Massachusetts Department of Correction **POLICY**	Effective Date 4/12/2024 Annual Review Date 9/17/2026	Responsible Division Deputy Commissioner, Prisons

Policy Name 103 DOC 540 BODY WORN CAMERAS	M.G.L. Reference: Click here to enter text. DOC Policy Reference: 103 CMR 505 SOP ACA/PREA Standards:

Attachments Yes ☐ No ☒	Library Yes ☒ No ☐	Applicability: Staff
Public Access Yes ☒ No ☐		Location: Department Central Office Policy File Each Institution Policy File

RESPONSIBLE STAFF FOR IMPLEMENTATION AND MONITORING OF POLICY:
Deputy Commissioner Prisons
Supervisor of Redaction Unit
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CANCELLATION:
103 DOC 540 Cancels all previous Department policy statements, bulletins, directives, orders, notices, rules, or regulations regarding body worn cameras which are inconsistent with this policy.

SEVERABILITY CLAUSE:
If any article, section, subsection, sentence, clause, or phrase of 103 DOC 540 is for any reason held to be unconstitutional, contrary to statute, in excess of the authority of the Commissioner, or otherwise inoperative, such decision shall not affect the validity of any other article, section, subsection, sentence, clause or phrase of these regulations.

If any part of 103 DOC 540 is, for any reason, held to be in excess of the authority of the Commissioner, such decision shall not affect any other part of this policy.

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540.01 DEFINITIONS

Body Worn Camera (BWC): A device worn by a staff member that makes an electronic audio/video or video recording of specified events/interactions.

Buffering Time: Up to thirty (30) seconds of pre-event video and audio content that is captured when a BWC is manually activated.

Manual Activation: Manual activation is the act by which a staff member manually activates the record feature of a BWC to capture events as outlined in this policy. The manual activation of the BWC will result in the capturing of the buffering time. The BWC must be powered-on in order to be manually activated.

Power-On: The act of providing power to the BWC in the method instructed by the manufacturer as outlined in the provided training.

Sleep Mode: Sleep Mode, when activated, puts the BWC in an idle state that disables video recall and buffering time.

Video Recall: The period of time that can be accessed in prescribed circumstances to retrieve video only content of events that should have resulted in the manual activation of the BWC, but where the BWC was not manually activated. Video recall could also be utilized to retrieve video only content of events that resulted in the BWC being manually activated late or in circumstances where the manual activation recording was interrupted. The BWC must be in the powered-on position for video recall to be accessed.

540.02 PURPOSE

The Massachusetts Department of Correction (Department) will implement the use of BWCs by correctional staff to enhance transparency and accountability, promote the de-escalation of conflicts between staff members and incarcerated individuals, and to increase public trust. It is also the goal of the Department that the proactive and responsible use of BWCs will result in a potential reduction in the number of incidents; have a calming effect on correctional staff and incarcerated individual interactions; and have an overall positive impact on the culture and climate within the Department's institutions. In addition, footage captured by BWCs can be used in correctional staff skill building and training, and the promulgation of best practices to aid in the ongoing health and wellbeing of correctional staff members and incarcerated individuals alike. It is recognized that BWC data may not always reveal the full account of a recorded incident, nor does the BWC data necessarily capture the auditory and visual scene as experienced by the officer wearing the BWC. For these reasons, variations between an officer's firsthand account and BWC recordings may exist.

The purpose of this policy is to establish guidelines for the proper use of BWCs, and the management, storage, and retrieval of video and audio data recorded by BWCs. Throughout this policy, BWC recordings refer to both video and/or audio content.

540.03 PROCEDURES

A. Training

All correctional staff using a BWC, and all supervisors who may supervise such correctional staff, shall complete Department-approved training on the operation of the system and this policy. The training shall be based upon manufacturers' recommendations. In addition, any staff member responsible for the administration of the program, issuance of a BWC, data downloading/uploading, and/or viewing/redacting/editing BWC data shall be trained in their respective roles.

