



SPECIAL ORDER

DATE OF ISSUE

12/16/2022

EFFECTIVE DATE

12/16/2023

NUMBER

22-54

SUBJECT

BODY-WORN CAMERA POLICY

REVISIONS

Revisions are italicized

RESCINDS

Department Manual Directive 304.6, Body-Worn Cameras

EXPIRATION DATE

12/16/2023

DISTRIBUTION

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PURPOSE

The purpose of this special order is to establish guidelines and procedures governing the use of body-worn camera (BWC) systems by Department members and the preservation of the digital media created by such equipment.

POLICY

It is the policy of the Detroit Police Department to increase member safety, protect the Department from unwarranted citizen complaints, and ensure exceptional police service by members of the Detroit Police Department by using BWC systems to securely record police activities on video/audio media. The use of BWCs does not replace the requirement to provide thorough written documentation of an incident. All data, images, video and metadata captured, recorded or otherwise produced, is the property of the Detroit Police Department and is subject to state and local law and city policies regarding retention of records.

PROCEDURE

1. All sworn members at BWC-equipped commands who have citizen interactions in the daily performances of their duty are mandated to wear a BWC unless an exception is specified in this directive.
2. Members assigned to investigative commands (Precinct Detective Unit, Department task force units, Major Crimes, Organized Crime, etc.) that are not equipped with BWCs, shall secure a BWC from a BWC-equipped command, and activate the BWC when executing a search warrant or effecting an arrest. After the location is secure, the arrest has been made, and all property has been secured, the member may turn off their BWC. When there is a reasonable potential for an arrest, the member shall wear their BWC and activate the device should the member effect an arrest.
3. Prior to using a BWC, members shall receive Department-approved training on its proper operation and care in addition to the Department's policy with respect to the use of the BWC. Additional training shall be provided during in-service training to ensure the continued effective use of BWCs.

Assigning Body-Worn Cameras to Members

1. At the beginning of each shift, the shift supervisor, or for the purposes of Special Events/Details/Secondary Employment, a designee selected by the shift supervisor shall ensure each member is assigned and wearing an operable BWC.
2. *If there are issues with the process for checking out BWCs due to the kiosk being inoperable (i.e. unable to sign in) at the start of the shift, supervisors shall manually assign members a BWC by pulling from the kiosk and documenting it with the members' name,*

assignment, and body-worn camera serial number. Supervisors shall label the members' camera as "unassigned" if the checkout is non-operational.

3. *The serial numbers of each BWC issued to each member – whether assigned to a specific member or documented as "unassigned" due to inoperable checkout process or other malfunctions of a related nature – shall be recorded on the officer's daily activity log.*
4. BWCs shall not be shared between members on the same shift.
5. BWCs and equipment shall be used with reasonable care to ensure proper functioning.
6. Members shall sync their assigned BWC with their assigned vehicle at the beginning of each shift.
7. *Members issued a BWC shall make a verbal introduction at the beginning of their shift by recording the following information:*
 - a. Name and badge number;
 - b. Date and time of verbal introduction; and
 - c. State the following: "Audio/visual check from scout (e.g. 4-8)".
8. Members shall make the introduction while standing in front of their assigned vehicle with the in-car video camera pointed outside toward them. Members shall label this as "Intro."
9. Members who are BWC equipped, but not in-car video equipped, shall make the introduction utilizing their BWC while pointing the BWC at their facial area in order to be identified during the introduction. *Members shall label this as "Intro."*
10. Members shall wear BWCs affixed to their Department-issued uniform in the chest area above the belt line and below the neck, centered to optimally capture all recording.
11. Members shall only use Department-issued BWCs. Members shall not use personally-owned BWCs while on duty.
12. Members shall not utilize BWCs while off duty. Members shall utilize BWCs if they are assigned to a Secondary Employment assignment or are involved in an incident in which they, or another DPD member, take police action.

