

**PLANNING AND DEPLOYMENT
TRANSMITTAL OF DRAFT POLICY**

FOR SIGNATURE OF: James E. Craig, Chief of Police 

TYPE OF DIRECTIVE: Draft Directive

SUBJECT: BODY WORN CAMERAS

ORIGINATED OR REQUESTED BY: Planning and Deployment

APPROVALS OR COMMENTS: Please return to Planning and Deployment upon approval.

APPROVED
MAR 03 2017

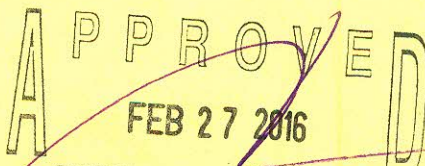
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*To BOAC
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SECOND DEPUTY CHIEF
POLICE LEGAL ADVISOR

PLANNING AND DEPLOYMENT
TRANSMITTAL OF DRAFT POLICY


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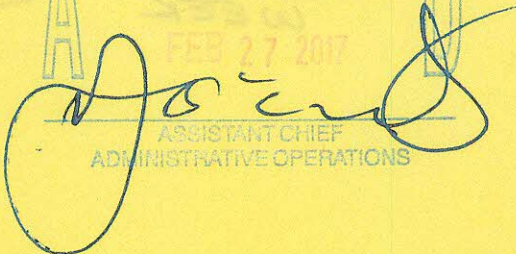
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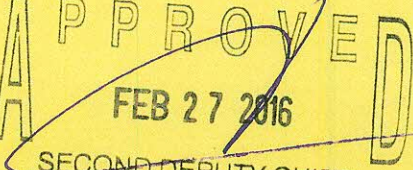
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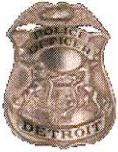
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Series 300 Support Services	Effective Date	Review Date Annually	Directive Number 304.6
Chapter 304 - Training			
Reviewing Office			<input checked="" type="checkbox"/> New Directive <input type="checkbox"/> Revised
References			

BODY WORN CAMERAS

304.6-1 PURPOSE

The purpose of this directive is to establish guidelines and procedures governing the use of body-worn camera (BWC) systems by department members and the preservation of the digital media created by such equipment.

304.6-2 POLICY

It is the policy of the Detroit Police Department to increase officer security, protect the department from unwarranted citizen complaints, and ensure exceptional police service by members of the Detroit Police Department by using BWC systems to securely record policing activities on video/audio media. The use of body-worn cameras does not replace the requirement to provide thorough written documentation of an incident. All data, images, video and metadata captured, recorded or otherwise produced is the property of the Detroit Police Department and is subject to State and Local law and City policies regarding retention of records.

304.6-3 PROCEDURE

- 1) All members who have citizen interactions in the daily performances of their duty are mandated to wear a body-worn camera.
- 2) Prior to using a body-worn camera, officers shall receive Department-approved training on its proper operation and care in addition to the Department's policy with respect to the use of the body-worn camera.
 - a. Additional training shall be provided during in-service training to ensure the continued effective use of body-worn cameras.
- 3) At the beginning of each shift, the shift supervisor shall ensure each patrol officer is assigned and wearing an operable body-worn camera.
 - a. The serial numbers of each BWC assigned to each member shall be recorded on the Activity Log Sheet.
 - b. Body-worn cameras are not to be shared between officers on the same shift.
 - c. Body-worn cameras and equipment should be used with reasonable care to ensure proper functioning.

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- 4) Members shall sync their assigned BWC with their assigned vehicle at the beginning of each shift.
- 5) In the event a body-worn camera is found to be or becomes inoperable, lost or stolen, the assigned officer shall immediately notify the shift supervisor and document the event on his/her Activity Log. The shift supervisor shall perform an immediate inspection of the officer's BWC system. Should the supervisor determine that the officer's BWC system is defective the supervisor shall assign the officer a replacement device and forward the defective unit to the Technical Services Bureau for repairs.
- 6) Members shall wear BWCs affixed to their Department issued uniform in the chest area above the belt line and below the neck, centered to optimally capture all recording.
- 7) Members shall only use department-issued BWC. Officers shall not use personally-owned body-worn cameras while on duty.

304.6-3.1 When to Activate Body-Worn Cameras

The BWC shall be activated prior to initiating, or as soon as practical after initiating the following police actions:

- 1) Except as otherwise provided in this policy, officers shall activate his/her body-worn cameras to record all contacts with citizens in the performance of his/her official duties (i.e. calls for service, vehicle stops, observed events, and casual encounters).
- 2) Once a body-worn camera is activated, the device shall remain on until the event is completed in order to ensure the integrity of the recording.
- 3) If an officer fails to activate his/her body-worn camera, fails to record the entire event, or interrupts the recording, the officer shall document on his/her Activity Log why the recording was not made, interrupted, or terminated.
- 4) If an officer purposely de-activates his/her body-worn camera without justified cause, he/she may be subject to disciplinary action.
- 5) Members shall inform citizens immediately upon contact that they are being recorded.

