



**East Whiteland Township
Police Department
209 Conestoga Rd
Malvern, PA 19355**



**General Order
Memorandum**

ORDER NUMBER

2020 - 05

By Authority of Chris Yeager – Chief of Police

Subject

Policy 2 – 26 Body Worn Cameras

Date

April 30, 2020

Effective Date

May 18, 2020

Expiration Date

Until Amended or Rescinded

References

N/A

Amends

N/A

Rescinds

N/A

Index Words

N/A

Distribution

To all sworn and unsworn members of the East Whiteland Township Police Department via Email, and PowerDMS. This directive will be incorporated into the policy section of PowerDMS.

POLICY 2-26

Body Worn Cameras

(Updated to Reflect Act 22 of 2017)

I. Purpose:

This policy is intended to provide officers with instructions on when and how to use body-worn or mobile cameras so that officers may reliably record their contacts with the public in accordance with the law.

II. Policy:

It is the policy of this police department that officers shall activate the Body Worn Camera when such use is appropriate to the proper performance of his or her official duties, where the recordings are consistent with this policy and law. This policy does not govern the use of surreptitious recording devices used in undercover operations. Violation of this policy shall subject the violator to the department's disciplinary policy.

III. Definitions:

Facial recognition software/programs – The process of biometric identification accomplished by electronically scanning a person's face and comparing it to a library of known faces.

File - All sounds, images, and associated metadata captured by the body worn camera.

IV. Procedure:

A. Administration

This agency has adopted the use of the Body Worn Camera to accomplish several objectives. The primary objectives are as follows:

1. Body Worn Camera's allow for accurate documentation of police-public contacts, arrests, and critical incidents. They also serve to enhance the accuracy of officer reports and testimony in court.
2. Audio and video recordings enhance this agency's ability to review probable cause for arrest, officer and suspect interaction, and evidence for investigative and prosecutorial purposes and to provide additional information for officer evaluation and training.
3. The Body Worn Camera may also be useful in documenting crime and accident scenes or other events that include the confiscation and documentation of evidence or contraband.

B. When and How to Use the Body Worn Camera

1. Officers will mount the Body Worn Camera lens in a forward facing position on their uniform shirt as proximal as possible to the officers actual field of vision.
2. Officers shall activate the Body Worn Camera to record all contacts with citizens in the performance of official duties.
3. Although not required by law if the officer is in uniform or otherwise clearly identifiable as a law enforcement officer, whenever feasible officers should inform individuals that they are being recorded using the statement, "I am Officer X East Whiteland Township Police Department and this encounter is being audio and video recorded." There is data suggesting individuals may behave more civilly if they know their words and actions are being recorded.
4. If an officer fails to activate the Body Worn Camera to record the entire contact, or interrupts the recording, the officer shall document why a recording was not made, was interrupted, or was terminated.
5. Civilians shall not be allowed to review the recordings at the scene.
6. Cessation of Recording. Once Body Worn Cameras are activated in accordance with this policy, Officers shall not deactivate the unit until:
 - a. They have cleared the assignment or, in the case of arrest, have transferred custody of the arrestee to another Officer or entity;
 - b. Their involvement in a citizen contact has concluded.

C. Procedures for Body Worn Camera Use

1. Body Worn Camera equipment is issued primarily to uniformed personnel as authorized by this agency. Officers who are not in uniform must be clearly identifiable as a law enforcement officer in order to record inside a residence. Approved means to accomplish this requirement shall include: the officer identifying themselves as being a

law enforcement officer while on camera; displaying a badge; or displaying department issued identification.

2. Officers who are assigned Body Worn Camera equipment must use the equipment throughout their shift in accordance with this policy.
3. Police personnel shall use only Body Worn Cameras issued by this department. The Body Worn Camera equipment and all data, images, video, and metadata captured, recorded, or otherwise produced by the equipment is the sole property of the agency.
4. Police personnel who are assigned Body Worn Cameras must complete an agency approved and/or provided training program prior to utilizing Body Worn Cameras to ensure proper use and operations. Additional training may be required at periodic intervals to ensure the continued effective use and operation of the equipment, proper calibration and performance, and to incorporate changes, updates, or other revisions in policy and equipment.
5. Body Worn Camera equipment is the responsibility of individual officers and will be used with reasonable-care to ensure proper functioning. Equipment malfunctions shall be brought to the attention of the officer's supervisor as soon as possible so that a replacement unit may be procured.
6. Officers shall inspect and test the Body Worn Camera prior to each shift in order to verify proper functioning and shall notify their supervisor of any problems.
7. Officers shall not edit, alter, erase, duplicate, copy, share, or otherwise distribute in any manner Body Worn Camera recordings without prior written authorization and approval from the chief of police or his or her designee.
8. Officers are encouraged to inform their supervisor of any recordings that may be of value for training purposes.
9. If an officer is suspected of wrongdoing or involved in an officer-involved shooting or other serious use of force, the department reserves the right to limit or restrict an officer from viewing the video file.
10. Requests for deletion of portions of the recordings (e.g., in the event of a personal recording) must be submitted in writing and approved by the chief of police or his or her designee in accordance with state record retention laws. All requests and final decisions shall be kept on file.
11. Officers shall note in incident, arrest, and related reports when recordings were made during the incident in question. However, Body Worn Camera recordings are not a replacement for written reports.

