

PBP FORM 290  PITTSBURGH BUREAU OF POLICE <i>"...honor, integrity, courage, respect, and compassion."</i>		SUBJECT: "BODY WORN CAMERA RECORDING AND DIGITAL EVIDENCE STORAGE SYSTEMS"		ORDER NUMBER: 69-3
		PLEAC STANDARD: NONE		PAGE 1 OF 9
ISSUE DATE: 05/07/ 2018	EFFECTIVE DATE: 12/1/2017	ANNUAL REVIEW DATE: NOVEMBER	RESCINDS: PREVIOUS	AMENDS: NONE

1.0 POLICY

1.1 This policy establishes guidelines and procedures for the utilization of Body Worn Cameras (BWC) by members of the Pittsburgh Bureau of Police. Additionally, this policy establishes procedures for the retention, duplication, storage, and purging of recordings from the BWC equipment, and the procedures to be followed by Digital Evidence Administrator for the retention, duplication, storage, and purging of recordings. All administrators and users of the Body Worn Camera systems and the Digital Evidence Storage System, shall follow the procedures as set forth in the Body Worn camera and Digital Evidence policy.

1.2 Digital evidence captured by the BWC is not all inclusive. The system captures less broad and less detailed images than the totality of the human senses. BWC footage DOES NOT serve as a substitute for an officer’s reasonable beliefs and perceptions, and cannot account for an officer’s physiological responses (i.e. visual tunneling or auditory exclusion) during a critical or use of force incidents. BWC footage SHOULD NOT be viewed as the only measure of truth because they may show more or less than what the officer sees, hears, or observes. BWC footage has an important, but limited, use as one of many policing tools.

2.0 PURPOSE

2.1 The purpose of the utilization of Body Worn Cameras (BWC) is to provide police officers who are equipped with BWCs a means to record events and after the fact, to afford authorized individuals the opportunity to review events as recorded by the BWC.

2.2 This order does not regulate the use and operation of mobile audio/video recording equipment that is permanently mounted inside of PBP owned vehicles. Refer to General Order 69-1 MAVR in relation to MVR mounted inside of vehicles.

2.3 To effectively perform their duties, officers and supervisors must have a level of comfort that minor disciplinary offenses, recorded while performing their duties, will not adversely affect his/her career.

3.0 DEFINITIONS

3.1 Body Worn Camera system– all cameras, accessories, docking stations, etc. related to the On-Officer Video Recording and Digital Evidence Storage Systems.

3.2 Digital Evidence Administrators–Members of the Pittsburgh Bureau of Police who are specifically trained in the maintenance and care of the BWC equipment, and who are trained to maintain and administer the off-site storage of the recordings. This will include all other digital evidence to be stored in the Digital Evidence Storage System.

- 3.3 Agency Administrator - Member of the PBP identified in the Digital Evidence Storage system at the administrator level, with full access to user rights and responsible for inventory, control and operation maintenance.
- 3.4 End User – Members of the PBP who have been issued or assigned a BWC, and who have been given individual account access rights to the Bureau’s Digital Evidence Storage system.
- 3.5 Evidence Transfer Manager (ETM) - A computer server with built-in docking stations, physically installed at PBP duty locations. The ETM simultaneously recharges the BWC equipment while digitally encrypting and uploading all data captured by an officer during his/her shift. The ETM then digitally transfers the encrypted data to the Bureau’s Digital Evidence Storage system.
- 3.6 Media or Data – This includes photographs, audio and video recordings captured by the BWC. This evidence is encrypted and stored digitally.
- 3.7 Activate – Any process or action that caused a BWC to begin recording and storing both audio transmissions and visual images.
- 3.8 Stand-By Mode – This refers to when an officer turns on their BWC and it is ready to record audio transmissions and visual images, but has not been activated.
- 3.9 Tag or Tagging – The process by where an officer or supervisor assigns a CCR number, category, and title to a stored audio transmission and visual image. Officers and supervisors will have twenty-four categories to choose from with varying retention lengths.
- 3.10 Flag or Flagging – A process by where an officer or supervisor, using evidence.com, requests that a previously recorded and tagged video is saved beyond the standard retention length of the selected category.
- 3.11 Authorized Individual - Authorized users are those who have been approved for access by the department and have been provided their own unique login and password.\
- 3.12 Oral Communication - Defined as “any oral communication uttered by a person possessing an expectation that such communication is not subject to interception under circumstances justifying such expectation.” This term does not include oral communications made in the presence of law enforcement
- 3.13.1 In order to meet the definition of Oral Communication for the purposes of the governing act, the following requirements must be met:
- The oral communication is made in the presence of a law enforcement officer
 - The law enforcement officer is on duty
 - The law enforcement officer is in uniform or otherwise clearly identifiable as a law enforcement officer
 - The law enforcement officer is using an approved recording device
 - The intercepted communication is done in the course of law enforcement duties

