

Section: Command Operations		Procedure No:	212-123
USE OF BODY-WORN CAMERAS			
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PURPOSE

To visually and audibly record certain interactions between uniformed members of the service and the public for official law enforcement purposes.

PROCEDURE

When a uniformed member of the service is assigned a Body-Worn Camera (BWC):

UNIFORMED MEMBER OF THE SERVICE

- 1. Prior to roll call:
 - a. Retrieve assigned BWC from docking station,
 - b. Turn power on and inspect BWC to ensure that battery is charged and the device is operational, and
 - c. Position BWC to facilitate the optimal recording field of view.
 - (1) This will normally entail attaching it to the outermost garment in the vicinity of the breast pocket of a uniform shirt, duty jacket, or garment used for plain clothes assignment, using appropriate mounting hardware provided.
- 2. Utilize BWC only when personally issued and authorized by the Department to record official activity while on-duty.
 - a. The use of any non-Department issued recording device is strictly prohibited.
- 3. Notify desk officer if a BWC is not functioning properly, becomes damaged or is otherwise unaccounted for at any point during the tour and document notification in digital **Activity Log**.

MANDATORY ACTIVATION OF BWC FOR ALL UNIFORMED MEMBERS OF THE SERVICE:

UNIFORMED MEMBER OF THE SERVICE

- 4. Activate BWC prior to engaging in, or assisting another uniformed member of the service with the following police actions:
 - a. Potential crime-in-progress assignments, including:
 - (1) All 10-10s (except missing persons),
 - (2) 10-12 police officer/security holding,
 - (3) 10-30 series,
 - (4) 10-50 disorderly person or group,
 - (5) 10-52 dispute,
 - (6) 10-53 (with injuries) when Highway District Collision Investigation Squad or Evidence Collection Team is requested to respond to scene,
 - (7) 10-85 (excluding administrative assistance) and 10-13
 - (8) Any incident involving a weapon, and
 - (9) ShotSpotter Activation.
 - b. Interior patrols of New York City Housing Authority buildings as well as any privately owned buildings,

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UNIFORMED MEMBER OF THE SERVICE (continued)

- (1) The BWC must be activated upon entering the building and will not be deactivated until exiting building and terminating interior patrol, along with any associated police action.
- c. Public interactions that escalate and become adversarial,
- d. Interactions with an emotionally disturbed person,
- e. Interactions with persons suspected of criminal activity,
- f. A search of an individual and/or their belongings, vehicle, and/or home, except for strip searches,
- g. Vehicle stops,
- h. Vehicle checkpoints,
- i. Summonses, except for a Notice of Parking Violation, unless the owner/operator is present,
- j. Use of force as defined in *P.G. 221-03*, "Reporting and Investigation of Force Incident or Injury to Persons During Police Action,"
- k. Bag checks,
- 1. Transit system ejections,
- m. Transit system sleeping passenger checks, and
- n. Arrests.

NOTE

When an individual is under arrest or otherwise in custody, immediately inquire if medical and/or psychological treatment is necessary. Ensure that BWC is activated when asking if medical and/or psychological treatment is necessary. Request EMS to the scene to provide medical and/or psychological health care, as appropriate.

- 5. Notify patrol/unit supervisor when there is a failure to record a mandatory event as described in step "4."
 - a. Document notification in digital **Activity Log**.

MANDATORY ACTIVATION OF BWC FOR UNIFORMED MEMBER OF THE SERVICE ASSIGNED TO EMERGENCY SERVICE UNIT (ESU):

EMERGENCY SERVICE UNIT PERSONNEL

- 6. Comply with steps "4" and "5," in addition to activating BWC as follows:
 - a. Cell extractions,
 - b. Use of mesh restraint.
 - c. Perpetrator searches,
 - d. Jumpers,
 - e. Arrest and search warrants,
 - (1) Vehicle movement to the target location
 - (2) ESU personnel will not record tactical discussion and briefings.
 - f. Barricaded emotionally disturbed person/perpetrator, and
 - (1) Prior to making entry to location of barricaded emotionally disturbed person/perpetrator, whether or not ESU supervisor is present, and
 - (2) If barricaded person/perpetrator is voluntarily surrendering, whether or not ESU supervisor is present.

