

Body Worn Cameras

Date of Issue: September 9, 2014 (Rev. January 30, 2018)
General Order: 01-2014
Subject: Body Worn Camera Policy
Issued By: Annette M. Mecklenburg, Chief of Police

PURPOSE (Ohio Collaborative 12.2016.4a)

To set forth the department policy for the use of body worn cameras (BWCs) by members of this department while in the performance of their duties. BWCs allow for accurate documentation of police-public contacts, arrests and critical incidents. They also serve to enhance the accuracy of an officer's reports and testimony in court.

POLICY (Ohio Collaborative 12.2016.4a)

The Cleveland Heights Police Department may provide members with access to body worn cameras for use during the performance of their duties. The use of BWCs is intended to enhance the mission of the Department by accurately capturing contacts between members of the Department and the public

It is the policy of the Department that Officers shall activate the BWC when such use is appropriate to the proper performance of his/her official duties, where the recordings are consistent with this policy and the law.

This policy does not apply to surreptitious interception of communications for lawful authorized investigative purposes.

PRIVACY (Ohio Collaborative 12.2016.4d)

All recordings made by personnel acting in their official capacity as members of this Department shall remain the property of the Cleveland Heights Police Department and should not be considered private.

I. OFFICER RESPONSIBILITIES (Ohio Collaborative 12.2016.4 b & c)

Prior to going into service, the Officer in Charge will be responsible for making sure that those officers under their command are equipped with a body worn camera issued by the Department and that the BWC is in good working order. Uniformed officers should wear the recorder in a conspicuous manner on their uniformed shirt or outer ballistic vest carrier. Any officer assigned to a non-uniformed position may carry an approved portable recorder upon approval of their Officer in Charge.

When using a recorder, the officer shall record his/her name, badge number, and the current date and time at the beginning and the end of the shift or other period of use regardless of whether any activity was recorded.

II. REQUIRED ACTIVATION OF BWC (Ohio Collaborative 12.2016.4 b & c)

This policy is not intended to describe every possible situation in which the BWC may be used. At no time is a member expected to jeopardize his/her safety in order to activate the BWC. However, the BWC should be activated in required situations as soon as practicable. Once started, recordings should continue without interruption until the contact ends.

The following are situations that require the activation of the BWC:

- 1). All contacts with citizens in the performance of official duties.
- 2). Whenever possible, officers should inform individuals that they are being recorded. In locations where a person has a reasonable expectation of privacy, such as in their residence, the person may request to not be recorded. The request can be granted except in situations where the individual is the subject of a criminal investigation, arrest, search or other circumstance that an officer's good sense indicates to him/her that the matter should continue to be recorded.
 - a. If the officer fails to activate the BWC, fails to record the entire contact or interrupts the recording, the officer shall document the reason.
- 3). Traffic stops to include, but not limited to, traffic violations or when assisting a stranded motorist.
- 4). Suspicious person/vehicle calls.
- 5). Vehicle searches.
- 6). Consensual encounters.
- 7). OVI investigations including field sobriety checks.
- 8). Physical or verbal confrontations or use of force situations.
- 9). Any other circumstance where the officer believes that a recording of an incident would be appropriate.

III. CESSATION OF RECORDING (Ohio Collaborative 12.2016.4 b & c)

Once activated, the recording system should remain on until the incident has concluded. For purposes of this section, conclusion of an incident has occurred when all arrests have been made, arrestees have been transported and all witnesses and victims have been interviewed or in situations where an officer has cleared the scene of his/her assignment. Further, recording may cease if an officer is simply waiting for a tow truck or a family member to arrive, or in other similar situations.

If an interruption occurs, the Officer will document the reason for the interruption or termination of the recording. If an Officer feels it necessary to stop recording (e.g. talking to a victim of sexual assault or confidential informant) within the constraints of policy, the Officer will verbally indicate their intent to stop recording before stopping the BWC, and upon reactivation, state that the camera was restarted. Documentation can be in the form of an incident report or other means approved by the Chief of Police.

IV. WHEN ACTIVATION IS NOT REQUIRED (Ohio Collaborative 12.2016.4 b & c)

Activation of the recording system is not required when exchanging information with other officers or during breaks, lunch periods, report writing, or when not in service.

V. PROHIBITED USE OF PORTABLE RECORDERS/BWC (Ohio Collaborative 12.2016.4 b, c & d)

No member of this department may surreptitiously record a conversation of any other member of this department except with a court order or when lawfully authorized by the Chief of Police for the purpose of conducting a criminal or administrative investigation.

The BWC will not be activated in places where a reasonable expectation of privacy exists, such as dressing rooms or restrooms. Recordings shall not be used by any member for the purpose of embarrassment or ridicule.

Officers will not allow citizens to review the recordings.

Members accessing, copying or releasing of BWC recordings for other than law enforcement purposes are prohibited and subject to discipline.

Officers are prohibited from using department-issued BWCs for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity.

Officers are also prohibited from retaining recordings of activities or information obtained while on-duty. Officers shall not duplicate or distribute such recordings except for authorized legitimate department business purposes. All such recordings shall be retained at the Department. Officers are prohibited from using personally owned recording devices while on-duty (Memorandum 02-1996[rev]).

