

MEMORANDUM

LOUISVILLE METRO POLICE DEPARTMENT

CRAIG GREENBERG
MAYOR

JACQUELYN GWINN-VILLAROE
CHIEF OF POLICE

TO: Jacquelyn Gwinn-Villaroel
Chief of Police

FROM: Major Jill Bates 
Special Operations Division

DATE: May 23, 2024

RE: Findings and Conclusion of Internal Investigation – LMPD24-056805

On Friday, May 17, 2024, at approximately 5:07 am, a motorcoach bus struck a pedestrian on Shelbyville Road. Due to the impending vehicle and pedestrian traffic for the PGA Tournament, all traffic units rushed to the area to complete the processing and investigation of the scene as efficiently and safely as possible.

Detective Bryan Gillis arrived at approximately 5:16 am and was assisting with traffic control. At approximately 6:02 am, Detective Gillis and Mr. Scottie Scheffler had an interaction that resulted in Mr. Scheffler's arrest.

In the course of the department's investigation into possible violations of departmental policy regarding Detective Gillis' body worn camera, the department found that Detective Gillis failed to power on his body worn camera. As a result, the interaction leading to the arrest of Mr. Scheffler was not captured on Detective Gillis' body worn camera.

In accordance with departmental policy, Detective Gillis completed a Failure to Activate form. The department determined that he violated LMPD Standard Operating Procedures 4.31.6, Body-Worn Camera – Procedures and 4.31.7, Body-Worn Camera – Operations, for failing to have his body worn camera operationally ready.

Detective Gillis was counseled by a member of his command on May 22, 2024, and a performance observation was completed.

The following documents and videos will be released today:

- Copies of the referenced Standard Operating Procedures
- The Failure to Activate form
- The video from two in-car cameras and one pole cam

Louisville Metro Police Department

Standard Operating Procedures	SOP Number: 4.31
	Effective Date: 04/30/15
	Prv. Rev. Date: 07/16/21
	Revised Date: 12/19/22
Chapter: Uniforms and Equipment	Accreditation Standards: KACP: 17.13, 20.2, 20.5
Subject: Body-Worn Camera (BWC)	

4.31 BODY-WORN CAMERA (BWC)

4.31.1 POLICY

The Louisville Metro Police Department (LMPD) has adopted the use of wearable cameras to further the mission of the department and enhance service to the community by accurately documenting events, actions, conditions, and statements made during citizen encounters, traffic stops, arrests, and other incidents in order to promote member and public safety. The Body-Worn Camera (BWC) allows hands-free video and audio recording of important or critical incidents from the perspective of the user as they are occurring. This allows the member to record locations and activities that are not available to in-car recording equipment. The BWC may be used as a stand-alone recorder or in conjunction with, and to supplement, the Mobile Video System (MVS) (refer to SOP 4.1). All sworn members will be issued BWCs. Non-sworn members with a job-related need, as determined by the Assistant Chief of Police/Administrative Bureau, will be issued BWCs. Members will only utilize the BWC issued by the LMPD. The BWC will only be used by members who are working in an official law enforcement capacity. This policy does not govern the use of covert recording devices, such as those used in undercover operations.

4.31.2 PURPOSE

The LMPD has adopted the use of the BWC to accomplish the following objectives:

- Enhance member safety.
- Document statements and actions during the course of an incident.
- Enhance the member's ability to document statements and actions for both internal reporting requirements and for court preparation/presentation.
- Preserve visual and audio information for use in current and future investigations.
- Provide an impartial measurement for self-critique and field evaluation during officer training.
- Enhance the public's trust by preserving factual representations of member-public interactions in the form of video and audio recordings, strengthening departmental transparency, and reducing complaints.
- Allow for the supervisory review of member-public contacts, critical incidents, and other police operations.

4.31.3 DEFINITIONS

Body-Worn Camera (BWC): Body-worn camera system with secured internal memory for the storage of recorded video and audio.

