

	<b>TYPE OF DIRECTIVE</b> LINE PROCEDURE	<b>NUMBER</b> LP-04-21 REV. I
	<b>SUBJECT</b> BODY WORN CAMERAS	<b>EFFECTIVE DATE</b> 10/29/21
	<b>REFERENCE</b> LP-61, RP-12A, CALEA	<b>RESCINDS</b> LP-04-21 REV.

**PURPOSE**

To establish procedures related to the use of a Body Worn Camera (BWC) and the management, storage, and retrieval of BWC recordings.

**POLICY**

The Body Worn Camera (BWC) is an audio and video recording system worn by officers and serves as an additional means of documenting incidents encountered by the officer in the course of their public safety duties. When activating a BWC, officers shall consider both the needs of public safety as well as the privacy and constitutional rights of individual citizens.

While the footage captured by the BWC is a valuable piece of the policing process, it should never be considered a substitute for sound evidence-based law enforcement practices.

**REGULATION**

The Police Division will issue BWCs to only those officers who have been properly trained on its operation and the applicable policies governing their use. Officers are permitted to use only Police Division-issued BWCs to capture “point of view” video and audio recordings.

**PROCEDURES**

**I. UNIFORM AND MAINTENANCE**

- A. Officers assigned a BWC shall wear them while working in uniform, in both on-duty and law enforcement secondary employment capacities (refer to RP-12A).
- B. Officers will be assigned an Axon Flex 2 or Axon Body 3 BWC, dependent upon the officer’s core job functions. Officers shall wear the Flex 2 BWC on their strong (gun hand) side mounted in one of the Police Division-approved mounting options provided by the manufacturer. Officers shall wear the Body 3 BWC in the chest area of the uniform shirt, overlapping the shirt buttons and between both shirt pockets. The Body 3 can be adjusted on specialized attire, such as MOLLE gear, based upon operational parameters. Officers are responsible for ensuring the Flex 2 or Body 3 BWC remains in a position that allows the BWC to record an encounter from the officer’s “point of view” and captures video in a horizontal (perpendicular) plane to the officer’s position.
- C. Officers are responsible for the use and maintenance of the BWC, to include ensuring the proper condition and functionality of the equipment, and they shall bring apparent problems with the equipment to the attention of a supervisor immediately. Officers shall not attempt to fix a BWC suspected of malfunctioning.

## BODY WORN CAMERAS LP-04-21 REV. I

### II. ACTIVATION

- A. Officers shall activate the BWC prior to arriving on any call for service or initiating an enforcement-related mark-out.
- B. If not already activated, the BWC shall also be activated to record any encounter when contact with a citizen involves actual or potential violations of law, actual or potential suspect(s), actual or potential verbally or physically aggressive behavior, encounters that become adversarial, or in any situation that the officer believes its use would be appropriate to document the encounter.
- C. If an officer is unable to activate their BWC prior to initiating enforcement or investigative activity as required by this policy, the officer shall activate the device as soon as it is practical and safe to do so. As in all enforcement and investigative activities including vehicle and pedestrian stops, the safety of the officers and members of the public are the highest priorities.
- D. Once the BWC is activated, it shall remain activated until:
  - 1. The conclusion of the officer's involvement in that event;
  - 2. The event becomes predominately investigative in nature (for example, the incident has transitioned from an initial or tactical response into a controlled and orderly investigation such as prolonged crime scene processing);
  - 3. An officer reasonably believes that doing so will not result in the loss of critical documentary information; or
  - 4. Directed to stop recording by a supervisor.
- E. When reasonable, practicable, and safe to do so, officers should advise citizens that the encounter is being recorded by a BWC.
- F. Any officer who is issued a BWC, that has not captured video within their tour, shall record and upload a test video at the beginning of their next workday to ensure the BWC is working properly.

### III. RESTRICTIONS

- A. BWCs shall only be used for a legitimate law enforcement purpose.
- B. BWCs shall not be used in the following situations:
  - 1. To record county employees, including other Police Division members, except during circumstances consistent with Section II;
  - 2. To record events in bathrooms, locker rooms, or other places where there is an expectation of privacy unless taking law enforcement action;

