

USC Upstate Department of Public Safety – Policies and Procedures



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Policy

The USC Upstate Department of Public Safety has equipped selected vehicles and officers with body worn cameras (BWCs). The BWC is designed to assist and compliment officers in the performance of their duties.

The BWC is used to record certain duty related activities, thereby creating a visual and/or audio record of an incident as a supplement to an officer's report. A BWC recording is to be used when there is clear benefit to such a recording. In general, BWC recordings will fall into one of two categories of focus; evidentiary and mutual accountability.

It is the purpose of this policy to provide officers with guidelines for the use of recording devices. This policy is not intended to describe every possible situation where the system may be used. However, there are many situations where the use of the BWC device is recommended.

A BWC device is an effective law enforcement tool that can reduce violent confrontations and complaints against officers. They also provide additional documentation of police-public encounters and may be an important tool for collecting evidence and maintaining public trust.

Procedures

5.3.2 (1) Officer Operation Requirements

Prior to going into service, each officer will check out the appropriate equipment, if required. Under this policy uniformed patrol officers whose primary function is to answer calls for service and interact with the public, or officers who have a reasonable expectation that they will must wear a body worn camera (BWC). Parking services officers and campus safety officers are required to wear and employ a BWC while on duty and in accordance with this policy as well.

Officers should test the BWC system operation in accordance with manufacturer's specifications and departmental training at the start of each shift. Testing includes:

- a. Ensuring that the camera/recording device is functional
- b. Verifying the device has an adequate power source
- c. Ensuring the device has been properly placed/affixed for optimal use.
- d. Documentation of officer information if the system in use so requires
- e. At the end of shift, the BWC will be secured and charged in accordance with manufacturer specifications and department training.
- f. At any time the BWC is found to not be functioning properly, it is to be removed from service and the appropriate supervisor/BWC

administrator notified as soon as possible.
g. In the event that a BWC is lost, upon discovery the officer shall immediately notify his or her supervisor.

5.3.2 (2) Uploading, Storage, and Retention of Recordings

Any BWC recorded incident shall be documented in the associated departmental reports, field interview entry, traffic citation or contact card that are the sole documentation.

Uploading of a BWC will be done in accordance with manufacturer specifications and department training. BWC evidence will be stored in a departmental designated secured location, including but not limited to:

- a. An approved web based server whether maintained by USC Upstate or an approved outside vendor and Cloud.
- b. An approved, on-site USC Upstate server.
- c. Physical storage media such as CDs, DVDs, or other digital storage devices,

All BWC recordings will be logged as evidence following agency policy and trainings. BWC recordings that are associated with a department report number that are loaded directly into a server will have a property/evidence entry made into RMS as if it were physical evidence.

All BWC recordings shall be uploaded at the end of an officer's shift if practical or critical to an investigation. If there is a circumstance when this cannot be accomplished, a supervisor must be notified and approval given.

5.3.2 (3) Activation of the BWC

Once activated, the BWC (with some exceptions) shall remain "on" and not be turned

"off" until the initial incident that caused the activation has concluded. For purposes of this section, conclusion of the incident occurs when the gathering of evidence or exchange of communication related to police, security or parking enforcement activities are concluded. It is understood that not all incidents will clearly start out as needing documentation by a BWC recording or having a clear ending when the BWC is no longer needed. Officers will be expected to use discretion and common sense when activating and deactivating the BWC.

Any incident that is recorded with either the video or audio system shall be documented in the officer's report. If a traffic citation is issued, the officer shall make a notation on the back of the citation copy that will be sent to the court indicating that the incident was recorded.

5.3.2 (4) Required Activation of the BWC

This policy is not intended to describe every possible situation in which the BWC system may be used. In addition to the required situations, an officer may activate the system any time the officer believes its use would be appropriate and/or valuable to document the incident.

In some circumstances it is not possible to capture images of the incident due to conditions or the location of the camera. However, the audio portion can be valuable evidence and is subject to the same activation requirements as the BWC. The activation of the BWC system is required in any of the following situations:

- a. All field contacts involving actual or potential criminal conduct within video or audio range.
01. Traffic stops to include, but not limited to traffic violations, stranded motorist assistance and all criminal interdiction stops. If the circumstances of the traffic stop indicate the BWC is no longer needed,

then it is the officer's discretion to end the recording and document the reason why.

