


<p style="text-align: center;">FAIRFAX COUNTY POLICE DEPARTMENT</p>  <p style="text-align: center;">GENERAL ORDER</p>	SUBJECT: <p style="text-align: center;">BODY WORN CAMERAS</p>		NUMBER: <p style="text-align: center;">###</p>
	EFFECTIVE DATE:	REVIEW:	
	TOPIC: <p style="text-align: center;">PURPOSE AND POLICY</p>		
RESPONSIBLE ENTITY:		<input type="checkbox"/> New Directive <input type="checkbox"/> Replaces: <input type="checkbox"/> Revised	
ACCREDITATION STANDARDS	CALEA:		
	VLEPSC:		


I. PURPOSE

The purpose of this General Order is to provide officers with guidance the proper use of department-issued body worn cameras (BWC) to accurately record law enforcement actions, capture evidence pursuant to investigations and enhance transparency and accountability. Additionally, the use of BWCs can potentially result in a reduction of complaints and lawsuits against the Department. This General Order also establishes guidelines for the management, storage, release, and retrieval of BWC footage.

II. POLICY

Officers shall activate their BWCs in the proper performance of their official duties and where the act of capturing recordings is consistent with both this General Order and the law. This General Order does not apply to the use of covert recording devices used in undercover operations.


DRAFT

FAIRFAX COUNTY POLICE DEPARTMENT  GENERAL ORDER	SUBJECT: BODY WORN CAMERAS		NUMBER: ###
	EFFECTIVE DATE:	REVIEW:	
	TOPIC: PROCEDURES		
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I. PROCEDURES

A. Use of Body Worn Cameras (BWC) generally:

1. The BWC program is intended to achieve the following:
 - a. Documentation of law enforcement public contacts, arrests, and critical incidents;
 - b. Enhancement of law enforcement reports and courtroom testimony;
 - c. Documentation of crime and/or accident scenes or other events that may include confiscation and documentation of evidence and/or contraband;
 - d. Supervisor review and evaluation of officer and individual interactions;
 - e. Identifying and correcting internal agency issues (i.e., tactics, communications, policy compliance, customer service, officer safety, etc.); and
 - f. Enhancement of Department training.
2. All officers who are assigned BWCs shall complete a Department approved training program to ensure proper use and operation. Additional training may be required as needed at periodic intervals to ensure the continued effective use and operation of BWC equipment, proper calibration and performance of the BWC equipment, and to incorporate changes, updates, or other revisions in Department policy and equipment.


FAIRFAX COUNTY POLICE DEPARTMENT  GENERAL ORDER	SUBJECT: BODY WORN CAMERAS	CHAPTER: ###
	TOPIC: PROCEDURES	

B. Equipment


1. Department issued BWCs shall be for official Departmental use only and shall not be used for non-work related or personal activities.
2. Officers shall only use those BWCs approved and issued by the Department. The wearing of personally owned BWC equipment is not permitted.
3. Subject to equipment availability, BWCs shall be issued and assigned to designated bureaus as determined by the Chief of Police.
4. Officers shall not use BWC equipment assigned to other officers.
5. Exceptions to utilizing a BWC are subject to documented supervisory approval based upon safety factors relative to mission objectives.
6. Employees shall be held strictly accountable for the proper care, security, use, and maintenance of all BWC in accordance with Regulation 206.1 Title to Equipment/Care and Maintenance.

C. Officer Responsibilities

1. Prior to beginning an assignment, officers shall retrieve their assigned BWC and conduct an operational inspection. The BWC shall be properly affixed on the officer's uniform in accordance with the guidelines provided during training.
2. If an officer experiences a BWC malfunction, they shall notify their supervisor as soon as practical. If no replacement is available, it shall be documented in the officer's CAD unit history.
3. Officers shall activate their BWC during any encounter with a member of the public related to a call for service, instances where law enforcement action is immediately required, subject stops, traffic stops, and self-initiated renderings of police services to members of the public, provided such activation does not interfere with officer safety or the safety of others. Additionally, the BWC shall be activated for tactical activities, such as searches of persons, buildings, and vehicles, searches for suspects, seizing evidence, and building checks.

