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|  | Operational General Order | 4.06 Body-Worn Camera (BWC) | PAGE 1 OF 8 |
| | SUBJECT | | EFFECTIVE DATE |
| | Virginia Beach Police Department General Order Chapter 4 – Reporting and Fiscal Management | | 01/05/2021 |
| | DISTRIBUTION | | ORIGINATOR/REVIEW |
| | ALL | CALEA: 41.3.8 (A,B,C,D) | Operations Division |
| BY THE AUTHORITY OF THE CHIEF OF POLICE: <i>PWN</i> | | | |

Purpose:

The Virginia Beach Police Department, in keeping with recommendations submitted by the *President’s Task Force on 21st Century Policing*, will deploy Body-Worn Cameras (BWCs) on select patrol officers and detectives to record encounters with the public when providing police services.

Policy: (CALEA 41.3.8A)

It is the policy of the Virginia Beach Police Department that select officers and detectives will be issued Body-Worn Cameras (BWCs) and shall utilize the equipment as specified in this policy to document encounters between law enforcement and citizens. This policy will augment GO 4.05, *Electronic Data Management*, and specifically addresses body-worn cameras. All recordings are property of the Virginia Beach Police Department and cannot be edited or disseminated without the approval of the Chief of Police or his designee.

Definition:

Body-Worn Camera (BWC) - a recording device worn by the officer on the uniform that captures audio and video of the encounter between the officer and citizens.

Administrative value – any information captured on the officer’s BWC that can be used to resolve an allegation made against a member of this department.

Evidentiary value - any information captured on the officer’s BWC that will likely aid in a criminal or traffic investigation.

Law enforcement action – any official actions taken by officers of this department in the performance of their duties: these include, but not limited to: traffic stops, calls for service, investigative stops, crash investigations, citizen interviews, and any other situation where an officer may have an accusatorial encounter with citizens.

Program Administrator – Agency employee assigned to Internal Affairs who has exclusive edit and purge rights of all videos captured by officers/detectives that use BWCs.

Program Facilitator – Agency employee assigned to a command who has limited access rights to update logistical information regarding BWCs.

Use-of-force – Reportable force as defined in General Order 5.01, Use of Force.

Policy/Guidelines for Use: (CALEA 41.3.8)**A. Administration:**

BWCs are for official Department use only. Intentional abuse or misuse of the equipment or malicious violation of this policy may result in disciplinary action.

1. Designated officers shall be issued BWCs to be worn in accordance with this policy. The cameras will not be shared or used by other officers unless approved by the command/program facilitator.
2. Officers shall only use the issued equipment to record encounters between citizens and the police. No personal devices will be authorized to record any encounters.
3. Officers shall ensure their equipment is in proper working order at the beginning of each shift. Any problems with the equipment shall be reported to a supervisor immediately for corrective action.
4. Recordings shall be uploaded to the Axon server (Evidence.com) at the end of the officer's shift or prior to the next shift if approved by an on duty supervisor. Any delays in transferring data to the server shall be reported to the command Program Facilitator. It is the individual officer's responsibility to ensure the BWC data is uploaded and categorized as required.
5. Officers may review recordings prior to completing investigative reports (IBR, DUI Check Sheets, Field Interviews, etc.) that do not involve a use-of-force or a BlueTeam submission.
6. Personnel shall not review the BWC or In-Car Camera (ICC) recordings prior to the submission of a BlueTeam report. Officers shall submit a BlueTeam use of force report with the attached BWC video in accordance with General Order 5.01, Use of Force. Once the BlueTeam use of force is submitted and reviewed by the officer's supervisor, should any additional information or clarification be needed, the officer may then review the video with the supervisor. Viewing of the BWC video should be documented within the BlueTeam along with the any additional information. Officers shall not view the BWC video without permission of a supervisor.
7. Officers shall not edit or delete any recordings. Original recordings may only be edited or purged as authorized by the Program Administrator. If a video is edited for any reason, the original intact video will be maintained by Internal Affairs.
8. Any BWC or ICC recording associated with a case involving the Commonwealth Attorney (CWA), the officer shall edit the title of the BWC to the suspect's full name. The officer will then share the case with OCA Evidence, Agency: City of Virginia Beach (VA) Commonwealth Attorney within 7 calendar days.

