

	POLICY & PROCEDURE	SERIES # 1137	PAGE 1 OF 14
	SUBJECT		EFFECTIVE DATE
	AUDIO/VIDEO RECORDINGS		12/06/2021
			OVERSIGHT Support Services
DISTRIBUTION ALL MANUALS	AMENDS/SUPERSEDES/CANCELS P&P # 1137 dated 02/06/2020		

I. PURPOSE:

The purpose of this policy is to establish guidelines regarding the use of audio/video recording systems by members of the Hampton Police Division and to establish a policy regarding the storage, release, and retention of audio/video recording files maintained in Division approved storage devices to ensure the following results:

- A. Support police accountability and transparency
- B. Increase citizen and officer safety
- C. Provide additional method of objectively collecting evidence
- D. Promote highway safety within the city by utilizing court accepted video technology.
- E. Produce more effective materials for the training of officers

NOTE: For the purposes of this policy the term “officers” shall refer to Sworn Officers, Animal Control Officers and Police Cadets utilizing Body Worn Camera Systems.

II. POLICY:

- A. It is the policy of the Hampton Police Division to use audio/video recorders to ensure an accurate and unbiased documentation of the interaction between officers and citizens in law enforcement related interactions. When activating audio/video equipment, officers shall consider the needs of public safety as well as the privacy and constitutional rights of individual citizens.
- B. The Division recognizes that video images cannot always show the full story, nor do video images capture an entire scene. The use of audio/video equipment does not reduce the requirement to provide thorough written documentation of an incident.

APPROVED:
CHIEF OF POLICE



- C. Audio/Video Recording violations: The Unit Commander will have final authority in the recommendation of corrective action for officers' found to be in violation of this policy. Unit Commanders shall utilize the City of Hampton's progressive disciplinary philosophy.

Provided extenuating circumstances do not exist, the minimum disciplinary measures shall be followed for violations occurring in any twelve (12) month period:

1. First offense: Notation on Supervisor's Record of Employee
2. Second offense: Letter of Reprimand
3. Third offense: One Working Day Suspension Without Pay
4. Fourth offense: Two Working Days Suspension Without Pay up to Dismissal

The above is based on an otherwise good performance record. If the officer involved has other disciplinary problems, more severe disciplinary action may be imposed. Minimum penalties for violations may be established on an equitable basis however, maximum penalties for violations may vary.

III. DEFINITIONS:

- A. Body Worn Camera (BWC): a video recording device worn on the body to record and collect evidence and law enforcement interactions.
- B. Evidence Transfer Manager (ETM): the docking, charging, and upload station for the AXON Tactical Computer and Body Worn Camera system.

IV. PROCEDURES:

A. GENERAL:

1. All video recording will be completed with the safety of both the officers and citizens as a primary consideration.
2. Audio and Video Recordings will be utilized during all **law enforcement specific contacts or events** to include all investigative and enforcement functions. Other examples include, but are not limited to; pedestrian and vehicle stops, consensual encounters, calls for service such as responses to burglaries, domestic disputes, and robberies, SWAT operations, and all citizen transports.)
 - a. Law enforcement specific contacts must be recorded in their

entirety. Officers are not permitted to deactivate their BWC recording during such contacts unless circumstances arise as outlined in section b., Body Worn Cameras.

3. All audio/video recordings are only for official law enforcement purposes and shall be considered property of the Hampton Police Division. Accessing, copying, sharing, distributing, or uploading to personal computers or other media storage devices is strictly prohibited.
4. If an officer fails to activate the audio/video recorder, or fails to record the entire contact, the officer shall document the reasons for doing so in a Special Report which will be submitted to their immediate supervisor.
5. Officers assigned audio/video recording equipment will utilize this equipment while working extra-duty, in accordance to the outlined procedures for use.
6. Civilians will NOT be allowed to review the recording at the scene.
7. Nothing in this policy shall prohibit an officer from activating their audio/video recording equipment whenever they deem the use of the camera appropriate.
8. Any audio or video recorder found not to be functioning properly will immediately be reported to the officer's supervisor. A Body Worn Camera discrepancy form detailing the problem with the device will be completed and forwarded to the Support Services Branch Special Project Office.

BWC equipment will be taken immediately, if possible, or no later than the beginning of the next working day to the Office of Special Projects, accompanied by a copy of the Body Worn Camera discrepancy form detailing the problem.