D. Restrictions on Using the Body Worn Camera

Body Worn Cameras shall be used only in conjunction with official law enforcement duties. The Body Worn Camera shall not generally be used to record:

1. Communications with other police personnel without the permission of the chief of police;

2. Encounters with undercover officers or confidential informants;
3. When on break or otherwise engaged in personal activities; or
4. In any location where individuals have a reasonable expectation of privacy, such as a restroom or locker room.

E. Storage

1. All files shall be securely downloaded periodically and no later than the end of each shift. Each file shall contain information related to the date, Body Worn Camera identifier, and assigned officer.
2. All images and sounds recorded by the Body Worn Camera are the exclusive property of this department. Accessing, copying, or releasing files for non-law enforcement purposes is strictly prohibited.
3. All access to Body Worn Camera files must be specifically authorized by the chief of police or his or her designee, and all access is to be audited to ensure that only authorized users are accessing the data for legitimate and authorized purposes.
4. Files should be securely stored in accordance with state records retention laws and no longer than useful for purposes of training or for use in an investigation or prosecution. In capital punishment prosecutions, recordings shall be kept until the offender is no longer under control of a criminal justice agency.

F. Use of Facial Recognition Software or Programs

1. In response to actual or suspected criminal activity, police personnel are authorized to employ facial recognition software/programs for investigative purposes including but not limited to identifying suspects, individuals with outstanding warrants, crime victims and/or missing persons.
2. Police personnel utilizing facial recognition software or programs to analyze data collected via body worn cameras shall have completed prior training in the proper use of said technology.
3. Any additional data generated by facial recognition software or programs shall be managed in the same manner as the original body worn camera data.

G. Supervisory Responsibilities

1. Supervisory personnel shall ensure that officers equipped with Body Worn Camera devices utilize them in accordance with policy and procedures defined herein.
2. Supervisors shall review recordings of all Officers involved in the following incidents:
 - a. Injury to an Officer

- b. Injury to a prisoner

 - c. Vehicle pursuits

 - d. Vehicle crashes involving Officers

 - e. Citizen complaints

 - f. Documented internal complaints

 - g. When any Department Member intentionally or unintentionally discharges a firearm (except the humane killing of injured animals)
- 3. At least on a monthly basis, supervisors will randomly review Body Worn Camera recordings to ensure that the equipment is operating properly and that officers are using the devices appropriately and in accordance with policy and to identify any areas in which additional training or guidance is required.

 - 4. Minor infractions (not criminal in nature) discovered during the routine review of recorded material should be viewed as training opportunities and not as routine disciplinary actions. Should the behavior or action become habitual after being informally addressed, the appropriate disciplinary or corrective action shall be taken. Any informal counselling must be recorded on the department counseling form, see attachment A of this section, and immediately forwarded to the chief or his/her designee.

H. Public Access to Policy

- 1. This policy shall be posted on the municipality's public access website and shall be freely available for review by the public without restriction.

I. Storage and Retention of Data

- 1. The recordings produced by Body Worn Camera equipment shall be stored on a dedicated secure server.

- 2. Recordings will be automatically downloaded to the server via a secure access point located at the police station. In the event that an issue arises with the access point, the recording(s) can be manually downloaded by the chief of police or lieutenant via a WatchGuard thumb drive.

3. Body Worn Camera media (secondary storage device, i.e., USB flash drives, DVD-Rs, etc.) shall be maintained by the Evidence Custodian for a minimum of one (1) year after all legal requirements have been satisfied for arrests or criminal investigations. All other recordings may be purged after ninety (90) days from the date of the last recorded incident after all requested and approved duplications have been made, unless otherwise regulated by this policy in accordance with 18 PA CS 5749. In capital punishment prosecutions, recordings shall be kept until the offender is no longer under control of the criminal justice agency. (PLEAC 2.04.2d)
4. Requests for deletion of the recording (e.g. in the event of a personal recording) must be submitted in writing and approved by the chief of police in accordance with the state retention laws. All requests and final decisions will be kept on file.
5. Recordings will be stored for a specific duration based upon Pennsylvania rules of evidence and criminal procedure, and state retention laws.
6. The original downloaded data shall not be altered. If enhancement of the data is required, a duplicate copy will be made, and the copy can be enhanced as required.

