




# City of Manassas Police Department

## General Duty Manual



Effective Date: 06-01-2017	<b>GENERAL ORDER</b>	Number: 06-38
Subject: Body-Worn Cameras		
<input checked="" type="checkbox"/> New <input type="checkbox"/> Amends <input type="checkbox"/> Rescinds <input checked="" type="checkbox"/> Reviewed 12-22-2021		Reevaluation: <input type="checkbox"/> 1 yr. <input checked="" type="checkbox"/> 18 months <input type="checkbox"/> N/A
Accreditation Standards: 41.3.8	By Authority Of:  Douglas W. Keen, Chief of Police	Total Pages: 1 of 5

### PURPOSE:

To provide officers with written procedures and guidelines on the use of body-worn cameras (BWCs) so they may reliably record their contacts with the public.

### POLICY:

It is the policy of the Manassas City Police Department that officers activate BWCs when such use is appropriate to the proper performance of their official duties, and where the recordings are consistent with this policy and law. This policy does not govern the use of surreptitious recording devices used in undercover operations.

### DISCUSSION:

All recording media, images, and audio are property of the Manassas City Police Department and will not be copied, released, or disseminated in any form or manner outside the parameters of this policy without the expressed written consent of the Chief of Police. Under no circumstances will any member of this Department make a personal copy of any recorded event without prior written permission of the Chief of Police.

### OBJECTIVES:

BWC use is intended to enhance public trust by documenting law enforcement encounters with the public while promoting accountability, transparency, and professionalism. Law enforcement's use of BWCs can be effective in reducing the number of violent confrontations, use of force incidents, and complaints. BWCs may be useful in:

1. Capturing law enforcement encounters;
2. Collecting evidence for use in criminal investigations and prosecutions;
3. Assisting officers with completing reports and testifying in court;
4. Deterring criminal activity;
5. Assisting in resolving complaints alleging officer misconduct or excessive use of force; and
6. Providing added material for officer training and continuous improvement.

The BWC can provide additional information regarding a law enforcement encounter with the public. However, the BWC provides a limited perspective of the encounter and must be considered with all other available evidence, such as witness statements, officer interviews, forensic analyses and documentary evidence, when evaluating the appropriateness of an officer's actions. Although the BWC is intended to capture an unbiased view, it shall not replace the perspective of officers during law enforcement encounters.

### PROCEDURE:

#### I. Administrative

- A. Based on assignment, members shall be issued their own BWC. Members shall only wear and use their BWC in an approved manner as defined in this General Order, or for training purposes. (See Section II of the General Order.)
- B. All members who are assigned a BWC shall wear them:
  - a. While on-duty and in uniform; and
  - b. When working off-duty details. Plain-clothes members may be assigned a BWC based on assignment and objective(s).

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Nothing in the General Order shall require a member to go to their station before a court appearance for the sole purpose of picking up their BWC.

- C. Prior to their shift, all members shall thoroughly inspect their BWC to ensure that it is operating properly. Members are responsible for the use and maintenance of their BWC, but they shall not attempt to fix or modify their BWC. Members shall immediately report any problem(s) with their BWC to a supervisor, and if necessary a temporary replacement BWC will be issued to the member.
- D. All members shall receive training on the use of the BWC system and this General Order prior to operating a BWC. Additional training may be required to ensure the continued, effective use of the BWC and/or to implement changes, updates or revisions to this General Order.
- E. At the completion of a member's shift, members shall download all BWC recordings from that shift and secure their BWC per the BWC vendor's instruction.  
Members will properly categorize all recordings captured by their BWC and document the use of BWC recordings in incident, arrest, and/or any related reports. (See Section III.E of this General Order)
- F. In the event after hour emergency assistance is required for the BWC, the Administrative Captain shall be the point of contact and the issue will be referred to the appropriate personnel at the discretion of the Captain (e.g., A high priority case where emergency access to video footage is necessary).

