



Apex Police Department General Order



<i>Title</i> Body Worn Camera System		<i>Order Number</i> 610-20
<i>Effective Date:</i> October 16, 2020	<i>Amends:</i>	
<i>CALEA Standard:</i> 41.3.8	<i>Rescinds:</i>	
<i>Reference:</i> GO 301 – Code of Conduct GO 401 – Records Administration GO 701 – Use of Force GO 801 – Evidence and Property Management and Control NCGS 132-1.4A	<i>Pages:</i> 13	
<i>Forms:</i> F602 – Request for Video Recording F603 – Request for Fleet Services F801 – Evidence/Property Control		

Body Worn Camera System

Purpose

The purpose of this directive is to provide procedures for the use, management, storage, and retrieval of audio-visual data recorded by approved body worn camera systems. (41.3.8 (a))

Policy

The use of body worn camera (BWC) equipment has proven to be a value in the prosecution of traffic violations and related offenses, in evaluating officer performance, training, administrative reviews, and internal investigations. Therefore, it is the policy of the Apex Police Department to make available BWC equipment for use by officers whenever appropriate. To maximize the usefulness of this equipment, officers will follow the procedures for BWC equipment operation and use as outlined in this General Order. (41.3.8 (a))

Operation of Body Worn Camera System

Definitions

Body Worn Camera (BWC) – Video and audio recording equipment designed to be worn by the officer.

BWC Coordinator – A designee of the Chief of Police, given responsibility and authority for the direction and control of the BWC program.

BWC Operator – An officer who has received instruction in the operation and use of the specific BWC recording devices and is authorized to use such equipment for enforcement purposes.

Recordable and Recorded Media – Videotapes, CDs, DVDs, and similar devices for recording digital video and/or audio. Recordable media are those that have the capability to have audio and/or video stored on them. Recorded media are those that already have audio and/or video stored on them.

Procedure

General

1. BWC systems act as an independent observer, recording the events as they occur. The system can assist with the collection or capturing of information and evidence, which may be used in the prosecution of those who violate federal, state and local laws. (41.3.8 (a)(c))
2. The intended use of BWC equipment is not as a disciplinary tool against officers for minor infringements of policies and procedures. However, if a case of misconduct and/or repetitive behavior is brought to the attention of the department through a complaint, supervisory administrative review, or internal affairs investigation, the video and/or audio recording may be used to form the basis of a complaint to substantiate or discredit the alleged violation. (41.3.8 (c))
3. Any portion of BWC data that documents events surrounding a violation of the law (which includes an infraction, crime, or offense prosecutable in the criminal courts in this state or in the United States) is considered a record of a criminal investigation, as described in NCGS 132-1.4, and not a public record, as deemed in NCGS 132-1. (41.3.8 (c))
4. Any portion of BWC data that contains personnel records or that may be used to subject an employee to disciplinary action, is a part of that employee's personnel file as defined in NCGS 160A-168 and is open to inspection only as provided by that statute. (41.3.8 (c))

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Organization Philosophy on Use of BWC Equipment (41.3.8 (a))

1. The department has adopted the use of BWC systems to accomplish several objectives including, but not limited to:
 - Assist the department with thorough objective investigations of complaints against personnel
 - Enhance the ability to review probable cause for arrest, arrest procedures, officer and suspect interaction, and evidence for criminal investigation purposes
 - Gather recorded evidence and accurate documentation of events, actions, conditions, and statements made during motor vehicle stops, pursuits, arrests, acts of physical violence, unusual conduct, searches, crime scenes, and critical incidents
 - Provide a training aid for officers and supervisors
 - Provide quality assessment of officer and citizen contacts

BWC Coordinator and BWC Installation

1. The Records/IT Manager is designated as the BWC Coordinator and will ensure that BWC equipment is properly installed within designated police vehicles, according to the manufacturer's recommendations.
 - BWC equipment will be installed in a manner that ensures the system will activate:
 - Automatically, when the emergency lights or siren are operating
 - Via a wireless transmitter
2. Responsibilities of the BWC Coordinator or designee include:
 - Setting up user access and user authority to BWC systems
 - Ensuring that the BWC equipment and related servers have adequate storage
 - Performing software and hardware updates as needed
 - When informed of malfunctioning equipment, ensuring the appropriate personnel make the necessary repairs in a timely manner