When to Activate Body-Worn Cameras

Except as otherwise provided in this directive, the BWC shall be activated prior to initiating, or as soon as practical after initiating, the following police actions:

- a. *Members shall activate their BWCs to record all significant contacts with citizens which are or could be reasonably determined as pertinent regarding the performance of their official law enforcement duties (i.e. calls for service, vehicle stops, execution of search and/or arrest warrants, citizen encounters which necessitate police involvement);*
- b. Once a BWC is activated, the device shall remain on until the event is completed in order to ensure the integrity of the recording;
- c. *If a member knowingly fails to activate his/her BWC or if the member determines that the BWC failed to activate (i.e. due to technological malfunction), the member shall document on their daily activity log why the recording was not made;*
- d. *If a member determines his/her BWC failed to record the entirety of an event or determines the BWC recording was interrupted - or if the member could have reasonably known such a failure or interruption occurred - the member shall document on their daily activity log why the recording was terminated or interrupted.*

- e. If a member purposely de-activates their BWC without justified cause, they may be subject to disciplinary action; and
- f. Members shall inform citizens immediately upon contact that they are being recorded.

When to Stop Recording

Whether a member must comply with a citizen's request to stop recording with a BWC depends on the location, whether the member is at the location pursuant to a valid search warrant, and whether or not exigent circumstances exist. Except as otherwise provided in this directive, the following rules apply:

- a. When a member is in an area open to the public, and a citizen objects to the recording, the member shall not stop recording;
- b. When a member is in an area where an individual has a reasonable expectation of privacy (e.g. a private residence), pursuant to a valid search warrant, and the individual objects to the recording, the member shall not stop recording;
- c. When a member enters an area where an individual has a reasonable expectation of privacy (e.g. a private residence), without a valid search warrant, but where exigent circumstances exist (e.g. hot pursuit of a fleeing felon, imminent destruction of evidence, need to prevent suspect's escape, a risk of danger to the police or others), and an individual objects to the recording, the member shall not stop recording;
- d. When a member enters an area where an individual has a reasonable expectation of privacy (e.g. a private residence), without a valid search warrant, and where exigent circumstances do not exist, but the owner consents and a person with authority over the premises such as a renter objects to the recording, this shall be regarded as a revocation of the consent to record, and the member should either turn off the camera (after recording the objection) and remain, or leave the premises.
- e. A member may stop recording when the member is taking a witness statement from a victim of an alleged rape, other victim of a violent crime, or if there is a rational belief by that member that the recording would place the witness in danger of harm. This discretion is solely left to the responding member; and
- f. Any interruption of a BWC recording under this section must be properly documented as set forth in section 403.6 – 3.1(c) of this directive.

Restrictions on Use of Body-Worn Cameras

1. BWCs shall be used only in conjunction with official law enforcement duties. However, BWCs shall not be used to record the following:
 - a. Members shall not use BWCs to secretly record conversations that are not investigative in nature or are unrelated to official police activities (i.e. casual "shop talk" conversations between members). A violation of this prohibition would be considered serious in nature and could result in discipline, up to and including termination. If such a conversation is recorded, the member shall immediately notify a supervisor and document the event on their daily activity log. The supervisor shall take any and all necessary steps to ensure that the recorded conversation is not repeated or played unless required by law;
 - b. Performance of non-enforcement functions or administrative duties within a Department facility;
 - c. During Departmental investigations and/or interviews involving any of the following:

- Command level interviews
 - Office of the Chief Investigator (OCI) interviews
 - Force Investigations interviews
 - Internal Affairs interviews
- d. Undercover members or confidential informants;
 - e. When on break or otherwise engaged in personal activities; and
 - f. Locations where Department personnel have a reasonable expectation of privacy, including but not limited to hospital or emergency rooms, locker rooms, and restroom facilities.
2. If an activity or conversation is recorded that falls within one of the above-listed restrictions, the precinct watch commander shall be notified immediately, the event documented on the officer's daily activity log, and the supervisor shall take any and all necessary steps to ensure the recorded event is not repeated nor played unless required by law.
 3. A violation of these restrictions is considered serious in nature and could result in the implementation of progressive discipline up to and including termination from the Detroit Police Department.

