

# GLENDALE POLICE DEPARTMENT

**POLICY: 367**

**DATE: June 12, 2023**

**SUBJECT: Body-Worn Cameras**

## **I. POLICY**

It is the policy of the Glendale Police Department that officers assigned a body-worn camera (BWC) shall activate their BWC when such use is appropriate to the proper performance of official duties, where the records are consistent with this policy, and State law. All sworn officers assigned to enforcement activities are required to wear a BWC. The policy does not govern the use of surreptitious recording devices used in undercover operations.

## **II. PURPOSE**

The purpose of this policy is to provide guidelines for officers on when and how to use body-worn cameras (BWCs) so that officers may reliably record their contacts with the public in accordance with 2019 Wisconsin Act 108 and WI § 165.87.

## **III. OBJECTIVES**

The Glendale Police Department has adopted the use of BWC to accomplish several objectives. The primary objectives are as follows:

1. BWCs 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 the department'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 BWC may also be useful in documenting crime and accident scenes or other events that include the confiscation and documentation of evidence or contraband.

#### **IV. DEFINITIONS**

- A. BWC (Body-Worn Camera): Equipment worn by department personnel that captures audio/video and includes a camera, microphone, and electronic storage device.
- B. WTS (WatchGuard Transfer Station): A router with built in docking stations physically installed within the police department. The WTS simultaneously recharges the device while uploading all digitally encrypted data to the WatchGuard Cloud.
- C. "Recorded Subject" means an individual recorded by a body camera used on a law enforcement officer to which all the following apply:
  - 1. The individual is depicted in the recording, or the individual's voice is audible in the recording.
  - 2. The individual's identity is known to the law enforcement agency.
  - 3. The individual is not suspected of committing a crime or other violation of the law in connection with the law enforcement officer's presence in the location that was recorded.
  - 4. The individual is not a law enforcement officer who was acting in an official capacity, unless a crime or other violation of law has been committed or is alleged to have been committed against the law enforcement officer while the law enforcement officer was present at the location that was recorded.
- D. "Requester" means any person who requests inspection or copies of a record, except a committed or incarcerated person, unless the person requests inspection or copies of a record that contains specific references to that person or his or her minor children for whom he or she has not been denied physical placement under WI Stat. 767, and the record is otherwise accessible to the person by law.

#### **V. PROCEDURE**

- A. Training
  - 1. All officers using a BWC device shall receive initial and periodic training in the use of the equipment.

2. Periodic training will involve review of this policy to include information that will ensure an incident is accurately documented and properly stored.
3. Officers responsible for the maintenance, storage, and release of body camera footage will receive training on procedures and policy requirements related to those functions.

B. Responsibilities of Personnel assigned BWC

1. The BWC equipment, as well as any recorded audio/video obtained through its use, is the property of the Glendale Police Department and shall be for authorized use only.
2. At the beginning of each shift, the shift supervisor will assign a BWC to each patrol officer and detective assigned to enforcement activities. The officer will remove that BWC from the WTS, sync with their assigned squad camera (if applicable) and affix the BWC to their uniform. The officer will verify the camera is connected to the WatchGuard Server, and periodically conduct a function check to ensure the following functions of the BWC are working properly:
  - a. Video recording.
  - b. Audio recording.
  - c. Accurate time/date and other information on the display.
3. Pre-shift function checks shall be classified as "Test."
4. Officers assigned a BWC are responsible for keeping the unit in good working order. This includes ensuring the charging of the battery and downloading of the video files.
5. At the end of the officer's shift the officer shall return the BWC to the WTS to upload the digitally encrypted data to the storage facility and recharge the battery. Officers are responsible to ensure the BWC is functioning with a GREEN battery status.
6. If a BWC is damaged or not properly functioning, it shall be taken out of service and the shift commander notified.

C. Activation of Body Worn Camera

1. Uniformed sworn personnel and detectives assigned a BWC should record all investigative, enforcement, and call for service contacts. Officers working non-uniform assignments are encouraged to record events when practical.

2. Completed events should be categorized using one of the pre-selected options.
3. Whenever possible, officers should inform individuals that they are being recorded. In locations where individuals have a reasonable expectation of privacy, such as a residence, they may decline to be recorded unless the recording is being made pursuant to an arrest or search of the residence or the individuals.
4. The BWC shall remain activated until the event is completed to ensure the integrity of the recording unless the contact moves into an area restricted by this policy [see items E (1) (a-i)].
5. If an officer fails to activate the BWC, fails to record the entire contact, or interrupts the recording, the officer shall notify a supervisor and document the reason a recording was not made, was interrupted, or was terminated.
6. A BWC should be activated when an officer is engaged in emergency vehicle operation.
7. Civilians shall not be allowed to review the recordings at the scene.

