

OPERATIONAL PROCEDURES

Procedure No. 3.170



USE OF BODY-WORN CAMERAS			Page 1 OF 15
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SUBJECT: USE OF BODY-WORN CAMERAS

PURPOSE To establish guidelines for the operation of body worn cameras (BWC) assigned to Mount Vernon Police Officers for capturing audio/video evidence of police interactions including, but not limited to, traffic violations, field interviews, field sobriety testing, and/or other official police activity.

TERMINOLOGY

Body Worn Camera (BWC) means a bodily worn digital recording system and its components used to record audio and video during police interactions.

Digital Media Evidence (DME) means analog or digital media, including, but not limited to, electronic recordings of video, photograph, audio, film, magnetic and optical media, and/or the information contained therein digitally committed to file and of probative value that is stored or transmitted in binary form.

“Enforcement Related Activity” are situations during officers’ official duties that include, but are not limited to:

1. Calls for service;
2. Traffic stops;
3. Search warrants;
4. Arrests;
5. Investigatory activities; and
6. Confrontational/adversarial citizen contacts.

Cloud Storage means a model in which data is stored on remote servers accessed from the internet. It is maintained, operated and managed by a cloud storage service provider contracted by the Department.

POLICY

1. It is the policy of the Mount Vernon Police Department to present for prosecution audio/video evidence of traffic and other law violations as outlined in Section 9 of

this procedure. To this end, officers with properly functioning BWC equipment shall record all events surrounding the contact, stop, detention, interview, and arrest of suspected violators and maintain this recorded evidence for consideration in criminal prosecution.

2. All digital media evidence (DME) generated on Department-owned BWC equipment is the property of the Mount Vernon Police Department. The copying or reproducing of any DME generated by anyone for use outside of Department business is prohibited. Requests for copies will be processed by the BWC Administrator with the approval of the Chief of Police or his designee.
3. Distribution of any DME generated by Department members in any format or for any purpose must be in compliance with this procedure and applicable unit SOPs.
4. Select members of service (MOS) shall be assigned BWC equipment issued by the Department and be properly trained in its functions and procedures before use. As the Department's Pilot Program expands, all uniformed MOS selected for the pilot program shall be assigned BWC equipment issued by the Department and be properly trained in its functions and procedures before use. Officers shall use the issued BWC equipment while wearing the uniform of the day, or unit-specific uniform as specified in Administrative Guide Procedure No. 2.040 Required Uniforms, in accordance with this procedure and applicable unit SOPs. Officers wearing relaxed apparel shall have the option of wearing the BWC as assigned or selected at the discretion of their direct supervisor, the Chief of Police, or his designee. Officers wearing Honor Guard uniform shall be excluded from wearing the BWC.
5. The BWC program be reviewed and updated semi-annually by the Office of the Chief of Police as the program moves forward.

ADMINISTRATIVE

1. All generated DME will be retained according to Section 9 of this procedure.
2. DME shall not be deleted, altered, modified, misused, or tampered with.
3. Standardized viewing privileges of DME for administrative and investigatory purposes shall be as follows:
 - A. All officers will be able to view their own DME;

- B. Detective–Investigators will have viewing privileges for all DME related to their specific investigations;

PROCEDURE

1. START-UP

At the start of their shift, Police Officers will perform a function test of the BWC to ensure the unit powers on and recording initiates. The officer should:

- A. Ensure proper alignment and positioning of the BWC in the chest area on the officer's outermost garment (no object shall be placed in front of the camera in such a manner that it interferes with or obstructs the recording of video).
- B. Perform a functions test by activating the BWC and stating their name, badge number, and the date. (If possible, the officer will then play back the recording to ensure the system recorded correctly).

2. RECORDING

- A. Activating the BWC:
 - i. Officers are required to activate their BWC audio and video functions upon engaging in an enforcement related activity that occurs while the officer is on duty, unless:
 - a. There is an immediate threat to the officer's safety;
 - b. Turning on the body worn camera would be impracticable and place the officer in a tactical disadvantage;
 - c. When activating the BWC could delay an officer's response to the safety needs of a citizen during a critical incident;
 - d. When involved in counseling sessions, guidance sessions, personal evaluation interviews, or other supervisor-subordinate interaction; or
 - e. During the course of activation the BWC malfunctions.

