



DEPARTMENTAL REGULATIONS
CONCORD POLICE DEPARTMENT

GENERAL ORDER 95
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Captain John Nunes for Guy A. Swanger, Chief of Police

BODY WORN CAMERA POLICY

A. PURPOSE AND SCOPE

1. The purpose of this General Order is to govern the use of Body Worn Cameras (BWC) and the preservation of the video/audio digital evidence. The Concord Police Department (CPD) will issue a BWC to Employees and designated non-sworn employees for use during the performance of their duties. Employees of the Concord Police Department, while in uniform, who have been issued a BWC, shall wear it at all times the employee may become involved in an enforcement situation while on-duty.
2. The Concord Police Department recognizes recordings between employees and the public enhances the employee's ability to protect and serve. Recordings can enhance criminal prosecutions and limit civil liability. Recordings will also provide opportunities to enhance and further police training and professional service.
3. A recording from a BWC can provide an objective record of events; it is understood, however, that video and audio recordings do not necessarily reflect the experience or state of mind of the individual employee in a given incident. A recording from a BWC has limitations and may depict events differently than the events recalled by the involved employee. It is understood that the recordings may capture information that may not have been heard or seen by the involved employee and the involved employee may hear or see things that may not be captured on the BWC. Digital evidence may capture and represent a less broad and less detailed image or footage than the totality of the human senses.
4. All video recordings made while working as an employee of the Concord Police Department in any capacity are property of the City of Concord and subject to review by the Concord Police Department, pursuant to this policy. Personally owned video recording devices are prohibited.

B. DEFINITIONS

1. **Body Worn Camera (BWC)** – A camera worn on an individual employee/employee's person that records and stores audio and video.
2. **Digital Evidence** – BWC files, including video footage and audio recordings captured by a BWC and stored digitally.
3. **Evidence.com** – An on-line web-based media storage facility which stores digitally encrypted video recordings, accessible to authorized personnel, based on their need to access, which also maintains an audit trail of user activity.

C. PROCEDURES

1. Activation and Use of the BWC

Officers and employees who are required to wear the BWC shall activate their BWCs and record during, but not limited to, the following circumstances:

- .1 All enforcement contacts, detentions and arrests to include pedestrian stops and traffic stops;
- .2 Consensual contacts initiated by the employee where there may be a desire to search or develop a reasonable suspicion to detain/search, or learn of probation or parole status;
- .3 Vehicle and foot pursuits;
- .4 Searches (consensual, probation, parole, PRCS, and 'knock and talks');
- .5 Service of search and/or arrest warrants – The cameras will be activated prior to execution of the warrant and the supervisor on-scene will determine when the scene is secure and when the involved employees can turn off the cameras;
- .6 All public contacts that become adversarial or hostile;
- .7 Calls for service – All CFS; those generated by dispatch via CAD or on-viewed or initiated by the employee;
- .8 During Prisoner or Courtesy Transports;
- .9 Code 3/emergency driving;
- .10 Canine Deployments;
- .11 Any use of force case;
- .12 When employees are not in uniform, but are participating in on-view police enforcement operations in the field (such as Detective Units or specialized units wearing tactical police gear), they will wear BWC's and comply with all activation rules listed in this section;
- .13 Assisting other employees involved in any of the aforementioned circumstances; and
- .14 An officer or employee shall activate his or her BWC while in route to a call-for-service and before arriving at the aforementioned event(s) when the officer is dispatched by radio or MDC. If an employee on-views or initiates an event, the employee shall activate the BWC before getting out of the car or making contact. Officers or employees should not jeopardize their safety, or

the safety of any other employee, employee, or member of the public, in order to activate the BWC. If the BWC is not activated as outlined in this policy, or activation is delayed, the employee shall document the reason for not activating the BWC as required in the police report, or CAD notes (if a report is not taken).

2. Activation and Use of BWC's During Suspect Interviews/Interrogations

- .1 Employees shall record interviews and interrogations with suspects and do not have an obligation to advise the suspect that he or she is being recorded.
- .2 During custody, Employees should not record conversations with Citizen Informants.

3. Activation and Use of BWC's During Witness and/or Victim Interviews/Statements

- .1 Employees should record interviews with witnesses and crime victims.
- .2 When a victim or witness requests that he or she not be recorded, employees may consider that request, and the employees have discretion not to record pursuant to such a request. The employee shall weigh the victim or witness' request against the purposes of the BWC program. If the employee is not going to record the interview, the employee should state the reason why, while being recorded, before turning off the BWC. Additionally, the employee shall document the reason and his or her actions in the police report.
- .3 Employees do not have an obligation to advise a victim or witness they are being recorded, but may do so at their discretion.