9. AM/FM Radios will be turned off immediately when any audio or video equipment is activated. Officers are reminded that audio equipment records virtually all sounds within range, including conversation.
10. **Both audio and video recordings shall continue uninterrupted until the completion of the entire incident.** The body worn camera system records a "pre-event" of thirty seconds prior to activation of the camera or a triggered event. The system triggers recording upon the activation of emergency equipment, Taser CEW activation, or upon manual activation. The BWC of any officer within 30 feet of the triggered event will also activate. When safe to do so, officers shall

ensure that their BWC's are recording, and not rely on the triggered activation.

Video of the DUI suspects driving prior to a traffic stop is desirable when possible.

When processing a DUI, and the officer is not assigned to a body worn camera, a video unit (if available) shall be called to respond to the location of the traffic stop for the purpose of filming. The arresting officer will administer the field sobriety tests to the suspect.

11. When an arrest is made, the arresting officer shall make note of the date, time, location, defendant's name and IBR/tracking number of the incident for court purposes.
12. Video camera operators will review all returned DVD's after the courts have cleared them. If the officer believes the taped incident serves as a valuable training tool, the officer will advise the Training Unit of the IBR/Tracking Number assigned to the video. The Training Unit will be responsible for submitting a request to the Special Projects Supervisor to obtain a copy for training purposes.
13. Prohibited Uses of Audio/Video Recording Equipment:
 - a. Equipment will not be used to record personal activities.
 - b. Recording in any courtroom or at a magistrate's office is **PROHIBITED**.
 - c. In general, officers should not activate the body worn camera device or should use caution when entering a public locker room, changing room, restroom, doctor's office, or other place(s) where an individual – unrelated to the investigation – would have a reasonable expectation of privacy.
 - 1) Use of the body worn camera device in a hospital setting shall be limited to investigative use only.
 - 2) Officers will not record a patient's medical interaction and procedures with hospital/medical personnel unless it directly relates to the investigation and hospital/medical staff is made aware prior to the recording taking place.
 - 3) Officers will remain cognizant of HIPAA laws and guidelines.
 - d. Officers will not intentionally record confidential informants or undercover officers unless the recording is conducted

specifically for the purpose of documenting a sting, drug purchase/sale, or other undercover operation in furtherance of a criminal investigation. Whenever possible and useful, an officer may position the equipment in a manner to capture the audio recording of an event but not record video of the informant or undercover officer.

- e. Officers will not make covert recordings of conversations with other Division members or City Employees, except when necessary in the course of a criminal investigation and/or for division administrative investigations as approved by the Chief of Police or designee.
- f. Officers will not record tactical planning discussions.

B. BODY WORN CAMERAS:

1. The AXON Body 3 BWC system has been designed to be worn on the upper chest on an officer's person. The following are approved method of mounting:

- a. Wing Clip Camera Mount
- b. Belt Clip Rapidlock

NOTE: The BWC will be attached on upper chest area of the officers outer vest cover or uniform shirt. The Axon 3 shall be unobstructed by such thing as uniform jackets, equipment, etc.

2. Body Worn Camera recording equipment should only be utilized by officers who have received the Division's training in its use.
3. Procedures to be followed when utilizing Body Worn Cameras:
 - a. The assigned body worn camera will be worn at all times by the officer on duty.
 - b. At the beginning of each shift, the officer shall determine whether their recording equipment is working satisfactorily.
 - c. Officers upon dispatch, whether over the air or silent, during any self-initiated activity will activate their body worn camera when feasible to do so. This includes all officers at the scene of an incident (one camera may capture images/evidence that other cameras miss).
 - d. Once the body worn camera is activated, officers will record the entire encounter without interruption (continuous recording) or until they have left the scene.