02. Priority responses
03. Vehicle pursuits
04. Suspicious person/vehicle contacts
05. Arrests
06. Vehicle searches
07. Physical or verbal confrontations or use of force
08. Domestic violence calls
09. DUI investigations including field sobriety Maneuvers
10. Any call for service involving a crime where the recorder would clearly aid in the apprehension and/or prosecution of a suspect.

- b. Any self-initiated activity in which an officer would normally notify Spartanburg County 911 and a BWC recording would be useful.
- c. Any contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.

It is understood that due to the range limitations of the vehicle version of the BWC device that, at times, the microphone may be out of range and may not record the audio portion. In such situations, this will not be deemed as a violation of this section of the policy.

5.3.2 (5) Cessation of Recording

If there is a break in the recording of a case related incident, the officer's report shall explain why the break occurred on the recording or in the associated report. Examples of such breaks include but are not limited to:

- a. There is a malfunction to or accidental deactivation of the device.
- b. There is personal information being shared that is not case sensitive, such as victim

family information/discussion, protected personal information, or personal medical information. In practice, BWC recordings should not be used in a medical facility unless there is an obvious need to document evidence, actions, or potential accountability issues.

- c. The officer is placed on a related assignment that has no investigative purpose such as a scene security post, scene processing, traffic post, etc. Recording may cease if an officer is simply waiting for the arrival of a tow truck, taxi, family member, or similar non-confrontation, non-evidentiary situation.
- d. There is a long break in the incident/contact such as an interruption related to routine police action that is not evidentiary in nature or unrelated to the initial incident.
- e. There is activity or change of venue where there is no incident related police activity occurring.
- f. There is recognition by the officer that the contact no longer creates potential evidentiary or mutual accountability issues.
- g. Once an event has been stabilized, if it is necessary to discuss issues surrounding the investigation with a supervisor or another officer in private, operators may turn off their BWC system. The operator shall break contact with any citizen if they plan on intentionally turning off the BWC, and there is a likelihood that evidence or mutual accountability documentation still exists. This includes discussions between Field Training Officers with officers in training that are specific to training issues.
- h. Process to obtain consent of victim and witnesses before using BWCs during an interview: There is no obligation to obtain consent from victims or witnesses prior to

using a BWC during an interview. However, if asked about its use, a LEO will be forthcoming about its use. At that time the LEO will have discretion on whether to keep the BWC on or turn it off. If the LEO discontinues the recording, the LEO must document the reason for the discontinuation either on the BWC or in a written report.

5.3.2 (6) Classification and Retention of BWC Recordings

When an officer has stopped the BWC device, the officer shall classify the recording. These classifications will serve to assist in locating the recording and each classification will have an established retention time. Any BWC recording in any classification can be changed to another classification or have its retention status changed for the benefit of an investigation or organizational needs. Classifications, descriptions and retentions are as follows:

- a. Non-Event – Recordings that are non-investigative, non-arrest, and are not part of any internal investigation will be retained not less than fourteen (14) days.
- b. Incident Only – Activation of the system where there may be some liability or possibility of a complaint of future action. Examples may include moving items from the roadway, motorist assists, traffic control, general citizen contacts in which there was a violation of the law or University policy but the officer has chosen to issue a verbal or written warning. These recordings should be available for a period of time to address any complaints or issues that could be resolved by reviewing the recording. Retention period will be ninety (90) days.
- c. Traffic –Traffic stops involving a citizen, vehicle, bicycle, pedestrian, etc. where the officer issues a citation into Magistrate Court for traffic related offense.

Retention is ninety (90) days.

- d. Case Report – Anytime a BWC recording of evidentiary value has been made during an investigation and a case report has been generated. These recordings are subject to general policy and procedure regarding the retention of case related evidence.
- e. Data recorded by a body-worn camera (BWC) is not a public record subject to disclosure under the Freedom of Information Act.
 - The State Law Enforcement Division, the Attorney General, and a circuit solicitor may request and must receive data recorded by a body-worn camera for any legitimate criminal justice purpose.
 - A law enforcement agency, the State Law Enforcement Division, the Attorney General, or a circuit solicitor may release data recorded by a body-worn camera at its discretion.
 - A law enforcement agency may request and must receive data recorded by a body-worn camera if the recording is relevant to an internal investigation regarding misconduct or disciplinary action of a law enforcement officer.
 - In addition to the persons who may request and must receive data recorded in a body-worn camera provided in item (2), the following are also entitled to request and receive such data pursuant to the South Carolina Rules of Criminal Procedure, the South Carolina Rules of Civil Procedure, or a court order:
 1. A person who is the subject of the recording.
 2. A criminal defendant if the recording is relevant to a pending criminal action.
 3. A civil litigation if the recording is relevant to a pending civil action.
 4. A person whose property has been seized or damaged in relation to, or

- is otherwise involved with, a crime to which the recording is related.
- 5. A parent or legal guardian of a minor or incapacitated person described in sub item (1) or (2); and
- 6. An attorney for a person described in sub items (1) through (5).

