The Allegheny County Chiefs of Police Association

MODEL
BODY WORN CAMERA
PROCEDURES

An Allegheny County Criminal Justice
Advisory Board Project
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In Partnership With

The Allegheny County District Attorney's Office

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Summary of Model Body Worn Camera Policy Development

On July 7, 2017, Act 22 of 2017 was signed into law, amending the Wiretap Act, the Right to Know Law, and the Judicial Code. Act 22 can be found at 18 Pa.C.S. § 67A01 *et seq*., and its effective date is September 5, 2017. Act 22 requires that law enforcement agencies establish written policies for police audio and/or video recordings which shall be public. The scope of Act 22 includes Body Worn Cameras, Mobile Video Recorders, and other recordings. The highlights of Act 22 are as follows:

1. Act 22 revises the definition of "Oral Communication" in 18 Pa.C.S. §5702 of the Wiretap Act to specifically exclude communications made in the presence of a law enforcement officer on official duty who is in uniform or otherwise clearly identifiable as a law enforcement officer and who is using an electronic, mechanical, or other device which has been approved as set forth in the Act. Consequently, the following are no longer applicable to police recordings:
   a. The prohibition on recording inside a residence;
   b. The requirement for police to inform of the recording; and
   c. Civil and/or criminal penalties contained within the Wire Tap Act.
2. Requests for police recordings and agency responses will no longer be made pursuant to the Right to Know Law, 65 P.S. §67.101, *et seq*. Any requests for audio/video recordings made by law enforcement officers will now be governed by Act 22. Requests for police recordings must be made in writing and served upon the department's Open Records Officer within (60) days of the recording, stating the date, time, location of the incident and the requestor's relationship to the recording. You should review and revise your audio/video recording retention policies to insure that you have the ability to respond to requests made on the last day. Additionally, you must retain recordings during any appeal periods from denial of requests.
3. An agency may establish reasonable fees relating to the costs incurred to disclose audio/video recordings. The fees shall be paid by the requesting party at the time of disclosure of the recording. There is no right to production of recordings made inside a facility owned or operated by a law enforcement agency or to any communications between or within law enforcement agencies concerning an audio or video recording. An agency may redact recordings in order to protect potential evidence in a criminal matter, information pertaining to an investigation, confidential information or victim information. Audio and video recordings must be redacted when only part of the recording is shielded from disclosure. Recall that in PSP v. Grove, the PA Supreme Court found that partial redaction was required (though this opinion was written based on the "Right to Know Act," just prior to Act 22's enactment).
4. Act 22 allows a police department to enter into a Memorandum of Understanding (MOU) with the District Attorney's Office for the purpose of consultation on the decision of whether or not to release a recording, as well as the District Attorney's assumption of responsibility for the decision to deny a request and defending that decision. Whether or not an MOU is in place, the Act gives the District Attorney the authority to override a department's decision to release audio and/or video recordings pertaining to criminal matters.
5. The status of recordings made in a home without a warrant are still somewhat in question in light of Commonwealth v. Dunnavant, 107 A.3d 29 (Pa. 2014), a case which involved a warrantless recording in a home by a confidential informant. While we believe that it is unlikely that Pennsylvania appellate courts will find a constitutional violation when a police officer who is in uniform or otherwise clearly identifiable as a law enforcement officer records in a home, there are no appellate decisions directly deciding this issue. Out of an abundance of caution, an "initial" notification that the officer is recording upon entry into a home may help negate a suppression challenge.

The most difficult issue encountered when drafting this MODEL POLICY was when to allow officers to review BWC recordings of the incident when there is a deadly force or in-custody death/near-death incident. At that instant Officers must rely on their training, experience, and available information. One of the considerations in Use of Force evaluations is that the "Force" used must be "objectively reasonable" based on the facts and circumstances confronting the officer(s) and judged from the perspective of a reasonable officer on the scene and not with the 20/20 vision of hindsight.

As the result of recent contract requirements, in an attempt to have consistent wording used by departments, several Chiefs suggested, page 7, Section **D** "Officer Access and Review" in the model MVR and BWC Policies, have two (2) options for **your choice.**

(CHOOSE OPTION A or B FOR YOUR DEPARTMENT USE)

Option A: In an attempt to determine the unadulterated thought process and feelings perceived by the officer at the time of the incident, the officer shall not be provided, nor shall they review BWC or other audio-video recordings of the incident prior to giving an initial statement to an investigator. Once the initial statement is provided, the involved officer may view BWC or other audio-video recordings of the incident prior to providing any additional statements to investigators**.**

OR

Option B: The officer shall be provided the opportunity to review BWC or other audio-video recordings of the incident prior to giving an initial statement to an investigator.

