



# ARLINGTON COUNTY POLICE DEPARTMENT



## SPECIAL ORDER

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**SPECIAL ORDER: 2016-03**

EFFECTIVE DATE: August 18, 2016

EXPIRATION DATE: December 31, 2016

**TO:** All Police Department Personnel

**FROM:** M. Jay Farr  
Chief of Police

**SUBJECT:** Body Worn Camera – Test & Evaluate Process

The Department is in the process of testing and evaluating different Body-Worn Camera (BWC) systems. This Special Order, in its current state, is not intended to be the established policy of the Arlington County Police Department in the implementation of the BWC program. Rather, it is to serve as a working document that will be used to provide guidance during the testing phase and to solicit feedback and ideas from various stakeholders regarding a final document.

- I. **Purpose** - To establish a written directive governing the proper use and conduct of a sworn officer participating in the Department's Body Worn Camera (BWC) Test and Evaluate Program.
- II. **Policy** – The Department provides Body Worn Cameras (BWC's) to select on-duty uniform officers to assist in the performance of their duties. The use of BWC's provides the Department an additional method to document law enforcement activity and interactions with the public. It is the policy of the Department that officers equipped with BWC's utilize the audio and video functioning to capture statements and events during the course of an incident, as outlined in this directive.

While recordings obtained from BWC's provide an objective record of these events, it is understood video recordings captured by a BWC (or any other recording device) do not necessarily reflect the experience or state of mind of the individual officer(s) in a given incident. Moreover, the video recording has limitations and may depict events differently than the events recalled by the involved officer. Specifically, it is understood the BWC may capture information that may not have been heard and/or observed by the involved officer and may not capture information observed by the officer.

### III. Definitions

- A. **Investigative contacts** – Contact with the public that requires an officer to conduct an inquiry to determine more facts. For the purpose of this policy, any officer contacting an individual suspected of violating any law shall be presumed to be engaged in an investigative contact.
- B. **Enforcement contacts** – Contact with the public intended to generate compliance with a law and/or facilitate an arrest.

### IV. Procedures

- A. **Training** – Before being authorized to use the BWC, officers shall be trained on the proper use of the equipment.

- B. **Equipment**

- 1. Issuance – Officers shall only use BWC's issued by the Department and only while performing law enforcement functions.
- 2. Mounting – The BWC shall be worn externally on the ballistic vest or uniform shirt. When practical, officers should monitor the position of the BWC to ensure it is positioned in a way that best captures evidentiary footage.
- 3. Storage of Devices – All BWC's shall be stored in the docking stations for timely uploading and charging while not in use.

- C. **Officer Responsibilities**

- 1. Activating the BWC – Each officer assigned a BWC shall sign on and activate the system before beginning their tour of duty. Officers shall maintain their BWC in a constant state of operational readiness throughout their shift.
- 2. Pre-Shift Inspection – Officers shall test the BWC equipment at the beginning of their shift to ensure proper functionality.
- 3. Malfunctions – If problems are discovered during the pre-shift inspection or at any time during the use of the system, the officer shall immediately contact their supervisor who should reassign the officers a working BWC, if available. Supervisors shall report malfunctioning BWC equipment to the BWC Project Manager.
- 4. Post-shift Duties – At the end of their tour of duty, officers shall sign off from the BWC system and ensure all recordings have been properly tagged. Officers shall also ensure the videos have been uploaded properly from previous shifts.

5. Evidence – Any video file marked as evidence under subsection (J. 2.) shall be tagged as such and viewed to ensure a successful upload has taken place.
6. Uploading – All files shall be securely uploaded to the Department server or Cloud solution as provided by the vendor being tested.
7. DVD's – An evidence grade DVD shall be made of all evidentiary video needed for court proceedings. Evidentiary DVD's shall be submitted to the Property Management Unit utilizing the same procedures as used to submit any other evidence.

#### **D. Supervisor Responsibilities**

1. Supervisors shall:
  - a. Ensure officers use BWC's in accordance with this written directive.
  - b. Review video and re-categorize for indefinite retention if a complaint is associated with a recorded event or an officer has reason to believe an incident may generate a complaint.
  - c. Ensure officers are tagging all videos recorded.

