



# Garner Police Department Written Directive

**Chapter:** 400 – Uniform / Equipment

**Directive:** 430.05 – Body-Worn & In-Car Camera System

**Authorized by:** Chief Joe Binns

**Effective Date:** June 15, 2021

**CALEA Standards:** 41.3.8 (6<sup>th</sup> Edition)

## 430.5.1 – Policy (41.3.8)

It is the policy of the Garner Police Department to utilize body-worn cameras and in-car cameras to record interactions with citizens in the interest of ensuring quality customer service and proper performance of police officers' duties, addressing citizen concerns, identifying training opportunities, and ensuring transparency with the community we serve. All body-worn and in-car camera recordings will be made in a manner consistent with Department policy and compliant with State, Federal, and Constitutional law.

## 430.5.2 – Purpose (41.3.8)

To establish guidelines and procedures for the utilization of body-worn and in-car cameras by officers to reliably record citizen interactions and other police activities and to ensure proper retention as well as lawful disclosure and/or release of body-worn and in-car camera recordings.

Body-worn and in-car camera recordings are intended to enhance, not replace, the perspective of officers during the course of their duties. Body-worn and in-car camera recordings provide an unbiased account of events and are expected to provide valuable evidence for criminal and administrative investigations.

## 430.5.3 – Definitions

- A. Body-Worn Camera (BWC) – an operational video or digital camera or other electronic device, including a microphone or other mechanism for allowing audio capture, affixed to the uniform or person of law enforcement agency personnel and positioned in a way that allows the camera or device to capture interactions the law enforcement agency personnel has with others ([NCGS 132.1-4A](#)).

(Note – for the purposes of this directive, the above definition does not include covert cameras that may be used during undercover operations. The use of covert cameras is addressed in [GPD directive 430.02, Recording Devices](#)).

- B. BWC/ICC Coordinator – the staff member assigned by the Chief of Police to manage and coordinate the BWC/ICC program.
- C. BWC/ICC System – the Department utilizes a “combined” BWC and ICC system manufactured by WatchGuard; this system utilizes separate cameras for the BWC and the ICC but utilizes a “shared” microphone through the BWC. The ICC also utilizes additional cabin-mounted vehicle microphones.
1. Any activation of the ICC (manual or automated) also triggers the activation of the BWC (so long as the BWC is in range of the ICC), to include the microphone.

2. Any manual activation of the BWC also triggers the activation of the ICC (so long as the ICC is in range of the BWC).
- D. Custodial Law Enforcement Agency - the law enforcement agency that owns or leases or whose personnel operates the equipment that created the recording at the time the recording was made (NCGS 132.1-4A).
- E. Disclose (aka Disclosure) - to make a recording available for viewing or listening to by the person requesting disclosure, at a time and location chosen by the custodial law enforcement agency. This term does not include the release of a recording (NCGS 132.1-4A).
- F. Event – Any recording captured when the BWC and/or ICC is placed in the record function.
- G. First Responders – for the purpose of this directive, this term is inclusive of the animal control officer, patrol officers, patrol sergeants, school resource officers (SROs), services officers, traffic safety officers, and the traffic safety sergeant.
- H. In-Car Camera (ICC) (aka “Dashboard Camera”) – A device or system installed or used in a law enforcement agency vehicle that electronically records images or audio depicting interaction with others by law enforcement agency personnel. This term does not include body-worn cameras (NCGS 132.1-4A).
- I. Personally-Owned Recording Device – any BWC or ICC not issued by the Department for official use.
- J. Recording - a visual, audio, or visual and audio recording captured by a body-worn camera, a dashboard camera, or any other video or audio recording device operated by or on behalf of a law enforcement agency or law enforcement agency personnel when carrying out law enforcement responsibilities. This term does not include any video or audio recordings of interviews regarding agency internal investigations or interviews or interrogations of suspects or witnesses (NCGS 132.1-4A).
- K. Release – to provide a copy of a recording (NCGS 132.1-4A).
- L. Surreptitious Recording – a covert, clandestine, or secret recording of another person or persons without the knowledge and consent of the person(s) being recorded.

