

Annapolis Police Department



GENERAL ORDER

Number: C.31

**Issue Date: August
2016**

TO: All Sworn Officers

SUBJECT: Body Worn Camera Pilot Program

PURPOSE

The purpose of this policy is to provide officers with instructions on when and how to use body-worn cameras (BWCs) so officers may reliably record their contacts with the public in accordance with the law and to establish guidelines regarding storage, release, and retention of video files.

POLICY

It is the policy of the Annapolis Police Department that all uniform members who are issued Body Worn Cameras shall wear and activate their BWC when such use is appropriate to the proper performance of his or her official duties. The use of the BWC shall be in compliance with this policy and all local, state, and federal laws. This policy does not govern the use of surreptitious recording devices used in covert operations. Members may only utilize issued BWC devices while on duty. The use of a non-issued BWC device at any time is strictly prohibited. Violations of this policy may result in disciplinary action.

BACKGROUND

The Department's body-worn camera system is a point-of-view style recording device designed to approximate the vantage point of the recording officer. Recordings will not capture everything that is occurring during an incident (e.g., slight movements or resistance by the subject, or other items that cannot be seen, statements that were not recorded, etc.). Recordings also lack the officer's perception of what is taking place. Members are reminded that the existence of a recording does not decrease the need for them to complete a detailed written report. It is of the utmost importance for members to understand the need for detailed reports when transcribing what was seen, heard, and perceived by members since these may not be captured by the recording.

Information captured by the BWCs can be used in multiple ways to benefit the Department, its members, and the community. Recorded materials can be used as evidence in court proceedings, as training materials for law enforcement officers, to improve complaint resolution, to enhance the accuracy of officers' reports and court testimony, and they may be released to the community to enhance public trust in police activities. The BWC may also be useful in documenting crime and

accident scenes or other events that include the confiscation and documentation of evidence or contraband.

DEFINITIONS

Enforcement – Any encounter between an officer and a member of the public in which there is a potential for, the likelihood of, or certainty of some type of official law enforcement action including, but not limited to: a call for service or an on-view intervention; a field stop or traffic stop; a stop and frisk; the issuance of a criminal or traffic citation; an arrest; a search (either consensual, probable cause based or incidental to an arrest); or prisoner transport.

A law enforcement encounter does not mean a casual greeting given to the public or an encounter in which a member of the public seeks information such as directions or other general information from an officer.

Investigative - Inquiries by APD members in response to a call for service or self initiated actions with a citizen(s) to obtain information related to their actions, on-going events, or historical incidents.

I. LEGAL CONSIDERATIONS

A. The State Wiretap Act makes it lawful for a law enforcement officer, in the course of the officer’s regular duty, to intercept an oral communication with a Body Worn Digital Recording Device capable of recording video and oral communication if:

1. The law enforcement officer is in uniform or displaying the officer’s badge or other insignia;
2. The law enforcement officer is party to the oral communication;
3. The law enforcement officer notifies the individual, as soon as practical, that the individual is being recorded, unless it is unsafe, impractical, or impossible to do so, and;
4. The oral interception is being made as part of a video tape or digital recording.

B. The State Wiretap Act also makes it lawful for a law enforcement officer in uniform, or prominently displaying the officer’s badge or other insignia, to intercept an oral communication where the officer is party to the communication and where all parties to the communication have given prior consent to the recording.

II. PROCEDURES

A. General

1. BWCs will only be used for official purposes.

2. BWC devices are individually issued and assigned to members. Officers will only use the device assigned to them.
3. The activation policy contained in this document applies only to members equipped with a BWC and does not place additional requirements on the duties of non-equipped members.

B. Testing

1. Prior to the beginning of each shift, each member shall perform a function test of their BWC in accordance with the manufacturer's recommendations.
2. Upon discovering a BWC malfunction, members shall immediately report the malfunction to a supervisor. Supervisors shall document the malfunction and provide for a replacement device. If no replacement device is available, the on-call Intelligence Section Supervisor shall be contacted.

C. Mandatory activation of the BWC.

The BWC shall be activated under the following circumstances.