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EMERGENCY SERVICE UNIT PERSONNEL (continued)

g. When directed by ranking ESU supervisor or ranking member of the Department serving as Incident Commander.

NOTE

In the event that additional resources or tactical briefings must take place after ESU personnel has already activated their BWCs, the ESU captain or above may order a temporary deactivation of BWCs. Any decision made regarding the activation and/or deactivation of BWCs by ESU personnel will be made in conjunction with established protocols, consistent with officer safety.

In the event that a briefing or tactical discussion regarding resource capabilities or after-action debriefing is recorded on BWC, the Commanding Officer, Emergency Service Unit will confer with the Commanding Officer, Legal Bureau in regard to the content of the recording and action to be taken to safeguard sensitive tactical information.

EMERGENCY SERVICE UNIT SUPERVISOR/ INCIDENT COMMANDER

7. Ensure uniformed members of the service assigned to ESU activate BWC, as appropriate.

BWC ACTIVATION, NOTICE OF RECORDING AND EXIGENT CIRCUMSTANCES FOR ALL UNIFORMED MEMBERS OF THE SERVICE:

UNIFORMED MEMBER OF THE SERVICE

8. Begin recording prior to arrival at incident location when mandatory activation is required.

NOTE

Vehicle operators may activate their BWC immediately after arrival at incident location in order to ensure the safe operation of Department vehicle.

- 9. In the event of an unanticipated or exigent occurrence, activate the BWC as soon as it is feasible and safe to do so after taking necessary police action to preserve human health and safety. At no time should proper tactics be compromised to begin a recording.
- 10. As soon as reasonably practical, notify members of the public that an interaction is being recorded, unless notification could compromise the safety of any person or impede an investigation.
 - a. Suggested notification: "Sir/Ma'am, I am wearing a body-camera and this encounter is being recorded," and
 - b. Consent is not required to start or continue recording.

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DISCRETIONARY ACTIVATION OF BWC FOR ALL UNIFORMED MEMBERS OF THE SERVICE:

UNIFORMED MEMBER OF THE SERVICE

11. Uniformed members of the service may record other official activities when, in the uniformed member's judgment, it would be beneficial to record, so long as it is not one of the prohibited recordings described in step "13."

<u>DEACTIVATION OF BWC FOR ALL UNIFORMED MEMBERS OF THE SERVICE:</u>

UNIFORMED MEMBER OF THE SERVICE

- 12. Once the BWC has been activated, continue recording until the investigative, enforcement, or other police action is concluded. Recording should include complainant/witness statements unless prohibited as described in step "13."
 - a. In the case of an arrest, continue recording until the prisoner is lodged at the command for arrest processing, and
 - b. The uniformed member of the service may choose to deactivate the BWC upon the request of a member of the public if a suspect is not present, and it is safe and advisable to do so after considering all the circumstances, including the requester's desire for privacy or confidentiality.

PROHIBITED BWC RECORDINGS FOR ALL UNIFORMED MEMBERS OF THE SERVICE:

UNIFORMED MEMBER OF THE SERVICE

- 13. Do not activate the BWC for any of the following:
 - a. Performance of administrative duties or non-enforcement functions,
 - b. Routine activities within Department facilities,
 - c. Departmental meetings or training,
 - d. Off-duty employment including paid detail assignments,
 - e. Interviewing a current or potential confidential informant,
 - f. Undercover officers,
 - g. Interviewing the victim of a sex crime, as soon as the nature of the offense becomes apparent,
 - h. Strip searches,
 - i. When present in a court facility, except for the immediate lodging of a prisoner,
 - j. The inside of a medical facility, and
 - k. Briefings and tactical discussions regarding resource capabilities, or after-action debriefings involving ESU personnel.

NOTE

The mandatory activation of a BWC will take precedence over prohibited BWC recordings (i.e., an arrest in a medical facility should be recorded).

