



General Order

Durham Police Department
Durham, NC

Number:

4083

Body Cameras

EFFECTIVE DATE: DRAFT

REVISION DATES: MARCH 4, 2016

INTRODUCTION

In an effort to enhance its services to the community, the Durham Police Department utilizes body worn cameras. The goals are to enhance both officer and citizen accountability and strengthen public trust by preserving factual representations of officer-citizen interactions while protecting civil liberties and privacy interests; to enhance evidence collection and training efforts, and to provide an additional means of documentation for administrative and public interest purposes. This policy establishes guidelines for the use and maintenance of departmentally owned and operated wearable Body Camera systems, hereafter referred to as “Body Cameras” as well as the dissemination, retrieval and storage of audio/video recordings produced by these cameras.

DEFINITIONS

Body Camera - A mobile audio and video capture device attached to the officer’s body or uniform that allows officers to record their interactions when taking law enforcement action.

Body Camera Program Manager - The overall management of the Body Camera program will reside with the Department’s Information Technology Manager, within the Administrative Services Bureau. The IT Manager, or their designee is responsible for handling or directing administrative and management matters related to the department’s Body Camera program as outlined in this policy or as further directed.

Body Camera Recordings - Refers to any audio and/or visual recordings made by a departmental Body Camera. Body Camera recordings constitute records of a criminal investigation and/or personnel records and are not public records, pursuant to N.C.G.S. §132-1.4 and §160A-168.

Officers – refers to any sworn police officer working for the City of Durham Police Department.

IT Division staff members – Refers to any employees assigned to the Information Technology Division.

USE AND REQUIRED ACTIVATION OF THE BODY CAMERA

The assigned Body Camera will be affixed upon the officer’s uniform, on the torso between the beltline and the shoulders, at the beginning of the shift in accordance with departmental training. While some discretion with regards to placement is allowed, officers are responsible for ensuring that the specific location utilized does not obstruct the camera’s recording capabilities. Police Training Officers are still required to wear their Body Camera during the plain clothes phase of recruit training. The Body Camera will be worn for the entire work shift as well as Secondary Employment jobs. Although all sworn officers may be assigned a Body Camera, the

following police units shall wear their assigned Body Camera while on duty as a part of their standard duty equipment:

- Uniform Patrol Officers
- H.E.A.T. Officers
- Traffic Services Officers
- Bicycle Officers
- Violent Incident Response Team Officers
- Warrant Squad Officers

It is understood that not all situations will clearly start out as requiring recording nor will all recorded incidents have a clear ending for when recording is no longer required. Officers are expected to follow departmental policy utilizing ethical and legal discretion when activating and deactivating their Body Camera.

Officers will begin recording with their Body Camera in the following situations¹:

- prior to any officer initiated field contacts involving actual or potential violations of the law including traffic stops, and pedestrian or vehicle contacts;
- upon being dispatched to, and/or when responding to assist on, any and all calls for service, the exception being a call handled via telephone;
- when engaged with a citizen for the purpose of investigating or assisting in the investigation of suspected criminal activity; and
- while executing searches of individuals, personal property, vehicles, and premises. The Body Camera will be used to record a request for consent to search and the granting or denial of that consent. **This recording shall not replace the use of the Consent to Search Form as required by policy.**
- **As it pertains to designated Checking Stations, the Body Camera may be off initially. Once an officer determines there is reasonable suspicion or probable cause to take enforcement action or detain the driver, the officer shall begin recording with their Body Camera.**

While taking statements from subjects, victims and witnesses, officers shall have the discretion to deactivate a recording at the request of a non-suspect. The citizen's request should be captured on the Body Camera recording prior to deactivation.

If not already activated, and whenever it is reasonable, the Body Camera will be activated to record any encounter that becomes adversarial or in any situation that the officer believes the use of the Body Camera would be appropriate or would provide useful documentation.

It is understood that there may be certain instances where officers operating in a proactive (non-dispatched) capacity may become involved in a situation requiring immediate action to prevent injury, make an arrest, and or prevent the destruction of evidence or escape. If the immediate activation of the Body Camera is not reasonable due to the circumstances, the officer will activate their Body Camera at the first available opportunity after the immediate threat has been addressed. Supervisors will closely review documentation of such incidents to ensure exigent circumstances did in fact exist.

All officers shall note in incident and/or supplemental reports when recordings were made during the incident. To enhance the services provided to the community, officers may use video captured by their assigned Body Camera to assist with investigations and evidence collection; and to improve and or enhance the accuracy of

¹ **41.3.8B**
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officer reports and courtroom testimony. **Recordings may not capture everything during an incident and therefore are not a replacement for written reports. Officers are prohibited from relying totally on Body Camera recordings to complete reports.** Officers shall not use statements such as, “refer to video”, etc. as a substitute for a thoroughly detailed reporting of an incident. The video of an incident should serve as a visual support or enhancement of the written report.

