

NOTE: This Departmental Operating Instruction on body-worn cameras and mobile video recordings is only a DRAFT. It is extremely important that we obtain community input concerning this document before a final version is implemented. Thank you for your time, interest and feedback.

THE RALEIGH POLICE DEPARTMENT

1109-18

BODY WORN CAMERAS AND MOBILE VIDEO RECORDING

PURPOSE

To establish departmental policy regarding the use of body worn cameras and mobile video recording equipment.

VALUES REFLECTED

This directive reflects our value of *Fairness and Integrity*. By following these guidelines we will have direct evidence that we live up to the highest standards of behavior. These recordings will demonstrate to other criminal justice system agencies, and the public we serve, that we expect review of our actions and will stand by them.

UNITS AFFECTED

All Personnel

REFERENCES/FORMS

DOI 1106-01: "Confidentiality and Release of Information"

DOI 1108-1: "Use of Force and Weapons"

DOI 1108-04: "Evidence and Found Property"

N.C.G.S. 132-1

N.C.G.S. 132-1.4

N.C.G.S. 160A-168

Attachment A: "Internal Affairs Digital Patroller Copy Record"

Attachment B: "Recording Disclosure Request" (English)

Attachment C: "Recording Disclosure Request" (Spanish)

GENERAL POLICIES

Body Worn Cameras (BWC) and Mobile Video Recording (MVR) equipment have proven to be a valuable law enforcement tool in the prosecution of criminal violations, for evaluation of officer tactics and performance, and for training purposes. In order to maximize the utility and benefit of this specialized equipment, officers will follow the procedures set forth in this policy.

As with all departmental policies, the Raleigh Police Department shall regularly review this policy and update it as needed.

Both BWC and MVR equipment shall be used only for legitimate law enforcement purposes in accordance with applicable laws and departmental policy.

Every time an officer uses a level of force that would require completion of a Use of Force Report in accordance with DOI 1108-1, and the incident is or may likely have been captured by a BWC or MVR equipment, the following steps shall be taken:

- The officer who was involved in the incident shall notify his/her supervisor about the possible existence of a recording;
- The supervisor shall determine how many devices, both BWC and MVR equipment captured, or possibly captured the incident;
- The supervisor is responsible for ensuring that all relevant recordings are properly preserved as set forth in the policy;
- Any and all recordings of the incident shall be referenced in the required Use of Force Report.

All video and audio recordings captured by a BWC and/or MVR equipment are considered records of criminal investigations and are not public records. Disclosure and release of these recordings shall be governed by N.C.G.S. §132-1.4A.

DEFINITIONS

- **BODY WORN CAMERA (BWC)** - A recording device capable of both audio and video recording that is designed to be worn on the officer's body.
- **CRITICAL INCIDENT** – A critical incident includes, but is not necessarily limited to the following types of encounters:
 - An officer involved shooting
 - An in-custody death
 - A motor vehicle crash involving a police vehicle that results in death or serious physical injury
 - Any action on the part of an officer that results in the death or serious physical injury of a citizen
- **DISCLOSURE** – As set forth in NCGS § 132-1.4A, this is the process through which a person, or that person's personal representative, is allowed to review a video or audio recording in which that individual is captured.

Disclosure does not allow for a copy to be made by or given to the individual who is eligible for disclosure.

- **MOBILE VIDEO RECORDING EQUIPMENT (MVR)** – A recording device capable of both audio and video recording that is designed to be physically installed in a patrol vehicle.
- **PERSONAL REPRESENTATIVE** – A parent, court-appointed guardian, spouse, or attorney of a person whose image or voice is in the recording. If a person whose image or voice is in the recording is deceased, the term also means the personal representative of the estate of the deceased person; the deceased person's surviving spouse, parent or adult child; the deceased person's attorney; or the parent or guardian of a surviving minor child of the deceased.
- **RECORDING** – A visual, audio, or visual and audio recording captured by a BWC, a MVR, or any other video or audio recording device operated by or on behalf of a law enforcement agency or law enforcement agency personnel when carrying out law enforcement responsibilities. This term does not include any video or audio recordings of interviews regarding agency internal investigations or interviews or interrogations of suspects or witnesses.
- **RELEASE**- As set forth in NCGS § 132-1.4A, this is the process through which the department may release a copy of any audio or video recording.
- **SYSTEM ADMINISTRATOR** – This shall be a member of the Police Department, as appointed by the Chief of Police, to oversee the day to day technical operations and functionality of BWC and MVR operations.

