



**Virginia Commonwealth University
Police Department**

NUMBER	SECTION	CHIEF OF POLICE	EFFECTIVE	REVIEW DATE
3	12	<i>[Signature]</i>	4/20/2015	4/19/2016
SUBJECT				
BODY WORN CAMERAS (BWC)				

GENERAL

It is in the department’s interest to acquire and fully utilize technology which will aid officers and increase the likelihood of successful prosecution. Body worn camera (BWC) equipment provides an unbiased audio/video recording of events that employees encounter. These recordings can be useful for the documentation of evidence, preparation of offense reports, and future court testimony. The recordings can also protect employees from false allegations of misconduct and be of use when debriefing incidents or evaluating performance.

The purpose of this policy is to establish departmental procedures for the operation of BWC equipment. It is the policy of the VCUPD that officers shall use digital mobile video/audio recorder equipment for the purpose of recording an objective video and audio account of events as they occur. BWC equipment shall be used only as set forth in this policy. This policy does not govern surreptitious recording devices used in undercover operations.

This policy sets forth the significance of collecting, safeguarding and storing BWC recordings. Officers shall ensure that they employ proper use of the BWC as governed within this directive. Officers who deviate from the guidelines set forth will be subject to disciplinary action.

ACCOUNTABILITY STATEMENT

All employees are expected to fully comply with the guidelines and timelines set forth in this written directive. Failure to comply will result in appropriate corrective action. Responsibility rests with the division commander to ensure that any violations of policy are investigated and appropriate training, counseling and/or disciplinary action is initiated.

PROCEDURE

A. Administration

VCUPD has adopted the use of the BWC system to accomplish several objectives. The primary objectives are as follows:

1. BWCs allow for accurate documentation of police-public contacts, arrest, and critical incidents. They also serve to enhance the accuracy of officer reports and testimony in court.

2. Audio and video recordings also enhance the department's ability to review probable cause for arrest, officer and suspect interaction, and evidence for investigative and prosecutorial purposes and to provide additional information for officer evaluation and training.
3. The BWC may also be useful in documenting crime and accident scenes or other events that include the confiscation and documentation of evidence or contraband.
4. ***The BWC may also be informative in enhancing the department's levels of professionalism, customer service, and community policing objectives.***

B. When and How to Use the BWC

1. ***Officers shall activate the BWC to record all contacts with citizens in the performance of official duties, as outlined in this directive.***

NOTE: Officers may exercise discretion in activating their camera during non-law enforcement contacts such as those related to providing basic assistance or directions to citizens, engaging in community policing events, and merchant checks. Should an officer be unsure as to whether or not they should activate the BWC, the officer shall always err on the side of recording.

2. The BWC shall remain activated until the event is completed in order to ensure the integrity of the recording unless the officer moves into an area restricted by this policy.
3. If an officer fails to activate the BWC, fails to record the entire contact, or interrupts the recording, the officer shall document why a recording was not made, was interrupted, or was terminated. ***This shall be documented in the report as well as on the actual BWC footage through the use of the microphone.***
4. Citizens shall not be allowed to review the recordings at the scene. If a citizen requests to review recordings, officers shall request their contact information and inform them that their inquiry will be handled in accordance with VA Code §2.2-3701 (Virginia Freedom of Information Act requests). Upon receipt of a request, pursuant to FOIA, the request must ***be documented and*** immediately forwarded to the Performance Management Coordinator. Personnel shall reference the Citizen Review section below and Written Directive 2-8 Media Relations and Public Information Requests for further information.

C. Procedures for Use

1. BWC equipment is issued primarily to uniformed personnel as authorized by this department.
 - a. ***Officers and sergeants assigned to patrol activities (e.g. day, evening, midnight, Power shifts and Traffic officers) shall be issued BWC equipment on a daily basis.***
 - b. ***Off-duty overtime officers shall be issued BWC equipment on a case-by-case basis according to equipment availability and/or nature of the overtime event.***

2. Officers who are assigned BWC equipment must use the equipment unless otherwise authorized by supervisory personnel.
3. Police personnel shall use only department-issued BWCs. The BWC equipment and all data, images, video, and metadata captured, recorded, or otherwise produced by the equipment is the sole property of VCUPD.
4. The use of personal **BWC** recording devices is strictly prohibited.
5. Police personnel who are assigned BWCs must be trained in the operation of the equipment prior to its use. BWC equipment will be used in accordance with the manufacturer's guidelines.
6. BWC equipment is the responsibility of individual officers and shall be used with reasonable care to ensure proper functioning. Equipment malfunctions shall be brought to the attention of the officer's supervisor as soon as possible so that a replacement unit may be procured.
7. Officers shall inspect and test the BWC prior to each shift to verify proper functioning and shall notify their supervisor of any problems.
8. **Officers shall ensure that the BWC is properly mounted in such a way that the camera is positioned to capture the most optimal view of each encounter. Officers have the ability to verify positioning through the use of the BWC smartphone application.**
9. Officers shall not edit, alter, erase, duplicate, copy, share, disseminate, or otherwise distribute in any manner BWC recordings without prior written authorization and approval of the chief or his/her designee.
10. Officers are encouraged to inform their supervisor of any video/audio recorded sequences that may be of value during the investigation of a citizen complaint or for training purposes.
11. If an officer is suspected of wrongdoing or involved in an officer-involved shooting other serious use of force incident, the department reserves the right to limit or restrict an officer from viewing the video file.
12. Requests for edits/deletions of portions of the recordings (i.e. in the event of an accidental, personal recording) must be submitted in writing and approved by the chief or his/her designee in accordance with records retention regulations. All requests and final decisions shall be maintained on file.
13. Officers shall note in their incident, arrest, administrative, and related reports when recordings were made during each incident in question. However, BWC recordings are not a replacement for written reports.