Any officer who may have questions regarding the application of this policy is encouraged to seek clarification from their Officer in Charge.

VI. RETENTION OF RECORDINGS/ RECORDINGS AS EVIDENCE (Ohio Collaborative 12.2016.4d)

Any time a member records any portion of a contact that the member reasonably believes constitutes evidence in a criminal case, the officer will advise their Officer in Charge who will make the appropriate entry in case management.

Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter the member should promptly notify a supervisor of the existence of the recording. The supervisor so notified will notify the Deputy Chief of Police in writing of the existence of such recording.

VII. COPIES OF ORIGINAL RECORDING (Ohio Collaborative 12.2016.4 b & c)

Upon proper request, a copy of the original recording will be made for use as authorized in this policy. Recordings may only be released in response to a court order upon approval by the Chief of Police

VIII. REVIEW OF RECORDED BWC FILES (Ohio Collaborative 12.2016.4 c & e)

All BWC recordings are the property of the Cleveland Heights Police Department. Dissemination outside of the agency is strictly prohibited, except to the extent permitted or required by law.

When preparing written reports, members should review their recordings as a resource. However, members should not use the fact that a recording was made as a reason to write a less detailed report.

Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct, reports of meritorious conduct or whenever such recordings would be beneficial in reviewing the member's performance i.e. completion of a PD101.

Recordings may be reviewed in any of the following situations:

- a. For use when preparing statements
- b. By a supervisor investigating a specific act of officer conduct
- c. By a supervisor to assess officer performance
- d. To assess proper functioning of BWC systems
- e. By department investigators who are participating in an official investigation, such as a personnel complaint, administrative inquiry or a criminal investigation
- f. By the media through proper process with permission of the Chief of Police.
- g. To assess possible training value, recordings may be shown for training purposes. In no event shall any recording be used or shown for the purpose of ridiculing or embarrassing any employee.

IX. STORAGE AND RETENTION REQUIREMENTS (Ohio Collaborative 12.2016.4d)

All BWC files shall be securely downloaded periodically and each file shall contain information related to the date, BWC identifier and assigned Officer. The procedures for downloading files from BWC to the server shall be in accordance with manufacturer and agency agreements.

All recordings shall be retained for a period consistent with the requirements of the record retention schedule but in no event for a period less than 30 days.

X. RELEASE OF RECORDINGS (Ohio Collaborative 12.2016.4d)

Recordings made using BWCs pursuant to this policy are department records and may only be released as provided in the Release of Records and Information Policy or for other authorized legitimate department business purposes. Any request for the release of BWC recordings will be directed to the Chief of Police or designee. The release of recordings will be consistent with Ohio Public Records Law (149.43). Accessing, copying or releasing files for non-law enforcement purposes is strictly prohibited.

XI. SYSTEM OPERATIONAL STANDARDS (Ohio Collaborative 12.2016.4c, d & e)

Officers shall not edit, erase, alter, reuse, share, modify or otherwise tamper with BWC recordings. All access to BWC files must be specifically authorized by the Chief or his/her designee.

XII. SUPERVISORY RESPONSIBILITIES (Ohio Collaborative 12.2016.4 c & e)

Supervisory personnel shall ensure that officers equipped with BWCs utilize them in accordance with this policy.

On a monthly basis, supervisors will randomly review BWC recordings to ensure that the equipment is operating properly and that officers are using the devices in accordance with the procedures outlined within this policy.

Supervisors shall run a report through CAD to determine the Officer's activity for that shift and verify that the Officer activated his/her body camera in accordance with policy. After verification has been completed, a PD105 will be completed – with the CAD sheet attached – and forwarded to the Chief's Office by the 5th of each month.

In the event that it is determined an Officer is not in compliance with the BWC policy, that Officer will be audited the following month to assure his/her compliance and a PD105 will be forwarded to the Chief of Police or his/her designee.

XIII. REQUIRED ACTIVATION OF BWC WHILE WORKING EXTRA DUTY EMPLOYMENT (Ohio Collaborative 12.2016.4b)

All Officers who are working approved extra duty employment are required to be equipped with a Body Worn Camera issued by the Police Department and ensure that the BWC is in good working order prior to the start of employment. The BWC is to be activated in accordance with this General Order.

Refer to General Order 03-2013 (issued 3-29-13) for policies and procedures regarding Secondary Employment.

XIV. TRAINING (Ohio Collaborative 12.2016.4f)

All BWC operators and supervisors will complete an annual review of this directive and complete knowledge testing on the proper use of the equipment. Testing may include the following topics:

- a. All practices and protocols of this policy.
- b. An overview of relevant state and federal laws governing consent, evidence, privacy, and public disclosure.

- c. Procedures for operating the equipment safely and effectively.
- d. Scenario-based exercises that replicate situations officers might encounter in the field.
- e. Procedures for downloading and tagging recorded data.
- f. Procedures for accessing and reviewing recorded data (restricted to personnel authorized to access the data).
- g. Procedures for preparing and presenting digital evidence for court.
- h. Procedures for documenting and reporting any malfunctioning device or supporting systems.