## BODY WORN CAMERAS LP-04-21 REV. I

3. While interacting with known confidential informants or undercover officers. In situations where the recording is of evidentiary value, an officer may position the BWC in a manner to capture an audio recording of the event but not to record video of the informant or undercover officer;
  4. To record personal activity;
  5. During tactical planning discussions;
  6. When attending court. Officers shall leave the BWC in their vehicle.
- C. BWCs may be deactivated when interviewing victims or witnesses when, in the officer's judgment, the recording may be inappropriate because of the victim or witness' physical condition, emotional state, age, or other sensitive circumstances (e.g., a victim of rape, incest, or other form of sexual assault; lethality assessments or safety planning for victims). If the victim or witness requests that the BWC be turned off, the officer shall weigh the overall circumstances before making a decision to honor that request. Officers choosing to discontinue a recording for privacy must be able to articulate their reasoning and shall announce their intentions to discontinue recording on the BWC prior to deactivating it. Alternatively, officers may position the BWC in a manner to capture an audio recording but not to record video of the victim or witness.
- D. If an officer fails to activate the BWC, fails to record the entire contact, or interrupts the recording, or if the equipment malfunctions during use, the officer shall record that in CAD by choosing the proper reason from the "BWC Status" dropdown menu before clearing from the call for service or mark-out via MDC. Additional comments related to BWC failure, malfunction, or de-activation can be added to the comment section in CAD.
1. If an officer clears from a call or mark-out over the radio, they shall record the proper "BWC Status" in Darwin.
  2. Officers shall ensure that their BWC Status for all calls and mark-outs has been verified in Darwin and updated as needed at the end of their workday.
- E. Unless otherwise required by Section II, officers should not use a BWC to record an encounter with a citizen that is non-confrontational and routine unless an officer has an articulable reason for activating the BWC during that encounter.

## IV. EVIDENCE

- A. A BWC's audio and video recordings are treated as evidence.
- B. No officer shall attempt to erase, edit, or otherwise alter any data captured by a BWC.
- C. No officer shall stream or record BWC footage on a secondary device other than through the Axon View app.

## BODY WORN CAMERAS LP-04-21 REV. I

### V. ACCESS AND RETENTION

- A. The BWC and all video files are the property of the Henrico County Police Division and are to be used for official purposes only.
- B. All BWC recordings shall be uploaded to Evidence.com. Docking stations are located in all three Patrol Stations, the Evidence Annex, Police Technology Support, Fleet, Animal Shelter, and Jail West. Docking stations have also been placed in the SRO offices of Deep Run, Henrico, Godwin, and Varina High Schools. Docking stations located in these schools are primarily for use by School Resource Officers but can be used by any officer conducting official business at the school.
1. Officers shall upload all BWC recordings at least once per workday utilizing the docking stations. The docking station will automatically upload all data.
  2. Officers who capture BWC footage while in an off-duty or law enforcement secondary employment capacity should upload the video as soon as possible, but no later than their next workday.
  3. In addition to requirements above, officers shall upload all BWC recordings of a critical nature prior to the end of the workday/assignment as directed by a supervisor.
- C. All uploaded BWC recordings shall be classified as either “Evidentiary” or “***Non-Evidentiary.***” When officers are marked out on an incident in CAD this will be done automatically through CAD Integration. Any officer who fails to be included on the call for service (***Uncategorized***) will be responsible for manually ***updating*** the ***data*** fields ***and appropriately tagging the video (i.e., “Evidentiary” or “Non-Evidentiary”).***
1. “Evidentiary” Recording - Contain documentation that can be used in a criminal investigation or captures a confrontational encounter between an officer and a citizen. “Evidentiary” video will be tagged with the corresponding ICR or CAD number in the ID field and the category set as “Evidentiary” once uploaded to Evidence.com in the below format:  
  
ID example for the ICR#: 150309999  
ID example for the CAD#: C9999 or M9999
  2. “***Non-evidentiary (Uncategorized)***” Recording - Does not contain documentation to be used as evidence and captures a routine or non-confrontational encounter.
- D. Unless categorized as one of the categories listed under Section V. E., the retention period by Evidence.com for BWC recordings shall be as follows:
1. “***Uncategorized***” recordings will be retained by Evidence.com for 180 days.
  2. “***Non-Evidentiary***” recordings will be retained by Evidence.com for 366 days.

## BODY WORN CAMERAS LP-04-21 REV. I

3. “Evidentiary” recordings will be retained by Evidence.com for 1.5 years.
- E. *Evidentiary* categories with extended retention times.
1. Any “Evidentiary” recording needed beyond 1.5 years for the prosecution of a criminal or traffic case shall be tagged with the category “Pending Court,” in Evidence.com, by the officer whose BWC captured the recording. Once that case has been heard in court, and the appeal process has passed, the officer shall remove the “Pending Court” tag. Retention for “Pending Court” will be until manually deleted.
  2. All BWC recordings associated with a response to resistance shall be categorized as “Response to Resistance” upon receipt of a Response to Resistance After-Action Report (HCPD-340), by the Commander, Quality Assurance. Retention for “Response to Resistance” will be until manually deleted.
  3. All BWC recordings associated with any Internal Affairs investigation or complaint shall be categorized as “Complaint” and transferred into IAPro by Internal Affairs. Retention for “Complaints” will be until manually deleted.
  4. Any CIS detective may direct officers to categorize their BWC video as “CIS Evidence” if they need it for their case. Retention for “CIS Evidence” will be until manually deleted.
  5. All FOIA requests for BWC video will be categorized as “FOIA” and that video will be produced by the Body Worn Camera Asset Manager. Retention for “FOIA” will be until manually deleted.
  6. All BWC recordings associated with any dog bite or Dangerous Dog incident shall be tagged as “Dog Bite/Dangerous Dog” by the entering officer. Retention for “Dog Bite / Dangerous Dog” will be until manually deleted.
- F. Access to Recordings: Whether stored in Evidence.com, ADAMS or other Police Division databases, access to BWC recordings is limited to law enforcement or other Police Division-approved purposes only. Police Division members shall not:
1. View any BWC recording for anything other than approved Police Division purposes;
  2. Copy, record, stream, download or convert any BWC recording for any type of personal use or for uses not related to the business of the Police Division; or
  3. Sync personal devices to save BWC recordings.