FAIRFAX COUNTY POLICE DEPARTMENT  GENERAL ORDER	SUBJECT: BODY WORN CAMERAS	CHAPTER: ###
	TOPIC: PROCEDURES	

4. All BWC equipped officers shall activate their BWC-during their response to a scene or as soon as it is practical and safe to do so, and leave it on for the duration of the incident. This shall include transporting an individual to any detention facility.
5. Officers shall not intentionally obstruct the BWC or intentionally avoid recording a police incident on the BWC at any time.
6. Officers shall note in an incident, arrest, field contact, or any other related report when BWC footage was made. However, BWC footage shall not be considered a replacement for written reports.
7. Officers shall not edit, alter, erase, duplicate, copy, or otherwise distribute in any manner BWC footage, except provided within this policy (i.e. Commonwealth's Attorneys' Office), without prior written authorization and approval of the Chief of Police.
8. If an officer fails to activate the BWC, fails to record the entire contact, or interrupts / mutes the recording, or if the equipment malfunctions during use, the officer shall document the reason on an incident, arrest, citation or field contact module. When possible and practical officers are encouraged to record any request from a person to discontinue the recording.
9. Only with the review of a Department Freedom of Information Act (FOIA) Compliance Specialist and commander authorization shall an officer allow non-Departmental employees to review BWC footage except provided within this policy (i.e. Commonwealth's Attorneys' Office).
10. Officers shall download BWC footage to the main server and charge the equipment at the end of each shift. Officers shall mark files as evidentiary, non-evidentiary, or training demo. Additionally, each file shall contain the date, BWC identifier (i.e., the series of numbers and / or letters assigned to each BWC to distinguish one piece of BWC equipment from another), case/CAD incident number, and the name of the assigned officer.
11. Officers are restricted to categorizing their own BWC footage.
12. At the conclusion of the shift, officers shall conduct an operational inspection and report any issues to their supervisor.


FAIRFAX COUNTY POLICE DEPARTMENT  GENERAL ORDER	SUBJECT: BODY WORN CAMERAS	CHAPTER: ###
	TOPIC: PROCEDURES	

D. Supervisor Responsibilities

1. Supervisors may limit or restrict an officer from viewing the BWC footage if an officer is suspected of wrongdoing or an administrative investigation has been initiated.
2. When officers are involved in a police affiliated critical incident all BWC footage will be handled in accordance with General Order 550.9, Investigation of Deadly Force Deployment and Police Affiliated Critical Incidents, Release of Information.
3. It shall be the responsibility of each supervisor to document / investigate any damage to the BWC equipment. Any reported damage shall be forwarded to the Station Logistic Technician who will coordinate the necessary repairs with the Manager of Field Operation Support Section.
4. Supervisors should periodically review their officers' BWC footage for the purposes of gathering information that may be useful in preparing evaluations, establishing training needs, or taking corrective action. A supervisor may request a DVD of the BWC footage for training purposes.

E. Privacy and Restricted Use


1. When asked, officers should inform individuals that they are being recorded.
2. In locations where individuals have a reasonable expectation of privacy, such as their residence, individuals may decline to be recorded unless the recording is being made pursuant to an in-progress criminal investigation, arrest, or search of the location or for individuals located within the location.
3. BWC shall not be used to gather intelligence information related to First Amendment protected speech, associations or religion.
4. In general, BWCs are not to be used in the following circumstances:
 - a. Surreptitious recordings of other law enforcement personnel;
 - b. Communications involving law enforcement tactical and strategic policy, procedures, or plans;

FAIRFAX COUNTY POLICE DEPARTMENT  GENERAL ORDER	SUBJECT: BODY WORN CAMERAS	CHAPTER: ###
	TOPIC: PROCEDURES	

- c. Non-operational encounters with undercover officers and confidential informants;
 - d. When community members are reporting a crime and request anonymity;
 - e. Appearing before a magistrate;
 - f. When officers are on a break, attending roll call or other Department training initiatives, or engaged in personal activities or administrative activities; or
 - g. In restrooms or locker rooms.
5. Officers should not use their BWCs to record detailed statements in alleged rape or sexual assault cases or while conducting the Lethal Assessment Program (LAP) assessment.
 6. Officers shall deactivate the BWC in state, federal, and local courthouses unless a use of force is anticipated or occurs.
 7. Officers shall deactivate the BWC in a medical or mental health facility unless a use of force is anticipated or occurs.
 8. Officers shall only use BWCs for legitimate law enforcement purposes while on any public or private school grounds.


