WEST NORRITON TOWNSHIP POLICE DEPARTMENT

Subject: Body-Worn Cameras		Policy # 2.4.2
Accreditation 2.4.2		
Effective Date: January 1, 2008	Revised Date: Dec. 28, 2018	
By Authority Of: Chief A. Dale Mabry	Signature: ADMabry	

2.4.2 BODY-WORN CAMERAS

A. PURPOSE

This order establishes guidelines for the proper use, training and care of the Body-Worn Camera system (BWC) and to establish policy regarding the retention, storage and release of mobile digital video files and images.

The primary purpose of this directive is to establish clear policy and procedures to document incidents involving police officers and the public, while also protecting the privacy rights of all parties being recorded.
To effectively perform their duties, officers must have a level of comfort in which minor disciplinary offenses recorded while performing their duties that would not otherwise become known but for wearing the BWC, will not adversely affect an officer's career.

Thus, the secondary purpose of this directive is to provide officers with the knowledge that "minor disciplinary code violations" that are captured on any BWC will not result in an official Internal Affairs investigation, based solely upon their minor infraction. Rather, any such violations may result in command level discipline, training and/or counseling consistent with West Norriton Township Police, Policy # 1.8.1, Code of Conduct.

For the purposes of this directive, "minor disciplinary code violations" shall mean any Disciplinary Code violation where the 1st offense has a penalty range of,

1. Oral reprimand
2. Written reprimand
3. Voluntary surrender of time-off in lieu of other action.
4. Suspension.
5. Extension of probationary period.

B. POLICY

It shall be the policy of this department to comply with the laws of the Commonwealth of Pennsylvania while striving to achieve maximum benefit from the BWC equipment. Officers shall follow the procedures outlined in this policy for BWC use and care.

The Pennsylvania Wiretapping and Electronic Surveillance Control Act (18Pa. C.S., 5704 (16) has been amended to authorize the use of Body-Worn Cameras by law enforcement officers under certain conditions. These recording devices provide and unbiased audio and video recording of events the officers encounter. These recordings are useful for law enforcement:

1. To enhance officer safety.
2. To enhance the public trust by preserving factual representations of officer-citizen interactions in the form of video and audio recordings.
3. To document statements and events during the course of an event.
4. To enhance law enforcement's ability to document and review statements and actions for both reporting requirements and for courtroom preparation/presentation.
5. To preserve visual and audio information for use in current and future investigations.
6. To provide and impartial measurement for self-critique and field evaluations during officer training.

Body-Worn Cameras (BWC's) are not a substitute for an officer's reasonable beliefs and perceptions and cannot account for an officer's physiological responses (i.e., visual tunneling or auditory exclusion) during critical incidents. BWC's should not be viewed as the only measure of truth because they may show more or less than what the officer sees, hears or observes. BWC's have an important, but limited, use as one of many policing tools.

C. PENNSYLVANIA LAW

Wiretapping and Electronic Surveillance Act (18 Pa. C. S. 5702)

As a result of amendments made to the Pennsylvania Wiretapping and Electronic Surveillance Act on July 7, 2017, Law Enforcement Officers (State Police, MPO, Certified Officers, Sheriff's and Deputy Sheriff's) may, regardless of the location, lawfully use any approved electronic, mechanical or other device to intercept communication in the course of their law enforcement duties, when the law enforcement officer is on official duty, in uniform or otherwise clearly identifiable as a law enforcement officer.

D. EQUIPMENT AND TRAINING

1. BWC equipment:

    a. At the start of the officer's tour of duty, officers shall inspect and log in the BWC and ensure that the system is in good working order. (PLEAC 2.4.2e)
    b. If it is determined that the equipment is not functioning properly, is damaged, lost or missing, at the beginning or at any time during the tour of duty, the officer shall notify the on-duty supervisor and complete an equipment repair

form and/or incident report. It will be the responsibility of the Chief of Police, his designee or the BWC administrator to determine the most appropriate action that needs to be taken to have the malfunctioning, or damaged BWC repaired. (PLEAC 2.4.2g)

c. If maintenance is required on the BWC, only authorized and trained persons shall perform the maintenance or repairs. The maintenance and storage of the BWC's shall be done according to Department policy and procedures as well as the manufacturer's specifications. When not in use the BWC shall be stored in the chargers located in the Patrol Room. (PLEAC 2.4.2c, d)

2. Training:

   a. Officers utilizing BWC's shall be properly trained in both the operation of the equipment and its operational procedures prior to using the BWC in an official capacity.
   b. Reviewing the manufacture's training video and/or receiving training from the designated BWC trainer.
   c. Reviewing the BWC policy and procedures as part of the initial training and annually, or as required by the department. (PLEAC 2.4.2a)

D. UTILIZATION OF THE BWC's:

1. Only officers in uniform or otherwise clearly identifiable as law enforcement officers are permitted to use a BWC.

2. The BWC shall be worn and utilized by all on-duty officers as designated by the Chief of Police.

3. The BWC shall be worn on the chest of the uniform shirt or jacket.

4. Only department authorized BWC's will be used by officers while on duty.

5. Officers shall not use other electronic devices or other means to intentionally interfere with the capability of the BWC system.

