

Madison Police Department
Body Worn Camera Policy
Special Order: Body Worn Camera Pilot Study

PURPOSE:

The primary purpose of this policy is to establish clear procedures regarding the use of body-worn cameras to document incidents involving police officers and the public, while also protecting the privacy rights of all parties who may be recorded and to minimize the misuse of recording capabilities for mass surveillance of individuals or groups.

The Madison Police Department authorizes the use of body-worn cameras to record police officer interactions with the public; collect evidence of criminal activity; monitor officer performance and compliance with governing laws and Department policies, procedures, and training; and serve as a training tool.

OBJECTIVES:

The Madison Police Department has adopted the use of Body-Worn Cameras during the duration of a pilot study, to accomplish the following objectives:

- Body-Worn Cameras allow for documentation of Police/Public contacts, arrests, and critical incidents.
- Body-Worn Cameras also serve to enhance the specificity of Officer reports and testimony in Court.
- Audio and visual recording enhances the agency's ability to review probable cause for arrest, Officer and suspect interaction, evidence for investigative and prosecutorial purposes, and to provide additional information for Officer evaluation and training.
- The Body-Worn Cameras may also be useful in documenting crime and accident scenes, and other events that include the seizure of evidence or contraband.
- Body-Worn Cameras may be useful as a training tool, for coaching, and communication.

DEFINITIONS:

- *Body-Worn Camera*: An audio/visual recording device, issued and authorized by the Department, that is worn on the Officer's uniform, and is designed to record Officer actions and interactions with the public in the course of their duties. "Body-Worn Camera" may be abbreviated as "BWC" within this SOP.
- *Contact*: An encounter with a member of the public that has no criminal or investigative purpose (i.e.; stopping to say hello to someone or interacting with persons to obtain information that is non-criminal in nature).
- *Law Enforcement Agency (LEA)*: governmental unit of one or more persons employed full time by the state or a political subdivision of the state for the purpose of preventing and detecting crime and enforcing state laws or local ordinances, employees of which unit are authorized to make arrests for crimes while acting within the scope of their authority.
- *Law Enforcement Function*: Any action which may only be performed by a person having the legal authority of a law enforcement officer.
- *Body Worn Camera Administrator*: An assigned member of the Department responsible for:
 - Maintaining user accounts for the remote digital storage of BWC footage
 - Assigning permission levels within the remote digital storage system
 - Overall maintenance of the BWC system and liaison with the vendor

- Completing departmental randomized audits of BWC footage
- Redacting or deleting any video
- Ensuring automation of the retention schedule with the remote digital storage system.
- Receiving, reviewing, and responding to requests for disclosure of BWC footage
- Keeping true and accurate records of the above

TRAINING:

1. Body Worn Cameras (BWC) will be utilized only by personnel who have been properly trained in their use. All officers and supervisors will be provided training in the use of body- worn cameras prior to using the equipment. Refresher or remedial training will be provided as determined by the Chief of Police.
2. The BWC issued by the Department will be the only BWC authorized for use.
3. Recordings created during training or orientation of the BWC program will be retained for no longer than 30 days.
4. To facilitate proficiency with the BWC, for the first 60 calendar days of any Department member first entering an assignment that requires the wearing of a BWC, that/those member(s) shall not be subject to discipline for errors in applying this policy that are not intentional. Subject to approval by the unit commander, a member who is being reassigned to an assignment covered by this directive may request the 60-day period to facilitate proficiency with the BWC. Such approval by shall not be unreasonably denied.
 - a. The Department shall use existing systems for coaching and counseling to address non-intentional errors in applying this policy during the 60-day period.
 - b. Intentional violations of this policy shall be subject to discipline during any time period.