4. Activation and Use of BWC's During Informal Community Interactions

- .1 Employees of all ranks are not required to activate their BWC during informal, incidental, non-enforcement interactions with members of the community, such as a person asking for directions or general conversations during a meal-break. However, if this contact evolves into a contact described in Section C1 – C4 above, the employee shall activate the BWC as required in this General Order.

5. Prohibited activation and Use of the BWC

- .1 BWCs are not for personal use and shall not be used to record non-work related personal activity.
- .2 Employees shall not activate the BWCs: for any non-work related activity, conversations, actions or interactions. BWC's are for official-use only. BWC's shall not be activated to intentionally record the conversations of fellow employees without their knowledge. Only the department issued BWC will be

used. Personally owned or non-issued BWC's are forbidden. The following are instances when employees shall not activate their BWC's:

- .3 During regular administrative or non-field work inside police headquarters, where employees have a reasonable expectation of privacy, such as squad meetings, briefings, private or personal conversations, break rooms, locker rooms, bath rooms, etc.
- .4 During tactical or operational briefings where there is discussion of safety and security or police procedures and tactics.
- .5 During strip searches.
- .6 During medical or psychological evaluations of patients while under the care of a medical professional, at a medical facility. This does not include employees detaining and evaluating subjects under 5150 W&I in the field, or employees who are called to medical facilities for in-progress crimes or criminal investigations.
- .7 Employees will exercise reasonable judgment with the use of the BWC's. At no time will a recording device be activated to record the conversations of fellow employees without their knowledge.

6. Muting BWC audio

- .1 There may be occasions to mute the audio of the BWC during recording in order to have private conversations outside the perview of the public, and where there would be no evidentiary value to that particular conversation. This would normally be when the employees are not directly in contact with the public. Before muting the audio, employees will give a verbal explanation as to why they are muting, prior to doing so. Such occasions for muting audio may be:
 - .01 Planning or debriefing police tactics;
 - .02 Providing training such as a Supervisor to a subordinate or a Field Training Officer ("FTO") to a recruit;
 - .03 Discussing confidential or personal information with another in person or by phone; and
 - .04 Matters pertaining to personnel issues.

7. De-activation of the BWC

- .1 After activation, as required in the aforementioned Section C 1-4, employees may turn off their BWC at the conclusion of the event, as detailed below:

- .01 The end of the event when the contact or call has concluded;
- .02 At the conclusion of a courtesy transport;
- .03 At the conclusion of the arrest transport when the employee arrives securely inside of the CPD Sally Port or Martinez Detention Facility (“MDF”) Sally Port; while in the CPD Sally Port or in the CPD Jail, the employee shall activate the BWC if the contact with an arrestee turns adversarial or if the arrestee becomes threatening, combative, or uncooperative or if there is an evidentiary need;
- .04 When interacting with an undercover police officer and there is no urgency to record that would override the confidentiality of the officer; and
- .05 When interviewing a citizen informant and there is no urgency to record that would override the confidentiality of the citizen.

8. Operating Procedures

- .1 Only employees who have received approved training will be issued a BWC. It is the employee’s responsibility to make sure they are deployed with a properly functioning BWC and a fully charged battery. Employees are responsible for inspecting their BWC prior to shift or deployment to ensure the BWC is operating properly. If the device is not operating properly at the beginning of deployment inspection or at any time during the shift, the employee will notify their supervisor immediately.
- .2 Employees shall position the camera to facilitate optimum recording field of view; high or low on the chest or upper torso, on the front of the uniform. Employees should check the position of the camera and its position on their uniform throughout their shift to make sure the position of the camera is maintained for the optimum view and recording. The BWC may be temporarily moved from the primary location to facilitate recording in furtherance of a police objective. However, upon completion of the objective, the BWC shall be returned to the primary recording location as soon as practical.

9. Scope of Official Use

- .1 No employee shall obtain or convert any recordings obtained during the course and scope of their duties for personal use. The following circumstances are specifically prohibited:
 - .01 Personal copies of official recordings;
 - .02 Re-recording of videos with other devices (such as smart phones or tablets); and

- .03 Posting of official video and/or audio to any non-department sponsored social networking, blog, website or the like.
- .2 Posting of BWC recordings (audio and/or video) on CPD social-media will only be allowed with the express permission from a Concord Police Manager (any video or audio posted on a CPD social media platform or other web site will thereafter be considered public information). If possible, a reasonable effort will be made to notify both the employee(s) capturing and employee(s) depicted in the video of the intent to use the footage on social-media. The employee may object, however, a police manager will have the final decision. The decision and justification will be relayed to the employee in email or written form prior to posting.

