

Body-Worn Camera (BWC) Policy Recommendations

These policy recommendations have been adopted by the Pennsylvania Commission on Crime and Delinquency (PCCD) in accordance with §67A07 of the Act 22 of 2017, which requires PCCD to condition grant funding related to body worn cameras (BWCs) on the following:

(b) The Pennsylvania Commission on Crime and Delinquency is authorized to condition funding or a grant related to the implementation, use, maintenance or storage of body worn cameras or recordings from body worn cameras on the following:

(b)(1) Requiring the grantee to have a protocol, guidelines or written policies related to the implementation, use, maintenance or storage of body worn cameras.

(b)(2) Requiring that such a protocol, guidelines or written policies are publicly accessible, including being retrievable on a municipal website.

(b)(3) Ensuring that the protocol, guidelines, or written policies substantially comply with applicable recommendations by the Commission.

According to these provisions, in order to be eligible for BWC related grant funding, agencies must issue a written, publicly accessible policy prior to implementing a BWC program that meets or exceeds these policy recommendations. Each of these agencies shall make a reasonable effort to comply with these recommendations. In some cases, agencies are at liberty to meet the policy recommendations in a manner that best suits their unique local needs and organizational structure.

PCCD strongly encourages agencies to develop their BWC policies and protocols in accordance with best practices with input from their Criminal Justice Advisory Board (CJAB) and community stakeholders, such as local victim service providers, community police review boards, and other interested parties.

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§67A07 (a)(1). The training of law enforcement officers authorized to make audio recordings or video recordings.

A. TRAINING:

It is the recommendation of the Commission that:

1. Agencies shall ensure that all personnel who may use or otherwise be involved with BWCs are trained on agency policy and the operation of the BWCs, prior to use.
2. Agencies shall require an initial training for personnel and refresher training on BWC usage and protocols. Training should include the following:
 - a) All practices and protocols covered by the agency's BWC policy.
 - b) An overview of relevant state laws governing consent, evidence, victim and witness privacy, and public disclosure.
 - c) Best practices in responding to crime victims, including the privacy considerations included under §67A07 (a)(2), obtaining informed consent to record, and a trauma-informed response.

§67A07 (a)(2). The time periods when an electronic, mechanical or other device shall be in operation to make audio recordings or video recordings.

B. ACTIVATION PERIODS:

It is the recommendation of the Commission that:

1. Policies shall specify the time periods when a BWC shall be in operation to make audio or video recordings.
2. Subject to paragraph (c) of this recommendation below, officers should begin BWC recordings in the following circumstances unless doing so would be unsafe, impossible, or impractical:
 - a. At the initiation of a call for service or other activity that is investigative or enforcement in nature, or an encounter between the officer and a member of the public that is investigative or enforcement in nature. Examples of these types of encounters may include, but are not limited to, traffic stops, arrests, pursuits, interviewing a witness, etc.
 - b. Any encounter that becomes confrontational after the initial contact.
 - c. When victims, witnesses or other individuals wish to make a statement or share information, but refuse to do so while being recorded, or request that the camera be turned off, officers should turn off the BWC in order to obtain the statement or information. If the encounter begins when the BWC is not actively recording, the law enforcement officer should, but is not required to, temporarily activate the BWC for the sole purpose of documenting the person's refusal to be recorded.
3. If officers are unable to begin recording with the BWC due to circumstances making it unsafe, impossible, or impractical to do so, officers should begin recording with the BWC at the first reasonable opportunity to do so. Officers should document, in writing, the circumstances preventing them from activating the BWC and provide that documentation to their immediate supervisor.

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C. DISCRETIONARY ACTIVATION:

It is the recommendation of the Commission that:

1. If an agency allows officers to exercise discretion in recordings, policies should provide clear guidance regarding the circumstances under which officers will be allowed to exercise discretion to record, the factors that officers should consider when deciding to record, and the process for documenting whether to record.
2. Policies should provide clear guidance regarding the appropriate use, or prohibited use, of an officer's personally owned BWC while the officer is on duty.

D. PROHIBITED ACTIVATION:

It is the recommendation of the Commission that:

1. Agencies should prohibit recording other agency personnel during routine, non-enforcement-related activities unless the recording is required by a court order or is authorized as part of an administrative or criminal investigation.
2. Policies should clearly state other types of recordings that are prohibited by the agency, such as any non-work-related activity; places where a reasonable expectation of privacy exists (e.g., bathrooms or locker rooms); and strip searches.

§67A07 (a)(3). The proper use, maintenance and storage of the electronic, mechanical or other device to make audio recordings or video recordings, including equipment inspections and audits and procedures to address malfunctioning equipment.

E. USE, MAINTENANCE, AND STORAGE:

It is the recommendation of the Commission that:

1. Agencies shall comply with the equipment and secure onsite and offsite storage of audio and video recording standards annually established by the Pennsylvania State Police and published in the Pennsylvania Bulletin.
2. Policies shall outline the proper use, maintenance and storage of the BWC device, including equipment inspections, audits, and procedures to address malfunctioning equipment. Policies should include the following:
 - a) Prior to beginning each shift, function tests of the BWC should be conducted in accordance with the manufacturer's recommendations and agency policy.
 - b) Upon discovering a BWC malfunction, agency members should promptly report the malfunction to a supervisor or other appropriate authority in accordance with agency policy regarding malfunctions.
 - c) Designate the individual responsible for downloading BWC recorded data and specify when data should be downloaded from the BWC.
 - d) In certain clearly identified circumstances (e.g., officer-involved shootings, in-custody deaths, or other incidents involving the officer that result in a person's bodily harm or death), designate the individual immediately responsible for taking physical custody of the camera and responsible for downloading the data.
 - e) Specific measures to prevent data tampering, deleting, and copying.

