


EASTHAMPTON POLICE DEPARTMENT		Department Manual: Policy No. 1.45 (Rev. 1)
SUBJECT: BODY WORN CAMERA POLICY		
MASSACHUSETTS POLICE ACCREDITATION STANDARDS		GENERAL ORDER
REFERENCED:		
Issue Date: 09-01-2022 Effective Date: 09-01-2022 Revision Date: 10-01-2023	Issuing Authority <i>Robert J. Alberti</i> Robert J. Alberti Chief of Police	

I. Purpose:

In the interest of furthering both organizational transparency and accountability as well as building and enhancing mutual trust between the members of the Easthampton Police Department (EPD) and the community, the utilization of Body Worn Cameras (“body worn cameras”, “BWC”, “BWCs”) are intended to record police interactions with members of the public in a highly visible and professional manner. These recordings shall serve many important purposes including but not limited to, enhancing agency transparency, increasing organizational and officer accountability and allowing for an environment where an optimum level of public trust can prosper. The BWCs will also allow for more efficient documenting of certain crime scenes and emergency response capabilities.

The purpose of this policy is to provide for consistent direction and guidance as to how and when body worn cameras will be deployed by

department personnel as well as specific procedures to be utilized pertaining to storage, retention and release of recordings pursuant to a formal public records request by members the public, the media and other interested parties.

All Parties acknowledge that sworn personnel do not always see and/or hear what the camera records. As such, each incident should be based on the totality of the circumstances when reviewing the video/audio for retraining or disciplinary action. Sworn Officers/Supervisors will not compromise their safety or the safety of others to obtain BWC recordings.

II. Strategic Objectives

- A. Provide compelling evidence, in criminal prosecutions by recording events, statements, searches and other key moments in the early stages of a case.
- B. Promote accountability and transparency about the Easthampton Police Department and the work of EPD officers, thereby enhancing community relations.
- C. Improve the behavior of both citizens and EPD officers when they know their conduct is being recorded thereby increasing safety and reducing Use of Force incidents.
- D. Debunk frivolous complaints about EPD officer misconduct, saving the Easthampton Police Department time and money.
- E. Allow Easthampton Police Department management to monitor the work of their officers, both for training purposes and in situations where an officer's performance requires review.

III. Definitions:

- **Body-Worn Camera ("BWC")**, a portable electronic recording device worn on a law enforcement officer's person that creates, generates, sends, receives, stores, displays and processes audiovisual recordings or records audio and video data of law enforcement-related encounters and activities.
- **Law enforcement officer or sworn member**: An Easthampton Police Officer ("Officer") with the sworn authority to conduct searches and make arrests.
- **Recordings**: Shall refer to video footage in the form of meta-data files that are captured by BWCs worn by Easthampton Police Officers.

- **Subject of the video footage:** Any identifiable law enforcement officer or any individual including but not limited to an identifiable suspect, target, arrestee, victim, witness, detainee, conversant, injured party, or other similarly situated person who appears on the body worn camera recording, which shall not include people who only incidentally appear on the recording and are not related to the incident or the event that is being reviewed/investigated.
- **Use of force:** Any action beyond verbal commands and compliant handcuffing by a law enforcement officer that is intended to control, restrain or overcome the resistance of another. This includes any action that results in death, injury, or complaint of injury or pain that persists beyond the use of a physical control hold. Force also includes the use of a weapon [including pointing of a firearm or Electronic Control Device (“Taser”) at a person].
- **Video footage / video file:** Any images and/or audio and metadata that is recorded by a body worn camera.
- **Break-in Period:** There will be a so-called one (1) year “*break-in*” or adjustment period to allow all department personnel to become acclimated and thoroughly familiar with the BWC equipment and related procedures outlined in this policy and any future statutory enactments. During this one-year adjustment period there will be no disciplinary sanctions imposed against any officer for any violations of this policy that appear to be unintentional or inadvertent in nature pertaining to the use of BWC. At the completion of the one-year period, the established progressive disciplinary process shall commence. Officers may be verbally counseled by a Supervisor or Commander during this specific period and/or may receive additional training if applicable. This period shall begin on the date that the BWCs are first distributed to each officer.