10. Review and Use of Recordings

- .1 Employees should review recordings to help with their preliminary investigation and to recollect for writing their police reports. Employees are still required to complete thorough and detailed police reports. As with any recorded interview of a victim, witness or suspect, the employee will still summarize the statement in the report narrative. Employees should review recordings prior to courtroom testimony and Detectives may review recordings when relevant and necessary to complete their investigations. Employees will be allowed to review recordings for any legitimate law enforcement purpose.
- .2 Critical Incidents and Officer Involved Fatal Incidents

The Concord Police Department acknowledges that recordings taken during critical incidents obtained from video recorders do not necessarily reflect the full extent of the nature of the event or the experience, analysis, training, threat assessment or state of mind of the individual officer(s) in a given incident. Moreover, the recordings, especially video, have limitations and may depict events differently than the events recalled by the involved officer. Specifically, it is understood that the recording device will capture information that may not have been heard and/or observed by the involved officer and that officers may see and hear events that are not captured by the camera.

Critical Incidents and Officer Involved Fatal Incidents are defined as fatalities of civilians as a result of conduct, or conceivably as a result of conduct by law enforcement personnel; fatalities of on-duty law enforcement personnel as a result of the conduct of another person. Critical incidents are also defined as an intentional act by an officer that causes injury likely to cause death.

Officers who are involved as actors in a critical incident or Officer Involved Fatal Incident (as described above) should be interviewed before reviewing any audio/video recordings of the incident. Once the officer has provided an initial statement (with representation), the officer will have an opportunity to review any available recordings with their representative. The officer will then be afforded an opportunity to provide a follow-up statement after having

reviewed the recording(s), if the officer or the investigators deem it necessary. The LEIF Protocol defines “actors” as law enforcement personnel whose conduct was ‘actually or conceivably a factor’ in a fatality.

If an involved officer is shown the recording(s) after the initial interview, the investigator will admonish the officer about the limitations of the recordings. The following admonishment is appropriate and referenced from the Contra Costa County LEIF Protocol:

In this case, there is recorded evidence that you will have an opportunity to view after you have given your initial statement. Recorded evidence has limitations and may depict the events differently than you recall, and it may not depict all of the events that you saw or heard. Recordings have a limited field of view and may not capture events normally seen by the human eye. The “frame rate” of the recording may limit the camera’s ability to capture movements normally seen by the human eye. Lighting as seen on the recording may be different than that which is seen by the human eye. Recordings are two-dimensional and may not capture depth, distance, or positional orientation as well as the human eye. Remember, the video evidence is intended to assist your memory and your ability to recall and describe the incident.

11. Administrative Review and Supervisor Review of Recordings

- .1 The circumstances for which Supervisors, Managers and Professional Standards Unit (“PSU”)/Internal Affairs (“IA”) personnel may review BWC footage include, but are not limited to: administrative investigations, inquiries, citizen complaints, instances which may result in liability to the City or any agent or employee of the city.
- .2 Supervisors will review BWC footage to ensure that BWCs are operating properly and being used in accordance with this General Order. Supervisors shall conduct a random review of at least one BWC recording for each of their subordinates, at least once per patrol trimester period. Inadvertent discovery of other possible violations during reviews shall require the supervisor or PSU/IA personnel to articulate the reason for expanding the scope of the investigation to the Chief of Police or his or her designee.
- .3 This section regarding administrative review does not apply to any employee on a Performance Improvement Plan (“PIP”), on probation, or any employee in the FTO program as a trainee. Supervisors may access BWC footage of officers or employees who are on a PIP, on probation, or who are in the FTO program as a trainee, without limitation, to evaluate the performance of the officer or employee.

