

TITLE: Body Worn Camera Pilot Program

SOP NUMBER: 18-056

EFFECTIVE DATE: 02-02-18

REPLACES / RESCINDS: N/A

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I. PURPOSE

The purpose of this Standard Operating Procedure (SOP) is to provide officers with guidance for the proper use of department-issued Body Worn Cameras 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 SOP also establishes guidelines for management, storage, release, and retrieval of BWC video.

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 SOP and the law. Officers are often faced with situations which rapidly unfold where the officer may not be able to activate or deactivate the BWC due to safety concerns, however, it is imperative to make all reasonable efforts to record interactions between themselves and members of the public when safe and appropriate to do so. This SOP does not apply to the use of covert recording devices used in undercover operations.

III. PROCEDURES

A. General use of a Body Worn Camera (BWC):

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 scene, accident scene, and/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.);
 - 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.

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 a pre-shift inspection (audio and video) recording test. These test videos will be categorized as Shift Start Test. Test videos shall be played back utilizing the department issued viewer.
- 2. The BWC shall be properly affixed on the officer's uniform in accordance with the guidelines provided during training.

3. Officers shall activate their BWC prior to or during any of the following circumstances; 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, and seizing evidence.
4. If an officer experiences a BWC malfunction, they shall notify their supervisor as soon as practical, and submit an email request to Information Technology Bureau (ITB) at ITServiceDesk@fairfaxcounty.gov for proper notification to the BWC Support Technician. If no replacement is available, it shall be documented in the officer's Computer Aided Dispatch (CAD) unit history.
5. 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.
6. Officers shall not intentionally obstruct the BWC or intentionally avoid recording a police incident on the BWC at any time.
7. Officers shall note in an incident, arrest, field contact, or any other related report when BWC video was recorded. However, BWC video shall not be considered a replacement for written reports or detailed notes.
8. Officers shall not edit, alter, erase, duplicate, copy, or otherwise distribute in any manner BWC video, except provided within this policy (e.g. Office of the Commonwealth's Attorney), without prior written authorization and approval of the Chief of Police.
9. 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.
10. Accidental recordings, such as not turning off the BWC while using the restroom or on a meal break, may be requested for immediate restriction. Officers shall notify their supervisor who will restrict the video and submit an email request to ITB for proper notification to the Manager of the Field Operations Support Section at ITServiceDesk@fairfaxcounty.gov.

11. An officer shall not allow non-Departmental employees to review BWC video without commander authorization and review by the Freedom of Information Act (FOIA) Compliance Specialist assigned to the Media Relations Bureau, except in those circumstances provided within this policy (e.g. Office of the Commonwealth's Attorney).
12. Officers shall dock their BWC for uploading to Evidence.com at the end of each shift. CAD integration will assist officers with the labeling and categorization of videos. Officers shall complete a post-shift inspection of their videos on the following tour to ensure they were completely uploaded and properly categorized.
13. Sworn employees are responsible for notifying their supervisor of any recordings they are unable to categorize or otherwise document in the system upon post-shift inspection of their videos. A supervisor will then attempt to properly categorize that video. If they are unable, the Manager of the Field Operations Support Section should be notified at ITServiceDesk@fairfaxcounty.gov.
14. It shall be the responsibility of the lead officer of a case to ensure all recordings which constitute evidence or are required to be included in a case file are properly categorized and maintained for storage prior to their scheduled deletion date. In those instances where a video is not properly categorized, the lead officer shall contact the officer whose video it is and have them correctly categorize it. If the officer has not made the necessary change within 48 hours, the lead officer shall notify their division supervisor to have the video properly categorized.
15. Officer shall complete any corrections to the categorization within 48 hours of being notified of the error.
16. Any officer who discharges a firearm or deploys another form of deadly force, or whose actions involve physical contact, restraint, the application of less lethal force, or who operates a vehicle during a Precision Immobilization Technique (PIT) maneuver, pursuit, or cruiser crash in which a person suffers a serious injury or death, shall continue to record with their BWC until specifically directed by competent authority to stop the recording. Any officer in close proximity to another officer directly involved in the aforementioned circumstances at the time of the incident, regardless of the limit of their own involvement, shall continue to record with their BWC until specifically directed by competent authority to stop the recording. Officers shall maintain their BWC on their person in the location where affixed on their uniform for processing/photographing by Crime Scene Section (CSS) detectives. All personnel shall adhere to the directives as prescribed in SOP 12-045, Investigation of Deadly Force Deployment.

D. Supervisor Responsibilities

1. Supervisors may limit or restrict an officer from viewing the BWC video if an administrative inquiry or investigation has been initiated.
2. Supervisors shall ensure video associated with a received complaint is uploaded and properly categorized as soon as practical.
3. It shall be the responsibility of each supervisor to document/investigate any damage to the BWC equipment. As soon as supervisor notification has occurred, an email shall be submitted to the ITB Service Desk at ITServiceDesk@fairfaxcounty.gov for proper notification to the BWC Support Technician.
4. First line supervisors shall conduct a minimum of one audit per month of a sample of BWC video from a minimum of three officers under their direct supervision. All audits shall be documented by the use of BWC-Audit form located on the BlueNet. This audit of BWC video is reviewed to assess an officer's performance, ensure the camera is being utilized according to this policy, and to identify any video that may benefit future training.
5. A supervisor may request the use of BWC video for training purposes through their Bureau or Station Commander.
6. First line supervisors responding to a scene in which an officer has discharged a firearm or deployed another form of deadly force, or whose actions involved physical contact, restraint, the application of less lethal force, PIT maneuver, pursuit, or cruiser crash in which a person has suffered a serious injury or death, shall, once safe and practical, confirm which personnel on scene are equipped with BWC. Officers may be directed to stop recording with their BWC once all operational activity has ceased and the event has transitioned to a period when further action of evidentiary value is no longer anticipated. Officers shall maintain their BWC on their person in the location where affixed on their uniform for processing/photographing by CSS detectives. If any officer requires medical treatment that necessitates removal of the BWC, the supervisor shall assume custody of the device. First line supervisors should take great care to ensure the well-being and privacy of the involved officers is not hampered by the inadvertent recording of conversations between an involved officer and a member of the Incident Support Services. All personnel shall adhere to the directives as prescribed in SOP 12-045, Investigation of Deadly Force Deployment.

