



<b>WRITTEN DIRECTIVE</b>	No. PD - 0408	Page: 1 of 7
	Subject:  BODY WORN CAMERA SYSTEM	Effective Date: 03-23-16
		Supersedes/ Amends: <b>NEW</b>
		Reference:



## I. Purpose

The purpose of this directive is to establish guidelines and procedures for the use of Body Worn Cameras (BWCs) by officers of the Lynchburg Police Department.

## II. Policy

It shall be the policy of the Lynchburg Police Department to utilize body worn cameras to assist with the documentation of events, actions, conditions, and statements, to enhance officer reporting, performance management, collection of evidence, and testimony in court. The use of BWCs will be consistent with departmental policy and compliant with State, Federal and Constitutional law. BWCs may be used by LPD employees for the following purposes:

- A. To document appropriate officer behavior during encounters with citizens.
- B. To record criminal events committed against officers, or members of the community, and to provide evidence of those events in court.
- C. To accurately document crime scenes, the discovery of evidence, and the actions of responding officers to active scenes.
- D. To aid in the documentation of victim, witness, and suspect statements during on-scene investigations.
- E. To provide a training tool to improve performance, and to ensure the professionalism of all officers.
- F. Other uses approved by the Chief of Police, or his designee.

## III. Procedure

- A. BWC equipment will be issued to sworn personnel as directed by the Chief of Police.
- B. All BWC equipment and recorded data is the property of the Lynchburg Police Department. All equipment malfunctions shall be reported to a supervisor as soon as possible so a replacement can be issued.
- C. All employees will be trained in the proper use of all BWC components prior to using the BWC system. Training will be conducted by personnel approved by the Chief of

Police. The training received will be documented and included in the personnel and training file for each employee.

- D. Officers will only use BWC equipment that is issued and approved by the Lynchburg Police Department. The use of any other personal digital recording devices is prohibited.
- E. Employees are prohibited from downloading, displaying or posting BWC digital recordings for any reason other than a legitimate law enforcement purpose.
  - 1. This includes making a digital recording of the BWC recording with another device such as a smart phone.
  - 2. LPD employees shall not share, post, or provide copies of BWC digital recordings with anyone outside the Lynchburg Police Department, other than the City Attorney and members of the Commonwealth Attorney's Office, without approval from the Chief of Police or his designee.
- F. As a general rule, BWC digital recordings will not be released outside of the Lynchburg Police Department except under discovery, subpoena, court order, or as provided under the provisions of the Virginia Freedom of Information Act.
  - 1. Digital Recordings may be released to the Police Academy or similar agency as a training aid with the approval of the Chief of Police.
  - 2. Any requests for BWC digital recordings from anyone other than the City Attorney or the Commonwealth Attorney's Office will be directed to the Professional Standards Division for review.

#### **IV. Officer Responsibilities**

The BWC will enhance, not replace, the perspectives of officers during the course of their law enforcement duties. BWC digital recordings provide an unbiased account of events, and provide valuable evidence for criminal and administrative investigations. BWCs will be used in police/citizen contacts except in those situations exempted and prohibited by this policy.

- A. Each officer shall inspect his or her assigned BWC prior to each shift to ensure the device is fully charged, and functioning properly. Any malfunctions shall be reported to a supervisor as soon as possible.
- B. The BWC shall be properly affixed, as directed in training, on the person of uniformed officers at the beginning of each shift to include off duty shifts. The BWC will be worn the entire shift utilizing only the mounting options provided by the manufacturer.
  - 1. This is not to prevent an officer from removing the BWC when inside secure department facilities during breaks, or when completing paperwork.

