

ASHEVILLE POLICE DEPARTMENT POLICY MANUAL

Chapter: 5 - Law Enforcement Operations

Original Issue: 8/30/2016

Policy: 509 - Body-Worn Cameras

Last Revision: 5/28/2021

Previously: N/A



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INTRODUCTION

This policy is intended to provide employees with instruction on when and how to use body-worn cameras so that officers may accurately document public contacts, arrests, and other incidents while attempting to solve violations of the law and otherwise serve the public interest.

POLICY STATEMENT

It is the policy of the Asheville Police Department (APD) that officers activate body-worn cameras when such use is appropriate for the proper performance of their official duties and where consistent with this policy and the law. [41.3.8 a]

This policy does not govern the use of in-car recording systems, surreptitious recording devices used in undercover operations, or the interception of electronic communications for lawful, authorized investigative purposes. This policy will apply when officers are on duty and/or engaged in secondary and extra-duty employment.

DEFINITIONS

Body-Worn Camera: an operational video or digital camera or other electronic device, including a microphone or other mechanism for allowing audio capture, affixed to the uniform or person of law enforcement agency personnel and positioned in a way that allows the camera or device to capture interactions law enforcement personnel has with others.

Disclose or Disclosure: to make a recording available for viewing or listening to by the person requesting disclosure, at a time and location chosen by the department. This term does not include the release of the recording.

Personal Representative: a parent, court-appointed guardian, spouse, or attorney of a person whose image or voice is in the recording. Personal representatives for a deceased person whose image or voice is in the recording also means the personal representative of the estate of the deceased person; the deceased person's surviving spouse, parent, or adult child; the deceased person's attorney; or the parent or guardian of a surviving minor child of the deceased.

Recording: for the purposes of this policy, a visual, audio, or visual and audio recording captured by a body-worn camera when carrying out law enforcement responsibilities. As used in this policy, this term does not include any video or audio recordings of interviews regarding professional standards investigations or interviews or interrogations of suspects or witnesses.

Release: to provide a copy of a recording.

RULES AND PROCEDURES

509.1 ACTIVATION OF BODY-WORN CAMERAS

A. Officers will activate the body-worn camera to record all contacts with citizens in the performance of official duties. Unless otherwise noted in this policy, body-worn cameras will be activated in the following situations, regardless of whether they involve citizen contact: [41.3.8 b]

1. Upon arrival at all dispatched calls.
2. When conducting or supporting a traffic stop.
3. When approaching suspicious persons or vehicles.
4. During transport and processing of prisoners (except proceedings conducted before Buncombe County magistrates).
5. While operating a vehicle with any emergency equipment activated.
6. During the execution of search warrants.

7. During the initial inventorying of seized monies or any high-value property (e.g., firearms and drugs).
 8. Immediately after any officer-involved motor vehicle accident.
 9. During the use or deployment of less-lethal munitions.
 10. During any other investigative or enforcement encounter.
 11. At any other time at the officer's discretion, if not otherwise prohibited elsewhere in this or any other directive.
- B. Once activated, the body-worn camera will remain on and activated until the officer's direct participation in the incident that caused the activation has concluded unless otherwise allowed by this policy. [41.3.8 b]
- C. Officers should inform subjects that they are being recorded unless doing so would be unsafe, impractical, or impossible.
- D. At no time is an officer expected to jeopardize his/her safety in order to activate a body-worn camera; however, the body-worn camera should be activated as directed by this policy as soon as practical.
- E. If an officer fails to activate the body-worn camera, fails to record the entire contact, or interrupts the recording, the officer will document and notify their supervisor why a recording was not made, was interrupted, or was terminated.
- F. Officers taking custody of money will conduct an initial inventory before leaving the scene where it is collected and record the inventory on body-worn camera. If the on-scene inventory cannot be completed, the officer must note the circumstances in the related incident report.
- G. Officers should be aware of certain circumstances where operating the body-worn camera may not be appropriate. In these circumstances, officers may decline to activate or may deactivate the body-worn camera; however, the incident must be appropriately documented and reported to the officer's supervisor. Examples of such situations include, *but are not limited to*: [41.3.8 b]
1. In a hospital emergency room or other areas where patients are actively receiving treatment.
 2. Strip or body-cavity searches.
 3. At the request of crime victims.

