



**Maryland-National Capital Park Police
Prince George's County Division**



DIVISION DIRECTIVE

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BODY WORN CAMERA (BWC) PROGRAM

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I. PURPOSE

The purpose of this directive is to establish a procedure regarding the wearing and use of body worn cameras (BWC) by Park Police officers.

II. POLICY

- A. It is the policy of the department to utilize Body-Worn Cameras (BWC) for accurately documenting events, actions, conditions, and statements made during citizen contacts, arrests, and other critical incidents.
- B. Video and/or audio recordings will be utilized to enhance criminal/traffic reporting, evidence collection, investigations, prosecution, and training.
- C. Officers violating this Directive may be subject to discipline.

III. COMMENTARY

Body worn cameras can provide a unique perspective on police encounters and incidents, but the recordings may have limitations that need to be understood, considered, and explained when evaluating the images, they record. Some potential limitations to consider are the following:

- A. A body worn camera documents a broad scene but cannot document where within that scene the officer is looking at any given instant. If the officer glances away from the camera's field of view, he or she may not see actions captured by the recording.
- B. The camera cannot acknowledge physiological and psychological phenomena that an officer may experience under high stress.
- C. Some important danger cues cannot be recorded. The camera cannot record the history and experience that an officer develops over time as a result of participating in many encounters. In other words, the camera captures the officer's actions, not the officer's senses and interpretations.
- D. Depending on the mounting location and body position, the camera view may be obscured and possibly blocked by parts of the officer's own body. However, Officers should ensure that the audio and video recording are not impaired and that the recordings are full, accurate and complete to the fullest extent possible.
- E. High-tech camera imaging may potentially produce images with more clarity than the human eye sees, especially in low light conditions. When footage is screened later, it may be possible to see elements of the scene in sharper detail than an officer could at the time the camera was activated. Cameras do not always deal well with lighting transitions. A camera may briefly blank out images if going suddenly from

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bright to dim light or vice versa.

IV. LEGAL CONSIDERATIONS

- A. All usage of BWC shall be consistent with the requirements and directives of Sections 10-401, et seq. of the Courts and Judicial Proceedings Article of the Maryland Annotated Code and other pertinent law. Set forth below is a summary of Maryland's Wiretap statute. This is only intended to be a summary. To the extent that the summary might currently, or in the future, conflict with Maryland's Wiretap statute, the law will control with respect to all issues directly and indirectly related to the usage of BWC. Nothing in the summary creates any legal or contractual rights beyond those existing in Sections 10-401, et seq.
- B. Pursuant to the "State Wiretap Act" under Sections 10-401, et seq. of the Courts and Judicial Proceedings Article of the Maryland Annotated Code, it is unlawful for any person to willfully intercept, endeavor to intercept, disclose, and endeavor to disclose, use, or endeavor to use any oral communications. "Oral communication" is defined as any conversation or words spoken to or by any person in private conversation.
- C. The State Wiretap Act makes it lawful for a law enforcement officer, in the course of the officer's regular duty, to intercept an oral communication with a body-worn digital recording device capable of recording video and oral communication if:
 - 1. The law enforcement officer is in uniform or prominently displaying the officer's badge or other insignia;
 - 2. The law enforcement officer is making reasonable efforts to conform to standards in accordance with §3-511 of the Public Safety Article for the use of body-worn digital recording devices;
 - 3. The law enforcement officer is a party to the oral communication;
 - 4. The law enforcement officer notifies, as soon as practicable, the individual that they are being recorded, unless it is unsafe, impractical, or impossible to do so; and
 - 5. The oral interception is made as part of a video or digital recording.
- D. The State Wiretap Act also makes it lawful for a law enforcement officer to intercept an oral communication where the officer is party to the communication and where all parties to the communication have given prior consent to the recording.