We again strongly recommend you request an independent agency (e.g. ACPD, PSP) to conduct the interviews and investigation on these types of incidents. **This MODEL POLICY should serve as a starting point (if interested) to be reviewed, revised, and approved by the Chief or Superintendent, your municipality and solicitor before being implemented by your police agency**.

1. PURPOSE

The purpose of this policy is to provide law enforcement officers with guidelines on the use of Body Worn Cameras (BWC) as an effective tool to help audio/visually document events as they actually occur, enhance officer safety and the department's ability to review probable cause for arrest, arrest procedures, officer-public interaction, ensure the accuracy of reports, collection of evidence and testimony in court.

Any and all data and recordings collected are the exclusive property of the Department and shall not be viewed, duplicated, posted or distributed except as authorized by this policy.

Recent changes to **Pennsylvania Law** allow uniformed law enforcement officers or clearly identifiable law enforcement officers on official duty such usage. Future changes in law and procedure, technology, as well as training provided on this procedure, may give rise to modifications of this policy. Violations of this policy subjects the officer to the department disciplinary policy.

2. POLICY

When permissible under **Pennsylvania Law**, officers shall activate the BWC to record contacts with citizens in the performance of their official duties, pursuant to this policy.

Officers and citizen safety shall be the primary consideration when interacting with citizens and/or suspects. There may be instances in which officers are unable to activate their BWC due to circumstances making it unsafe, impossible, or impractical to do so. In these exigent circumstances, officers shall begin recording with their BWC at the first reasonable opportunity to do so and document the reason for the delayed start in the incident report and/or as part of the recording and notify a supervisor.

The Department recognizes that video images cannot always show the full story nor do video images capture an entire scene. The Department also recognizes that the BWC video does not mirror the perspective of the officer at the time of an incident, nor does the video include other factors known to or perceived by the officer that could impact the officer's judgement and decision-making, such as events beyond the scope of the camera, the officer's "reactionary gap", or the difference between human vision and the camera's video recording abilities. Therefore, the use of body-worn cameras does not reduce the requirement to provide thorough written documentation of an incident.

This policy does not regulate the use and operation of Mobile Video Recording (MVR) equipment that is permanently mounted inside of some Department owned vehicles (Refer to Department MVR policy).

3. DEFINITIONS

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

Activate – Any process that causes the Body Worn Camera to transmit or store audio-video data in an active mode.

Audit Reviews- A program audit review is designed and intended to formally examine and evaluate internal policies, procedures, and operations related to the BWC program. An audit is seen as a proactive approach, to identify any gaps, and correct them within the program, thus establishing good practices to sustain.

Agency Administrator – Member of the Department who will be identified at the administrator level, with full access to user rights.

Body Worn Camera (BWC) System – A camera system worn on the person of a uniformed law enforcement officer, or clearly identifiable law enforcement officer on official duty, capable of recording events both audio and visually that is approved for use by the Pennsylvania State Police and published in the Pennsylvania Bulletin. BWC may also be referred to as Audio/Video Recording (AVR).

BWC Technician – Officers of the Department who are specifically trained in the maintenance and care of the BWC/MVR equipment, and who are trained to maintain and administer the storage of the recordings.

Confidential Information – Any of the following:

(1) The identity of a confidential source.
(2) The identity of a suspect or witness to whom confidentiality has been assured.
(3) Information made confidential by law or court order.

Critical Incident- The following are some examples of critical incidents:

(i) Deadly Force;
(ii) In-Custody Death/Near Death;
(iii) Officer assaulted or killed;

(iv) Near shoot situations;
(v) Severe death or trauma of a child;
(vi) Multiple deaths or injuries in short amount of time;
(vii) Natural disaster;
(viii) Terrorist attack;
(ix) Fatal/Serious crashes

Information Pertaining to an Investigation – An audio recording or video recording which contains any of the following:

(1) Complaints or depictions of criminal conduct, including all actions or statements made before or after the criminal conduct that are part of or relate to the same incident or occurrence.
(2) Upon disclosure, information that would:
    (i) reveal the institution, progress or result of a criminal investigation;
    (ii) deprive an individual of the right to a fair trial or an impartial adjudication;
    (iii) impair the ability of the Attorney General, a district attorney or a law enforcement officer to locate a defendant or codefendant;
    (iv) hinder the ability of the Attorney General, a district attorney or a law enforcement officer to secure an arrest, prosecution or conviction; or
    (v) endanger the life or physical safety of an individual.

