

# Body-Worn Camera Policy

## Draft Proposal

### September 23, 2016

#### Purpose:

The Virginia Beach Police Department, in keeping with recommendations submitted by the *President's Task Force on 21<sup>st</sup> Century Policing*, and to be more accountable to the citizens we serve in our daily police operations, will deploy Body-Worn Cameras (BWCs) on select patrol officers and detectives to record encounters with the public as we deliver police services.

#### Policy: (CALEA 41.3.8 - a)

It is the policy of the Virginia Beach Police Department that predetermined officers and detectives will be issued Body-Worn Cameras (BWCs) and will utilize the equipment as specified in this policy to document encounters between law enforcement and citizens. Officers must be trained in the use of BWCs before utilizing the technology. This policy will apply to body-worn cameras and dash-mounted camera systems only. Officers will only be allowed to use department-issued body cameras and not be authorized to use personal recording devices. All recordings are property of the Virginia Beach Police Department and cannot be reviewed, edited or disseminated with the approval of the Chief of Police.

#### Definition:

**Body-Worn Camera (BWC)** - a recording device worn by the officer on the uniform that captures audio and video of the encounter between law enforcement and citizens. The video is from the officer's perspective and is used to better document the event.

**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 are 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** – representative from Internal Affairs who has exclusive edit and purge rights of all videos captured by officers/detectives that use BWCs or ICCs.

**Program facilitator** – command representatives who have limited access rights to update logistical information regarding BWCs.

**Use-of-force** – any force used by an officer to take a citizen into custody which requires the submission of a BlueTeam report.

**Procedure:**

- 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. Officers shall only use the issued equipment to record encounters between citizens and the police. No personal devices may be used.
  2. Select officers assigned to Operations Division will be assigned a BWC. Detectives in the Warrant Squad and select members of Special Operations will also be issued BWCs. The cameras will not be shared or used by other officers unless approved by the Precinct Administrator. Officers will ensure their equipment is in proper working order at the beginning of each shift. Any problems with the equipment will be reported to a supervisor immediately.
  3. Recordings will be uploaded to the specified server (TBD) at the end of the officer's shift or prior to the next shift if approved by the supervisor. Any delays in transferring data to the server will be reported to the command Administrator.
  4. Officers may not review any recordings where force is used and a Blue Team report is to be submitted. Supervisors will ensure the correct video is included with the BlueTeam submission. Officers may view video recordings prior to completing reports involving events that do not involve BlueTeam submissions provided it does not cause a timely delay in their completion. Officers may also view recordings prior to speaking to a supervisor or making statements to Internal Affairs investigators about the incident.
  5. Officers shall not edit any recordings. Only the Program Administrator (Internal Affairs) with administrative rights can edit recorded events. Any edits/changes made to an existing recording will be documented in an audit log and maintained at Internal Affairs. The log will contain the date and time of the edit, the date and time of the actual recording, the reason for the edit and the supervisor who approved the edits.
  6. Employees are prohibited from making a copy of any BWC recording by using another recording device such as a cell phone.
  7. Officers are not allowed to view another officer's recording(s) except for a work-related reason which is authorized by a supervisor.

8. The Commanding Officer of each precinct/division with BWCs assigned will designate one person from that command to facilitate administration of the program.
9. Each command shall conduct periodic reviews of BWC footage to ensure compliance to this policy. Supervisors shall conduct a minimum of one review per month per officer. Supervisors shall document the number of video reviews conducted on the PD-42 Inspection form. Any information obtained from these administrative reviews will be handled accordingly.
10. The camera shall be worn in accordance with training and vendor recommendations. This will be in a manner that captures the best point-of-view from the officer's perspective for documentation purposes.
11. All videos will contain tracking software (audits) to indicate who has viewed the footage and if the data was edited.

B. Equipment, Training and Assignment:

1. All BWC equipment will be issued by PD&T and maintained by the officer. The equipment will be included on the officer's monthly inspection report (PD-42).
2. Officers will test all 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 will be reported to the supervisor immediately. (CALEA 41.3.8 - e)
3. No member of this Department will utilize a BWC without first completing the appropriate training. Training on the use of this equipment will be the responsibility of Professional Development and Training. Re-training in this equipment will be completed every 3 years (or as recommended by the vendor) and be kept in the officer's training records. (CALEA 41.3.8 - f)
4. Lieutenants and sergeants with BWCs assigned in their command shall attend training on the use of body cameras. Supervisors are required to conduct periodic reviews of BWC recordings and shall ensure that officers are utilizing BWCs properly. (CALEA 41.3.8 - f)
5. Officers will not record any aspects of training unless specifically requested to do so.
6. Much of this section will be equipment specific and will be finalized once we choose a vendor.