D. Procedures for BWC Use

1. BWCs are issued to uniformed personnel and detectives as authorized by this agency. Officers who are assigned BWC equipment must use the equipment unless otherwise authorized by supervisory personnel.
2. Police personnel shall use only BWCs issued by this department. The BWC equipment and all data, images, video, and metadata captured, recorded, or otherwise produced by the equipment is the sole property of the agency.
3. Police personnel who are assigned BWCs must complete an agency approved and/or provided training program 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, performance, and to incorporate changes, updates, or other revisions in policy and equipment.
4. BWC 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.
5. Officers shall inspect and test the BWC prior to each shift to verify proper functioning and shall notify their supervisor of any problems.

6. Officers shall not edit, alter, erase, duplicate, copy, share, or otherwise distribute in any manner BWC recordings without prior written authorization and approval of the Chief of Police or his/her designee.
7. Officers are encouraged to inform their supervisor of any recordings that may be of value for training purposes.
8. 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.
9. 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/her designee in accordance with state record retention laws. All requests and final decisions shall be kept on file.
10. Officers shall note in official department reports when recordings were made during the incident in question. However, BWC recordings are not a replacement for written reports.
11. Supervisors are to periodically review BWC video to ensure policy compliance.

E. BWC Use Exceptions

1. There are certain circumstances where BWCs should not be activated. The following circumstances are exceptions to mandatory BWC recording.
  - a. When officer safety prohibits due to sudden assault or an unexpected altercation.
  - b. When speaking with an informant or community member providing information who request deactivation of BWC prior to providing information.
  - c. A health care provider is discussing medical issues with a patient.
  - d. While in the hospital waiting for a person in custody to be medically cleared unless their behavior dictates the need for continued activation of the BWC.
  - e. While debriefing with other officers regarding specific details or tactics of a call for service.

- f. When developing a tactical plan or creating a safety plan for a victim.
- g. When utilization is for personal use.
- h. In any location within the GLPD where individuals have a reasonable expectation of privacy, such as a restroom, break room or locker room.
- i. Any other incident where the officer can articulate the necessity and totality of the circumstances that led to not activating the BWC.

F. BWC Evidence Retention

1. BWC data shall be retained and stored on the Watchguard Cloud for a minimum of 120 days after the date of the recording. Any BWC classified as evidence shall be retained and stored on the Watchguard Cloud for a minimum of 7 years or upon final disposition of the case.
2. BWC data shall be inventoried and retained as evidence until the disposition of the investigation, case, citizen complaint, or department review, if the data records any of the following:
  - a. An encounter that resulted in the death of any individual or actual or alleged physical injury to an individual.
  - b. An encounter that resulted in a custodial arrest.
  - c. A search during an authorized temporary questioning (commonly referred to as a "Terry Stop") as provided in Wis. Stat. § 968.25.
  - d. An encounter that included the use of force by a law enforcement officer, except if the only use of force was the use of a firearm to dispatch an injured wild animal.
  - e. A vehicle pursuit.
3. Retention beyond 120 days may be directed by a law enforcement officer or law enforcement agency, a police commission, a prosecutor, a defendant, or a court that determines that the data have evidentiary value in a prosecution. An entity making the directive must submit a preservation order within 120 days after the incident.
4. Data retained that are used in a criminal, civil, or administrative hearing may not be destroyed except upon one of the following:

- a. Final disposition, including appeals.
    - b. A determination from the court or hearing examiner that the data are no longer needed.
    - c. An order from the court or hearing examiner.
  5. Body camera data may not be destroyed at any time after the receipt of an open records request except as provided by current law.
- G. BWC Files of Significant Use of Force Incidents
  1. As soon as practicable after the incident is under control, a supervisor shall direct the collection and upload of all known BWC files from the following types of incidents:
    - a. All incidents involving the use of deadly force against a person.
    - b. All incidents involving the use of force by an officer or detective that result in great bodily harm or death to a person.
    - c. All BWC files from all officers and detectives involved in motor vehicle pursuits that result in great bodily harm or death to a person.
    - d. Any other incident as directed by the Chief or his/her designee.
  2. During Use of Force incidents, courts recognize that law enforcement officers must react quickly and make split-second decisions. The reasonableness of the force used must be judged in the light of the circumstances as they appeared to the officer at the time, and which an ordinarily prudent and intelligent officer, in the same situation, would have deemed reasonable under the circumstances. As such, video evidence of Use of Force incidents may not accurately reflect the perceptions, observations, thoughts, and feelings of the officer at the time of the incident. To provide an accurate account of the officer's Use of Force justifications, the officer should report and document their use of force prior to reviewing any video of the incident. If necessary, the officer can document additional information in a supplemental report after reviewing the video.
    - a. For officer-involved deaths and critical incidents resulting in injury that may result in death, the officer shall not view video of the incident prior to providing a statement. Reference Policy 208 Section V.D, Investigation of Officer-Involved Critical Incidents.