## **II. Operating Procedures**

- A. When reasonable, practical and safe to do so, members should advise a citizen(s) that the encounter is being recorded by a BWC. Unless otherwise required by law, members are not required to advise a citizen(s) that the encounter is being recorded, nor is a member required to have the citizen's consent to begin or continue recording.
- B. Required BWC Activation.
  - 1. When reasonable, practical and safe to do so, members (including secondary members) shall activate their BWC during enforcement encounters where there is a reasonable suspicion that the person is involved in criminal activity or a violation of law. Examples of circumstances requiring activation include, but are not limited to
    - a. Traffic and pedestrian stops;
    - b. Vehicle and foot pursuits;
    - c. Arrests and in-custody transports;
    - d. Warrant service or searches;
    - e. Use of force; and
    - f. Any other situation where a member or supervisor determines that the use of the BWC is appropriate and in accordance with policy.
- C. Once activated, the BWC shall remain in record mode until the enforcement encounter has concluded or is subject to an exception under Section II.F. of the General Order. The member shall document this determination by an approved reporting method.
- D. If a member does not or is unable to activate the BWC prior to initiating any enforcement encounter, the member shall activate the device as soon as it is reasonable, practical and safe to do so. After the encounter concludes, the member shall document the reason(s) why the BWC was not activated by an approved reporting method if the recording is or could be considered evidentiary. In all other cases when a member does not or is unable to activate the BWC and the recording is or would be considered non-evidentiary, the member shall document the circumstances.
- E. If a member activates their BWC and it is interrupted for any reason during an enforcement encounter, the member shall document the circumstances by an approved reporting method if the recording is or could be considered evidentiary. In all other cases of a BWC interruption, the member shall promptly notify a supervisor and document the circumstances.
- F. Exceptions to Required BWC Activation.
  - 1. Section II.B of this General Order when in a member's judgment:
    - a. Recording would (i) interfere with the ability to conduct an investigation, or (ii) be inappropriate, because of the victim or witnesses' physical condition (example - a state of undress), emotional or mental state, age or other sensitive circumstances (example - a

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victim of sexual Assault). In these situations, a member may determine that an audio recording is sufficient and appropriate under the circumstances, in which case a member may position the BWC to avoid video recording, but still capture audio;

- b. The incident or encounter has stabilized to the point that recording becomes unnecessary or there is no loss of evidentiary information; or
- c. A witness or victim refuses to provide a statement if recorded and the encounter is non-confrontation.
- d. The member may mute the audio of an active recording during consultation with other Agency members so long as the dialogue would not compromise the integrity of the investigation. Once the dialogue between Agency members has concluded, the member must resume normal audio recording.

**G. Prohibited Uses of BWCs.**

- 1. Members shall not activate their BWC or shall deactivate their BWC under the following circumstances, unless the member is initiating an enforcement encounter as described in Section II.B. of this General Order:
  - a. In any location where an individual has a reasonable expectation of privacy, such as a restroom or locker room/changing area(s);
  - b. In patient care areas of a hospital, doctor's office or other healthcare/medical facility;
  - c. Encounters with undercover members or informants/cooperating individuals.
  - d. When discussing a case with other members or during tactical/strategic planning;
  - e. In any jail, detention center or lock-up; or
  - f. During court proceedings and magistrate bond hearings.

**H. Members shall activate or deactivate their BWC when directed by a supervisor.**

**I. A member shall not surreptitiously record personal activity and/or conversations with other members or city employees without their knowledge during routine, non-law enforcement related activities (e.g., briefings, meetings, roll calls.)**

### **III. Access and Retention**

- A. All sworn members may, and are encouraged to, review their own BWC recordings to ensure accuracy and consistency when documenting law enforcement encounters, preparing for a court or an administrative proceeding, or reviewing/critiquing his or her performance. The Chief of Police or his designee may deny a member permission to review a recording, including, but not limited to, when the recording involves a significantly traumatic event (i.e., a member-involved shooting) and/or where viewing the recording could further jeopardize the emotional well-being of the involved member.
- B. BWC recordings may be reviewed by the Public Safety IT Specialist/System Analyst.
- C. BWC recordings involving investigations assigned to the Investigative Services Division (ISD) may be reviewed by the detective(s) assigned to that particular case.
- D. Members are encouraged to notify a supervisor of any BWC recordings that may be of value for training purposes. Once notified, the supervisor will review the recording and in conjunction with the Chief of Police or his designee, determine whether the recording should be utilized for training purposes.
- E. All BWC recordings shall be categorized as either evidentiary or non-evidentiary.
  - 1. Evidentiary recordings include, but are not limited to:
    - a. Recordings related to a criminal case, charge and/or investigation;
    - b. A civil case involving the city or MCPD;
    - c. A use of force;
    - d. An internal administrative investigation
    - e. A citizen's complaint concerning the MCPD or a specific member; and
    - f. An injury to a member or citizen.
  - 2. Non-evidentiary recordings include all recordings that are not evidentiary recordings.
  - 3. On a weekly basis, the member shall log into Evidence.com and properly categorize any recordings that are tagged as "NONE". If the video recording tagged as "NONE" is of non-evidentiary value and not related to any call for service, the recording may be categorized by the member under the miscellaneous category. Recordings categorized as miscellaneous will be purged by the system after 60 days.

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4. Though Evidence.com is aided by CAD integration, the member shall periodically check that their BWC recordings are properly being tagged and categorized. Any system errors should be reported to the Body Worn Camera Coordinator.
- F. All non-evidentiary BWC recordings shall be retained for a period of 60 calendar days after the video is recorded and then automatically and permanently purged from storage.
- G. All evidentiary BWC recordings shall be retained for a period of at least 180 calendar days after the video is recorded. After 180 calendar days, the recording(s) shall be retained or disposed of in compliance with federal and state laws, regulations, requirements, rules of discovery and court orders. When the required retention period ends, all evidentiary recordings shall be permanently purged from storage.
- H. If the need arises to retain a BWC recording(s) for longer than the required retention period, a member or supervisor will submit a request to the Public Safety IT Specialist/System Analyst.
- I. BWC recordings needed for presentation as evidence in a court hearing will be accessed via the internet at evidence.com utilizing the kiosks available at the Court.

