

<b>KILMARNOCK POLICE DEPARTMENT      GENERAL ORDERS</b>	
<b>SUBJECT:</b> Body Worn Camera System	<b>NUMBER:</b>
<b>EFFECTIVE DATE:</b> June     , 2022	<b>REVIEW DATE:</b>
<b>AMENDS/SUPERSEDES:</b> N/A	<b>APPROVED:</b> _____ <b>Chief of Police</b>
<b>VLEPSC STANDARDS:</b> N/A	

## **I.      POLICY**

This policy is adopted pursuant to VA Code §15.2-1723.1. Law enforcement officers shall activate the body-worn cameras (BWCs) when such use is appropriate for the performance of their official duties and where the recordings are consistent with this policy and the law. The use of BWCs is intended to enhance transparency and accountability. It is this agency's policy to effectively document all law enforcement contact with the public, as well as other contacts, as deemed appropriate, while taking into account legitimate individual privacy interests. This policy does not govern the use of covert recording devices used in undercover operations.

## **II.     PURPOSE**

This policy is intended to provide law enforcement officers with instructions on when and how to use BWCs to accurately record and better document interactions with the public, arrests, and critical incidents, in addition to their ability to enhance the capture of evidence for investigations and court proceedings. The utilization of body-worn camera system can assist in providing additional information for officer training, enhance officer accountability, and allow agencies to better review probable cause for arrest. Additionally, the use of BWCs may result in reducing the number of complaints against officers and frivolous lawsuits against Police Departments. This policy also sets forth guidelines for the management, storage, release, and retrieval of audio/visual media recorded by BWCs.

## **III.    PROCEDURES**

### **A. Use of BWCs Generally**

1. BWCs may be used to achieve the following:
  - a. Documentation of law enforcement-public contacts, arrests, and critical incidents;
  - b. Enhancement of law enforcement reports and courtroom testimony;
  - c. Documentation of crime and accident scenes or other events that include confiscation and documentation of evidence and contraband;
  - d. Supervisor review and evaluation of reasonable suspicion, probable cause for arrest, officer and suspect interaction, and evidence for investigative and prosecutorial purposes;

- e. Identifying and correcting internal agency issues (i.e. tactics, communication, policy compliance, customer service, officer safety, etc.); and
  - f. Enhance law enforcement training.
2. Officers who are assigned BWCs shall complete a Department-approved training program to ensure proper use and operation. Additional training may be required at periodic intervals to ensure the continued effective use and operation of equipment, proper calibration and performance, and to incorporate changes, updates, or other revisions in Department policy and equipment.
  3. Procedures or equipment shall be put in place to ensure officers do not edit, alter, or erase video/audio recorded by BWCs.

## **B. Equipment**

1. Department issued BWCs shall be for official Departmental use only and shall not be used for non-work related or personal activities.
2. Law enforcement shall use only those BWCs issued by the Department. The wearing of personally owned BWC equipment or audio/video recording equipment shall not be permitted.
3. BWCs shall be issued and assigned to specific law enforcement personnel, upon completion of the appropriate training in the system's proper use, as outlined by law and policy.
4. Law enforcement personnel shall not use BWC equipment assigned to other officers.
5. Intentional misuse or abuse of BWC equipment may result in disciplinary action.

## **C. Officer Responsibility**

1. Prior to beginning a shift, officers/deputies shall retrieve their assigned BWC and conduct an operational inspection to include battery life and depletion.
2. Any BWC equipment malfunction shall be immediately documented and a supervisor will be notified of the malfunction as soon as practical.
3. Officers shall activate the BWC during each law enforcement-public encounter related to a call for service, law enforcement action, subject stop, traffic stop, and/or police/deputy services provided that such activation does not interfere with officer safety or the safety of others. Additionally, the BWC shall be activated for tactical activities such as, searches of buildings and vehicles, searches for suspects and missing persons, seizing and processing evidence, and building checks when security alarms are triggered.
4. Where practical officers shall monitor the position of the BWC to ensure the BWC is capturing evidentiary versus non-evidentiary (e.g. ground, sky, officer's arm) footage.
5. Every officer/deputy on a scene shall activate their BWC and leave it on for the duration of the incident. This shall include transporting to and processing a person at the jail.
6. Officers shall note in incident, arrest, and related reports when video recordings were made. However, BWC recordings shall not be a replacement for written reports.
7. If an officer fails to activate the BWC, fails to record the entire contact, or interrupts/mutes the recording the officer/deputy shall document the reason.
8. Officers shall not edit, alter, erase, duplicate, copy, share, or otherwise distribute in any manner BWC recordings without the prior written authorization and

- approval of the Chief of Police or a designee.
9. Officers/deputies shall not permit civilians to review recordings without authorization of the Chief of Police or a designee.
  10. Officers shall download video files and charge the equipment at the end of each shift. Officers shall mark files as evidentiary, non-evidentiary, or training demo. Additionally, each file shall contain the date, BWC identifier (i.e. the series of numbers and/or letters assigned to each BWC to distinguish one piece of BWC equipment from another), and the name of the assigned officer/deputy.
  11. Officers are restricted to reviewing and categorizing their own videos.
  12. At the conclusion of the shift officers shall conduct an operability inspection and report any issues to their supervisor, to include concerns regarding battery life and depletion.