IV. Use of Body Worn Cameras:

- a.) Only sworn officers of this department shall be permitted to wear a BWC. ¹BWCs shall be worn in a location and manner consistent with the manufacturer's recommendations that maximize the camera's ability to capture video and audio footage of the officer's activities. BWCs shall not be used in a surreptitious or discrete manner. Specifically, officers should not conceal the presence of a body worn camera, nor shall they

¹ *Non-sworn employees hired specifically to perform ancillary law enforcement support functions such as the Animal Control Officer, etc, shall be authorized to wear BWCs.

attempt to utilize the body worn camera to record in secret unless so specifically authorized by a judicial order.

b.) Both the video and audio recording functions of the body worn camera **shall be activated** in all of the following circumstances:

- 1) Whenever an officer arrives on scene at a call for service.
- 2) At the beginning of any other investigative or enforcement encounter between an officer and a member of the public, except that when an immediate threat to the officer's life or safety makes activating the camera impossible or dangerous.
 - In those circumstances, the officer should activate the camera at the first reasonable opportunity to do so.
- 3) During all requests made in the field to conduct a search and during the performance of the search, including K-9 searches unless otherwise authorized by a Supervisor.
- 4) During administration of Miranda warnings and any response when in the field.
- 5) At any incident, that the officer reasonably anticipates may result in the need to use force.

c.) Except as specifically noted below in (c)(1) and (c)(3), the body worn camera **shall not be deactivated** until the encounter has fully concluded and the officer safely leaves the scene.

Notwithstanding the requirements of subsection (b) immediately above:

- 1.) Prior to entering a private residence without a warrant or in non-exigent circumstances, an officer should notify the occupant(s) of use of the body worn camera and ask if continued use is acceptable. If the occupant says no, the sworn officer shall immediately discontinue the use of the body worn camera.
- 2.) If entering a private residence:
 - a. pursuant to a **search warrant** or
 - b. in **exigent circumstances**, or
 - c. during the completion of **any custodial arrest with or without a warrant**,

Note: The use of the body worn camera in (2) (a)(b)(c) above **shall continue** regardless of any lack of consent by those in lawful control of the premises.

- 3.) Unless the encounter occurs in a specific location where a *reasonable expectation of privacy* exists (e.g., home, curtilage, private office) on the part of the person being recorded, an officer **does not** have an affirmative obligation to cease the recording from their body worn camera when interacting with an individual suspected of involvement in unlawful conduct, even if the individuals requests the recording to be stopped.
- d.) In certain instances, where the individual requests that the officer discontinue the use of a body worn camera made pursuant to subsection (c), those verbal responses or statements thereto requesting the camera to be shut off, shall be recorded by the body worn camera prior to discontinuing use of the body worn camera.

V. Discontinuing or Not Starting a Recording:

There are certain occasions where an officer should not initiate a recording or, if an audiovisual recording has been initiated, the officer may determine it necessary to pause or stop the recording prior to the conclusion of the event. If applicable, and the officer pauses or stops a recording, he/she should document the reason for the termination or suspension of the recording in an appropriate and relevant report. If possible, a recorded verbal notation on the video while it is still active and recording is encouraged as well.

Acceptable reasons for discontinuing the recording or activating the mute feature may include any of the following:

- 1) During on scene conferences between officers, supervisors, advocates, clinicians, EMS personnel, attorneys, etc. where the officer determines the conference would violate certain confidentiality, privacy or individual rights.
- 2) Conferences between officers and supervisors that might compromise the current or future investigations or would otherwise impede the ongoing efforts as it pertains to operational strategy and/or officer safety techniques.
- 3) Any conversations with undercover officers and/or confidential informants.
- 4) If a person reporting a crime or assisting with an ongoing investigation requests to remain anonymous, the recording may be stopped depending upon the circumstances that are present.
- 5) During times of prolonged waiting absent citizen contact such as waiting for the arrival of a tow truck, DPW, funeral home hearse or similar situation, etc.

- 6) Officers are expected to be respectful of an individual's privacy and dignity at all times and should use sound judgments as to when and how the device will be used. Officers will try to avoid recording persons who are nude or have genitalia exposed, and officers will refrain from activating recordings in places where a *reasonable expectation of privacy* exists such as locker rooms, dressing rooms, rest rooms, ambulance, medical calls and similar areas unless such recording is necessary for a legitimate law enforcement purpose.
- 7) Recordings shall not be made to record personal activities such as meal breaks or conversations with other officers, supervisors or staff outside of the normal scope of ongoing field and patrol activities.
- 8) Recordings are not expected during innocuous activities such as taking telephone complaints, foot patrols, security assignments, directing traffic, providing directions, non-enforcement roadside assistance, humane destruction of a wounded animal, and similar situations.
- 9) Officers will not be required to utilize their department issued body-worn camera during an assigned off-duty paid police detail, but should be encouraged to use the BWC if they so choose or if the detail involves the possibility of potential violence (e.g., strike detail, crowd control detail, etc.)
- 10) Certain situations resulting from sections III c.(1) and c. (3) above regarding recording inside residences or other places where citizens have a *reasonable expectation of privacy*.