- b. For all other Use of Force incidents above compliance holds, an officer may review video evidence prior to documenting a Use of Force incident with supervisor approval.
- c. No citizen witness(es) to these incidents shall view any BWC files from the incident prior to being interviewed, without an authorization from the Chief of Police or his/her designee.

#### H. Non-Evidentiary BWC Files

1. BWC files that are not evidence will be retained for no less than 120 days for a BWC video, to allow availability of these audio/video files for a reasonable time-period as required under open records policy.
2. After not less than 120 days for a BWC video, these files may be disposed of according to the department records retention schedule and § 165.87.

#### I. Release of BWC Data

1. Data obtained from BWC is generally open to public inspection, except as provided under the following:
2. Minors and Victims of Sensitive Crimes.
  - a. It shall be the policy of this agency to maintain the privacy of a recorded subject who is a victim of a sensitive or violent crime, or who is a minor. Access to data from a body camera used by a law enforcement officer that records such a subject shall be provided only if the public interest in allowing access is so great as to outweigh that public policy.
    - i. In that case, the record subject's face, and anything else that would allow the subject to be identified may be redacted using pixelization or another method of redaction.
    - ii. The presumption under this subdivision regarding the privacy of a recorded subject who is a victim of a sensitive or violent crime does not apply if the recorded subject, or his or her next of kin if the recorded subject is deceased, does not object to granting access to the data.
    - iii. The presumption under this subdivision regarding the privacy of a recorded subject who is a minor does not apply if the parent or legal guardian of the recorded subject does not object to granting access to the data.

3. Expectation of Privacy.
  - a. It shall be the policy of this agency to maintain the privacy of a recorded subject who is in a location where the subject has a reasonable expectation of privacy, and that access to data from an officer's BWC that records a subject in such a location, shall be provided only if the public interest in allowing access is so great as to outweigh that public policy.
    - i. In that case, the recorded subject's face, and anything else that would allow the subject to be identified may be redacted using pixelization or another method of redaction.
    - ii. The presumption under this subdivision does not apply if the recorded subject does not object to granting access to the data
4. If a requester believes that an authority has improperly decided to redact or deny access to data under 2 or 3, the requester may pursue the remedies under Wis. Stat. § 19.37 (1).
5. For purposes of requests under Wis. Stat. § 19.35 (1) for access to data from a body camera used by a law enforcement agency, the law enforcement agency is the legal custodian of the record, and if any other authority has custody of any such data, that authority is not the legal custodian of that data. If any other authority receives a request under Wis. Stat. § 19.35 (1) for that data, that authority shall deny any portion of the request that relates to that data.
6. A copy of this policy will be available to the public on the City of Glendale website for inspection and copying under the Wisconsin Open Records Law.

#### J. Reports

1. Officers shall document in their reports if an incident was or was not recorded with a BWC. If the incident was not recorded, the officer shall document in his/her report the reason the incident was not recorded.
2. Officers are encouraged to review their BWC video prior to completing an incident report to aid in its accuracy.
3. Although incidents may be recorded, incident reports must be complete and thorough. A report lacking detail and simply referring to the BWC recording is not acceptable.

## K. Video Files Management

1. Digital units automatically download video files to the WatchGuard Cloud server using a wireless access system. If the wireless system is down, supervisors can manually transfer files using an approved flashcard. Officers can access the video files on the Cloud to review video.
2. Digital files that are not needed as evidence will be kept for 120 days, and then deleted.
3. Digital files needed as evidence will be stored on the WatchGuard Cloud. The Court Officer will be responsible for transferring evidentiary files to the courts. Digital files needed as evidence will be archived for 7 years. Digital files will not normally be retained as evidence for traffic violations referred to Municipal Court, except for OWI's and other serious violations. All OWI's are to be retained as evidence.
4. Authorized users may access digital files for officer evaluation, citizen complaints or training purposes.

By Order of:

Mark Ferguson - Chief of Police

Replaces: Policy 367 Body-Worn Cameras dated July 23, 2021.

Review Date: June 30, 2026