9. When officers receive a notice of appeal of a misdemeanor case, within 7 calendar days, they shall edit the title of the BWC to “Appeal-*insert suspect’s full name*”. The officer will then share the case with OCA Evidence, Agency: City of Virginia Beach (VA) Commonwealth Attorney.
10. Employees are prohibited from making a copy of any BWC recording by using another recording device such as a cell phone.
11. Officers are prohibited from viewing another officer’s recording(s) except for a work related purpose that is authorized by a supervisor.
12. The Commanding Officer of each precinct/division with BWCs assigned will designate one person from that command to act as the Program Facilitator for that command. The Program Facilitator will ensure the equipment is properly assigned to each officer.
13. Each command shall conduct periodic reviews of BWC footage to ensure compliance with this policy. Supervisors shall document the reviews on the PD-42, monthly inspection form. Supervisors shall conduct a minimum of one administrative review per month per officer that is not prompted from a use of force, citizen complaint, or initiated by the officer. Any information obtained from these administrative reviews shall be handled in accordance with departmental policy.
14. The camera shall be worn in a manner that captures the best point-of-view, unobstructed, and is in accordance with Axon recommendations and demonstrated best practices.
15. All videos shall contain tracking software (audits) to indicate who has viewed the footage and if the data was edited. Officers are reminded that every login access is documented in the video’s audit trail. Officers should note the purpose of viewing the recording in the comments section.

B. Supervisor Responsibilities:

1. Program Facilitators shall ensure that only officers with training in the use of BWCs shall utilize the equipment.
2. Sergeants shall ensure that officers who are assigned a BWC utilize the equipment as directed.
3. Any defects with BWCs will be reported to the Program Facilitator for repair or replacement of the equipment.
4. Sergeants shall inspect, in accordance with manufacturer suggested practices, the BWC at least monthly and document the inspection on the PD-42 Personnel Inspection form.

5. Sergeants shall ensure that officers with BWCs are uploading videos to the server each shift unless reasons require officers to delay this to the beginning of the next shift.
6. Sergeants shall ensure officers are categorizing videos as specified in training.
7. Sergeants shall ensure that relevant BWC use of force video is attached to any necessary departmental report and shall be noted in the report that the video exists.
8. If an allegation of a criminal offense on an officer is made, the supervisor who receives the allegation may review the video, but shall notify the Internal Affairs Lieutenant or his designee to restrict access to any involved videos **immediately**.
9. If a parent command is made aware of an Internal Affairs complaint that has been or will be made against an officer, the command shall notify the Internal Affairs Lieutenant or his designee unless there is a need for immediate action.

C. Equipment, Training and Assignment: (CALEA 41.3.8 E, F)

1. All BWC equipment shall be issued by Professional Development and Training and maintained by the officer. The equipment shall be included on the officer's monthly inspection report (PD-42).
2. Officers shall test the BWC equipment at the beginning of the shift to ensure it is in good working order with sufficient battery and storage capacity to last the entire shift. Any problems shall be reported to the supervisor immediately. **(CALEA 41.3.8 E)**
3. Training on the use of this equipment will be the responsibility of Professional Development and Training. No officer will wear a BWC without attending the training class. All training will be documented on the officer's training record. Retraining on this equipment shall be completed as needed. **(CALEA 41.3.8 F)**
4. All sworn personnel with BWCs assigned in their command shall attend training on the use of body cameras.
5. VBPD may use BWC data for training purposes provided reasonable measures are taken to conceal the officer's identity.

D. Activation: (CALEA 41.3.8 B)

1. When directed by a supervisor or requested by another officer.
2. Officers shall only activate the BWCs for legitimate law enforcement purposes. BWCs are not authorized for personal use.
3. Officers shall activate their BWC immediately upon arriving at a scene in the performance of his/her duties. This includes but is not limited to:
 - A. Calls for service
 - B. Traffic stops/crash scenes
 - C. Officer initiated investigations

