

PORTLAND POLICE DEPARTMENT
STANDARD OPERATING PROCEDURE

	Subject:	BODY WORN CAMERAS	Policy #:	86B
	Distribution:	All Personnel	Effective Date:	04/01/2018
	Standards:	IACP	Revision Date:	03/01/2020
	By Order Of:	Chief of Police	Review:	Biennially

I. **PURPOSE:**

This policy provides guidelines and procedures for the use of body-worn cameras to include maintenance, recording, data storage, data retention, and release of video.

II. **POLICY:**

It is the policy of the Portland Police Department to utilize body worn cameras (BWC) to enhance transparency and protect the safety and welfare of officers and the public while improving the reliability of investigations and assisting in prosecutions.

III. **DEFINITIONS:**

Activate: Switch the BWC from passive recording to active recording mode. No audio is captured while the BWC is operating in passive mode.

Active Recording Mode: Capturing video and audio into incident-based media segments.

Body Worn Camera (BWC): A Department issued device worn affixed to an officer's uniform with the capability of capturing, recording, and storing audio and video information.

Deadly Force Incident: Any incident involving the use of deadly force by an officer; the use of any level of force which results in death; any departmental in-custody death or a use of force incident that results in serious bodily injury.

Evidentiary Recording: Recording of an incident/encounter that is relevant to an administrative, civil, or criminal investigation including a crime, an arrest, issuance of a citation, a search, or a use of force. Evidentiary recordings also include verbal statements given by a victim, witness or suspect during the investigation into a crime or potential crime.

Healthcare Facility: Any place primarily engaged in providing healthcare. Examples include hospitals, urgent care centers, doctor's offices, and nursing homes.

Law Enforcement Encounter: any encounter between an officer and a member of the public in which there is the potential for, or the likelihood or certainty of, some type of official law enforcement action or use of the officer's authority (e.g. traffic stops; field, victim or witness interviews; investigative stops; searches; detentions; arrests; uses of force). A law enforcement

encounter does NOT mean a casual greeting or interaction with the public or an encounter in which a member of the public seeks information such as directions or other general information from an officer.

Mobile Video Recorder (MVR): Vehicle based digital audio/video recording system.

Non-evidentiary Recording: Recordings which do not aid in an investigation or prosecution. Examples of non-evidentiary recordings include a traffic stop which does not result in a citation, summons, or arrest; a code run which does not lead to a law enforcement encounter (e.g. a medical call); a citizen contact that doesn't result in any enforcement action and is not needed for a particular investigation (e.g. assisting a motorist, a general conversation with a member of the community, an FI not associated with a particular investigation); or a call which results only in a warning (e.g. a loud party complaint).

Undercover: a law enforcement officer whose identity as an officer is fully concealed. Undercover officers differ from plainclothes officers who wear civilian clothing instead of a uniform, but carry normal police equipment and identification.

IV. GENERAL

- A. The Department-issued BWC is authorized for use in the course of official, uniformed police duties; BWC's shall not be used for personal purposes.
- B. The use of non-Department issued BWC's while on duty is prohibited.
- C. Officers must complete an approved BWC training before being authorized to wear and use the device.
- D. Additional training will be provided as necessary to ensure the continued effective use of BWC and to incorporate changes, updates, or other modifications to this policy and/or the BWC equipment.
- E. The BWC equipment and all data, images, video, and metadata captured, recorded or otherwise produced by the equipment is the sole property of the Department and shall be securely stored and retained in accordance with applicable laws and department policy.
- F. Department personnel shall not edit, alter, erase, duplicate, or otherwise distribute BWC recordings without prior authorization of a member of command staff. Recordings may be copied or shared only for investigative or prosecutorial purposes.
- G. The BWC shall be stored in a transfer station dock when not in use by an officer.

V. PROCEDURES

- A. Maintenance and General Use
 - 1. At the start of each shift or overtime detail, officers shall properly check out the BWC prior to undocking it from the transfer station. Officers shall confirm the BWC is

correctly configured and properly functioning. Malfunctions, damage, loss or theft of BWC equipment will be immediately reported to a supervisor.