4.0 PRE-OPERATIONAL PROCEDURES

- 4.1 Members shall not use the BWC equipment until they have received the proper training.

4.1.1 The Training Academy will maintain a record of all trained personnel.

4.1.2 The Training Academy shall be responsible for providing training and remedial training for the BWC equipment and related policies.

4.2 Operational problems with or damage to the BWC equipment shall be immediately reported to the member's supervisor.

4.2.1 The member must note any BWC operational problems or damage on their running sheet.

4.2.2 Damage to BWC equipment must also be reported on a Lost/Stolen/Damaged Uniform or Equipment Claim.

4.3 The BWC shall be mounted in a position that enables it to capture as much video evidence as possible. The member shall test for proper location daily prior to use.

5.0 REQUIRED USE

5.1 Officers and supervisors shall place their BWC in "Stand-By" mode at the beginning of their tour of duty, immediately following Roll Call unless the following specified situations occur in which case the BWC should be off.

- The officer/supervisor makes use of lavatory facilities in a location other than at the station.
- Officers/supervisors are engaged in conversations related to "Officer Wellness" or those of an otherwise personal nature, where a normal expectation of privacy would reasonably exist.

5.2 During citizen contact an officer is required to record the following as soon as the officer is presented with the following situations and unless it is unsafe or unreasonable to do so. Officers and supervisors should activate their BWC prior to their arrival on scene keeping the safety of all concerned in mind, when any of the following occur:

- Responding to in-progress crimes.
- Pursuits whether vehicle or pedestrian.
- Traffic and Subject Stops.
- All searches or pat downs of persons and all searches of vehicles and property. Officers should also capture verbal or written consent for the search absent a warrant or probable cause to conduct said search.
- Miranda - Upon issuance of Miranda warnings, the response by the person receiving the warnings and any subsequent conversation.
- Use of Force Incidents.
- Critical Incidents
- Warrant Services (Arrest or Search).
- Detention, Arrests (Summons or On-View), including issuance of Traffic and Non-Traffic Citations. (Investigations relating to same).

Interviews of witnesses and victims, unless they object, although there is no legal requirement for an officer/supervisor to turn off the BWC at the request of a citizen. Members should use reasonable discretion when deciding to film a victim/witness statement. (I.e. A sexual assault victim who may feel the recording to be unnecessarily intrusive, process a confidential source of information. However, nothing in this policy would prevent an officer/supervisor from activating or re-activating their BWC should they feel it necessary.

- Interviews with suspects or persons who may be reasonably developed as suspects through the course of an interview.
- Conversations with members of the public where the member has reason to believe that citizen may become confrontational, antagonistic, or hostile.
- When performing a suspect identification (i.e. "Show-up"). A reasonable effort should be made to capture the suspect prior to and following identification to establish the suspects clothing and other physical identifiers at the time of the identification.
- Vehicle Inventories.
- Crowd management procedures
- Ordered by a supervisor
- If an officer believes it appropriate or necessary to create a video record they may do so.

5.3 Officers are required to wear and adhere to this policy when working an approved, uniformed secondary employment detail. Any police supervisor may dictate that any BWC trained officer, working in any capacity, wear a BWC and be subject to the recording guidelines in this policy. Conversely any officer/detective working in plainclothes capacity may, at the discretion of their supervisor, NOT deploy a BWC. This decision should be made on a case-by-case basis depending on that officer's or detective's current operation. Officers are not required to wear BWC while attending court off-duty, however, nothing in this policy would prohibit an officer from doing so.

6.0 OPERATIONS

6.1 Legal Requirements: Member shall abide by the following legal requirements governing the use of BWC equipment:

6.1.1 Members shall not use BWC equipment unless acting in the performance of their official duties, whether on-duty or working authorized secondary employment details.