#### **430.5.4 – BWC/ICC System General Guidelines (41.3.8)**

- A. The BWC/ICC system is to be utilized by officers in accordance with the guidelines of this directive.
  1. Officers are authorized to utilize a department-issued BWC/ICC system once the officer has successfully completed training on the proper use of the system and the guidelines set forth in this directive.
  2. Failure to adhere to the guidelines in this directive may result in disciplinary action up to and including termination.
- B. At no time shall officers use a personally-owned BWC or ICC in the performance of their duties.
- C. The Department BWC/ICC system shall be used by officers for the following purposes:
  1. To accurately document the circumstances or statements made during police-public contacts, arrests, and other incidents;

2. To enhance the documentation of crime or crash scenes or other events, including the confiscation and documentation of evidence or contraband;
  3. To enhance the accuracy of reports; and/or
  4. To enhance the Department's ability to review employee work performance and training needs.
- D. Officers shall never use the BWC/ICC system to surreptitiously record any other Department or Town employee or official or any other law enforcement officer without the permission of the Chief of Police or his designee.

#### **430.5.5 – BWC/ICC System Deployment (41.3.8)**

- A. The implementation of the Department's BWC/ICC system is being completed in phases. Until such time that implementation is complete for all sworn personnel, requirements outlined herein regarding BWC use are only applicable to those sworn personnel who are issued a BWC.
- B. Officers are normally assigned a BWC for their individual use, typically in conjunction with the ICC in their assigned vehicle. In those instances when an officer does not have an ICC in their assigned vehicle, they will follow the guidelines herein specific to the use of the BWC.
- C. The care of the ICC is the responsibility of the officer operating the vehicle the ICC is mounted in.
1. The ICC shall be maintained and operated according to the manufacturer's recommendations, the training provided the officer, and the guidelines in this directive.
  2. Officers shall not attempt to repair or modify any components of the ICC without permission from the BWC/ICC Coordinator.
  3. In the event an ICC stops functioning properly, the officer will cease operation of the vehicle as soon as practical (assuming a spare vehicle with a functioning ICC is available for use).
- D. Patrol officers, patrol supervisors, traffic safety officers, and traffic safety supervisors are required to have a functional ICC when working in their normal assignments. The only exception to this requirement is if the ICC in the officer's assigned vehicle is not functional and a spare vehicle with a functional ICC is not available.
- E. The care and security of the BWC is the responsibility of the officer the BWC is assigned to.
1. The BWC shall be maintained and operated according to the manufacturer's recommendations, the training provided the officer, and the guidelines in this directive.
  2. Officers shall not attempt to repair or modify any components of the BWC without permission from the BWC/ICC Coordinator.
  3. Spare BWCs are maintained for use by officers in the event their battery is expended prior to the end of their workday.
  4. The BWC/ICC Coordinator maintains reserve BWCs for use by officers in the event their assigned camera is inoperable.
- F. When deploying with a BWC, the following requirements must be adhered to:
1. Uniformed officers are required to wear the BWC in one of the following positions:

- a. Attached to the shoulder epaulet;
  - b. Attached to the front of the uniform on the button line; or
  - c. Attached to the gun belt immediately adjacent to the buckle.
2. Non-uniformed officers are required to wear the BWC in one of the aforementioned positions or to place the BWC in a position to record the person(s) they are interacting with.
  3. Regardless of placement of the BWC, the officer is responsible for positioning the camera lens to maximize the likelihood of recording an interaction with someone standing in front of the officer.
- G. Officers are required to deploy with a functional BWC in the following circumstances:
1. First responders are required to deploy wearing a functional BWC anytime they are working in their normal assignment.
  2. SRT officers when deploying on any SRT operation.
  3. Sworn personnel working in an extra-duty capacity are required to deploy wearing a functional BWC.
  4. Sworn non-first responders are required to have their assigned BWC immediately accessible to them for deployment in accordance with the guidelines of this directive.
    - a. Sworn non-first responders acting in the role of a first responder are required to deploy wearing a functional BWC.
    - b. Sworn non-first responders who respond to a secure crime scene or incident in other than a first responder role are not required to deploy wearing a functional BWC.
- H. Officers will verify the BWC/ICC system is functioning correctly at the beginning of their workday and anytime that they switch BWC units due to battery exhaustion or malfunction or anytime they switch vehicles for any reason.
1. Officers will periodically check the functionality and battery life of their BWC throughout their workday.
  2. Officers will immediately report any BWC/ICC system equipment loss or malfunction to their supervisor or, if their supervisor is not available, another Department supervisor or the BWC/ICC Coordinator.
- I. Officers will ensure that all BWC/ICC system recordings are successfully downloaded upon their return to the Police Department. A supervisor may require immediate automated or manual downloading following any recorded event.
- J. Officers who otherwise meet the requirements of this directive will not be subject to disciplinary action based on the positioning of the BWC and/or ICC not accurately or adequately providing video of an event.