- B. Officers should give notification advising citizens they are being recorded unless impracticable or tactically unsafe.
- C. Officers shall begin recording the following events and continue recording until the event is concluded. Any deviations will require a supervisor's approval and must be documented in the officer's video, report, or blotter narrative entry field in accordance with Section 3. WHEN DEACTIVATION OF BWC EQUIPMENT IS AUTHORIZED; of this procedure.
 - i. Upon observation of suspicious criminal behavior;
 - ii. Upon reception of call for service;
 - iii. Officer initiated contacts:
 - a. Arrest
 - b. Field Contacts
 - c. Traffic Stops
 - d. Pursuits (Foot and Vehicle)
 - iv. During all prisoner or witness transports. If an officer arrives at a facility that is recorded, such as police headquarters or the jail, the officer may cease recording upon entering the facility or transferring custody of the prisoner/witness.
 - v. Contact with the complainants regarding crimes against persons; and
 - vi. In instances where the officer reasonably believes that the recording may provide evidence in criminal investigations.
- D. Subsequent arrest, handcuffing and search of violators should take place in view of the camera when practical and in accordance with Departmental policy. All arrests, handcuffing, and searches occurring out of view of the camera must be documented in the officer's video, report, or blotter narrative entry field in accordance with Section 2. RECORDING; of this procedure.

- E. Officers may stop recording an event where camera use may compromise police operations. The BWC should be turned back on immediately following the stoppage or should a significant event arise.

Examples include, but are not limited to: conversations with criminal informants, private conversations between officers or supervisory personnel, performing crime scene duties or situations where the officer would be placed in a tactical disadvantage.

- F. Officers may honor a request to deactivate BWC equipment from a citizen, informant, or witness in the interest of gaining cooperation and/or protecting the identity of the person requesting, so long as the deactivation does not violate any portion of this policy. The BWC should be turned back on immediately following the stoppage or should a significant event arise.

- G. All stoppages, other than administrative functions testing or accidental activation of the BWC must be documented in the officer's video, report, and blotter narrative entry field in accordance with Section 3. WHEN DEACTIVATION OF BWC EQUIPMENT IS AUTHORIZED; subsection C of this procedure.

H. **Recording Suspected DWI Violators:**

**NOTE: Optimum lighting for DME recording should be considered whenever possible.*

- i. When an officer makes a decision to start an investigation of a violator, the officer shall activate the BWC and may verbally articulate the initial traffic violation observed, thus starting the process of building reasonable suspicion. This articulation should continue through the entire recording including the field sobriety testing, arrest, search, and transportation of the suspect.
- ii. The officer should articulate reasonable suspicion and probable cause as it develops.
- iii. Any intoxicants found in the suspect vehicle, as well as any evidence seized, shall be brought in view of the camera and the officer shall articulate the description of the evidence in order to record such information in the officer's video, report, or blotter narrative entry field in accordance with Section 4. REPORTS/RECORDING DATA ENTRY of this procedure.

I. Officers shall not:

- i. Intentionally create DME recordings of themselves or other employees in areas where a reasonable expectation of privacy exists such as locker rooms, restrooms, etc.
- ii. Use the BWC for the clandestine recording of the voice or image of a member of the Department unless specifically authorized by the Office of the Chief.
- iii. Knowingly record undercover officers or confidential informants.
- iv. Use Departmentally-owned BWC equipment to record any type of personal activities.
- v. Allow non-sworn personnel to view the DME video without the written permission from the officer's immediate supervisor. Governmental employees who are directly involved in the investigation and/or prosecution of a criminal case related to the DME video, or who work in Internal Affairs, or the Technical Services Unit supporting BWC DME video are exempt from this provision.
- vi. Create recordings in patient care areas of medical facilities unless the recording is for official police business such as a criminal investigation, dying declaration, Horizontal Gaze Nystagmus (HGN) on injured drivers, or a specific call for police service, in compliance with Federal HIPPA regulations.
- vii. Record any court facility, legal proceeding, (i.e. deposition, city council meetings) or, secured governmental facility;
- viii. Upload or convert DME for use on any type of social media or give anyone that can do so