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NOTE (continued)

When Highway District, Intoxicated Driver Testing Unit (I.D.T.U.) personnel respond to a hospital or medical facility to conduct testing, the technician and the arresting officer will both activate their body-worn cameras to record the reading of the interrogation warnings and questions on Department form INTERROGATION WARNINGS TO PERSONS IN POLICE CUSTODY (PD244-1414), and capture the subject's consent or refusal to submit to a chemical or blood test. The officers will record a blood draw on their body-worn cameras, whether the sample is taken by consent or by an order of the court. If requested by medical personnel to stop recording, officers will capture the request if possible, turn off their body-worn cameras, and make digital Activity Log entries detailing the circumstances.

UNIFORMED MEMBER OF THE SERVICE

- 14. Notify patrol/unit supervisor if a prohibited event as described in step "13" was recorded.
 - a. Document notification in digital **Activity Log**.

DEMONSTRATIONS AND CIVIL DISOBEDIENCE:

UNIFORMED MEMBER OF THE SERVICE

- 15. Record only if engaged in one of the actions listed in step "4" above (Mandatory Activation of BWC) and in uniform.
 - a. The Technical Assistance and Response Unit (TARU) remains solely responsible for documenting protests, demonstrations, political events, etc., by means of photos and/or video.

DOCUMENTATION AND MAINTENANCE OF BWCS:

UNIFORMED MEMBER OF THE SERVICE

- 16. Access the video management system on the Department Intranet or Department smartphone to classify videos based upon the nature of the event.
 - a. Select one category for BWC video retention from the dropdown list in the following priority order:
 - (1) Arrest,
 - (2) Homicide,
 - (3) Summons,
 - (4) Investigative Encounter, and
 - (5) Uncategorized.
 - b. Document the nature of event from dropdown list (e.g., EDP, DV incident, home visit, etc.),
 - (1) If the nature of the event cannot be selected from the dropdown list, enter a description of the event and include the associated ICAD number.
 - c. If related to an arrest, enter the complete arrest number, beginning with the borough letter designation in the appropriate field, and/or
 - d. If related to a Terry Stop/Level 3 Encounter not involving an arrest, enter the Stop Report number in the appropriate field.
- 17. Categorize all BWC videos by the end of next scheduled tour.
- 18. Document in digital **Activity Log** and in the appropriate caption, or in the narrative of, any Department report prepared (e.g., **STOP REPORT [PD383-151]**, **THREAT, RESISTANCE OR INJURY [T.R.I.] INTERACTION REPORT, AIDED REPORT, COMPLAINT REPORT [PD313-152], ON**

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LINE BOOKING SYSTEM ARREST WORKSHEET [PD244-159], etc.)

when an incident has been captured on a BWC recording.

- a. Include the identity of member(s) recording the event.
- 19. Insert the BWC into the docking station at the station house for transfer of data and to recharge the battery at the completion of the tour.

ARREST PROCESSING AND SHARING OF BWC VIDEOS:

ARRESTING OFFICER/ ASSIGNED OFFICER

- 20. Comply with P.G. 208-03, "Arrests General Processing" and P.G. 208-15, "Arrest Processing Preparation at Stationhouse."
- 21. Identify all BWC videos associated with the arrest, and if known, any other pertinent BWC video from previous incidents that can enhance the arrest case.
 - a. Prepare **DISTRICT ATTORNEY BODY-WORN CAMERA CHECKLIST (PD220-141)**.

NOTE

When arresting officer/assigned officer becomes aware of any pertinent BWC video that is associated with their arrest case (e.g., BWC video containing suspect information, complainant/victim/witness statements, or are of any investigative value in regard to the establishment of probable cause, etc.), regardless of when the video was recorded, will ensure that those BWC video files are properly identified and shared with the District Attorney's office or special prosecutor.

- 22. Ensure all associated BWC videos are properly classified as per step "16."
- 23. Use the appropriate functions in the video management system to share all BWC videos associated with the arrest to the District Attorney's office or special prosecutor.
- 24. Share BWC video as follows:
 - a. With the Legal Bureau, any time a member of the service becomes aware of potential or actual civil litigation involving a matter captured by a BWC, and/or
 - b. With assigned detective/investigator anytime that any portion of an incident under investigation is captured by a BWC.