Training (41.3.8 (f))

1. All officers and supervisory staff will receive documented familiarization training in the operation and use of approved BWC equipment prior to use. The training should include:
 - A review of this General Order and other applicable written directives as they relate to the operation, use, and limitations of the equipment
 - Proper care and maintenance of the equipment
 - Legal procedures for recording incidents/events
 - Sworn, supervisory staff at the rank of Lieutenant or higher may also be trained in making a DVD copy and/or still frame pictures for internal investigations or other official purposes

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2. Employees will receive BWC familiarization training as follows:
 - Newly-hired officers – Field Training Program (i.e. FTO Program)
 - Newly-promoted supervisors – Newly Promoted Supervisor Orientation Training Program (NPSOTP)
 - Officers and supervisory staff – System updates and additional training as needed through roll call training, annual in-service training, or other approved training methods as determined by the Administrative Division Commander, Deputy Chief of Police, or Chief of Police
3. Officers are encouraged to inform their supervisor of any recordings that may be of value for training purposes.

BWC Equipment

1. BWCs will be assigned to all sworn personnel.
2. Officers at the rank of Lieutenant and below, working in a uniformed capacity, including extra-duty and off-duty employment, or any assignment that necessitates regular contact with citizens, are required to wear a BWC as part of their standard duty equipment.
3. Investigators and plain-clothes officers are not required to wear the BWC throughout their tour of duty. However, BWCs will be worn by all officers for:
 - Service of a search warrant
 - Pre-planned enforcement situations
 - Pre-planned tactical situations
4. Officers will wear the BWC in a position to allow the recording of an encounter or incident that most closely replicates the perspective of the officer.

Equipment Care, Maintenance, and Inspection (41.3.8 (e))

1. BWC equipment will only be operated by trained officers. Officers who are issued a BWC are responsible for the care and maintenance of the equipment.
2. Officers using BWC equipment and/or operating a vehicle that has BWC equipment installed, will inspect the BWC equipment for proper operation and to ensure it is performing in accordance with the manufacturer's recommendations, at the beginning of each shift and before starting any off-duty or extra-duty assignment.
 - All malfunctions, damage, or issues with the BWC equipment will be immediately reported to the officer's supervisor, the on-duty supervisor, or the Watch Commander.

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- If the BWC equipment is not operating properly, the equipment and/or vehicle will not be used for patrol/traffic duties unless there is no other vehicle and/or equipment available, and then only with the permission of an on-duty supervisor or Watch Commander.
 - Inspections of the BWC equipment will include at a minimum:
 - Remote audio transmitter functionality:
 - Adequate power source
 - Connected to the recording equipment
 - Remote activation of system via transmitter
 - Camera lens:
 - Windshield and camera lens are free of debris
 - Camera is facing the intended direction
 - Recording mechanism is capturing both audio and visual information:
 - System plays back both audio and video tracks
 - Computer interface:
 - User logs into the camera system interface software
 - User verifies the ability to control the camera and classify video
 - User verifies all previous videos have been transferred to the central video server
3. If the BWC equipment is damaged or not operating properly, the officer will complete form F603 – *Request for Fleet Services*.
- The form will be submitted to the Support Services supervisor who will coordinate any needed repairs with the BWC Coordinator.

Guidelines for Recording

1. BWC equipment will be used only for legitimate law enforcement purposes in accordance with applicable laws and department written directives. It will not be used in places where there is a reasonable expectation of privacy. (41.3.8 (b)) Examples where a reasonable expectation of privacy exists includes, but is not limited to:
 - Dressing rooms
 - Locker rooms
 - Restrooms
2. Pursuant to General Order 301 – *Code of Conduct*, BWC equipment will not be used to record other officers or town employees except during an investigation of a suspected violation of criminal, traffic, or local law; or as otherwise approved by the Chief of Police and should not be used to record personal activities. (41.3.8 (b))
3. All staff required to wear the BWC system pursuant to this policy must activate the equipment during all occurrences of the following law enforcement activities (**NOTE:** If the system does not activate automatically, the officer will activate it manually) (41.3.8 (b)):