BWC Audit Log: Form that will be completed by supervisors to verify compliance with BWC standards, departmental policy, and to assess overall member performance.

BWC Issue Tracking Form: Form that will be completed by supervisors, or acting supervisors, when notified of a malfunction with the member's BWC.

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Subject: Body-Worn Camera (BWC)	KACP: 17.13, 20.2, 20.5

4.31.3 DEFINITIONS (CONTINUED)

Law Enforcement Activity: Any activity performed by a member in an official capacity for the purposes of maintaining public order and enforcing the law, particularly the activities of prevention, detection, and investigation of crime and the apprehension of criminals.

4.31.4 TRAINING (KACP 17.13a)

Members will successfully complete BWC training regarding the activation, use, uploading of data, inspection, and storage for each device prior to being deployed with a BWC.

4.31.5 ASSIGNMENT AND USAGE

All sworn members will be issued, and are required to utilize, the BWC in accordance with this policy.

Non-sworn members with a job-related need, as determined by the Assistant Chief of Police/Administrative Bureau, will be issued BWCs and are required to utilize the BWC in accordance with the applicable sections of this policy.

4.31.6 PROCEDURES (KACP 17.13a-b)

BWC equipment is the responsibility of the individual member to whom it is assigned. BWC devices will only be stored in designated, secured locations at LMPD facilities, inside of the member's home, or in secured LMPD vehicles when they are not in use. Members are to exercise reasonable care and maintenance of the BWC equipment. During their tour of duty, or while engaged in uniformed law enforcement-related secondary employment, members will maintain their BWC in a constant state of operational readiness. The BWC will be used to record all calls for service and law enforcement activities/encounters (e.g. arrests, citations, stops, pursuits, Code 3 operations/responses, searches, seizures, interviews, identifications, use of force incidents, collisions, transports, warrants, official conversations on departmental smartphones, etc.).

Members are mandated to adhere to the following procedures in order to capture law enforcement-related activity:

- When responding to any call for service, members will activate their BWC in recording mode prior to arriving on-scene and exiting their vehicle.
- Members will immediately activate their BWC in recording mode prior to engaging in all law enforcement activities or encounters. This includes law enforcement activities or encounters occurring when traveling to, and from, work in uniform, unless the member's assigned BWC is docked for uploading following a tour of duty (refer to SOP 4.31.12).
- Members will immediately activate their BWC anytime they initiate a Code 3 response.
- Members will record the transport of all prisoners in a departmental vehicle.

Members will verify their BWC is functioning in recording mode by listening for the audible tone and/or checking the visible light indicator. In extremely rare situations, an encounter may be sudden and unanticipated.

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4.31.6 PROCEDURES (CONTINUED)

If a member is involved in a sudden and unanticipated incident where exigent safety concerns prevent the immediate activation of his/her BWC, he/she will activate the BWC at the first opportunity, when it is safe to do so, in order to capture the immediate aftermath of the situation.

Members will utilize their BWC when assisting other law enforcement or governmental agencies engaged in official law enforcement activities, such as effecting an arrest or executing a search warrant, with the exception of the following:

- Certain non-enforcement-related activities of members or civilians on federal task forces at the request of the host agency, pursuant to the Memorandum of Understanding (MOU), and at the direction of the federal agent in charge, and with the approval of the Chief of Police, or his/her designee.
- Activities of the Bomb Squad, Dignitary Protection Team (DPT), Hostage Negotiation Team (HNT), and/or Special Weapons and Tactics (SWAT) Team command posts.
- Incidents where the Bomb Squad Commander, Hazardous Incident Response Team (HIRT) Commander, or chief fire official believes the use of the BWC may create a danger of fire, explosion, or other risk to public safety.
- In-custody interrogations, when the Axon Interview Room Recording System is available and operational. If the Axon Interview Room Recording System is confirmed operational, members may turn off their BWC until the conclusion of the interrogation.