Digital Evidence – BWC files, including photographs, audio recordings and video footage, captured by a BWC and stored digitally.

End User – Officers of the Department who have been issued or assigned a BWC.

Evidence Transfer Manager (ETM) – A computer server with built-in, networked or wirelessly connected docking stations physically installed within the Department or a Department vehicle that simultaneously recharges the BWC equipment while digitally encrypting and uploading all data captured to the server.

Law Enforcement Agency – The Office of Attorney General, District Attorney's Office or an agency that employs a law enforcement officer.

Law Enforcement Officer – An officer of the United States, the Commonwealth or a political subdivision thereof, another state or political subdivision thereof or who is empowered by law to conduct investigations of or to make arrests for offenses enumerated in the Pennsylvania Consolidated Statutes or an equivalent crime in another jurisdiction, a sheriff or deputy sheriff and any attorney authorized by law to prosecute or participate in the prosecution of the offense.

Oral Communication – Any oral communication uttered by a person possessing an expectation that such communication is not subject to interception under circumstances justifying such expectation. The term **does not** include the following:

(1) An electronic communication.
(2) A communication made in the presence of a law enforcement officer on official duty who is in uniform or otherwise clearly identifiable as a law enforcement officer and who is using an electronic, mechanical or other device which has been approved under section 5706(b)(4) (relating to exceptions to prohibitions in possession, sale, distribution, manufacture or advertisement of electronic, mechanical or other devices) to intercept the communication in the course of law enforcement duties.

Storage Server – Digital media storage that can be accessed by End Users and Administrators. This virtual evidence warehouse stores digitally encrypted data in a highly secure environment that is only accessible to approved personnel based upon their security clearance.

Victim – An individual who was subjected to an act that was committed by another individual, including a juvenile, which constitutes any of the following:

(1) An offense committed under any of the following:
    (i) The act of April 14, 1972 (P.L.233, No. 64), known as The Controlled Substance, Drug, Device & Cosmetic Act.
    (ii) 18 Pa.C.S. (relating to crimes and offenses).
    (iii) 30 Pa.C.S. § 5502 (relating to operating watercraft under influence of alcohol or controlled substance).
    (iv) 30 Pa.C.S. § 5502.1 (relating to homicide by watercraft while operating under influence).
    (v) 75 Pa.C.S. § 3732 (relating to homicide by vehicle).
    (vi) 75 Pa.C.S. § 3735 (relating to homicide by vehicle while driving under influence).
    (vii) 75 Pa.C.S. § 3735.1 (relating to aggravated assault by vehicle while driving under the influence).
    (viii) 75 Pa.C.S. § 3742 (relating to accidents involving death or personal injury).
    (ix) 75 Pa.C.S. Ch. 38 (relating to driving after imbibing alcohol or utilizing drugs).
    (x) Any other Federal or State law.

(2) An offense similar to an offense listed under paragraph (1) committed outside of this Commonwealth.
(3) An offense which would constitute grounds for the issuance of relief under Chapter 62A (relating to protection of victims of sexual violence or intimidation) or 23 Pa.C.S. Ch. 61 (relating to protection from abuse).
(4) An offense against a resident of this Commonwealth which is an act of international terrorism.

Victim Information - Information that would disclose the identity or jeopardize the safety of a victim.

4. PROCEDURES

A. Officer Responsibilities

1. Officers must successfully complete department BWC training.
2. Officers shall only use BWC equipment in the performance of their official duties.
3. Officers shall only use Department issued BWC equipment.
4. During BWC use, officers shall ensure that they are on official duty, in uniform or clearly identifiable as a law enforcement officer. This requirement is satisfied if the officer is in uniform and operating a properly equipped police vehicle, or is otherwise clearly identifiable as a Law Enforcement Officer.
5. Officers shall wear body-worn cameras in a manner consistent with department training.
6. The BWC shall be worn for the entire shift and maintained in a constant state of operational readiness.
7. When the BWC has been activated to record an incident, it shall not be deactivated until the incident has been completed, unless otherwise authorized per policy (See Section D, Deactivation)
8. Although notice is not required by law, in certain circumstances it may prove beneficial to provide notice of the recording, using a phrase such as, "Our actions and words are being recorded," or "Our interaction is being recorded on my Body Camera". Such notice may assist an officer to deescalate confrontational situations.
9. When safe and practical to do so, officers may narrate the video recording contemporaneously (i.e., at the same time) with a recorded incident, to assist with accurate documentation of events.
10. Officers will note in the incident, arrest, and any related reports if BWC recordings were made during the incident in question.