#### **430.5.6 – BWC/ICC System Activation**

- A. Officers acting in the role of a first responder shall ensure that their BWC/ICC system is activated and recording throughout the following incidents:

1. Any in-person citizen interaction or other circumstance that will be documented in the Department's Records Management System, any other Department reporting process, or with notes in the CAD system;
  2. During emergency vehicle operations and vehicle pursuits;
  3. During any transportation of non-Department personnel, to include but necessarily be limited to prisoners, persons subject to an IVC, or individuals not in custody;
  4. Any other time the officer deems it appropriate to record an interaction based on the circumstances at hand;
  5. When requested to record by a citizen (so long as no other restriction exists); and/or
  6. Whenever directed by a supervisor.
- B. Non-first responders shall ensure that their BWC/ICC system is activated and recording in accordance with the following guidelines:
1. Interviews by Criminal Investigations Division (CID) personnel:
    - a. CID personnel may use their BWC/ICC in lieu of another approved recording device to comply with the requirements of GPD directive 840.01, [Criminal Investigations](#).
    - b. In the event that an interview is not required to be recorded by policy or NCGS, CID personnel are encouraged but not required to utilize their BWC/ICC.
      - 1) CID personnel may use another department-approved recording device in lieu of their BWC/ICC.
      - 2) CID personnel may elect not to record an interview if they believe that recording the interview will have a negative impact on their interview and/or investigation.
  2. Any time the officer deems it appropriate to record an interaction based on the circumstances at hand;
  3. When requested to record by a citizen (so long as no other restriction exists); and/or
  4. Whenever directed by a supervisor.
- C. All officers are encouraged (but not required) to communicate to citizens that they are being recorded. Officers should consider the totality of the circumstances and whether announcing the recording would have a positive impact on the event. If asked, an officer will acknowledge that a recording is in progress if that is the case.

#### **430.5.7 – BWC/ICC System Activation Exemptions and Restrictions**

- A. Officers shall not activate their BWC/ICC system in any of the following circumstances:
1. In a patient care area of a health facility unless conducting a suspect, victim, or witness interview, making an arrest, or in the event someone becomes adversarial. Officers must be cognizant of [Health Insurance Portability and Accountability Act \(HIPAA\)](#) protected information and ensure that such data is not recorded.

2. In the presence of a confidential informant or an undercover officer.
  3. While in a courthouse or courtroom or to record any court proceeding (including an appearance before a magistrate) unless the recording is being made pursuant to an investigation, search, or arrest.
  4. While in the Wake County Jail (per Jail policy).
  5. To record any non-law enforcement related activity.
- B. Officers shall not record video when conducting a strip search:
1. Prior to conducting a strip search, the officer shall position the BWC so that it will record audio but not video of the strip search.
  2. Once the strip search is completed, the officer shall return the BWC to its normal place on his/her person.
- C. Officers are not required to activate their BWC/ICC system in any of the following circumstances:
1. DWI / Traffic checkpoints (unless reasonable suspicion or probable cause to detain the driver or a passenger is developed or a driver or other vehicle occupant is questioning the officer's actions);
  2. Traffic control at crash scenes;
  3. If conducting an interview at the Police Department where there is already an audio and video recording being conducted; or
  4. When conducting a telephone interview or conversation. Officers can, however, record a phone conversation if the officer believes it would be beneficial or if the conversation is expected to be or becomes antagonistic.
- D. This policy is not intended to address every possible circumstance where, in the opinion of the officer, it is prudent to not activate their BWC/ICC system. Officers who elect not to activate their BWC/ICC system in a circumstance that would normally require activation will articulate the justification for their decision as outlined in 430.5.9.
- E. In the event the BWC/ICC system is unintentionally activated by the officer or malfunctions and activates without being triggered to do so, the officer shall not face disciplinary actions for a recording that would otherwise be in violation of this policy. Should such a recording occur, the officer will:
1. Categorize the recording as "Test/False Activation"; and
  2. Notify their supervisor who will determine if the recording will be left to self-purge or if the recording should be immediately purged by the BWC/ICC Coordinator.