Use of Body-Worn Cameras for Members Assigned to a Task Force with Federal Partners

Authorized Use of BWC during Federal Task Force Operations

1. Members assigned to a task force with federal partners (ATF, FBI, DEA, HSI, etc.) *shall wear and activate their BWC during the following:*
 - a. *A planned attempt to serve an arrest warrant or other planned arrest; or*
 - b. *The execution of a search warrant.*
2. *Members may activate their BWCs upon approaching a subject or premises, and must deactivate their BWCs when the scene is secured as determined by the federal supervisor on the scene.*
3. *In the event circumstances arise requiring additional law enforcement assistance to secure the scene, members will end BWC recording when relieved from the scene by another law enforcement officer.*

Unauthorized use of BWC during Federal Task Force Operations

1. *Members are prohibited from recording the following:*
 - a. *Undercover personnel;*
 - b. *Confidential informants or confidential sources;*
 - c. *On-scene witness interviews prior to or after the operation;*
 - d. *Personnel using specialized or sensitive investigative techniques or equipment; or*
 - e. *On-scene actions by any non-law enforcement persons who are assisting law enforcement personnel prior to or after the operations.*

2. *Members are prohibited from activating their BWC if the member is using specialized or sensitive investigative techniques, operating in a sensitive area, or working in an undercover or covert status on behalf of the federal task force or federal agency as determined by the federal agency sponsoring the task force.*
3. *BWCs should not be used for searches of property lawfully in government custody or control, or a search to obtain digital or electronic records executed by a third party, such as an electronic service provider or custodian of electronic records.*
4. *Subject to the discretion of the federal agency sponsoring the task force, members generally shall not use their BWCs to record any activities related to investigations involving public corruption, medical facilities, national security, or other sensitive investigations.*

Storage of BWC Recording in Federal Task Force Operations

1. *All BWC recordings captured by DPD officers during federal task force operations, once downloaded, shall be placed onto external media (e.g. DVD, hard drive, etc.) or another mutually agreeable delivery mechanism, and promptly provided to the federal task force.*
2. *DPD shall provide the sponsoring federal agency a recording that qualifies as a "duplicate". Per Federal Rule of Evidence 1001(e), 'duplicate' means a counterpart produced by a mechanical, photographic, chemical, electronic, or other equivalent process or technique that accurately reproduces the original.*
3. *The federal agency sponsoring the task force shall maintain the BWC recording as appropriate in the federal agency's files.*

Internal Dissemination

1. *DPD is authorized to use BWC recordings captured during federal task force operations for internal investigations of Department members consistent with current Departmental investigation procedures, but may not disseminate BWC recordings outside of internal investigations or for public release without the written permission of the sponsoring federal task agency.*
2. *DPD shall provide written notification to the sponsoring federal agency prior to any internal review.*

Expedited Public Release

1. *If BWC recording(s) captured during federal task force operations depict conduct committed solely by a DPD officer resulting in serious bodily injury or death of another, DPD shall notify the sponsoring federal agency and the United States Attorney as early as possible if DPD desires to publicly release the BWC recording(s).*
2. *Upon official approval, the Department may immediately release the recording(s) with any agreed-upon redactions, giving as much advance notice as possible to the sponsoring federal agency and United States Attorney as to the time and manner of its release.*

Request to be Exempt from wearing a BWC

1. *If the Federal task force investigation involves matters of national security, public corruption, medical facilities, or the sharing of sensitive information or where there is mutual concern from the Department and the Federal agency that the wearing of a BWC by the member would adversely affect the investigation, members assigned to the task force may request to be exempt from wearing a BWC. Members shall submit an Inter-Office Memorandum (DPD568), in consultation with the appropriate*

Federal agency, to the Assistant Chief, Office of Neighborhood Policing, along with a verbal briefing on the necessity for the BWC exemption.

2. If there is a disagreement between the Detroit Police Department and Federal partners within the task force about whether an exemption is warranted, the Chief of Police or his/her designee and the Special Agent in Charge from the lead Federal agency or his/her designee will resolve the conflict.

To the extent there is a conflict between this section (304.6-4) and any other provision of this directive, this section controls.

