

4.46 BODY WORN CAMERAS



BODY WORN CAMERAS

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I. GENERAL CONSIDERATIONS AND GUIDELINES

Body Worn Cameras (BWC) are an effective tool to preserve factual representations of officer/ civilian interactions. BWCs are effective in capturing video and audio evidence for use in criminal investigations, internal investigations, and officer training. The use of a body-worn camera system provides persuasive documentary evidence and helps defend against civil litigation and allegations of officer misconduct. Additionally, BWC's can also give officers added protection against false accusations of, police misconduct during interactions with the public. **[41.3.8(4-E)]**

The goal of Southborough Police Department's BWC program is to ensure that audio visual recordings provide as true and accurate a depiction of events as is reasonably possible, in order to provide the best possible evidence and documentation of events. **[41.3.8(4-A)]**

In instances where an officer is injured or killed, investigating officers can review the recording, through video forensics, clarify, and identify evidence that can lead investigators to specific persons or vehicles. The chance of apprehending offenders in these instances is dramatically improved and can save hundreds of hours of investigative time.

The BWC is intended to record anything the officer could have potentially heard and/or observed using his/her senses. This does not mean the officer is required or expected to have seen and/or heard everything captured in the

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footage. Likewise, there may be information the Officer obtains through his/her senses that is not captured by the BWC. As such, each incident should be based on the totality of the circumstances when reviewing the video/audio for retraining or disciplinary purposes.

II. POLICY

The purpose of this policy is to provide officers with guidelines for the use, management, storage, and retrieval of video media recorded by BWC systems.

[41.3.8(4-A)]

It is the policy of the Southborough Police Department to:

- A. Utilize BWCs to record public interactions, motor vehicle stops, pursuits and police responses involving criminal and civil violations of the law, as well as when an officer believes, in their best judgement any situation, condition or event that has the potential for loss of life, injury or damage to property or chance for citizen complaint.
- B. Retain video recordings pursuant to records retention standards set forth by the Secretary of the Commonwealth, and make the video available for court and other proceedings.

III. DEFINITIONS

- A. **Body Worn Camera:** is an audio/video (BWC) recording system primarily consisting of a camera and a controller/battery pack.
- B. **System Administrator:** Administrator with full access to evidence library. Assigns and tracks equipment; controls passwords; conducts quality checks of uploaded data; coordinates data retention; provides copies of requested data to the requesting officer.
- C. **Docking Station:** A docking station is a device that simultaneously recharges the BWC and uploads all data captured on the BWC. The docking station ensures evidence handling is secured and data is not altered.

IV. PROCEDURES

A. TRAINING:

All officers and supervisors of the Southborough Police Department shall attend department training on the operation of the BWC system and this policy. **[41.3.8(4-J)]**

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B. ACTIVATION:

An officer equipped with a BWC shall activate its recording functions as soon as practicable under the following circumstances:

1. Arrests;
2. Calls for Service;
3. Criminal complaints;
4. Physical or verbal confrontations;
5. Motor Vehicle Stops;
6. Searches;
7. Prisoner Transports;
8. When ordered to by a supervisor.
9. Mass Demonstrations and crowd control
10. **Exception:** Officers are not required to record normal casual conversations/encounters with citizens that do not correspond with the above-noted circumstances.

Officers will not compromise their safety or the safety of others to obtain BWC recordings when activation is not tactically feasible.

C. RECORDING WITHIN A RESIDENCE:

Before entering a private residence without exigent circumstances, the officer shall seek the occupant's consent to continue recording inside the residence. If the civilian declines to give consent, and in the absence of exigent circumstances, officer shall turn off the BWC while in the residence.

D. RECORDING IN SENSITIVE AREAS:

When recording in areas where there may be a reasonable expectation of privacy, officers should be mindful of their location as BWC recording may be considered insensitive, inappropriate, or prohibited by privacy considerations. Such locations may include residences, locker rooms, places of worship, religious ceremonies, certain locations in hospitals or clinics, law offices, or daycare facilities. Based on the circumstances encountered at such locations, the BWC may be turned off.