MVR OPERATIONAL PROCEDURES

The following procedures shall be used by officers operating departmental vehicles with MVR equipment:

- Prior to beginning a tour of duty, the officer shall determine if the MVR equipment installed in their assigned vehicle is working properly, and shall promptly notify their supervisor of any malfunction or problem.

Officers should observe the following general procedures to ensure that the MVR equipment will properly record traffic stops or other enforcement actions undertaken in the field:

- The video camera shall be properly positioned and adjusted at the correct viewing angle to visually record the events.
- The MVR should not be deactivated until the vehicle stop or other enforcement action is completed (may include prisoner transport).
- If the MVR is equipped with a wireless microphone, it shall be turned on and worn by the officer in order to provide audio recording, to accompany the video recording, during MVR activation.

Any activation of the MVR will require the completion of the electronic log entry detailing at a minimum:

- Reason for the activation (tag);
- Identity/Code number of the Officer operating the vehicle; and,
- Case report number (if applicable)

MVR recorded video will be stored and retained on a secure video storage server. Video will be reviewed by the employee's supervisor and the Office of Professional Standards / Inspections Unit periodically to assess officer performance, determine whether MVR equipment is functioning properly, being fully and properly used, and to ensure compliance with policy and laws.

GUIDELINES FOR MVR-EQUIPPED VEHICLES

Officers will record all traffic stops, pursuits, and any emergency response situation. Officers may also use their MVR equipment to record the reason for their current or planned enforcement action such as DWI observations. Where possible, officers may use their MVR equipment to:

Record the actions of suspects during interviews, sobriety checks, or when placed in custody. To the extent feasible, when administering sobriety tests, officers should make every attempt to ensure the tests are being performed in view of the MVR.

Record the circumstances at crime and collision scenes or other events such as the collection and documentation of evidence or contraband

Officers will note in offense, arrest, and related reports when video recordings were made during the incident in question.

Additionally, Officers are encouraged to inform their supervisors of any recorded sequences that may be of value for training purposes.

GUIDELINES FOR BWC OPERATION

- **TRAINING AND ASSIGNMENT**

BWCs will be assigned to uniform personnel by the Chief of Police or her designee based on staffing resources, available equipment and the needs of the Department.

BWCs will only be utilized by designated personnel who have been properly trained in their use. The BWC issued by the Department will be the only BWCs authorized for use. Any and all use of BWCs will conform to current methods and techniques approved by the Training Staff.

- **USE OF THE BODY WORN CAMERA (BWC)**

Officers assigned to wear a BWC will have the discretion on where to mount the BWC, subject to Department approval, so long as it is worn on the front of the uniform in a manner that provides a view from the officer's perspective.

The BWC shall be activated to record during all field contacts involving actual or potential violations of the law; including, but not strictly limited to:

- Traffic Stops
- Suspicious Vehicles or Persons
- Arrests
- Voluntary Encounters of an Investigative Nature
- Officers working a checking station shall not activate their BWCs until they have reason to believe that a criminal violation has occurred, is occurring or is about to occur.

The BWC shall also be activated when responding to the following calls for service:

- When responding to any "in progress" call for service
- Unlawful Disturbances or Disorders
- Calls involving a crisis or disturbance involving emotionally or mentally disturbed subjects
- Offenses involving weapons or violence

Additionally, the BWC shall be activated during the following situations:

- When obtaining consent to search a person, vehicle, residence, building or other location, property or personal item,
- During all warrantless searches of individuals, vehicles, buildings, and other places,
- During the initial inventory of seized money or any high value property, and
- Prior to conducting a strip search, officers shall record a 360-degree video of the location where the strip search will be conducted.