- .4 Employees who are the subject or who are a witness in a criminal investigation or Administrative investigation may not view any BWC or Dash Cam audio or video recordings related to the incident without approval of the PSU/IA Sergeant or rank above.
- .5 When a supervisor receives a complaint about an employee's conduct or actions from a citizen or fellow employee, the supervisor will have the discretion, based on the severity of the allegation, to either immediately view the BWC footage from the involved employee's BWC and/or confiscate the BWC from the involved employee(s), dock the BWC, upload, then initiate an administrative lock-out to prohibit access. Depending on the circumstances, employees may need to check out a spare BWC to return to duty.
- .6 No officer shall be required to write a police report in cases where they have been administratively locked out of their video footage.
- .7 Employees, who are subject to PSU/IA investigations, may review their own BWC recordings prior to the formal administrative interview.
- .8 In the event of a LEIF Protocol, the supervisor on scene shall confiscate the BWC cameras of the subject and witness employee(s) and initiate an administrative lock-out as soon as practical.

12. BWC Review for Training

- .1 BWC recordings can be a valuable training tool for individual employees, specific units, the department and law enforcement in general. Police Managers will decide if footage can be used for training purposes in patrol briefing settings or specialized units. If possible, a reasonable effort will be made to notify both the employee(s) capturing and employee(s) depicted in the video of the intent to use the footage for training. The employee may object, however, a police manager will have the final decision. The decision and justification will be relayed to the employee(s) in email or written form prior to use.
- .2 For department wide official training, the Administrative Lieutenant in charge of training will have to give authorization to use the footage. For any training outside of the Concord Police Department, the Chief of Police will have to give authorization for the use of the BWC footage pursuant to notifications section in 12.1.

13. Evidence.com and uploading files

- .1 Employees shall upload their BWC files (footage) into Evidence.com at the conclusion of their shift, or during their shift should storage capacity necessitate an upload before capacity is exceeded. Employees shall tag each video with the call history type and the case number or call history number.

- .2 In the event of a network failure or BWC failure prior to an upload, the employee shall immediately notify his or her supervisor. The employee may be issued a spare BWC.

14. External Requests for BWC files/Records Request

- .1 The City Attorney's Office, along with the Chief of Police and the Concord Police Department Records Unit and Property Unit, will be responsible for processing all Public Records Act requests, subpoenas, official information requests, and/or any other external requests for recorded video captured by BWC. These types of requests are reviewed on a case-by-case basis in accordance with applicable law.
- .2 Should it be decided that recordings will be released to the public, the department will attempt to give 48 hours notice to the involved employee. This notice can be waived by the Chief of Police, or his or her designee, and this notice does not apply to criminal subpoenas.

15. Request for Deletion of Accidental Recordings

- .1 In the event of an accidental or sensitive personal recording, where the resulting recording is of no investigative or evidentiary value, the recording employee may request that the file be deleted by submitting an email request to the Department's system coordinator. The system coordinator or assigned command staff member will review the file and recommend approval or denial of the request. In cases where the request is denied, an appeal may be submitted to the Chief of Police, or designee, for deletion authorization. In all cases of deletion requests, a determination should be made within seven (7) calendar days.

D. DASH CAM OPERATIONS

The *Purpose and Scope* and the *Procedures* outlined above covering BWC's will also apply to Dash Cam operations; namely: Purpose and Scope (A), Prohibited Activation (C.5), Muting Audio (C.6), De-activation (C.7), Operating Procedures (C.8), Scope of Official Use (C.9), Review and Use of Recordings (C.10), Administrative and Supervisor Review (C.11), Review for Training (C.12), Uploading (C.13), External Requests (C.14), and Deletion of Accidental Recordings (C.15).

1. When Employees start their shift, they shall turn on the main power and log into the Dash Cam system in preparation for recordings during their shift. Employees will log out of the Dash Cam System at the end of their shift. If an employee knows he or she will be out of the car for an extended period of time (such as court), they may turn off the main power during that time.
2. CPD will have the Dash Cams connected to the emergency equipment light bar/siren box which will allow for automatic activation of the Dash Cam recording system for several different circumstances:

- .1 When the emergency lights are activated in the number 1, number 2 and number 3 positions;
 - .2 When the vehicle reaches 90 MPH;
 - .3 Immediately upon a collision, which will include the 30 second buffering (with no sound); and
 - .4 Should the employee turn off the emergency equipment during a contact (such as for DUI investigations or to use only rear facing ambers), the employee shall make sure the camera stays activated during the circumstances described below in section D.3.
3. The following are circumstances where employees shall activate the Dash Cam:
- .1 Traffic stops (vehicles or bicycles);
 - .2 DUI investigations;
 - .3 Vehicle Searches;
 - .4 Prisoner transports;
 - .5 Code 3/emergency driving;
 - .6 Vehicle Pursuits;
 - .7 Pedestrian Enforcement Stops; and
 - .8 Courtesy Transports.