

## PARKER POLICE DEPARTMENT POLICY AND PROCEDURES MANUAL

<b>3.25</b>	<b>EFFECTIVE: August 3, 2012</b>	_____ David King, Chief of Police
	<b>REVISED: November 1, 2016</b>	
<b>SUBJECT: RECORDING DEVICES AND IMAGING EQUIPMENT</b>		
<b>CALEA: 41.3.8</b>		<b>PAGE: 1 of 9</b>

### 3.25.1 PURPOSE

The purpose of this policy is to provide direction for the use of audio, visual and imaging recording devices including Mobile Video Recording (MVR) devices and Body Worn Camera (BWC) systems. The use of Department-approved body worn camera systems can provide powerful evidence of criminal activity and has proven to be a valuable tool for law enforcement in documenting enforcement members' honesty, integrity, and professionalism. <41.3.8 a.>

### 3.25.2 POLICY

Enforcement members (commissioned officers and animal services officers) shall use their MVR equipment, BWC systems and all other recording and imaging devices in compliance with manufacturer's operational guidelines, Department training and this policy. It is the policy of the Department to authorize the use of MVR and BWC to collect audio-visual evidence of criminal activity, to evaluate enforcement members' performance, and as a training tool for members. The benefits of the use of these devices can be a useful tool in prosecutions. <41.3.8 a.>

### 3.25.3 PROCEDURES – MVR <41.3.8 b.>

- A. MVR equipment installed in vehicles is the responsibility of the commissioned officer assigned to that vehicle and must be maintained according to manufacturer's recommendations. Prior to each shift, commissioned officers shall determine whether their MVR equipment is working satisfactorily and shall bring any problems with the equipment to the attention of their immediate supervisor as soon as feasible.
- B. MVR equipment will automatically activate when the vehicle's emergency warning devices are in operation.
- C. The equipment may be manually deactivated during nonenforcement activities, such as when protecting accident scenes from other vehicular traffic.
- D. Commissioned officers shall use their MVR equipment, to include video and audio, if vehicles are equipped with MVR devices, in the following situations:
  1. whenever a commissioned officer operates a patrol vehicle twenty (20) mph or more over the posted speed limit;
  2. traffic stops and related enforcement actions;
  3. to record the actions of subjects who are in close proximity to the patrol unit, when activation of MVR is feasible;
  4. when conducting sobriety checks; and

5. when placing a person(s) in custody, when feasible.
  6. Commissioned officers transporting any person other than a ride-along will ensure that the camera is positioned in a manner to collect video on the subject being transported. The commissioned officer will also keep in mind that any interferences such as radio traffic, music or other noises may prohibit the in-car camera microphone from collecting spontaneous statements made by the transporting person, to a minimum.
- E. Any time the MVR equipment is activated, the commissioned officer should do the following:
1. check that the video recorder is positioned and adjusted to record events;
  2. check that the MVR is not deactivated until the enforcement action is completed; and
  3. check that the wireless microphone is activated in order to provide narration with the video recording.
- F. MVR Management <41.3.8 c.>
1. Commissioned officers shall not erase, reuse or in any manner alter MVR hard drives, DVDs or DVR, except in accordance with this policy.
  2. Each MVR hard drive, tape, DVR or DVD, herein referred to as MVR devices, will have a unique number or identifier that shall be referenced on reports and summonses regarding recorded events. Each MVR device will have marked on the protective sleeve, the MVR device number, the unit to which it is assigned and the most recent date of use.
  3. The shift supervisor will issue the MVR device. Issued MVR devices shall remain in the patrol unit to which they were issued, until there is insufficient space to record activities. It will be the commissioned officer's responsibility to notify the shift supervisor when less than one (1) hour of available space remains on the media.
  4. Log sheets for the MVR devices shall also remain in the patrol units and be completed by all commissioned officers who utilize the MVR equipment in a patrol vehicle. The shift supervisor will be responsible for installing and removing MVR devices from the MVR equipment. Commissioned officers shall not install or remove MVR devices unless otherwise authorized by a supervisor.
  5. If an original MVR device is released for an administrative, investigative, judicial or other purpose, the chain-of-custody record will record the identity of the person to whom the MVR device was released, along with the date and time of release.
  6. When the MVR device is requested, a duplicate MVR digital media copy will be produced if the original is not specifically needed.
  7. Requests for duplications of events appearing on MVR devices shall be submitted to the Evidence Section with the case number, date of offense, violation or incident in question and the requestor's relationship to the event.
  8. All Department-established fees for video/audio duplication will apply to this activity.

