

**WINTER HAVEN POLICE DEPARTMENT**

**GENERAL ORDER 41.12**

**BODY WORN CAMERA PROGRAM**

**ACCREDITATION STANDARDS: CALEA – 41.3.8 CFA-32.02**

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**POLICY**

It shall be the policy of the Winter Haven Police Department to utilize Body-Worn Cameras (BWC) to document law enforcement interaction with the public with video and audio recordings.

**PURPOSE**

The purpose of this General Order is to establish guidelines and procedures for the use of BWCs and the control and storage of information obtained on the related recordings.

**SCOPE**

This General Order shall apply to all Department members.

## **Discussion**

The Winter Haven Police Department recognizes the usefulness of body worn cameras to enhance the performance and professionalism of its officers. Body worn cameras help to enhance officer safety; promote transparency and trust within the community as well as the department; and assist and complement officers in the performance of their duties. (CALEA 41.3.8 a)

## **PROCEDURE**

### **I. Equipment**

- A.** Members shall use only those BWC's issued and approved by the Winter Haven Police Department. The wearing of personally owned audio/video recorders is not authorized.
- B.** BWCs will be assigned to below members and shall remain the responsibility of each assigned member.
  - 1.** Uniform patrol division
  - 2.** School Resource Officers
  - 3.** Traffic Officers
  - 4.** Crime Suppression Unit
- C.** Members shall never attempt any repair of the equipment. Only the BWC Information Technology Administrator shall be the only authorized member to repair or contract repair of any BWC.
- D.** The member will clean and maintain the equipment according to manufacturer's recommendations.
- E.** Members shall not intentionally damage, tamper with, or disable the BWC equipment.
- F.** If a member loses or damages their BWC or their BWC malfunctions/does not record, they shall immediately notify a supervisor and the BWC IT Section.
- G.** Members assigned a BWC shall ensure the system is operating properly by checking the functions (day/date/time recorder) and the security of the system at the start of each tour of duty.

### **II. BWC IT Administrator**

- A.** The BWC IT Administrator shall be a non-sworn member assigned from the City of Winter Haven Information Technology Division. The BWC System Administrator is responsible for performing the following duties:
  - 1.** Maintain the BWC units;

2. Maintain a record of assigned BWC and related equipment;
3. Be proactive, complete minor repairs, and repair/replace BWC components (cameras, docking stations, etc.);
4. Arrange for the warranty and non-warranty repair of the BWC units;
5. Maintain BWC equipment repair and maintenance records;
6. Update software and system settings as necessary; and
7. The storage and maintenance of all video files uploaded onto the server. Access to the server shall be limited to assigned members with administrative privileges.

**III. Training (CALEA 41.3.8 f) (CFA 32.02 a)**

- A. To maintain integrity of evidence and related documentation, all personnel who wear, use, maintain, store, or release audio/video data must be trained in the operation of the BWC system before having authorization to use it.
- B. All members and supervisors of members assigned a BWC shall be provided with adequate training and instruction by the Training Officer or their designee on BWC policy and proper use of the BWC equipment.
- C. The Training Officer may review incident recordings to identify training needs, with approval of the Chief of Police.
- D. The Field Training Commander shall ensure BWC training is incorporated into the Field Training and Evaluation Program.
- E. The Training Officer shall maintain a current list of all members trained to operate the BWC.

**IV. Member Responsibilities (CALEA 41.3.8 e)**

- A. The care and security of the BWC equipment is the responsibility of the member assigned a BWC, and the equipment shall be maintained, operated, and stored according to manufacturer's recommendations.
- B. Prior to beginning each shift, members assigned a BWC shall ensure it is charged and functioning properly.
- C. Members assigned a BWC shall ensure the system is turned on and operationally accessible, unless exigent circumstances exist.
- D. Members shall download their BWC at the end of every shift, or when reasonably possible as approved by a supervisor.