2. If assigned to a mobile video recorder (MVR) equipped cruiser, officers shall log in to the MVR and dock the camera in the WiFi Base to synchronize the BWC and MVR equipment. Once the equipment is confirmed to be synced, a vehicle inspection shall be conducted.
3. When synced with the MVR, the BWC will automatically activate:
 - a. when the emergency lights are turned on, and
 - b. in the event of a crash.
4. Once powered on, the BWC passively records video until activated. No audio is captured during passive recording. Upon activation, the BWC saves 30 seconds of pre-activation video and continues to record both video and audio.
5. Body worn cameras shall not be completely powered off during an officer's shift for any reason. The BWC's are configured with vibrating alerts and indicator lights to allow police staff to know when the BWC is recording. Officers can put their BWC into covert mode for tactical and officer safety purposes.
6. In order to capture quality data, the BWC must be worn in a vertical, upright position outside the outermost uniform garment/item so as to give the lens a clear, unobstructed view of the event/person contacted. Officers will wear the BWC so that uniform clothing will not cover or shield the BWC or hinder its functionality. Officers must utilize the mounting equipment provided by the Department.
7. The BWC may be stored in the cruiser docking station or an officer's uniform pants cargo pocket whenever the officer is on break, in the restroom, locker room or office.
8. Officers are encouraged to inform individuals that they are being recorded if the officer believes it may help de-escalate the situation.

B. Mandatory Recording

1. The body camera shall be activated at the initiation of any law enforcement encounter with a member of the public. When an immediate threat to the officer's life or safety makes activating the camera impossible or dangerous, the officer will activate the camera at the first reasonable opportunity to do so.
2. Once activated, the camera should stay on for the duration of the call or encounter except as outlined in paragraph D below.
3. All requests for consent (e.g. consent to search without a warrant), should be recorded along with the individual's response to that request unless the BWC has been deactivated in accordance with paragraph D.2 below.

C. Unless specifically prohibited in paragraph E below, an officer may activate their BWC whenever they deem its use is appropriate to further law enforcement purposes.

D. Ending a Recording

1. Officers are not required to cease recording an event, situation or circumstance solely at the demand of a member of the public except:
 - a. At the request of a victim;
 - b. When specifically requested by a person having a reasonable expectation of privacy in a location, such as a residence, when officers are present without a warrant or in non-exigent circumstances;
 - c. When speaking with a person seeking to anonymously report a crime or assist in a law enforcement investigation if the person requests the camera be turned off or if the officer believes that ending the recording will facilitate the exchange of information.
2. Officers who stop recording an incident shall document the reason the recording was stopped on camera and in the corresponding incident report or Computer Aided Dispatch (CAD) narrative if no report is generated.
3. Upon responding to a crime scene, officers shall record any encounters with witnesses, suspects or other involved parties. Once the scene is secured and investigators or evidence technicians have assumed control of the scene, BWC recordings shall be stopped at the direction of the on-scene commander.

E. Prohibited Recordings

1. BWC will be used only for official law enforcement duties. Cameras shall not be used to record:
 - a. Communications with co-workers or other law enforcement personnel without their knowledge or permission;
 - b. When officers are on break or otherwise engaged in personal activities or where there is a reasonable expectation of privacy such as in offices, restrooms or locker rooms;
 - c. While appearing before an officer of the court;
 - d. While inside correctional facilities with a posted no-recording policy;
 - e. During encounters with undercover officers and confidential informants (CI's);
 - f. For communications involving law enforcement tactical and strategic policy, procedures or plans;
 - g. While conducting strip searches;
 - h. While conducting an intoxilyzer test (due to the possibility of radio frequency interference); or
 - i. Domestic Violence related safety planning and threat assessments.

F. Special Recording Circumstances

1. School Resource Officers (SRO's)
 - a. SRO's shall only activate the BWC when responding to cases of suspected criminal activity such as incidents that may lead to or include searches, seizures, arrests, interrogations, or the issuance of summonses; incidents that involve or are likely to

involve disruptive, adversarial, or confrontational behaviors or as otherwise consistent with PPD policy and law.