4. Where footage might reveal the identity of a child victim or witness.
 5. When meeting with undercover officers or confidential informants.
 6. Other situations where the use of a body-worn camera would undermine a valid and articulable law enforcement objective.
- H. In any event, officers will activate their body-worn cameras if any encounter turns adversarial unless doing so would jeopardize the officer's or the public's safety.

509.2 GUIDELINES FOR USE OF BODY-WORN CAMERAS

- A. Officers assigned body-worn cameras and their supervisors must be trained in their use prior to deployment. [41.3.8 f]
- B. Officers will ensure that sound-producing non-law enforcement-related devices (e.g., music on radios) within police vehicles are turned off when the recording mode of the body-worn camera is activated so as not to hinder audio recording quality.
- C. When an officer has an in-car camera and body-worn camera, both systems will be utilized in accordance with this policy and [Policy 704 - Mobile Video Equipment](#).
- D. When determining whether to record interviews with witnesses and members of the community who wish to share information, officers should consider both the evidentiary value of the recording and the subject's comfort with being recorded. To better capture evidence, officers should record such interviews.
 1. If a person will not talk unless the camera is turned off, officers may decide that obtaining information is more important than recording and deactivate the camera. All such instances must be appropriately documented and reported to the officer's supervisor.
- E. Department employees are prohibited from the following:
 1. Using body-worn cameras to record judicial proceedings conducted by Buncombe County Magistrates or in any Buncombe County district or superior court unless expressly allowed by the presiding judicial official.
 2. Using body-worn cameras to record other department or City of Asheville employees during non-enforcement-related activities unless lawfully authorized by the Chief of Police.
 3. Using department-issued body-worn cameras for personal use.
 4. Making personal copies of body-worn camera recordings.

5. Using any non-department-issued body-worn cameras under any circumstances.
 6. Deliberately removing, dismantling, or tampering with any hardware and/or software component of body-worn cameras.
 7. Affixing decals, stickers, or making other personal alterations to body-worn camera hardware.
- F. Recordings will not be used for the purpose of embarrassment or ridicule of any person.
- G. Body-worn camera equipment and all data, images, video, and metadata captured, recorded, or otherwise produced by the equipment is the sole property of the City of Asheville.

509.3 RECORDING OFFICER RESPONSIBILITIES

- A. It is each officer's responsibility to ensure that their assigned body-worn camera is charged and in good working order. Prior to going into service, each officer will test the body-worn camera in accordance with manufacturer specifications and department training. Testing includes, but is not limited to: [41.3.8 e]
1. Confirming that the body-worn camera is functioning properly;
 2. Verifying the body-worn camera has adequate power; and
 3. Ensuring that the body-worn camera is properly mounted, mid-chest, for optimal use.
- B. Officers should verify their assigned body-worn camera has adequate power during their work shift. When needed, a USB charging cord provided by the Law Enforcement Technology Unit may be used to charge cameras during a shift, **but will only be used in protected USB ports on department mobile data terminals.**
- C. At the end of an officer's shift, the body-worn camera will be secured and set for charging in accordance with manufacturer specifications and department training.
- D. All officers will upload all recordings from their assigned body-worn camera and upload them to the central system no later than the end of each shift.
1. Officers will inform their supervisors if exigent circumstances prevent the uploading of recordings at the end of a shift. Files must be uploaded before the end of the next shift absent extreme circumstances and with a supervisor's written permission.