#### **D. Supervisor Responsibility**

1. Supervisors shall:
  - a. Ensure officers use BWCs in accordance with Department policy and procedure;
  - b. Review evidentiary video and re-categorize for indefinite retention if a complaint is associated with a recorded event or the officer/deputy has reason to believe an incident may generate a complaint; and
  - c. Conduct random reviews of selected recordings in order to assess officer/deputy performance, complaint resolution, the identification of videos that may be appropriate for training purposes, and monitor the overall utilization of BWC equipment.
2. Supervisors may limit or restrict an officer from viewing the video file if an officer is suspected of wrongdoing or involved in an officer-involved shooting or other use of force incident.
3. All body-worn camera footage depicting crimes (misdemeanor and felony) shall be timely provided by the Supervisor to the relevant Office of the Commonwealth Attorney for Lancaster or Northumberland, as applicable.

#### **E. Privacy and Restricted Use**

1. Whenever practical, officers shall inform individuals that they are being recorded.
2. 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.
3. In general BWCs are not to be used in the following circumstances:
  - a. Communications with other law enforcement personnel without the permission of the office of the Chief of Police or a designee;
  - b. Communications involving law enforcement tactical and strategic policy, procedures, or plans;
  - c. Encounters with undercover officers/deputies and confidential informants;
  - d. While conducting strip searches;
  - e. When community members are reporting crime;
  - f. Appearing before a magistrate;
  - g. When officers are on break or otherwise engaged in personal activities; or
  - h. In restrooms or locker rooms.
4. Officers shall comply with individual federal, state, and local courthouse policies

regarding the wearing of BWCs within respective courthouses.

5. Law enforcement officers shall comply with medical facility policies pertaining to video and audio recordings.

#### **F. Access**

1. The BWC equipment and all data, images, sounds, video, and metadata captured, recorded, or otherwise produced by the equipment shall be the exclusive property of the issuing Department.
2. All access to BWC data must be specifically authorized by the Chief of Police, or a designee.
3. Officers may be permitted to review video footage of an incident in which they were involved, prior to preparing a report or making a statement about the incident.
4. All access is to be audited to ensure that only authorized users are accessing the data for legitimate and authorized purposes.
5. Officers requesting video for trials must make such requests through the Chief of Police or a designee at least ten (10) business days prior to the trial date. Situations where circumstances outside of the officer's control prevent such notification shall be handled on a case-by-case basis.
6. Court personnel (e.g. representatives from the Office of the Commonwealth's Attorney, Virginia Indigent Defense Commission, and the private defense bar) may request videos for trial through the Chief of Police or a designee.
7. Freedom of Information Act (FOIA) and media requests of video shall be submitted to the Chief of Police or designee and shall comply with requirements of Title 2.2 of the *Code of Virginia*.
  - a. Video capturing criminal incident information pertaining to an ongoing law enforcement investigation or prosecution shall not be released if the release of the video is likely to jeopardize the investigation, prosecution, or safety of an individual; or likely to cause a suspect to flee or evade detection, or result in the destruction of evidence.
  - b. Criminal investigative files are excluded from FOIA requirements but may be disclosed by the Chief of Police in his discretion, except where disclosure is prohibited by law.
  - c. Provisions will be made for blurring the image of individuals or the personal identifying information (e.g. license plates, addresses etc.) of those not involved in the law enforcement act in question, and of crime victims, or an act described in section (C)(3) of this policy prior to releasing the video to the media or the individual making the FOIA request.

#### **G. Video Retention**

1. BWC recordings should be retained for a specified amount of time consistent with applicable law and other agency policies. It is essential to preserve all recordings related to any criminal proceeding, claim filed, pending litigation, or administrative investigation or personnel complaint until the matter is resolved or in accordance with applicable law, whichever is greater.
2. The agency/department shall also routinely evaluate their storage capacity and determine if additional resources are necessary.
3. Officers shall make requests for the deletion of portions of the recording (e.g. in

the event of a personal recording, conversations with confidential informants etc.) in writing. The Chief of Police or a designee shall approve or deny requests in accordance with records and retention schedules issued by the Library of Virginia. All requests for deletions and the final decision shall be kept on file.

4. All video files shall be securely stored in accordance with the records and retention schedules issued by the Library of Virginia. If a video is re-classified to a different category (e.g. non-evidentiary to evidentiary) the video will be subject to deletion based on the new category and the original date of the recording.
5. Back-up storage for video files shall be provided.