9. All completed MVR devices shall be properly labeled and identified prior to being submitted.
10. Commissioned officers are encouraged to inform their shift supervisor of any video footage sequences that may be of value for training purposes.
11. The commissioned officer operating the MVR will note on the notes section of tickets, incident, arrest and related reports when video/audio recordings were made during the incident in question, along with the MVR device number. For each activation of the MVR device, the commissioned officer shall complete a standard log sheet. The MVR device counter number will be recorded in the notes section of the commissioned officer's summons or in the report to assist in duplication of the sequences.

#### G. Supervisory Responsibilities

1. Supervisory personnel who manage commissioned officers whose vehicles are equipped with MVR equipment shall ensure that all commissioned officers follow established procedures for the use and maintenance of MVR equipment and the completion of MVR documentation.
2. The shift supervisors, evidence technician or authorized designees will be responsible for issuing the MVR device and making sure there is an adequate supply of media, DVRs and log sheets available for use.
3. The shift supervisors, evidence technician or authorized designees will be responsible for installing and removing digital media from the MVR equipment.
4. MVR devices that are reasonably known to be of evidentiary value should be removed from the vehicle by the shift supervisor or authorized designee, and the custody of the MVR devices will then be transferred to the commissioned officer, which shall be evidenced by the signature of the supervisor or authorized designee on the bottom of the log sheet.
5. Keys will be issued to supervisors and their authorized designees for the removal of MVR device recordings from patrol vehicles.

#### **3.25.4 PROCEDURES – BWC <41.3.8 b.>**

- A. Only members with enforcement authority should be permitted to wear a BWC.
- B. Enforcement members, who serve an undercover role in a specialized assignment on a task force such as DEA, will not be subject to this policy and will refer to the governing policies and procedures for that particular special assignment.
- C. Enforcement members engaging in off-duty assignments shall adhere to this policy while fulfilling the off-duty obligation in any capacity for the Department.
- D. BWC's should be worn in a location and manner that maximizes the camera's ability to capture video footage of the enforcement member's activities.

- E. Enforcement members should activate the BWC at the inception of all investigative or enforcement contacts that are conducted in person with a member of the public, until the contact with the member of the public has concluded and the enforcement member has left the scene, which include but are not limited to; pedestrian stops, consensual encounters, calls-for-service, on-view events and interviews.
- F. The enforcement member should activate the BWC at the first reasonable opportunity to do so, unless an immediate threat to the enforcement member's life or safety makes activating the BWC impossible or dangerous, in which case the enforcement member should activate the BWC as soon as it is safe to do so.
- G. Additional arriving enforcement members that are equipped with BWC should activate their cameras and begin recording the situation upon their arrival until the enforcement member leaves the scene.
- H. BWC's should not be used surreptitiously. Whenever possible, enforcement members wearing a BWC should notify any person(s) that they are being recorded by a body camera as close to the inception of the encounter as is reasonably possible.
- I. During consensual encounters in locations where members of the public have a reasonable expectation of privacy, such as a residence, an enforcement member shall offer the member of the public the option to have the BWC discontinue its recording. If the member of the public requests the recording be discontinued the enforcement member should immediately discontinue use of the BWC.
- J. When interacting with an apparent crime victim, the enforcement member should, as soon as feasible, ask the apparent crime victim, if they want the enforcement member to discontinue use of the BWC. If the apparent crime victim responds affirmatively, the enforcement member should immediately discontinue use of the BWC.
- K. When interacting with a person seeking to anonymously report a crime or assist in ongoing law enforcement investigation, an enforcement member should, as soon as feasible, ask the person seeking to remain anonymous, if they would like to remain anonymous and would like the enforcement member to discontinue use of the BWC. If the person seeking to remain anonymous responds affirmatively, the enforcement member should immediately discontinue use of the BWC.
- L. All enforcement member offers to discontinue the use of the BWC, and the responses thereto, should be recorded by the BWC prior to discontinuing the use of the BWC.
- M. Recordings made pursuant to an arrest or search of the residence or person(s) is not considered a consensual encounter for the purposes of this policy. The BWC should remain activated until the event is completed in order to ensure the integrity of the recording.
- N. Deliberative process conversations involving law enforcement, which are not participated in by citizens, which include but are not limited to discussions on charging decisions, and comparing witness accounts, should not be audio recorded.