6. Officers shall place their BWC in "stand-by" mode immediately at the beginning of their tour of duty. BWC's shall be activated prior to responding to all calls for service and during all law enforcement related encounters, unless exigent circumstances or conditions exist that would prevent the immediate activation of the BWC. These encounters include, but are not limited to:

   a. Vehicle stops.
   b. Vehicle pursuits and/or foot pursuits.
   c. Emergency responses.
   d. Vehicle searches.
   e. Pedestrian stops.

f. When initiating an on-view arrest or citation.
g. When taking a statement or information from a victim or witness.
h. When transporting a suspect/detainee/victim/witness.
i. When handling a disturbance or crisis related incident.
j. When handling any protest or demonstration.
k. When confronted by any member of the general public that is or may become confrontational, antagonistic or hostile.
l. When conducting a suspect confrontation (i.e. show-up identification of a suspect by a victim or witness). A view of the suspect should be recorded during the confrontation, when reasonable.
m. During any incident or situation that the officer, through training or experience, believes should be audibly and visually recorded in accordance with this order and the Commonwealth of Pennsylvania laws.

7. The BWC shall remain activated until the officer is no longer involved in the incident for which it was started, unless the activation was inadvertently started, or they receive permission from a supervisor to end the recording. In addition, officers may not interfere with or disrupt the recording of a required recording event. (PLEAC 2.4.2b)

8. The record function may be turned off during non-enforcement related activities. Deactivating the BWC is performed by pressing the on/off button located on the BWC. These activities include but are not limited to:

   a. Directing traffic.
   b. Protecting accident scenes.
   c. Outside protection/security details.
   d. An event of extended duration, where the scene is secure and no BWC recording is required.
   e. Ambulance calls.
   f. In the event it is necessary to discuss issues surrounding the investigation with a supervisor or another officer in private.
   g. When interacting with crime victims, witnesses or informants, who request to not be recorded, officers shall use discretion in deciding whether to deactivate the BWC and shall balance the value of capturing such recording against the reluctance of the victim, witness or informant.
   h. When the recording would capture gruesome images, or when private area of the human body is exposed and there is no legitimate law enforcement need to capture the images.
   i. When entering a religious institution, during services.
   j. When entering a hospital room or private patient area in a hospital.
   k. When the event has been cleared and there is no need to further record.

   NOTE: A BWC <u>shall not</u> be called to a crime scene to specifically record video unless exigent circumstances exist when departmental equipment is unavailable and there is no other means to record the item or event.

9. Once on location of an incident or event and as soon as practical, officers shall inform the individuals identifiably present that the officer has intercepted and recorded the oral communication. (i.e., that they are being recorded)

10. Officers shall record in the incident report and/or citation that the incident or event was recorded.

11. Whenever an officer with a BWC obtains a video statement, the fact that a statement was recorded shall be included in the incident report.

12. Whenever an arrest is made or use of force used that was recorded on the BWC, that fact shall be recorded in the incident report.

13. All other relevant events that were recorded on the BWC, while on duty, shall be recorded in the incident report.

14. If the officer is required or chooses to deactivate the BWC prior to the conclusion of any incident or event, the officer shall state aloud, while the device is still activated, why the device is being deactivated if practical. This event shall be recorded on the incident report.

15. If the BWC video captures a police firearms discharge (other than an animal destruction), a seriously injured officer, a motor vehicle accident involving serious bodily injury, any death, or any use of force resulting in seriously bodily injury or death, the officer's BWC shall be immediately surrendered to the nearest supervisor, who will then safeguard the BWC until the video can be downloaded by the Chief of Police or his designee. The BWC shall be returned to the officer as soon as practical after the video has been downloaded and secured.

16. Assisting officers in an incident shall have the same activation, recording and reporting responsibilities as the primary officer. All BWC activations and/or deactivations shall be recorded on any supplemental reports.