2. Each file uploaded will contain information related to the date, the body-worn camera identifier, and the assigned officer.
 3. In the event of an officer-involved shooting, in-custody death, or other incident involving an officer that results in serious bodily harm or death, a supervisor will immediately take physical custody of the involved officer's body-worn camera and assume responsibility for uploading any recordings.
 4. Officers on standby for call-back (such as members of the department's Emergency Response Team) may be authorized to transport a body-worn camera home. Body-worn cameras and associated body-worn camera controller may only be taken to an officer's residence if:
 - a. The body-worn camera is fully charged, and all videos from the prior shift and/or any new assignment have been uploaded.
 - b. The charge is maintained via assigned USB cords provided by the Law Enforcement Technology Unit and is **only plugged into a protected USB port**.
- E. Officers will ensure recordings are categorized and tagged at the time they are uploaded. Recordings should be classified according to the type of event or incident captured in the footage, and when applicable, properly labeled for retention as evidence.
- F. Body-worn cameras will be removed from service any time an officer discovers a malfunction. Any and all technical or mechanical issues with an officer's body-worn camera, including running out of power, must be reported to a supervisor as soon as reasonably possible and documented in writing.
- G. Officers will note in incident, arrest, or any other relevant paperwork when recordings were made during an incident. For example, an incident that is recorded with a body-worn camera will be documented in the officer's report if a report is created, or if a traffic citation is issued, the officer will make a notation on the citation indicating that the incident was recorded. [41.3.8 c]
- H. Body-worn camera recordings are not a replacement for written reports. Officers should continue to prepare reports in the same manner as prior to the implementation of the body-worn camera system. Officers will not substitute "refer to video" for a detailed and thorough report. Recordings should be a representation of what is written in the report but cannot be used in lieu of portions of the narrative.

- I. Officers are encouraged to inform their supervisor of any recordings that may be of value for training, commendation purposes, or for any other legitimate department or city purpose. [41.3.8 c]

509.4 SUPERVISOR RESPONSIBILITIES

- A. Supervisors will ensure that officers utilize assigned body-worn cameras in accordance with all applicable policies and procedures.
- B. During routine line inspections, supervisors will inspect body-worn cameras to ensure equipment is operating properly.
- C. Monthly, supervisors will review body-worn camera recordings in accordance with established procedures to ensure officers are utilizing body-worn cameras appropriately and in accordance with training and this policy. [41.3.8 e]
- D. Supervisors will ensure that the Law Enforcement Technology Unit is notified of any body-worn camera equipment that is out of service due to malfunctions or other problems and will follow up as necessary to ensure the problem is remedied in a timely manner.
- E. Supervisors may identify any areas in which additional training or guidance is required. [41.3.8 f]

509.5 LAW ENFORCEMENT TECHNOLOGY RESPONSIBILITIES

- A. The Law Enforcement Technology Unit will be responsible for the following:
 1. Conducting monthly random reviews. At least two (2) officers from each Section or District will have portions of their body-worn camera footage accessed and reviewed for technical compliance. These reviews will be documented on reports to the Administrative Services Manager. [41.3.8 g]
 2. Routine review of recordings to confirm proper classification and tagging of videos and to ensure evidence is properly classified and tagged with appropriate dates, times, case numbers, and users.
 3. Maintaining user accounts and permissions for body-worn camera systems.
 4. Providing technical support for cameras, chargers, mounts, and other equipment, including ordering, storing, and distributing replacement parts. This includes on-call technical support when necessary.
 5. Evaluation of the system on an ongoing basis to gather data regarding the program, service levels, reliability, and maintenance, making recommendations when necessary.

6. Ensuring appropriate training is provided to officers and supervisors prior to the use of assigned devices. [41.3.8 f]

