

# ***POLICIES, PROCEDURES, AND RULES***

<b>Subject:</b> Body-Worn Camera 41.3.8	<b>Effective Date:</b> December 31, 2018
<b>Reference:</b> FPD 12.1.1, 22.3, FPD 26.1.1, FPD 41.3.5, FPD 53.1, 54.1.1, and GO # 22	Version: 2
<b>CALEA:</b> 17.5.3, 41.3.8, 53.1.1	No. Pages: 8

## **I. PURPOSE**

The purpose of this policy is to provide officers with guidelines on the use and management of body-worn cameras (BWC). At times, body-worn cameras may document the audio/video of a police officer's investigative and enforcement activities. The use of body-worn cameras are expected to promote officer safety, strengthen police accountability, create a greater operational transparency, provide for more effective prosecution, and improve protection against false allegations of excessive use of force, misconduct or biased-based profiling while protecting civil liberties and privacy interests [CALEA 41.3.8 a.].

## **II. POLICY**

It is the policy of this department that officers shall activate the body-worn camera when such use is appropriate to the proper performance of his or her official duties, where the recordings are consistent with this policy and state law. This policy does not govern the use of recording devices used in undercover operations or Office of Professional Standards (OPS) investigations.

### **A. Use of Equipment**

1. The department issued body-worn camera is authorized for use in the course and scope of official duties as set forth in this policy.
2. The Chief of Police will select which body-worn camera shall be used by the police department.
3. Body-worn camera equipment shall be issued to all sworn personnel.
4. Officers shall only use departmentally approved body-worn cameras.
5. Sworn personnel wearing a Class "A" or "B" uniform as defined in Fayetteville Police Policy 41.3.5 (Grooming and Uniform Requirements) and personnel assigned to motorcycle patrol and bicycle patrol are required to wear the body-worn camera unless approved by a supervisor.

- a. There may be exceptional circumstances during call-out deployments and when officers are in uniform while off-duty or on-duty, and there is need to take law enforcement action without having access to a body-worn camera. When practical, officers shall obtain authorization from a department supervisor before taking law enforcement action without wearing a body-worn camera. Examples of these circumstances include, but are not limited to:
  - (1) Off-duty officers traveling to and from the police department after or before their assigned shift.
  - (2) All deployments requiring immediate response.
  - (3) Critical incidents when no other functioning body-worn cameras are available.
6. While working extra duty employment as defined in Fayetteville Police Policy 22.3 (Secondary Employment) and wearing a Class “A” or “B”, motorcycle, or bicycle uniform, sworn personnel shall wear a body-worn camera. Officers shall ensure the camera is fully charged and ready for use when returning to duty.
7. The Administration Division Captain shall maintain a record of assignment for each body-worn camera [CALEA 17.5.3].
8. The body-worn camera shall be worn near the center of the officer’s torso at approximately chest height. Considerations such as an officer’s uniform limitations, height and/or body type may necessitate a slight off-center placement of their body-worn camera to obtain the best field of view.
9. The body-worn camera equipment and all data, images, video, and metadata captured, recorded, or otherwise produced by the equipment are the sole property of the agency.

**B. Training [CALEA 41.3.8 f.]**

1. Prior to the issuance of body-worn cameras, all sworn personnel must complete department approved training and demonstrate proficiency in the operation and care of the camera. This training will include mandatory, permissible, and prohibited uses of the body-worn camera.
2. Additional training may be required for users and supervisors every three years or as needed to ensure the continued effective use and operation of the equipment, or policy revisions.
3. The Training Division will maintain a record of all training as required by this policy.

**C. Set up, Maintenance, and Data Upload [CALEA 41.3.8 e]**

1. Assigned body-worn camera equipment is the responsibility of the individual officer and will be used with reasonable care to ensure proper functioning.
2. Officers shall inspect and test the body-worn camera prior to each shift in order to ensure it is operational, and the battery is fully charged.
3. Officers shall notify their supervisor immediately of any problems or malfunctions. The supervisor will make the determination if the body-worn camera should be removed from service and a temporary replacement issued.

4. If a body-worn camera is damaged, lost, or stolen, the officer shall submit a memorandum through the chain of command.
5. The Administrative Lieutenant will track damaged, lost, or stolen equipment.
6. The Chief of Police or his designee will assign peripheral supervisory assignments for the body-worn camera program. Department supervisors who have been assigned this primary or secondary responsibility shall ensure all cameras and related equipment are in a state of operational readiness.
7. At the end of shift or secondary employment, officers shall place the body-worn camera into a docking station for upload of data. This will allow evidence to be transferred from the system to the video management solution and for the battery to be charged. The body-worn camera should not ordinarily be removed from the dock until data has been uploaded and the battery is fully charged [CALEA 41.3.8 d].