- b. The SRO's BWC will not be operated covertly and the light indicating the BWC is recording shall be visible whenever the BWC is activated on school property.
- c. SRO's will not activate their BWC when present during meetings between students and school personnel that are of an administrative nature and do not involve suspected criminal activity or the potential for disruptive behavior.
- d. SRO's will not record in places where a reasonable expectation of privacy exists such as locker rooms or restrooms unless the activation is required for the performance of official duties as described above.
- e. SRO's shall inform the subjects involved they are being video and audio recorded as soon as it is practical and safe to do so.

2. Healthcare Facilities

- a. When responding to a healthcare facility, officers shall not activate the BWC until just prior to meeting with the complainant/victim on a call for service or when encountering an incident which would require BWC activation under this policy.
- b. However, if an officer anticipates a violent or assaultive person, the officer will activate the BWC in advance of the encounter or as soon as reasonably practicable.
- c. Officers must be particularly aware of patients' rights to privacy when in a medical setting. Officers should not record patients during medical or psychological evaluations or treatments and should try to avoid recording uninvolved persons or medical documents.

3. Constitutionally Protected Assemblies

- a. Facilitating the First Amendment rights of individuals is one of our primary law enforcement purposes.
- b. Officers present at an assembly for a law enforcement purpose (e.g. to provide escort services, for crowd control or in response to a call for service) will record these events for purposes of documenting violations of law, police actions, and for training purposes.
- c. These recordings shall not be used to gather intelligence or to identify individual participants not engaged in unlawful conduct.

G. Classifying Recordings

1. At the conclusion of an incident, the officer shall stop the recording and select the appropriate classification for the event:
 - a. Evidence
 - b. Other
2. Officers assigned to a cruiser shall enter the case number associated with the recording (if applicable). Officers not assigned to a cruiser (e.g. footbeats, bike patrols, and certain outside details) shall enter the case number (if applicable) after downloading recordings as indicated in paragraph I. below.

H. Inadvertent Recordings

Officers may request, in writing to the Chief of Police, that any specific inadvertent recording of a strictly personal nature (e.g in the restroom, during a mealbreak, or in other areas where a reasonable expectation of employee privacy exists) be purged. The Chief or designee will review the request and the recording. If the recording is strictly personal and fails to capture a law enforcement purpose, it will be purged. Video purging will be tracked through the Evidence Library software audit feature.

I. Downloading Video

1. Officers will place the BWC in the appropriate transfer station dock (patrol equipment room, Jetport Office, Peaks Island) at the end of each shift or overtime detail to allow for automatic download of recordings.
2. On a daily basis, School Resource Officers shall manually download recordings to a secure PPD server.
3. All Officers must enter the case number (if applicable) and confirm that the event is properly classified.
4. If a deadly force incident occurs, a supervisor shall take custody of all involved BWC's and transfer them directly to Internal Affairs for download. The supervisor shall document the collection and transfer of the BWC's in a supplemental report.
5. In the case of a serious crime, BWC's may be collected and downloaded by an Evidence Technician at the direction of the Criminal Investigations Division (CID) Lieutenant or Shift Commander.

J. Viewing Video

1. Personnel shall not:
 - a. Access or view a recording unless doing so involves a legitimate law enforcement purpose.
 - b. Use any device to copy, photograph, or record the playback of any video/audio recorded by a BWC.
 - c. Upload a BWC recording to any social media or public website except with permission of a member of command staff.
2. The Evidence Library software includes an audit log for each recording. The log lists all historical information about the event file to include when it was played back and by whom.
3. BWC recordings shall be viewed on the Department computer system or by using the Watchguard SmartConnect Application. When using the SmartConnect App, officers shall not take screenshots of any recording.
4. Officers may review video footage during report preparation except when ordered otherwise or in the event of a deadly force incident. If a deadly force incident occurs, an officer must obtain the express permission of a member of Command Staff to review video footage prior to report preparation.

