



deployed by department personnel as well as specific procedures to be utilized pertaining to storage, retention, and release of recordings pursuant to formal public records requests by members of the community, the media, and other interested parties. The term "Officer" shall apply to any sworn member of the agency.

### III. **POLICY**

It is the policy of the police department to:

1. Video record motor vehicle stops, pursuits and police responses with a BWC recording device to capture audio-video documentation of a police officer's investigative and enforcement activities.
2. Retain video recordings pursuant to records retention standards set forth by the Secretary of the Commonwealth and make the video available for court and other proceedings.
3. Comply with the provisions of the Massachusetts Public Records Law in the release of recordings.

### IV. **PROCEDURE**

#### A. **Definitions**

1. **Body Worn Camera (BWC):** A portable electronic recording device worn on a police officer's person that creates, generates, sends, receives, stores, displays, and processes audio/visual recordings or records audio and video data of law enforcement related encounters and activities.
2. **Recording:** Video and/or audio footage in the form of metadata files that are captured by BWCs.
3. **Subject of Video Footage:** Any individual including but not limited to a suspect, target, arrestee, victim, witness, detainee, injured party, or other person who appears on the BWC recording, which shall not include people who incidentally appear on the recording and are not related to the incident or event that is being reviewed/investigated.

#### B. **General Guidelines**

1. All sworn police officers and Sergeants shall be required to wear a department approved BWC device while on patrol and during investigations, unless specifically authorized not to by the Chief of Police.
2. Officers shall not be required to utilize their BWC while on an assigned police detail, unless such detail involves the possibility of potential violence (strike detail, crowd control, etc.).

3. Prior to wearing BWCs, officers shall receive department training on the operation of the system and this policy. All support staff, including the Records Clerk and Command Officers, shall also receive this training.
4. Officers shall wear the BWC by mounting it on the chest, unless the stature or other physical attributes of the user, or the evolution of BWC technology, necessitate a different placement location in order to maximize the camera's ability to capture video footage of the officer's activities.
5. BWC's shall not be used in a surreptitious or discrete manner. Specifically, officers should not conceal the presence of a BWC, nor shall they attempt to utilize the BWC to record in secret unless so specifically authorized by a judicial order.
6. At the beginning of each shift, the officer shall ensure the BWC has a charged battery and is functioning properly. If the officer discovers that there is damage to or a malfunction of the BWC, they shall notify the shift OIC as soon as possible. The OIC shall then notify the Deputy Chief.
7. At the end of each shift, the officer shall place their BWC into a docking station. The docking station will charge the BWC's battery and transfer video data to the storage system.

**C. Activation of BWC**

1. An officer shall activate their BWC whenever:
  - a. The officer arrives on scene at a call for service.
  - b. At the beginning of any other investigative or enforcement encounter between an officer and a member of the public, except that when an immediate threat to the safety of the officer or another person makes activating the camera not feasible or dangerous. In those circumstances, the officer shall activate the camera at the first reasonable opportunity to do so. There will be a thirty (30) second buffer for BWC, which means, the thirty (30) seconds prior to activation of the BWC will also be recorded/retrievable as video only.
  - c. During the request and performance of a search, including K-9 searches.
  - d. During administration of Miranda warnings and any response when in the field.
  - e. At any incident where the officer anticipates a use of force encounter.
2. Aside from the circumstances listed in this section, BWC recording shall continue until the conclusion of the incident. To the extent possible, prior to pausing/deactivating a BWC, the officer should verbally state the

reason for doing so.

3. Following the activation of the BWC, the officer shall make a reasonable effort to give verbal notice to the subject of the video footage where feasible or otherwise make the subject aware that the interaction is being recorded.
4. Officers should be mindful of locations and situations where recording may be considered insensitive, inappropriate, private in nature, or may be prohibited by privacy policies. At the officer's discretion and based on articulable circumstances, officers are authorized to mute or turn off their BWC. Officers may also consider the option to divert the BWC away from any subjects and record only audio, if appropriate.
5. Officers are not required to obtain consent to record and have no obligation to stop recording when asked to do so. When evaluating whether to continue recording as an interaction develops, officers should consider whether there may be a reasonable expectation of privacy as stated above.
6. Officers recording in a residence shall be mindful not to record beyond what is necessary to the civilian contact, and not to use the BWC with exploratory intent or in an effort to create an inventory of items in the residence.
7. Officers are authorized to temporarily suspend recording during times of prolonged waiting absent civilian contact (such as waiting for a tow truck) and when consulting with other law enforcement officers or supervisors. The officer shall commence recording once civilian contact is re-established or police activity resumes.
8. Any recording that does not commence at the inception of an encounter, and/or is discontinued or temporarily suspended before the conclusion of the encounter, shall be explained in the officer's report.
9. Applications for a search warrant shall specifically request use of a BWC during the execution of the search warrant.
10. Recordings shall not be made to record personal activities such as meal breaks or conversation with other officers, supervisors, or staff outside of the normal scope of ongoing field and patrol activities.
11. BWCs and their recordings shall not be used for the purpose of harassing:
  - a. Members of the public
  - b. Sworn members; or
  - c. Department employees

12. Recordings are not expected during innocuous activities such as taking telephone complaints, security detail assignments, directing traffic, and similar situations.
13. Officers shall avoid using BWCs to record for the sole purpose of gathering intelligence information on any First Amendment protected activities such as speech, associations, and/or religion. This shall not be construed to limit the lawful use of BWCs to record investigative encounters that amounts to articulable reasonable suspicion or reasonable belief of some type of possible ongoing or imminent criminal conduct.
14. Officers shall not run recordings through facial recognition or automated analysis programs without the appropriate judicial review or unless specifically authorized by statute in exigent or emergency circumstances (Refer to General Order 21-001: Facial Recognition.).
15. Officers are required to record contact and interactions with the public, regardless of the number of BWC members present and recording.

