

12.540 BODY WORN CAMERA SYSTEM

References:

City of Cincinnati Administrative Regulation No. 70
Procedure 12.205, Traffic Enforcement
Procedure 12.235, Operating a Vehicle Under the Influence (OVI): Processing & Arrest
Procedure 12.535, Emergency Operation of Police Vehicles and Pursuit Driving
Procedure 12.537, Mobile Video/Digital Video Recording Equipment
Procedure 12.545, Use of Force
Procedure 12.550, Discharging of Firearms by Police Personnel
Procedure 12.715, Property and Evidence: Confiscation, Accountability, Processing, Storage, and Release
Investigations Manual
Ohio Revised Code 149.43(A)(1)(a),(h) and (A)(2)(3)
Ohio Revised Code 2151.313; 2151.356-358; 2151.421(H); 2151.423
Ohio Revised Code 2933.52(B)(3)
5 USC §552a, Privacy Act of 1974
18 USC §3771(a)(8), Crime victims' rights
42 USC §3789g; 28 CFR 20.21(b) & 20.33(a)(3); OAC 4501:2-10-06, Dissemination and record keeping
14th Amendment, US Constitution

Definitions:

Body Worn Camera (BWC) – A Department approved and authorized recording device issued to officers to record audio and video consistent with Department policy and procedure.

Incident – An event requiring some degree of law enforcement action or response.

EVIDENCE.COM – A TASER system used for accessing recorded events. Officers have a unique login to enable viewing or uploading recorded events. The website address is <https://cincinnati.pdoh.evidence.com>.

TASER Docking Station (TDS) – A six-port docking system which uploads video files and charges the TASER BWC. The TDS allows units to transfer recorded events to EVIDENCE.COM via an internet connection.

Authorized Format – An electronic format or physical copy of BWC footage

Purpose:

Establish guidelines regarding the use, management, storage, release, and retention of video and audio files captured by the Body Worn Camera system.

BWC systems promote accountability and transparency for law enforcement by providing a video record of police activity. Police operations become more transparent to the public and help resolve questions following encounters between officers and citizens.

Policy:

The Department will preserve video for at least 90 days after the last recorded event. After the 90 day retention period, recordings not categorized for retention will be automatically deleted by TASER. Recorded events necessary to the investigation and prosecution of criminal offenses will be uploaded and redacted by Police Records. A video containing possible criminal evidentiary footage **may not** be copied to an authorized format until after it has been redacted by Police Records according to current Ohio Public Records law. Requests for disc copies of a BWC video file will be forwarded to Police Records by completing a Form 606, Digital Video/Audio Records Request.

Recorded events necessary for the investigation of administrative incidents (e.g., Use of Force, Citizen Complaints) will be categorized for proper retention by a supervisor and noted in the incident paperwork. The footage will be retained in compliance with the current records retention schedule as approved by the Cincinnati Records Commission.

Officers are required to activate their BWC system during all law enforcement-related encounters and activities as defined in this procedure. Officers will deactivate the BWC system only at the conclusion of the event or with supervisor approval. When an officer is involved in a police intervention shooting, their BWC will be subject to the process outlined in Procedure 12.550, Discharging of Firearms by Police Personnel.

Officers have the right to use the BWC system (e.g., inside a private home/facility, public/private school) **as long as** they have a legal right to be there (e.g., call for service, valid search warrant, consent of owner). Officer safety and public safety take precedence over recording events. Under extenuating circumstances, utilization of the BWC system may not be possible (e.g., ambush/assault on a police officer, compromising the tactical advantage of police). When this occurs, officers will report the incident to their supervisor. The supervisor will investigate and document the incident on a Form 17BWC.

Officers who fail to use the equipment as required or fail to report damage to the equipment are in violation of the Manual of Rules and Regulations and are subject to the disciplinary process for the CPD. Only officers trained in the use of BWC systems are authorized to operate the equipment.

Information:

The Cincinnati Police Department along with the City Manager's Office and the City law department engaged several stakeholder and community groups, e.g. the American Civil Liberties Union (ACLU), the Cincinnati Human Resources Commission, the Legal Aid Society of Cincinnati, the National Association for the Advancement of Colored People (NAACP), Women Helping Women, in the development of a BWC procedure.