B. Supervisor Responsibilities

1. Supervisors shall ensure officers use the body worn camera equipment.
2. Supervisors shall review the following recordings:
   a. Recordings of any officer injury.
   b. Recordings of any actor injury.
   c. Recordings of any verbal or physical confrontations.
   d. Recordings of any use of force incident.
   e. Recordings of any vehicle pursuit and actions taken following the pursuit.
   f. Recording of any citizen complaint.
   g. Random recordings as designated by the Chief of Police.
3. Supervisors will utilize the information from the recordings during the completion of performance evaluations.
4. Supervisors shall take appropriate administrative action if an officer is found to have failed to properly use or care for the body worn camera equipment.
5. In a critical incident (such as an officer involved shooting, in-custody death or other officer involved incident that results in serious injury or death), a supervisor or their designee shall immediately take custody of involved BWC(s) and, in such case, will assume responsibility for the upload.

C. Use and Maintenance

1. BWC-equipped Officers:
   a. Are responsible for the proper use and care of their assigned BWC at all times and are reminded that BWC recordings do not replace written reports.
2. Prior to deployment, officers shall:
   a. Inspect and test their BWCs to ensure that they are operational and functioning properly. If a BWC is damaged or inoperable, officers shall immediately notify a supervisor who will immediately test the camera and, if inoperable, place the camera out of service and notify the Chief or his/her designee.
   b. Make every effort to ensure that they begin their shift with a fully charged BWC that does not contain data from a prior shift.
3. Lost or damaged BWC:
   a. Officers who discover at any time during their shift that their BWC is lost, shall immediately notify a supervisor.
   b. Officers who discover at any time during their shift that their BWC is damaged, malfunctioning, or that it contains data from a previous shift shall immediately notify a supervisor who will immediately test the camera and, if inoperable, place the camera out of service and notify the Chief or his/her designee.

4. Officers, including primary, secondary and assisting officers, shall start their BWC recordings as soon as a call is initiated via radio or communication from 911 on their mobile data computer (MDC) or when reasonable and safe to do so, at the beginning of any self-initiated police action, including but not limited to the following:
    a. critical incidents;
    b. crimes in progress;
    c. criminal investigation;
    d. intelligence gathering;
    e. citizen contacts;
    f. contacts that become adversarial after initial contact, in a situation that would not otherwise require recording;
    g. all stops (e.g., traffic and pedestrian), frisks and searches;
    h. vehicle and foot pursuits;
    i. all traffic crash scenes;
    j. DUI investigations, to include Field Sobriety Testing;
    k. high-risk encounters (e.g., barricade situations, active shooter);
    l. mental health encounters;
    m. suspicious activities;
    n. use of force situations;
    o. investigative detentions or arrests;
    p. encounters that require the advising of Miranda rights;
    q. all transports of prisoners and citizens (unless in a MVR equipped car);
    n. any of the following searches of a person or property:
        1) consent searches (record consent);
        2) warrantless searches;
        3) vehicle searches;
        4) searches conducted incident to arrest;
        5) inventory searches;
        6) cursory searches;
        7) probable cause searches;
        8) execution of search or arrest warrants;
        9) frisks;
        10) field searches;
        11) full-custody searches;
        12) during initial inventorying of seized money/high value property;
        13) deployment of drug detection dogs;
        14) any incident when the member deems it appropriate to activate the BWC in accordance with this policy or upon direction from a supervisor.
5. Officers who are on the scene of an incident and are not the primary reporting officer shall inform the reporting officer of their BWC recording(s) so that the primary officer may include this information in his or her report.
6. BWCs may also be used to record initial interviews of victims, complainants and witnesses.
7. When officers activate their BWCs and such activation was not required by policy, and the circumstances no longer need to be recorded, they may deactivate their BWC.
8. After officers deactivate their BWCs, it is their responsibility to ensure they reactivate their BWC should circumstances require.
9. Any delay or failure to activate the BWC required by this policy, as well as any interruption of a BWC recording required by this policy, shall be documented in the incident report and/or as part of the recording and reported to a supervisor.
10. At the completion of their shift, officers shall:
    a. Inspect his/her BWC and ensure that it is operational and functioning properly, and that the battery is recharged. If the camera is damaged or inoperable, officers shall immediately notify a supervisor who will immediately test the camera and, if inoperable, shall place the camera out of service and notify the Chief of Police or his/her designee.
    b. BWC recordings shall only be stored on a Department approved server or on a Department approved storage device. Officers shall ensure all BWC data is uploaded at the end of their shift, and when necessary, during their shift, to ensure storage capacity is not exceeded.
    c. Charge the camera in an approved BWC charging device.
    d. Officers will ensure BWC devices are securely stored in authorized locations when devices are not in use.
11. Officers shall not:
    a. Remove, dismantle, or tamper with any hardware or software component or part associated with BWCs.
    b. Erase, destroy, disseminate, edit, alter, or otherwise use BWC recordings without the written permission of the Chief of Police, except for approved annotation in accordance with the training and capabilities of the BWC system (e.g., flagging a location in the retrieval video for use in court at a later date).