6.1.2 Members shall only use Bureau issued BWC equipment, which has been approved for use in accordance with the Pennsylvania Bulletin.

6.1.3 Members shall ensure that they are clearly identifiable as a law enforcement officer. This requirement is satisfied if the member is in uniform and operating a marked patrol vehicle, or by other means approved under General Order 21-1 "Personal Appearance of Uniformed Personnel" and General Order 21-2 "Personal Appearance of Non- Uniformed Personnel," and as governed by Pennsylvania legal precedent.

6.1.4 Only oral communications occurring in close proximity to the member may be recorded. This legal requirement is satisfied by the current range settings of the wireless microphone.

6.1.5 Member shall inform all individuals identifiably present as soon as reasonably practical, that their oral/video communications will be or have been intercepted and recorded.

6.2 When the recording function has been activated, members may continue to record until the completion of the encounter or action, or until they have left the scene. However, this policy recognizes that many times incidents such as in-progress calls ultimately move from an active scene into an investigative scene. In those instances,

with the exception of critical incidents, officers may deactivate their BWC at their discretion if they reasonably believe that no further evidentiary value is likely to be discovered or any meaningful citizen contact likely to occur. However, nothing in this policy prohibits officers from re-activating their BWC should the scene become untenable or further evidence is discovered. Members may narrate the video recording during a recorded incident, which will assist in establishing probable cause for enforcement action and assist in report writing.

- 6.3 Officers shall not substitute "refer to video" for a detailed thorough report.
- 6.4 Officers will document the existence of video, lack of video, or delay of the start of video in the Investigative 3.0 or a daily activity sheet if no incident report exists.
- 6.5 Situations where recording is discouraged unless exigent circumstances exist and recording of these events can be justified for law enforcement purposes:
- Conversations with confidential informants or undercover police officers
 - Conversations with Bureau members or employees
 - In the intake area of the Allegheny County Jail after the prisoner is accepted for incarceration (i.e. once an officer has secured their weaponry and has been granted access into the "search room").
 - Operational strategies and tactics, unless a supervisor reasonably feels a record of intent needs to be created for court purposes.
 - Situations where nudity is involved
- 6.6 Upon completion of an assigned shift, member shall ensure that the BWC's battery is recharged. Each member will ensure that the assigned BWC equipment is connected to an Evidence Transfer Manager docking station, provided at each duty location, at regular intervals.
- 6.7 If the BWC equipment is damaged, it will be sent to the Digital Evidence Administrator. The Digital Evidence Administrator will ensure that the BWC equipment is repaired or replaced as necessary.
- 6.8 Lost, stolen, or damaged BWC equipment shall be reported on a Lost/Stolen/Damaged Uniform or Equipment Claim, PBP Form # 81.1 (rev.08/20/08)

7.0 DUPLICATION/RETENTION

- 7.1 Any and all data and recordings collected by the BWC equipment are the exclusive property of the PBP and will be considered investigative materials. The recordings produced on the BWC equipment are property of the Pittsburgh Bureau of Police, and will be subject to PBP policies regarding the viewing, release, retention and destruction of such evidence.
- 7.2 Members will not duplicate, copy, or otherwise possess any such data or recordings for any personal reason.
- 7.3 Members shall not allow non-sworn personnel to view the BWC recordings without permission from his/her immediate supervisor. Governmental employees who are directly involved in the investigation and/or prosecution of a criminal case related to the digital evidence, or who are previously authorized to interact with PBP evidence (example – OMI, Administration, Law Dept., District Attorney) are exempted from this restriction.
- 7.4 Members will ensure that all care is taken to prevent unauthorized persons from viewing the digital recordings. Any unauthorized use of the recordings will subject the member to disciplinary action. This includes, but is not limited to, the uploading or converting of the digital evidence for posting to any type of social media without the

express permission of the member's supervisor.

7.5 Mandatory Retention: The following types of incidents recorded on BWC equipment shall be retained and processed as evidence by the Digital Evidence Administrator in accordance with this regulation as soon as practical, using the capabilities of the Bureau's Digital Evidence Storage system.