If not already activated, the BWC shall be activated to record any encounter that becomes adversarial after initial contact or in any situation that the officer believes its use would be appropriate or valuable to document the incident or encounter.

Officers shall have discretion with respect to providing advance notice to persons that a BWC is recording; however, if a citizen inquires as to whether a BWC is in use or whether a recording is being made, officers shall provide a prompt and truthful response.

- **RESTRICTED USES**

BWCs shall be used only for legitimate law enforcement purposes in accordance with applicable law and departmental policy. Use of BWCs is **specifically prohibited** in certain situations:

- Officers **shall not** use BWCs to record fellow Departmental or City employees, except during situations that would require recording of a citizen in accordance with this policy;
- Officers **shall not** use BWCs in places where a heightened expectation of personal privacy exists, such as locker-rooms, dressing rooms, or restrooms, unless there is a need to capture criminal activity or a physical arrest. In such instances, officers should make every attempt to avoid recording when uninvolved parties are present;
- Officers **shall not** use BWCs to record strip searches. However, prior to conducting a strip search, the officer will record a 360-degree video of the location where the strip search will be conducted;
- Officers **shall not** use BWCs to record known confidential informants or undercover officers unless they are the subject of a criminal investigation;
- Officers **shall not** use BWCs to record judicial proceedings in courtrooms and Magistrate's Offices unless express permission is given beforehand by the presiding judicial official;
- Officers **shall not** use BWCs to record privileged communications between a defendant and his/her attorney;
- Officers **shall not** use BWCs to record peaceful and lawful assemblies, pickets, parades or protests;
- Officers **shall not** use BWCs to record activities that are not law enforcement functions;
- Officers **shall not** use BWCs in the patient area of a health care facility, including mental health care facilities, other than to document injuries for official law enforcement purposes or to capture criminal activity or a physical arrest. In these situations, Officers should take special care to record only parties involved in the incident being investigated; and
- Officers **shall not** use BWCs while on the grounds of any public, private, or parochial elementary, middle or secondary school, **except** in the following situations:
 - While making a physical arrest;
 - While controlling a person with use of force above soft hands; or
 - Any other circumstances that are extraordinary and in the discretion of the officer, required activation of the BWC.

Recordings of matters related to the investigation of suspected criminal activity which are either not required, or are restricted from recording by this policy but which nonetheless have been created, shall be tagged and retained according to the nature of the incident.

- **DEACTIVATION**

Once the BWC is activated by an officer, the BWC shall remain on, and not be turned off or placed in standby mode, until the conclusion of the officer's involvement in an event. This will occur when the incident that required activation has stabilized, concluded, or the officer has left the scene.

An incident shall be considered stabilized when the initial police response or exchange of communication related to police enforcement activities has transitioned to a controlled and orderly investigation by the primary officer.

BWC recordings may also be stopped at the request of a non-suspect. Should the officer choose to honor such a request to stop recording, said request shall be captured on the officer's BWC prior to doing so. The officer shall maintain the discretion to resume recording at any time during the encounter should he or she deem it necessary. Additionally, the officer shall have the discretion to deny such a request if he or she reasonably believes continued recording is necessary.

Officers shall make all reasonable efforts to avoid recording interviews with citizens who are:

- Victims of a criminal act;
- Victims of a sexual assault;

If working an event that becomes investigative in nature, an officer may deactivate the BWC when the initial response has transitioned into that of a controlled and orderly investigation. An officer shall deactivate a BWC when given a direct order to do so by a supervisor.

The BWC may be deactivated if an officer is on a perimeter or assigned to a static post where he/she is not in contact with citizens or actively participating in the investigation. The BWC will be reactivated if either of these conditions ceases to apply.

The BWC may be deactivated if it is necessary to discuss issues or concerns regarding an individual's mental or physical health condition. As soon as the private conversation is completed, the BWC shall be returned to record mode so long as the situation falls under the definition of required use.

Anytime an officer deactivates his or her BWC other than when the call has concluded, stabilized or the officer has left the scene, the officer will document the reason the BWC has been deactivated in the form of a recorded announcement on the BWC prior to deactivation.