#### **430.5.8 – BWC/ICC System De-Activation**

- A. An officer may de-activate the BWC/ICC system to discontinue an in-progress recording in the following circumstances:

1. If a suspect, victim, or witness refuses to talk with the officer unless the recording is stopped and, in the opinion of the officer, the value of the statement is greater than the value of having it recorded;
    - a. This does not apply if the officer is conducting a custodial interrogation of an adult at any place of detention when the investigation is related to any Class A, B1, or B2 felony, and any Class C felony of rape, sex offense, or assault with a deadly weapon with intent to kill inflicting serious injury ([NCGS 15A-211\(d\)](#)).
    - b. This does not apply if the officer is conducting a custodial interrogation of a juvenile at any place of detention (NCGS 15A-211(d)).
  2. When a criminal investigation, warrant service, or another similar incident has transitioned into an investigative scene with no anticipated citizen interaction;
  3. At the end of the incident or encounter; or
  4. If one of the aforementioned restrictions or exemptions comes to light during the recording.
- B. An officer is not required to de-activate the BWC/ICC system based on a citizen request; so long as the officer has a legal right to be where they are and have the right to record their activity. However, the officer should give consideration to the totality of the circumstances and the guidelines in this directive when making this decision.
- C. This policy is not intended to address every possible circumstance where, in the opinion of the officer, it is prudent to de-activate an in-progress recording.
- D. Any officer who elects to de-activate an in-progress recording should announce their justification on the recording prior to de-activating the recording assuming it is practical to do so given the totality of the circumstances. If the de-activation is because of the request of a citizen, that request shall be recorded prior to de-activating the recording.
- E. In the event that the nature of the incident changes to where a recording would be required or would be advantageous, the officer will immediately re-activate the BWC/ICC system.
- F. As directed by a Department supervisor.

#### **430.5.9 – BWC/ICC System Documentation**

- A. Officers may view their own BWC/ICC system recording prior to completing any required Department reports or other written documentation.
- B. Officers are not to view the BWC/ICC recordings of other officers without permission from a supervisor.
- C. During the implementation phase when not all officers have an issued BWC, officers will note in all incident, call for service, and related reports when a BWC/ICC system recording was made of the event in question.

(Once full implementation is complete, this requirement will change to noting anytime that a recording was not made as that will be the exception).

- D. Any de-activation of a recording prior to the conclusion of the incident or event will be documented in the incident report or call for service report by the officer with justification for why the recording

was terminated prior to the conclusion of the incident or event.

- E. Any non-activation of the BWC/ICC system in an incident or event that would normally require activation according to this directive will be documented in the incident report or call for service report by the officer with justification for why the recording was not initiated.
- F. Officers will notify their immediate supervisor anytime that they are aware that one of their BWC/ICC system recordings contains footage that may be suitable for use in internal training.

(Note – officers will not be disciplined for a failure to notify their supervisor in the event they did not recognize that a recording had value for use in internal training.)

#### **430.5.10 – Supervisory Responsibilities (41.3.8)**

- A. Officers who supervise subordinates utilizing BWC/ICC systems are responsible for the following:
  - 1. Receiving training in the operation and use of the BWC/ICC system, including the file management system. This training will normally occur during new supervisor training and will be documented by the person providing the training.
  - 2. Ensuring all officers receive training prior to deployment of a BWC/ICC system. This training will normally occur during the Field Training program and will be documented by the Field Training Officer providing the training.
  - 3. Ensuring all officers follow established procedures for the use and maintenance of BWC/ICC system, the custody of recorded media, and the completion of required documentation.
  - 4. Ensuring that repair and/or replacement of any damaged or nonfunctional BWC or ICC is properly performed.
- B. Supervisors will conduct reviews of random samples of recorded media to assess officer performance and identify training needs, determine whether recording devices are being used in accordance with policy, and identify material that may be of value for training purposes.
  - 1. Supervisors will conduct monthly reviews of at least three (3) BWC/ICC system recordings per officer.
  - 2. Minor policy violations committed by an officer and discovered during a random supervisory review should be viewed first and foremost as training opportunities. However, depending on the severity of the policy violation the supervisor may initiate a performance complaint.
  - 3. These reviews will be documented in the supervisor's monthly report.