Whenever possible, and in a manner consistent with officer safety, officers should inform individuals that they are being recorded. If a citizen inquires as to whether a Body Camera is in use or whether a recording is being made, officers shall provide a prompt and truthful response.

Officers who have inadvertently activated the Body Camera during non-law enforcement related activities (i.e. meal breaks, restroom breaks, etc.) shall make an email request to Audio/Visual personnel, via the PD-Help Desk, to have the recording deleted and shall include the reason(s) for the request. This email request should explain the circumstances surrounding the inadvertent recording. Prior to deletion, the video in question will undergo a second level of review by the IT Manager to ensure that the device only captured a non-law enforcement related recording. The original email and subsequent approval will be retained by the IT manager for 180 days. The IT Manager is expressly prohibited from disseminating such videos in any way, or discussing such videos outside of the officer’s chain of command.

If an officer fails to activate his or her Body Camera when they should have, the officers shall document said failure in his or her report, and shall make an email notification to his or her supervisor outlining the circumstances surrounding his or her oversight.

DEACTIVATION AND RESTRICTED USE OF THE BODY CAMERA²

Once an officer starts recording with their Body Camera, recording should not be stopped until the initial incident that required the recording has stabilized and transitioned to an orderly investigation or concluded; or the officer’s involvement in the incident has concluded. An incident may be considered stabilized when the initial police response or exchange of communication related to police enforcement activities, has transitioned to a controlled and orderly investigation by the primary officer. Officers who responded in a secondary or assisting capacity, may stop recording once the incident has stabilized or upon leaving the scene.

Body Camera recordings may also be stopped at the request of a non-suspect. Should the officer choose to honor such a request to stop recording, said request shall be captured on the officer’s Body Camera prior to doing so. The officer shall maintain the discretion to resume recording at any time during the encounter should he or she deem it necessary. Additionally, the officer shall have the discretion to deny such a request if he or she deems it appropriate.

The Body Camera may be deactivated in the following situations:

- If an officer is on a perimeter or assigned to a static post where he/she is not in contact with citizens or actively participating in the investigation. The Body Camera will be reactivated if either of these conditions fails to apply.
- If it is necessary to discuss issues or concerns regarding an individual’s mental or physical health condition. As soon as the private conversation is completed, the Body Camera shall be returned to record mode so long as the situation still falls under the definition of required use.
- Prior to discussing a case on-scene with other officers or during on-scene tactical planning.

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- When interviewing victims of sexual assault: The officer shall inform the victim that he/she is being recorded, ask the victim if he/she would prefer not to be recorded, and honor that request.

Officers will document the reason that the Body Camera has been deactivated in the form of a recorded announcement on the Body Camera prior to deactivation.

Use of the Body Camera is prohibited in in the following situations:

- To record conversations involving Department employees that are not required to be captured pursuant to this policy.
- In places where a heightened expectation of personal privacy exists, such as locker-rooms, dressing rooms, or restrooms unless the recording is for the purpose of official law enforcement activities and no uninvolved parties remain present.
- To record confidential informants or undercover officers.
- To record strip searches; however, officers may video the location of the search immediately prior to beginning. While officers may not video the search itself, the camera may remain recording, but be turned away from the suspect so that an audio recording of the event may be captured.
- In patient care areas of a healthcare facility, officers should not record patients during medical or psychological treatment or evaluations by a medical professional other than to document injuries, or obtain statements, for official law enforcement purposes. Officers should take special care to ensure to record only the parties involved in the incident being investigated.
- To record judicial proceedings in courtrooms and the Magistrate's Office unless express permission is given beforehand by the presiding judicial official.
- To record communications between a defendant and his/her attorney.
- To record activities which are not official law enforcement functions.

Recordings of matters related to the investigation of suspected criminal activity which are either not required, or are restricted from recording by this policy but which nonetheless have been created, shall be retained as part of the criminal investigative file.

DATA MANAGEMENT AND RETENTION³

With the exception of those videos not needed for administrative or court purposes, officers will label or tag each recorded Body Camera video with the assigned Incident Report (IR) number and one or more of the call type categories available within the video management system (DWI, Felony, Infraction, etc.).

Officers, who need to upload video during their workday, may put themselves out-of-service (10-7) for the amount of time needed to complete the upload if necessary. Officers are encouraged to take every opportunity to periodically upload video throughout the workday to reduce excessive delays at the end of the day.