**D. Internal Access/Review**

1. Officers trained in the use of BWC shall be provided access to their BWC recordings through a unique username and password.
2. Officers and other team members of the department may review BWC recordings as they relate to:
  - a. Their involvement in an incident, except a use of force incident, for the purposes of completing an investigation and preparing official reports. To help ensure accuracy, officers are encouraged to review the BWC recording(s) prior to preparing reports;
  - b. Providing testimony in court to refresh recollection. Officers will ensure that the prosecuting attorney is aware that the member has reviewed BWC recording(s) prior to a court appearance; and
  - c. Providing a statement pursuant to an internal investigation, including officer-involved shooting investigations and other critical incidents as outlined below.
3. If an officer is involved in a use of force incident that would require them to write a use of force report as detailed in General Order 15-001: Use of Force, the officer is required to write their initial report first. After the report has been approved, officers may be allowed to view their recording and write a supplemental report based on recollections that may have been refreshed by viewing the recording or facts that were not previously known.

4. BWC Officer Access to Footage Following an Officer-Involved Shooting:
  - a. Following an officer-involved shooting, or other use of deadly force, officers, including supervisors, shall not view the BWC recording prior to the Deputy Chief and the Massachusetts State Police Detective Unit assigned to the investigation.
  - b. This prohibition shall not apply where exigent circumstances exist, such as an officer being injured, or where the BWC recording may reasonably provide identifying suspect information or other pertinent, time sensitive information that may be valuable in addressing the exigent circumstances in a timely manner.
  - c. All officers involved in, and witness to, an officer-involved shooting or other deadly use of force incident, shall be authorized to view all BWC recording(s) prior to a walkthrough of the incident and/or providing a statement to the Massachusetts State Police Detective Unit.
  
5. Collecting and Securing BWC Footage Following an Officer-Involved Shooting or Other Use of Deadly Force:
  - a. In the event of an officer-involved shooting or other use of deadly force, the Deputy Chief and the State Police Detective Unit of jurisdiction investigating the officer(s) will be responsible for collecting and securing the BWC's from all involved officers and witness officers at the earliest opportunity.
  - b. These entities will ensure that all involved BWC's are properly uploaded into the system.

**E. Supervision of BWC Program**

1. Supervisors, OICs, and Command Officers shall be involved in the oversight of the BWC program. All supervisors and OICs shall ensure that officers utilize the BWC in accordance with this policy.
  
2. Periodic reviews of BWC recordings generated by officers may be conducted to:
  - a. Assure proper functioning and use of the equipment,
  - b. Identify recordings that may be appropriate for department training; and
  - c. Assess performance and compliance with this policy.
  
3. Supervisors should conduct inspections to ensure BWC equipment is functional and in good order. All malfunctions and damage shall be reported to the Deputy Chief as soon as possible.
  
4. To ensure BWC program quality and compliance, the Deputy Chief shall conduct an annual audit that includes:
  - a. Compliance with this policy,

- b. Compliance with BWC tagging/categorization requirements,
- c. Compliance with BWC training requirements,
- d. Examination of BWC audit logs for viewing/dissemination compliance requirements, and
- e. Records retention compliance

**F. Storage, Maintenance, and Handling**

1. BWC recordings shall be stored in compliance with the Security Standards issued by the Criminal Justice Information Services and the Federal Bureau of Investigation.
2. If the department authorizes a third party to act as its agent in maintaining recordings, the entity shall be prohibited from independently accessing, viewing, or altering any recordings, except to delete recordings as required by law and/or retention policies.
3. The Records Clerk shall be charged with the maintenance and handling of BWC recordings.
4. All requests for BWC recordings for the purpose of discovery obligations and evidence shall be made to the Records Clerk in writing.
5. The release of video recording data and metadata as a public record shall only be done in compliance with the Massachusetts public record laws and regulations, and all applicable state and federal privacy statutes. Particular attention should be made to recordings that may raise special privacy or safety issues.
6. In cases in which a recording has been requested for litigation, the District Attorney's Office shall be notified of the request and said request shall be addressed pursuant to evidentiary rules of court.
7. All recordings shall be the property of the Provincetown Police Department and shall only be used for official purposes.

**G. Retention**

1. The department shall retain all BWC recordings for not less than one year but no more than 37 months.
2. No recording shall be destroyed while any related investigation, including criminal, civil, or administrative investigation, or court proceeding is still open/pending, or for the same period of time that evidence is retained in the normal course of the court's business for a recording related to a court proceeding. Similarly, no recording shall be destroyed until all appeals and/or related litigation is exhausted and closed.
3. Access to BWC recordings are subject to all state and federal laws, and any orders of a court of competent jurisdiction. Recordings shall be

preserved, stored, and retained in accordance with the requests, directions, and orders of appropriate prosecutorial and/or judicial authorities.

**V. SUMMARY**

**This policy may be modified in the future with the introduction of cruiser mounted cameras and changes to the law.**

The above stated policy and procedure is meant to provide general guidelines to Provincetown Police employees concerning body worn cameras. Particular facts or circumstances may require an officer to take actions not necessarily outlined in this directive.

This policy and procedure is for Provincetown Police use only and is not meant to enlarge an employee's criminal or civil liability in anyway. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this directive, if proven, can only form the basis of a complaint by this department, and then only in an administrative proceeding.

**Per Order** \_\_\_\_\_ **Date** \_\_\_\_\_  
James F. Golden, Chief of Police

CC: Alex Morse, Town Manager