1. At the initiation of a call for service, or when involved in any activity that is investigative or enforcement in nature.
2. During any encounter that becomes confrontational.
3. When not otherwise prohibited by law or agency policy, officers may begin recording with their BWC in circumstances when they determine that doing so would be beneficial to the public interest.
4. Once recording with a BWC has been initiated, officers shall not end the recording until or unless:
 - a. The event or encounter has fully concluded;
 - b. The officer leaves the scene and anticipates no further involvement in the event;
 - c. A supervisor or agency policy has authorized that a recording may cease because the officer is no longer engaged in a related enforcement or investigative activity; or
 - d. When victims, witnesses or other individuals wish to make a statement or share information, but refuse to do so while being recorded, or request that the camera be turned off. Under these circumstances, officers may exercise discretion in turning off the BWC in order to obtain a statement or information. Any time the recording is stopped prior to the end of an event the officer shall make a statement reflecting the reason for the stoppage.

5. If a member is unable to activate the BWC at the initiation of a call for service or other activity that is investigative or enforcement in nature, the member shall activate the BWC at the first reasonable opportunity to do so. Once activated, the officer, when practical, will advise why the delay occurred. If not practical, the officer will articulate in their written report any irregularity.
6. Private residences should not be treated differently than other property for the purposes of recording.

D. Exceptions to Mandatory Activation

1. Members may deactivate a BWC in certain situations. In the event that a member disables the recording function of the BWC, the member shall state orally into the BWC, the reason for disabling the device. **When in doubt, record the interaction.**
2. Deactivation of a BWC may be appropriate when a victim, witness, or other person wishes to make a statement or share information, but refuses to do so while being recorded, or requests that the camera be turned off. Officers may turn the camera off to obtain the statement. Prior to turning off the BWC, officers shall make an oral statement noting the reason. Additionally, officers should re-activate the BWC at the completion of the interview/statement if the incident being investigated is on-going.
3. When sensitive circumstances are present, officers will use discretion in turning off the BWC device. (Example- When interviewing the victim of a sexual assault).
4. Where a recording would risk the safety of a confidential informant or undercover officer, officers will use discretion in turning off the BWC device.
5. A member shall not activate the BWC to record:
 - a. Agency personnel during routing administrative activities; or
 - b. Non-work related personal activities.

E. Notification.

1. Except as otherwise exempted by law, notify individuals as soon as practical that he/she is being recorded unless it is unsafe, impractical, or impossible to do so by stating your name, agency, and that a recording is being made.
 - a. Example: "Hello, I am Officer _____ of the Annapolis Police Department. I am advising you that our interaction is being recorded."
2. This notice provision is satisfied even if another individual becomes a party to the communication after the initial notice has been provided.

F. Uploading and accountability of BWC content

1. BWC footage will be uploaded consistent with manufacturer's specifications.
2. Supervisors will ensure that all BWC footage is uploaded without unnecessary delay, and that no officer is dismissed before all BWC footage is uploaded.
3. Should any footage be unaccounted for, missing or damaged at the end of a shift, the responsible supervisor will immediately investigate and submit administrative reporting.

G. In the event of an accidental activation of the BWC where the resulting recording has no investigative or evidentiary value, members shall submit an administrative report to their supervisor documenting the circumstances. Supervisors will forward the administrative report to the BWC Coordinator who will note/tag the video appropriately. The administrative report will be retained by the BWC Coordinator. The content will not be deleted.

III. CRITICAL INCIDENT PROCEDURE

The following procedure ensures that all BWC footage which potentially captures a critical incident is secured and its chain of custody preserved.

A. Critical incidents include:

1. a seriously injured officer;
2. a use of force resulting in serious bodily injury or death;
3. allegations of misconduct;
4. any incident which, in the professional judgment of the commander, is deemed necessary.

B. First-line supervisor will immediately take possession of, and secure any, BWC video which potentially captures a critical incident.

C. Upon securing the BWC from the involved officer, the supervisor shall ensure the video footage is uploaded and restricted from being viewed by all departmental personnel with the exception of the Police Chief, Deputy Police Chief, Division Captains, Professional Standards, or the appropriate investigative unit supervisor. The Police Chief or his designee may approve access to other individuals or entities if appropriate.

D. Without unnecessary delay, the officer from whom the body worn camera was secured may be permitted to view the footage in question upon the determination of the Commander or investigative supervisor.