Prior to going off-duty for that particular shift or secondary employment assignment, officers should upload all video from their assigned Body Camera, if reasonably feasible, to avoid incurring overtime. All video should be uploaded no later than the officers' next working day. If the officer will be out of work for a significant period of time, AND he or she has recorded video of an incident that the officer feels may be relevant to a citizen's complaint, involved a use of force, a significant arrest, or any similar incident, the officer should upload said video immediately.

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Recorded videos are transferred from a Body Camera onto departmental storage arrays through one of two methods:

- Wireless uploads via Department authorized wireless methods
- Manual uploads by the officer(s) who physically connect to computers or docking stations designated for this purpose

Videos are stored on departmental storage arrays for a minimum of 180 days. By selecting an event type other than the default event type for a specific video, the minimum retention of the video can be increased. Videos will be automatically deleted when their retention time has expired. The retention time frames for each event type are as follows:

- 180 days (6 months) – Default
- 180 days (6 months) – Infractions
- 1095 days (3 years) – DWIs
- 1095 days (3 years) – Misdemeanor cases
- 2555 days (7 years) – Accidents involving City of Durham vehicles
- 7300 days (20 years) – Felony cases
- Indefinite hold – Professional Standards (includes citizen complaints, uses of force, etc.)

Officers who fail to select an event type and label a video prior to uploading can go to a computer upload/viewing station, find their video, and label it at a later time.

When an incident arises that requires the immediate retrieval of Body Camera media for chain of custody purposes including, but not limited to, serious crime scenes or critical incidents such as officer involved shootings, a supervisor will respond to the scene and ensure that the Body Camera remains affixed to the officer(s) in the manner it was found and that the Body Camera data remains uncompromised. Through direct and uninterrupted supervision/observation, the supervisor or his/her designee is responsible for the care and custody of the Body Camera(s) until it has been removed and secured by the lead investigator, Forensic personnel, or Professional Standards personnel.

Employees shall not make any efforts or attempts to destroy, delete, alter, or edit Body Camera video except as explicitly authorized by this General Order, and then only at the written direction of the Chief of Police or his/her designee.

DATA USE AND DISSEMINATION⁴

All Body Camera recordings are the property of the Department and constitute records of a criminal investigation and/or personnel records and are not public records, pursuant to N.C.G.S. §132-1.4 and §160A-168. Such records are open to inspection or review in accordance with these statutes or as otherwise required by law. Inspection or review may be allowed at the discretion of the Chief of Police, the City Manager, and or City Council who may elect to release such records in response to a compelling public interest.

Officers may upload and view their own Body Camera recordings for law enforcement purposes only. Officers may not upload and view recordings from Body Cameras assigned to other officers unless necessary for the performance of a supervisory function or administrative assignment.

⁴41.3.8c
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Officers may not play back Body Camera recorded media for citizen viewing.

District and Division Commanders with direct reports utilizing Body Cameras are responsible for ensuring that a minimum of two Body Camera recordings of their direct reports are reviewed each month. Reviews may be conducted at random or as a result of a complaint and will be documented on the Monthly Camera Footage Review form. If a system error (or other issue) occurs that prevents a review from taking place, this will be documented on the form and the PDHelpdesk should be notified as soon as the error becomes known.

COMPLAINANT REVIEW OF AUDIO/VIDEO RECORDINGS

That portion of an audio/video recording which contains an event resulting in a citizen complaint against an officer may be reviewed by the person alleged to have been aggrieved by the officer's actions, i.e. the complainant. **Review of audio/video recordings is limited to the complainant and his or her parent/guardian, or legal counsel. If the complainant is a juvenile, or an adult suffering from a cognitive impairment, then the complainant should be accompanied by a parent or guardian who may review the audio/video recording in the company of the complainant.** Any audio/video recording which depicts discharge of a firearm by an officer or serious injury or death of any person will not be shown to a complainant without prior approval of the Chief of Police, the City Manager, or the City Council.

Complainant review of audio/video recordings shall occur as follows:

- The complainant may request a review of audio/video recordings specific to their complaint by completing a Complainant Request to Review Audio/Video form. The completed form will be submitted to the Commander of the Professional Standards Division via mail, email, or delivery at the front desk of Police Headquarters.
- The Commander of the Professional Standards Division will request a copy of the requested video from the Information Technology Division (IT) staff. The IT staff will produce a copy of the video upon request.
- A copy of the video will be reviewed by the Assistant Chief of the affected officer. The Assistant Chief will review the video to determine if any redaction is required.
- Once approved, the video will be provided to the investigating officer to arrange a meeting time and place for the complainant to review the video.
- Video review will be restricted to those portions of the video that are pertinent to the allegations raised by the complainant. The investigating officer will take whatever measures are necessary to prohibit the complainant from viewing unrelated video.
- The Professional Standards Division Commander shall maintain a file of all complainant requests to review audio/video recordings.