Note: Recording should resume as soon as one of the above situations no longer exists.

VI. Prohibitions on Use of BWCs:

- 1) Officers should avoid using body worn cameras to record for the sole purpose of gathering intelligence information on any First Amendment protected activities such as speech, associations, and/or religion.
 - a. This should not be construed to limit the lawful use of body worn cameras to record investigative encounters between an officer and a member of the public or activity that raises an articulable reasonable suspicion or reasonable belief of some type of possible on-going or imminent criminal conduct.
- 2) Officers **shall not** run recordings through facial recognition or automated analysis programs without the appropriate judicial review or unless specifically authorized by statute in exigent or emergency circumstances. BWC's will not include technological enhancements

including, but not limited to, facial recognition or night vision capabilities.

- 3) Department issued BWCs shall not be activated in the following areas of police headquarters except when communicating with a member of the public pertaining to a call for service or investigation:
 - a. Whenever an officer enters police headquarters they shall place their department issued BWC in a docking station at the end of their shift, after a significant incident or after a Use of Force. This shall not apply to those officers who are assigned to Prisoner Watch.
 - b. Officers should place their BWC's in sleep mode while in police headquarters and they **shall** take them out of sleep mode when they leave police headquarters during their tour of duty.
 - c. Certain areas of police headquarters shall remain off-limits for the utilization of BWCs to include: restrooms, locker rooms, department gym, report room, and assigned office areas (e.g., Admin Offices, OIC's Office, Sergeant's Office, Command staff offices, special assignment offices etc.).
 - d. Any place an officer would have a reasonable expectation of privacy (e.g., their homes while on their meal break, use of a public restroom).
 - e. If an officer is conducting an interview or taking a statement in police headquarters, they will make every effort to advise the other officers in headquarters that they are conducting said interview and it will be recorded. These interviews should be conducted in the designated interview room in the Detective bureau or in a private meeting room.

VII. Review of Recordings:

- 1) Under normal circumstances, an officer may review BWC recordings prior to writing any reports about specific incidents and/or arrests.
- 2) In certain situations, that result in an **officer-involved-shooting**, or where **death or serious bodily injury** to a member of the public results due to the actions of an officer, the officer will have the right to review any recordings and will be provided an account of any recordings of the incident prior to being interviewed or writing a required report, unless doing so is necessary, while in the field, to address an immediate threat to life or safety of the public or the police.
 - Supervisory personnel will be responsible for collecting and securing the BWC's from all officers involved and witness officers at the earliest opportunity.

- Supervisory personnel will transport the camera to the police department for download into the system. The BWC will be returned to the officer once the video is downloaded.
 - After the initial interview with investigators, the officer may provide additional details in the form of a supplemental report or follow-up interview.
- 3) Officers should not have the ability to view another Officer's footage (unless it is needed/required to complete a report or other legitimate police function) nor make any copies of any department videos without authorization of the Chief of Police or his/her designee.

VIII. Equipment and Training Responsibilities of Officers:

- 1) Prior to start of each shift, officers are responsible for checking their body worn camera equipment to ensure it is operational, the BWC battery is fully charged and that the equipment is free of any defects. Officers shall report any malfunctioning equipment to an immediate supervisor, seek a replacement BWC if available, and make a log note or other written notation of the date and time equipment malfunction was discovered and supervisor was notified.
- 2) During interactions where there is an expectation that the body worn camera would be activated, an officer should periodically check the BWC to assess that it is functioning properly.
- 3) In the event a body worn camera either fails to activate and begin recording or fails to cease recording, the officer will describe this, along with any additional relevant details, in the dispatch log.
- 4) The department will provide the required software for the process known as "auto tagging". Officers are responsible for making sure that "auto tagging" is completed for each recording and is performed in the proper manner. These tags or categories of files correspond to their respective retention period; therefore, officers must pay close attention to ensure that all recordings are properly categorized and tagged with each recording. Intentionally "mistagging" recordings will result in appropriate disciplinary action.
- 5) Officers shall transfer data from their assigned BWC to the agency's storage as soon as practical, but no less than prior to use by another officer and/or prior to the capacity of the device being reached.
- 6) Under no circumstances shall an officer erase, edit, alter, duplicate, share or otherwise distribute any recordings on their device except as allowed by this policy. Only the system administrators are authorized to delete or edit files pursuant to section VII of this policy. Only designated

staff are authorized to duplicate and distribute copies of recordings pursuant to section VII of this policy.