2. Plain clothes officers will not be required to wear BWCs except when taking pre-planned enforcement action, or as otherwise directed by a supervisor.
  3. Plain clothes officers shall have their BWCs immediately available while on duty.
- C. When reasonable and practical, and safe to do so, officers will advise citizens that the encounter is being recorded by a BWC.
- D. Once a BWC is activated it will continue recording until the citizen interaction has concluded.
1. Exceptions can be made when the digital recordings clearly provide no evidentiary value such as waiting for tow trucks, directing traffic, and other situations approved by a supervisor.
  2. Prior to deactivating the BWC the officer shall verbally state the reason for ending the recording.
  3. Should the situation change, and a digital recording would be of evidentiary value, the officer shall immediately reactivate the BWC.
- E. Any time a BWC is used to capture an event the officer will note in the narrative section of the incident report that a BWC digital recording was recorded. In instances where no report is done the officer will indicate in the computer aided dispatch (CAD) notes that a BWC digital recording was created.
- F. In the event that a BWC was not used, or was discontinued prior to the end of an incident, an explanation will be documented in the incident report, or the CAD notes of the call. This documentation will include the name of the supervisor who authorized the BWC deactivation when applicable.
- G. Officers shall not attempt to alter, edit, or delete any BWC recording under any circumstance.
1. In cases of accidental digital recordings that are of no evidentiary value, the digital recording can be tagged as “non-evidentiary” in Evidence.com, and will be purged according to the pre-determined retention schedule.
- H. Officers are required to dock their BWCs for downloading and recharging at the conclusion of each tour of duty.
- I. Officers will inform their supervisor of any digital recordings that may be of value for training purposes.

## V. Required BWC Activation

- A. Officers will activate their BWCs during interactions with the public while in the performance of their official duties, provided that activating the camera does not

compromise officer safety. The following is a list of circumstances in which BWCs shall be activated:

1. Prior to any officer initiated citizen contact involving actual or potential violations of law. Situations include traffic stops, subject stops, and calls for service provided that activating the BWC does not compromise officer safety, or the safety of others.
2. When operating patrol vehicles Code 3 (lights and sirens) for any reason.
3. When involved in a foot pursuit.
4. During requests for consent searches, and during the searches of individuals, buildings, vehicles, and other places.
5. During the search and transport of arrestees.
6. When taking statements from victims (*in accordance with section VI. H. 3 of this policy*), witnesses, and suspects.
7. To document accident and crime scenes where appropriate.
8. During building searches and the execution of search warrants to include tactical unit operations.
9. Officers who are called back to duty will respond to the Police Department to pick up their assigned BWC when practical. Officers who are called back to duty to respond to critical incidents (*as defined by PD 2007- Critical Incidents and High Risk Warrant Service*) will not be required to respond to the Police Department to pick up their BWCs if doing so would delay their response to the emergency.
10. During any other situation where the officer or the officer's supervisor believes that the use of the BWC would be of evidentiary value.

## VI. Prohibited Uses

- A. BWCs can only be used for legitimate law enforcement purposes. BWCs shall not be used to record non-law enforcement related activities. The use of BWCs for personal use is strictly prohibited.
- B. Officers shall not record conversations between other LPD employees, other City employees, or City Officials who are not aware they are being recorded without approval from that officer's Division Captain. All digital recordings shall be in accordance with *PD - 0405 Use of Recording Devices*.
  1. Any officer found to be recording another employee, for his or her own personal gain, will be subject to disciplinary action in accordance with *PD - 0212 Disciplinary System*.

- C. BWCs shall not be used to document activities occurring in hospitals or other medical facilities unless such digital recordings are for specific law enforcement purposes. In those instances caution must be used to respect the privacy of those not involved, and to limit who, and what is being recorded. Officers must also be cognizant of Health Insurance Portability and Accountability Act (HIPAA) protected information, and ensure such data is not recorded.
- D. BWCs shall not be used inside of courthouses or courtrooms, or for the recording of any court proceedings, unless the recording is being made pursuant to an investigation, arrest, or search within the courthouse.
- E. BWCs shall not be used to record the activities of confidential informants, or undercover officers without the approval of a Vice Unit supervisor.
- F. BWCs shall only be used by School Resource Officers for law enforcement purposes.
- G. Officers shall not use BWCs to record interactions with other law enforcement officials, attorneys, magistrates, doctors, mental health counselors, or others who may be discussing privileged or sensitive information.
- H. Officers shall not use BWCs to record confidential information from the National Crime Information Center (NCIC), Virginia Criminal Information Network (VCIN), or other criminal data bases. This does not include inadvertent recordings of radio transmissions that occur normally during the course of police duties.
- I. BWCs shall not be used in restrooms or locker rooms unless law enforcement action is being taken in these locations. Caution will be used to avoid inadvertently recording a person who has a legitimate and reasonable expectation of privacy in the facility.
- J. Certain situations are sensitive by their nature, and discretion should be used when determining whether to record these events. Examples of these types of incidents are listed below:
  - 1. Interviews with those wishing to provide confidential information.
  - 2. Complainants who wish to remain anonymous.
  - 3. Victims and witnesses of crimes such as sexual assault, or other crimes of a sensitive nature who wish to protect their identity.