3. WHEN DEACTIVATION OF BWC EQUIPMENT IS AUTHORIZED

- A. Unless otherwise permitted by this procedure, once the BWC is activated, it shall remain on until the incident has concluded.
- B. For the purpose of this section, conclusion of the incident has occurred when:

- i. All arrests have been made and arrestees have been transported and released from custody.
 - ii. All witnesses and victims have been interviewed; and
 - iii. The continued recording will not serve to obtain additional evidence.
- C. All stoppages, other than administrative functions testing or accidental activation, of the BWC must be documented in the officer's video, report, and blotter narrative entry field.
- D. Failure to record activities as laid out in this policy will not be considered a policy violation as long as reasonable justification is documented to the officer's chain-of-command.

4. **REPORTS/RECORDING DATA ENTRY**

- A. Officers will upload the BWC DME from their assigned camera in accordance with the specific device's operational instructions.
- B. Prior to uploading the BWC DME from their assigned camera, the officer shall ensure the pertinent data field identifiers associated with each video have been annotated, and at minimum, include the following:
 - i. Full MVPD case number for all arrest cases or incidents requiring a case number;
 - ii. Traffic citation number(s) in the additional data/notes field;
 - iii. The appropriate video tag at the conclusion of each incident or when uploading video files; and
- C. Cover officers are to use the case number and/or blotter number to tag their video.
- D. Officers shall annotate in their reports the existence or absence of any associated DME.

5. **EQUIPMENT**

- A. On an individual basis, officers will sign for and be issued a BWC as well as the device's associated accessories. It will be the officer's responsibility to ensure the BWC device is fully charged and operable prior to their tour of duty.
- B. No member assigned BWC equipment shall alter, modify, reuse, tamper with or disable the device or associated accessories in any manner.
- C. Department BWC equipment shall not be connected to unauthorized computers. Non-Department-issued equipment shall not be connected to any Department-issued BWC device.
- D. Officers assigned BWC equipment are responsible for ensuring the equipment remains in operating condition. Officers shall notify their immediate supervisor of damaged or malfunctioning BWC equipment and complete an MV-5 listing the BWC serial # and the specific damage and/or malfunction. Damaged BWC will be returned to the BWC Administrator or their designee.
- E. Officers shall report lost/damaged BWCs to their immediate supervisor. Damaged BWC will be returned by the supervisor to the BWC Administrator or their designee. Prior to officer returning to duty, the supervisor shall remove the lost/damaged BWC serial # associated with the officer in IMPACT and replace it with the newly assigned BWC serial #.
- F. Officers who are promoted, or who will be reassigned to duties where they will not be utilizing the BWC will return their BWC to the BWC Administrator or their designee within 72 hours of the transfer.
- G. Officers will use only Department approved BWC equipment, associated accessories, and authorized storage.

6. **VIDEO COPIES/RECORDS REQUEST**

- A. Requests for DME will be handled in accordance with MVPD Policy and Procedures, and pursuant to requirements as established by operation of

applicable law, including but not limited to, the Freedom of Information Act (“F.O.I.A.”) with the approval of the Chief of Police or his designee.

- B. A copy (for internal use only) of DME file may be requested through the BWC Administrator or their designee. If such copy is provided, the file shall not be further copied except by the BWC Administrator or their designee.
- C. Requests for DME from other criminal justice agencies are to be submitted in writing on agency letterhead and signed by the agency’s chief executive officer to the BWC Administrator or their designee.
- D. All copies of DME will be produced by the BWC Administrator or their designee. A copy is defined as a reproduction of the primary recording of the event.
- E. Requests for DME for prosecutorial purposes may be submitted directly to the BWC Administrator or their designee.
- F. Requests for DME from defense attorneys in county, district, or federal courts must be made through the appropriate prosecutor.
- G. The cost for producing the DME will be determined by the Support Services Division.
- H. All other requests for DME should be referred to the Office of the Chief.
- I. An automated internal electronic data access log (chain-of-custody) will be generated and kept for every DME file produced via BWC to document the authenticity of the DME. Members shall be prepared to justify the reason for accessing/viewing DME.