5.3.2 (7) When Activation Not Required

BWCs shall be used only in conjunction with law enforcement duties. The BWC shall not generally be used to record communications with other police personnel without the permission of the chief executive officer (CEO), encounters with undercover officers or confidential informants, when on break or otherwise engaged in personal activities, unless for a direct law enforcement purpose such as a crime in progress or the recording of the location is material to a criminal investigation. Furthermore, officers should use discretion where there is a victim of rape or sexual assault. Additionally, to respect the dignity of others, unless articulable exigent circumstances exist, officers will try to avoid recording persons who are nude or when sensitive human areas are exposed.

5.3.2 (8) Review of BWC Recordings

All recording media, recording images, and audio recordings are the property of the USC Upstate Department of Public Safety. Dissemination outside of the department is strictly prohibited, except to the extent permitted or required by policy or law.

To prevent damage or alteration to the original recorded media, it shall not be copied, viewed or otherwise inserted into any device not approved by the USC Upstate Department of Public Safety BWC Administrator.

Recordings may be reviewed in any of the following situations:

- a. For use when preparing reports, statements, or for court testimony.
- b. By a supervisor investigating a specific act of officer conduct.
- c. By a supervisor to assess officer performance.
- d. To assess proper functioning of BWC systems.
- e. By an investigator who is participating in an official investigation such as a personnel complaint, administrative inquiry, or a criminal investigation.
- f. An officer who is captured on or referenced in the video or audio data may review such data and use the data for any purpose relating to his or her employment, unless restricted at the time of request by department policy.
- g. By court personnel through proper process or with permission of the Chief of Police or his/her designee.
- h. Public release of BWC recordings will be in accordance with current departmental evidence release policies as well as the rules set forth in the Freedom of Information Act (FOIA).
- i. Recordings may be shown for training. If an involved officer objects to showing a recording, his or her objection will be submitted to the Assistant Chief of Police for Patrol Services to determine if the training value outweighs the officer's objection.

Officers with BWC equipment that are on the scene of a critical incident, but are not a subject or witness officer will complete reports and notify the Investigations Lieutenant that they have video that may be pertinent to their investigation.

In no event shall any recording be used or shown for the purpose of ridicule or embarrassing any employee.

5.3.2 (9) Documentation

In no way is a BWC meant to replace a written report if one is called for. Officers are still responsible for completing a thorough report in the same manner they would if they did not have a BWC recording. If an officer is on a call where their role would not normally call for a report, but the BWC was activated, they will still complete a report.

If an incident which should be recorded by a BWC is not recorded, a memo will be written to the Assistant Chief of Police with pertinent information detailing why the BWC was not activated and a recording not produced. Such memo will be submitted by the officer's end of shift.

5.3.2 (10) Legal Issues

a. BWCs shall be used only in conjunction with law enforcement duties. The BWC shall not generally be used to record communications with other police personnel without the permission of the chief executive officer (CEO), encounters with undercover officers or confidential informants, when on break or otherwise engaged in personal activities, unless for a direct law enforcement purpose such as a crime in progress or the recording of the location is material to a criminal investigation. Furthermore, officers should use discretion where there is a victim of rape or sexual assault. Additionally, to respect the dignity of others, unless articulable exigent circumstances exist, officers will try to avoid recording persons who are nude or when sensitive human areas are exposed.

b. Recordings of any arrests or violations of offenses listed in the S.C. Preservation of

Evidence Act, S.C. Code 17-28-320, the expungement statute of the S.C. Code 17-1-40, or any other statute, regulation, or case law will follow the retention requirements outlined herein.

c. Officers shall not use personally-owned BWCs while on duty.

d. All data, images, video and metadata captured by BWCs are subject to state statutes regarding retention of records.

This policy enacted by the Director of Public Safety/Chief of Police this _____
Day of _____ 2016.

Klay D. Peterson, Chief of Police