The utilization of video equipment facilitates the Department's objectives to collect evidence for criminal prosecution, provides an administrative inspection function, and assists in training officers to improve safety and tactics. BWC footage, in conjunction with witness statements, other video files etc., is one component of evidence collection to facilitate a thorough investigation.

Video files are the property of the CPD and are not to be duplicated and/or used without authorization from the Police Chief or their designee. Officers are not required to inform citizens they are being recorded with the BWC.

The TASER BWC will record 30 seconds of buffered video when activated. The BWC program coordinator, who will train all officers on the use and operation of BWC systems, can be reached by phone, 263-8209, or by responding to Technology & Systems, Monday through Friday, 7:00 am to 5:00 pm. In addition, the BWC program coordinator will continuously review the BWC program to ensure compliance with current policies and assess the progress of the BWC program.

Procedure:

A. Operating and Utilizing BWC systems

1. Equipment is the responsibility of the officer assigned and will be operated according to the manufacturer's recommendations.
 - a. Officers will wear all supplied components of the BWC systems and ensure the BWC is properly positioned to **clearly** record police activities regardless of uniform attire.
 - 1) Officers shall inspect the BWC prior to the shift to ensure the BWC is assigned to them and is functioning properly. Officers will **not** use a BWC assigned to another officer.
 - 2) Officers will immediately report a malfunctioning or usage of another officer's BWC to a supervisor.
 - a) The supervisor will check the BWC by following appropriate troubleshooting steps.
 - b) If the supervisor is unable to resolve the problem, the BWC will be taken to Technology & Systems, Monday through Friday, 7:00 am to 5:00 pm, for issuance of a spare BWC. After 5:00 pm officers will contact an ECS supervisor for issuance of a spare BWC.
 - c) In cases of usage of another officer's BWC, the supervisor will contact the BWC program coordinator.
 - b. If an officer fails to activate or deactivate their BWC according to policy, or fails to upload their BWC in a timely manner, whether intentionally or accidentally, they will report the incident to their supervisor.
 - 1) The supervisor will investigate and document the incident on a Form 17BWC, including any disciplinary recommendation.
 - c. Two spare mounts will be issued to each district and kept in the district armory.
 - 1) The spare mount will be documented in the Spare Mount Log when it is issued by a supervisor and when it is returned at the end of the officer's shift.

2. Officers will use BWC equipment to record **all** calls for service and self-initiated activities. The BWC must be activated when the officer arrives on-scene. This includes:
 - a. While responding for calls for service in emergency mode.
 - b. Traffic stops, including the investigation of a vehicle and occupants already stopped or parked.
 - 1) Officers equipped with the BWC (primary or backup officers) will continue to record until the stopped vehicle departs or officers leave the scene.
 - c. During the entirety of traffic or foot pursuits.
 - 1) Activate the BWC before initiating a traffic or foot pursuit.
 - 2) Deactivate the BWC when a vehicle or subject cannot be located.
 - d. When assisting other officers on any call for service or self-initiated activity.
 - 1) Officers must ensure they are added to the CAD incident when assisting other officers.
 - e. **All** requests for consent to search without a warrant, including searches of persons, buildings, or vehicles, will be recorded. Both audio and video recordings will be made of the request and consent when practical.
 - 1) Recording is intended to enhance a documented consent; it does not replace a signed Form 601, Consent to Search Without a Warrant.
 - f. Requests for searches and deployments of drug-detection canines involving vehicles, when practical.
 - g. Recordings of all persons physically arrested and being transported in any Department vehicle to any location.
 - h. Officers have the discretion to activate the BWC when they believe an event may have evidentiary value.
 - i. Officers are not required to initiate or cease recording an event solely at the request of a citizen.
 - j. Officers will ensure a supervisor is notified when signing warrants on individuals in order for the supervisor to categorize the BWC footage for proper retention.
3. Calls for Service Dispositions

