



Police Department

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DEPARTMENT GENERAL ORDER 20-14

OFFICE of the CHIEF OF POLICE
REPLACES: General Order 20-10

DATE: August 21, 2020

BODY WORN CAMERA

I. PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio/video recording devices, specifically Body Worn Cameras (BWC) by officers of the Clayton Police department while in the performance of their duties. This policy applies to all commissioned personnel.

II. POLICY

The Clayton Police Department may provide officers with access to BWC for use during the performance of their duties. The use of BWC is intended to enhance the mission of the Department by accurately capturing contacts between officers of the Department and the public.

III. OFFICER PRIVACY EXPECTATION

All recordings made by officers acting in their official capacity shall remain the property of the Clayton Police Department. Officers shall have no expectation of privacy or ownership interest in the content of these recordings.

IV. DEFINITIONS

- A. Body Worn Cameras (BWC)- A camera worn on an individual officer's person that records and stores audio and video.

- B. Digital Evidence- BWC files, including photographs, audio recordings and video footage, captured by a BWC and stored digitally.
- C. Metadata- Case numbers, incident numbers, event classification and other descriptors used to identify digital evidence.
- D. One Party State- The state of Missouri is categorized as a one-party state in reference to the required announcement of an active audio or video device. In one-party consent states, parties are not legally required to notify another party when they are recording. The recording is deemed to be lawful as long as one party of the encounter is aware of the operation of the recording device. In some instances announcing the camera is recording promotes better behavior and defuses potentially confrontational encounters. RSMO 542.402

V. ISSUANCE OF BODY CAMERAS

- A. The following Police Department employees will be issued BWC's and are considered Mandatory Users:

- 1. Patrol Sergeants
- 2. Corporals
- 3. Patrol Officers

A Mandatory User must wear a BWC as part of their issued uniform equipment and is subject to the procedures as set forth in this order.

- B. The following Police Department employees will be issued BWC's, but are considered Discretionary Users:

- 1. Command Staff
- 2. Detectives- Except when assigned to patrol
- 3. Assignments that are detached from the police department
- 4. School Resource Officers (SRO's) - Except when assigned to patrol
 - i. The Clayton School District administration requested that the SRO's not utilize a BWC during their duties while on school campuses because of privacy concerns.
 - ii. The SRO shall keep BWC accessible if a major incident occurs on or off campus requiring the officer to respond and activate the BWC.
- 5. Drone pilots while operating the drone.
 - i. The drone's avionics are sensitive to interference and could affect the safe operation of the aircraft.

A Discretionary User is not required to wear a BWC as part of their daily wardrobe due to their personnel assignment. However, when engaging in patrol duties and/or activities where the use of the BWC would be prudent, such as protests, execution of search warrants, etc. is subject to the procedures as set forth in this order.

VI PROCEDURES

Officers shall follow existing officer safety protocols when conducting enforcement activities as outlined in Department policies and procedures. Officer safety shall be the primary consideration when contacting citizens or conducting vehicle stops, not the ability to record an event.

- A. The Clayton Police Department will assign BWC for the purpose of recording law enforcement encounters. All officers are required to wear a BWC in a manner prescribed by the manufacturer that allows for the optimal recording.
- B. Only authorized personnel shall use or be in possession of a BWC device.
- C. Officers shall not tamper with or dismantle any hardware or software component or any BWC device.
- D. The use of any personal recording device for the purpose of recording law enforcement encounters in lieu of the department owned BWC is not authorized without the permission of the Chief of Police or his / her designee.
- E. All digital evidence collected using the BWC is considered a record of the Clayton Police Department and is for official use only.
- F. Accessing, copying, forwarding or releasing any digital evidence for other than official law enforcement use and contrary to this policy is strictly prohibited. Public release of digital evidence is prohibited unless approved by the Chief of Police or his / her designee and is in compliance with pertinent state and federal law.
- G. Personal computer equipment and software programs shall not be used when making copies of digital evidence. Using a secondary recording device such as a video camera, cell phone or other device to record or capture digital evidence from storage is strictly prohibited.

VII STORAGE

When not in use BWC devices shall be stored in a department charging station. The charging station will ensure the BWC video files are downloaded and charged for the next shift usage.

VIII PRE-SHIFT INSPECTIONS

- A. Officers shall inspect their assigned BWC device before their shift to ensure there is no visual damage and the device is in working order.
- B. Visual damage shall be reported to the officer's immediate supervisor.
- C. Inoperable equipment shall be tagged and returned to the officer's Platoon Commander through the chain of command.

IX EQUIPMENT REPAIR REPLACEMENT AND MAINTENANCE

- A. When a BWC malfunctions, the officer will notify his/her supervisor immediately.
- B. The officer will note the nature of the malfunction in an interdepartmental memo.
- C. The inoperable equipment will be taken to the BWC program administrator for repair as soon as possible.
- D. If the BWC program administrator cannot repair the device, the manufacturer will be contacted to facilitate the repair. Repair and replacement of damaged or nonfunctional BWC equipment is coordinated through the BWC program administrator and performed by an authorized service provider.