E. PROHIBITED RECORDING AND ACTIONS

1. Body-worn cameras shall not be used to record:

   a. Non-work related personal activities or conversations.
   b. Places where a reasonable expectation of privacy exists. (i.e. locker rooms, dressing rooms or restrooms)
   c. Conversations with confidential informants and undercover officers.
   d. Strip searches.
   e. Operational strategies or tactics.

f. Conversations of fellow employees or supervisors during routine administrative activities not related to those incidents or events as outlined in law enforcement related encounters.
g. Media captured on a BWC from another recording device. (i.e. cell phone, tablets, computers, laptops, etc.)
h. Officers shall not lead a person to believe the BWC has been deactivated when in fact, the BWC is left active.

F. BODY-WORN CAMERA UPLOADING PROCEDURE

1. At the end of each tour of duty, officers utilizing a BWC shall place their assigned BWC into the appropriate docking station. This will allow the data to be transferred from the BWC through the docking station to the department's secure server. The server is protected by both cyber and physical securities. (PLEAC 2.4.2h) The data is considered impounded at this point and the BWC will be cleared of all existing data. The BWC should not be removed from the docking station/connection until the data has been fully uploaded.

2. Only the Chief of Police, his designee or the BWC administrator are authorized to access BWC data from the department secure server. (PLEAC 2.4.2i)

3. The BWCS library is available for the officer and/or supervisor to access and view BWC data. This data shall not be altered, erased, or edited from the BWCS library.

G. SUPERVISOR/OIC RESPONSIBILITIES

1. Ensure that officers under their supervision are trained and knowledgeable in the use of the BWC and this policy.

2. Ensure that officers under their command upload their recordings on a regular basis.

3. Conduct random inspections of BWC equipment to confirm that it is in proper working order.

4. Review recordings of all officers involved in an injury to an employee, injury to a prisoner, response to resistance, intentional or unintentional discharge of a firearm, vehicle pursuits, vehicle crashes involving officers, citizen complaints, documented internal complaints or as directed by the Chief of Police or his designee.

5. Supervisors may review footage for documenting exemplary performance, heroic actions and/or other praiseworthy service for the appropriate recognition and commendation, unless those actions are under review by the Chief of Police and/or internal investigations.

6. Supervisors should not review recordings for the sole purpose of discovering violations of departmental policy which are not related to a specific complaint or incident; however, they may review video recordings for the purpose of training, critique, early intervention inquiries, civil claims, administrative inquiries or addressing behavioral/performance deficiencies. (PLEAC 2.4.2f)

7. Ensure this policy is adhered to by all officers. (PLEAC 2.4.2m)

H. SECURITY, ACCESS, STORAGE AND RETENTION OF DATA

1. Officers are prohibited from tampering with, erasing, reusing or in any manner altering BWC recorded audio/video data or related metadata, software or hardware with the exception of the Chief of Police, his designee or the BWC administrator. (PLEAC 2.4.2g)

2. The officer may have the edited version of the BWC recording for court proceedings, however a full un-edited version will remain on the server until the retention is no longer required for evidentiary purposes.

3. The editing will be for the purpose of removing segments of a recording that have no evidentiary value such as post-event recordings when the BWC is unintentionally left recording.

4. Accidental recordings will be deleted by the Chief of Police or his designee, upon notification from the officer.

5. Original recordings shall be retained for a period of not less than 90 days unless a request is made for retention. (PLEAC 2.4.2j)

6. Officers may view a recorded event from the BWCS library for the purpose of report writing, training or court preparation. If the BWC recording is used for the purpose of report writing, the following statement will be recorded on all police reports prepared after reviewing their BWC video: “The contents of this document are based on my observations of the incident and a review of the recordings captured by a mobile video recording system”.

7. The recorded event will be made available to the officer and/or the District Attorney’s office for the purpose of any judicial proceeding only by the Chief of Police, his designee or the BWC administrator.

8. Under no circumstances shall a recorded event be copied, reproduced, or retained for dissemination to the media or other non-criminal justice related entities unless specifically authorized by the Chief of Police or his designee.

9. All recordings and reproductions thereof are the property of the West Norriton Township Police Department and shall be retained in accordance with the guidelines set forth in this policy.

10. When a non-criminal justice entity requests a recording, the release of said recordings will be governed by the statute entitled "Recordings by Law Enforcement" found in Title 42, Chapter 67A.

11. Under no circumstances shall any digital recording by a BWC be used for the purpose of officer or civilian ridicule or embarrassment. This includes any submission of any portion of a digital recording from a BWC to a media organization, social media, or any other media platform designed to be viewed by the general public or other members of the department.

