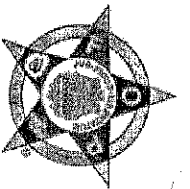


# **Fraternal Order of Police**

## **Body-Worn Camera (“BWC”) Recommended**

### **Best Practices**

# Letter from Chuck Canterbury to FOP Members



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Dear Members:

11/21/14

The reality of body-worn cameras ("BWCs") is upon us. It seems there are as many different policies as there are agencies that use BWCs. While there is no perfect policy and no "one-size-fits-all" solution, there are common issues and concerns that should be addressed in carefully considered policies.

The attached document attempts to address as many of the concerns as possible regarding the use of BWCs. Included among these are: privacy of officers as well as citizens; disciplinary audits of recordings; when and where to activate/deactivate the BWC; storage of and access to recordings by officers; use of recordings in investigations; and, various other administrative issues.

The attached document is not intended to be a preferred model policy as much as it is intended to raise awareness of the various issues associated with the use of BWCs and to provide suggested language to address those issues. Anytime an agency introduces new equipment that has the potential to impact working conditions or discipline, those in bargaining units with collective bargaining should immediately demand bargaining over the implementation, use, and impact of the equipment. Those in non-collective bargaining workplaces should still engage agency management in a discussion of these issues and attempt to obtain intelligent and reasonable policy.

It is our hope that the attached document will be viewed as intended and that it will be of assistance in both scenarios. While we do not expect that the attached document would be adopted in its entirety, and there may be provisions in it that you would not use at all, we do expect that it will make you think about the various issues caused by BWC use and lead to good faith discussions of those issues. It is anticipated that making policy makers and officers alike aware of the significant issues created by BWCs, we can facilitate informed discussion leading to better policies.

As always, we at the National Fraternal Order of Police are ready, willing, and able to provide assistance in furtherance of our mission to improve the lives and working conditions of law enforcement officers everywhere. Please do not hesitate to contact us for to discuss any concerns or questions regarding BWCs or any other issues with which you need assistance.

Fraternally,

Chuck Canterbury

## **000.1 POLICY**

This Policy is intended to outline the objectives and intent of the use of **Body-Worn Cameras (“BWC”)** in conjunction with the BWC Procedure that follows. Procedures are enumerated with a prefix of “PR.”

Advances in technology have enhanced the Department’s investigative and evidence gathering capabilities as well as officer safety and security. These same advances increase concerns of encroachment on the right to privacy of both citizens and employees. The objective of this policy is to increase the efficiency and integrity of the Department’s law enforcement mission, increase officer safety, and safeguard the rights of the citizens and employees in the use of such technology. The Department shall at all times employ and enforce this policy consistent with the co-equal, non-competing interests of providing the best possible law enforcement services to the community and the best possible working environment for Department employees.

Selected uniformed field assignments may be equipped with BWCs. Use of this technology provides for video and audio documentation of a police officer’s citizen contacts and enforcement and investigative activities from the perspective of the officer’s person. It is anticipated that the use of this equipment will promote officer safety, result in greater transparency, more effective prosecution, and improve the investigation of citizen complaints and protect against false allegations of officer misconduct. This policy is intended to achieve an appropriate balance between the benefits of BWC devices and civilians’ and officers’ reasonable expectations of privacy.

The BWC device is used to record certain activities and create a visual and audio record to supplement an officer’s report. Video and audio recordings of enforcement or investigative actions are evidence and public record, and, therefore, subject to rules of evidence and laws of disclosure. It is in the best interest of justice that the Department regulate and control all forms of evidence collection and storage in accordance with the laws and rules of evidence as well as the retention and dissemination of public records and information.