If the member neglects to activate his/her BWC at a scene which requires recording, fails to record the complete incident, or interrupts the recording, he/she will notify his/her supervisor, prior to the end of his/her tour of duty, and complete a Failure to Activate Body-Worn Camera form, via DocuSign. The form can be found on the LMPD Intranet by clicking on the "Electronic Forms" link. If data is lost, the member will document the reason in a memorandum and forward it, through the appropriate chain of command, to his/her Bureau Commander by the end of the member's next tour of duty.

When a member activates his/her BWC and such activation is not required by policy and the circumstances do not require continued recording, he/she may use his/her discretion when deciding to deactivate the BWC (KACP 17.13c).

The BWC will not be used for non-law enforcement/personal use or to record personal activities. Members will not post recordings to any website, including social media websites (KACP 20.5b-c). Members will not use other devices (e.g. cell phones, cameras, etc.) to record video and/or audio from the BWC. Members will only access their own BWC recordings or those they have a legitimate purpose to review (e.g. review by detectives involved in the case, review by LMPD Video Records as a result of an open records request, etc.).

Supervisors will refer to SOP 4.31.14 and SOP 4.31.15 regarding BWC supervisory review procedures. The Evidence.com storage system maintains an audit log which documents the videos that have been viewed and any actions taken by LMPD members. Members are prohibited from using the BWC to record conversations of departmental members without their knowledge during routine, non-law enforcement-related activities. This includes, but is not limited to, the following:

- Casual conversations
- Roll calls

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4.31.6 PROCEDURES (CONTINUED)

- Meetings
- Training
- Supervisor reviews
- Performance evaluations
- Employee coaching
- Restroom areas
- Meals

Members are required to turn off their BWC prior to entering any juvenile detention facility. Recording inside of any juvenile detention facility is prohibited.

Members who are on elementary, middle, or high school property will only use their BWC to record legitimate law enforcement activities while on the property or during school-related events.

The BWC will not be used in places where an exceptional expectation of privacy exists (e.g. restrooms, locker rooms, dressing rooms, etc.) unless the recording is required for a specific law enforcement activity. Members have the right to record if they have a legal right to be at, or in, the location (e.g. responding to a call for service, pursuant to a valid search warrant, consent of the resident, etc.).

Members may be required to turn off their BWC at any hospital or medical facility at the request of the medical staff, unless they are engaging in a law enforcement activity or encounter (e.g. active shooter, unruly patient/visitor, etc.). Members will not use their BWC to record interviews of victims, following a sexual assault, at any hospital or medical facility.

The BWC will routinely be positioned to record video and audio from the member's point of view. Members will not routinely record undercover officers or confidential informants in order to protect their identities; however, this is at the discretion of the member in control of the BWC. If it is necessary to record a confidential informant, a member may wish to record the audio portion only by positioning the camera away from the informant. Members will categorize video containing recordings of confidential informants as both the type of crime being investigated (e.g. felony, misdemeanor/violation) and as "Special Circumstances" in Evidence.com.

Members will use their BWC to record all consent searches in their entirety. This includes recording the subject who is giving consent to the search.

When conducting full body strip searches or under clothing searches, members will video and audio record a 360 degree view of the location where the full body strip search or under clothing search is taking place.

However, members will only record the audio portion of the actual full body strip search or under clothing search by positioning the camera away from the person on whom the full body strip search or under clothing search is being conducted (refer to SOP 8.3).

Members will not intentionally obstruct the view of the BWC, except in the situations outlined above.

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4.31.7 OPERATION (KACP 17.13a)

Members will inspect their BWC to verify it is fully-charged and does not contain any recordings from a prior tour of duty. Members will immediately upload any prior recordings. Members will inspect their BWC and its components for damage and verify it is functioning properly prior to, and during, their tour of duty. Members should refer to SOP 4.31.13 regarding the procedures for handling any lost, stolen, defective, damaged, or malfunctioning BWC component.