**D. Activation of the Body-worn Camera [CALEA 41.3.8 b.]**

1. When possible, officers shall activate the body-worn camera to record all contacts with citizens in the performance of official duties.
2. If asked, the officer will inform the person they are being recorded.
3. Body-worn cameras shall be activated in the following circumstances.
  - a. Detentions and arrests;
  - b. Statements made by suspects;
  - c. Consensual encounters;
  - d. Traffic and pedestrian stops;
  - e. K9 deployments;
  - f. Emergency Response Team Deployments;
  - g. Foot pursuits;
  - h. Use of force;
  - i. When serving an arrest or search warrant;
  - j. Conducting any of the following searches on a person or property:
    - (1) Incident to arrest;
    - (2) Cursory;
    - (3) Probable cause;
    - (4) Probation/Parole; or
    - (5) Vehicles;
  - k. Search by consent - Officers will follow established procedures as defined in Fayetteville Police Policy 1.2.2 (Warrantless Detention, Search and Seizure).
    - (1) Prior to conducting a consensual search, an officer shall verify the body-worn camera is activated and recording. Permission to search shall be recorded by the officer before any search takes place.
    - (2) If the subject granting consent limits the scope of the search by requesting de-activation of the body-worn camera, the officer may honor the request and proceed within the scope of the search. The request for de-activation shall be recorded.
  - l. Transportation of arrestees or detainees;
  - m. During any citizen encounter that becomes hostile;

- n. Any situation where the officer determines recording would be valuable for evidentiary purposes;
- o. When directed by a supervisor;
- 4. Whenever an officer records an incident or any portion of an incident, which that officer reasonably believes will lead to a citizen complaint, the officer will notify his/her supervisor before the end of his/her shift.
- 5. Once the body-worn camera is activated, it shall not be intentionally turned off until the event is completed, unless authorized by policy.
- 6. Officers shall document in the CAD incident narrative (if no case report exists), the case report or as a note on the warning or citation if he or she fails to activate, fails to record the entire contact, or the body-worn camera malfunctions.

**E. Operational Restrictions [CALEA 41.3.8 b]**

- 1. The body-worn camera shall only be used in conjunction with official law enforcement duties.
  - a. The body-worn camera will not be intentionally activated to record fellow employees without their consent during non-enforcement related activities.
  - b. Intentional recordings of confidential informants and undercover officers are prohibited unless authorized by a supervisor.
- 2. Officers shall not modify, dismantle or attempt to make repairs to body-worn cameras.
- 3. Body-worn cameras shall not be used for non-work related activities.

**F. Deactivation/Non-Activation/Muting of the Body-worn Camera [CALEA 41.3.8 b]**

- 1. Officers will only deactivate or not activate the body-worn camera during an incident when authorized by policy.
- 2. Officers shall properly document reason for deactivation by entering an audio explanation prior to deactivation and including the reason in the CAD incident narrative or case report.
- 3. Officers have discretion on deactivating the body-worn camera under the following circumstances:
  - a. In places where reasonable expectations of privacy exist (i.e. bathrooms, dressing rooms, locker rooms, etc.).
  - b. No strip or body cavity searches will be recorded.
  - c. When at a crime scene, the body-worn camera may be manually deactivated when the scene is no longer active, and the deactivation is approved by a department supervisor.
  - d. Officers may deactivate or not activate the body-worn camera when dealing with reluctant witnesses or victims.
  - e. Upon approval from any supervisor.
- 4. When discussing sensitive tactical or law enforcement information away from citizens, or when obtaining confidential information, officers can utilize the mute function on the body-worn camera.

5. Other deactivations / non-activations may occur when officers experience equipment malfunctions, when officers do not have a reasonable amount of time to activate their body-worn cameras, or in places where reasonable expectations of privacy exist (i.e. bathrooms, dressing rooms, locker rooms, etc.).

#### **G. Documentation, Categories, and Retention of Body-Worn Camera Videos**

[CALEA 41.3.8 c,d]

1. The Fayetteville Police Department utilizes video management solution software that exports information from our computer aided dispatch (CAD) and records management system (RMS). Once the video has been automatically tagged, it shall be the officers' responsibility to check and verify data files are categorized correctly with the following information:
  - a. By verifying the case number within the CASE ID Field associated with the file is correct;
  - b. By verifying a title in the TITLE field. The title should include sufficient information to identify the file.
  - c. By verifying the appropriate CATEGORY of the video has been selected to establish retention.
2. Categories and associated retention rates as implemented by system administrator:
  - a. BWC Tests - (90 days) – This category is only for documenting the inspection and test of the body-worn camera. Employees are required to manually tag these videos.
  - b. Uncategorized – (Indefinite) – This is a default category for body-worn camera videos that are not categorized by the integration with the computer-aided dispatching / record management system.
  - c. No action - (180 days) - Incidents that do not result in police action, circumstances with no known criminal offense, or minor incidents where prosecution is not required.
  - d. Training – (90 days) – This category is only for practical training exercises that need to be kept and documented for department training.
  - e. Misdemeanor - (4 years) - All misdemeanor criminal investigations, reports and arrests and traffic citations.
  - f. Death Investigation – (7 years) – All death investigations not categorized as homicides. Employees should document all death investigations in this category. Criminal Investigation Division supervisors will be responsible for tagging the videos in another category if appropriate.
  - g. Felony - (7 years) - All felony criminal investigations, reports and arrests.
  - h. Permanent - (Permanent) - Officer involved shootings, homicides and crimes of violence as defined by ACA 5-42-203. Supervisors in the Criminal Investigation Division and Administration will manually tag the officer involve shooting and homicide videos.
  - i. Restricted - (Indefinite) -Videos under administrative review. The Administrative Lieutenant will manage videos in this category.