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V. OPERATING PROCEDURES

- A. The use of BWC recording equipment by officers who have been issued the equipment and trained in its use is mandatory.
- B. Officers will wear the BWC on their person at all times when on duty in accordance with their training except when:
 - 1. Temporarily removing the camera to recharge the battery or upload videos.
 - 2. Temporarily removing the camera when entering private areas such as bathroom or locker room facilities when there is no valid reason to record video.
 - 3. In a Class A uniform while participating in ceremonial events (e.g., Honor Guard, Funeral Details, Awards Ceremonies, Academy Graduations, etc.).
 - 4. Participating in interview panels, oral boards, or hearing boards.
 - 5. Conducting plain-clothes assignments.
- C. Officers will test the function of the BWC at the beginning of each shift in accordance with training. If there are no other recordings captured for the month, a test recording and upload shall be conducted monthly.
- D. Officers will be responsible for maintaining software updates on BWC by utilizing the docking station or from the Technology Section.
- E. Upon discovering a BWC malfunction, officers will promptly report the malfunction to a supervisor and Information Technology Services through submitting a ticket in Park Police Helpdesk.
- F. Any damage discovered to an issued BWC is required to be reported utilizing the same guidelines as reporting other damaged departmental equipment.
- G. Officers will upload videos from the BWC to the server in accordance with their training and will ensure that the internal memory of the BWC does not fill to capacity.
- H. If an officer is utilizing a Division issued BWC and also operating a vehicle with an in-car video system, the in-car video audio transmitter is not required to be worn by the officer. The audio from the BWC shall suffice.
- I. If a serious incident occurs, which results in an exigent need for the recording, the on-scene supervisor will arrange for the BWC to be brought back to Park Police Headquarters for immediate upload and classification. Park Police

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Headquarters allows for the fastest uploading of video.

- J. Spare BWCs will be kept at Park Police Headquarters for issuance in instances where an issued BWC becomes inoperable or needs replacement for any reason. When a spare BWC is issued, an officer needs to set that new BWC's settings to specifically match that officer (name, ID, shift, etc.) prior to operation.
- K. When an officer is permanently changed to a different unit, shift, or assignment, they are responsible for changing the settings on their BWC to match the shift/unit they are re-assigned to. (BWC settings can be updated when the Front-End Client is open and the BWC camera is connected via USB cable to the MDT.)
- L. Any unauthorized manipulation, deletion, or destruction in any manner of BWC data, after the grace period, will subject the officer to disciplinary action.

VI. MANDATORY RECORDING

BWC activation consists of both audio and video recording.

- A. Officers will begin recording with their BWCs at the first reasonable opportunity in the following circumstance unless doing so would be unsafe.
 - 1. Before arriving at call for service or other activity that is investigative or enforcement in nature, in which it is likely that personal interaction will occur.
 - 2. An encounter between the officer and a member of the public that is investigative or enforcement in nature.
 - 3. Any encounter that becomes confrontational after the initial contact.
- B. When victims, witnesses or other individuals wish to make a statement or share information but refuse to do so while being recorded, or request that the camera is turned off, officers may turn off the BWC to obtain the statement or information. If the encounter begins when the BWC is not actively recording, officers may, but are not required to, temporarily activate the BWC for the sole purpose of documenting the person's refusal to be recorded.
- C. With the exception of Section VI, B, Officers may not stop, mute, or pause the BWC recording at any time to avoid the recording of visual or audio images, sounds, or conversations between the officer and any other person or law enforcement officer present at a scene. A failure to record may be construed to be a deliberate manipulation of evidence and may subject the officer to criminal charges.

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VII. PROHIBITED RECORDINGS

Officers shall not activate a camera to record in the following situations:

- A. Conversations of fellow officers intentionally and without their knowledge and consent during administrative and non-enforcement related activities.
- B. Non-work-related personal activity.
- C. The BWC will not be used to create recordings in locker rooms, dressing rooms, and restrooms unless part of a criminal investigation.
- D. The BWC will not be used to create recordings at Juvenile Detention facilities, jails, or correctional facilities.
- E. The BWC will not be used to create recordings at facilities that prohibit such use.

VIII. ENDING A RECORDING

Once recording with a BWC is initiated, officers shall not end the recording until:

- A. The event or encounter has fully concluded; or
- B. The officer leaves the scene and anticipates no further involvement in the event;
or
- C. A supervisor or agency policy has authorized that a recording may cease because the officer is no longer engaged in related enforcement or investigative activity;
or
- D. When victims, witnesses or other individuals wish to make a statement or share information but refuse to do so while being recorded, or request that the camera is turned off, officers may turn off the BWC to obtain the statement or information.
- E. Communications between officers while at a scene may not be muted, unless the event has fully concluded, and the conversation does not involve work related activity.