- E. Members shall ensure use of the BWC is documented in written reports, including citations. In the event a BWC malfunctions or does not record, members shall document the incident and immediately notify their supervisor. (CFA 32.02 d)
- F. Members may review the incident recordings when preparing written reports to help ensure the accuracy and consistency of the incident.
- G. Members may review the incident recordings to prepare for court testimony, including, but not limited to, motions, hearings, depositions, and trials.
- H. In accordance with Section 943.1718, Florida Statutes, a law enforcement officer using a body camera must be permitted to review the recorded footage from a body camera before writing a report or providing a statement regarding any event arising within the scope of his or her official duties. In accordance with Chapter 112, Florida Statutes, a law enforcement officer under investigation must be permitted to review body camera recorded footage related to an internal affairs investigation before beginning the investigative interview.
- I. After each event and prior to the conclusion of the shift, the assigned member shall at a minimum be required to enter the following in the BWC recording system:
  - 1. Case number; and
  - 2. Event Type (Administrative or Evidentiary)
- J. Members shall not show videos to non-agency members unless it is in the course of their duties, such as assisting in prosecution or assisting another law enforcement agency. All requests from non-agency members shall be treated as a public records request pursuant to G.O. 82.1 Records Administration.

**V. BWC Activations and Recordings (CALEA 41.3.8 b,c) (CFA 32.02 b)**

- A. Members, including primary and secondary units, shall activate their BWC units to record during all official law enforcement duties/actions and calls for service. Examples include, but are not limited to, the following:
  - 1. Citizen encounters related to an official law enforcement duty/action. This includes calls for service involving criminal/civil activity and public service requests;
  - 2. Enforcement/arrest actions, including transports;
  - 3. Dispatched calls for service, which includes activation prior to arrival on scene;
  - 4. Self-initiated contacts/activities where reasonable suspicion and/or

probable cause exists that a crime is being committed, has been committed, or is about to be committed, or evidence of a crime is present;

5. Traffic stops;
  6. Traffic crashes, while conducting the investigation;
  7. Emergency responses;
  8. Vehicle pursuits;
  9. Vehicle searches;
  10. DUI investigations; and
  11. When practical, hostile or disorderly groups or crowds.
- B.** Members assigned a BWC shall utilize their BWC during extra-duty assignments and shall activate their BWC units to record during all official law enforcement duties/actions and calls for service. A member who utilizes their BWC during an extra-duty assignment will ensure the unit is charged and functioning properly before the assignment and will download their BWC at the conclusion of their extra-duty assignment, or when reasonably possible as approved by a supervisor, in accordance with this General Order.
- C.** Requests for deleting any recordings (i.e. member makes a personal recording, etc.) must be submitted in writing and submitted to the Bureau Captain through the chain of command for approval. All requests and decisions shall be kept on file.
- D. Notification of Recordings:** When the BWC is activated for an official law enforcement duty or action; members making initial contact with the involved person(s) on-scene should inform them the situation is being recorded unless circumstances exist which jeopardize member safety upon arrival (i.e. a fight in progress, tactical operations, armed subject, etc.). In such cases, the person(s) should be informed as soon as practical.
- E. Recording Duration:** Once the BWC recording system is activated, it shall remain on until the incident/investigation has reached a conclusion or the BWC operator has cleared from the call. Exceptions to this are as follows:
1. If a member is assigned a static post where they are not in contact with involved citizens or actively part of the investigation (i.e. perimeter security, extended traffic control, parade routes, etc.).
  2. Areas with reasonable expectations of privacy and a person with apparent authority over the location asks to turn off the BWC, unless there is reasonable suspicion or probable cause exists that a crime is being committed, has been committed, or is about to be committed, or evidence of a crime is present.
- F. Temporary Deactivation:** During their tour of duty members assigned a BWC are authorized to place the BWC unit in sleep mode, due to buffering. If the member was

recording, prior to placing the camera in sleep mode, the member will provide a recorded explanation. Members may temporarily use sleep mode when:

1. Exchanging NCIC/FCIC, DAVID, or other law enforcement sensitive data either in person or via the law enforcement radio;
  2. Facilitating discussion of training issues or operation strategies;
  3. Conducting personal conversations, which include sharing personal information with another member;
  4. Conducting conversations containing privileged information (i.e. communication with Clergy, Attorneys, etc.);
  5. Conducting breath testing, due to electronic interference;
  6. Conducting meal breaks, restroom/personal hygiene breaks;
  7. Entering a potentially explosive environment; or
  8. Directed by a supervisor.
- G.** If at any point during an activation a member has just cause to place a BWC in sleep mode or stop recording prior to the normal conclusion of the call/incident or temporarily during the call members will verbally state the reason prior to deactivating the camera as well as document it in the offense/incident report.