7. **RELEASE OF RECORDINGS**

- A. The release of recordings to any person shall be made in accordance with MVPD Policy and Procedures, and pursuant to requirements as established by operation of applicable law, including but not limited to, the Freedom of Information Act (“F.O.I.A.”) with the approval of the Chief of Police or his designee.
- B. Recordings that are not be released to the public are those involving open investigations, sex crime victims and juvenile arrests and other exceptions

as per New York State FOIA Law requirements. Exceptions will only be made with the authorization of the Chief of Police.

- C. Prior to the release of any recording, the Support Services Division supervisor or his/her designee will review and redact images in accordance with NYS FOIA; and with the approval of the Chief of Police or his designee.

8. **COMPLAINTS RECEIVED/VIDEO REVIEW**

- A. When a complaint is received alleging misconduct involving an officer who is assigned a BWC, the following procedures shall be followed:
 - i. The officer's immediate supervisor or Internal Affairs Unit shall determine if BWC DME exists.
 - ii. The supervisor or Internal Affairs Unit shall view the video of the incident in question and determine if there is any cause for the allegations in the complaint.
 - iii. If no cause is determined, the supervisor or Internal Affairs Unit shall contact the complainant and advise them a BWC DME was made of the incident and that no misconduct was observed.
 - iv. The supervisor or Internal Affairs Unit shall advise the complaining party that they may make a Freedom of Information Law request for a copy of the DME.
 - v. The supervisor or Internal Affairs Unit shall proceed with their established protocols if misconduct is determined.
- B. An officer responding to a citizen or administrative complaint shall have the ability to review any BWC DME of the incident in question.
- C. The Internal Affairs Investigator may, for the purposes of an investigation or complaint, export or copy DME as needed.

9. **VIDEO CATEGORIZATION AND RETENTION**

- A. After stopping the recording, officers shall categorize each video by selecting the appropriate event type from the menu and shall include the existence of video evidence in the police report for follow-up investigations.

- B. The categorization label will determine the minimum length of retention. Videos will be categorized based on the following criteria beginning in 2017:
- i. Event 0 – is selected for non-evidentiary video such as false starts, testing, or IT administrative purposes;
 - ii. Event CRA – is selected for all CRASH or traffic accidents whereby a Case Number is used;
 - iii. Event DWI – is selected for all DWI Offenses whereby a Case Number is used;
 - iv. Event FOR – selected for all Felony Offenses whereby a Case Number is used;
 - v. Event INC – selected for instances whereby a Case Number is issued but there is no offense;
 - vi. Event MOR – selected for all Misdemeanor Offenses whereby a Case Number is used;
 - vii. Event TS – is selected for traffic stops.
 - viii. Event VCO – is selected for City Ordinance Violations (add box)

VIDEO CATEGORIZATION AND RETENTION PERIODS		
Event Code	Category	Retention Schedule
0	Admin/Default	180 days
CRA	Crash	180 days
DWI	DWI	3,650 days
FOR	Felony Offense Report	3,650 days
INC	Incident	180 days
MOR	Misdemeanor Offense Report	730 days
TS	Traffic	180 days
VCO	City Ordinance Violations	180 days

- C. Officers shall include the existence of DME in the case report for follow-up investigation.

- D. Any video considered to have evidentiary value, which needs to be retained past the standard retention period, must be identified by a Detective or Supervisor and have a hold request forwarded to the Support Services Division.
- E. Any video that becomes part of an internal investigation will:
 - i. Have all viewing privileges blocked out with the exception of personnel assigned to the Internal Affairs Unit, or those assigned by the Chief of Police. This will be done in “active case management” and can be done remotely by those with administrative rights.
 - ii. Be placed on hold for indefinite retention until it is no longer needed.