VIEWING OF BWC RECORDINGS:

UNIFORMED MEMBER OF THE SERVICE

- 25. In the performance of their duties, uniformed members of the service may view the following BWC recordings:
 - a. Their own BWC recordings, subject to steps "25(c)" and "25(d),"
 - b. BWC recordings made by other uniformed members of the service, if the viewing is in furtherance of an investigation, preparation of a case or other official purpose, subject to steps "25(c)" and "25(d),"
 - c. When a uniformed member of the service is the subject of an official Departmental investigation, or is a witness in an official Departmental investigation, the member may view his/her own BWC recording of the incident prior to making a statement under the provisions of *P.G. 206-13*, "Interrogation of Members of the Service," at a time and place deemed appropriate by the supervisor in charge of the investigation, and

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d. When a recording is related to a police firearms discharge, a Level 4 use of force, or a serious injury/death in custody as defined in *P.G. 221-03*, "Reporting and Investigation of Force Incident or Injury to Persons During Police Action," the member may view their own BWC recording of the incident prior to making a statement under the provisions of *P.G. 206-13*, "Interrogation of Members of the Service," at a time and place deemed appropriate by the supervisor in charge of the investigation.

FIREARMS DISCHARGES, LEVEL 3 AND LEVEL 4 USE OF FORCE, AND DEATH/ SERIOUS INJURY IN CUSTODY INCIDENTS:

PATROL SUPERVISOR/ UNIT SUPERVISOR

- 26. Respond to police firearms discharges, Levels 3 and 4 uses of force, and death in-custody/serious injury in custody incidents and assume command.
 - a. In addition to other necessary actions, obtain and secure BWCs from all members of the service who were on scene, documenting which officer had each camera,
 - b. Confer with Internal Affairs Bureau for Level 3 uses of force and determine whether to secure BWC pending their response, and
 - c. In all cases involving a police firearm discharge or level 4 use of force, secure BWCs and provide BWCs to Force Investigation Division upon their arrival.
- 27. Instruct members of the service to deactivate BWC if enforcement action has terminated, the event has been stabilized and interaction with the subject(s) of the police activity has concluded.

SUPERVISORY AND ADMINISTRATIVE FUNCTIONS FOR BWC:

SUPERVISOR CONDUCTING ROLL CALL

- 28. Provide members performing duty with the platoon sufficient time after the start of their tour, but prior to roll call, to retrieve their assigned BWC from the docking station.
- 29. Inspect members for their assigned BWCs and ensure that they are properly affixed to their uniform or outer-most garment, powered on, and functioning properly.

PATROL SUPERVISOR/ UNIT SUPERVISOR

- 30. Visit members of the service equipped with BWCs while on assignment and ensure they are recording events and activities.
- 31. Instruct members of the service to deactivate BWC if enforcement action has terminated, the event has been stabilized and interaction with the subject(s) of the police activity has concluded.
- 32. Conduct an investigation when notified that a member failed to record all or part of an encounter as mandated in step "4."
 - a. Make determination regarding the propriety of the circumstances surrounding the failure to record and notify the desk officer to document results in Command Log,

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- b. Ensure that any resulting failure to record is documented in the uniformed member's digital **Activity Log**, and
- c. Prepare and forward a report on **Typed Letterhead** detailing the investigation, findings, and actions taken to the Chief of Department (through channels).
 - (1) Forward additional copies to the Deputy Commissioner, Information Technology and the Commanding Officer, Risk Management Bureau.
- 33. Notify desk officer whenever notified that a member made a prohibited recording as described in step "13."
- 34. Periodically review BWC video as appropriate, to provide positive feedback and address any performance or tactical deficiencies observed.