IX. CLASSIFICATION OF VIDEOS

All videos recorded by the BWC will be uploaded and classified within seventy-two (72) hours of the recording unless prior supervisory approval has been obtained. The recordings will only be classified as follows:

- A. Criminal Evidence – all recordings made in relation to any incident that results in a criminal charge or where the issuance of a criminal arrest warrant is anticipated. The case number will be entered into the “Case File” field.

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- B. Traffic – all recordings made in relation to any incident that results in the issuance of a traffic charge, the officer may enter a case number, or if there is no case file, the event number (“P” number) may be entered into the case number field but is not required.
- C. Civil - all recordings made in relation to any incident that results in the issuance of a civil citation. The officer may enter the event number (“P” number) in the case file field, but it is not required.
- D. Not Evidence – any recording that is not related to a criminal, traffic, or civil charge and that does not need to be retained for longer than the default retention period.
- E. Other – any recording that needs to be retained beyond the retention period should be specified under the other category. This category includes Traffic and Civil recordings that must be retained beyond three years and non-evidentiary recordings that must be retained.
- F. Other classifications may be visible within the system; however, officers should only use the classifications listed in “A” through “E” of this section.

X. SUPERVISORY RESPONSIBILITIES

- A. Shift supervisors will conduct a monthly review of the video recordings made by their assigned personnel (“Compliance Review”). This review will verify that the officers are logging into the system properly, testing the system as required, and classifying all recorded videos. The supervisor will document this review on a monthly report.
- B. If a supervisor feels that a recording may be useful as a training tool, he/she will notify the training committee via their Chain of Command. No recording will be used for training purposes while the case is being litigated.

XI. CONFIDENTIALITY

- A. Leased or purchased BWC equipment and all recordings are the property of M-NCPPC Police Department. Only BWC equipment approved by the department shall be worn.
- B. Except as authorized by policy, copying, releasing, altering, erasing or allowing unauthorized viewing of an agency video recording (or portion thereof) is prohibited and may subject an officer to disciplinary action.

XII. REQUIRED STORAGE AND MAINTENANCE OF RECORDINGS

- A. All files shall be securely saved and stored in accordance with agency policy.
- B. The BWC System Administrator will maintain the security of and set the user

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access roles for the BWC system.

- C. All access to and use of the BWC server is logged including the viewing and copying/exporting of videos
- D. An original, unedited copy of each video will be retained on the server until purged in accordance with the retention section of this policy.

XIII. REVIEW OF RECORDINGS

- A. Except for contexts involving disciplinary actions and/or Internal Affairs investigations, involved officers may review video for any reasonable purpose related to official business including but not limited to:

- 1. Report writing and preparation of other official documents
- 2. Federal or State court preparation
- 3. Review of prosecution evidence
- 4. Victim/witness/suspect statements
- 5. Crime scenes
- 6. Statement of charges

- B. With the exception of contexts involving disciplinary actions and/or Internal Affairs investigations for which they are subject of the investigation, the Park Police Division Chief or designee, sworn command staff in an officer's direct line of supervision, and members of the Office of Accountability and Oversight Section may review video for any reasonable purpose related to official business including but not limited to:

- 1. Report writing and preparation of other official documents
- 2. Federal or State court preparation
- 3. Review of prosecution evidence
- 4. Victim/witness/suspect statements
- 5. Identification of witnesses
- 6. Crime scenes
- 7. Statement of charges
- 8. Administrative investigations

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9. Training
 10. Performance review
 11. Incident critique
 12. MPIA requests
 13. Compliance review
 14. Disclosures required by law
- C. The FOP reserves the right to file a grievance and/or otherwise assert its right to file a complaint against police practices if Management's review of the video appears to improperly target an officer or otherwise violate the Collective Bargaining Agreement.
- D. A log will be kept that records access to all recordings and officers shall have timely and ongoing access to the log of their recording. The log will include:
1. Name of the employee accessing the recording;
 2. Reason for access;
 3. Date recording was accessed; and
 4. Any copying, downloading, redacting, or sharing.