- e. If an officer discontinues recording an encounter for any reason and then finds it is necessary to take law enforcement action, the officer shall reactivate the camera provided it is safe and practical to do so.
- f. In a critical incident, such as officer-involved shooting, in-custody injury or death, or use-of-force against a citizen causing serious bodily injury or death, body worn cameras will remain turned on and in the possession of the involved officer until the appropriate Professional Standards or Investigative supervising personnel arrives on scene. In cases where the situation dictates the on scene supervisor may immediately review the recording to establish the level of danger that may still exist, aid the initial operational response to locate suspects, and focus on the initial stage of the investigation based on the need for officer and citizen safety. The BWC video will be handled in a manner consistent with other evidence. A supervisor not involved in the actual critical incident will take physical custody of any BWC's that may have captured the incident and upload them into Evidence.com by placing the camera device into Evidence Transfer Manager (ETM).
- g. When reasonable, practicable, and safe to do so, officers are strongly encouraged to inform citizens they are being recorded in an effort to de-escalate potential conflicts.
- h. Officers have the discretion to turn off their BWC during conversations with crime witnesses and members of the community who wish to confidentially report or discuss criminal activity in their neighborhood.
- i. Officers have the discretion to turn off their BWC during conversations with supervisors when discussing crime charging issues or other general conversations. The officer must activate their BWC after those conversations when re-engaging. Officers shall make a verbal notation on the recording anytime he or she plans to intentionally stop a recording prior to the completion of an event or incident. The verbal notation must include the reason why the officer is stopping the recording.
- j. Officers may use their BWC to document evidence of a crime or a crime scene. This does not replace the need for the Forensic Unit's response. The officer must indicate in the video recording what the related case number is for the incident in Evidence.com.

- k. Officers recording an event will annotate the availability of BWC recordings on applicable official police reports (IBR, Motor Vehicle Crash, DWC, etc.) related to the incident.
- l. All BWC recordings are required to be downloaded via Division ETM upon conclusion of the officers' tour of duty (including extra duty assignments.)

C. SWAT USE AND ACTIVATION:

- 1. The Hampton Police Division SWAT team members will utilize both the AXON Flex BWC and AXON Body 3 BWC system. The BWC will be worn on the helmet or on a halo mount depending on the mission and uniform load out for that particular mission. The following are approved method of mounting for both the AXON Flex BWC and the AXON Body 3 BWC system for SWAT:
 - a. Wing Clip Camera Mount
 - b. Belt Clip Rapidlock
 - c. Oakley Flak Jacket Sunglasses
 - d. Low Rider Headband
 - e. Ball Cap Mount

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D. LIVESTREAM AXON AWARE+ CAPABILITIES:

- 1. An officer's BWC may Livestream a recording via Evidence.com in order to be viewed by supervisory and RTIC personnel in real-time. Only authorized supervisory and RTIC personnel shall utilize the

Livestream feature. The BWC administrator shall assign Livestream permissions to supervisory and RTIC personnel.

2. Supervisors and RTIC personnel may Livestream BWC footage in order to assist a member, to deploy additional resources, or to check for compliance. Instances where supervisory and RTIC personnel may Livestream a BWC include, but are not limited to:
 - a. An ongoing critical incident (officer-involved shooting, firearms discharge, officer needs assistance, SWAT operations, or vehicle pursuit),
 - b. Active shooter situations where command requires multiple viewpoints to coordinate a safe response,
 - c. A hostage/barricade situation,
 - d. At a member's request.

NOTE: While the Livestream feature is a tool for supervisors to assist officers, its use shall not preclude the responsibilities of supervisors to respond to any incident and/or notify additional resources as required by Policy 1133.

3. The details of all access to the Livestream feature are automatically recorded in the Audit Log of any corresponding BWC recording(s).
4. Supervisors shall not Livestream the BWC of another member for purposes not related to operational necessity.

E. GPS FUNCTIONALITY:

1. The AXON Body 3 BWC system includes GPS functionality, which is only available upon BWC activation.
2. An officer's location will be visible on a map and available for authorized users when the BWC is activated.
3. Supervisors and RTIC personnel may review the GPS data in real-time from an officer's BWC.

F. CRIMINAL INVESTIGATIONS INTERVIEW ROOMS:

1. Unless otherwise approved by the Chief of Police or designee, all interviews related to a criminal investigation, conducted in Investigative Services interview rooms, are to be recorded. This includes but is not limited to:
 - a. Victims

- b. Suspects
 - c. Witnesses
2. Each of the four (4) interview rooms in investigations and the two (2) soft rooms on the 5th level are equipped with cameras and microphones. Additionally, the main lobby to Investigative Services is also recorded.
 3. When activated by the employees Division key fob, the interview will be recorded to a standalone storage system, located on the 5th level in a secure server room.
 4. Each interview room camera is started and stopped by swiping the fob reader twice in quick succession. When recording, the light on the key fob reader will change from green to red. When the subject is no longer in the room, ensure the system is turned off by using your division issued fob by swiping the fob reader twice in quick succession.
 5. When outside agencies (FBI, ATF, etc.) utilize one of the Division's interview rooms, an audio/video recording will be made only upon their request.
 6. No attorney-client conferences or discussions shall be recorded.