IV. SECURITY, RETENTION AND DISCLOSURE

A. Members are strictly prohibited from sharing any BWC log-in information or passwords.

- B. Access to any BWC data will be done only by means of a member's own credentials furnished by the BWC Coordinator and only by means of the authorized BWC software.
- C. Only members who successfully completed BWC training and possess valid BWC log-in credentials are authorized to view BWC footage.
- D. Accessing, copying or disseminating files for non-law enforcement purposes is strictly prohibited unless authorized by the Chief of Police. All downloads or copies of BWC footage must be authorized by the BWC Coordinator.

E. BWC data may be reviewed by the following members:

- 1. A supervisor in reviewing the performance of a subordinate or other member for the purpose of:
 - a. Conducting an investigation;
 - b. Monitoring a subordinate's professional conduct/performance as triggered by an action or complaint; or
 - c. Training.

NOTE: Recordings **shall not** be routinely or randomly viewed by members for the sole purpose of enforcing policy violations observed on the recordings.

- 2. Any member provided it is for a legitimate law enforcement purpose and provided the data is accessed by means of the authorized viewing software using the member's own credentials.

NOTE: Members may wish to view their own video footage or that of other members to assist in completing accurate report writing for routine matters. However, in doing so it must be documented in all written report whether camera data for the incident was reviewed. Furthermore, the member must articulate in all written statements the extent to which, if at all, the viewing of the BWC footage informed their reporting, as distinct from their contemporaneous account or their personal recollection.

F. BWC data may be reviewed by the following non-members upon proper legal request, submitted to and approved by the BWC Coordinator:

- 1. Members of the State's Attorney's Office or U.S. Attorney's Office, or Attorney General's Office;
- 2. Legal Affairs representing the City of Annapolis with the approval of the Chief of Police;
- 3. Members of the credentialed media, by written request;
- 4. By any legitimate judicial process, such as *subpoena duces tecum*; or
- 5. By any member of the public through proper legal authority or Maryland Public Information Act request.

G. The BWC Coordinator will maintain a dissemination log of all external requests, whether granted or denied.

- H. Accessing, copying, releasing or sharing BWC footage on/from any computer or device not issued by APD is strictly prohibited.
- I. The APD shall retain the unedited original version of BWC footage for 18 months, shall log any time the footage is viewed, for what length of time, and by whom, and shall document any copying or editing of the footage.
- J. Access to BWC footage shall be controlled through a secure location consistent with CJIS regulations.
- K. Members are explicitly prohibited from tampering, editing, and/or copying data stored in the BWC and the hosted storage repository.
- L. Unauthorized dissemination of BWC recordings may result in disciplinary action.
- M. Supervisors must review the BWC recordings of a member(s) when:
 - 1. The member is injured or another member is injured or killed during the performance of their duties, and the incident is not under investigation by the Internal Affairs or Criminal Investigation Sections;
 - 2. There is a use of force by the recording member or another member;

Note: This review shall take place after the video is downloaded onto the server.

- N. The following are prohibited uses of BWC data.
 - 1. A BWC recording of a constitutionally protected activity may not be used to identify persons present at the activity who are not suspected of being engaged in illegal activity or in need of assistance.
 - 2. Stored BWC data shall not be used to create a database or pool of mug shots.
 - 3. Stored BWC data shall not be used as fillers in photo arrays.
 - 4. Stored BWC data shall not be used to search using facial recognition software.

Note: This subsection does not prohibit the APD from using recognition software to analyze the recording of a particular incident when a supervisory member has reason to believe that a specific suspect or person in need of assistance may be the subject of a particular recording.

V. REPORTING REQUIREMENTS

Members will state in the first line of the narrative of any charging document, investigative report or supplement if BWC evidence exists. (Incident captured on BWC, CC# _____)

VI. MARYLAND PUBLIC INFORMATION ACT (MPIA) REQUESTS

Members of the public may request to obtain BWC footage by completing a MPIA Request Form. Request for BWC footage shall be granted or denied based upon the Maryland Public Information Act (MPIA) Annotated Code of Maryland, General Provisions Article, 4-101, et seq.

BWC footage may be released to the public by proper legal authority/documentation.