## **VI. Failure to Activate**

- A.** If a member fails to activate their BWC during a required situation, part of a required situation, or interrupts/terminates the recording without cause, they shall notify their supervisor and send an e-mail notification, which shall advise of the incident and the reason for failing to activate or interrupting/terminating the recording.
1. The supervisor shall forward the email to the appropriate bureau commander.
  2. The bureau commander shall determine if the failure to activate requires additional training or discipline.
- B.** Members engaged in an incident who realize they failed to activate their BWC at the onset shall activate the camera as soon as safely practical.
- C.** BWC equipment failure or member error resulting in system deactivation shall not prevent members from taking appropriate law enforcement action.

## **VII. Areas with Reasonable Expectation of Privacy**

- A. Members who are lawfully present in an area protected by the 4<sup>th</sup> Amendment (i.e. private residence or other location where there is a reasonable expectation of privacy, etc.) and determine there is no reasonable suspicion that a crime is being committed, has been committed, is about to be committed, must stop recording if asked to do so by a person with apparent authority over the constitutionally protected area

Example: If a member is dispatched to a disturbance call at a private residence, activates the BWC, informs the person of the recording and once inside determines no crime has been committed, if the resident or person with apparent authority over the residence asks the member to cease recording, the member must do so.

- B. **Sensitive Victims:** After making contact with adult victims of offenses which are sexual in nature (i.e. child abuse, sexual battery, lewd and lascivious, etc.) and advising them the situation is being recorded, members shall ask them if they consent to the recording. If they consent to the recording, it shall be audio recorded only. If they refuse or request the BWC be shut off, members will comply and deactivate the camera, after stating the reason for turning off the BWC.
- C. Recording at Schools: A member may record if an active criminal investigation is being conducted.

#### VIII. **BWC Restrictions** (CALEA 41.3.8 b, c) (CFA 32.02 c)

- A. Accessing files for non-law enforcement use or copying, editing, altering or releasing files is prohibited and will result in disciplinary action, except for official use by Records Division members.
- B. Members are strictly prohibited from using the BWC to record any activity which is not related to official law enforcement duties or actions. Specific examples of situations where members may not use the BWC system unless related to an official duty or action include but are not limited to:
  - 1. Intentionally recording conversations of citizens or fellow employees without their knowledge.
  - 2. Intentionally recording confidential informants or undercover members. If a member unintentionally records a confidential informant or an undercover member, the member shall notify a supervisor when the information becomes known to the member.
  - 3. Intentionally recording fellow employees where a reasonable expectation of privacy exists (i.e. a locker room, restroom, etc.).
  - 4. Recording in the police department, City of Winter Haven facilities or other government facilities, except to record official law enforcement duties/actions and calls for service.
    - a. Recording at public meetings in public or private buildings/venues, unless official law enforcement action is required.

5. Recording in courtrooms, including while in the courtroom gallery and on the witness stand.
  6. Create recordings in patient care areas of medical or receiving facilities unless the recording is for official law enforcement business such as a criminal investigation, dying declaration, a formal statement from a witness, victim, or accused, field sobriety exercises on impaired drivers, or a specific call for law enforcement service.
- C. Members are prohibited from using a recording device, such as a phone camera or other video/audio recording device to record media captured from the BWC recording system or to act as a secondary recording device.
  - D. BWC operators shall not use any other electronic devices or other means in order to intentionally interfere with the capability of the BWC recording system.
  - E. Under no circumstances will a member use a BWC camera assigned to another member, unless approved in writing by a supervisor beforehand.
  - F. Posting, distributing, or publishing BWC footage or digital images, in part or whole, to the Winter Haven Police Department's social media site or any other communication platform shall be in accordance with G.O. 26.3.
  - G. No user shall access BWC files which are not recorded by them unless authorized by the Chief of Police or their designee, except for the purpose of doing a follow up criminal investigation or by conducting an internal affairs investigation. This does not prevent the member from reviewing videos or cases shared with them for the purposes outlined in this General Order.
  - H. A member may not view a recorded incident for the purpose of entertainment or amusement. A log of each time a recorded incident is viewed or downloaded will be maintained on the server and reviewed periodically.
  - I. Members will not interrupt the recording of citizen contacts in order to allow the citizen to review the recording.
  - J. Members will not record conversations with supervisors.
  - K. Violations of this General Order will be handled in accordance with G.O. 26.1 Disciplinary Standards and Procedures.