G. ACCESSING AND PROCESSING VIDEOS FOR COURT/INVESTIGATIVE PURPOSES:

1. Body Worn Cameras:
 - a. Video storage will be managed and controlled by utilizing "Evidence.com".
 - 1) The BWC & Controller will be placed in the ETM at the end of the officer's shift for charging and uploading to Evidence.com unless there are approved, articulable circumstances preventing it.
 - 2) Officers will properly categorize BWC videos according to event type to ensure proper retention periods can be applied.
 - b. Officers have access to "Edit" BWC videos on Evidence.com but the original version can never be manipulated. The edited version is stored as a copy/new clip within the console. Requests for deletion of portions of a recording from an audio/video file (e.g. in the event of a privileged or personal recording) must be submitted in writing to the Chief of Police.

- c. The arresting officer will ensure that all criminal offenses resulting in arrest and captured utilizing a body worn camera are sent to the appropriate prosecuting attorney via Evidence.com link.
 2. Interview Room Recordings:
 - a. Only trained officers shall be allowed to access the recording system and burn the interview to a DVD or CD.
 - b. Investigators and Investigative supervisors will have access to the Security Desk Client to make copies of recorded interviews. This software will be installed on investigative laptops as well as supervisor desktops and will be password protected with unique passwords by each user.
 - c. Each burned interview should contain the minimum information, written clearly on the DVD/CD with a permanent marker:
 - 1) Officer's name
 - 2) Victim/Witness/Suspect's name
 - 3) Case number or tracking number
 - 4) Date of Interview
 - d. Once the interview is burned to a DVD/CD, a notation of its existence should be made in the case file. Copies will be made at that time for the case file and Commonwealth Attorney as needed.
 - e. The burned DVD/CD will be tagged into Property and Evidence under currently established Policies and Procedures.
 3. Supervisors will have access to all videos and the authority to review and copy videos as needed.
 4. Recordings will remain on the server for approximately 30 days. If a copy of a recording is needed, the officer or supervisor can access the system and make additional copies. In the event the recording has been overwritten, the officer, will sign out the DVD from P&E in the same manner as current evidence procedures. After the final court disposition is complete, the arresting officer will return the DVD to Property and Evidence, notifying them that the court process is completed.

H. LEGAL CONSIDERATIONS:

1. The Commonwealth Attorney reviews all drunk driving arrest forms.
 1. For video files not stored in Evidence.com, including, but not limited to, and investigation room video files:
 - a. A “Data Disk” of every recorded DUI will be attached to the DUI Case File
 2. For video files stored in Evidence.com, including Body Worn Camera footage:
 - a. The arresting officer will ensure the link of the video or case file from Evidence.com is sent to the Commonwealth Attorney.
2. The City Attorney reviews all misdemeanor marijuana prosecutions. However, the Commonwealth Attorney and the U.S. Attorney may handle related cases, as well as other criminal and traffic related offenses.
 - a. For video files not stored in Evidence.com, including, but not limited to, and investigation room video files:
 - 1) A “Data Disk” of every recorded interaction involving a charge of possession of marijuana or possession of marijuana with intent to distribute will be included with the case file sent to the appropriate prosecuting attorney.
 - b. For video files stored in Evidence.com, including Body Worn Camera footage:
 - 1) The arresting officer will ensure the link of the video or case file from Evidence.com is sent to the appropriate prosecuting attorney.
3. A pre-trial viewing of the recorded video evidence will be made available to defense attorneys. The defense attorney(s) must make an appointment through the appropriate prosecuting attorneys’ office who will arrange for the defense attorneys to view their copy of the recording.
4. The videotaped evidence discussed in this policy is in addition to existing legal procedures and will not replace the need for any of those procedures.
5. Recordings shall be used for evidentiary documentation or training purposes only, except as permitted by prior written approval by the Chief of Police or designee. Only those employees acting under their

official duties will be permitted access to recordings and/or images.

6. Any on-scene images and/or any other images taken by employees in the course and scope of their duties are the sole property of the Division.