WEAR AND MAINTENANCE

1. Body-worn cameras will only be assigned to officers chosen for the pilot study.
2. Individual officers are responsible for the use and care of any BWC equipment assigned to them.
3. Any apparent problems with the BWC will be immediately brought to the attention of a supervisor. The officer or supervisor will make contact with the Body-Worn Camera Administrator for any needed troubleshooting or repairs, and to arrange for issuance of replacement equipment if necessary.
4. Officers will wear the BWC mounted in one of the Department-approved methods, utilizing only the mounting equipment provided by the manufacturer of the BWC. It shall be the responsibility of the officer to ensure the BWC remains in a position to allow the recording of an encounter or incident that most closely replicates the perspective of the officer.
5. Officers shall inspect and test the BWC prior to each shift in order to verify proper functioning and shall notify their supervisor of any problems.

ACTIVATION OF THE BWC

1. Officers shall activate the BWC to record all interactions with members of the public in the performance of official duties.
2. The Body Worn Camera (BWC) shall be activated prior to arrival at a call for service, in anticipation of a self-initiated activity, or at the activation of emergency equipment (emergency lights and/or siren), whichever occurs first. This shall also include interactions that are related to or for the purpose of a law enforcement function.

3. Officers will utilize BWC during the initial seizure, counting, or inventorying of seized money or any high value property.
4. It is recognized that officers utilizing a take home vehicle may need to make enforcement stops or respond to a law enforcement need while traveling to and from work, which may result in activities not being recorded. When this occurs the officer shall document their actions and reason for not having their BWC within the CAD notes of the associated event.
5. Certain specialized units may request deviation from the BWC requirements of this policy with the express written approval of the affected personnel's District Commander. The unit's Commanding Officer (or designee) must submit the request to deviate from the BWC policy to their respective District Commander. The request should include clear articulation of the necessity to deviate from the policy, how the use of the BWC would negatively impact operations or any other relevant factors for consideration. The District Commander will respond in writing their concurrence or non-concurrence. The written request and response will be attached in the appropriate format to any subsequent case reports in the Records Management System (RMS). Furthermore, the investigating officer should document in the narrative of the case report that approval was given for this special consideration by their Bureau Commander. The request must be made for specific individual operational periods and no wholesale or "blanket" deviation permissions will be allowed.
6. The BWC will be utilized to document encounters where Consent to Search is requested or a Probable Cause search is conducted.
7. It is the responsibility of the officer to periodically ensure that the BWC is still recording during the required activation. The indication that the BWC is recording can be confirmed either audibly or visually.
8. The use of any surreptitious recording function or "Stealth Mode" on the BWC is prohibited. At least one of the status indicators must be activated (auditory beeps, indicator light, or vibratory alert).
9. If not already activated, the BWC shall be activated to record any contact that becomes adversarial or in any situation that the officer believes its use would be appropriate or valuable to document the incident or encounter.
10. Whenever possible, officers should inform individuals that they are being recorded. In locations where individuals have a reasonable expectation of privacy, such as a residence, they may decline to be recorded unless the recording is being made in pursuant to an arrest or search of the residence or the individuals. 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.
11. If an officer fails to activate the BWC, fails to record the entire contact, or interrupts the recording, the officer shall document this in the report associated with the incident, and send an email to their supervisor before the end of the shift, indicating why a recording was not made, was interrupted, or was terminated. The supervisor should review the email and determine if the rationale was appropriate.
12. Members of the public shall not be allowed to review the recordings at the scene unless there is an immediate public safety need.

PROHIBITED RECORDING

Officers shall not intentionally use a BWC to record the following locations or circumstances:

1. Places where privacy expectations are paramount, such as, but not limited to: hospital emergency rooms, locker rooms, and restrooms, except in the following instances:
 - a. When all parties visibly or audibly recorded consent to such recording.
 - b. While conducting an arrest;
 - c. While executing a search warrant;
 - d. When all parties visibly or audibly recorded consent to such recording;
 - e. Under any other extraordinary circumstances that are likely to involve confrontations between police and members of the public, such as warrantless entry into a home pursuant to exigent circumstances.
2. While on the grounds of any public, private or parochial elementary or secondary school, except when:
 - a. responding to an imminent threat to life or health,
 - b. during custodial interrogations of juveniles,
 - c. when responding to an otherwise recordable incident involving only individuals known to police to be adults.
 - d. Inadvertent footage of juveniles will not be released.
3. Activity that is unrelated to a response to a call for service or a law enforcement/investigative encounter between an officer and a member of the public;
4. The BWC will not be used specifically to record fellow city employees except during an official PSIA investigation or a suspected violation of criminal, traffic, or local law; or during an officer's field training as prescribed by the FTO program.
5. Gruesome images, persons nude or exposed, sensitive human areas, but only if the privacy considerations attendant to such images cannot adequately be accommodated by subsequent redaction or pixilation and are so significant that they justify compromising the integrity of the recording by interrupting continuous recording;
6. Body cameras shall not be used for any intelligence-gathering efforts involving activities in which subjects are engaging in First Amendment protected speech, associations, or religion, such as but not limited to participation in peaceful protests, attendance at religious services or ceremonies, attending neighborhood or community engagement events or meetings, engaging in normal daily social activities that raise no reasonable suspicion of criminal activity, or delivering or attending a lecture, presentation, debate, or similar events;
7. Conversations among law enforcement personnel that are not participated in by members of the public, but only when this is not in conflict with the requirement for continuous recording as identified elsewhere in this SOP;
8. Officers will not record any Court proceedings, pre-trial conferences, or any other judicial proceedings, including those at the Magistrate's Office.
 - a. This does not prohibit an Officer, if equipped with a BWC, from activating it when responding to a disturbance or call for service within such a setting.
 - b. This does not prohibit an Officer, if so equipped, from demonstrating the placement or activation of a BWC when asked to do so as part of Court testimony or questioning.

DEACTIVATION

Once the BWC is activated, officers will continue to record until the conclusion of their involvement in an event. In most situations, conclusion of involvement in an event would be

signified by leaving the scene. Only under the following circumstances may an officer deactivate their BWC prior to concluding their involvement in an event:

1. When the officer's on-scene investigation is complete and they are prepared to complete a report. In situations where an individual is taken into custody or transported by MPD into the custody or care of another institution, the Officer's involvement is considered concluded when custody of the individual is transferred to the next agency (e.g., transport to the Dane County Jail)
2. When directed by the on-scene supervisor or with supervisory approval. If a supervisor directs the Officer to cease recording, the supervisor shall complete a report documenting the rationale for this decision.
3. Prior to conducting a strip search, the officer will record a 360-degree video of the location where the strip search will be conducted. During the actual strip search, the BWC shall be utilized to only capture audio of the event by positioning the camera away from the subject of the search.
4. When an officer receives an assignment such as traffic direction, crime scene security, or while awaiting other services such as crime scene processing or medical examiner transportation, etc. It is common for these assignments to last for extended periods of time, with minimal contact with the public. In these situations, the officer may deactivate their BWC without awaiting direction from a supervisor. If the officer becomes engaged in any contact that becomes adversarial they shall activate their BWC.
5. When taking statements from/conducting interviews of persons who are victims of a crime of a sexual nature or medical professionals providing information pertaining to related examination(s) of the victim. Upon completion of the interview, the BWC should be reactivated until completion of the event.
6. When taking statements from juvenile witnesses/victims. Upon completion of the interview, the BWC should be reactivated until completion of the event.
7. When requested to do so by victims or witnesses as a condition of their cooperation prior to beginning an interview, taking a statement, or gathering information (this applies only once the scene is orderly and the situation is under control and NOT to the relaying of initial suspect information to be disseminated to other officers or for the purpose of initial alerts). The individual's request to deactivate the BWC shall be captured on the BWC recording prior to deactivation. Upon completion of the interview, the BWC should be reactivated until completion of the event.
8. If it is determined that the interaction involves a known confidential informant while they are providing information regarding an investigation or potential investigation as an informant.
9. When officers are relaying/discussing information amongst themselves, in the absence of any parties to the incident. The BWC should be reactivated at the conclusion of this interaction.
10. Officers deactivating their BWC for any reason must indicate on the BWC recording their reason for deactivating prior to ending the recording. The deactivation shall also be documented in the corresponding report. Additionally, the officer must notify their supervisor of the deactivation and be able to articulate the reason for doing so.