- a. Once the officer has arrived on-scene, any incident **must** be cleared with a disposition **before** responding to another call for service. After clearing an incident BWC recording should be stopped (5 second hold of the Event button).
 - 1) If the officer has not arrived on-scene, “preempting” from a call for service is acceptable. The dispatcher will clear the officer from the call for service and hold it for them.
 4. The BWC may be deactivated after:
 - a. Clearing the call for service/self-initiated activity
 - b. The DVR is activated and recording a subject being transported in the police vehicle.
 - 1) Recording in-between calls for service/incidents is not required.
 - c. Concluding other calls for service. The officer may then initiate a “STARUN” to finalize any paperwork, e.g. case report, not previously completed.
 5. Officers will **not** use the BWC to record the following:
 - a. Confidential informants or undercover officers.
 - 1) Officers may record any enforcement action (e.g., traffic or investigatory stop) requested by a plainclothes officer.
 - b. Department personnel during routine, non-enforcement related activities, unless recording is required by a court order or is authorized as part of an administrative or criminal investigation.
 - c. In any place where there is a reasonable expectation of privacy (e.g., restroom, locker room) **except** during an active incident (e.g., foot pursuit that leads into a locker room).
 - d. In any detention facility or hospital facility (when confidential patient information may be recorded) **except** during an active incident (e.g., disorderly person).
 - e. During discussions/briefs regarding tactics and/or strategies.
- B. Viewing, Altering and/or Sharing BWC Recordings
1. **All** access to BWC footage is automatically logged to create an electronic audit trail.
 2. Officers shall not edit, alter, erase, duplicate, copy, share, or otherwise distribute in any manner BWC recordings without prior approval.
 - a. Requests to delete portions of a BWC recording (e.g., in the event of a personal recording) must be submitted for approval on a Form 17 to the police chief, who will review in accordance with state record retention laws. All requests and final decisions shall be kept on file.

3. Officers may view BWC footage at the district utilizing vendor-approved software and equipment or on any computer with internet capability. Viewing of BWC footage is for official use **only**.
 4. Officers will inform a supervisor of any recorded sequences that may be of value for training purposes.
 5. When an officer is involved in a police intervention shooting, their BWC will be subject to the process outlined in Procedure 12.550, Discharging of Firearms by Police Personnel.
 - a. Review of the BWC footage at Criminal Investigations Section (CIS) will be made according to the investigative process and at the discretion of the Investigations Bureau commander or their designee.
 6. Officers shall not use non-agency equipment or devices to record or download video from BWC's.
- C. BWC Management
1. TASER BWC systems not in use by officers shall be inserted into its TDS.
 - a. Connect the TASER BWC to the TDS to automatically upload recordings to Evidence.com and charge the unit.
 2. Two spare mounts will be kept in each district's armory. Only supervisors will assign spare mounts to officers.
- D. Court and Evidentiary Video Files/Redactions
1. When a BWC video file is required for court/evidentiary purposes, the Prosecutor's Office will contact Police Records to request the redaction process be initiated.
 - a. Police Records will redact the BWC video file(s) according to their Standard Operating Procedure (SOP) and notify the Prosecutor's Office when the files are available for review.
 - b. If no BWC video file exists, Police Records will advise the Prosecutor's Office. Police Records may contact an administrative supervisor for any questions regarding video file existence.
 2. Recording Auto Accidents Involving Police Equipment
 - a. If a BWC-equipped officer is involved in an auto accident, they should activate the BWC if physically able.
 - 1) When activated, the TASER BWC will record 30 seconds of buffered video (possibly recording the events prior to the accident).
 - b. The supervisor who completes the Form 90S, Supervisor's Review of Vehicle Crash, will review the officer's BWC video for any footage relevant to the auto accident.