#### **IV. Axon Capture Procedure**

- A. Staff assigned a Department cell phone may use the Axon Capture application to collect and upload electronic evidence consisting of video and audio. Additionally, electronic evidence possessed by a citizen may be uploaded using the application.
- B. The application shall be used exclusively for law enforcement purposes.
- C. Members authorized to utilize Axon Capture shall do so using their Department-issued mobile phone only. The Axon Capture application is not permitted to be downloaded onto or used on a personal mobile phone.
- D. Members using Axon Capture are limited to utilizing the audio, video, and citizen functions only. The purpose of the application is to efficiently record and upload subject interviews, as well as to upload any applicable electronic evidence possessed by a citizen. Citizen evidence includes videos, photographs, and audio recordings of the incident being investigated, captured by a witness or community member.
- E. Prior to use of the Axon Capture application, members will receive training from the Police Records/Technical Services Sergeant regarding its use.
- F. Axon Capture may be downloaded to both iOS and Android devices.
- G. To use the application, the member selects which function to access once the application is opened. Once the function is selected, the record button is selected. After the interview or desired collection method is complete, the record button is again selected in order to stop the recording. After the recording is stopped, the member will be prompted to enter the ID, Title, and to add a category. This is the same procedure used to categorize evidence in a user's evidence.com account. The file shall be uploaded to evidence.com immediately after being created so no evidence remains stored within the application.
- H. Members using Axon Capture must ensure that within the settings tab, Location Tracking is turned to the "on" position.
- I. Files collected and uploaded via Axon Capture may be stored and shared in Evidence.com in the same manner as videos uploaded via BWC's.

#### **V. Confidentiality and Release of BWC Recordings outside of the MCPD**

- A. All recorded BWC media, images, or audio are the sole property of the MCPD and shall not be copied, edited, redacted, altered, erased, released, shown, published, posted, transferred/synced or disseminated in any form or manner whatsoever without the prior approval of the Chief of Police or his designee.
- B. Members shall not obtain a copy of any BWC recording for any reason without the prior approval of the Chief of Police or his designee. A member requesting a copy of any BWC recording shall submit the request to the Public Safety IT Specialist/System Analyst.

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- C. All outside requests to view/obtain BWC recordings will be directed to and processed by the Public Safety IT Specialist/System Analyst. The release of any BWC recording to anyone outside of the MCPD shall be approved in advance by the Chief of Police or his designee. BWC recordings shall be released when required by:
  - 1. A court order which is final and not subject to appeal;
  - 2. A subpoena duces tecum which is not subject to a motion to quash;
  - 3. The rules of discovery when no motion to quash is filed or written objection is made; and
  - 4. The Virginia Freedom of Information Act, Virginia Code 2.2-3700 et seq., when not prohibited by law and no exemption is invoked.
- D. BWC recordings may be redacted in whole or in part by authorized personnel only to protect the privacy of those recorded, in accordance with applicable law.
- E. The Chief of Police may authorize the release of any BWC recording deemed to be in the best interest of the community and public safety.

#### **VI. Supervisor Responsibilities**

- A. Supervisors are responsible for investigating and documenting any damage to or malfunction of any BWC, and promptly notifying the Public Safety IT Specialist/System Analyst.
- B. Supervisors shall review available BWC recordings when conducting administrative investigations (e.g., use of force, vehicle pursuits, and citizen complaints). However, BWC recordings shall not be routinely reviewed for other purposes, unless otherwise articulated in this General Order.
- C. Supervisors shall conduct at minimum (2) random monthly reviews of each of their subordinates' BWC recordings to ensure they are adhering to General orders, system maintenance policies as defined in section E.3., and identify any areas where additional training, guidance or other appropriate action is warranted. Monthly reviews shall be document in the Notes field of the video.
- D. In the event of member-involved shooting or deadly-force incident, a supervisor shall take possession of the BWC(s) of all members involved as soon as it is reasonable, safe and practical to do so. The supervisor(s) shall ensure that the BWC has been deactivated and is turned off. The BWC shall be given to Internal Affairs personnel once they arrive on scene. No member shall review any BWC recording regarding a member-involve shooting or deadly-force incident without the prior approval of the Chief of Police, unless there are exigent circumstances and/or an immediate threat to public safety (e.g., suspect identification, hot pursuit).

Attachments: N/A

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Audio and Video Recording

References: VA Code 2.2-3700