304.6-3.2 When to Stop Recording

Whether an officer must comply with a citizen's request to stop recording with a body-worn camera depends on the location, whether the officer is at the location pursuant to valid search warrant, and whether or not exigent circumstances exist. The following rules apply:

- 1) When an officer is in an area **open to the public**, and a citizen objects to the recording, the officer is **not** required to stop recording.
- 2) When an officer is in an area where an individual has a **reasonable expectation of privacy** (such as a private home), pursuant to a valid **search warrant**, and a citizen objects to the recording, the officer is **not** required to stop recording.
- 3) When an officer enters an area where an individual has a **reasonable expectation of privacy** (such as a private home), **without a valid search warrant**, but where **exigent circumstances exist** (hot pursuit of fleeing felon; imminent

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destruction of evidence, need to prevent suspect's escape; or a risk of danger to the police or others) and a citizen objects to the recording, the officer is **not** required to stop recording.

4) When an officer enters an area where an individual has a **reasonable expectation of privacy** (such as a private home), **without a valid search warrant**, and where **exigent circumstances do not exist**, and but **with the consent of the owner**, and a citizen objects to the recording, this should be regarded as a revocation of the consent to enter, and the officer should either **turn off the camera** (after recording the objection) and remain, or **leave the premises**. Revoking consent for a search does not constitute probable cause to arrest.

5) The officer is taking a witness statement from a victim of an alleged rape, other victim of a violent crime, or if there is a rational belief by that officer that the recording would place the witness in danger of harm. This discretion is solely left to the responding officer.

6) Any interruption of a BWC recording under this section must be properly documented as set forth in Section 304.6-3.1(3) of this Policy.

304.6-3.3 Restrictions on Use of Body-Worn Cameras

BWCs shall be used only in conjunction with official law enforcement duties. However, cameras shall not be used to record the following:

- 1) Officers shall not use BWCs to surreptitiously record conversations that are not investigative in nature or are unrelated to official police activities (i.e. casual "shop-talk" conversations between members).
 - a. A violation of this prohibition would be considered serious and could result in discipline, up to and including termination.
 - b. If such a conversation is recorded, the member shall immediately notify a supervisor and document on his/her Activity Log. The supervisor shall take any and all necessary steps to ensure that the recorded conversation is not repeated or played unless required by law.
- 2) Performance of non-enforcement functions or administrative duties within a Department facility.
- 3) Undercover officers or their confidential informants.
- 4) When on break or otherwise engaged in personal activities.
- 5) Locations where department personnel have a reasonable expectation of privacy, including but not limited to hospital or emergency rooms, locker rooms and restroom facilities.

If an activity or conversation is recorded that falls within one of the above-listed restrictions, the desk supervisor shall be notified immediately, the event documented on the officer's Activity Log and the supervisor shall take any and all necessary steps to ensure the recorded event is not repeated nor played unless required by law.

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- 1) The use of the BWC will be recorded in all department reports. This notation of the use of the BWC does not replace the officer's responsibility to fully complete Department reports.
- 2) Whenever an officer obtains a recording of a statement, the event shall be documented in all Department reports. A video statement is a supplement to, and not a replacement or substitute for, a written statement.
- 3) An officer may not exclusively use "please see video" or any similar language on any Department mandated reports.

303.6-5 SUPERVISOR'S RESPONSIBILITY**Inspection of In-Car Video Equipment**

Supervisors shall visually inspect the BWC equipment assigned to the officers being deployed at the start of each shift to ensure that the equipment is operational. Supervisors shall document the results of the inspection, as well as any reports from patrol officers of non-functioning BWC equipment, on his/her DPD 250, and the actions taken to remedy the non-functioning equipment.

Supervisory Reviews of Video

Supervisors shall review audio/video of all incidents involving:

1. Injuries to a detainee or an officer;
2. Use of force;
3. Vehicle pursuits; and
4. External complaints;

The reviewing supervisor shall document the results of the review of the audio/video in his/her investigative report on the incident. The reviewing supervisor shall also ensure that the correct classification of the "event" is selected for the incident. Supervisors shall ensure that events are properly categorized.

Random Reviews of Video

- 1) Commands will be notified of specific dates, times, and incidents to review by the Office of Civil Rights. The supervisor shall review audio/video recordings for training and integrity purposes. The Office of Civil Rights shall identify traffic stop events wherein a DPD member had some type of interaction with a citizen that would necessitate the event to be recorded on audio/video in accordance with DPD policy.
- 2) Under no circumstance shall any footage captured and reviewed outside of Departmental and procedural protocols, e.g. personal conversation, be used in a manner solely to substantiate misconduct.

Office of Professional Standards

The department reserves the right to make all video accessible to the Office of

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Professional Standards for any reason it deems necessary including but not limited to random video review, review for criminal complaints, review for policy compliance and internal investigations.

Office of the Chief Investigator

The department reserves the right to make all video accessible to the Office of the Chief Investigator in order to conduct OCI Investigations emanating from citizen's complaints.