I. VIOLATIONS

1. Violations of this policy regarding the use of BWC's are subject to disciplinary action, up to and including termination. (PLEAC 2.4.2l)

J. INTERNAL AFFAIRS INVESTIGATIONS/DEPARTMENTAL REVIEW/ACCESS TO DATA

1. An investigator/supervisor who is designated by the Chief of Police and participating in an official department investigation of a personnel complaint, claims investigation, administrative inquiry, or criminal investigation, may review specific incidents contained on digital recordings. Any other review will require the express approval of the Chief of Police or his designee.

2. The Chief of Police or his designee may review a specific incident contained on digital media for the purpose of training, critique, early intervention inquiries, civil claims, administrative inquiry, or other articulate reason.

3. Digital recordings from BWC's shall not be randomly reviewed for the sole purpose of finding disciplinary infractions. However, supervisors may, upon good cause and with prior authorization from the Chief of Police or his designee, review the digital recordings of specific officers to monitor their behavior.

4. This policy and BWC program shall be reviewed on an annual basis by the Chief of Police or his designee or the BWC administrator for the purpose of maintaining compliance with Commonwealth of Pennsylvania law and amendments, Montgomery County District Attorney policy and procedures and the policies and procedures of West Norriton Township.

5. This policy shall be made available for review by the public and comments and suggestions will be taken under advisement and consideration by the West

Norriton Township Board of Commissioners, the West Norriton Township Manager and the Chief of Police, prior to implementation.

K. FACIAL RECOGNITION SOFTWARE (JFRS) ACCESS AND USE (PLEAC 2.4.2k)

1. The Department has access to Facial Recognition Software through the Pennsylvania Justice Network. (JNET). The JNET Facial Recognition System (JFRS) allows law enforcement investigators to compare images from a variety of sources, including surveillance or security video and social media sites, against statewide criminal database containing 3.5 million photographs.

    a. JFRS compares uploaded facial images with those existing in the WebCPIN and PennDOT databases.
    b. Access and use of JFRS shall be limited to those officers authorized by the Chief of Police or his designee.
    c. To access and utilize JFRS, JNET users must first have the Criminal History role and complete the JFRS training segment in JNET.
    d. Appropriate use of JFRS results (images) are covered by the JNET User Agreement and JNET Privacy Policy.
    e. The JFRS shall only be used as an investigative tool to assist in obtaining a list of candidates.
    f. JFRS shall <u>NOT</u> be used as positive identification.

L. DEFINITIONS:

1. <u>BWC</u> – Body-Worn Camera is a recording device worn by a law enforcement officer and designed to record visual and audible data on a secure computer network designated for law enforcement purposes.

2. <u>Camera</u> – The BWC's component that records the visual events taking place.

3. <u>Activate</u>- Any process or action that causes a body-worn camera to begin recording and storing both audio transmissions and visual images.

4. <u>Stand-by-mode</u>- This refers to when officers turn on their BWC's and it is ready to record audio transmissions and video images but has not been activated.

5. <u>Bookmarking/tagging</u>- Refers to a feature similar to the conventional bookmarks you place within the pages of a book that allows the investigator to indicate points of interest in a BWC video clip thereby allowing future viewers to quickly locate the points of interest without the need to view the entire video.

6. <u>De-activate</u>- Any process or action that causes a mobile recording device to stop recording and storing both audio transmissions and visual images.

7. Hardware- Physical parts of the BWC such as wires, batteries, lenses, buttons, etc.

8. Intercept- Aural (Hearing/listening) or other acquisition of the content of a wire, electronic or oral communication through the use of any electronic, mechanical, or other device.

9. Law Enforcement Officer- As used in this directive, means a member of the Pennsylvania State Police, an individual employed as a police officer who holds a current certificate under 53 Pa. C.S. Chapter 21, Subchapter D (i.e.) an MPO Certified Officer) a sheriff or a deputy Sheriff.

10. Oral Communication- Any oral communication uttered by a person possessing an expectation that such communication is not subject to interception under circumstances justifying such expectation. This term does not include:

    a. An electronic communication.
    b. A communication made in the presence of a law enforcement officer who is using an electronic, mechanical or other device which has been approved under 18 Pa. C.S. 5706 (B) (4) to intercept the communication in the course of law enforcement duties.

11. Recorded Media- Audio-video signals recorded or digitally stored on a storage device or portable media.

12. Wiretap Act- The Pennsylvania Wiretapping and Electronic Surveillance Control Act (18 Pa. C.S. 5701, et seq.)