



DELAWARE POLICE CHIEFS' COUNCIL, INC.
400 SOUTH QUEEN STREET
DOVER, DE 19904



Best Practices Series
Model Policy Guidelines No. 1-2016

MEMORANDUM

To: All Chiefs
From: Chief William E. Bryson, Chairman
Date: March 8, 2016
Subject: Model Administrative Policy Statement – Body Worn Cameras

-
1. In furtherance of the goals, objectives, and priorities of the Delaware Police Chiefs' Council, the Council will continue to issue model operating policies for the guidance of Delaware Police Agencies.
 2. Model Policies which will evolve are intended to provide a methodology for establishing uniform operating and administrative procedures among Delaware Police Agencies.
 3. Every effort has been made by Delaware's law enforcement community, the Delaware Police Chiefs' Council, Inc., the Office of the Attorney General, the Department of Safety & Homeland Security, the Delaware Fraternal Order of Police, and the Delaware State Troopers Association, to ensure that this model policy incorporates the most current information and contemporary professional judgement on this issue.
 4. Departments should be guided by these administrative policy statements in their routine activities. They are not absolutely bound by these model policy guidelines, nor should the policies be adhered to in situations when the best interest of their agency, judgment, or common sense would dictate otherwise.
 5. Those involved in drafting this policy recognize that Body Worn Cameras (BWCs) in many cases do a good job of capturing an incident. However, BWCs do have limitations. BWCs cannot always capture the same detail that an officer is able to observe with his/her own eyes. Hence, human perception, memory of an event, and decision processes may not be recorded or can be different than what is recorded by the BWC. The differences may be exaggerated in particularly stressful situations.
 6. The Guidelines set forth in this Model Policy have been gleaned from a variety of sources, including the I.A.C.P.'s Policy on Body Worn Cameras and the Police Executive Research Forum publication "Implementing a Body Worn Camera Program, Recommendations, and Lessons Learned".

Delaware Police Chief's Council
Body Worn Cameras- Model Policy

I. PURPOSE

The use of body-worn cameras (BWCs) has been determined by the _____ Police Department to be a benefit in its law enforcement responsibility to promote and protect the safety of officers, citizens and property within the State of Delaware. This policy is intended to provide officers with instructions on when and how to use BWCs so that officers may reliably record their contacts with the public. This policy applies to all sworn officers assigned a BWC by this department. The _____ Police Department has adopted the use of the BWC in recognition of the substantial benefits this technology provides to this department and to those it serves. BWCs allow for accurate documentation of police-public contacts, arrests, and critical incidents. They also serve to enhance the accuracy of officer reports and court testimony. BWCs may also be used to resolve allegations of police misconduct.

II. POLICY

It is the policy of this department that officers shall activate their agency issued BWC consistent with this policy when such use is appropriate in the performance of his/her assigned duties. This policy does not govern the use of surreptitious recording devices used in undercover operations.

III. PROCEDURES

At no time is an officer expected to jeopardize their safety or the safety of another person in order to activate their issued BWC. In such instances, the BWC shall be activated as soon as the circumstances permit safe activation.

A. When and How to Use the BWC

1. Officers should activate the BWC to record the following:
 - a. All instances where an arrest or detention is likely;
 - b. All instances where the use of force is likely;
 - c. Any other incident where the safety of people and property in Delaware is promoted.

2. Whenever possible, officers should inform individuals that they are being recorded unless doing so would be unsafe, impractical, or impossible. An officer may consider, where appropriate, the expressed desire of a victim or witness when deciding whether to record an event. The BWC shall remain activated until the event is completed in order to ensure the integrity of the recording unless the contact moves into an area restricted by this policy (see items D.1-4).
 - a. If interruption occurs, the officer shall document the reason for the interruption or termination of recording in a report. If an officer feels it is necessary to stop recording (e.g., talking to victim of a sexual assault, or a confidential informant) within constraints of policy, the officer shall verbally indicate his or her intent to stop recording before stopping the BWC, and upon reactivation, state that the BWC was restarted.
3. If an officer fails to activate the BWC, fails to record an entire incident, or interrupts a recording, the officer shall document why a recording was not made, was interrupted, or was terminated.
4. Civilians shall not be permitted to review any BWC recordings unless authorized for law enforcement purposes.
5. Personal use of the BWC equipment on or off duty is prohibited.

B. Procedures for BWC Use

1. BWC equipment is issued primarily to uniformed officers as authorized by their Chief of Police or his/her designee. Officers assigned BWC equipment must use the equipment while performing uniformed law enforcement duties unless otherwise authorized by supervisory personnel.
2. Officers shall use only BWCs issued by their respective agency. The BWC equipment and all data, images, video, and metadata captured, recorded, or otherwise produced by the equipment is the sole property of the issuing agency. BWC data shall not be converted for personal use. Accessing, copying, editing or releasing recordings or depictions of recordings without prior written authorization from the Chief of Police or his/her authorized designee is strictly prohibited and subject to disciplinary actions. Such authorization shall only be granted when in compliance with this

policy. This will include all data collected for both law enforcement and training purposes, as well as, any other use. Any uploading or converting BWC recordings for use on any type of social media is strictly prohibited.