10. **VIDEO UPLOADS**

- A. Prior to the end of their duty day the officer will upload video in accordance with the specific device’s operational instructions. The DME will then be uploaded to the Department’s authorized storage.
- B. Special/Exigent Circumstance DME Uploading.
 - i. Officers involved in collisions and/or otherwise not able to return to Police Headquarters shall adhere to the following:
 - a. The notified supervisor or Patrol Supervisor shall coordinate the retrieval and upload of the BWC;
 - b. The BWC Administrator or designee will then upload the BWC (if applicable);
 - c. Upon completion of the video upload, the BWC must be returned to the officer’s supervisor.
 - ii. Critical Incidents
 - a. Upon the conclusion of a critical incident, all officers will return to the appropriate facility in order to have all DME uploaded. The BWC device will not be returned to service until all DME has been removed and completion confirmation of upload has been received.

- C. All video must be uploaded before the officer's next assigned shift. No officer is permitted to take a BWC home unless authorized by the Unit/Division Commander.

11. **SUPERVISOR RESPONSIBILITIES**

- A. Supervisors shall ensure officers are using the recording equipment according to established guidelines, policies, and procedures.
 - i. BWC Administrator, once a month, will review at least one recording for all officers assigned to the BWC pilot program to ensure proper usage of recording equipment and adherence to established policy and procedures.
 - ii. BWC Administrator will only review recordings from Type ii-viii category of events, in accordance with Section 9 of this policy.
 - iii. BWC Administrator will notify Patrol Division CO and XO of any procedural violation they observe.
- B. Supervisors shall record all incidents (i.e. use of force, officer involved accidents, and complaints on officers) when requested or required to respond, in addition to those listed under Section 2B of this policy.
- C. Supervisors shall view the recordings of all use of force incidents, police vehicle crashes, and police pursuits prior to completing their evaluations.
- D. Supervisors may view the recordings of their subordinates in the field at any time during the shift.
- E. Minor infractions (non-criminal) discovered during the routine reviews of recorded material should be addressed by the reviewing supervisor, including retraining when appropriate. Disciplinary actions will be addressed in accordance with Departmental policy and procedure guidelines.
- F. Any supervisor made aware of damaged or malfunctioning recording equipment shall arrange for repair or replacement of the equipment. Damage shall be inspected by the supervisor and he/she will make every attempt to locate and assign a working BWC system to the officer.

12. **REVIEWING DME**

- A. The viewing of videos is restricted for official use only. Videos may be viewed for the following purposes:
 - i. Criminal investigations;
 - ii. Internal Affairs or complaint reviews in accordance with Section 8 of this policy;
 - iii. Pursuits;
 - iv. Use of force reviews;
 - v. Open record requests;
 - vi. Officer involved crashes;
 - vii. Other – any purpose not listed in this procedure shall have prior documented approval by a supervisor.
- B. Personnel requiring access to locked videos will send a request for access/viewing of the specific DME through their chain-of-command.
- C. Personnel reviewing DME shall manually document name, badge number, and the purpose of their viewing in the “notes” field in the BWC application.
- D. An officer is entitled to access any recording of an incident involving the officer before the officer is required to make a statement about the incident.
- E. The making of unauthorized copies is prohibited.

14. **TRAINING VIDEOS**

- A. Officers/Supervisors aware of recorded files containing material that may be deemed beneficial as training material shall direct notification up the chain-of-command.
- B. The MVPD Training Unit may, with the approval of the Police Commissioner, use such recording for training purposes, taking into consideration pending judicial and/or administrative investigations.

15. **BWC ADMINISTRATOR RESPONSIBILITIES**

- A. The BWC Administrator is responsible for the overall management and coordination of the Mount Vernon Police Department – Body Worn Cameras – examples and responsibilities include:
- i. Ensuring all equipment and systems are in good working order;
 - ii. Ensuring policies and directives related to the BWC initiative and reflective of best practices and contemporary business processes;
 - iii. Serving as the BWC training officer, establishes, maintains, instructs and up to date training curriculum that ensures all employees equipped with BWC or who have access – handle BWC recordings are familiar with the provisions of this directive.
 - iv. Maintaining an inventory of all BWC equipment and assignments;
 - v. Performing periodic performance audits. The results of those audits shall be forwarded to the Commanding Officer of the Support Services Division for retention and inclusion in the monthly report.
 - vi. Evaluating the BWC initiative and providing a written synopsis of findings and recommendations to the Chief of Police.