Please note the list above is not all inclusive. Officers shall consult with their supervisors in these and any other situations in which they feel that a BWC recording may be inappropriate. The officer shall document the reason for not using the BWC to record an incident.

## VII. Privacy Considerations

- A. In locations where individuals have a reasonable expectation of privacy, such as a residence, individuals may decline to be recorded unless the recording is being made

pursuant to an investigation, arrest, or search of the residence or individuals within the residence.

- B. The Lynchburg Police Department is committed to openness and transparency in releasing information to the media and individual citizens. However, when BWC digital recordings contain Personal Identifiable Information (PII, such as date of birth, social security numbers, etc.) that cannot be released by law, or should not be released, we have the duty to protect the citizen's privacy. In these instances the digital recording will be redacted. This includes images of individuals not the subject of the captured incident, images of the victim of a crime, and in most cases images of juveniles.

### VIII. Review of Digital Recordings

- A. Officers may review BWC digital recordings to assist with report writing, testimony in court, and prior to making statements as part of an internal or criminal investigation.
- B. If an officer feels the need to review the BWC digital recordings of another officer, he or she shall request assistance from their supervisor to review the digital recording
- C. The Lynchburg Police Department retains the right to limit or restrict the viewing or accessing of digital recordings generated by the BWC system. Requests to view or access digital recordings will be handled in accordance with *PD-1304 : Release of Records*
- D. All supervisory personnel will have access to all BWC digital recordings. Supervisory personnel may review BWC digital recordings when conducting internal investigations.
- E. Detectives will be granted access to review BWC digital recordings as needed to conduct internal or criminal investigations.
- F. Officers shall only copy BWC digital recordings to digital media for legitimate law enforcement purposes.
- G. Supervisors or Detectives conducting internal investigations will be allowed to copy BWC digital recordings to digital media to be included with the investigation file.
- H. BWC digital recordings that are copied to digital media to be used for training purposes will be approved by the Chief of Police, and maintained in a secure location.
- I. BWC digital recordings shall be reviewed by supervisory staff for purposes of performance review and performance management.
  - 1. Supervisory staff shall review a sampling of BWC digital recordings for each officer on a quarterly basis.
  - 2. Such review shall be documented in the Daily Observation Report (DOR) system.

**IX. BWC Digital Recording Retention**

- A. BWC digital recordings are considered a public record under the provisions of the Virginia Freedom of Information Act. All digital recordings made while on-duty are subject to the provisions of the Virginia Freedom of Information Act, and rules of evidentiary disclosure in criminal and civil court proceedings.
- B. BWC digital recordings must be maintained in accordance with the Library of Virginia records retention schedule as required by the Virginia Public Records Act and PD-0408 - *Body Worn Cameras Addendum*.
- C. BWC digital recordings that are not known to contain any footage of evidentiary value will be tagged as non-evidentiary and retained for a minimum period of 210 days. If the status of the digital recording does not change after 210 days, the digital recording shall be deleted based on the pre-determined retention schedule.
- D. BWC digital recordings that are known or suspected to contain footage of evidentiary value shall be tagged as evidentiary and retained for a minimum period of 210 days. The Office of the Commonwealth's Attorney shall be consulted prior to deletion.
- E. Officers will be responsible for tagging their BWC digital recordings at the end of each tour of duty. Supervisors will ensure that digital recordings of known evidentiary value are correctly tagged.

*Original Signed*

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Raul M. Diaz  
Chief of Police

March 23, 2016

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Date