J. Department Use

1. It is not the policy of the East Whiteland Township Police Department to utilize the Body Worn Camera to routinely review officer's activities in an effort to identify violations of Departmental Rules and Regulations. Recordings will not be used, shown or viewed for the purpose of ridiculing or embarrassing an employee.
2. Disciplinary actions will not be initiated against an officer based solely on a video event without a complete and thorough internal investigation. The chief of police will review all recordings associated with an investigation. Relevant Body Worn Camera recordings may be reviewed during internal and disciplinary investigations.
3. Officers may be permitted to review their own recordings under the following circumstances:
 - a. To ensure they are following proper procedures and tactics.
 - b. To complete a criminal investigation or preparation of an official report;
 - c. Prior to courtroom testimony;
 - d. For potential training purposes
 - e. To prepare for a scheduled interview pursuant to an Internal Affairs investigation, to include reviewing the data with their union representative outside the presence of any supervisor or investigator.
 - f. If an officer is suspected of wrongdoing or involved in any use of force, the department reserves the right to limit or restrict an officer from viewing the recording during investigation. Requests will be handled on a case by case basis in accordance with the law through the chain of command.
 - g. For other reasons not specified, with permission from the chief of police.
 - h. Officers wishing to review other officers Body Worn Camera data must submit a request to the chief of police.

- i. Care shall be taken to prevent unauthorized persons from being able to view the recordings. Officers will not view Body Worn Camera video in a public area unless exigent circumstances exist.
- j. Officers may play footage recorded on the Body Worn Camera system. The footage which will have been transferred to a DVD or USB drive, will be logged out of evidence prior to transportation to court and logged back into evidence upon return to court. Video from the Body Worn Camera system will never be kept in a criminal case file.
- k. Any officer with knowledge of abuse of the Body Worn Camera system or violation of this policy is required to report the issue to the chain of command.

K. Dissemination

1. Copies of recorded events for a misdemeanor, felony, or criminal contempt citation for violation of a Protection from Abuse Order will be forwarded to the Chester County District Attorney's Office upon their written request.
2. Copies of recorded events concerning any criminal case will not be disseminated without the express consent of the Chester County District Attorney or a designee.
3. Copies of any other recorded event will only be released to other criminal justice agencies for court, investigative, or training purposes in accordance with Criminal History Records Information Act (CHRIA). Copies will only be released to any outside agency after an official request is received and must be approved by the chief of police.
4. Any request for copies of recordings under the Right-To-Know statute or through a civil subpoena will be forwarded to the Township Open Records Officer. Requests for MVR or Body Worn Camera recordings shall be made in writing to the Township's Police Open Records Officer or designee and shall be handled pursuant to the provisions of Act 22 of 2017, 42 Pa.C.S. § 67A01, et seq. Any Officer who is approached regarding the release of any recording shall refer that person to the Township's Police Open Records Officer.

L. Public Requests for Recordings

1. Requests for recordings are not subject to the Right-to-Know Law, pursuant to Act 22, Exceptions for public records, paragraph b16, a record of an agency relating to or resulting in a criminal investigation, including, but not limited to: investigative materials, victim information, disclosure of information would deprive a person of a right to a fair trial or an impartial adjudication, etc.
2. Under Act 22, a request for an audio or video recording in the possession of a law enforcement agency must be made within 60 days of the date the recording was made. A written request must be submitted to the Open Records Officer for the law enforcement agency that possesses the record. The request is not officially received until it is personally delivered to the Open Records Officer, or when it is marked a "delivered" by certified mail. The request must include:
 - a. The date, time and location of the event being recorded;
 - b. A statement describing the requester's relationship to the event recorded; and
 - c. If the recorded incident took place inside a residence, the request must also identify every person present at the time of the recording unless unknown and not reasonably ascertainable.

Attachment A:

East Whiteland Township Police Department	Confidential
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Counseling Form

Employee's Name: _____ Incident #: _____

Supervisor's Name: _____ Date Issued: _____

This form serves to inform you that your performance in the area indicated below has been deficient. The Township/Police Department is providing you with constructive feedback to afford you an opportunity to correct this deficiency. It is assumed that employees who are working in good faith want to follow the rules, regulations, policies, and procedures of the organization and, when given constructive feedback such as this, will respond in a positive manner to help correct deficiencies.

This counseling* serves to apprise you that if you fail to improve your performance as noted below, disciplinary action may be warranted. This report will be used as documentation to show that you have been given adequate notice to improve your performance prior to any disciplinary action.

√	Description of Infraction	Improvement Desired
	Lateness	
	Failure to call in to report absence/return	
	Improper conduct while on-duty	
	Poor quality of work	
	Violation of safety rules	
	Failure to follow supervisor's direction	
	Other:	

Describe Infraction Below:	Date of Infraction:	

Employee's Signature: _____ Date: _____
Supervisor's Signature: _____ Date: _____
Chief of Police Signature: _____ Date: _____

* Counseling is not discipline. Counseling is a pre-disciplinary process.

INSTRUCTIONS & DISPOSITION The original will be placed in the employee's departmental file with duplicate copies being provided to the employee and Chief of Police.