X RECORDING

- A. Officers shall record enforcement related contacts and calls for service. The recording should be activated prior to the actual contact with the citizen, or as soon as safely possible thereafter and continue recording until the contact has concluded.
- B. Enforcement related contacts include but are not all-inclusive to the following: calls for service, traffic stops, field interviews, detentions, arrests, persons present at radio calls who are accused of crimes and consensual encounters in which the officer is attempting to develop reasonable suspicion or probable cause.
- C. Officers performing law enforcement activities in civilian clothing are exempt from this policy.

- D. Officers may stop recording when the arrestee is cooperative and safely secured inside a law enforcement facility or a law enforcement vehicle. If an arrestee becomes uncooperative or if there is some evidentiary purpose, officers should resume recording.
- E. Officers shall record suspect interviews. Officers should not stop and start the recording during a suspect interview. If this occurs, the reason for stopping the recording must be documented. If the suspect is being interviewed in a room that is set up for recording then recording with the BWC is optional.
- F. When recording interviews of suspects and such interview meets the legal requirements, officers shall ensure they record any advisement of the Miranda Warning.
- G. In the event an officer needs to respond to a confidential phone call, private discussion between themselves and a supervisor, etc. the officer shall articulate the reason for muting or pausing the recording, pause it and then start it again when the confidential need has passed.
- H. Private Citizens have a reasonable expectation of privacy in their homes. When officers are lawfully present in a home (warrant, consent or exigent circumstances) in the course of official duties, there is no reasonable expectation of privacy.
- I. Officers should wear their BWC during special events and secondary employment as directed by supervisory or command personnel.

XI WHEN AND WHERE NOT TO RECORD

- A. BWC will not be used to record non-work related activity.
- B. BWC shall not be used to record in areas or during activities such as pre-shift conferences, department locker rooms, exercise rooms, break rooms or other activities not related to a criminal investigation.
- C. BWC shall not be activated in places where persons have a reasonable expectation of privacy, such as locker rooms, dressing rooms or restrooms.
- D. BWC shall not be used during department administrative investigations unless instructed to do so by the Chief of Police or his / her designee.

- E. Officers shall be aware of patient's rights of privacy when in a hospital or medical facilities. Officers shall attempt to avoid recording persons not involved in the investigation.
- F. There may be situations in which a citizen may ask an officer to deactivate their BWC during the course of Law Enforcement Functions. Officers are under no obligation to comply with that request and are in fact encouraged to keep the device on and recording until they have secured from the scene. If the continued recording would pose a detriment to obtaining critical information, the officer may choose to stop the recording, after verbally articulating the reason.
- G. Domestic violence victims often recant statements. Victims may also make their children unavailable for investigators or court to avoid their providing statements. For these reasons, domestic violence victims with serious injuries should be recorded if the victim is willing. Officers should also record the statements of children of domestic violence victims who are witnesses if possible.
- H. Generally, officers are not required to record informal or casual encounters with members of the public. Officers should consider that recording people in some circumstances may inhibit the sharing of information or developing strong ties between members of the community and the department.
- I. It should be noted that it is the policy of the Major Case Squad that officers shall not activate the BWC when performing duties on a MCS investigation. Refer to MCS Policy Statement 8, dated 7/10/2018. Due to this, Clayton Police Department Officers detached to the MCS will not activate their BWC during performance of their duties while on a MCS investigation.

XII DOCUMENTATION OF RECORDED EVENTS

- A. All evidentiary recording shall be documented in a CARE report.
- B. Officers are required to document the reasons why they deactivated a camera or failed to activate a camera in a situation in which they are required to record the encounter. If a recording was not activated or was terminated prior to the completion of the event, the officer is required to document the cause in a CARE report or on the video prior to terminating the recording.

XIII ENTERING METADATA

- A. Each recorded segment requires metadata to be entered, even if the segments are of the same event. Metadata should be added at the conclusion of the event. In a case of as delay, metadata should be added as soon as possible.
- B. If an officer becomes aware of recording a juvenile suspect, the officer shall notify their supervisor, so notation can be made to redact the face of the juvenile should a copy of the video need to be released. The officer should also note juvenile suspect in the video's metadata.
- C. Sergeants are responsible for ensuring metadata is entered by officers under their supervision.

XIV ACCESSING DIGITAL EVIDENCE

- A. Employees who have been granted permission by the Chief of Police may review digital evidence.
- B. Employees will be assigned a unique identifier to access digital evidence from the storage location.

XV RETENTION OF DIGITAL EVIDENCE AND NON-EVIDENTIARY VIDEO

- A. All recordings related to any criminal proceeding, claim filed, pending litigation or a personnel complaint, shall be preserved until such time the matter is resolved and / or in accordance with applicable laws and department evidence retention policy.
- B. All non-evidentiary video shall be retained for no less than 30 days.