D. Restrictions

1. The use the BWC equipment for other purposes than official police business is strictly prohibited. BWC equipment shall not be used to record:

- a. Communications with other police personnel without the permission of the chief or his/her designee,
- b. Encounters with undercover officers or confidential informants,
- c. Encounters involving victim and witness statements **regarding crimes of a sexual nature**, unless directed by a supervisor,
- d. When on break or otherwise engaged in personal activities, and/or
- e. In any location where individuals have a reasonable expectation of privacy, such as a restroom or locker room.

2. BWC equipment shall not be worn in VCU Health System hospital facilities.

- a. Officers equipped with BWC equipment who respond from the Monroe Park campus to the MCV campus shall only activate the equipment while in areas open to the public.**
- b. Officers who are pulled from the MCV campus to report to the Monroe Park campus shall ensure that they acquire a BWC prior to engaging in any calls for service.**

E. Review of BWC System Recordings

- 1. All files shall be securely downloaded periodically and no later than the end of each shift. Each file shall contain information related to the date and BWC identifier.
- 2. All images and sounds are the exclusive property of the VCUPD. Accessing, copying, or releasing files for non-law enforcement purposes is strictly prohibited.
- 3. **All access to BWC files will be strictly monitored by the chief and his/her designees. All access shall be audited daily by the Performance Management Coordinator to ensure that only authorized users are accessing the data for legitimate and authorized purposes.**
- 4. Recordings may be reviewed:
 - a. By an employee to ensure that the BWC system is operable,
 - b. By an employee to assist with writing a report, supplement or memorandum,
 - c. By authorized persons for the purpose of reviewing evidence,
 - d. By a supervisor investigating a specific act of employee conduct,
 - e. By authorized department personnel participating in an official investigation, such as a personnel complaint, administrative inquiry, or criminal investigation.
- 2. Recordings may be shown for the purpose of training. If an involved employee objects to showing a recording, his/her objection shall be submitted in writing to his/her commander to determine if the training value outweighs the objection.
- 3. The Performance Management Coordinator will review BWC recordings **on a daily basis** to ensure that the equipment is operating properly and that officers are using the

devices appropriately and in accordance with policy as well as to identify areas in which additional training or guidance is required.

F. Digital Recordings as Evidence:

1. Any digital recording, regardless of level designation, may be used as evidence.
2. If the digital recording is deemed to be necessary for an officer's court case, the officer shall create a case file, being sure to classify the recording as a case, and add the digital recording to the case file.
3. **Recordings shall be flagged and saved under their CAD number assigned by Dispatch.**
4. **Officers shall utilize their department-assigned Evidence.com account to retrieve recordings.**
5. The digital recording will only be released to attorneys upon the presentation of an original valid subpoena issued by the court that has jurisdiction. All subpoenas will be forwarded to the Performance Management Coordinator for review before processing.
6. The Performance Management Coordinator shall process all judicial requests including subpoena duces tecum, discovery under rules of evidence or other legal petitions, including requests under the Freedom of Information Act.

G. Storage, Retention and Disposal of Digital Recordings:

NOTE: Refer to the Commonwealth of Virginia Records Retention and Disposal Schedule for All Locality Law Enforcement Activities (GS-17) - Recordings, Surveillance or Monitoring - Series No. 100796 (Not used for evidence) and Series No. 100797 (Retained as Evidence).

1. Digital recordings shall be retained for a minimum of 45 days.
2. Digital recordings entered into evidence will be handled in accordance with evidence retention schedules.
3. Digital recordings not attached to a case will be automatically purged 45 days after creation.

H. Training:

1. Employees shall be fully trained prior to operating any portion of the BWC equipment.
2. **Training shall be conducted by department-assigned trainers.**
3. Documentation of BWC equipment training and any retraining shall be forwarded to the Training Academy for inclusion in the employee's training record.
4. Digital recordings that contain material considered useful for training can be used for that purpose with the permission of the Chief of Police.

I. Citizen Review:

1. All citizen requests for reviewing or copying video/audio recordings will be referred to the Performance Management Coordinator who shall first determine whether the citizen is entitled to review the recording or whether a legal exception applies. The

Performance Management Coordinator will then either: (a) notify the citizen in writing if documents cannot be produced for legal reasons, or (b) coordinate the date, time and place to allow the complainant access to the video/audio recording.

NOTE: Once an officer receives a request for BWC footage, the VCUPD is officially on notice of a Freedom of Information Act (FOIA) request. The officer shall not instruct the requestor to submit the request in writing or otherwise in order to initiate the FOIA process. The officer shall provide the requestor's contact information to the Performance Management Coordinator or, if the requestor prefers, provide the requestor with departmental contact information.

2. The Performance Management Coordinator will process citizen requests for reviewing or copying video/audio recordings in accordance with FOIA guidelines.
3. Fees and costs associated with duplicating shall also be determined by the Performance Management Coordinator.
4. At no time shall any officer let a complainant review any portion of a video/audio recording without the prior approval of the Performance Management Coordinator and/or the Chief of Police.
5. The Performance Management Coordinator will review all subpoena requests for recordings prior to processing.
6. Any recording which depicts a discharge of a firearm by an officer, or serious injury or death of any person, will not be shown to a complainant without prior approval of the Chief of Police.
7. Any images that have been recorded in the VCUHS, in areas that have a higher level of expectation to privacy, shall be reviewed by VCUHS legal counsel prior to external release.
8. VCUPD personnel will contact the VCU Office of University Counsel as appropriate for assistance with complying with legal requests for video/audio recordings.