Reporting

1. The use of the BWC will be recorded in all Department reports. This notation of the use of the BWC does not replace the member's responsibility to fully complete Department reports.
2. Whenever a member obtains a recording of a statement, the event shall be documented in all Department reports. A video statement is a supplement to, and not a replacement or substitute for, a written statement.
3. A member may not exclusively use "please see video" or any similar language on any Department-mandated reports.

Supervisor's Responsibility

Audit/Inspection of Body-Worn Cameras

The shift supervisor shall complete an audit at the beginning of the shift prior to issuing body-worn cameras to members. The result of the audit will be documented in the desk blotter. The shift supervisor shall also complete an audit at the end of the shift, documenting the results in the desk blotter. Any discrepancies, unaccounted for, damaged, or lost body-worn cameras shall be documented in the desk blotter, made available to the oncoming shift supervisor, and reported following the below protocol for defective/lost devices:

- a. If the device is defective, the supervisor shall assign the member a replacement device and forward the defective unit to Technical Services for repair;
- b. The shift supervisor shall immediately report the loss or damage of the BWC to the commanding officer, or in the absence of the commanding officer, notify the officer in charge of the unit to which the member is assigned. A report shall be prepared on an Inter-Office Memorandum (DPD568) and forwarded, through channels, to the Office of Department Financial Services; and
- c. An investigation shall be conducted by the commanding officer to which the member is assigned, and an appropriate recommendation shall be made to the Office of Departmental Financial Services concerning the replacement or repair of the BWC at the Department's expense or at the expense of the member. A member is liable for loss of or damage to property caused by the member's negligence.

Supervisory Reviews of Video

1. Supervisors shall review audio/video of all incidents involving the following:
 - a. Injuries to a detainee or member;
 - b. Use of force;
 - c. Vehicle pursuits; and

- d. External complaints.
2. The reviewing supervisor shall document the results of the review of the audio/video in their investigative report on the incident. The reviewing supervisor shall also ensure that the correct classification of the “event” is selected for the incident. Supervisors shall ensure that events are properly categorized.

Random Reviews of Video

1. Commands will be notified of specific dates, times, and incidents to review by the Civil Rights Division. The supervisor shall review audio/video recordings for training and integrity purposes. The Civil Rights Division shall identify traffic stop events wherein a DPD member had some type of interaction with a citizen that would necessitate the event to be recorded on audio/video in accordance with DPD policy.
2. Under no circumstance shall any footage captured and reviewed outside of Departmental and procedural protocols (e.g. personal conversation), be used in a manner solely to substantiate misconduct.
3. *Commands shall ensure that a supervisor conducts one random audio/video review of a member equipped with a body-worn camera on every shift. The process of random video reviews shall commence daily once the video has downloaded to be reviewed.*

Professional Standards

The Department reserves the right to make all video accessible to Professional Standards for any reason it deems necessary, including but not limited to random video review, review for criminal complaints, review for policy compliance and internal investigations.

Office of the Chief Investigator

The Department reserves the right to make all video and audio accessible to the Board of Police Commissioners relative to disciplinary investigations and policy compliance.

Media Storage and Review

1. At the end of each shift, each member shall return the BWC equipment to docking stations for video upload and battery charging.
2. The media captured by the BWC shall be securely stored and maintained by DPD or a third-party vendor according to the record retention policy set forth in section 304.6 – 9 of this directive.
3. Any and all media captured by the BWC shall only be used for official Department purposes.
4. Members may use media captured via BWC for official duties including completion of Department-mandated reports. Members shall be allowed to review the recording from their own BWC. However, if the BWC video involves, or is evidence for, an officer-involved shooting or Category 1 use of force incident where disclosure would impede an ongoing investigation regarding a member of the Department, the Department may limit or restrict a member from reviewing their BWC recording until they complete an incident report. After the completion of their initial report, the member shall be allowed to review their own BWC video. Furthermore, the determination of when a member may view another member’s BWC footage shall be determined on a case-by-case basis at the discretion of the officer in charge of the case.