## **000.2 PURPOSE AND SCOPE**

Certain uniformed law enforcement assignments within the Department may be equipped with a BWC. This system will be used to document events and capture data to be preserved in a Web-based digital storage facility”) Once captured, these recordings cannot be altered in any way and are protected with multiple layers of encryption. The Department has adopted the use of BWC technology to accomplish the following objectives:

- (a) To promote officer safety.
- (b) To document statements and events during the course of an incident.
- (c) To enhance the law enforcement operator’s ability to document and review statements and actions for both internal reporting requirements and for courtroom preparation/presentation. Officers shall have access to view and utilize the recordings from their BWC for training purposes and to further investigate their cases.
- (d) To preserve visual and audio information for use in current and future investigations.
- (e) To provide an impartial measurement for self-critique and field evaluation during officer training.
- (f) To enhance the public trust by preserving factual representations of officer-citizen interactions in the form of video and audio recordings.

## 000.2.1 DEFINITIONS RELATED TO THIS POLICY

**Audio Recording** – The electronic recording of conversation, spoken words, or other sounds

**Body-Worn Camera (“BWC”)** – Equipment worn by a Department member that captures audio/video and audio signals and includes at a minimum a camera, microphone, and recorder

**Controller Switch** – Master on/off power

**System Administrator (“SA”)** – Supervisor responsible for inventory, control, and operational maintenance of the BWC system equipment

**Event Record Button** – Push-button activation switch located in the center of the BWC device

**Web-Based Storage Facility** – A virtual warehouse that stores digitally encrypted data in a highly secure environment accessible to personnel based on assigned levels of security clearance (i.e., an online Web-based digital media storage facility)

**Evidence Transfer Manager (“ETM”)** – A router with built-in docking stations physically installed at Department work site. The ETM simultaneously recharges the device while uploading all digitally encrypted data to the Web Based Storage Facility.

**Master System Administrator (“MSA”)** – Supervisor(s) authorized by the Department and assigned to the Information Support Section with full access to user rights; assigns and tracks master inventory of equipment; controls passwords and end-user security access rights; is responsible for quality checks of video, audio, and sound quality; coordinates with SAs; and serves as liaison to the BWC manufacturer’s representatives on operational and equipment-related matters.

**Media or Data** – For the purposes of this procedure, references to media or data include photographs, audio recordings and video and audio footage captured by the BWC device. The media is stored digitally and encrypted.

**Remote Camera/DVR** – Cable-tethered camera/DVR affixed to an approved mounting. Accessories provided with the system may offer a variety of mounting options, such as on glasses, collars, epaulettes, helmets, etc.

**Video Recording** – The electronic recording of visual images with or without audio component

### **000.3 REQUIRED ACTIVATION OF THE BWC**

Although this policy identifies those situations in which activation of the BWC is required, an officer has discretion to manually activate the system any time the officer believes it would be appropriate or valuable to document an incident. The BWC shall only be activated for legitimate law enforcement purposes.

Activation of the BWC is required in the following situations:

1) All field contacts involving actual or potential criminal conduct within video and audio or audio range, including:

a) Traffic stops (to include, but not limited to, traffic violations, stranded motorist assistance, and all crime interdiction stops)

b) Emergency responses

c) Vehicle pursuits

d) Suspicious vehicles

e) Arrests and transports

f) Vehicle searches

g) Consent to Search

h) Physical or verbal confrontations or use of force

i) Pedestrian checks/Terry Stops

j) DWI investigations including field sobriety tests

k) Domestic violence calls

l) Statements made by individuals in the course of an investigation or complaint

m) Advisements of Miranda rights

n) Seizure of evidence

o) Swat Rolls

p) High Risk Warrants

q) On all calls for service

- 2) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.
- 3) Any other legitimate law enforcement contact where the officer believes that a recording of an incident would be appropriate. In exercising this discretion, officers should be aware of and sensitive to civilians' reasonable privacy expectations.
- 4) The BWC may not be used for the purpose of intimidating an individual or to discourage an individual from observing police activity, making appropriate inquiries of an officer, or making a complaint.
- 5) Officers may happen upon a situation requiring immediate action to prevent injury, destruction of evidence, or escape. In these situations, officers should activate the recorder if doing so does not place them or others in danger. Otherwise they shall activate the camera at the first available opportunity when the immediate threat has been addressed. The officer will document the reasons for the delayed activation in a supplement or after action report.