#### **E. Recording Requirements**

1. Notification of Recording - At their discretion, an officer may inform any citizen, suspect, or arrested individual that their actions/conversations are being recorded. An officer is not required to discontinue recording at the request of anyone other than a supervisor with the following exception.

In locations where individuals have a reasonable expectation of privacy, such as a residence, they may decline to be recorded unless the recording is being made pursuant to an arrest or search of the residence or the individuals. However, an officer called to a residence in response to a request for service may record, unless the individual who made the call for service asks the officer to stop recording. The BWC shall remain activated until the event is completed in order to ensure the integrity of the recording unless the contact moves into an area restricted by this policy.

If an officer is using a BWC to record outside the Commonwealth of Virginia, they may be required to notify the citizen, suspect or arrested individual that the audio and/or video portion of the BWC is recording if the state they are currently in requires two party knowledge of such recording.

2. Mandatory Recording – All investigative and enforcement contacts, as well as all contacts specifically related to a call for service by officers issued a BWC, shall be recorded. Officers shall activate their BWC upon receipt and en route to the dispatched call.
3. Optional Recording – Officers may use their discretion when recording incidents which do not require BWC activation under this directive. Officers are encouraged to use BWC's during any situation they feel is appropriate, provided it is not specifically prohibited by this directive.
4. Deactivating a Recording - Once the BWC has been activated during an incident, the BWC shall not be deactivated until the conclusion of the incident. If an officer fails to activate the BWC, fails to record the entire contact or interrupts the recording, the officer shall provide a written record in the Police Incident Report and/or an audible record on the video detailing why the recording was not made, was interrupted or was terminated.

#### **F. Privacy and Restricted Use**

1. Restrictions on Recording – Officers shall not:
  - a. Record conversations of Department employees without their knowledge during routine, non-enforcement related activities.
  - b. Record in places where a reasonable expectation of privacy exists, such as locker rooms or restrooms, unless the activation is required for the performance of official duties.
  - c. Intentionally or willingly record confidential informants or undercover officers.
  - d. Record when speaking to victims and witnesses of crimes who wish to protect their identity.
  - e. Record when restricted by courthouse policies, record in any federal, state, or local courthouse to include proceedings with the Magistrate.
  - f. Edit, alter, erase, share, modify or tamper with recorded data.
2. Prohibited Uses – BWC's are for official law enforcement purposes only and shall not be used to record personal activity.

#### **G. Access**

1. Property of Recordings – In accordance with Manual Directive 574.02 *Recording Devices*, all recordings associated with BWC's are the sole property of the Department and may not be given, sent, transferred, or transmitted to any other person or entity unless approved by the Chief of Police, or designee.

2. Officers are permitted to review their own video and audio footage of an incident in which they were involved, prior to preparing a report or making a statement about the incident with the following exception. If an officer is suspected of wrongdoing or involved in an officer-involved shooting or other serious use of force, the department reserves the right to limit or restrict an officer from reviewing the video and/or audio file.
3. All access may be audited to ensure that only authorized users are accessing data for legitimate and authorized purposes.

#### **H. Documentation**

The existence of a recording shall not act as a replacement for a written report. When completing a police incident report, the officer should indicate that video of the incident exists. Any additional officer(s) arriving on scene shall document the existence of any supplemental recordings.

#### **I. Administrative Oversight**

1. Downloading - Other than evidentiary purposes, only the Chief of Police or designee, Deputy Chiefs, Captains and Office of Professional Responsibility have the authority to authorize the downloading and/or dissemination of any recorded server files.

For evidentiary purposes, an officer initiating the recording, a detective assigned to the case for follow-up investigation, any supervisor, or a representative from the Office of the Commonwealth Attorney can download a video file to a DVD. The Office of the Commonwealth Attorney shall be the only entity that can authorize copying of certain portions of a recording for purposes of a trial.