3. Officers assigned BWCs and their supervisors must complete an agency approved and/or provided training program to ensure proper BWC use, as well as procedures for storage and retention of BWC data. Additional training may be required at periodic intervals to ensure the continued effective use and operation of the equipment, proper calibration and performance, and to incorporate changes, updates, or other revisions in policy and equipment. All officers who utilize BWCs and their supervisors must undergo training on standard operating procedures, policy, and the law such as *Brady, Giglio, and Deberry/Lolly*, etc. obligations.
4. If so equipped, BWCs shall not be operated using any enhanced audio or video capabilities without the prior approval of a supervisor.
5. BWC equipment is the responsibility of individual officers and will be used with reasonable care to ensure proper functioning. Equipment malfunctions shall be brought to the attention of the officer's supervisor as soon as possible.
6. Officers shall inspect and test the BWC prior to each shift to verify proper recording functionality and battery life sufficiency. Any identified problems shall be immediately communicated to the officer's supervisor for proper documentation and notification. Once the supervisor is notified, he/she will direct that the unit be removed from service.
7. Officers shall not duplicate, copy, share, or otherwise distribute in any manner BWC recordings without prior written authorization and approval from their Chief of Police or his/her authorized designee. Such authorization shall only be granted when in compliance with this policy.
8. Officers are encouraged to inform their supervisor of any recordings that may be of value for training purposes. The decision to utilize any recording for training purposes will be determined by the Chief of Police or his/her authorized designee.

9. If an officer is suspected of wrongdoing or involved in an officer-involved shooting or other serious use of force, the issuing agency reserves the right to limit or restrict an officer from viewing the video file. However, this does not overrule the officer's rights under Delaware Law Enforcement Officers Bill of Rights (DELEOBR) or Title 11, Chapter 92 of the Delaware Code.
10. Requests for redaction of portions of the recordings (e.g., in the event of a personal recording) must be submitted in writing and approved by the Chief of Police or his/her authorized designee. All requests and final decisions shall be kept on file. An original (unredacted) copy of the video must be maintained for evidentiary purposes.
11. Officers shall note in all LEISS, arrest, and related reports when recordings were made during the incident in question. However, BWC recordings are not a replacement for written reports.

C. Tagging of BWC Recordings

Definition: Tagging – The act of adding a specific textual identification marker to a particular portion of a BWC recording so as to characterize certain video/audio data as essential and therefore required to be retained for future access.

Tagging of BWC Recordings, including any complaint number, will automatically occur in any incident involving:

- 1) Use of Force
- 2) Detention or arrest
- 3) A formal or informal complaint has been registered
- 4) Complainant/victim/witness requesting non-disclosure
- 5) Complainant/victim/witness not requesting nondisclosure but disclosure would endanger life, physical safety, or property
- 6) Information that if disclosed, would be highly offensive to a reasonable individual and of no legitimate interest to the public
- 7) Medical information or treatment
- 8) Mental Health information or treatment
- 9) Any identifiable juveniles

- 10) Confidential informants

D. Restrictions on Using the BWC

BWCs shall be used only in conjunction with official law enforcement duties. The BWC shall not generally be used to record:

1. Communications or discussions with other police personnel without the permission of the Chief of Police or his/her authorized designee.
2. Encounters with undercover officers or confidential informants.
3. When on break or otherwise engaged in personal activities.
4. Judicial proceedings. The use of recording devices is prohibited in most Delaware judicial proceedings. BWCs may be used by officers assigned to work in courthouses to record situations outside of courtrooms. If a confrontation or criminal incident develops within a courtroom during the course of a judicial proceeding, an officer may record the situation on an assigned BWC.

E. Storage

1. All data files shall be securely downloaded periodically, preferably within 96 hours, however no later than the next scheduled tour of duty following recording. Each file shall contain information related to the complaint number, date, BWC identifier, and assigned officer.
2. The BWC system should provide for the creation and maintenance of an audit trail documenting any editing, redaction or deletion of BWC data. It is recommended the audit trail document the identity of any individual who viewed, accessed, copied, transmitted, redacted or deleted any BWC data and the date of such action.
3. All images and sounds recorded by the BWC are the exclusive property of the issuing agency. Accessing, copying, or releasing files for non-law enforcement purposes is strictly prohibited. All access to BWC data must be specifically authorized by the Chief of Police or his/her authorized designee and all access is to be

audited to ensure that only authorized users are accessing the data for legitimate and authorized purposes. Such authorization shall only be granted when in compliance with this policy.

4. BWC Data shall be securely stored in an agency approved storage location, server, website, or other location authorized by the Chief of Police.
5. BWC data shall be retained for such time as is necessary for training, investigation or prosecution and in accordance with the Delaware records retention policy, unless a longer duration is otherwise noted herein.
 - a. BWC data pertaining to investigations of civil violations, traffic investigations (to include any violations of Title 21), and criminal investigations should be retained until, at a minimum, the expiration of the statute of limitations for the most serious crime that could be charged.
 - b. BWC data pertaining to investigations that could result in a charge classified as an A Felony should be retained until authorization to destroy is granted by the Delaware Department of Justice.
 - c. BWC data pertaining to incidents involving officer injury and officer use of force should be retained until authorization to destroy is granted by the Chief of Police.
 - d. Under no circumstances should any BWC data be retained for less than 40 days following the conclusion of a criminal prosecution. For cases prosecuted in Court of Common Pleas and Superior Court, the DOJ shall notify the department when prosecution has concluded.
 - e. BWC data pertaining to an active civil suit should be retained until authorization to destroy is granted by The Chief of Police.

F. Supervisory Responsibilities

1. Supervisory personnel should periodically verify that officers equipped with BWC devices utilize them in accordance with policy and procedures defined herein.
2. Supervisors should randomly review BWC recordings periodically to ensure that the equipment is operating properly and that officers are using the devices appropriately and in accordance

with this policy and to identify any areas in which additional training or guidance is required.

For the purpose of this document, the term "file" refers to all sounds, images, and associated metadata.