7. When officers are involved in a police affiliated critical incident all BWC video will be handled in accordance with General Order 540.9, Investigation of Deadly Force Deployment and Police Affiliated Critical Incidents, Release of Information.

E. Privacy and Restricted Use

1. When asked, officers should inform individuals that they are being recorded on the BWC.
2. In locations where individuals have a reasonable expectation of privacy, such as their residence, officers shall stop recording if individuals decline to be recorded, unless the recording is being made pursuant to an in-progress criminal investigation, arrest, or search of the location for individuals or evidence located within the location.
3. BWCs shall not be intentionally used to gather intelligence information related to First Amendment protected speech, associations or religion.
4. Officers shall not intentionally record confidential information on the BWC from such sources such as NCIC, VCIN, or other criminal databases. This does not include radio transmissions that occur in the course of normal duties. Prior to release of any recording containing this information it must be redacted by a member of the Media Relations Bureau FOIA Compliance Section.
5. In general, sworn employees shall not record with their BWCs during the following circumstances:
 - a. Surreptitious recordings of conversations with law enforcement personnel;
 - b. Communications involving law enforcement tactical and strategic policy, procedures, or plans;
 - c. In the presence of 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, engaged in personal activities or administrative/ counselling activities; or
 - g. In restrooms or locker rooms unless pursuant to a call for service.

6. Officers should stop recording on their BWCs during detailed victim statements related to certain sensitive investigations (e.g. sex crimes) or while conducting a Lethality Assessment Program (LAP) assessment.
7. Officers shall power down the BWC in state, federal, and local courthouses unless a use of force is anticipated or occurs.
8. Officers shall stop recording with the BWC in a medical or mental health facility unless the patient is, or becomes, adversarial or a use of force is anticipated or occurs.
9. 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/video 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 FOIA Compliance Section at FCPDFOIA@fairfaxcounty.gov for proper processing. All FOIA requests will be released in accordance with General Order 402.3; Release of Records and Documents.
3. The Media Relations Bureau FOIA Compliance Section shall handle all release and/or redaction of BWC recordings.
4. Unless otherwise restricted by a supervisor (e.g. pending administrative investigation), officers shall be permitted to review BWC video of an incident in which they were involved, prior to preparing a report or making a statement about the incident.
5. Each video recording has a chain of custody audit trail which documents all events associated with the file. Each recording has an audit trail that tracks the date and time of each person who accesses all video within the system.

IV. MANAGER OF FIELD OPERATIONS SUPPORT SECTION RESPONSIBILITIES

- A. The ability to make DVD copies of BWC video shall be limited exclusively to the Manager of the Field Operations Support Section staff. Each DVD copy will be labeled with identifying information concerning the BWC video 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.
- B. All access to BWC video is to be properly audited by the Manager of Field Operations Support Section to ensure only authorized users are accessing the data.
- C. Manager of the Field Operations Support Section, or staff, will coordinate the sharing of properly categorized BWC recordings with the Office of the Commonwealth's Attorney for review and/or prosecution.

V. CONTROL AND DISSEMINATION

- A. BWC video 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 video in court. The following provisions should be adhered to at all times to ensure the successful admission of BWC video for prosecution:
 - 1. Pursuant to a Subpoena Duces Tecum the Internal Affairs Bureau will consult with the assigned Fairfax County Attorney to determine the parameters of release of a requested BWC video.
 - 2. All BWC video shall be subject to the requirements for the admissibility of evidence.
 - 3. Officers shall advise the Office of the Commonwealth's Attorney of the existence of BWC video at all court dates.

VI. LEGAL REQUIREMENTS

- A. The Office of the Commonwealth's Attorney has provided the following guidance on several issues concerning the usage and admissibility of video for court proceedings.
 - 1. An officer should review the body worn camera (BWC) video prior to court in order to be able to testify under oath it is a fair and accurate depiction of what the BWC recorded during the incident/arrest.

2. Officers should have 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 (e.g. domestic violence cases).
- B. In certain circumstances, BWC generated material may also be releasable under the Virginia FOIA. 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 FOIA Compliance Section.

VII. CONDUCT OF ADMINISTRATIVE INVESTIGATIONS

- A. Any time there is a complaint of officer misconduct, the on-duty supervisor should review the BWC video from the date and time in question and ensure it is properly categorized. The supervisor shall then proceed as they would in any administrative investigation.
- B. With command approval and review from a Media Relations Bureau FOIA Compliance Specialist, supervisors may review any portion of the BWC video with a complainant upon request.
- C. Whenever BWC video is used during the course of an administrative investigation, its use shall be documented as part of the investigation and/or shared with the Internal Affairs Bureau. This includes incidents where the complaint is disproved without the need for a full investigation (e.g. Inquiry).

VIII. STORAGE AND RETENTION

The 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.

IX. 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

This SOP becomes effective 02-02-18, and rescinds all previous rules and regulations pertaining to the subject.

Issued by:



Chief of Police