through Friday.
10. Requests for video by other Agencies and Police Departments:
 - a. As it is the policy of the New Castle County Police to provide mutual aid to other agencies and police departments to assist in their investigative and training needs, the following policy shall dictate dissemination of recorded events from the Mobile Video System:

- b. To obtain copies of video events, a supervisor from the requesting agency shall submit written notice to:
The New Castle County Division of Police
Attn: Chief of Police
NCC Public Safety Building
3601 North DuPont Highway
New Castle, DE 19720
- c. The requester shall include, on official departmental letterhead:
 1. The requester's name and title.
 2. Purpose of the request.
 3. Return address and telephone number of the requester.
 4. Nature of the incident, date, and case number (if known).
 5. Investigating Officer's name and IBM (if known).
 6. The signature of the Chief Administrator for the agency making the request.
- d. The request shall be reviewed by the Chief of Police or a designee.
 1. The requested video and all associated reports shall be reviewed by the involved Officer(s) Section Commander. The Section Commander will then make a recommendation to the Chief of Police or a designee if the video should be released and/or if any additional action by the Division is needed.
 2. If the request is approved, the Chief of Police or a designee shall obtain and disseminate the video only of the specific incident requested.
 3. The Officer(s) involved shall be notified via e-mail by the Section Commander of the release of the video. The Officer(s) shall then complete a supplement report noting the release of the video to the requesting agency.
 4. The requesting agency shall be provided information from the Division instructing them that further duplication of this video or public release is expressly forbidden without written consent from the Chief of Police or court order.

NOTE: Refer to Appendix #1 regarding the fee schedule for services provided by the Records Unit.

F. Administration

1. The Division shall designate an employee(s) with administrative oversight for BWC system deployment and operations who is (are) responsible for the following:

- a. Establishing protocols for access, collection, storage, and retention of BWC data and associated media files.
 - b. Establishing protocols to preserve and document BWC recordings.
 - c. Establishing protocols to ensure the security and integrity of data captured, stored, and/or retained by the BWC.
 - d. Ensuring the proper selection of the personnel approved to operate the BWC system and maintaining an adequate number of trainees.
 - e. Ensuring the mandatory training program is adequate to demonstrate proficiency with the BWC.
 - f. Maintaining records identifying approved BWC deployments and documenting their results, including appropriate documentation of significant incidents and arrests that are related to BWC usage.
 - g. Authorizing any requests for BWC system use or data access according to the policies and guidelines of this Division.
2. Designated, trained personnel shall check equipment on a regular basis to ensure functionality and camera alignment. Any equipment that falls outside expected functionality shall be removed from service until deficiencies have been corrected.
 3. BWC system repairs, hardware or software, shall be made by agency authorized sources.
 4. It is understood that the BWC is a piece of technology that can experience unintentional hardware or software failures. If a failure during a recording is reported by the Officer, the BWC will be examined by the Administrator and/or the authorized vendor in efforts to recover any available recording and to determine if and why a failure occurred.

THOMAS P. GORDON
COUNTY EXECUTIVE



APPENDIX# 1

COL. E.M. SETTING
CHIEF OF POLICE

DEPARTMENT OF POLICE

RECORDS UNIT

January 28, 2015

TO WHOM IT MAY CONCERN:

The following is a list of fees charged for the corresponding services provided by the New Castle County Police Department Records Unit:

REPORTS

Major Case or Fatal Accident reports	each	\$60.00
All other reports	each	\$20.00

PHOTOGRAPHS (Color or Black & White)

Proof prints, approximately 32x5 inches (color only)	each	\$3.00
B&W prints, 8x10 inches	each	\$18.00
Color prints, 8x10 inches	each	\$18.00
Duplicate Polaroid photographs	each	\$6.50
CD/DVD containing photographs - see Digital Image Computer Work		

VIDEO CASSETTE RECORDINGS

Copies of video cassette recordings	each	\$50.00
(Includes cost of blank video cassette and conversion to DVD)		
DVD recording of in-car camera and body-worn camera footage . . .	each	\$50.00

AUDIO CASSETTE RECORDINGS

Copies of audio cassette recordings (including micro-cassettes).....	each	\$10.00
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DIGITAL IMAGE COMPUTER WORK

Rate per hour (1 hour minimum plus print cost as specified above)	\$50.00
CD/DVD containing photographs	each \$50.00
Each additional CD/DVD	each \$10.00

COMPUTER GENERATED STATISTICS

Rate for requested project (flat charge)	\$25.00
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These increases will help to defray the costs of continuing to provide the best possible service to you.

If you have any questions regarding the new fee structure please contact the Records Unit at (302) 395-8070 between the hours of 7:00 a.m. & 3:00 p.m.