## **000.4 OFFICER RESPONSIBILITIES**

At the start of each shift, uniformed officers shall properly equip themselves with a BWC to record video and audio in the field. Shift supervisors shall ensure that each officer has adequate recording media for the entire duty assignment. Officers assigned a BWC shall test the equipment prior to use according to manufacturer guidelines and testing procedures. Officers shall immediately report insufficient recording media or malfunctioning BWC systems to an immediate supervisor.

#### **000.4.1 SUPERVISOR RESPONSIBILITIES**

Supervisors shall issue and inspect BWC equipment to assigned personnel to ensure sufficient recording media and proper operability per testing protocols provided under training.

Non-functioning BWC systems shall not be placed into service and the equipment malfunction shall be immediately reported in writing to the supervisor's respective SA.

The SA shall be responsible for coordinating maintenance or repair issues directly to the MSA.

## **000.4.2 MASTER SYSTEM ADMINISTRATOR (MSA)**

The MSA is a supervisor authorized by the Department with full access to use rights.

The MSA is responsible for:

- a) Assigning and tracking inventory of equipment;
- b) Password control;
- c) End-user security access rights;
- d) Quality checks of video and audio as well as sound quality;
- e) Coordinating with the System Administrators; and
- f) Serving as liaison to manufacturer's representatives on operational equipment related matters.

## **000.5 CESSATION OF RECORDING**

Once the BWC system is activated it shall remain on and shall not be turned off until an investigative or enforcement contact or incident has concluded. For purposes of this section, conclusion of an incident has occurred when an officer has terminated contact with an individual, cleared the scene of a reported incident, or has completed transport of a civilian or an arrestee. Refer to PR000.4 (b) for exceptions to this requirement. In any instance in which cessation of the recording prior to the conclusion of the incident may be permitted, the officer should seek and obtain supervisory approval prior to deactivating the BWC, whenever possible. If supervisory approval cannot be reasonably obtained, officers must document on the BWC the reason for termination of the recording prior to deactivation of the BWC by noting the date, time, and the reason for the deactivation on the recording and in subsequent written reports as applicable.

## 000.6 PROHIBITED AUDIO/VIDEO RECORDINGS BY EMPLOYEES IN THE WORK PLACE

The BWC **shall not** be used to record non-work-related personal activity. The BWC shall not be activated in places where an employee has a reasonable expectation of privacy, such as locker rooms, dressing rooms, or restrooms. If a criminal offense has occurred in these locations, the BWC may be activated and every precaution shall be taken to respect the dignity of the victim by avoiding recording video and audio of persons who are nude or when sensitive areas are exposed. The BWC **shall not** be intentionally activated to record conversations of fellow employees during routine, non-enforcement-related activities without their knowledge or during rest or break periods, or in designated break areas unless an active pre-existing investigation is underway and authorized by law.

## **000.7 TRAINING**

All members who are authorized to use BWC equipment must complete mandatory training provided by the Department to familiarize themselves with the recording system and Departmental procedures prior to its use.

# **BODY-WORN CAMERA (“BWC”) PROCEDURE**

## **PR000.1 PURPOSE**

The following procedures govern the operation of **Body-Worn Camera (“BWC”)** devices issued by the Department. Uniformed Department members assigned these devices are only authorized to record investigative and/or enforcement activities using departmentally-assigned equipment following the practices prescribed within this procedure.