## **H. Accidental Recordings [CALEA 41.3.8 c,d]**

1. Requests for deletion of accidental recordings must be submitted in writing and approved by Chief of Police or his or her designee.
2. The Administration Division Captain shall ensure the recording is removed from video management solutions.
3. All requests and final decisions shall be kept on file with the Administration Division Captain for a period of 3 years.

## **I. Recording Control and Management [CALEA 41.3.8 c]**

1. All body-worn camera videos have a 30 second buffer, which means the video of the incident is captured 30 seconds prior to the activation of the camera.
2. All body-worn camera/video management solution users will be responsible for monitoring system effectiveness and making recommendations for operational improvement and policy revision.
3. The Chief of Police or his designee will establish permission levels for users in the video management solution software. Permission levels will be determined by the employee's function within the organization.
4. The Administration Division Captain or his designee will be responsible for implementing user roles and privileges in the video management solution software.
5. Authorized users will keep their user name and password confidential.
6. The video management solution has an audit function that tracks access of the videos within the system.
7. Accessing, tampering, copying, or releasing any recordings for other than official law enforcement purposes is strictly prohibited, except as required by law.
8. Under no circumstances will employees be allowed to access and view recordings while off duty.
9. Officers are authorized under this policy to review their video as it relates to:
  - a. Their involvement in an incident for the purposes of completing a criminal investigation and preparing official reports.
  - b. Prior to courtroom testimony.
  - c. For training purposes.
10. Officers assigned to the Community Oriented Policing Division, the Criminal Investigation Division, the Special Investigations Unit, and department conducted energy weapon (CEW) armorer(s) have the authority to view other officers' body-worn camera videos in order to perform functions of their job duties. All other officers are required to receive supervisor approval before viewing other officers' body-worn camera videos.
11. If an officer is the subject of an open/active Office of Professional Standards investigation, he or she will be given an opportunity to review their body-worn camera video/s before he or she is interviewed.

## **J. Supervisor Responsibilities**

1. Supervisors will ensure officers utilizing the body-worn cameras adhere to established procedures, guidelines, and policies.
2. Supervisors shall follow inspection procedures of department equipment as defined in Fayetteville Police Policy 53.1 (Inspections) [CALEA 41.3.8 e].
3. In the event a body-worn camera is damaged, lost, stolen, or defective, the supervisor shall facilitate a replacement as soon as practical.
4. The Chief of Police or his designee will assign peripheral supervisory assignments for the body-worn camera program.
5. Supervisors shall periodically review body-worn camera data to verify compliance with this and other directives. Supervisors are authorized to conduct the following types of reviews [CALEA 41.3.8 g]:
  - a. Administrative
  - b. Compliance
  - c. Performance
6. Supervisors shall review the following videos [CALEA 41.3.8 c.g]:
  - a. Vehicle pursuits;
  - b. The portion of the video that shows officer uses of force involving less lethal weapons;
  - c. The portion of the video that shows weaponless uses of force which results in a subject receiving medical treatment.
7. Patrol lieutenants shall create a quarterly audit of three officers BWC videos and report the findings to the patrol captain. [41.3.8 c.g].
8. If an officer is involved in a serious incident or subject of a serious allegation, the supervisor may confiscate the body-worn camera immediately. The supervisor shall maintain the chain of custody of the body-worn camera if it is related to a criminal investigation or turn it over to the proper authority pending administrative review [CALEA 41.3.8 c].

## **K. Release of Body-Worn Camera Video**

1. Any requests for body-worn camera video by a citizen will be addressed as a Freedom of Information Act (FOIA) request as defined in Fayetteville Police Policy 54.1.1- (Public Information Policy).
2. Prosecutors may be granted access to video management solution by the Administration Division Captain or his designee.
3. Defense attorney requests should be made through the appropriate court prosecutor or Freedom of Information Act (FOIA).
4. Evidentiary copies of digital recordings will be accessed from the video management solution and copied for law enforcement purposes only.
5. Recordings may be duplicated for court, investigations, training, or other purposes as authorized by the Chief of Police or his designee.
6. Officers who need a recording duplicated for court, investigations, or training must make the request through the Property/Evidence Division. For court, the request should be made at least 48 hours prior to the court date when possible.

7. Requests from other law enforcement agencies should be in writing and shall be approved by a lieutenant. The request shall be maintained in the same manner as FOIA requests.
8. When an officer has finished a court appearance using a copy of an original media file, and the file is not retained by the court, the officer will, as soon as practical, return the media to the property room for proper storage or disposal.
9. Video files related to an internal investigation(s) shall be restricted until the investigation is closed.