7.5.1 Incidents which may result in the filing of summary, misdemeanor or felony charges.

7.5.2 Incidents which can foreseeably become the subject of civil litigation against the PBP or its personnel, including, but not limited to, patrol vehicle crashes, pursuits, critical incidents, incidents involving use of force, and incidents involving verbal complaint(s) against the PBP or its personnel.

7.5.3 Recordings shall be retained pursuant to a Litigation Hold directive issued by the City Law Department and continue to be retained until such directive is lifted by the Law Department.

7.6 Requests for Retention: Any member who believes that the retention of a recording not specifically required by this regulation is advisable, shall notify the Digital Evidence Administrator as soon as possible. Digital Evidence Administrator shall evaluate each request in accordance with this regulation. Members are advised, per this regulation, that all recordings collected by the BWC equipment will be purged no later than 30 days from the date of the last recording, unless the recording is governed by retention times set forth by policy.

7.6.1 All requests for duplication/retention are to be requested on PBP Form #69.10, "Mobile Video/Audio Recording Request Form" found in the Police Officer's Toolkit on the I drive. The completed form must be sent to the Digital Evidence Administrator.

7.6.2 When properly requested and approved, the Digital Evidence Administrator will duplicate the recording of the incident from the Bureau's Digital Evidence Storage system and ensure its delivery to the requesting officer in a timely manner. PBP Form #69.10 will specify the reason that the recording is requested (example – court), and the date that the recording is needed

8.0 COMMANDER DUTIES AND RESPONSIBILITIES

8.1 Commanders shall ensure that a sufficient number of BWC recordings are reviewed each month to ensure that members under their command are following PBP policies and procedures.

8.2 Commanders must document such reviews on PBP Form #69.20, "Commander's Monthly Mobile Video/Audio Recording Review Report", found in the Supervisor's Toolkit on the I drive. This form is to be submitted by the 15th of each month with the other monthly reports.

9.0 LIEUTENANT AND SERGEANT DUTIES AND RESPONSIBILITIES

9.1 Lieutenants and sergeants shall have access to view, tag or re-tag, and flag all BWC recordings from their respective zone or duty assignment.

9.2 Each sergeant must review BWC recordings each month from their respective shift based on the group they review for PARS/OMS. They must document such review on their daily activity sheet and on their monthly MVR review report. Supervisors will add a "note" in evidence.com as to why they viewed a video.

9.3 If sergeants operate a BWC, zone lieutenants must review BWC recordings each month from their respective shift sergeants. They must document such review on their daily activity sheet and on their monthly MVR review report.

- 9.4** Anytime an officer or supervisor completes or should have completed a Subject Resistance Report, a supervisor or supervisor of higher rank, must review any BWC video of the incident and document this in the comments area the supervisory review section. This will be conducted in tandem with the supervisory review of the use of force.
- 9.5** Anytime a complaint is filed against an officer or supervisor, a supervisor or supervisor of higher rank, must review any BWC video of the incident and document this in the comments area the supervisory review section. If applicable, the reviewing supervisor must notify OMI of the videos existence and document the notification.
- 9.6** It is the responsibility of the supervisors to ensure that the officers under their direct command properly utilize the BWC system according to policy.