5. If any material discrepancy is identified between media captured via BWC and a Department report, a supplemental report shall be filed.
6. Unless authorized by subpart 7 below, DPD members shall not alter, edit, erase, share, or otherwise distribute in any manner any BWC information, images, sound, or content without the prior written approval of the Chief of Police or their designee.
7. Unless otherwise required by law or this directive, DPD members shall not duplicate, copy, share, or distribute in any manner, any BWC information, images, sound, or content without the prior written approval of the Chief of Police or their designee.
8. Each BWC file shall contain information related to the date, BWC identifier, and assigned member.

Integrity Control Safeguards

1. Requests to archive BWC recordings shall be forwarded to the commanding officer of the respective command on an Inter-Office Memorandum (DPD568). Requests shall contain the relevant BWC serial number, uniformed member's name, justification for the request, and date and time of occurrence.
2. Except as otherwise provided in this directive, all digital media collected using BWCs shall be subject to the same security and chain of custody restrictions as evidence and shall not be released to any other agency or individual without the written approval of the Chief of Police or Professional Standards.
3. Except as otherwise provided in this directive, access to stored recordings shall be limited to Department members for administrative or law enforcement purposes only. The releasing of any media for any other purpose without authorization from the Chief of Police or Professional Standards is strictly prohibited and subject to disciplinary action.
4. After adjudication, BWC recordings may be used in conjunction with Professional Education and Training to aid in training Department members.
5. Examples of inappropriate and unauthorized use of BWCs include, but are not limited to the following:
 - a. Publishing the digital media on internet sources such as Facebook, YouTube, or any other social media, web hosting, or internet sites;
 - b. Using a secondary recording device such as a phone to record media from the BWCs or any other source where captured media is stored; and
 - c. Allowing unauthorized personnel to view or listen to any portion of the digital media captured by any member's BWC.

Records Retention

Pursuant to Michigan Compiled Laws (MCL) 780.316, all audio and video that may be the subject of a criminal or civil proceeding shall be retained indefinitely.

Request(s) for Copy of Video Recording(s)

1. Upon receipt of a request for a copy of the video recording, the custodian of the recording shall:
 - a. Notify the Law Department immediately of the request by providing a copy of the written request, which should contain the date when the custodian received the request;
 - b. Record the following information:
 - Type of request (FOIA, subpoena, etc.)
 - When was the request made
 - Who made the request (Law Unit, Law Department, IA, OCI, WCPO, etc.)
 - Which custodian received the request and when
 - If applicable, when was the Law Department notified
 - Identity of DPD members who notified the Law Department
 - Identity of Law Department personnel notified by DPD
 - When the recording was duplicated and by whom
 - When and to whom was the copy sent
 - c. Immediately locate the requested video recording and duplicate the recording within five (5) business days of receipt of the request; and
 - d. Forward the copy of the recording to the requesting party (e.g., Law Unit, Law Department, IA, OCI, WCPO) upon a signed receipt of same.
2. For purposes of request(s) submitted under the Michigan Freedom of Information Act (the Act or FOIA, it should be noted that the images and audios recorded by the member's BWC are a "public record" within the meaning of the Act. Therefore, the images and audios recorded by the BWC while the member was performing their official duty are public record and subject to disclosure, unless otherwise exempt from disclosure under the Act or other applicable statute. No video recording shall be disclosed or released to any third party without the following:
 - a. A review by the DPD to verify that the recording is the correct video which was requested; and
 - b. A review by the Law Department to make the necessary legal determination whether a portion or the entire video can be exempt from disclosure.
3. Labor Time and Costs under the Michigan Freedom of Information Act are depicted below:
 - a. Since locating and verifying the correct video can be time consuming, and because the Act permits the City to request and to collect limited costs incurred by the City under certain circumstances, the DPD members who search, retrieve, and review the video to verify the correctness shall keep track of their time spent on such actions and

- report the time spent to the Law Department when a copy of the recording is being delivered to the Law Department; and
- b. The costs for the duplication of the video may only be charged by the Law Department in accordance with the Act.

Updates to the Department Manual are forthcoming.

JAMES E. WHITE
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