**3.25.5 PROHIBITED USE OF BWC <41.3.8 b.>**

- A. BWC's shall not be used to gather intelligence information based on First Amendment protected speech, associations, or religion, or to record activity that is unrelated to a response to a call for service or a law enforcement or investigative encounter between an enforcement member and a member of the public.
- B. The Department shall not utilize any biometric technology, such as facial recognition, to conduct searches of video files or passive searches of the public. Stored video and audio data from a BWC shall not:
  - 1. Be used to create a database or pool of mug shots;
  - 2. Be used as fillers in photo arrays; or
  - 3. Be searched using facial recognition software.

Exception: This subsection does not prohibit the members from using a recognition software to analyze the recording of a particular incident when a member has reason to believe that a specific suspect or person in need of assistance may be a subject of a particular recording. The exception must be approved by the member's direct supervisor.

- C. Audio or video recording devices shall not be used in Department locker rooms, restrooms or any other intimate places where there would be a reasonable expectation of privacy.
- D. Members shall not intentionally record confidential informants or undercover officers unless the recording is conducted specifically for the purpose of documenting an operation, drug purchase/sale or other undercover operation in furtherance of a criminal investigation.
- E. The BWC should not be activated while on the grounds of any public, private or parochial elementary or secondary school, or inside a medical treatment facility, except for the following exceptions:
  - 1. during times when all parties being visibly or audibly recorded are in a private room with consent for such recording;
  - 2. while affecting an arrest;
  - 3. while controlling a person through response to resistance techniques;
  - 4. while in direct physical control of a restrained person; or
  - 5. any other circumstances that are extraordinary.
- F. Circumstances when an enforcement member is expressly prohibited from viewing the video file until after they have completed an initial report are as follows:
  - 1. If an enforcement member is suspected of wrongdoing or;
  - 2. If an enforcement member is involved in a critical incident, such as an officer-involved shooting or other serious use of force.

### G. Reporting Requirements

1. The BWC is not a replacement for written reports.
2. Unless prohibited by this policy, enforcement members may make reference to the BWC footage for exact quotes that were used by the contacted parties, instead of transcribing conversations into a written report.
3. All digital recordings captured using the BWC will be considered property of the Parker Police Department. Accessing, copying or releasing any recording by any member for other than official law enforcement purposes is strictly prohibited, except to the extent disclosure is required pursuant to the Colorado Open Records Law.
4. An audit log will be maintained by the BWC storage system, which will document member access to files, duplication of files and dissemination of files. This audit log will be digitally attached to the BWC video files within the storage system.
5. The Department will utilize the access control function of the BWC storage system to ensure that enforcement members can access only their own video files.
6. Only members approved by command staff will be able to access general videos and disseminate files for legitimate law enforcement purposes. These members include, but are not limited to:
  - a. Records staff,
  - b. Evidence staff,
  - c. Detectives,
  - d. Supervisors,
  - e. Internal Affairs investigators.

### H. Deletion of Unintentional Recordings

In the event of an unintentional activation of the BWC system during a nonenforcement or noninvestigative activity, including but not limited to, restroom, meal break, or other areas where a reasonable expectation of privacy exists, enforcement members may request the recording to be deleted. A memorandum detailing the circumstances of the unintentional recording will be forwarded via the chain of command to the Chief of Police. If approved, the actual deletion requires two-party authorization. One of those parties will be the Chief of

Police or designee and the other party will be an Evidence Section supervisor (Department BWC Administrator).

### 3.25.6 MVR AND BWC DOCUMENTATION

If an enforcement member fails to activate their MVR or BWC, fails to record the entire contact, or interrupts the recording, the enforcement member shall document why the recording was not made, interrupted or terminated. Appropriate disciplinary action shall be taken against any enforcement member who is found to have intentionally failed to adhere to the recording or

retention requirements contained in this policy, or to have intentionally interfered with a BWC's ability to accurately capture video footage.

### **3.25.7 OTHER PHOTO, ELECTRONIC AND RECORDING DEVICES**

- A. Department members shall not use a personal electronic recording or imaging device while performing police duties except in rare events to record evidence when Departmental issued equipment is not available.
- B. All photographs containing any individually identifiable patient information are covered by HIPAA privacy laws and must be protected in the same manner as patient care reports and documentation.
- C. 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 members acting under their official duties will be permitted access to recordings and/or images.
- D. Department members will not make surreptitious recordings of conversations with other Department members except when necessary in the course of a criminal investigation or for Department administrative investigations. In either case, the Chief of Police or designee will be notified prior to for authorization of the nonconsensual recording.
- E. Any on-scene images/recordings and or any other images/recordings taken by members in the course and scope of their duties are the sole property of the Department. This includes any images taken intentionally or inadvertently with a member's personally owned camera, cell phone camera, or any other digital imaging device. The images shall be downloaded as soon as feasible and deleted off of the member's personal device.
- F. No images/recordings taken by any member in the course and scope of their duties may be used, printed, copied, scanned, e-mailed, posted, shared, reproduced or distributed in any manner, unless for official law enforcement purposes. This prohibition includes the posting of any Department photographs on personal Web sites including but not limited to, Facebook, Myspace, YouTube, other public safety agency Web sites, or e-mailing to friends, relatives or colleagues without prior approval of the Chief of Police.
- G. All Department digital data will be downloaded as soon as feasible, and will be cataloged and stored in a secure database with access limited to appropriate members. After being downloaded, digital data on memory cards will be erased, including any member's personal devices.