XVI REVIEWING DIGITAL EVIDENCE

- A. Officers may review their own recordings.
- B. If an officer is suspected of a criminal offense, the Chief of Police or designee reserves the right to limit or restrict an officer from viewing the recording.
- C. Detectives are responsible for reviewing, updating and tracking digital evidence associated with their assigned cases.
- D. Digital evidence captured by the BWC is not all inclusive. The system captures a less broad and less detailed image than the totality of the human senses. An officer's

recollection of specific details may be different than what is captured in digital evidence. Officers should review digital evidence prior to completing reports when necessary to ensure accuracy. Officers shall review digital evidence prior to providing testimony at hearings, trials or depositions.

- E. On a monthly basis, patrol supervisors of officers assigned a BWC will conduct 1-2 random reviews of recordings that would not otherwise be viewed or assessed as stated under bullet point F. The random review will assist with the assessment of the officer's performance, determine whether the BWC equipment is being utilized according to procedures, and to flag videos which may be appropriate for training purposes.
- F. Digital evidence may be viewed for administrative purposes. The following is not an all-inclusive list of reasons digital evidence may be reviewed:
 - 1. Any incident in which a member of the department is injured or killed during the performance of their duties.
 - 2. Any incident involving a person who resists arrest or the use of force by a member of the department.
 - 3. Any in-custody death.
 - 4. Any police pursuit.
 - 5. When any member of the department intentionally or unintentionally discharges a lethal (e.g. firearm), less-lethal (e.g. Taser including a drive stun, pepper spray) weapon at a person regardless whether an individual is struck.
 - 6. Officer involved traffic collisions.
 - 7. An officer who is in his/her probationary period of his employment.
 - 8. An officer who is on an Employee Improvement Plan.
 - 9. Prior to the release of recordings in response to a proper legal request.
 - 10. In preparation for a civil disposition or responding to an interrogatory where the incident arises from the employee's official duties.
 - 11. For investigations undertaken by the department, for the purpose of proving or disproving specific allegations of misconduct.

12. For administrative proceedings, when digital evidence is used by the department for the purpose of proving or disproving allegations of misconduct, only digital evidence relevant to the investigation scope shall be viewed and retained by investigators. Information relevant to the recordings viewed and seized as evidence by investigators shall be documented.
13. In situations where there is a need to review digital evidence not covered by this procedure, the Chief of Police must approve the request. Each situation will be evaluated on a case by case basis.

XVII COPYING AND RELEASING DIGITAL EVIDENCE

Digital evidence captured by a BWC shall be treated as official records and handled pursuant to existing department policies and procedures.

XVIII USE OF DIGITAL EVIDENCE FOR TRAINING PURPOSES

Officers and supervisors may find it useful, and are encouraged, to review recordings of incidents of which they were involved when beneficial for the purpose of conducting a tactical debrief. When an incident is recorded which may be of value as a training aid for a broad section of the department, the recording officer should contact their supervisor who will review the digital evidence to determine the value of the incident for training. If the Platoon Commander determines the incident would be an appropriate training aid, the Lieutenant shall obtain approval of the Chief of Police or his / her designee.

XIX BWC PROGRAM ADMINISTRATOR RESPONSIBILITIES

- A. Maintain and troubleshoot the BWC units.
- B. Maintain a record of assigned BWC and related equipment.
- C. Be proactive and able to complete minor repairs.
- D. Arrange for the warranty and non-warranty repair of the BWC units.
- E. Repair or replace BWC components (cameras, docking stations, etc)
- F. Maintain BWC equipment repair and maintenance records.

- G. Update software and system settings as necessary.
- H. Train officers on current policy and the proper use of BWC units. This training can be conducted by the BWC Program Administrator or designee.

XX TRAINING

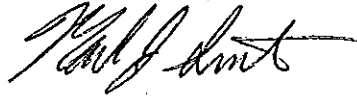
Before agency personnel are equipped with body worn cameras, they must receive all mandated training. Personnel who receive training will be instructed on the following:

- A. All practices and protocols covered by the agency's body-worn camera policy.
- B. An overview of relevant state laws governing consent, evidence, privacy and public disclosure.
- C. 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 tagging recorded data.
- F. Procedures for accessing and reviewing recorded data.
- G. Procedures for requesting data for court or to be included in evidence.
- H. Procedures for documenting and reporting any malfunctioning device or supporting system.

XXI SUPERVISORS TO TAKE CUSTODY OF CAMERA IN CRITICAL INCIDENT

In the event of certain circumstances, (such as an officer involved shooting, in custody death or other incidents involving the officer that result in a person's serious bodily harm or death), the on-duty supervisor should immediately take physical custody of the camera and should be responsible for downloading the data.

BY ORDER OF:

A handwritten signature in black ink, appearing to read "Mark J. Smith". The signature is written in a cursive style with a long horizontal stroke extending to the right.

MARK J. SMITH
Chief of Police

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