B. Issuance

1. Upon issuance, the receiving staff member shall perform an inspection to confirm that the BWC is fully charged, ensure that the BWC is operating in accordance with the manufacturer's specifications, and ensure that there is no visible damage to the BWC. If the BWC is not fully charged, is not operating in accordance with manufacturer's specification, or is visibly damaged, the staff member shall return the unit to a staff member at the point of issuance who will exchange the BWC. For BWCs that are returned for operating deficiencies and/or visible damage, an incident report shall be written by a staff person tasked with issuance of the BWC.

    a. If at any time during a staff member's shift the BWC malfunctions, the staff member shall contact a supervisor immediately to report the issue. The supervisor shall arrange for a new BWC to be issued, and the affected unit shall be taken offline pending inspection and repair if necessary. An incident report concerning the malfunction shall be written by the staff member prior to the end of the shift.

2. After receiving the BWC staff shall affix the BWC to the front upper half of the outermost piece of clothing being worn to ensure an unobstructed field of vision. Staff shall not intentionally obstruct or shield the view of the BWC. The BWC shall only be affixed to the authorized mount issued to the staff member.

C. **BWC Activation and Use**

At the beginning of each shift, correctional staff must ensure that the BWC is powered on and remains powered on through the duration of their shift, except for the instances outlined in 540.03 (D) (1) (a-p) when the cameras are to be placed into sleep mode. However, correctional staff shall manually activate the BWC only in conjunction with official correctional duties and where activation is consistent with this policy.

1. The following is a list of duties where a BWC must be manually activated and remain recording. The list is not exhaustive and should be utilized as a guide for when manual activation of the BWC is appropriate.

    a. Responding to or witnessing critical incidents (e.g., assaults, suicide attempts, deaths, fires, escapes, Code 99, use of force), excluding drills.

    b. Responding to an emergency call for assistance and/or an incarcerated individual in crisis.

    c. Escorting an incarcerated individual in other than routine circumstances (e.g., use of force).

    d. Acts of self-injurious behavior or threats to conduct self-injurious behavior.

    e. Any staff member/incarcerated individual exchange where an incarcerated individual becomes verbally abusive, aggressive, or where the staff member perceives that the contact has escalated.

    f. Any time an incarcerated individual interaction makes the wearer feel threatened and/or unsafe or at the officer's discretion a statement needs to be recorded due to a threat to safety or security.

    g. Any time when ordered by a supervisor.

    *Note: Under normal conditions, routine operational functions (i.e., rounds, incarcerated individual counts, security inspections) do not necessitate the manual activation of a BWC. However, if during such routine functions an event occurs as outline in section 540.03 (C) (1) (a-g), the BWC shall be manually activated in accordance with this policy.

2. Staff members manually activating a BWC shall be required to report the activation to a supervisor when safe to do so and at the earliest possible time. In addition, the staff member activating the BWC shall write an incident report submitted no later than the end of the shift in which the activation occurred, detailing the circumstances in which the activation occurred. The incident report must include the BWCs serial number.

3. The tagging and annotation of incidents/interactions other than routine (i.e., as outlined in section 540.03 (C) (1) (a-g)) shall be done in accordance with the provided training.

4. The BWC shall be manually activated for all circumstances as stated in section 540.03 (C) (1) (a-g). The BWC must be manually activated by responding staff upon arrival to qualified events where activation is consistent with this policy. Once activated, the BWC shall remain recording until the completion of the event/interaction. Staff shall not intentionally obstruct or shield the view of the BWC. An event/interaction is considered completed once all actions required by policy have been completed and the event/interaction has ended, or a supervisor has determined the event to be over. Before terminating a recording, the correctional staff member shall clearly state the reason for doing so (e.g., supervisor's direction, no further contact after a use of force, etc.). When applicable, BWC activations are required whether a fixed camera system is present or not. Additionally, for planned uses of force, the use of BWCs shall not replace the use of a dedicated video recorder as required by 103 CMR 505, *Use of Force, Standard Operation Procedure*.

   *Note: In instances where the BWC is not recording, and an event/incident occurs where there is an immediate threat to the staff member's life or safety, making BWC manual activation impossible or dangerous, the staff members shall manually activate the BWC at the first reasonable opportunity to do so.

5. In instances where a BWC is manually activated, the audio and video content captured in the buffered time shall be reviewed in accordance with section 540.03 (F) of this policy.