The BWC will be positioned on the collar of the member's shirt or worn on the member's head, chest, or external vest carrier, using only the departmentally-issued mounting equipment. The BWC will be donned at the beginning of the member's tour of duty and will be worn throughout his/her tour of duty. Members will not wear the BWC on the same side as their radio microphone. Members will maintain their BWC in a constant state of operational readiness. When recording any law enforcement activity or encounter, members will make certain their BWC is not pointed excessively high or low so that the activity or encounter is recorded from the officer's point of view. Members will not remove, dismantle, or tamper with any hardware/software component or part associated with the BWC.

When using the MVS, if the audio portion of a law enforcement activity or encounter is captured by the BWC, the use of the member's MVS microphone to capture the audio is not necessary.

Members will not discontinue recording based solely on a person's verbal request, unless the person wishes to submit an anonymous tip, in which the decision to record is at the discretion of a member. The member may contact his/her commanding officer/supervisor for further guidance in these situations, if needed. Members will not be required to discontinue recording an event, situation, or circumstance for anyone other than a commanding officer/supervisor.

All members will be required to activate their BWC for all law enforcement activity as outlined above. Pursuant to Louisville Metro Code of Ordinances (LMCO) 39.178, when executing a search warrant, the BWC will be activated no later than five (5) minutes prior to the execution of the warrant and will not be deactivated any sooner than five (5) minutes following the completion of the execution of the warrant. Members will not routinely record undercover officers or confidential informants in order to protect their identities; however, this is at the discretion of the member in control of the BWC. If it is necessary to record a confidential informant, the member may wish to record the audio portion only by positioning the camera away from the informant.

If a member is on an extended scene with a low likelihood of taking law enforcement action (e.g. downed power lines, downed tree, blocking intersection, etc.), a commanding officer/supervisor may authorize him/her to discontinue recording. He/she will reactivate his/her BWC during any public contact at the scene.

If a division or unit is equipped with an interview room camera system, members may utilize that system to document interviews instead of the BWC.

At the conclusion of a recorded event, members will choose the appropriate storage category for their BWC recording in order to allow for later review and appropriate retention. Members will also complete the "ID" field with the report number (if applicable) or the Computer Aided Dispatch (CAD) number.

The proper categorization of recordings determines how long the recordings are retained, to whom access is granted, and whether the recording can be released to the public/media. The recordings will be reviewed by a

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4.31.7 OPERATION (CONTINUED)

sergeant/supervisor in order to verify they have been properly placed into the appropriate tagging categories in the BWC software.

BWC recordings are not a replacement/substitution for written reports. Members will notate that a recording was made in the narrative section of the Administrative Incident Report (AIR) in BlueTeam, Uniform Incident Report, Kentucky Uniform Citation, or Kentucky Uniform Collision Report. The notation will state "BWC activated."

Members should refer to SOP 4.31.12 regarding the procedures for recharging the BWC and uploading recordings.

4.31.8 STATUTORY PROVISIONS FOR DUI CASES (KACP 17.13b-d)

Kentucky Revised Statutes (KRS) 189A.100 specifically addresses the procedures for securing, reviewing, maintaining, and destroying video and audio evidence in DUI cases.

Recordings of field sobriety tests, administered at the scene of an arrest, for a violation of KRS 189A.010 (DUI) or such tests at a police station, jail, or other facility will be subject to the following conditions:

- The testing is recorded in its entirety (except for blood alcohol and analysis testing); and
- The recording will be used for official purposes only, which includes:
 - Viewing in court;
 - Viewing by the prosecution and defense in preparation for a trial; and
 - Viewing for purposes of administrative proceedings.

Recordings will otherwise be considered confidential records.

Recordings taken as a result of a DUI will, upon order of the District Court, be destroyed after the latter of any of the following:

- 14 months, if there is no appeal of any criminal or traffic case filed as a result of the recording, or if the recording does not depict the actual happening of an accident involving a motor vehicle.
- 14 months after a decision has been made not to prosecute any case upon which an arrest has been made or a citation has been issued as a result of the recording, if the recording does not depict the actual happening of an accident involving a motor vehicle.
- 26 months, if there is no appeal of any criminal or traffic case filed as a result of the recording, if the recording depicts the actual happening of an accident involving a motor vehicle.
- After all appeals have been exhausted, arising from any criminal or traffic case filed as a result of the recording.
- At the conclusion of any civil case, arising from the events depicted on the recording.
- At the conclusion of all appeals from any law enforcement agency's administrative proceedings, arising from the events depicted on the recording.