## **PA-00.2 GENERAL PROCEDURES**

- (a) Department members who have completed authorized training sanctioned by the Department shall be the only personnel authorized to use a BWC in an operational setting.
- (b) Video and audio recording devices shall not be used in Department locker rooms, restrooms or any other place where there would be a reasonable expectation of officer's privacy, including, without limitation, break rooms, rest areas, or off-duty gatherings. If a criminal offense has occurred in these locations, the BWC may be activated and every precaution shall be taken to respect the dignity of the victim by avoiding recording video and audio of persons who are nude or when sensitive areas are exposed. Recordings of Department personnel shall not be made unless an authorized pre-existing investigation is being conducted. Only the Chief/Sheriff or the Chief's/Sheriff's designee may authorize such recordings, and such authorization must be in writing before the recording is made. If such authorization is not given, the recording shall be destroyed and shall not be used for disciplinary purposes.
- (c) Department members shall not intentionally record confidential informants or undercover officers unless the recording is conducted specifically for the purpose of documenting a sting, drug purchase/sale, or other undercover operation in furtherance of a criminal investigation.

(d) BWCs, when worn by Patrol Officers, shall be worn in a manner consistent with the manufacturer's recommendations. Mounting options for SWAT or other specialty units shall provide for a frontal view in accordance with uniform specifications (e.g., helmets or other protective gear).

(e) BWCs shall not be used for the purpose of conducting Departmental administrative investigations, including undercover/plainclothes operations, without the prior written authorization of the Chief/Sheriff or the Chief's/Sheriff's designee. However, this requirement shall not restrict internal investigators' access to or review of BWC recordings when investigating complaints of misconduct.

(f) If an officer believes that a recorded event may lead to a citizen complaint, he/she shall bring the recording to the attention of his/her immediate supervisor as soon as possible. The supervisor should review the recording and conduct any further investigation that the supervisor deems appropriate. The Department shall not solicit citizen complaints. If an officer self-reports minor violations of policy (i.e., any violation of policy that would by policy or practice result in a suspension of 30 hours or lesser discipline) and no citizen complaint is received, the Department shall not take disciplinary action against the officer. Officer shall be granted such amnesty once per each 180 days. If a citizen complaint is received, the officer's self-reporting shall mitigate the discipline to a verbal counseling. Failure to self-report shall not be a basis for additional discipline.

- (g) Department members shall not make covert recordings of conversations with other Department employees, except as provided by policy.
- (h) The assigned MSA shall coordinate access requests to the recorded events for officers and investigators for legitimate law enforcement purposes or as directed by the Chief/Sheriff. Officers shall have unlimited access to view their own recordings at any time via issued usernames and passwords. Officers shall not have the ability to edit, delete, or otherwise modify their own recordings
- (i) Department members are not authorized to make copies of any recordings for their personal use and are prohibited from using a recording device (such as a phone camera or secondary video and audio camera) to record media from the Web Based Storage Facility.
- (j) When handling calls for service or incidents involving the treatment of individuals at a medical facility, Department members may be required to restrict use of a BWC in accordance with facility privacy protocols according to state law. Where facility protocols or state law do not allow for the recording of an event for which recording would otherwise be required, an officer must notify his or her supervisor as soon as reasonably practical, and shall document the reasons for the failure to activate the BWC in the incident report.

(k) In any instance in which cessation of the recording prior to the conclusion of an incident may be permitted, the officer must seek and obtain supervisory approval prior to deactivating the BWC. If supervisory approval cannot be reasonably obtained, the officer must document on the BWC the reason for termination of the recording prior to deactivation of the BWC and document the date, time, and reason for the deactivation on the recording and in subsequent written reports as applicable.

(l) Whenever an officer is subject to internal administrative investigation, discipline, or questioning during an internal administrative investigation, the officer and his or her representative or legal counsel shall be given an opportunity to review all relevant recordings prior to being questioned.

### PR000.3 BODY-WORN CAMERA MODES OF OPERATION

- (a) **Pre-Event Buffering Mode:** Device feature where the camera continuously records and holds the most recent 30 seconds of video and audio prior to record activation. With this feature, the initial event that causes the officer to activate recording is likely to be captured automatically, thereby increasing the capability of recording the entire activity.
- (b) **Record Mode:** In this mode, the BWC device saves the buffered video and audio and continues recording video and audio for up to eight hours or the life of the battery. BWC devices should be equipped to provide a manner to save the buffered video along with actions recorded after activation of the record mode.
- (c) Officers shall be permitted to disable or cover the blinking LED for operational safety considerations so as to limit the officers' exposure or visibility. This may be done at the beginning of each shift as long as the officer is able to verify at the beginning of the shift that the modes are operating in accordance with the manufacturer's specifications.