- 1) If the officer's BWC contains relevant footage, the supervisor will upload the video file and label it for proper retention.
 - c. The supervisor will note in the Form 90S that BWC footage is available and forward the auto accident paperwork (90S, BMV3303, etc.) through the chain of command to Fleet Management.
 - d. The City Solicitor's Office will have access to these video files as needed for legal purposes.
 - 1) Fleet Management will maintain a computer database and act as liaison with the City Solicitor's Office.
 3. When a traffic stop involving an individual arrested for Operating a Vehicle Under the Influence (OVI) is captured by a BWC as well as the DVR:
 - a. Clearly mark the Form 527, Arrest Report, Ohio Multi-count Traffic Tag (MUTT), and the Form 495, Cincinnati Police Department Intoxication Report with "**ACE**" and "**BWC**" in bold letters.
 - 1) If the City Prosecutor's Office needs a copy of the BWC for court purposes, they will contact Police Records to request redaction.
- E. Records Requests/Redactions
1. All requests for BWC video files must be made prior to the end of the 90 day retention and availability period. After the 90 day retention period recordings not categorized for retention are automatically deleted.
 - a. Authorized format copies of video files, e.g. on disc, must be approved by Police Records and/or the district/section/unit commander.
 2. Requests for copies of video files originating from within the Department must be submitted on a Form 606 to Police Records.
 - a. Officers wishing to obtain a copy of their own video files will submit a Form 606 to Police Records.
 - 1) Police Records will redact the video file and forward a copy, in an authorized format, to the officer.
 - 2) Video files are to be used for official business only.
 3. Outside requests for video files must be submitted to Police Records on a Form 29, Police Records Public Records Request. The request can be completed online by emailing the Form 29 to cpdrecords@cincinnati-oh.gov or filling out an online form at <http://cincinnati-oh.gov/noncms/police/records/>. Ohio Public Records Law does not require requestors to submit requests in writing. Any oral request will be completed on a Form 29 by Police Records or district personnel, as outlined in Procedure 18.120, Public Records Requests.
 - a. Police Records will follow their SOP for the fulfillment of record requests, including completing redactions required by law.

- b. OVI recorded events will only be released with the approval of the prosecutor.
 - c. When a request for a video file is made from outside the Department, a second disc copy of the video file will be made by Police Records and maintained in a file for one year.
 4. Media requests for video files will be referred to and handled by the Public Information Office (PIO). Police Records will release a disc copy of video files to PIO upon request.
 5. Personal Privacy Redaction
 - a. BWC footage containing sensitive and/or private situations (e.g., interview of a victim of sexual assault; individual who is partially or completely unclothed) will be redacted according to the Police Records SOP prior to being released.
- F. Supervisory Responsibilities
 1. All supervisors will:
 - a. Inspect each officer's BWC during roll call to ensure the BWC is properly positioned to **clearly** record police activities regardless of uniform attire.
 - b. Ensure officers follow established procedures for the use and maintenance of the BWC equipment.
 - c. Follow the process outlined in Section A for a malfunctioning or usage of another officer's BWC.
 - d. Investigate and document on a Form 17BWC all incidents involving an officer who fails to activate or deactivate the BWC in accordance with procedure, or fails to upload their BWC footage in a timely manner, including any disciplinary recommendation.
 - e. Supervisors are encouraged to review content with officers to identify events with training value.
 - f. Supervisors who are dispatched to an administrative investigation (e.g. 18TBFP investigation) are not required to activate their BWC.
 2. Supervisors will review any relevant BWC footage and ensure BWC footage is uploaded and categorized for proper retention for all incidents involving:
 - a. Use of Force
 - 1) Form 18F – Supervisor's Use of Force Investigation
 - 2) Form 18TBFP – Use of Taser/Beanbag/40mm Foam Round/Pepperball
 - 3) Form 18C – Use of Canine

- 4) Form 18CI – Use of Chemical Irritant
- 5) Form 18I – Injury to Prisoner
- 6) Form 18NC – Non-compliant Suspect / Arrestee
- b. Injury to Officers
 - 1) Form 91SP – Supervisory Investigation of Employee Injury
- c. Vehicle Pursuits
 - 1) Form 34 – Vehicle Pursuit
- d. Citizen Complaints
 - 1) Form 648 – Citizen Complaint
 - a) When applicable, any member of the public, parent or legal guardian of a minor, or a deceased subject's next of kin or legally authorized designee who is a subject of video footage, shall be permitted to review that specific video footage during a citizen complaint investigation.
3. BWC footage used in Department investigations will be retained in compliance with the current records retention schedule as approved by the Cincinnati Records Commission. Refer to: <http://www.cincinnati-oh.gov/law/public-records/records-retention-schedules/>.

G. Biometric Searches

1. Stored video and audio from a BWC shall not:
 - a. Be used to create a database or pool of mug shots
 - b. Be used as fillers in photo arrays
 - c. Be searched using facial recognition software
 - 1) This does not prohibit CPD from using recognition software to analyze the recording of a particular incident when reasonable suspicion exists that a specific suspect or person in need of assistance may be a subject of a particular recording.