5. Officers should document their review of video footage in the narrative portion of their report.
6. Officers who are the subject of a criminal investigation may not view any audio/video recordings related to the incident except upon the approval of the prosecuting authority and the Chief of Police.
7. The parent or legal guardian of a minor subject of a BWC recording may request to schedule a time to view a BWC recording at the PPD or, if appropriate, the school where the recording occurred.
8. Unless authorized by the Chief, officers who are the subject of an Internal Affairs complaint or witness to the incident which is the basis for the complaint may not view any audio/video recordings related to the incident prior to the initial interview with Internal Affairs. The IA investigator may show the video to involved officers after the initial interview if necessary as part of the investigation.
9. Non-law enforcement personnel shall not be allowed to view video at the scene of an incident unless doing so is necessary to further an investigation or ensure the safety of the public.
10. Shift Commanders are authorized to allow involved civilians and/or their parents or guardians, if a juvenile is involved, to view recordings of incidents in which they are involved after the fact in order to aid in inquiry or complaint resolution.
11. Supervisors shall conduct routine reviews of recordings to ensure the BWC system is working properly and that recordings are being captured in accordance with this policy and department training. Supervisors are also permitted to conduct audits of recordings when reviewing an incident. Minor violations of this policy should be viewed as training opportunities and not as cause for discipline. Should the behavior be repeated after being informally addressed, appropriate corrective action shall be taken. Violations of other Department written procedures will be addressed in accordance with SOP 22.
12. Any time a supervisor is reviewing or investigating a Use of Force or Pursuit, he/she shall review BWC recordings of all officers who were involved or witness to the incident.
13. Supervisors may refer to body camera reviews when preparing performance evaluations, however review of recordings is not intended to replace the review of officer performance in the field.
14. The training sergeant is authorized to view BWC recordings regarding incidents which may serve as learning or teaching tools. The Operations Lieutenant must approve any use of a BWC recording in a training.
15. The Department retains the right to restrict or limit access to recordings related to critical, unusual, or other incidents on a case-by-case basis. Access to specific files may be restricted at the direction of Internal Affairs, the Police Attorney, and members of Command Staff.

K. Recording After the Fact

1. The BWC system allows for an event to be created after the fact whether or not the camera was activated if the recording has not been overwritten. No audio is captured in an after the fact recording.

2. Any request to create an event after the fact must involve a legitimate law enforcement purpose and be approved by the Shift Commander with Command Staff notification.
3. If not already recorded, a recording after the fact must be created for any incident involving a use of force.
4. If a non-time sensitive Recording After the Fact cannot be created due to technical difficulties, the involved camera shall be taken out of service and set aside for the Digital Systems Technician to process during working hours.

L. **BWC Recordings and Discipline**

If body camera footage exists, discipline will not be dispensed solely on the basis of the body worn camera footage, but rather upon consideration of all relevant evidence collected during the IA investigation including video footage.”

VI. RETENTION

- A. All recordings shall be retained for 385 days unless otherwise flagged for extended retention.
- B. Anytime an investigator is assigned a case, he/she shall create a case in Evidence Library and place all applicable recordings in that case file to prevent purge. The case file will be deleted when the case is inactivated, cleared exceptionally, or resolved and the associated recordings will be deleted.
- C. The Police Attorney shall flag recordings associated with any claim filed, pending litigation or a personnel complaint. These recordings shall be preserved at the direction of the Police Attorney until the matter is resolved and archived in accordance with retention periods established in state law.
- D. The Neighborhood Prosecutor shall flag any recordings required for the prosecution of city ordinance violations and administration of the Disorderly House program. The flag will be removed at the direction of the Neighborhood Prosecutor and the recording will be purged.
- E. The Internal Affairs Unit shall copy any recordings associated with a complaint or use of force to the IA Pro Server. Recordings will be preserved on the IA Pro Server for seven years. The original recording shall be retained in the body camera software in accordance with the rules established above.

VII. RELEASE OF RECORDINGS

- A. Members of the public may request copies of BWC recordings using the standard Maine Freedom of Access Act (FOA) process.
- B. BWC recordings will be released by the Police Attorney in accordance with the Maine Freedom of Access Act and other applicable laws.

- C. A fee will be charged to cover the administrative costs associated with the release of BWC recordings.
- D. SRO recordings that depict students will not be released by PPD to any person outside the PD, except to juvenile justice or prosecutorial authorities for review or adjudication of juvenile charges without written parental consent or legal process.
- E. Portland Public Schools requests to obtain copies of recordings may only be made by the Superintendent. The Chief of Police, or designee, may approve such a release in accordance with applicable law, such as to promote the safety of students, staff and others.