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- f) The proper categorization and tagging of BWC videos at the time they are downloaded. Videos should be classified according to the type of event or incident captured in the footage.
3. The policy shall outline how all files will be securely saved and stored. Policies shall include procedures that address:
 - a) Security and access control, and
 - b) Creation of audit trails and access logs.
4. In the event the agency opts to implement an external audit of BWC videos, the agencies shall develop a written policy outlining the process. External audits may be implemented to promote community trust, legitimacy, transparency and accountability.

§67A07 (a)(4). The information collected from audio recordings or video recordings, including the information's storage, accessibility and retrieval.

F. REVIEW OF RECORDINGS:

It is the recommendation of the Commission that:

1. Policies shall address how BWC recordings are to be stored, accessed and retrieved. Policies should include the length of time recordings will be stored, who will have access to such recordings, and how a victim or victims may request access to such recordings (must be in compliance with Act 22 of 2017's Chapter 67A "Recordings By Law Enforcement Officers").
2. Policies shall include in what situations, if any, an officer is authorized to view a BWC recording. Reasons to view and use recordings may include, but not be limited to:
 - a) Investigation, report writing or preparation of other official documents;
 - b) Court preparation;
 - c) Review of prosecution evidence;
 - d) Crime scenes;
 - e) Training; and
 - f) Policy compliance.
3. Policies shall comply with Pennsylvania law and include clear and consistent protocols for releasing recorded data externally to the public in accordance with §67A03, §67A04, §67A05 and §67A06, including procedures related to external review of BWC footage by the county's District Attorney or the Attorney General.
4. Policies shall include:
 - a) The agency's retention policy for unedited original versions of stored BWC footage.
 - b) The agency's access log policy, which should note anytime the footage is viewed, for what length of time and by whom, as well as any copying or editing.

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§67A07 (a)(5). Electronic Records Retention.

G. RETENTION OF RECORDS:

It is the recommendation of the Commission that:

1. An agency's written policy shall include retention period(s) for BWC recordings.
2. To comply with individual requests for BWC footage as identified in §67A03 of Act 22 of 2017 (relating to requests of law enforcement audio recordings or video recordings), the policy shall require the agency to retain and store the BWC footage for a minimum of 60 days.
3. When setting retention times, agencies should consider the following:
 - a) State laws governing evidence retention.
 - b) Departmental policies governing retention of other types of electronic records.
 - c) The need to preserve footage to promote transparency.

§67A07 (a)(6). The use of facial recognition software or programs.

H. FACIAL RECOGNITION:

It is the recommendation of the Commission that:

1. Agencies that explore the potential to integrate BWC systems with facial recognition systems should consult with legal counsel and other relevant stakeholders in the development of their policies.
2. In the event the agency opts to use facial recognition software or programs, agencies shall establish procedures for the acceptable use of the images, information, and tools within the facial recognition system in conjunction with a BWC system.

§67A07 (a)(7). A statement that a violation of the agency's policy subjects the violator to the agency's disciplinary policy.

I. POLICY VIOLATIONS:

It is the recommendation of the Commission that:

1. Policies shall include a statement that a violation of the agency's BWC policy subjects the violator to the agency's disciplinary policy.

§67A07 (a)(8). Supervisory Responsibilities.

J. SUPERVISORY RESPONSIBILITIES:

It is the recommendation of the Commission that:

1. Policies shall include all supervisory responsibilities and duties as required under these recommendations.
2. Policies should clearly describe the circumstances in which supervisors will be required to review an officer's BWC footage.

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3. In the event the agency opts to use BWC footage to monitor agency policy for officer performance, the agency shall develop a separate policy in which officers shall be informed of before implementation. At a minimum, the policy will address the following:
 - a. What issues and policies will be reviewed.
 - b. How they will be addressed.
 - c. How they will be documented.

References:

The following sample BWC model policies and resources can be used by agencies as a guide to help develop their BWC protocols and procedures. Please note that all agencies must develop policies and procedures that comply with Pennsylvania Law and these recommendations:

- *Bureau of Justice Assistance's Body Worn Camera Toolkit:* <https://www.bja.gov/bwc/>
- *International Association of Chiefs of Police Model Body Worn Camera Policy:* http://www.theiacp.org/model-policy/model_policy/body-worn-cameras/
- *U.S. Department of Justice's Office of Community Oriented Policing Services (COPS) and Police Executive Research Forum (PERF) Resource:* www.justice.gov/iso/opa/resources/472014912134715246869.pdf
- *Office of Justice Program's Diagnostic Center Resource:* https://www.ojpdagnosticcenter.org/sites/default/files/spotlight/download/Police_Officer_Body-Worn_Cameras.pdf
- *National Institute of Justice Resource:* www.nij.gov/topics/law-enforcement/technology/Pages/body-worn-cameras.aspx