6. If a correctional staff member fails to manually activate a BWC as directed in this policy, fails to record the entire event/interaction, interrupts the recording, or if the BWC malfunctions, the staff member shall immediately notify a supervisor and document the circumstances in an incident report before the end of the shift in

which the event occurred. Such report shall include the BWCs serial number.

a. In instances where the officer failed to manually activate the BWC as directed in this policy, failed to record the entire event, or the recording was interrupted, a supervisor shall remove the body camera being worn at the time in question from service. The BWC video recall shall be used to capture the video that was not manually recorded. In addition, if a documented complaint against a staff member is received regarding an unrecorded incident/interaction, the BWC being worn by the officer at the time the alleged incident/interaction took place will be taken offline and its video recall content reviewed. Such a review shall be confined to the specific time-period in question as closely as can be determined based on the complaint. Any video recall review that reveals an incident/interaction that required a manual activation or footage that either substantiates or discredits a documented complaint shall be uploaded and retained in accordance with section 540.03 (G) of this policy. The only review of video recall shall be when there is reasonable cause to believe that a BWC was not manually activated when it should have been, the staff member failed to record the entire event, the recording was interrupted, to investigate the events that prompted a manual activation of a BWC, or there is a documented complaint as outlined above. Said review shall be limited to the time-period in question.

b. In instances where a BWC records (or was present and not manually activated) any critical incident (e.g., assaults, suicide attempts, fires, escapes, Code 99, use of force) to include an incident resulting in serious bodily injury and/or death, the Superintendent's Special Investigator (SSI) or BWC Captain shall take possession of any BWC recording the event (or that was present in the area and not manually activated). These BWCs shall be taken offline as soon as possible, reviewed, tagged, annotated, and uploaded to preserve any recording of evidentiary value. Uploading of these BWCs shall be done in an area with a dedicated data line specifically installed for this purpose. In the absence of the SSI or BWC Captain, the shift commander shall be responsible for the actions outlined in this section.

D. **BWC Unauthorized Use**

1. In certain instances, the use of a recording BWC is not appropriate. Unauthorized use of a BWC includes but is not limited to the following:

   a. In any place where a reasonable expectation of privacy exists (e.g., clinical settings dedicated to the treatment of incarcerated individuals, hospital settings).

   b. During staff breaks or lunch periods.

   c. During non-work staff personal activity in places where a reasonable expectation of privacy exists (e.g., locker rooms, restrooms).

   d. For the purpose of recording the personal conversation of another Department employee without their knowledge.

   e. During routine unclothed searches (the BWC shall remain recording for unclothed searches pursuant to a use of force).

   f. Conversations involving privileged communication (e.g., attorney/client visits, interactions with clergy, doctor/patient).

   g. Administrative duties, including but not limited to, completion of paperwork following an incident; Department meetings; Department training, etc.

   h. During any official inquiry regarding employment (e.g., investigatory interviews, disciplinary proceedings, providing representation or serving as a witness on behalf of an employee during an official inquiry regarding employment).

   i. A probationary performance review or an annual performance evaluation.

   j. When interviewing the victim of a sexual assault allegation.

   k. When interviewing a confidential informant.

   l. When conducting investigatory functions within the IPS office (i.e., interviews).

m. When observing an incarcerated individual provide a urine sample for substance abuse monitoring.

n. When entering password/security code information (e.g., computer login, IMS login, etc.).

o. While present in court if the court's local policy prohibits the use of BWCs.

p. While present at a Parole Board hearing if the local policy prohibits the use of BWCs in that setting.

2. If an incident emerges during an event or circumstance listed above (e.g., use of force, incarcerated individual escalation of behavior that may lead to a use of force or incarcerated individual allegation), then the correctional staff member shall manually activate the BWC. Any activation of this type must be reported verbally to a supervisor immediately upon the event's resolution and followed up with an incident report submitted no later than the end of the correctional staff member's shift in which the event/interaction happened.

3. In any of the above listed instances (D) (1) (a-p), where a correctional staff member activates the BWCs sleep mode function, as soon as the instance concludes, the correctional staff member shall deactivate the BWCs sleep mode function.