DESK OFFICER/UNIT SUPERVISOR

- 35. Account for all BWCs assigned to command at start of tour.
 - a. Enter details in the Command Log.
- 36. Conduct an immediate investigation when notified that a BWC is not functioning properly, has become damaged, or is otherwise unaccounted for, and comply with *P.G. 217-10*, "Accidents Department Property" or *P.G. 219-20*, "Loss or Theft of Department Property," as appropriate, and make entries in Command Log.
 - a. Notify Information Technology Bureau Service Desk and follow guidance for obtaining a replacement BWC.
- 37. Ensure that all BWCs are returned to their docking station for video upload and battery recharging at end of tour.
- 38. Ensure arresting officer/assigned officer has shared all BWC videos associated with arrest to with District Attorney's office or special prosecutor.
 - a. Ensure **DISTRICT ATTORNEY BODY-WORN CAMERA CHECKLIST** is prepared, as appropriate.
- 39. Log into BWC video management system at least once per tour, and identify BWC video recorded by command personnel that have not been categorized properly.
 - a. Instruct BWC user to categorize their BWC video, as appropriate.
- 40. Notify the commanding officer/duty captain whenever notified that a member made a prohibited recording as described in step "13."

TRAINING SERGEANT

- 41. Periodically review BWC video as appropriate, to provide positive feedback and address any performance or tactical deficiencies observed.
- 42. Assess compliance with the procedure and take necessary remedial action to correct deficiencies.
- 43. Prepare and submit monthly BWC inspection report to Compliance Division's Body-Worn Camera Unit by the 20th of each month for videos reviewed during the previous month.
- 44. Ensure new personnel assigned to command are BWC trained and are equipped with a BWC compatible with the command.
 - a. Notify Information Technology Bureau, Strategic Technology Division, if a new BWC is needed.

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INTEGRITY CONTROL OFFICER

- 45. Be responsible for the integrity and security of the BWCs, related hardware and the video management system.
 - a. When a member of the service transfers to another BWC command, ensure member takes their BWC with them, and
 - b. When a member of the service transfers to a non-BWC command, ensure member's BWC is returned to ITB, Strategic Technology Division.
- 46. Supervise review of BWC video by supervisors assigned to command.
- 47. Periodically review BWC video as appropriate, to provide positive feedback and address any performance deficiencies observed.
- 48. Ensure distribution of command's "Quarterly" Body-Worn Camera Self-Inspections to command staff and ensure "Monthly" Body-Worn Camera Self-Inspections are conducted and made available for review by the Quality Assurance Division.
- 49. Complete all investigatory communications sent by the Compliance Division in regard to BWC usage.

COMMANDING OFFICER

- 50. Designate a secure area within the muster room/desk area and under the control of desk officer for storage of BWCs not being used.
- 51. Ensure compliance with BWC procedure.
- 52. Conduct an investigation when notified of the recording of an event which is prohibited in step "13."
 - a. Prepare and forward a report on *Typed Letterhead* detailing the investigation, findings, and actions taken to the Chief of Department (through channels), and
 - b. Forward additional copies to the Deputy Commissioner, Information Technology and the Commanding Officer, Risk Management Bureau.

PATROL BOROUGH ADJUTANT/ COUNTERPART

- 53. Be responsible and provide oversight for the BWC program.
- 54. Evaluate compliance with BWC procedure and manage systems to address deficiencies.

ADDITIONAL DATA

OPERATIONAL CONSIDERATIONS

When entering a Department facility equipped with an electronic access control system, uniformed members of the service should cover the lens of their BWC while entering the access code into the keypad to prevent the inadvertent recording of access information.

The BWC and related hardware/software, as well as video, audio and data captured by the BWC, irrespective of the content, are at all times the property of the Department. Other than providing copies of BWC video to members of the Department for official purposes (e.g., arresting officers processing an arrest, detectives conducting criminal investigation, etc.) and prosecutors as described above, uniformed members of the service may not copy, publish, share or disseminate any audio, video, image or data to anyone unless authorized by the Police Commissioner. Furthermore, members of the service may not edit, delete or

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ADDITIONAL DATA (continued)

alter any video or audio captured by the BWC or stored on the Department's network or approved storage media. The video management system maintains an audit trail for all transactions conducted in the system.