#### **430.5.11 – Recording Management and Retention (41.3.8)**

- A. The making and retention of any BWC/ICC system recording made by an employee is governed by the provisions of the [North Carolina Public Records Act \(Chapter 132 of the North Carolina General Statutes\)](#) and rules of evidentiary disclosure in criminal and civil court proceedings.
  - 1. As such, the status of the person making the recording governs the ownership of such recordings and not the ownership of the device making the recording.



2. Therefore, any recording made by an employee of this Department while on-duty or otherwise conducting employment-related functions is deemed property of the Garner Police Department as the custodial law enforcement agency.
  3. BWC/ICC system recordings are not public records as defined by G.S. 132-1. Recordings are not personnel records as defined in Article 7 of [Chapter 126](#) of the General Statutes, [G.S. 160A-168](#), or [G.S. 153A-98](#), as described in [N.C.G.S. 132-1.4](#).
- B. Officers shall not erase, alter, or tamper with any BWC/ICC system recording made in the performance of employment-related duties.
- C. BWC/ICC system recordings that have evidentiary value or are otherwise intended to be retained will be categorized by the officer making the recording in accordance with the categories outlined in Appendix A of this directive.
1. Officers will categorize each BWC/ICC system recording they make using the most appropriate category.
  2. Any officer intentionally mis-categorizing a BWC/ICC system recording to avoid retention will be subject to disciplinary action up to and including termination.
- D. All BWC/ICC system recordings will be downloaded onto the Department's BWC/ICC system server for storage prior to dissemination and/or purging.
1. Dissemination and purging of these recordings will be done in accordance with [North Carolina Public Records Act \(Chapter 132 of the North Carolina General Statutes\)](#) (see also 430.5.12).
  2. Any recording categorized as evidentiary in nature will be retained on the server until such time that there is a destruction order from the court of jurisdiction and/or the District Attorney's Office indicates (in writing) that the recording is no longer needed for prosecutorial purposes.
- E. The Department's BWC/ICC Coordinator will be responsible for managing all BWC/ICC system recordings once downloaded to the storage server.

#### **430.5.12 – Recording Dissemination (41.3.8)**

- A. Authority for disclosure and/or release of BWC/ICC system recordings outside the Department rests with the Chief of Police. No employee shall disclose or release any BWC/ICC system recording to any outside individual or agency other than the District Attorney's Office for the purposes of a criminal investigation without the consent of the Chief of Police.
1. Disclosure and/or release of BWC/ICC system recordings are governed by the [North Carolina Public Records Act \(Chapter 132 of the North Carolina General Statutes\)](#).
  2. The Chief of Police will address any request for disclosure or release of a BWC/ICC system recording on a case-by-case basis.
    - a. The Department provides a *Request for Disclosure of Police Recording* form ([GPD form 430.5-A](#)) for making a disclosure request; this form is maintained on the Department's website for public access. However, it is not required that the form be used in order for the request to be processed.
    - b. The Chief of Police will respond to any request for disclosure by completing a *Response to Request for Disclosure of Police Recording* form ([GPD form 430.5-B](#)) and providing the

completed form to the requesting party.

- c. Copies of all requests for disclosure and responses to those requests will be maintained in the Department's records management system.
3. Upon the Chief's approval and prior to release, video will be reviewed, and parts of the video can be redacted to protect witnesses, victims, and by-standers.
- B. Supervisors will have access to BWC/ICC system recordings for the following purposes:
1. Conducting internal investigations in accordance with the Department's [Internal Affairs Manual](#);
  2. Random reviews (as outlined in 430.5.10.B); and
  3. Making copies of recordings for the purpose of providing internal training to officers.
- C. Supervisors will not review BWC/ICC system recordings for purposes other than those authorized above.
- D. Non-supervisory officers may only review and make copies of BWC/ICC system recordings for legitimate law enforcement purposes; any copies must be made in accordance with the [North Carolina Public Records Act \(Chapter 132 of the North Carolina General Statutes\)](#).

#### **430.5.13 – BWC Directive and Program Review**

It is the responsibility of the Chief of Police to ensure that a review of this directive and the BWC/ICC system is conducted annually.

**APPENDIX “A” – BWC/ICC SYSTEM RECORDING CATEGORIES & RETENTION SCHEDULE**

<b><u>MVR Category</u></b>	<b><u>Retention Period</u></b>
DWI	Indefinite
Drug Arrest	Indefinite
Interview Room Recording	Indefinite
Other Needed as Evidence	Indefinite
No Category Assigned	90 days
Test / False Activation	3 days
SRT Operations	2 years