F. Access

1. The BWC equipment and all data/footage to include; images, sounds/audio, video, and metadata captured, recorded, or otherwise produced by the BWC equipment shall remain at all times the exclusive property of the Fairfax County Police Department.
2. All requests for BWC video shall be immediately forwarded or referred to the Media Relations Bureau's Virginia Freedom of Information (FOIA) Compliance Section (FCPDFOIA@fairfaxcounty.gov) for proper processing. All FOIA requests will be released in accordance with General Order 402.3; Release of Records and Documents.

FAIRFAX COUNTY POLICE DEPARTMENT  GENERAL ORDER	SUBJECT: BODY WORN CAMERAS	CHAPTER: ###
	TOPIC: PROCEDURES	


3. Unless otherwise restricted by a supervisor (e.g. pending administrative investigation), officers shall be permitted to review BWC footage of an incident in which they were involved, prior to preparing a report or making a statement about the incident.
4. Officers requesting BWC footage for court must make such requests through the Manager of the Field Operation Support Section at least ten (10) business days prior to the known court date. Situations where circumstances outside of the officer's control prevent such notification shall be handled on a case-by-case basis.
5. It is the inherent responsibility of the requesting officer to ensure all BWC footage is used solely for the purpose it was originally requested for (i.e. court, training, etc.). Upon conclusion of the purpose for which the footage was requested, the original requesting officer is responsible for the proper storage or destruction of the BWC footage.

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<p align="center">FAIRFAX COUNTY POLICE DEPARTMENT</p>  <p align="center">GENERAL ORDER</p>	SUBJECT: <p align="center">BODY WORN CAMERAS</p>		NUMBER: <p align="center">###</p>
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	TOPIC: <p align="center">PROGRAM MANAGER RESPONSIBILITIES</p>		
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	VLEPSC:		

I. MANAGER OF FIELD OPERATIONS SUPPORT SECTION RESPONSIBILITIES


- A. The ability to make DVD copies of Body Worn Camera (BWC) footage shall be limited exclusively to the Manager of the Field Operation Support Section.
- B. Each DVD copy will be labeled with identifying information concerning the BWC footage including but not limited to the officer's name, incident/case number, date of recording, and the system-generated serial number of the digital record.
- C. Software shall be installed on work stations by the Manager of the Field Operation Support Section or designee to provide supervisors, officers, and other authorized personnel the ability to review recorded BWC footage.
- D. The Manager of the Field Operation Support Section shall be responsible for the keeping of accurate and comprehensive records pertaining to the release of BWC footage. All access to BWC footage is to be properly audited by the Manager of Field Operation Support Section to ensure only authorized users are accessing the data for legitimate and authorized purposes.

FAIRFAX COUNTY POLICE DEPARTMENT  GENERAL ORDER	SUBJECT: BODY WORN CAMERAS		NUMBER: ###
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	VLEPSC:		

I. CONTROL AND DISSEMINATION

A. Body worn camera (BWC) footage can be a valuable tool in prosecuting criminal and traffic cases. However, there are significant issues which must be addressed to ensure the admissibility of BWC footage in court. The following provisions should be adhered to at all times to ensure the successful admission of BWC footage for prosecution:

1. Supervisors and officers will make DVD requests for BWC footage via the BlueNet. The location of the form is Bureaus & Divisions > Resource Management > BWC Request Form.
2. DVD copies will be sent via interoffice mail to the requesting officer unless other arrangements are specifically made.
3. In every case where an arrest is made, copies of the BWC DVD shall be requested by the officer in sufficient time to be in the officer's file by the first court date. Preferably one copy is to be kept with the officer's file, and two copies are to be turned over to the prosecuting Commonwealth's attorney in court.
4. After the case has been adjudicated officers may retain DVDs in their criminal and traffic case files or return them to the Manager of the Field Operation Support Section for destruction.
5. Pursuant to a Subpoena Duces Tecum (SDT), the Internal Affairs Bureau will consult with the assigned county attorney to determine the parameters of release of the subject BWC footage.
6. All BWC footage shall be subject to the requirements for the admissibility of evidence.
7. Officers shall advise the Commonwealth's Attorneys' Office of the existence of BWC footage at all court dates.