- D. Any encounter that is likely to result in an arrest
 - E. Any encounter where use of force is likely to occur
 - F. Vehicle and foot pursuits
 - G. Incidents related to citizen interviews. Recording of general conversation will not require activation.
 - H. Any event where actions indicate an actual or potential breach of the peace.
4. Officers shall activate their BWC, as soon as it is safe and practical to do so, during any encounter that becomes adversarial or in any situation where documenting the event will have administrative or evidentiary value. This includes areas within private residences assuming that officers have a legal right to be on the premises. Officers should not sacrifice their safety for the sake of activating the camera.
 5. Whenever reasonable, safe and practical to do so, officers should advise citizens that the encounter is being recorded. If asked by the citizen, officers will confirm that a recording of the event is in progress.
 6. If an arrest is made during a recorded incident the BWC shall remain on until arrival at the jail or final destination.
 7. Once the BWC is activated the entire encounter shall be recorded without interruption (continuously recording) unless a clear, articulable reason to discontinue recording occurs. In that case, the officer will state the reason for stopping the recording when practical.

Officers may terminate recording an event if:

- A. The event becomes investigative in nature and the scene is orderly and controlled.
 - B. Tactical plans are discussed. Tactical plans shall not be recorded for public safety reasons without approval by a shift commander.
 - C. When the officer believes that recording the event will cause unintended grief to the parties involved.
 - D. Officers will have the discretion to cease a recording provided the officer can provide a clear and articulate reason why continuing to record will create unintended hostility between the officers and the citizens. If the officer expects to take law enforcement action (i.e. make an arrest), the officer shall record the entire event.
8. If an officer discontinues recording an encounter for any reason and then finds it is necessary to take law enforcement action, the officer shall reactivate the camera provided it is safe and practical to do so.
 9. If equipped, officers shall wear the BWC equipment any time they are in uniform and be prepared to record an event if necessary. Officers working off-duty employment (providing law enforcement services, in an off-duty capacity, to public and private employers external to the Police Department (GO 2.14) will abide by the provisions of this order (same as on-duty).

E. Restricted Use of BWC's: (CALEA 41.3.8 B)

1. Officers shall use their best discretion in areas where a high expectation of privacy is expected. If an officer does not record an event or elects to discontinue recording there should be an articulable reason for not recording. This will be stated either on the video prior to turning off the camera, on the CADS report or in the report submitted by the officer. If an officer discontinues recording an encounter for any reason and then finds it is necessary to take law enforcement action, the officer shall reactivate the camera provided it is safe and practical to do so.
2. Officers shall not record personal activities that are conducted during the course of a normal shift. These include personal phone calls, meal breaks, or time spent between calls for service and other non-work related personal activity.
3. Unless approved by the undercover officer or a supervisor, BWC's shall not be used to record interactions with confidential informants or undercover officers. If the conversation needs to be recorded, officers shall attempt to capture the audio portion only by covering the video lens or standing outside of the camera's view.
4. Any legal consultation with the Commonwealth's duty attorney shall not be recorded.
5. Officers shall not activate their BWCs inside any courthouse during any trial proceeding or while waiting for their cases to be heard. BWCs shall be powered off while in the court building.
6. Officers shall not activate their BWCs while inside the Virginia Beach City Jail or other government regulated areas. BWCs shall be powered off while inside the jail.
7. Officers may activate their BWCs inside any medical facility where medical privacy is expected and required by law. Officers shall take all reasonable measures to ensure that only citizens involved with a specific case are recorded.
8. School Resource Officers shall be issued BWCs and shall utilize them in accordance with this policy on school property. SROs shall activate their cameras only when they take law enforcement action.
9. BWC recordings of constitutionally protected activities may not be used to identify citizens present at the activity unless there was articulable, illegal activity involved, a need for assistance by members of the public, or specific law enforcement action was required. Once the specific matter is resolved, the BWCs shall be de-activated.
10. Officers shall not record tactical planning briefings without the approval of a shift commander.
11. Officers shall not record any aspects of training unless specifically requested to do so.
12. The stored video and audio data from the BWCs shall not be used to create a database or pool of mugshots, as fillers for photo lineups, nor randomly searched for members of the public by members of our agency.

13. Employees shall not convert, obtain, or copy any BWC footage for personal use. No images, footage or BWC information will be released to any social media site without the permission of the Chief of Police or his designee.
14. Officers shall deactivate their BWCs when directed by a supervisor.