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- Traffic stops (to include but not limited to traffic violations, stranded motorist assistance, checkpoint encounters, and all crime interdiction stops)
 - Priority responses
 - Vehicle pursuits
 - Prisoner searches and transports
 - Crisis interventions
 - Civil unrest
 - Tactical operations and search warrants
 - Investigative actions to include, but not limited to:
 - Field interviews
 - Suspicious persons/vehicles
 - Crimes in progress
 - Domestic disputes
 - Accidents
 - Other similar events
 - Any situation as directed by a supervisor
4. It is understood that not every citizen interaction can, will, or should be recorded. However, officers may use the BWC to document any situation or event that, through his/her training and experience, leads the officer to conclude the interaction should be recorded.
 5. Officers are expected to use good judgment and record any situation, incident, or interaction that a reasonable officer would consider appropriate; regardless if it fits within the circumstances specified in this General Order.
 6. Officers may use the audio portion of the recording to narrate events as they occur to aid in documentation or courtroom presentation.
 7. Officers are encouraged to review the recordings when preparing written documentation of events (using the recording as a tool when completing written reports will ensure the accuracy and consistency of events).
 8. Officers will ensure the volume from other electronic devices within the police vehicle (i.e. radios, scanners, CD players, cellular phones, etc.) do not cause interference when the BWC system is activated. (**NOTE:** This does not apply to police radios.)
 9. BWC recordings containing arrests, assaults, physical or verbal confrontations, vehicle pursuits, vehicle searches in which contraband is recovered, driving while impaired, or any prisoner transport will be treated as evidence and held in accordance with General Order 801 – *Evidence and Property Management and Control* and the BWC recording retention periods where applicable. (41.3.8 (c))

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10. Once the recording has stopped, it is the officer's responsibility to ensure the video has been properly classified. (**Note:** If the officer operating a BWC does not have a vehicle equipped with a Mobile Data Computer (MDC), the classification of videos will be completed using the BWC system software on another computer.)

Exceptions to Guidelines for Recording

1. It is understood that not all situations include a clearly defined beginning or ending requiring recording. Officers are expected to be familiar with and follow applicable laws and written directives using ethical and legal discretion when activating and deactivating BWCs.
2. In the event of an extended incident or detail, the officer may deactivate the system to conserve recording time for tasks that include, but are not limited to:
 - Traffic control
 - Crash scene
 - Checking station (only when not interacting with motorists, i.e. the checking station is temporarily suspended due to traffic congestion, there is no traffic, etc.)
 - Perimeter security for a crime scene
 - **NOTE:** These exceptions are only applicable when the officer is not actively engaged in direct continuous interactions
 - Officers must document the reason for stopping the video, by orally noting the intention to stop the recording and by notation in the officer's notes section of the recording system
3. If an officer is investigating an incident where child pornography is being previewed or recovered, the BWC will be deactivated or positioned in a way as to not capture any images or videos to mitigate the need to take the BWC out of service for evidentiary purposes.
4. Except as noted above, when the BWC is activated, it will not be deactivated until the incident/event has concluded. (41.3.8 (b))

Exceptions: Medical Facilities

1. Officers will not use BWCs in any patient area (i.e., waiting room, treatment/exam room, operating room, or other areas where patients are being treated or waiting to be treated); other part of the campus of any health care facility, including but not limited to mental health care facilities; or any medical office or clinic, except:

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- To document injuries for official law enforcement purposes or to capture criminal activity or a physical arrest, when the officer is responding to a call reporting a crime on premises as described in 45 CFR 164.512(f)(5)
- For the purposes of compliance with 45 CFR 164.512(f)(5) and this directive, a public health authority includes any medical facility authorized by law to collect or receive medical information for the purpose of:
 - preventing or controlling disease
 - preventing or controlling injury
 - preventing or controlling disability
 - Public health authorities for Wake County include, but are not limited to:
 - Duke Raleigh Hospital
 - Rex Healthcare
 - UNC Family Medical
 - WakeMed Medical Centers
 - WakeBrook Behavioral Health
- As otherwise provided in a HIPAA-compliant authorization signed by all subjects of a recording (or their legally authorized representatives)
- **NOTE:** In these limited situations, officers should take special care to record only parties reported to have been involved in the alleged criminal conduct being investigated. In no event will an officer use BWCs to record a person undergoing a medical or psychological evaluation, procedure, or treatment, nor a discussion of any individual's health information