OFFICER REVIEW OF BODY-WORN CAMERA FOOTAGE AND REPORT WRITING CONSIDERATIONS

1. Officers may review or receive an account of any electronic recording of an incident

prior to completing any required initial reports, statements, and interviews regarding the recorded event.

- a. If an officer is suspected of a violation of Code of Conduct or an SOP, or involved in an officer-involved critical incident or other serious use of force, the Department reserves the right to limit or restrict an officer from viewing the video file.
2. Officers shall not edit, alter, erase, duplicate, copy, share, or otherwise distribute BWC recordings in any manner without prior written authorization and approval of the Chief of Police or their designee.
 - a. Department members are not permitted to compile videos, screenshots, or still images based off of BWC footage, in order to create a standing database of suspects for future use. The use of such screenshots to identify unknown individuals related to open investigations is permitted.
 - b. In accordance with Madison General Ordinances 23.63 and 23.64, facial recognition technology will not be used with BWC footage.
3. Officers and Sergeants are not permitted to share their log-in or access credentials with any other personnel.
4. Officers are encouraged to inform their supervisor of any recordings that may be of value for training purposes.
5. Officers shall immediately inform their supervisor of any recordings that may contain illegal activity, a violation of SOP, or excessive use of force by a member of the law enforcement profession.
6. Officers shall note in incident, arrest, and related reports when recordings were made during the incident in question. However, BWC recordings are not a replacement for written reports.

DOWNLOADING OF DATA FROM BWC TO VENDOR-BASED DATA MANAGEMENT SYSTEM

1. Officers shall make every attempt to download any BWC data at the end of their shift
 - a. If this is not possible, Officers shall coordinate with a supervisor to ensure that the download occurs as soon as possible, but in no case shall the download be delayed past the Officer's work week.
 - b. If the Officer's BWC captured any instances of reportable force, the BWC shall be downloaded no later than the end of the Officer's shift.
2. Officers are required to enter any additional required data (such as, but not limited to: Officer identification, call type, case number, etc.) at time of video capture, download, or once available on the data management system.

COMMUNITY-CREATED CELL PHONE AND OTHER VIDEO RECORDINGS

1. Acceptance and Storage of Community-Created Cell Phone and Other Video Recordings
 - a. For any incident that is subject to recording via police body-worn cameras pursuant to this policy (whether the body-worn cameras were actually activated or not), the Department shall permit members of the public to submit or otherwise upload recordings of the same incident. Such footage shall be treated as if it were also body-worn camera footage, in accordance with all other policies outlined within this document.

RECORDS RETENTION, RELEASE, AND REDACTION

All images and sounds recorded by the BWC are the exclusive property of this Department. Requests for any data associated with the BWC program shall be processed in accordance with State and Federal Law, and the Department's Records Inspection and Release SOP.

1. Retention

- a. Body camera video footage shall be retained for six (6) months (180 days per MPD approved Records Retention/Disposition Authorization) unless that video is tagged as evidentiary in value, has a pending public records request, is the subject of litigation, or is identified as relevant to a PSIA investigation.
- b. In such cases where an aforementioned exception applies, the record will be retained in accordance with the prevailing retention schedule for those records.