## **IX. Supervisor Responsibility**

- A. Supervisors will ensure members utilize BWC's according to policy guidelines.
- B. On a monthly basis, direct supervisors will randomly conduct a documented review of BWC recordings of each of their direct subordinates to ensure the equipment is operating properly and members are using the devices appropriately in accordance with policy. (CALEA 41.3.8 g.)

- C. If a complaint is associated with a recorded event, the immediate supervisor shall categorize the video as “Critical Incident Restricted – Admin Use” and document the action in the complaint paperwork. (CALEA 41.3.8. c.)
- D. Supervisors and/or Internal Affairs Unit personnel investigating an inquiry or complaint may view BWC files relevant to their investigation. (CALEA 41.3.8. c.)
- E. Supervisors who are on-scene of a critical incident (i.e. office involved shooting, gross negligence, unnecessary force, etc.) shall seize the BWC from the involved member(s) when the scene is secure.

**X. Public Records Requests**

- A. Any public records request of BWC recording(s) shall be processed in accordance with Florida Statute 119 and City of Winter Haven policies and procedures.
- B. Any release of BWC recording(s) shall be in accordance to Florida Statute 119.
- C. Requests for public records of BWC shall be forwarded to the BWC IT Administrator for processing.

**XI. Storage and Retention (CALEA 41.3.8 d.) (CFA 32.02 e)**

- A. All files shall be securely downloaded periodically, and no later than the end of each shift. Evidence.com shall be utilized to store all BWC videos.
- B. All imagery recorded by a BWC shall be retained according to the guidelines established in compliance with the State of Florida General Records Schedule for Law Enforcement Agencies (GS-2), the State of Florida General Records Schedule for State and Local Government Agencies (GS1-SL) and/or Florida Statutes.
  - 1. **Administrative:** All recordings classified as Administrative will be stored and retained by the Agency for a minimum of 90 days after an event in compliance with the State of Florida General Records Schedule for Law Enforcement Agencies (GS-2) and the State of Florida General Records Schedule for State and Local Government Agencies (GS1-SL).
  - 2. **Evidentiary:** All recordings classified as evidentiary will be stored and retained in accordance with the needs of prosecution, agency use, and Florida Statutes.
- C. Video related to an investigation shall be treated as evidence and therefore its collection, chain of custody, storage, distribution, and disposal will be processed in accordance with General Order 84.1 (Property and Evidence Control).
- D. BWC file access shall be periodically audited by the BWC IT Administrator to ensure only authorized users are accessing the data for legitimate purposes.

**XII. Definitions**

- A.** *ACTIVATED*- The device has been powered on and is actively buffering video data.
- B.** *ADMINISTRATIVE* – Any recording which does not contain evidence of a criminal offense.
- C.** *BODY WORN CAMERA (BWC)* - Body Worn Camera (BWC) - Is an audio and video camera mounted on or fitted to a uniform.
- D.** *BODY WORN CAMERA (BWC) IT ADMINISTRATOR* - The position assigned from the Information Technology Division to manage the database, server, and software associated with storage of the audio and video recordings.
- E.** *BUFFERING* – The Body Worn Camera (BWC) function which allows the unit to continuously record when the unit is not placed in the recording mode. This feature depending on the camera type will add a specified amount of pre-recorded data to the recording at the time the recording function is initiated.
- F.** *EVIDENTIARY* - Anything asserting, proving, furnishing, or having any value as evidence.
- G.** *RECORDING* – When the device is collecting video and audio data. This may be accomplished by an automatic function (light bar activation, weapons drawn, etc.) or manual manipulation of device controls by the member.

**APPROVED**



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**David Brannan  
CHIEF OF POLICE**