<p style="text-align: center;">FAIRFAX COUNTY POLICE DEPARTMENT</p>  <p style="text-align: center;">GENERAL ORDER</p>	SUBJECT: <p style="text-align: center;">BODY WORN CAMERAS</p>		NUMBER: <p style="text-align: center;">###</p>
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	TOPIC: <p style="text-align: center;">LEGAL REQUIREMENTS</p>		
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I. LEGAL REQUIREMENTS

A. The Commonwealth's attorney has provided the following opinion on several issues concerning the usage and admissibility of video for court proceedings.


1. An officer should review the body worn camera (BWC) footage prior to court in order be able to testify under oath that it is a fair and accurate depiction of what the officer personally witnessed during the incident/arrest.
2. Officers shall have DVDs and all notes available during any court proceedings.
3. No law prohibits officers from recording citizens in public, as individuals in a public area have no expectation of privacy. BWC recording of any police contact with individuals is permissible in a private residence, provided the officers have legal authority to be in that location (i.e., domestic violence cases).

B. In certain circumstances, DVDs of BWC generated material may also be releasable under the Virginia Freedom of Information Act (VFOIA). Any release of BWC video shall be done in accordance with General Order 402.3, Release of Records and Documents and processed through the Media Relations Bureau's Virginia Freedom of Information Compliance Section.

<p style="text-align: center;">FAIRFAX COUNTY POLICE DEPARTMENT</p>  <p style="text-align: center;">GENERAL ORDER</p>	SUBJECT: <p style="text-align: center;">BODY WORN CAMERAS</p>		NUMBER: <p style="text-align: center;">###</p>
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	TOPIC: <p style="text-align: center;">CONDUCT OF ADMINISTRATIVE INVESTIGATIONS</p>		
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I. CONDUCT OF ADMINISTRATIVE INVESTIGATIONS


- A. Any time there is a complaint of officer misconduct, the on-duty supervisor should review the body worn camera (BWC) footage from the date and time in question. The supervisor shall then proceed as they would in any administrative investigation.
- B. With command approval and a FOIA Compliance Specialist review, supervisors may review any portion of the BWC footage with a complainant upon request.
- C. Whenever BWC footage is used during the course of an administrative investigation, its use shall be documented as part of the investigation and the information forwarded to the Internal Affairs Bureau (IAB). This includes incidents where the complaint is disproved without the need for a full investigation (i.e., PD206). Whenever BWC footage is used by IAB during an administrative investigation, a DVD will be made and kept with the administrative investigation case file.

<p style="text-align: center;">FAIRFAX COUNTY POLICE DEPARTMENT</p>  <p style="text-align: center;">GENERAL ORDER</p>	SUBJECT: <p style="text-align: center;">BODY WORN CAMERAS</p>		NUMBER: <p style="text-align: center;">###</p>	
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	TOPIC: <p style="text-align: center;">STORAGE AND RETENTION</p>			
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I. STORAGE AND RETENTION

The body worn camera (BWC) program includes network storage for the video. All video files shall be securely stored in accordance with the provisions set forth in the Library of Virginia Records Retention and Disposal Schedule.

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<p align="center">FAIRFAX COUNTY POLICE DEPARTMENT</p>  <p align="center">GENERAL ORDER</p>	SUBJECT: <p align="center">BODY WORN CAMERAS</p>		NUMBER: <p align="center">###</p>
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	VLEPSC:		

I. LEGAL REFERENCES

Library of Virginia “General Schedules for Virginia Localities, GS-17, Law Enforcement for County and Municipal Governments”

Va. Code Ann 2.3-3701	Public Records
Va. Code Ann 2.3-3704 (A)	VFOIA
Va. Code Ann 2.2-3706 (A)(2) (i) (ii)	Administrative Investigations
Va. Code Ann 2.2-3706 (A)(2)(a)	Criminal Investigation or Prosecution
Va Code Ann 2.2-3706 (A)(2)(e)	Tactical plans
Va. Code Ann 2.2-3706 (A)(2)(h)	Undercover Ops, or protected details revealing staffing, logistics or tactical plans
Va. Code Ann 2.2-3706 (A)(2)(j)	Undercover officers identity
Va. Code Ann 2.3-3706 (A)(3)	Promise of anonymity to witness or complainant
Va. Code Ann 18.2-46.2	Witness personal information
Va. Code Ann 18.2-46.3	Witness of gang activity
Va. Code Ann 18.2-248	Witness of drug distribution
Va Code Ann 19.2-11.2	Witness of a violent felony