COLLECTION, STORAGE AND MANAGEMENT OF MVR AND BWC DATA

- **OFFICER REVIEW OF RECORDINGS**

Officers are permitted to view recorded video to the extent allowed by and in accordance with NCGS § 132-1.4A prior to completion of an incident report.

To the extent feasible, officers may use video captured via the BWC or MVR equipment to assist with an investigation and to aid in the completion of official reports.

The viewing of any recording for anything other than approved Departmental purposes is prohibited.

No officer shall attempt to erase, edit or otherwise alter any data captured by a BWC or MVR.

Any redaction or editing of a recording shall be completed by the Office of Professional Standards after consulting with the Police Attorney. In the event that editing or redaction of a recording is necessary to protect the privacy interests of individuals or to comply with a court order, the Department shall keep a copy of both the original and redacted recording for the time required under this policy based on the type of event captured.

The downloading or converting of any recording captured by a BWC or MVR for any type of personal use is strictly prohibited.

Only recording devices issued and approved for use by the Department may be utilized by departmental employees. **Officers shall not erase, alter, or tamper with recorded data.** Employees are prohibited from making and/or distributing copies, in any form, of BWC or MVR video except in strict compliance with this policy. Only the Chief of Police, or the Chief's designee, may authorize additional methods for making or distributing copies of BWC and MVR data at their discretion as necessary.

All videos will be labeled in a manner that allows efficient identification and retrieval.

Officers are responsible for tagging **all** digital recordings at the end of their associated events. It is critical that officers select the most accurate tag to ensure that the video is maintained for the appropriate length of time. If an officer believes that evidence may have been captured prior to activation of a camera, he/she shall review any existing recording and take appropriate steps to mark and preserve relevant recording. Digital videos will be stored and retained on a secure video storage server according to the following classifications:

Event Type	Retention Period
Default/Infractions/Traffic Stop	90 Days

DWIs	3 Years
Misdemeanor Cases	3 Years
Felony Cases	20 Years
Consent Search	3 Years

Any officer operating a vehicle equipped with a MVR who makes an arrest or issues a citation for any criminal violation resulting from a traffic stop or is otherwise captured on MVR equipment shall properly tag the event using the most appropriate designation from the list above. When tagging the event, the officer shall electronically document their identity/code number and the associated case report number, if applicable.

The officer shall ensure all video from the MVR in their patrol vehicle has been uploaded to the secure video storage server by the end of their shift.

Officers shall ensure recorded events related to a criminal charge are provided to the District Attorney's office in a timely manner.

The method of delivery will vary depending on the model of MVR and/or BWC used. If a recorded event is stored on physical media (CD, DVD or flash memory drive), the officer shall pick them up from Internal Affairs and submit them into evidence. Other recorded events may be delivered electronically.

The Evidence Control Section and the Internal Affairs Unit will store physical media as listed below:

- The Evidence Control Section will receive and store all media being held as evidence as required in DOI 1108-4 (Evidence and Found Property).
- The Internal Affairs Unit will store all media concerning alleged officer misconduct.
- In the event that the recording media involves both a criminal and an internal investigation, a copy will be given to the Internal Affairs Unit.

The second copy of all MVR recordings on physical media related to impaired driving cases shall be delivered to the District Attorney's Office as soon as is practical. The employee delivering these copies shall obtain a receipt from the District Attorney's Office indicating they have taken possession of the copies. This receipt shall be forwarded to the Internal Affairs Section, which will maintain the receipt.

In the event that any member of the Department receives a subpoena for recorded BWC or MVR data from anyone other than the District Attorney's Office, that member shall notify the Police Attorney **without delay** and shall provide the Police Attorney a copy of the subpoena.

At the conclusion of the duty day an officer who is assigned a BWC shall dock the BWC in an available BWC docking station at a police station in order to allow recorded video to offload and the BWC to recharge. If there is not an available BWC docking station, the officer shall notify a supervisor. The supervisor should attempt to locate a fully offloaded BWC and remove it from the BWC docking station to allow another BWC to charge and offload video. If the supervisor cannot find an available slot on a BWC docking station, he/she should notify the System Administrator.