- 7) If after an internal administrative investigation an officer is found to have failed to adhere to the recording requirements contained in this policy, intentionally interfered with a body worn camera's ability to accurately capture video footage, or otherwise manipulated the video footage captured by a body worn camera during or after its operation, appropriate disciplinary action shall be imposed.
- 8) Titles of BWC recordings will be filed into the system by reflecting the appropriate Arrest Number, Offense number, Accident Number, Motor Vehicle Citation Number Blotter Number etc. and then the description. If there is not a number assigned by the CAD, file the recording as *call for service/no action* and leave the generated system number as the file number.

IX. Responsibilities of the Chief of Police/Command Staff:

- 1) The department through its Police Chief or his/her designee will be responsible for providing training on the proper use of equipment to include the contents of this policy, instruction on operation of the BWCs, how and when to transfer files, proper identification and "tagging" of all recordings and policy updates or modifications as needed. In addition, the Police Chief or his/her designee will ensure compliance of this directive by all personnel; review and determine whether the release of any BWC recordings is in the best interest of public safety and in accordance with State and Federal Law.
- 2) The department will provide instruction to officers on how to report and replace malfunctioning equipment.
- 3) Department supervisors and authorized personnel may review recordings for the purpose of ensuring compliance with established practices, policies, verifying the equipment is functioning properly, to identify any areas in which additional training or guidance is necessary and to identify material that would be appropriate for re-training. The review of body worn camera footage by supervisors should be limited to the specific officers under their command, unless otherwise authorized by the Police Chief or his/her designee. Periodic reviews can be done, but should be limited.
- 4) When a particular department video is being contemplated to be used for training purposes, the involved officers will be notified prior to its use and have the ability to make a reasonable request to the Chief of Police or his/her designee that the video not be utilized if the footage involves any situation that may cause undue stress or embarrassment to the

officer. With that in mind, many of these department videos may be considered public records absent an applicable statutory exemption.

- 5) The Chief of Police through his/her designee shall be responsible to ensure that the retention schedule listed in section XI below is strictly adhered to.

X. Detectives, Narcotics and Specialized Assignments Personnel

Detectives, Narcotics and Specialized officers should:

- a. Have their assigned BWC device with them when in the field and ensure it is ready for utilization.
- b. Wear and activate (Record) the BWC device when involved in high risk activities and when supporting Squad operations that EPD policy requires BWC device activation.
- c. High risk activities include, but are not limited to:
 1. Arrests
 2. Execution of search warrants
 3. Engaging a subject with a violent criminal and/or gang membership history
 4. Engaging a subject the detective believes may resist arrest in any way
 5. Engaging a subject who may be armed, has previously resisted arrest, has made threats against law enforcement or is any way a potential threat to the safety of citizens and law enforcement personnel
 6. Engaging a subject who may be in possession of any type of contraband
 7. Engaging a subject who has a history for being a violent emotionally disturbed person
- d. Once the supervisor in charge of the scene declares it secure, these personnel may turn off their BWC.
- e. Detectives, Narcotics and Specialized personnel have full discretion to activate (Record) their BWC device for any incident they deem necessary as defined in the EPD BWC policy, to include searches.

XI. Storage, Retention and Release of Recordings:

- 1) The Chief of Police or his/her designee will be responsible for ensuring for the maintenance and the secure storage of all recordings made by members of the Easthampton Police Department. All recordings or files shall be the property of the Easthampton Police Department and shall only be used for official purposes.
- 2) At a minimum, all recordings will be held in accordance with the State's record retention law for applicable law enforcement records.
- 3) When appropriate and not exempt under the public records law, recordings should be released, or released with possible redactions, upon an official request from members of the public or the media.
- 4) All original data/recordings will be preserved and produced to the requesting Police bargaining unit(s) upon request and prior to any bargaining unit member being ordered to answer questions and/or draft a written report as part of an administrative investigation by the Police Department or an agent thereof.
- 5) Should any employee be found to have intentionally failed to adhere to the retention requirements contained within this policy, appropriate disciplinary actions will be imposed by the Chief of Police.
- 6) Agencies will make a good faith effort to locate any recordings of interest to the public. If recordings exist of an interaction or event captured by a BWC and that interaction or event is identified with reasonable specificity, the agency will make that/those recording(s) available for review or release consistent with Massachusetts State Law and any other applicable records release schedule.
- 7) Recordings shall not be divulged or used by any law enforcement agency for any commercial or other non-law enforcement purpose, unless otherwise authorized by the Chief of Police or his/her designee.
- 8) In the event that the department authorizes access to stored footage by a vendor such as a technician, information technology staff, DA's Office, Court etc. they will not be permitted to access, view, copy, alter, or delete footage unless in accordance with this policy and at the express direction of the Chief of Police or his/her designee.
- 9) The following record retention guidelines are in addition to the requirements of the specific record retention schedule for this department. When a BWC fails to capture some or all of the audio or video of an incident due to malfunction, displacement of camera, or any other cause, any audio or video footage that is captured should be treated the same as any other recording as described in this policy.
 - **Fourteen (14) Days** - In instances where a body worn camera is activated mistakenly and records no discernable human activity, such footage may be permanently deleted after 14 days by the law enforcement agency.