c. Copy, convert, record, or disclose the contents of a BWC recording including posting to any public and/or social media site without written approval of the Chief of Police. BWC recordings shall only be shared for official law enforcement purposes.
d. Allow unauthorized personnel to view the BWC recordings without permission from his/her immediate supervisor. Governmental employees who are directly involved in the investigation and/or prosecution of a criminal case related to the digital evidence, or who are previously authorized to interact with Department evidence, are exempt from this restriction.
e. Delete any BWC recording except as specified in section F, Deletion of Unintentional Recordings.
f. Download or convert any BWC recording for personal use.
g. Use Department-issued BWCs while off-duty.
h. Record images or conversations of officers without their knowledge during routine, non-enforcement related activities such as in Department locker rooms, vehicles, work stations, restrooms or any other place where there would be a reasonable expectation of privacy.
i. Record gratuitously violent or obscene images, unless necessary for evidentiary documentation or required by this policy.
j. Record a particular person based solely on the person's race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, physical disability status, or political affiliation.
k. Record strip searches.
l. Use any other electronic device or other means in order to intentionally interfere with the capability of the BWC.
m. End a recording based solely on a citizen's request/demand.
n. View recordings for other than official law enforcement purposes.

D. **Deactivation**

1. Once activated in accordance with this policy, officers shall not deactivate their BWC except under the following conditions and absent an exigency with supervisor approval:
   a. In situations when community members, witnesses, crime victims or other parties wish to share information related to criminal activity, but refuse to do so while being recorded, officers should balance the value of the information and have the discretion to turn off their BWC during the interview. In such situation, the officer must record a brief verbal explanation for the deactivation prior to turning off the BWC.
   b. During conversations among/with officers or supervisors during information sharing sessions or discussing tactics and strategy. In such situation, the officer must record a brief verbal explanation for the deactivation prior to turning off the BWC.
   c. Officers will use appropriate discretion when recording confidential informants or undercover officers.
   d. Officers reasonably believe that their direct participation in the event is complete, or the incident has concluded.
   e. Have cleared the assignment or, in the case of arrest, have transferred custody of the arrestee to another member.
   f. Involvement in the citizen contact or detention has concluded.
   g. Receive an order from a supervisor. In such situation, the officer must record a brief verbal explanation for the deactivation prior to turning off the BWC.
   h. The incident requiring activation has concluded, and the officer has returned to service.
   i. When the recording would capture gruesome images or private areas of the human body are exposed and there is no legitimate law enforcement need to capture the images.
   j. Entering a religious institution, during services and there is no legitimate law enforcement need to capture the audio/video.
   k. Entering a hospital room or private patient area in a hospital and there is no legitimate law enforcement need to capture the audio/video.
   l. Entering a locker room or restroom and no legitimate law enforcement need to capture audio/video.
   m. During non-enforcement activities such as significant periods of inactivity, report writing, other breaks from direct participation in the incident, simply waiting for a tow truck or a family member to arrive, or in other similar situations.
   n. Whenever the BWC is manually deactivated prior to the conclusion of any incident or event, the officer must record a brief verbal explanation for the deactivation prior to turning off the BWC e.g. "Manually deactivating the BWC waiting for a tow truck."
   o. When the conditions of the deactivation have ceased, the officer shall reactivate the recording system if the incident or action is ongoing.
   p. Upon the deactivation of the recorder, regardless of the reason for the activation, the officer is required to select an "event category" for this recording.