The default preservation period for BWC video is eighteen months, at which time it will be automatically deleted. Depending upon the "category" assigned to the video, certain videos (e.g., arrests) may be retained for longer periods. Commanding officers may request that a BWC recording be retained beyond the prescribed retention period, if necessary. Requests should be submitted through channels to the Deputy Commissioner, Information Technology, detailing the reasons for the request and expected duration of the preservation.

LEGAL CONSIDERATIONS

The Department is required by law to disclose certain information and material related to criminal and civil proceedings pursuant to the New York Criminal Procedure Law, People v. Rosario, rules governing discovery in civil cases, The Freedom of Information Law (F.O.I.L.), subpoenas, and court orders. The Legal Bureau's Subpoena Litigation Unit will respond to subpoenas, court orders, and F.O.I.L. requests as per P.G. 211-17, "Processing Legal Bureau Requests for Department Records Including Requests Under the Freedom of Information Law." The Internal Affairs Bureau will process requests from the Civilian Complaint Review Board for body-worn camera video as per P.G. 211-14, "Investigations by Civilian Complaint Review Board." Arresting officers will provide the assigned prosecutor with access to all BWC video related to an arrest utilizing the BWC video management system.

Confirmatory identifications ("show-ups") must be done in person and not by the witness viewing a BWC video of the suspect. An image of a suspect depicted in a BWC video may be used in a photo array for identification. A still shot of the BWC footage depicting the subject may be taken on a Department computer, printed, and thereafter affixed to a photo array for identification. Requests by a witness or victim to view a BWC recording must be declined and referred to the appropriate prosecutor handling the case. Requests by civilians to view a BWC recording that is not related to a criminal case must be declined and referred to the Legal Bureau's Subpoena Litigation Unit. Requests for BWC recordings can be made by emailing FOIL@NYPD.ORG or by making a request on New York City's FOIL website at https://a860-openrecords.nyc.gov.

Any member of the service requiring BWC footage to be downloaded to a digital video disc (DVD), as part of their case work or investigation, should email such request to the Legal Bureau's Body-Worn Camera Unit at bwc-legal@nypd.org. All requests should include pertinent information regarding the specific BWC video(s) or specific details of the incident to ensure all necessary BWC footage is identified and downloaded.

RELATED PROCEDURES

Interrogation of Members of the Service (P.G. 206-13)

Arrests – General Processing (P.G. 208-03)

Arrest Processing Preparation at Stationhouse (P.G. 208-15)

Intoxicated or Impaired Driver Arrest (P.G.208-40)

Investigations by Civilian Complaint Review Board (P.G. 211-14)

Processing Legal Bureau Requests for Department Records Including Requests Under the

Freedom of Information Law (P.G. 211-17)

Investigative Encounters: Requests for Information, Common Law Right of Inquiry and Level 3 Stops (P.G. 212-11)

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RELATED PROCEDURES (continued)

Interior Patrol of Multiple Dwelling Buildings Enrolled in the Trespass Affidavit Program (P.G. 212-59)

Interior Patrol of Housing Authority Buildings (P.G. 212-60)

Guidelines for the Use of Video/Photographic Equipment by Operational Personnel at Demonstrations (P.G. 212-71)

Guidelines for Uniformed Members of the Service Conducting Investigations Involving Political Activities (P.G. 212-72)

Vehicle Collisions Which Result in Death, Serious Injury and Likely to Die, or Critical Injury (P.G. 217-02)

Accidents – Department Property (P.G. 217-10) Loss or Theft of Department Property (P.G. 219-20)

Reporting and Investigation of Force Incident or Injury to Persons During Police Action (P.G. 221-03)

Firearms Discharge by Uniformed Members of the Service (P.G. 221-04)

FORMS AND REPORTS

COMPLAINT REPORT (PD313-152)

DISTRICT ATTORNEY BODY-WORN CAMERA CHECKLIST (PD220-141)

INTERROGATION WARNINGS TO PERSONS IN POLICE CUSTODY (PD 244-1414)

ON LINE BOOKING SYSTEM ARREST WORKSHEET (PD244-159)

STOP REPORT (PD383-151)

THREAT, RESISTANCE OR INJURY (T.R.I.) INTERACTION REPORT

AIDED REPORT Typed Letterhead