## **PR000.4 OPERATIONAL PROTOCOLS**

- (a) The BWC shall be worn at all times while on duty when assigned this device.
- (b) The BWC shall be utilized by any Department member assigned this device during all investigative or enforcement contacts (see Policy 000.3 – Required Activation of the BWC). However, there may be limited circumstances where the respect for an individual's privacy or dignity outweighs the need to record an event (e.g., a victim traumatized following a violent assault). Where an officer believes such circumstances exist, or that use of a BWC would impede or limit the cooperation of a victim or witness during an investigative contact, an officer may deactivate the BWC after receiving authorization from a supervisor consistent with PR 000.2(k). Department members have discretion whether to activate a BWC during consensual contacts of a non-criminal nature.
- (c) Department members issued a BWC shall place the device in the Record Mode as soon as practical at the onset of a given situation.
- (d) Once in the Record Mode, Department members shall continue to record until the completion of the event, or they have left the scene (this includes recording of statements).

- (e) Additional arriving units to a scene shall place their BWC in the Record Mode as soon as practical (if so equipped), and continue to record until the completion of the event, or they have left the scene (this includes recording of statements).
- (f) BWC equipment will be assigned with priority given to each of the primary patrol shifts in each patrol area and other uniform operations assigned under the division based on quantity of operational units in the Department's inventory.
- (g) Inspection, general care, and maintenance of a BWC shall be the responsibility of the authorized Department member who has been issued this equipment. BWC equipment shall be operated in accordance with the manufacturer's recommended guidelines, Department training and associated Department policies/procedures.
- (h) Prior to beginning each shift, the assigned Department member shall perform an inspection to ensure that the Body-Worn Camera is performing in accordance with the manufacturer's recommendations. If problems are encountered with any component of the system, the BWC equipment will not be used.

- (i) Malfunctions, damage, loss or theft of BWC equipment shall be reported immediately by the assigned Department member to an immediate supervisor. The Department member's immediate supervisor shall be responsible for providing written notice to the SA documenting the suspected cause of equipment failure or corrective action initiated related to possible misuse. All lost or stolen BWCs shall be documented in an incident report. Officers shall not be disciplined or be responsible for damage to BWC equipment that occurs in the ordinary course of duty.
- (j) Once the BWC is activated in the Record Mode for the purpose of documenting an investigative or enforcement contact, it should remain "on" until the incident has reached a conclusion or until the Department member leaves the scene.
- (k) When the BWC is used in an investigative or law enforcement contact, this fact will be documented on any citation, summons, and/or report prepared.
- (l) Whenever a Department member obtains a video and audio statement, the fact that the statement was recorded will be listed in the incident report. A video and audio statement is not a replacement for a written or tape-recorded statement.

- (m) Department members shall not use electronic devices or other means in order to intentionally interfere with the capability of the BWC equipment.
- (n) Department members assigned a BWC shall not erase, alter, reuse, modify, destroy, abuse, or tamper with BWC audio-video and audio recordings or the device.
- (o) Department members are to select a system-defined category for each digital recording (e.g., field interview, case file, citation, traffic stop, traffic accident, miscellaneous, training, or other appropriate category listed for the event, provided, however, that miscellaneous shall be used only where the activity does not reasonably fall within another category). Specific instructions on system use are provided through training.
- (p) Digital Recordings shall be preserved in accordance with state law, for at least two years, or if a case is under investigation or litigation longer than two years, at least three years after the final disposition of the matter (including appeals) unless a written request is made to store them for a longer period of time for a legitimate law enforcement purpose.
- (q) When an incident arises that requires the immediate retrieval of a BWC digital recording (e.g., serious crime scenes, officer-involved shootings, and Department vehicle crashes) a supervisor from the involved member's chain of command or the assigned investigator shall respond to the scene to secure the device and maintain a chain of custody. Subject officers shall not be questioned about critical incidents before being given an opportunity review the recordings.