4. Any correctional staff member issued a BWC who enters a non-Department facility (e.g., outside hospital, court) or community setting (i.e., community work crew) will comply with the facility's or community setting's local policy on wearing a BWC and recording. The local policies shall be included in applicable post orders. If no local policy exists, the staff member shall default to the requirements of this policy.

E. **Notification of Recording**

1. There shall be signs posted at all points of entry (pedestrian trap(s), vehicle trap, control centers at minimum-security and pre-release institutions) in both English and Spanish, stating that BWCs are utilized that have the capability to record video and audio.

2. There shall also be a statement posted in all incarcerated individual housing areas stating that BWCs are utilized and that the premises are subject to video and audio recording at all times.

3. Correctional staff members are not required to cease recording any authorized event/interaction in accordance with this policy solely at the demand of any person other than a supervisor.

F. **Viewing BWC Recordings**

1. Correctional staff members shall only review/manage BWC recordings in accordance with their user license and/or profile, in accordance with 103 CMR 505, *Use of Force* or with appropriate authorization.

2. Recording or downloading images captured by a BWC onto unauthorized or personal equipment is prohibited.

3. Department employees shall not allow unauthorized individuals the opportunity to view footage captured by a BWC.

4. Correctional staff members are prohibited from accessing, downloading, uploading, or using BWC data for private, unauthorized, or personal use. In addition, the remote, real time viewing of an officer's BWC shall be prohibited unless the officer is in distress.

5. Any access into the BWC management system shall be tracked utilizing associated software to maintain a chain of custody.

6. BWC recordings may be utilized for legitimate training purposes if authorized (Superintendent, Director of the Division of Staff Development, any Assistant Deputy Commissioner, any Deputy Commissioner, or the Commissioner). Officer and incarcerated individual identifying data may be redacted when utilized for such purposes.

7. The Superintendent, designated institution managers, Captains, the institution SSI, and/or a designated IPS member may review BWC recordings not tagged and annotated only when there is a documented and legitimate reason. Reasons for such a review include:

   a. Investigating a documented complaint against a staff member.

   b. Administrative review of a documented incident that requires further review, i.e., a fight or other conduct (existence of contraband, drug usage, etc.).

c. Investigating the events that prompted a manual activation of a BWC.

d. When there is a reasonable cause to believe that a BWC was not manually activated when it should have been, the staff member failed to record the entire event, or the recording was interrupted pursuant to section 540.03 (C) (6) (a) of this policy.

i. The reason for the review shall be documented in the notes section of the BWC recording being reviewed.

ii. If the reviewer(s) determines that the BWC recording requires further review, they shall title, identify, and categorize the file. The supervisor shall then write an incident report documenting the compelling reason for the review.

G. **Retention and Management of Data**

1. Uploading Recordings

a. At the completion of a shift/workday the BWC shall be placed in a docking station to upload any recorded events that occurred on the shift/workday.

b. The BWC may also be placed into a docking station whenever needed throughout the course of the work period, such as needing to charge it (this shall not apply to BWC models with removable battery packs) or needing to upload a recently recorded event if directed by a supervisor.

2. BWC files shall not be reviewed for purposes of general performance reviews or to proactively discover violations of written policy/directives or for any other reason not authorized in this policy.

3. BWC recordings shall be retained in accordance with applicable sections of the Statewide Retention Schedule.

H. **Sharing of BWC Recordings**

1. BWC recordings may be shared with prosecutors or other criminal justice agencies using a secure evidence management system that documents a complete chain of custody.

2. BWC recordings may be shared with respective unions and/or employees who are the subject of administrative or disciplinary hearings prior to said hearing and/or any appeals taken therefrom.

3. BWC recording may be shared with an incarcerated individual's attorney in response to a records request (e.g., use of force incident), in compliance with public records, CORI and medical privacy laws.

4. BWC recordings may be shared with Department attorneys for defense of litigation purposes, Commissioner's hearings, and compulsory legal processes such as subpoena requests.

5. BWC recordings requested through the Freedom of Information Act shall be processed in accordance with public records, CORI and medical privacy laws.