10.0 DIGITAL EVIDENCE ADMINISTRATOR

- 10.1** The Digital Evidence Administrator shall be responsible for the retention, duplication and purging of video recordings. The Digital Evidence Administrator shall also ensure recordings of incidents are maintained in accordance with this policy and General Order #36-1, "Evidence Procedures".
- 10.2** The Digital Evidence Administrator shall ensure that the below-listed recordings are identified and retained in accordance with this policy. Electronically retained recordings shall be retained until the case is adjudicated or there is a court order, unless otherwise indicated below:
- 10.2.1 Recordings requested to be preserved by a member on the recording, a supervisor, or the Office of Municipal Investigations (OMI), where the recording may be necessary for use in any criminal or forfeiture proceeding.
- 10.2.2 Recordings requested to be preserved by a supervisor, the OMI, or the City Law Department, where the recording may be necessary for use in any civil, administrative, or disciplinary proceeding. The recording shall be retained until destruction is authorized by the requester.
- 10.2.3 Recordings requested to be preserved by any individual who is a participant on the recording for use in any criminal proceeding. Such requests must be in writing to the Chief of Police, and should contain the date, time, and location of the recording and the names of the parties involved.
- 10.2.4 Recordings requested to be preserved by any individual who is a participant on the recording for use in any civil proceeding in which the City and/or its personnel are a party. Such requests must be in writing, and should contain the date, time, location of the recording, and the names of the parties involved. Notice of the request shall be immediately provided to the City Law Department and the recordings shall be retained for a minimum of two years from the date of the incident and shall not be destroyed without the permission of the City Law Department.
- 10.2.5 If recordings are the subject of a subpoena, court order, or request for pretrial discovery or inspection, copies of the recording shall be furnished to the requester in accordance with existing PBP policies.
- 10.2.5.1 In criminal cases, notice shall be provided to the prosecuting attorney.
- 10.2.5.2 In civil cases in which the City and/or its personnel are a party, notice shall be immediately provided to the City Law Department. The recordings shall be retained for a minimum of two and one-half years from the date of the incident and may not be destroyed without the permission of the City Law Department.
- 10.3** If the Bureau receives a request for a video under Right-to-Know Law as set forth in Act 22 of 2017, the Digital Evidence Administrator will direct that the video is retained and preserved until such time that the Bureau receives a final decision regarding its production pursuant to the request. (Title 42, Ch. 67A, Recordings by Law

Enforcement officers)

- 10.4** The Digital Evidence Administrator shall ensure that all recordings not otherwise covered by this policy on the Bureau's Digital Evidence Storage system are purged 30 days from the date of the last recorded incident, after all properly requested and approved duplications have been made. A request for retention of a recording that has not been preserved after purging of the digital media cannot be processed.

11.0 USE OF MEDIA COLLECTED BY THE BODY WORN CAMERA

- 11.1** Video and audio captured via the BWC will be used for official purposes only.
- 11.2** Each event must be categorized, according to the procedures established within the Bureau's Digital Evidence Storage system, according to event type so that proper retention periods will be applied.
- 11.3** The use of the BWC shall be recorded in the appropriate section of PBP reports, and in the remarks section of citations.
- 11.4** Officers may use media captured via the BWC to assist with investigations and the completion of required reports, except for Critical Incidents.
- 11.4.1 All involved officers will provide a preliminary statement about mindset, then have the opportunity to review video and provide a statement.
- 11.4.2 All uninvolved officers may review the BWC and complete a PBP Supplemental Report.
- 11.4.3 Officers may also use the media captured by the BWC to assist investigators and supervisors in evaluating on-going situations.
- 11.4.4 The Deputy Chief or his/her designee may approve use and viewing by investigators if there is a public safety need to identify or search for a suspect.
- 11.5** Using the capabilities of the Bureau's Digital Evidence Storage system, officers may add markers and/or create clips in order to assist investigators and/or prosecutors.
- 11.6** Officers may use media captured on the BWC for training purposes, with proper authorization from the Chief of Police. Additionally, Field Training Officers may use media captured via the BWC to provide immediate training to recruits and to assist with the completion of the Daily Observation Report (DOR).
- 11.7** For educational purposes or to evaluate a recruit performance while in a training environment and Officers-in-Training or while in the field in order to assist the Police Bureau in making an educated, data driven decision with regards to continued employment.
- 11.8** Anytime an officer/supervisor views a BWC video on Evidence.com, he/she must list the reason for the viewing in the note section of the video page.

12.0 DELETION OF UNINTENTIONAL RECORDINGS

- 12.1** In the event of an unintentional activation of the BWC system during non-enforcement or non-investigative activities, (example – restroom or meal break), or in other areas where a reasonable expectation of privacy exists, officers may request that the Digital Evidence Administrator delete the recording. A memorandum detailing the circumstances of the unintentional recording will be forwarded via the chain of command to the Chief of Police by means of a PBP Form #69.30 Body Worn Camera – Recording Deletion Form.

12.2 Any video recorded by the Agency Administrator while diagnosing problems with a BWC will be marked test and can be deleted by the Administrator without a memo to the Chief.

12.3 BWC footage that has not been tagged, or is left "uncategorized", will automatically delete after ninety days.

13.0 **ADHERENCE TO POLICY**

13.1 Failure to adhere to this policy may result in disciplinary action.

Approved By:



Scott Schubert
Chief of Police