At the conclusion of the duty day an officer who is operating an MVR shall ensure any recorded video offloads completely to the police video storage server. If there are technical problems offloading the video, the officer shall notify a supervisor, who will notify the System Administrator.

Officers shall note in call comments, incident reports and/or citations that there is a BWC or MVR recording of the incident, to include a brief description of what was captured by the BWC or MVR and the MVR vehicle number, if applicable.

- **RETENTION**

Uploaded recordings will be retained on the secure video storage system based upon the retention schedule established for each category of recording as set out in this policy.

It shall be the responsibility of the investigating officer to ensure that all recordings which constitute evidence, or are required to be included in the case file, are properly tagged, downloaded, and stored within the Department's designated video storage system.

Officers who fail to select an appropriate event type prior to uploading or who inadvertently select the wrong event type shall contact System Administrator and request the event type be properly adjusted.

When an incident arises that requires the immediate retrieval of BWC recordings for chain of custody purposes, including, but not limited to, serious crime scenes or critical incidents, a supervisor will respond to the scene and ensure that the BWC remains affixed to the officer(s) in the manner it was found and that the BWC data remains uncompromised. Through direct and uninterrupted observation, the supervisor is responsible for the care and custody of the BWC until it has been removed and secured by the lead investigator, CCBI, the State Bureau of Investigation, or Professional Standards Personnel.

In the event of an unintentional activation of the BWC, an officer should request the recording be deleted. A memorandum detailing the circumstances of the unintentional recording will be forwarded to the officer's Division Commander. If approved, the deletion will be made by the System Administrator, who will maintain a record of the deletion. Such record shall include the date, time and duration of the deleted recording as well as the reason for the deletion.

SUPERVISOR RESPONSIBILITIES

Personnel who supervise officers assigned to utilize BWC or MVR equipment are responsible for the following:

- Ensuring all officers follow established procedures for the use and maintenance of BWC and MVR equipment, handling of recordings and the completion of any necessary BWC and MVR documentation.
- Conducting a periodic review of BWC and MVR media to assess officer performance, determine whether BWC and MVR equipment is being fully and properly used, and to identify material that may be of value for training purposes. This review shall occur at the Division level on a monthly basis.
- In addition to the monthly audit conducted by a Division supervisor, the Office of Professional Standards shall conduct an annual review of BWC and MVR recordings to ensure compliance with policies.
- Ensuring that repairs and replacement of damaged or nonfunctional BWCs and MVR equipment is properly performed.
- Supervisors shall be responsible for ensuring that the following types of events are properly categorized

Event Type	Retention Period
Vehicle Crashes Involving City Vehicle	4 years
Professional Standards Case	Indefinite
Critical Incident	Indefinite

USE OF AUDIO/VIDEO RECORDING MEDIA FOR TRAINING PURPOSES

Any employee who wishes to use a recording for official law enforcement training purposes shall submit a written request to the Major for Professional Standards. This request shall include sufficient information to identify the recording in question, as well as a justification of why the recording would be a good training tool.

All such requests shall be reviewed by the Major for Professional standards, who will consult with the Police Attorney and the Major for the Administrative Division. Only the Chief, Deputy Chief, or Major for Professional Standards is permitted to authorize use of a recording for official training purposes.

AUDIO/VIDEO RECORDING MEDIA DISCLOSURE AND RELEASE

Pursuant to N.C.G.S. 132-1.4A, recordings made by departmental personnel must be disclosed and/or released to requesting individuals in certain circumstances. The term recording is defined by the statute as "a visual, audio, or visual and audio recording captured by a body-worn camera, a dashboard camera, or any other video or audio recording device operated by or on behalf of a law enforcement agency or law enforcement personnel carrying out law enforcement responsibilities." However, the statute states that for the purposes of disclosure and release, the term

“recording” **DOES NOT** include any video or audio recordings of interviews pertaining to agency internal investigations or interviews/interrogations of suspects and witnesses.