Recorded Media Control and Management

1. Officers will not erase, alter, reuse, modify, or tamper with BWC recordings or attempt to remove the recordable media from the device.
2. To prevent damage to the original recorded media, at no time will the original media be viewed in any equipment other than the equipment issued or authorized.
3. Prior to using the BWC system, officers will ensure the BWC they are using are fully charged and has sufficient file storage space available. Additionally, officers will make sure the BWC is assigned to them in the BWC system.
4. At the beginning of the shift, the primary officer in the vehicle (officer assigned the car if a two-officer unit or the field training officer if accompanied by a recruit in training) will log into the BWC system software and ensure the unit number and officer name is entered accurately.

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5. At the end of each shift, officers will upload all BWC system files to the Apex Police Department server by placing the BWC into a multi or single-port, docking cradle located within one of the police facilities. (41.3.8 (d))
6. The BWC system automatically erases recordings from the BWC server when the retention period for that recording segment has elapsed. The retention period is set by the system according to specific classifications that the authorized user applies to the recording. (41.3.8 (d))
7. When BWC equipment generated video and/or audio data is used during an administrative review (i.e., pursuits, use of force, discharge of a firearm, etc.), its use will be documented as part of the review. A copy of the BWC footage will be placed on a digital media storage device (DVD, thumb drive, external hard drive, etc.) and kept with the administrative review file. (41.3.8 (c))
 - BWC data that is transferred to a digital media storage device related to an administrative review will be considered part of the file and remain with that file until destruction is authorized.
8. When processing a complaint, the supervisor or command officer assigned the investigation will review the BWC data from the date and time specified in the complaint. The supervisor will process all allegations of officer misconduct and other allegations in accordance with General Order 302 – *Personnel Complaint Investigation*. A copy of the BWC footage will be placed on a digital media storage device (DVD, thumb drive, external hard drive, etc.) and kept with the complaint file. (41.3.8 (c))
 - BWC data that is transferred to a digital media storage device related to the incident will be considered part of the file and remain with that file until destruction is authorized.
9. When BWC equipment, generated video and/or audio data is used by the internal affairs function, the data will be placed on a digital media storage device (DVD, thumb drive, external hard drive, etc.) and kept with the internal investigation file. (41.3.8 (c))
 - BWC data that is transferred to a digital media storage device for internal investigations will be considered part of the internal investigation file and remain with that file until destruction is authorized.
10. Copies of BWC video and/or audio data produced by the Property and Evidence Clerk or other authorized personnel for evidentiary purposes in a criminal investigation, will be placed in the Property and Evidence function by the investigating officer in accordance with General Order 801 - *Evidence and Property Management and Control* and any other applicable written directive. (41.3.8 (c))

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Retention of BWC Data (41.3.8 (d))

1. If BWC data is considered evidence, data will be retained in accordance with evidence retention guidelines as outlined in General Order 801 – *Evidence and Property Management and Control* and where applicable, as outlined in this General Order.
 - The original recording will be maintained on the appropriate server as evidence and will be disposed of pursuant to applicable records retention schedules, as authorized by the District Attorney’s Office, or by court order.
2. If BWC data is not considered evidence, data will be retained for a pre-determined period if adequate storage space is available and in accordance with this General Order. The following table will be used as a guide for data storage and retention requirements: (41.3.8 (d))

<i>Classification</i>	<i>Retention</i>
Accidental Activation	30 Days
Arrest	720 Days then to archive
Assist Officer	180 Days
Auto Accident	90 Days
Critical Incident	2 Years then to archive
Checking Station	180 Days
Custodial Interview	180 Days
Disturbance	90 Days
Domestic Violence	90 Days
DWI Arrest	1 Year then to archive
Emergency Response	90 Days
Field Contact- Non-Custodial	60 Days
Internal Affairs	3 Years
Other Investigation	180 Days
Officer Involved Motor Vehicle Crash	2 Years then to archive
Prisoner Transport	1 Year then to archive
Traffic Stop - Citation	180 Days
Traffic Stop	60 Days
Speed Violation (Exceeds 80 mph)	180 Days
Vehicle Pursuit	2 Years then to archive
Vehicle Inspection	60 Days
Unclassified Recordings	90 Days