- **Ninety (90) Days** - Recordings will be retained for not less than ninety days if the recording captures an interaction or event involving:
 - response to calls for service where no enforcement action occurs;
 - traffic stops with no enforcement action taken beyond a written warning;
 - traffic stops with enforcement action taken shall be kept until the civil case is closed;
 - any police-civilian interactions that do not involve enforcement action, a search or seizure.

- **Three (3) Years** - Recordings will be retained for not less than three (3) years if the recording captures an interaction or event involving:
 - any use of force by a member of this department;
 - a recording related to any incident in which a member of the public has made a complaint against a department employee;
 - recording(s) used in disciplinary action against an employee will be held for a minimum of three (3) years from the completion of the disciplinary action;
 - recordings will also be retained for not less than three (3) years if a longer than normal retention period is voluntarily requested by the officer whose body worn camera recorded the video footage or his/her supervisor, or any officer who is a subject of the recording, if the officer or supervisor reasonably asserts the video footage has evidentiary or exculpatory value;
 - recordings will be retained for not less than three years upon written request from a member of the public who is a subject of the recording, the next of kin of a subject who is deceased, or the parent/guardian of a juvenile who is a subject of the recording.

- **Seven (7) years** — Recordings will be retained for not less than seven (7) years if the recording captures an interaction or event involving:

- Recordings related to misdemeanor arrests or non-violent felony arrests (or longer if the case is not resolved in this timeframe).
- **Indefinitely**: Recording related to the following will be retained indefinitely and require manual deletion:
 - Use of force incidents resulting in injury or allegation of injury;
 - Officer involved shootings;
 - Major incidents such as mass arrests during a riot or otherwise;
 - Serious felony offenses;
 - Homicide cases;
 - Active missing persons cases.

XII: Seizure of a Body Worn Camera:

Whenever any officer who is equipped with a BWC is either a direct witness to or within audio and/or sight range of an incident involving a police use of force that results in a death or serious bodily injury including the discharge of a firearm (other than humane destruction of an animal) or when any officer's conduct becomes the subject of a criminal investigation the following will occur:

- 1) Such officer's body worn camera shall immediately be seized by the officer's investigating personnel as directed by the Police Chief or his/her designee and maintained in accordance with the rules governing the preservation and chain of custody of evidence;
- 2) All files on the seized body worn camera will be maintained in accordance with the rules governing the preservation of evidence.; and
- 3) The department will have any video/recordings/date covered under this policy reviewed and certified as deemed as accurate by a forensic video analyst prior to any criminal charging decisions relative to a department member(s) in order to be used as potential evidence against said officer.

XIII. Release of Recording Following an Incident of Public Interest:

BWC footage may only be offered as evidence by any government entity, agency, department or prosecutorial office, in accordance with established rules of evidence.

The release of body worn camera video related to any active investigation or ongoing criminal investigation, including high profile incidents, will be determined by the Chief of Police or his/her designee.

This department BWC Policy will be made publicly available on the department's website or by contacting the Office of the Chief of Police.

Nothing in this Department Policy should be read or interpreted to be in conflict with any existing laws governing the maintenance, production, and destruction of evidence in criminal investigations and resulting prosecutions.

XIV. Report writing:

BWC Preamble

Body worn camera ("BWC") video images were captured during this incident. The Easthampton Police Department policy recognizes that body worn cameras, by virtue of their placement on a member's uniform do not capture all visual and auditory observations made by a member on scene. This report is a summary of the events, and not intended to capture every detail. Please refer to the BWC for further information.

BWC Appendix (where applicable)

VIDEO DISCOVERY (FOR Easthampton PD ONLY):

BWCs: Officer "John Doe" and Officer "Jane Doe"

BWC Booking Video; Officer "John Doe"

BWC Interview Room Video; Officer "John Doe"