### **3.25.8 DUTIES OF THE EVIDENCE SECTION**

The Evidence Section shall be responsible for storing and sorting all MVR and BWC recordings. Approved third-parties may be used for the storage of some MVR and BWC recordings.

### **3.25.9 AUDITING <41.3.8 g.>**

- A. MVR devices and BWC will be audited by a designated supervisor on a quarterly basis. Documented audits should be completed on the most recently available devices and by selecting downloads at random. These audits will focus on the following areas:

1. whether a contact card was issued to the motorist if a summons was not issued;
  2. customer service;
  3. use of a body microphone;
  4. training;
  5. lighting issues (primarily for traffic stops made at night);
  6. enforcement member's articulation for the microphone;
  7. enforcement member safety issues; and
  8. any other issue that could result in generating a citizen complaint, a hindrance to prosecution or liability for the enforcement member or this Department.
- B. The designated auditing supervisor shall keep a log documenting findings during the device auditing.

**3.25.10 DATA STORAGE AND RETENTION <41.3.8 d.>**

- A. Data gathered by the MVR or BWC shall be retained and stored by this Department or an authorized third-party for a minimum of one (1) year from the date of creation however shall not exceed three (3) years unless it has evidentiary or exculpatory value in a criminal or civil action. In those circumstances, the applicable data should be downloaded from the server and booked into the Evidence Section via the BEAST and will be retained following the Town of Parker Records Retention Schedule.
- B. Any third-parties acting as an agent in maintaining MVR or BWC footage shall not be permitted to independently access, view or alter any video footage, except to delete videos as required by law or this agency's retention policies.
- C. Data gathered by the MVR or BWC shall be retained and stored by this Department for a minimum of three (3) years if the video footage captures images involving:
1. any use of force;
  2. events leading up to an including an arrest for a felony-level offense, or events that constitute a felony-level offense; or
  3. an encounter about which a complaint has been registered by a subject of the video footage.
- D. Data gathered by the MVR or BWC shall be retained and stored by this Department for a minimum of three (3) years if a longer retention period is voluntarily requested by:
1. enforcement member, if the video footage is being retained solely and exclusively for Department training purposes;
  2. any member of the public who is a subject of the video footage;

3. any parent or legal guardian of a minor who is the subject of the video footage; or
  4. a deceased person's next of kin or legally authorized designee.
- E. Any member of the public, parent or legal guardian of a minor, or a deceased subject's next of kin or legally authorized designee who is a subject of video footage, shall be permitted to review that specific video footage in order to make a determination as to whether they will voluntarily request it to be subject to a three (3) year retention period.
- F. Pursuant to Colorado's Criminal Justice Records statutes, it is the goal of this policy to support and promote openness in government by releasing nonconfidential video recordings to the public upon request. This policy must also ensure that the privacy of victims, witnesses and suspects is maintained whenever feasible. MVR and BWC video footage should not be divulged or used for any commercial or other nonlaw enforcement purpose. This policy will not affect the release of recordings pursuant to a court order or subpoena.
- G. Nothing in this policy shall be read to contravene any laws governing the maintenance and destruction of evidence in criminal investigations and prosecutions.
- H. Data gathered by the MVR or BWC may be used and shared with the District Attorney's office or other law enforcement agencies only as permitted by law.

**3.25.11 REPAIRS, INSPECTION AND MAINTENANCE <41.3.8 e.>**

Enforcement members utilizing a BWC or operating vehicles equipped with MVR devices will maintain the equipment per the manufacturer's guidelines and inspect the equipment for nonfunctioning or malfunctioning devices before duty and immediately report any nonfunctioning equipment to their supervisor. The shift supervisor may reassign another unit if audio/video equipment has a malfunction provided a unit is available, or reissue another BWC until repairs or replacement can be made, if available.

**3.25.12 TRAINING REQUIREMENTS <41.3.8 f.>**

Enforcement members and supervisors will be provided adequate training in the use of BWC and MVR devices prior to being allowed to use the equipment.