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Supervisor Responsibilities

1. Supervisors will ensure:
 - Officers under their command and control operating BWC equipment are using the system properly and in accordance with this General Order (41.3.8 (e))
 - Officers are properly identifying recordings that may be evidence and complying with the requirements of discovery
 - The Professional Standards Unit is notified if any BWC recordings exist regarding any personnel complaint investigation, pursuit, use of force, or internal administrative review
 - Officers are properly classifying recorded data

Media Duplication (41.3.8 (c))

1. All recording media and all recorded images are the property of the agency and dissemination outside the agency is strictly prohibited without specific authorization of the Chief of Police or his/her designee or as outlined in this General Order and General Order 401 – *Records Administration*.
2. The Apex Police Department is subject to and will adhere to NCGS 132-1.4A – *Law Enforcement Agency Recordings* in regard to the review and dissemination of recordings.
3. Officers requesting copies of videos will complete form F602 – *Request for Video Recording*.
4. Media that is to be duplicated for court purposes is considered evidence.
 - Officers requesting copies of videos for court purposes will submit form F602 – *Request for Video Recording* directly to the Evidence Clerk.
 - The request should be submitted no less than five business days before the court date.
5. The Evidence Clerk will download the data onto the appropriate media, complete form F801 – *Evidence/Property Control Form*, and release the media to the officer. The original form F602 – *Request for Video Recording* will remain with the media.
 - The officer may use the data for approved court purposes only and will return the media and the original form F602 – *Request for Video Recording* to the Evidence Clerk in accordance with General Order 801 – *Management and Control of Evidence and Property*.
 - If the media is retained by the District Attorney, the officer will have the appropriate Assistant District Attorney sign the original form F602 – *Request for Video Recording* indicating the media is being retained. The signed form F602 – *Request for Video Recording* will then be returned to the Evidence Clerk.

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6. Unauthorized copies of any data or recordings are strictly prohibited.

Review of Captured BWC Data

1. The following are authorized users to access and review BWC data at the levels specified below:
 - Executive Staff at the rank of Captain and higher, Records/IT Manager, and Apex Police Department IT Staff on a “need” basis – Complete access to the recorded files on the server, ability to add comments, change improper classifications, mark files for extended retention, and generate copies
 - Watch Commander – View recorded files, ability to add comments, change improper classification, mark files for extended retention, and generate copies for internal administrative purposes (i.e. Internal Affairs Investigations, pursuits, etc.)
 - Supervisors – View the recorded files, ability to add comments, change improper classifications, and mark files for extended retention
 - Officers – View only their recorded files, change improper classification, and the ability to add bookmarks and/or comments for court testimony and case review
 - Evidence Clerk/Technician – Mark files for extended retention and generate copies
2. Supervisors will conduct a documented monthly review of BWC data recorded by officers under their command and control for the purposes of: (41.3.8 (g))
 - Periodic assessment of officer performance
 - Ensure the BWC equipment is functioning properly
 - Determine if BWC equipment is being operated properly
 - Identify material that may be appropriate for training
3. Review procedures: (41.3.8 (g))
 - Supervisors will log into the BWC System
 - **NOTE:** Supervisory staff will only review BWC data recorded by officers under their command and control
 - Supervisors will enter a data range (maximum of 2 weeks, i.e. 10/05/2020 to 10/18/2020) within the month being reviewed
 - The BWC system will then generate a list of BWC recordings for the appropriate squad/unit/section/function
 - Supervisors will randomly select a minimum of five BWC recordings per officer from the represented list to review, in addition to all recordings classified as “Accidental Activations”
4. Minor infractions (not criminal in nature) discovered during the review of recorded material should be viewed as opportunities for supervisory training coaching and counseling. (41.3.8 (g))

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- Any behavior or action that is not minor in nature, has become habitual after being addressed, appears to be criminal, or shows excessive use of force will be reported to the Professional Standards Unit, through the chain of command, and processed in accordance with General Order 302 – *Personnel Complaint Investigation*. This requirement falls under the “Duty to Intervene” section of General Order 701 – *Use of Force*.
5. In addition to the monthly review process, supervisors will review BWC recordings on an as-needed basis to conduct administrative reviews or internal investigations. (41.3.8 (g))

Text in “Green” denotes a significant change in policy

BY ORDER OF:



John W. Letteney
Chief of Police