Louisville Metro Police Department Body-Worn Camera Failure to Record Form



X Failure to Activate

Equipment Malfunction

Accidental Interruption

X BWC

MVS

Name: Bryan Gillis Code #: 7720
 Division: Traffic Run Type: Fatal
 Incident Date: 05/17/2024 Incident Location: Shelbyville Rd / Gate 1
 Incident Time: 06:16 CAD Run #: LMPD240161362
 Report #: LMPD24056805 Defendant: Scottie Scheffler

Criminal Charges:

Phone #: [REDACTED] BWC/MVS Equipment #: D01A19503

Reason/Explanation for Not Recording:

I was requested to respond to fatal on Shelbyville Rd prior to my reporting time for the PGA. When I arrived I immediately started directing traffic in front of Gate 1, and never powered up my BWC.

Explanation of What Would Have Been Captured:

while directing traffic in front of Gate 1 the PGA personnel stopped a bus from entering Gate 1. I observed a vehicle traveling in the opposing lanes coming at me. I stopped the driver and advised him he could not proceed because of the bus. He demanded to be let in, and proceeded forward against my directions. I was dragged/knocked down by the driver. I then proceeded to arrest the driver.

Approval Section

Immediate Supervisor's Recommendations/Comments:

If you answer "yes" to any of the following, please enter a comment in the section below.

Policy Violation? ☒ Yes ☐ NoEquipment Issue? ☐ Yes ☒ NoTraining Issue? ☐ Yes ☒ No☐ Other: _____

DocuSigned by:

Jeremy Allen

7652

5/21/2024 | 17:40 EDT

Immediate Supervisor's Signature

Printed Name

Code #

Date

Detective Gillis should have had his issued BWC powered on and at least in standby mode, in accordance with S.O.P. 4.31.6. Due to the confusion in the area at the time, his sense of urgency in responding to the fatal MVA and expediting traffic for the PGA Championship, he failed to comply with powering it on.

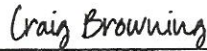
Approval Section (continued)

Lieutenant's Recommendations/Comments:

If you answer "yes" to any of the following, please enter a comment in the section below.

Policy Violation? ☒ Yes ☐ NoEquipment Issue? ☐ Yes ☒ NoTraining Issue? ☐ Yes ☒ No☐ Other: _____

DocuSigned by:



Craig Browning

7072

5/21/2024 | 17:49 EDT

Lieutenant's Signature

Printed Name

Code #

Date

Sergeant Allen's assessment is correct. Detective Gillis should have had his BWC on and operationally ready in standby mode while interacting with the public in a Law Enforcement capacity directing traffic.

Division Commander's Recommendations/Comments:

If you answer "yes" to any of the following, please enter a comment in the section below.

Policy Violation? ☒ Yes ☐ NoEquipment Issue? ☐ Yes ☒ NoTraining Issue? ☐ Yes ☒ No☐ Other: _____

DocuSigned by:



Jill Bates

2227

5/22/2024 | 10:17 EDT

Division Commander's Signature

Printed Name

Code #

Date

Detective Gillis should have had his BWC on in standby mode in accordance with SOP 4.1.36 (BWC will be maintained in a constant state of readiness). While it was initially a chaotic situation enough time had passed to at least have it in standby mode.

Bureau Commander's Recommendations/Comments:

If you answer "yes" to any of the following, please enter a comment in the section below.

Policy Violation? ☐ Yes ☐ NoEquipment Issue? ☐ Yes ☐ NoTraining Issue? ☐ Yes ☐ No☐ Other: _____

Bureau Commander's Signature

Printed Name

Code #

Date