D. Use of Body Worn Cameras in Courtrooms

1. An officer should not activate a Body Worn Camera in a courtroom during judicial proceedings except when the officer reasonably believes there is an actual or imminent emergency warranting activation while on-duty or while acting in an official capacity (201 Pa. Code Rule 1910). Officers who activate a recorder in a courtroom shall notify the presiding judge as soon as practicable and within one business day provide a written report to the presiding judge and a supervisor. The report should include (201 Pa. Code Rule 1910):
   a .The circumstances surrounding the activation.
   b. The times of activation and deactivation.
   c. An explanation of the officer's actions. Any use or dissemination of the recording is prohibited without the written approval of the President Judge of the court and the Chief of Police

F. Deletion of Unintentional Recordings

1. In the event of an unintentional activation of the BWC during nonenforcement or non-investigative activities, (i.e. restroom or meal break), or in other areas where a reasonable expectation of privacy exists, officers may request that the BWC Technician or Chief of Police delete the recording. An e-mail detailing the circumstances of the unintentional recording will be forwarded via the chain of command to the Chief of Police.

G. Officer Access and Review

1. Officers may review BWC recordings prior to documenting an incident, arrest, search, interview, or other enforcement or investigative activity to ensure that their reports, statements, and documentation are accurate and complete.
2. Officers involved in a Critical Incident (e.g. Deadly Force, In-Custody Death/Near Death) will provide Public Safety information.
   (#3 HAS OPTIONS A or B FOR YOUR CONSIDERATION FOR DEPARTMENT USE)
3. **Option A:** Critical Incident: In an attempt to determine the unadulterated thought process and feelings perceived by the officer at the time of the incident, the officer shall not be provided, nor shall they review BWC or other audio-video recordings of the incident prior to giving an initial statement to an investigator. Once the initial statement is provided, the involved officer may view BWC recordings of the incident prior to providing any additional statements to investigators**.**
3. **Option B:** Critical Incident: The officer shall be provided the opportunity to review BWC or other audio-video recordings of the incident prior to giving an initial statement to an investigator.
4. All responding and/or supporting officers may review their own AVR and complete a Supplemental Report.

H. BWC Technician Responsibilities

1. BWC Technicians shall be responsible for the retention, duplication and purging of BWC recordings. BWC Technicians shall also ensure recordings of incidents are maintained in accordance with this policy and department evidence retention procedures.
2. BWC Technicians shall ensure that the recordings are identified and retained in accordance with this policy. Electronically retained recordings shall be retained until the case is adjudicated or there is a court order, unless otherwise indicated.

I. BWC Recordings

1. The recordings produced on the BWC equipment are property of the Department, and will be subject to applicable law and Department policies regarding the duplication, viewing, release, retention and destruction of such recordings.
2. All recordings submitted will be labeled and stored in a designated secure area, and shall be retained for a period consistent with the requirements of the established records retention schedule but in no event for less than **75** days, unless the recording meets a specific exception as outlined in this policy.
3. If the Department receives a request for a video under Right-to-Know Law as set forth in Act 22 of 2017, the Chief of Police, MVR Technician, or authorized designee will ensure that the video is retained and preserved until such time that the Department receives a final decision regarding its production pursuant to the request. (Title 42, Ch.67 A, Recordings by Law Enforcement officers)
4. Request from other Law Enforcement agencies for recording shall be referred to the Chief of Police.
5. Mandatory Retention:
   The following types of incidents recorded on BWC equipment shall be retained and processed as evidence:
   a. Incidents which may result or have resulted in the filing of criminal charges.
   b. Incidents which are likely to become the subject of civil litigation against the Department or its personnel, including but not limited to, patrol vehicle crashes, pursuits, critical incidents, incidents involving the use of force, and incidents involving verbal complaint(s) against the Department or its personnel.
   c. Incident involving injuries to officers and injuries incurred or alleged to have been incurred as the result of police actions.
   d. Recordings which have been properly requested shall be retained pursuant to the Act.
   e. Recording shall be retained for no less than 75 days to accommodate any delays in processing a request.
   f. If a request is denied additional retention time is necessary.