## **PR000.5 CHARGING & UPLOADING PROCEDURE**

At the end of their shift, a Department member issued a BWC shall place the device into an open slot on the docking station. This will allow for recharging of the device and media or data transfer from the BWC through the docking station to the Web Based Storage Facility. At the conclusion of recharge/upload cycle, the device is automatically cleared of all previously recorded data. The BWC device shall not be removed from the ETM until media or data has been uploaded and the battery has been fully recharged. When complete, a green light will illuminate on the device's associated ETM docking port signifying the BWC is ready for use. Under normal use (routine shift), a recharge/upload cycle can be expected to take between one to three hours to complete.

## **PR000.6 AUTHORIZED USER ACCESS TO UPLOADED MEDIA OR DATA**

General access to digital recordings shall be granted to Department-authorized users only. It is the responsibility of authorized users to keep their username and password confidential. Accessing, copying, or releasing any recordings for other than official law enforcement purposes is strictly prohibited, except as required by law or this policy and procedure.

- (a) A Department member who has been assigned a BWC device may review his or her own BWC recording to help ensure accuracy and consistency of accounts. This can be done by accessing the videos in a manner consistent with the storage and viewing procedures. The original recordings shall only be viewed by member(s) who are assigned a BWC device through means authorized by The Department.
- (b) A Department member involved in any use of force incident or accident causing injuries will be permitted, but will not be required, to review their own BWC video and audio recordings prior to providing a recorded statement or completing reports. Witness Department members will be allowed to review BWC video and audio.

- (c) The Chief/Sheriff may authorize an investigator to review specific incidents contained on BWC recordings if that investigator is participating in an official Department investigation of a personnel complaint, claims investigation, administrative inquiry, or criminal investigation.
- (d) A supervisor may review specific BWC media or data for the purpose of training, performance review, critique, early intervention inquiries, civil claims, and administrative inquiry. Routine audits of recording devices shall be used for maintenance and training purposes only and not for discipline, absent additional corroborating evidence or civilian complaint.
- (e) Field Training Officers may use media captured via a BWC device to provide immediate training to recruits and to assist with the completion of the Daily Observation Report (DOR).
- (f) Under no circumstances shall members with access to BWC media or data files be allowed to use, show, reproduce or release recordings for the purpose of ridicule or embarrassment of any officer or individual or for other non-law enforcement related purposes. This includes submission of any portion of a BWC recording to a media organization unless release has been approved in advance by the Chief/Sheriff or his designee.

## **PR000.7 DELETION OF UNINTENTIONAL RECORDINGS**

In the event of an unintentional activation of BWC equipment during non-enforcement or non-investigative activities (e.g., in the restroom, during a meal break, or in other areas where reasonable expectation of employee privacy exists), a Department member may request a recording deletion. An interoffice correspondence detailing the circumstances of the unintentional recording will be forwarded via the chain of command to the member's appropriate supervisor. If approved, the actual deletion requires two-party authorization. One of those parties will be the member's Commander; the other will be the MSA. Only the MSA shall facilitate the actual removal of any record approved for deletion. Records related to any request for the deletion of records shall be maintained by the MSA.

**Grand Lodge Fraternal Order of Police**

**[www.grandlodgefop.org](http://www.grandlodgefop.org)**

# TAKE AWAY POINTS

- Body worn cameras are here and they are here to stay.
- The benefits probably outweigh the detriments.
- Body worn cameras are not a panacea – the camera doesn't lie, or does it??
- The law on how body worn cameras effect privacy rights, etc. is developing.
- As law enforcement labor leaders, you must have a seat at the table when Body Worn Camera Policy is developed.