2. Release

- a. All video footage of an interaction or event captured by a body camera, if that interaction or event is identified with reasonable specificity and requested by a member of the public, shall be provided "as soon as practicable and without delay" to the person or entity making the request to the extent permitted by and in accordance with the procedures for requesting and providing government records under the Department's Records Inspection and Release SOP, and in accordance with Wisconsin Public Records Law and related State and Federal laws.
- b. BWC footage associated with open and active criminal investigations and/or open and active Internal Affairs investigations shall not be released to the public prior to the completion of that investigation.
- c. All video footage taken or received by the Madison Police Department related to a referred criminal investigation shall be forwarded to the District Attorney's Office upon their request in accordance with Wis. Stat. 971.23, or as soon as practicable thereafter.
- d. BWC footage associated with Officer-Involved Critical Incidents or other incidents which are investigated by an outside Law Enforcement Agency may only be released upon consultation with that agency which has investigative responsibility.
 - i. Regardless of the final decision, the Chief of Police, or designee, shall issue a public update on the status of any such OICI within six hours, with a second update to follow twelve hours after the first.
 - ii. In addition, The Chief of Police, or designee, may release BWC footage as soon as reasonably prudent.
- e. Members of the public are not allowed to view BWC recordings outside of the Open Records process unless permission has been obtained from the Chief of Police, in accordance with public records law and as prescribed by Departmental Policy.

3. Redaction

- a. Redactions of Madison Police Department body camera records shall be done in accordance with State and Federal law under Wis Stat. 19.35 and corresponding laws. Additionally, MPD will follow state law regarding law enforcement body camera usage as defined in Wis. Stat. 165.87.
- b. MPD will retain original, unedited, un-redacted versions of any record released, in accordance with MPD Records Retention/Disposition Authorization, and current State and Federal laws.

SUPERVISORY RESPONSIBILITIES (PILOT PROGRAM-SPECIFIC)

1. Supervisor Responsibilities

1. Supervisory personnel shall ensure that officers equipped with BWC devices utilize them in accordance with policy and procedures defined herein.
2. Supervisors are responsible for ensuring that affected officers are equipped with a functioning BWC at the beginning of each shift.
3. Upon receiving notification of any damage or malfunction of a BWC that would render the camera no longer operational, the supervisor will notify the Body Worn Camera Administrator in order to obtain replacement equipment.
4. In the event an officer loses or damages their BWC or any of the issued accessories, the supervisor will initiate a lost equipment memorandum. A copy of this memo should be sent electronically to the Body Worn Camera Administrator. In the case where an officer had or should have had video on the BWC that had not yet been uploaded to the remote digital storage system, the Professional Standards Division may investigate the loss or damage of the BWC, if not already included within another administrative investigation.
5. Supervisors will ensure that all recorded events are being documented by the officer in the associated reports and citations.
6. Supervisors will ensure that any recordings relating to an administrative investigation are downloaded and stored for inclusion in the investigative file prior to their scheduled purge date from the remote digital storage system.

2. Supervisor Review and Auditing

1. All supervisors are expected to routinely review BWC recordings created by their direct subordinates.
 - i. On a monthly basis, supervisors shall audit the BWC footage of their Officers for the previous month, ensuring that videos are being labeled and that the labeling is of the correct formatting.
 - ii. During this review supervisors shall view a minimum of 2 videos from each officer under their supervision, looking at the content of the video. These videos shall be a minimum of 10 minutes each.

- iii. In addition, supervisors shall review BWC footage (and associated reports) of any uses of force and vehicle/foot pursuits for all officers under their purview
 - iv. While viewing these videos supervisors should be looking for any videos that would be beneficial to other officers in terms of training videos. Any evidence of employee misconduct shall be immediately reported to PSIA.
3. Notifications of the existence of recordings which may be beneficial for training purposes shall be forwarded via the chain of command to the Commanding Officer of the Training Division for determination of training value and use. If an involved officer objects to the use of a recording for training purposes, they may submit their objection, in writing, via the chain of command to both the Commanding Officer of the Training Division and the Chief of Police to determine whether the training value outweighs the officer's objection.
4. Monthly, the Body Worn Camera Administrator will audit randomly selected videos. The number of videos selected for auditing, and the frequency of the selection process, will be determined by the Professional Standards Division to ensure that the number of employees audited each month represents a random samples of videos. Minimum of ten (10) percent of the total number of employees eligible for auditing.
 1. In addition to the random auditing process, the Professional Standards Division will review BWC audio and video recordings on an as-needed basis to conduct internal investigations and inquires.