REQUESTING COPIES OF BODY CAMERA VIDEO

Internal Requests

Officers and other departmental staff may only request copies of videos for legitimate job-related reasons. All video copy requests shall be sent via email or telephone to the PD Help Desk, which will then forward them to appropriate IT Division personnel for processing. Due to the amount of time it may take to locate recordings, it is recommended that these requests be made well in advance. To the extent that it is readily known or available, the following information shall be included in video copy requests to assist in the location and dissemination of copies:

- Requestor's name and contact info (in most cases, only the lead officer/investigator for that particular recorded incident will be provided with video copies)
- Reason for request (evidence for court, wreck investigation, training, etc.)
- The number of video copies needed (for court purposes, normally two copies are provided – one for the officer's case file, and a second copy to the District Attorney's office).
- Date copies are needed by
- Approximate date/time of the recorded incident
- Brief incident description (suspect or vehicle description, location, action to look for, etc.)

External requests

The Body Camera Program Manager will process all external (non-DPD) requests on a case-by-case basis. External requests may be approved:

- For official use by any federal or state prosecuting agency
- For official use by other public safety agencies unless release is likely to jeopardize an on-going administrative or criminal investigation or prosecution
- For official use by any other agency of the federal or state government, or any political subdivision of the state, unless release is likely to jeopardize an ongoing administrative or criminal investigation or prosecution
- For official use by other City of Durham departments unless release is likely to jeopardize an ongoing administrative or criminal investigation or prosecution
- Pursuant to an order of a court of competent jurisdiction
- Upon the approval of the Chief of Police or his/her designee, the City Manager or the City Council.

EDITING OR REDACTION OF BODY CAMERA VIDEO

The release of Body Camera footage to the general public may require editing or redaction of information that might compromise an ongoing investigation; or might reveal the identity of juveniles, victims, witnesses, etc. Any editing or redaction of Body Camera video requires prior approval by the Chief of Police or his/her designee. At the direction of the Chief of Police, and after consultation with the legal advisor, the IT Manager will coordinate the redaction of the required portions of the designated video.

BODY CAMERA DISTRIBUTION, MAINTENANCE, INSPECTIONS, AND INVENTORY⁵

Distribution

Distribution shall be coordinated by the IT Manager and will be handled by the designated IT staff.

Maintenance and Repairs

Officers are responsible for the care and maintenance of their assigned Body Camera. Officers are responsible for charging their assigned Body Camera between work shifts. Officers shall inspect their assigned Body

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Cameras prior to the beginning of each shift or secondary employment assignment to ensure that the camera has no obvious signs of damage; adequate battery life and storage is available and is functioning properly. Officers shall immediately report any damage, malfunction or loss to the PD Help Desk who will, in turn, forward those concerns to appropriate IT Division staff members for resolution.

Officers shall immediately report any issues/problems with Body Camera equipment to their immediate supervisors via email.

The IT Division's Help Desk tracking system will be used to document reported malfunctions and the solutions to those malfunctions.

Officers shall not:

- Remove, dismantle, or tamper; or attempt to remove, dismantle, or tamper with any hardware or software component or part associated with the Body Cameras.
- Use any electronic device or other means to intentionally interfere with the functioning of the Body Camera.
- Share or swap assigned Body Cameras.
- Tamper with, attempt to tamper with or gain unauthorized access to video footage. All access or attempts to access video footage will be tracked and can be audited by the IT staff.

Inventory

The IT staff, under the direction of the IT Manager, will maintain an inventory database of all Body Cameras to include personally assigned accessories.

If the Body Camera, or any accessories, are lost or damaged due to violation of policy or carelessness while assigned to a specific officer, that officer may be held financially responsible for any repair or replacement and may be subject to disciplinary action.

TRAINING

Officers will not use the Body Camera until they have successfully completed all required training on the system's equipment and recorded media. IT members, who have responsibilities regarding the body cameras that exceed the training provided for the basic users, will be trained on the procedures that apply to their specific area of responsibility.⁶

If, after training, officers are having difficulty operating either the Body Camera or uploading the data, they will contact the PD Help Desk for troubleshooting and clarification. Additional formal training may be requested through the chain of command as needed. The Body Camera Program Manager will assess requests and process them appropriately on a case-by-case basis.

The PD Help Desk will refer all requests for additional training to the Body Camera Program Manager for follow-up.

POLICY VIOLATIONS

⁶ 41.3.8F
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Any Department employee who violates the terms of this policy will be subject to disciplinary action (see Rule 1.1).