2. Audits - The use of the BWC system is subject to monitoring. Supervisors may periodically conduct routine reviews of the system to ensure proper system functionality and compliance with this directive and departmental training. The routine reviews should be conducted to achieve these objectives and minor infractions, not criminal in nature, should be viewed as training opportunities and not as routine disciplinary actions. Should the behavior or action become habitual after being informally addressed, the appropriate disciplinary or corrective action shall be taken.

During the review of an incident, supervisors are permitted to conduct audits of an officer's recordings. A violation of the Department's written procedures may result in disciplinary action.

3. Use of Recordings for Training Purposes - Periodically, recorded incidents may prove useful as training aids. Whenever an event is perceived to be a training aid, the officer responsible for generating the recording should notify and review the incident with their

supervisor. If the supervisor determines the video to have training value and they have received approval by their Section Commander, they should provide the Training and Career Development Unit with a DVD copy.

4. Review/Access to Video – Access to BWC footage is restricted to officers who are permitted to view the footage as defined below and employees authorized by the Chief of Police to access BWC data.

Officers operating BWC's may review their own recordings to verify information or the accuracy of a report. Supervisors are only permitted to view recordings made by officers under their direct supervision and videos related to incidents they are investigating, unless otherwise directed by the Chief of Police or designee.

5. Video Deletion – Accidental recordings, such as not turning off the camera while using the restroom or during a meal break, may be requested for immediate deletion. An officer shall notify their supervisor of the accidental recording by completing a Request to Delete Form. If the supervisor agrees the video should be deleted, they will sign the form and forward it to the BWC Project Manager, who will also sign the form and be responsible for deleting the video. This Request to Delete Form will be retained as an official record.
6. Mandatory Review of Certain Recordings – All BWC recordings associated with an incident or individual in a use of force investigation or administrative investigation shall be reviewed by the supervisor and/or Office of Professional Responsibility no later than 80 days after the incident to ensure correct tagging and classification.
7. Freedom Of Information Act Requests – Only the Chief of Police, designee, or the Office of Professional Responsibility may authorize the release of any recordings. These recordings shall be considered official records and are regarded with the same lawful rules of confidentiality. FOIA requests for audio/video recordings shall be forwarded to the Commander of the Office of Professional Responsibility for processing.

## **J. Storage and Retention**

In accordance with the (recommended) provisions of the Library of Virginia, Records Retention and Disposal Schedule, the following retention times apply:

1. BWC recordings not classified as evidence or identified in subsection (2) below shall be retained for 90 days.
2. BWC recordings categorized below should be retained under the following schedule:

## **Evidence**

- Investigative Case Files - Non-Serious Offenses  
Unresolved - 5 Years after case closed  
Resolved - 10 Years after case closed

*\*May be related to, but not limited to: blackmail, bribery, counterfeiting, curfew, destruction of property, disorderly conduct, drug/narcotic offenses, DUI, embezzlement, extortion, forgery, fraud, gambling, identity theft, intimidation, larceny, loitering, peeping tom, pornography, prostitution, runaway, simple assault, thefts, trespassing, vagrancy, vandalism, arson and weapons law violations.*

- Investigative Case Files - Less Serious Offenses  
Resolved - 30 Years after case closed  
Unresolved - 50 Years after case closed

*\*May be related to, but not limited to: assault, burglary, deaths, destruction of property, drug/narcotic offenses, extortion, gambling, identity theft, Intimidation, larceny, pornography, prostitution, robbery, arson, suicide, vandalism, and weapons law violations.*

- Investigative Case Files - Serious Offenses  
Resolved - 75 Years after case closed  
Unresolved - 100 Years after case closed

*\*May be related to, but not limited to: homicide, murder, manslaughter, kidnapping, abduction, robbery, aggravated assault, sex crimes, rape, incest, or crimes against children.*

## **Other**

- Motor Vehicle Accidents - 3 Years
- Traffic Citations Issued - 1 Year
- DUI - 1 Year
- Interview - 180 days
- Use of Force - 3 years
- Vehicle Pursuit - 3 years
- Administrative Investigations - Indefinitely (to be reclassified for deletion after no longer administratively useful)

BWC footage shall be classified for deletion based on the above retention periods. If videos classified as "Administrative Investigation" are re-classified to a different category, they will be subject to deletion based on the category and the original date of the recording.