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E. NOTICE OF RECORDING:

Officers are not required to notify citizens in areas where a citizen does not maintain a reasonable expectation of privacy but may do so at the beginning or during the officer's interaction with the citizen. Officers may take into account tactical considerations as to if, or when, to notify a citizen of the recording. When notification is practical, officers may notify civilians that they are being recorded. All BWCs will be conspicuously placed in the center of the officer's chest area to allow the camera to be immediately noticeable to those interacting with the officer.

F. CONSENT TO RECORD:

Aside from the restrictions in section C. (Recording Within a Residence), officers are not required to obtain consent to record. If a civilian has requested the officer to stop recording, officers have no obligation to stop recording if the recording is pursuant to the circumstances identified in Section B. When evaluating whether or not to continue recording, officers should weigh the discretionary recording considerations outlined in Section D. The request to deactivate the BWC should be recorded, as well as the officer's response to that request.

G. RECORDING OF VICTIMS / WITNESSES:

If an officer is in range (visual or audio recording) of a victim or witness who is giving an account of a crime, the BWC officer may record the encounter but should weigh the BWC considerations specified in specified in Section D (Recording in Sensitive Areas) in determining whether or not to activate/deactivate the recording. If the victim is in anyway unsure of the need for the recording to be made or is uncomfortable with being recorded, the officer shall inform the civilian that they can request to have the BWC deactivated. If the camera is already activated, the request to turn the BWC off should be recorded, as well as the officer's response to that request.

H. BWC DEACTIVATION:

To the extent possible, prior to deactivating a BWC, the officer shall state the reason for doing so. Generally, once a BWC is activated, recording will continue until or unless the event has concluded or the officer is ordered to deactivate the BWC by a supervisor.

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I. BWC REPORT WRITING:

To help ensure accuracy and consistency, officers may review the BWC recording prior to preparing reports in cases where they have NOT used force. When an officer utilizes a level of force classified as either a Level 3 through 5 in the Use of Force Model, the BWC officer is required to write their initial report first and then review their recording. It is imperative for the officer to distinguish and delineate the following information in their report: **[41.3.8(4-D)]**

1. Facts that are recalled independently of a recording;
2. Recollections that are refreshed by viewing a recording; and
3. Facts that were not previously known but that are learned by viewing a recording.

Officers shall not state “refer to video” as a substitute for a detailed and thorough report.

Officers shall include an umbrella statement written at the end of an incident report that states: “Axon Body 3 camera footage is available from members of the Southborough Police Department who were involved in this call. Interviews and interactions that were preserved in other formats may be summarized in this report and should be reviewed independently for complete details. This report does not include a complete verbatim transcription of information discussed. It contains the pertinent portions relevant to this investigation, which may not be in the exact order of the event.”

J. DEPLOYMENT:

OFFICER RESPONSIBILITIES:

At the beginning of each shift, the officer will:

1. Ensure the issued BWC has a fully charged battery and is functioning properly.
2. Notify a supervisor if the BWC is malfunctioning or damaged.
3. Ensure the BWC is affixed on the front of the officer’s outermost garment.

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During shift, the officer will:

1. Activate the BWC as outlined in Section B (Activation).
2. Document the existence of a BWC recording in all appropriate documents, i.e. Incident reports, MV Citations, and Dispatch log remarks.
3. Ensure the incident number and category is assigned to recordings.
4. Notify investigative units or specialized unit personnel of the existence of BWC recording for possible evidentiary value.
5. If an officer fails to activate the BWC, fails to record the entirety of an interaction, interrupts the recording or the BWC malfunctions or is damaged, the BWC officer shall document the circumstances in an incident report.

SUPERVISOR RESPONSIBILITIES:

1. Ensure all officers utilize the BWC in accordance with this policy.
2. During roll call, ensure each BWC is working properly and any malfunctions or damage to BWC is documented. The supervisor will remove the BWC from service and issue a spare BWC if available. **[41.3.8(4-I)]**
3. Ensure the camera is properly affixed and placed correctly on the officer's uniform.
4. Review BWC recordings during the course of duty when an officer utilizes a level of force classified as Level 3 through 5 of the Use of Force Model.
5. Ensure all recordings are properly marked and properly categorized.