F. Video Recordings: (CALEA 41.3.8 c)

1. All recordings captured on BWC's are property of the Virginia Beach Police Department and will be treated as evidence. No recordings will be disseminated without the approval of the Chief of Police or designee (Internal Affairs) and in compliance with State and Federal dissemination laws, privacy protection, and other applicable laws, including the Virginia Freedom of Information Act.
2. Officers may view the recordings to help complete reports, with the **exception** of use of force Blue Team reports (unless required by the supervisor), provided it does not cause a delay in the submission of those reports. Firearms discharge reports and vehicle pursuits are considered a use-of-force and BWC video will not be allowed to be viewed by the officer prior to submitting a Blue Team report for these events.
3. Officers shall note on any departmental reports if any encounter was captured on a BWC. Any specific information pertaining to the video's location shall be included as well.
4. In a critical incident, such as officer-involved shooting, in-custody injury or death, or use-of-force against a citizen causing serious bodily injury or death, the BWC will remain turned on and in the possession of the involved officer until the appropriate Detective Bureau supervisor arrives on scene. In cases where the situation dictates the Incident Commander may immediately review the recording to establish the level of danger that may still exist, aid the initial operational response to locate suspects, and focus on the initial stage of the investigation based on the need for officer and citizen safety. The video will be handled in a manner consistent with other evidence.
5. Categorizing specific events or recordings will be completed as specified by training. Any recordings deemed to have administrative or evidentiary value shall be categorized accordingly and uploaded before the end of the shift or prior to the next shift if given approval by a supervisor.
6. Only the Program Administrator is authorized to purge a BWC video from the Department's system. Only videos that are captured outside the requirements of this policy may be purged from the Department's system.
7. Requests for BWC footage from external/private parties, such as a Motion of Discovery, Subpoena Duces Tecum, and Freedom of Information Act request shall be handled in accordance with General Order 4.05, Electronic Data Management. No video will be released without the approval of the Chief of Police or his designee and the appropriate review/redactions by the Program Administrator.
8. The Office of the Commonwealth's Attorney will have their own license through Axon that enables their prosecutors to view, edit and redact BWC videos. VBPD will maintain original copies of all BWC videos.

9. In any case where an officer has brought charges against an individual, and later learned that the BWC recording contains evidence that may be exculpatory in nature (evidence tending to establish a criminal defendant's innocence), the officer shall immediately contact his supervisor for guidance regarding the proper disposition of the charges. The same shall apply for any supervisor reviewing any BWC footage. If the case is being handled by the City/Commonwealth's Attorney, they shall also be notified immediately.

G. Assessment:

Each command will review their Goals and Objectives as they pertain to the use of the BWC equipment. These assessments will be included in Operations Division Goals and Objectives reports out. Relevant information will be sent to the Office of Internal Affairs, Accreditation, and Professional Development and Training. The Department will conduct an annual assessment to be included in the Annual Report and for Accreditation purposes.

The Program Administrator, or designee, will conduct an annual review and assessment of the BWC program and this policy for effectiveness and efficiency.

H. Video Retention Schedule (CALEA 41.3.8 D)

Video retention schedules are promulgated by the Library of Virginia in accordance with the Virginia Public Records Act (Refer to Library of Virginia, General Schedule (GS-17), for Records Retention Management). Any recordings deemed to have administrative or evidentiary value will be saved in accordance with General Schedule (GS) 17 Records Retention guidelines. All videos deemed to be non-evidentiary and non-administrative will be retained for a period of 60 days from the date of the recording. After 60 days they will be expunged from the Department's system in accordance with the record destruction procedures established by the Records of Virginia.

All video recordings shall be uploaded from the BWC to *evidence.com* as described in training. Any data that is needed longer than 60 days will be categorized accordingly and saved on the Department's internal server for the time period required by law (See GS-17).

If an officer inadvertently records an event that is not a law-enforcement related encounter or is prohibited by policy, a supervisor shall be notified immediately. The Program Administrator will review the footage and purge the video promptly once it is verified that the video was captured in error. The Administrator will document the reason for the purge in the Audit Log.

Before purging any video, the Program Administrator, or designee, shall take any steps necessary to ensure that the purge complies with the requirements of the Virginia Public Records Act and the procedures established by the Library of Virginia.