The Office of Professional Standards will be responsible for handling requests for disclosure and/or release of any recordings made by Raleigh Police Department personnel.

- **Disclosure Procedures**

Any person requesting disclosure of a recording must submit a completed “Recording Disclosure Request” form to the Chief of Police. These forms may be obtained online through the Raleigh Police Department’s web site, in person at any Raleigh Police Department District station or from any sworn member of the Department. Completed forms shall be delivered in person to the Office of Professional Standards so that the identity of the requesting party can be confirmed.

The Chief of Police or his/her designee may only authorize disclosure of a recording to the following entities:

- A person whose image or voice is in the recording;
- A personal representative of an adult person whose image or voice is in the recording, if the adult person has consented to the disclosure;
- A personal representative of a minor or of an adult person under lawful guardianship whose image or voice is in the recording;
- A personal representative of a deceased person whose image or voice is in the recording;
- A personal representative of an adult person who is incapacitated and unable to provide consent to disclosure

When disclosing the recording, only those portions of the recording that are relevant to the petitioner’s request will be disclosed. Any person who receives disclosure of a recording is prohibited from recording or otherwise making a copy of the recording.

Upon receipt of properly completed “Recording Disclosure Request” form, the Office of Professional Standards will review the request and determine if disclosure of the recording will be granted to the requesting party. The following factors will be taken into consideration during the decision-making process:

- If the person requesting disclosure is a person authorized to receive disclosure as described above;
- If the recording contains information that is otherwise confidential or exempt from disclosure or release under state or federal law;

- If disclosure would reveal information regarding a person that is of a highly sensitive personal nature;
- If disclosure may harm the reputation or jeopardize the safety of a person;
- If disclosure would create a serious threat to the fair, impartial, and orderly administration of justice;
- If confidentiality is necessary to protect either an active or inactive internal or criminal investigation or potential internal or criminal investigation

Decisions regarding disclosure will be made as soon as possible, and if approved, disclosure should occur no more than 3 business days after the request is received. When a decision is made to grant disclosure, a representative of the Office of the Chief of Police will contact the requesting party to schedule a date, time and location where the disclosure will take place. If a disclosure request is denied, the requesting party will be notified in writing by email and/or certified mail. The requesting party will then have the option of petitioning the court for disclosure of the recording.

In any court proceeding resulting from the Department's denial of a disclosure request, the following persons shall be notified and those persons, or their designated representative, shall be given an opportunity to be heard by the court:

- The Chief of Police or his/her designee;
- Any law enforcement personnel whose image or voice is in the recording and the head of that person's employing law enforcement agency; and,
- The District Attorney

- **Release Procedures**

Recordings maintained by the Raleigh Police Department shall only be released to non-law enforcement entities pursuant to a court order. If the Department wishes to release a recording to a non-law enforcement entity, the Chief of Police or his/her designee will be responsible for filing an action seeking a court order for the recording's release in the Superior Court of the county where the recording was made.

In any court proceeding related to the release of a recording maintained by the Department, the following persons shall be notified and those persons, or their designated representative, shall be given an opportunity to be heard by the court:

- The Chief of Police or his/her designee;
- Any law enforcement personnel whose image or voice is in the recording and the head of that person's employing law enforcement agency; and,
- The District Attorney

The Department shall disclose or release recordings without a court order to the District Attorney for the following purposes:

- For review of potential criminal charges;
- In order to comply with discovery requirements in a criminal prosecution;
- For use in criminal proceedings in district court; and,
- For any other law enforcement purpose.

Additionally, the Department is authorized to disclose or release recordings without a court order for any other law enforcement purpose the Chief of Police deems necessary (i.e. training, administrative purposes, legitimate needs of another law enforcement agency, etc.).

In the event a court order directing the release of a recording is produced to the Department, it shall be delivered to the Police Attorneys' Office without delay. Upon direction from a Police Attorney, the Office of Professional Standards will be responsible for producing a copy of the recording and delivering it to the recipient identified in the court order. A receipt for the recording shall be completed and signed by the recipient and will be maintained in the Office of the Professional Standards.