509.6 DEPARTMENT REVIEW

- A. Digital recordings may be reviewed by supervisors in an officer's chain of command, the Chief of Police, members of the Professional Standards Section, the City Attorney's Office, or any other person designated by the Chief of Police as allowed by law.
- B. Officers may access and review recordings from their assigned body-worn cameras when preparing written reports or statements of events to help ensure the accuracy and consistency of accounts, except when the officer's access to recordings has been limited or restricted in accordance with this policy.
- C. Officers may access and/or review the recordings from another officer's assigned body-worn camera only when such access/review is related to the performance of official duties.
- D. To prevent damage, original recordings will not be viewed on any equipment other than equipment authorized by the Chief of Police or their designee.
- E. The Chief of Police, the Professional Standards Commander, or any supervisor may limit or restrict any department employee from viewing recordings; such recordings would include but are not limited to: recordings related to an officer-involved shooting, in-custody death, or any instance where an employee is accused or suspected of criminal wrongdoing or violating department policy.
- F. At least annually, to ensure compliance with this policy and all applicable laws and regulations, the Professional Standards Section will arrange for an audit of the department's use of body-worn cameras conducted in accordance with procedures established by the City's Internal Auditor. [41.3.8 g]

509.7 DISCLOSURE & RELEASE OF RECORDINGS

- A. The guidelines for disclosure and release outlined below will be effective as of October 1st, 2016.
- B. Recordings made using body-worn cameras pursuant to this policy are department records and will not be edited, altered, erased, duplicated, copied, shared, or otherwise distributed in any manner other than as stated in this policy, without prior written authorization from the Chief of Police or designee.
- C. The department may disclose recordings to persons outside the agency pursuant to a written request to the Chief of Police that identifies the activity with reasonable

particularity sufficient to identify the recording. Such requests may only be considered if made by a person whose image or voice is in the recording or:

1. A personal representative of an adult person whose image or voice is in the recording of the adult.
2. A personal representative of a minor or of an adult person under lawful guardianship whose image or voice is in the recording.
3. A personal representative of a deceased person whose image or voice is in the recording.
4. A personal representative of an adult person who is incapacitated and unable to provide consent to the disclosure.

D. Upon receipt of a written request for disclosure of a recording, within three business days, the Professional Standards Commander must either disclose the portion of the recording relevant to the person's request or notify the requester of the department's decision not to disclose the recording. In denying such a request, the following factors may be considered ([N.C. Gen. Stat. § 132-1.4A\(f\)](#)):

1. If the person requesting the disclosure of the recording is a person authorized to receive disclosure;
2. If the recording contains information that is otherwise confidential or exempt from disclosure or release under State or federal law;
3. If the disclosure would reveal information regarding a person that is of a highly sensitive personal nature;
4. If disclosure may harm the reputation or jeopardize the safety of a person;
5. If disclosure would create a serious threat to the fair, impartial, and orderly administration of justice; and/or
6. If confidentiality is necessary to protect either an active or inactive internal or criminal investigation or potential internal or criminal investigation.

E. When disclosing recordings, the department may disclose only those portions of the recording that are relevant to the person's request. Persons to whom such disclosure is made are prohibited from recording or copying the recording.

F. The release of recordings outside of the agency, which are not to a district attorney's office or another law enforcement agency for law enforcement purposes (e.g., to seek public assistance in identifying suspects), requires a court order. Department members

must obtain permission from the Chief of Police prior to requesting a court order for the release of recordings outside of the agency. The City Attorney's Office will be contacted for assistance in obtaining the appropriate court orders.

509.8 STORAGE AND RETENTION

- A. All recordings will be retained for at least the minimum time provided in the North Carolina Municipal Records Retention and Disposition Schedule published by the North Carolina Department of Cultural Resources. [41.3.8 d]
- B. All recordings not categorized for retention will be retained for a maximum of ninety (90) days after they are created.
- C. Unless stated otherwise in this policy, it is the recording officer's responsibility to ensure that recordings useful for the investigation and prosecution of violations of the law are categorized for retention beyond ninety (90) days.
- D. Any recording not already categorized by an officer may be categorized for retention by any supervisor or the Law Enforcement Technology Unit.
 - 1. Any supervisor conducting an administrative investigation or internal review must be categorized for retention of any related recordings.
- E. Requests for deletion of portions of recordings (e.g., in the event of an accidental personal recording) must be submitted in writing and approved by the Chief of Police or their designee.

BY ORDER OF:



David Zack
Chief of Police