7. VBPD may use BWC data for training purposes provided reasonable measures are taken to conceal the officer's identity.

C. Activation: (CALEA 41.3.8 - b)

1. Officers shall only activate the BWCs for legitimate law enforcement purposes. BWCs will not be allowed for personal use.
2. The BWC will be activated anytime an officer makes official contact with a citizen in the performance of his/her duties. This includes but is not limited to:
  1. Calls for service
  2. Traffic stops/crash scenes
  3. Officer initiated investigations
  4. Any encounter that is likely to result in an arrest
  5. Any encounter where use of force is likely to occur
  6. Vehicle and foot pursuits
  7. Citizen interviews
  8. When instructed by a supervisor to do so
3. The BWC will be activated, as soon as practical, during any encounter that becomes adversarial or in any situation where documenting the event will contain administrative or evidentiary value (**best interest of the agency/officer**). This includes areas within private residences understanding that officers have a legal right to be there. Officers should not sacrifice safety concerns for the sake of activating the camera, but it should also be instinctive to begin recording prior to the encounter.
4. Whenever reasonable, safe and practical to do so, officers shall advise citizens that the encounter is being recorded. It is believed that recording the event will positively influence the behaviors of all persons involved.
5. Once the BWC is activated the entire encounter should be recorded without interruption 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 more orderly and controlled,
  - b. If there are tactical concerns that should not be recorded,
  - c. When the officer believes that recording the event will cause unintended grief to the parties involved
  - d. The event becomes sensitive in nature or requires the officer to go to an area where privacy is expected

- e. 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.
6. Officers shall activate their BWC when directed to do so by a supervisor.
7. Officers will wear the BWC equipment any time they are in uniform and be prepared to record an event if necessary. Officers will utilize the BWC when working secondary employment if the officer believes that official law enforcement action involving a citizen will occur.

D. Restricted Use of BWC's: (CALEA 41.3.8 - b)

1. Only issued Body-Worn Cameras VBPD are to be worn by officers. BWCs are the property of this agency and are to be used for official purposes only. BWCs are not to be used for personal reasons.
2. All recordings captured by BWC's are the property of the Virginia Beach Police Department and cannot be released without proper authorization through the Internal Affairs/FOIA office.
3. 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.
4. Officers will 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.
5. BWC's will not be used to record interactions with confidential informants or undercover officers. If the conversation needs to be recorded it is encouraged to capture the audio portion only.
6. Officers will not activate their BWC's inside any courthouse during any trial proceeding or while waiting for their cases to be called.
7. Officers will not activate their BWC's inside any medical facility where medical privacy is expected and required by law.
8. School Resource Officers (**This needs to be ironed out with VBCPS admin.**)

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, or there was a need for assistance by members of the public.
10. Officers shall not record tactical planning briefings.
11. Officers will not record any aspects of training unless specifically requested to do so.
12. The stored video and audio data from the BWCs may 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 access, obtain or view video footage from another employee's BWC without the permission of a supervisor after expressing a need to do so.
14. 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.
15. Officers will deactivate their BWCs when directed by a supervisor.

#### E. Video Recordings:

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 Custodian of Records.
2. Viewing BWC recordings is only permitted for official Department purposes. The use of personal equipment to view recordings is prohibited. (phone app depending on vendor?)
3. Only the designated Program Administrator(s) can edit any data captured on BWC's.
4. Recordings captured during the course of a shift will be uploaded to the server in a timely manner. Docking stations are located at all commands utilizing BWC's.
5. Officers may view the recordings to help complete reports, with the exception of BlueTeam reports, provided it does not cause a delay in the submission of those reports. Firearms discharge reports are considered a use-of-force and will not be allowed to be viewed by the officer prior to submitting a BlueTeam report.
6. Officers shall note on any departmental reports if any encounter was captured on a BWC. Any specific information pertaining to the video's location will be included as well.

7. 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, a supervisor will immediately take possession of the BWC equipment at the scene and ensure it is properly maintained. The video will be handled in a manner consistent with other evidence. No department members shall watch the video prior to an Internal Affairs investigator's arrival. The video will be turned over to IA at the scene or immediately uploaded at the precinct.

8. Tagging specific events or recordings will be completed (**vendor specific language**) as needed. Any recordings deemed to have administrative or evidentiary value shall be tagged accordingly and uploaded before the end of the shift. (CALEA 41.3.8 - c)

#### F. Assessment:

Each command will review their Goal and Objectives as they pertain to the use of the BWC equipment. These assessments will be included in Ops 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.

#### **Video Retention Schedule** (CALEA 41.3.8 - d)

Video retention schedules are determined by the Virginia Library of Records and Virginia State Code. Any recordings deemed to have administrative or evidentiary value will be saved on the server for the amount of time required by law. Non-evidentiary and non-administrative videos will be retained for a period of 30 days from the date of the recording. After 30 days they will be expunged from our system.

All video recordings shall be uploaded from the camera to the cloud-based storage system. Any data that is needed longer than 30 days will be tagged accordingly and saved on our internal server for the time period required by law.

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 destroy the video promptly once it is verified that the video was captured in error. The administrator will document the reason for the destruction in the audit log.

#### **Freedom of Information Act**

The Virginia Beach Police Department will administer FOIA requests for BWC footage consistent with department policy and Virginia State Code. No videos will be released without the approval of the Chief of Police.

Videos shall be shared with the Office of the Commonwealth's Attorney as needed for the prosecution of cases without special requests or permission.