I. DATA ACCESS AND REVIEW:

1. Officers will be permitted to review video footage of an incident in which they were involved prior to making a statement about the incident.
2. The Office of Professional Standards (OPS) shall have access for internal investigations and internal audit responsibilities. The OPS shall conduct random audit reviews of audio/video footage each quarter to monitor compliance with program and departmental procedures. This audit will review a random selection of one day's worth of footage for nine (9) separate body cameras.
3. Supervisors of officers utilizing video/audio recording equipment shall receive training on the use of the camera equipment and procedures for reviewing video/audio recordings in the evidence.com program. These Supervisors will conduct random monthly audits of two subordinates from their respective work groups and review recorded law enforcement specific contacts or events to ensure compliance with this program, equipment is operating properly, identify any areas in which additional training or guidance may be required, and any disciplinary action that may need to be addressed. Supervisors may also conduct regular audits of subordinates who are placed on early warning, a performance improvement plan, or a letter of expectation.
4. Supervisors conducting the "Unit Supervisor BWC Audit Report" shall not select videos for the audit that have previously been entered into BlueTeam as they do not meet the intent of a random audit. These incidents include: Vehicle pursuits, Use of force incidents, Firearm discharges and Citizen Complaints.
 - a. The Unit Supervisor BWC Audit Report form shall be utilized and capture the following:
 - 1) The officer's name that has been randomly selected.
 - 2) The officers' district and cad number.
 - 3) The officer's race and gender.
 - 4) The date of the video being reviewed.
 - 5) The ID and Category of the video being reviewed.
 - 6) The BWC video link to the video that was reviewed.
 - 7) The length and description of the video that was reviewed.

- 8) The selected video(s) must be reviewed in their entirety and all videos pertaining to that incident recorded by the selected officer must be reviewed.
5. If a violation of Federal, State or Local law is noted during the audit, the supervisor may review BWC video, but they shall immediately notify the Office of Professional Standards to restrict access to any involved video(s) and report the violation to the Office of Professional Standards via BlueTeam.
6. Violations of Hampton Police Division Rules and Regulations and Policy and Procedures noted during the audit which could rise to disciplinary action will be reported to the Office of Professional Standards via BlueTeam.
7. Records of these audits shall be included on the Shift Monthly Report. Copies of the Unit Supervisor BWC Audit Report will be forwarded to and maintained by Professional Standards.
8. Protocols shall be followed for releasing recorded data externally to the public and/or news media. FOIA guidelines will be followed; however, the Chief of Police retains the authority to release recorded data at his discretion.

J. AUDIO/VIDEO RETENTION:

All audio/video recordings will be maintained in accordance with the Library of Virginia Records Retention Schedule.

K. CARE AND MAINTENANCE RESPONSIBILITIES:

1. The Support Services Branch will have administrative responsibilities for the Body Worn Camera and Mobile In-Car Camera Programs and will handle all issuing, tracking, maintenance, and video storage responsibilities.
2. The Investigative Services Branch will have administrative responsibilities for the Interview Room Program and will handle all issuing, tracking, maintenance, and video storage responsibilities.
3. Officers are responsible for the proper care of audio/video equipment assigned to them and will immediately report any loss of, or damage to, any part of the body worn camera equipment to their immediate supervisor.

L. TRAINING:

1. Officers utilizing audio/video equipment must receive all mandated

training. This training should include:

- a. All practices and protocols covered by HPD Policy & Procedure.
 - b. An overview of State and Federal law governing consent, evidence, privacy, and public disclosure.
 - c. Manufacturers' procedures for operating the equipment safely and effectively.
 - d. Scenario-based exercises that replicate situations that officers might encounter in the field.
 - e. Procedures for downloading and categorizing recorded data.
 - f. Procedures for accessing and reviewing recorded data.
 - g. Procedures for preparing and presenting digital evidence for court.
 - h. Procedures for documenting and reporting any malfunctioning device or supporting system.
2. This training shall be made readily available to students in hard copy and digital form. Refresher training on equipment usage and protocols will be provided to all users as necessary.

Redaction Log

Total Number of Redactions in Document: 1

Redaction Reasons by Page

Page	Reason	Description	Occurrences
7	TACTICAL PLANS	Records of law-enforcement agencies, to the extent that such records contain specific tactical plans, the disclosure of which would jeopardize the safety or security of law-enforcement personnel or the general public has been redacted pursuant to Va. Code §2.2-3706(B)(5).	1

Redaction Log

Redaction Reasons by Exemption

Reason	Description	Pages (Count)
TACTICAL PLANS	Records of law-enforcement agencies, to the extent that such records contain specific tactical plans, the disclosure of which would jeopardize the safety or security of law-enforcement personnel or the general public has been redacted pursuant to Va. Code §2.2-3706(B)(5).	7(1)