ADMINISTRATOR RESPONSIBILITIES: [41.3.8(4-F)]

1. The BWC Administrator shall be responsible for the ordering, issuance, retrieval, storage, cleansing, and duplication of all recorded media.

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2. The BWC Administrator shall ensure that adequate recording media is on hand and available for issuance.
3. The BWC Administrator shall be responsible for collecting and storing all completed media.
4. Recorded media may only be erased, pursuant to a court order; or in accordance with established retention guidelines.
5. The BWC Administrator will be responsible for the long-term storage of media deemed to be of evidentiary value, consistent with the department's evidence storage protocols and retention schedule.
6. Conduct a weekly review by randomly selecting two prior incidents in which the officer should have activated his/her BWC. The review will determine if the officer activated his/her BWC in accordance with this policy and the video was uploaded and cataloged correctly. **[41.3.8(4-M)]**
7. Ensure that distribution of media to the public shall be conducted by the Chief or his designee in compliance with SPD Policy 4.34 **Records Management. [41.3.8(4-F)]**
8. Ensure procedures regarding using facial recognition or other biometric-matching software or other technology to analyze recordings obtained through BWC in accordance with MGL. c 6 section 220 as it relates to the uses of facial recognition by law enforcement. **[41.3.8(4-G)]**

OFFICER ACCESS TO FOOTAGE:

Officers may review their own BWC recording as it relates to:

1. Their involvement in an incident for the purposes of completing an investigation, preparing official reports, and any supplemental reports required.
2. Preparation for possible testimony in court or other legal proceedings to refresh recollection.
3. Officers will be allowed to view other officers recorded video involved in the call with the permission of a supervisor or administrator.
4. **Officers shall not allow citizens to review recordings.**
5. **Officers shall not make copies of any recordings for their personal use and are prohibited from using a recording**

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device (such as a camera phone or secondary video camera) to record audio and or video generated by the BWC.

6. All BWC recordings/footage is the sole property of the Town of Southborough Police Department.

BWC FOOTAGE RETENTION:

The Southborough Police Department will retain BWC footage based on the following Schedule:

Schedule I: Indefinite Retention

- a. Death Investigations
- b. Motor Vehicle Crash resulting in death
- c. Sexual Assault/Abused Person

Schedule II: 7 Year Retention

- a. Use of Force
- b. Arrest
- c. Any Felony

Schedule III: 3 Year Retention

- a. Misdemeanor Crimes
- b. Person / Property Investigations
- c. Summons
- d. Crash with Injury

Schedule IV: 180 Day Retention

- a. Traffic Stop
- b. Encounter
- c. No report
- d. Motor Vehicle Crash No PI
- e. Mental Health Evaluations

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RESTRICTIONS: [41.3.8(4-C)]

BWCs shall not be activated to record;

1. Breaks, lunch periods, or times periods when an officer is not responding to a call, or when not in service.
2. Personal conversations of or between other department employees without the recorded employee's knowledge.
3. Non-work related personal activity where a reasonable expectation of privacy exists, such as locker rooms or restrooms.
4. Investigative briefings.
5. Encounters and / or communications over secured radio channels with undercover officers or confidential informants.
6. Departmental meetings, work groups, in service training, or assignments of an operational or administrative nature. The use of BWC's for training is not a violation of this provision.

IMPROPER USE OF BWC FOOTAGE:

BWC recordings/footage shall not be:

1. Used for the purpose of ridiculing or embarrassing any individual depicted on the recording.
2. Randomly reviewed for any purpose not consistent with this policy
3. Disseminated by any department employee unless approved by the Police Chief or his designee, or disseminated in the course of their official duties.
4. Copied by any employee (i.e. use their iphone, ipad or any other electronic device to copy).
5. Employees may be disciplined for just cause as set forth in SPD Policy **4.14 (Disciplinary Procedures)** for improper use of the BWC or BWC footage. **[41.3.8(B)]**