6. Other Requests for Retention:
   a. Any member who believes that the retention of a recording not specifically required by this regulation is advisable (e.g., for use in a summary proceeding involving a traffic violation or training), shall notify the BWC Technician as soon as possible. The BWC Technician shall evaluate each request in accordance with this regulation. Officers are advised, per this regulation, that all recordings collected by the BWC equipment which are not regulated by a regular retention schedule will be purged no later than 120 days from the date of the last recording. All requests for duplication/retention are to be requested on a Department Form, "BWC Video/Audio Recording /Request Form." The completed form must be sent to the BWC Technician.
   b. When properly requested and approved, the BWC Technician will duplicate the recording of the incident from the Storage Server system and ensure its delivery to the requesting officer in a timely manner. The Department BWC Request Form will specify the reason that the recording is requested (e.g., court), and the date that the recording is needed.
   c. Additional requests for retention of BWC recordings may be made of the evidence custodian:
      i. Recordings requested to be preserved by an officer on the recording, a supervisor, or the Chief of Police, where the recording may be necessary for use in any criminal or forfeiture proceeding. The recording shall be retained until destruction is authorized by the Chief of Police.
      ii. Recordings requested to be preserved by an officer on the recording or a supervisor, where the recording may be necessary for use in any summary proceeding involving a traffic violation. The retained recording shall be purged no later than **120** days from the conclusion of all proceedings related to the citation.
      iii. Recordings requested to be preserved by a supervisor or solicitor where the recording may be necessary for use in any civil, administrative, or disciplinary proceeding. The recording shall be retained until destruction is authorized by the Chief of Police.
      iv. Recordings that are the subject of a subpoena or court order shall be retained until destruction is authorized by the Chief of Police.
      v. **In criminal cases, notice shall be provided to the prosecuting attorney of any request for BWC recordings.**
      vi. BWC Evidence Custodians shall ensure that all recordings are purged no later than 120 days from the date of the last recorded incident, after all properly requested and approved duplications have been made, unless otherwise regulated by this policy.

J. BWC Media Categorization, Notation and Use in Reports

1. Each event must be categorized according to event type, to ensure proper retention periods are applied.
2. The use of the BWC shall be recorded in the appropriate section of Department reports, and in the remarks section of citations.
3. Officers may use media captured via the BWC to assist with investigations and the completion of required reports. Officers may also use the media captured by the BWC to assist investigators and supervisors in evaluating on-going situations.
4. Using the capabilities of the storage server, officers may add markers and/or create clips in order to assist investigators and/or prosecutors.
5. Officers may use media captured on the BWC for training purposes, with proper authorization from the Chief of Police. Additionally, Field Training Officers may use media captured via the BWC to provide immediate training to recruits and to assist with the completion of the Daily Observation Report (DOR).

K. Storage

1. All downloaded media shall be stored in a secure area with access restricted to authorized persons.
2. A recording needed as evidence shall be copied to a suitable medium and booked into evidence in accordance with established evidence procedures.
3. All downloaded and retained media shall be treated in the same manner as other evidence. Media shall be accessed, maintained, stored and retrieved in a manner that ensures its integrity as evidence, including strict adherence to chain of custody requirements. Electronic trails, including encryption, digital masking of innocent or uninvolved individuals to preserve anonymity, authenticity certificates and date and time stamping shall be used as appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.
4. Non-evidentiary audio and video recordings from the MVR will be maintained in accordance with Pennsylvania Law**,** after their creation. The data files may be archived to a suitable medium .
5. All actions taken with respect to retention of media shall be appropriately documented.

L. Audit Reviews

1. The Supervisor in charge of the BWC program shall:
   a. Periodically review the procedures to ensure compliance.
   b. Ensure periodic compliance reviews are being conducted by shift supervisors.
   c. Evaluate that officers are receiving adequate training, and that cameras and data are being maintained properly.

d. At a minimum conduct an annual audit review with a follow-up report on any actions taken from the audit.
e. The audit-review team shall consist of the Lieutenant in charge of the BWC program, shift supervisor and an officer
f. All review of BWC footage during the audit process shall be documented via the department BWC log and kept on file with the Chief of Police.

M. Facial Recognition Software or Programs

When Facial Recognition Software Programs are available which interface with Department Body Worn Cameras, procedures and training in accordance with applicable law will be established by the Chief of Police or designee.

N. Dissemination

All dissemination of audio and video recordings shall be with the approval of the Chief of Police only.