304.6-6 MEDIA STORAGE

- 1) At the end of each shift, each member shall return the BWC equipment to docking stations for video upload and battery charging.
- 2) The media captured by the BWC shall be securely stored and maintained by DPD or a third-party vendor according to the record retention policy set forth in Section 304.6-7 of this policy.
- 3) Any and all media captured by the BWC shall only be used for official department purposes.
- 4) Officers may use media captured via BWC for official duties including completion of department-mandated reports. Officers shall be allowed to review the recording from their own BWC. Furthermore, the determination of when a member may view another member's BWC footage shall be determined on a case by case basis at the discretion of the officer in charge of the case.
- 5) If any material discrepancy is identified between media captured via BWC and a department report, a supplemental report shall be filed.
- 6) Unless authorized by subpart 7 below, DPD personnel shall not alter, edit, erase, share or otherwise distribute in any manner any BWC information, images, sound or content without the prior written approval of the Chief of Police or his/her designee.
- 7) Unless otherwise required by law, DPD personnel shall not duplicate, copy, share or distribute in any manner, any BWC information, images, sound or content without the prior written approval of the Chief of Police or his/her designee.

304.6-7 INTEGRITY CONTROL SAFEGUARDS

- 1) Requests to archive BWC recordings shall be forwarded to the commanding officer of the respective command on an Inter-Office Memorandum. Requests shall contain the relevant BWC serial number, uniformed member's name, justification for the request and date and time of occurrence.
- 2) All digital media collected using body-worn cameras shall be subject to the same security and chain of custody restrictions as evidence and shall not be released to any other agency or individual without the approval of the Chief of Police, his/her designee and the Office of Professional Standards.
- 3) Access to stored recordings shall be limited to department personnel for administrative or law enforcement purposes only. The releasing of any media for any other purpose without authorization from the Chief of Police, his/her designee and the

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Office of Professional Standards is strictly prohibited and subject to disciplinary action.

4) After adjudication, BWC recordings may be used in conjunction with Professional Education and Training to aid in training Department personnel.

a. Examples of inappropriate and unauthorized use of body-worn cameras include, but are not limited to:

- i. Publishing the digital media on internet sources such as Facebook, YouTube, or any other social media, web hosting or internet sites.
- ii. Using a secondary recording device such as a phone to record media from the body-worn cameras or any other source where captured media is stored.
- iii. Allowing unauthorized personnel to view or listen to any portion of the digital media captured by any officer's body-worn camera.

304.6-8 RECORDS RETENTION

1) All files from body-worn cameras shall be securely stored on the DPD's local storage server for a period of ninety (90) days. Files flagged by administrative or legal department personnel shall be maintained after ninety (90) days.

2) Any files retained longer than ninety (90) days shall be maintained by DPD on the agency server.

3) Files flagged for extended retention under subpart 1 shall be retained until the investigation is concluded, or allegations of misconduct are fully investigated and resolved, or litigation is completed, or the statute of limitation for a claim has expired as dictated by the State of Michigan, Department of Technology, Management and Budget, General Schedule #11, Retention and Disposal.

304.6-9 REQUEST(S) FOR COPY OF VIDEO RECORDING(S)

1) Upon receipt of a request for a copy of the video recording, the custodian of the recording shall:

- a. Notify the Law Department immediately of the request by providing a copy of the written request, which should contain the date when the custodian received the request.
- b. Record the following information:
 - i. Type of request (FOIA, subpoena, etc.);
 - ii. When was the request made;
 - iii. Who made the request (Law Unit, Law Department, IA, OIC, WCPO, etc.);
 - iv. Which custodian received the request and when;
 - v. If applicable, when was the Law Department notified;
 - a. identity of DPD personnel who notified the Law Department;

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- b. identity of Law Department personnel who was notified by DPD;
 - vi. When the recording was duplicated and by whom; and
 - vii. When and to whom was the copy sent.
 - c. Immediately locate the requested video recording and duplicate the recording within five (5) business days of receipt of the request.
 - d. Forward the copy of the recording to the requesting party upon a signed receipt of same.
- 2) For purposes of request(s) submitted under the Michigan Freedom of Information Act (the Act or FOIA), it should be noted that the images and audios recorded by the officer's body-worn camera are a "public record" within the meaning of the Act.
 - a. Therefore, the images and audios recorded by the BWC while the officer was performing his/her official duty are public record and subject to disclosure, unless otherwise exempt from disclosure under the Act or other applicable statute.
 - b. No video recording shall be disclosed or released to any third-party without the following:
 - i. A review by the DPD to verify that the recording is the correct video which was requested; and
 - ii. A review by the Law Department to make the necessary legal determination whether a portion or the entire video can be exempt from disclosure.
 - c. Labor Time and Costs under the Michigan Freedom of Information Act.
 - i. Since locating and verifying the correct video can be time-consuming, and because the Act permits the City to request and to collect limited costs incurred by the City under certain circumstances, the DPD personnel who searches, retrieves, and review the video to verify the correctness shall keep track of his/her time spent in such actions and report the time spent to the Law Department when a copy of the recording is being delivered to the Law Department.
 - ii. The costs for the duplication of the video may only be charged by the Law Department in accordance with the Act.