## VI. RELEASE OF BWC RECORDINGS

- A. Henrico County Departments

## BODY WORN CAMERAS LP-04-21 REV. I

1. BWC recordings shall not be disseminated outside of the Police Division or Henrico County Attorney's Office without prior approval from the Chief of Police (or designee).
2. All requests from the Commonwealth's Attorney's Office shall be sent to the Body Worn Camera Unit who will respond to their request.
3. Henrico County departments, not listed above, may submit a written request to the Chief of Police for release or review of BWC recordings.
4. Instructors wishing to use BWC recordings for Police Division training must receive prior approval by submitting an inter-office memorandum to the Commander, Quality Assurance.

### B. Outside agencies requests

BWC recordings may be requested by outside agencies by having them complete the Body Worn Camera Video Release (HCPD-056) and forward it to the Division's internal case agent. The case agent shall then forward the release to [bwc@pdredmine.henrico.us](mailto:bwc@pdredmine.henrico.us) (use this full email address) for processing.

### C. All other requests

All other requests for BWC recordings should be treated as FOIA requests and forwarded to the FOIA Specialist for review.

## VII. SUPERVISOR RESPONSIBILITIES

- A. Upon receiving notification of any damage or malfunction of a BWC, the supervisor will remove the BWC from service and send an email to the BWC email group at [bwc@pdredmine.henrico.us](mailto:bwc@pdredmine.henrico.us).
- B. BWC shall be viewed only for purposes related to the official roles and responsibilities of the supervisor viewing the video.
- C. Supervisors shall review BWC related to incidents involving Response to Resistance or Vehicular Pursuits or related to the investigation of complaints prior to submitting the applicable reports through their chain of command.
- D. Supervisors shall conduct monthly audits of BWC videos captured by those members who report directly to them to ensure compliance with this and any other applicable policies.
  1. Supervisors shall choose a minimum of one Evidentiary and one ***Non-Evidentiary (Uncategorized)*** video per member per month. ***If an Evidentiary video was not captured, two Non-Evidentiary (Uncategorized) videos shall be reviewed.*** Videos shall be chosen at random, and the supervisor shall be responsible for articulating the manner in which videos were chosen.

BODY WORN CAMERAS LP-04-21 REV. I

2. The monthly audit shall be documented on the BWC Audit Form (HCPD-110), which shall be forwarded through the chain-of-command to the section Commanding Officer for review.
  - a. *It is preferred for the entire video to be watched by the supervisor during the audit.*
  - b. *Supervisors may choose to watch a segment of the video in lieu of watching the entire video in the event the random video selected contains an excessive runtime.*
    - 1) *Supervisors shall document the specific start and end times of the footage viewed if the entire video is not watched. These times will note the elapsed hours, minutes, and seconds using the format of (Hr: Min: Sec).*

*Start Time Example: 00:01:30*  
*End Time Example: 00:05:45*
    - 2) *Supervisors shall watch the footage that is pertinent and/or relevant to the call for service in which there is interaction with other parties (i.e., complainants, suspects, etc.).*
  - c. *Audits shall be completed in a timely manner so the appropriate Commanding Officer can electronically submit the HCPD-110 to the BWC Auditing folder on the network no later than the tenth day of the month following the month being audited (i.e., the January audit will have been completed by the Sergeant, reviewed by the Lieutenant, and submitted by the Captain by February 10<sup>th</sup>).*
3. Excellent service and outstanding police work identified in BWC footage will be recognized in accordance with RP-26 Recognition.
4. Supervisors should address minor discrepancies and performance improvements through coaching and/or remedial training as appropriate. Violations of policy or misconduct shall be reported in accordance with G-36 Internal Affairs.
5. Audit forms shall be retained in accordance with G-65 Document Retention/Destruction.
6. Additionally, supervisors shall review each officer's BWC Status information in Darwin during the month being audited to ensure that all calls and mark-outs have an appropriate status.
  - a. "Unspecified" must be changed to the applicable selection.
  - b. BWC malfunctions and failures to activate or record shall be addressed in accordance with this policy.

VIII. ADDITIONAL AUDIT RESPONSIBILITIES

- A. The Body Worn Camera Unit shall conduct periodic, random audits of BWC recordings to ensure CAD integration, proper categorization and use of metadata, and adherence with the retention schedule.
- B. The Commander, Quality Assurance shall conduct periodic, random reviews of BWC recordings to assess the overall performance of the BWC equipment.

By Order of:

Eric D. English  
Chief of Police