XIV. INTERNAL USE OF RECORDINGS

- A. A BWC recording of a constitutionally protected activity may not be used to identify persons present at the activity who are not suspected of being engaged in illegal activity or need assistance.
- B. The stored video and audio data from a body-worn camera may 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 or voice recognition software.
- C. This subsection does not prohibit an agency from using recognition software to analyze the recording of a particular incident when a supervisory law enforcement officer has reason to believe that a specific suspect or person in need of assistance may be subject of a particular recording.
- D. The BWC system is not intended to be used as a disciplinary tool against officers for Category 1 infractions of department policies or procedures.

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- E. Supervisors will not arbitrarily review BWC recordings to identify minor infractions of department policies or procedures.
- F. If a review is undertaken pursuant to Section XIII, B 8, 9, 10, 12, the Department observes a policy violation on the video, then formal disciplinary action will only occur if the observed violation meets or exceeds a Category 2 Offense (except Category 2 violations involving the use of profanity that does not abuse or demean citizens or co-workers) as enumerated in the applicable Divisional Directive. This provision in no way restricts the Department's ability to discipline for policy violations captured on a video when a violation is brought to Management's attention by any other means than through a review is undertaken pursuant Section XIII, B, 8, 9,10, 12.
- G. However, when cases of misconduct and/or repetitive negative behavior are brought to the attention of the department via supervisor review and/or an official complaint, the recording may be reviewed and be used as the basis for performance counseling or disciplinary action.
- H. The department may use the recordings for training or other purposes as approved by the Park Police Division Chief or designee
- I. BWC recordings may be used by Field Training Officers to review the actions of probationary officers participating in the Field Training and Evaluation Program.

XV. REQUESTS FOR BWC VIDEOS

- A. Supervisors and management can request a copy of BWC video by contacting Information Technology Services through submitting a ticket in Park Police Helpdesk who will store the requested video on a data storage device. Physical copies of recorded videos will only be burned to DVD when necessary for inclusion in a case file. Videos that must be reviewed as part of an investigation will be reviewed within the ICVC software.
- B. Officers may request a copy of the recorded video for court purposes through the Park Police Help Desk. The Management and Technology Section will transfer the video to a data storage device and forward to the Evidence Section. The requesting officer will then retrieve the device from the Evidence Section. If the device is not retained by the State's Attorney's Office, it will be returned to the Evidence Section for destruction or maintained in the officer's case file.
- C. The States Attorney's Office will be provided access to recordings of BWC video(s).

XVI. RETENTION

- A. All BWC videos that are classified as Criminal Evidence or Other will be retained consistent with the Commission's document retention policy, as it may be amended from time-to-time in the future.

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- B. All BWC videos that are classified as Traffic or Civil will be retained for a minimum of three years and then deleted consistent with the Commission's document retention policy, as it may be amended from time-to-time in the future.
- C. If a video originally classified as Traffic or Civil needs to be retained for a period that exceeds three years, the officer will change the video's classification to "Other."
- D. All BWC videos that are marked as "Not Evidence" will be automatically deleted after 210 days, unless the submitting officer or management reclassifies the video.
- E. The Evidence Section will send purge requests to the recording officer for all evidentiary videos that are more than one-year-old to determine if the video is still needed. If the officer determines the video is no longer needed, the Management Sergeant will confirm the status of the case before deleting the video.
- F. Videos approved for training may be retained indefinitely.
- G. Videos classified as "Restricted" will be retained until the Park Police Division Chief or their designee grants permission to purge.

XVII. INADVERTENT/UNINTENTIONAL/ACCIDENTAL RECORDINGS

Any request to delete a portion or portions of the recordings (*e.g.*, accidental recording) must be submitted in writing through the Park Police Help Desk to the BWC administrator. The request must include the date, time and reason for the request. If the video is of a sensitive nature, notify the BWC administrator so a designee of the same gender can review the video. The BWC administrator shall forward the request to the respective Assistant Chief or Designee for review/approval prior to deletion. Approval will be provided to the BWC administrator for deletion. All requests and final decisions will be maintained by the BWC administrator.

XVIII. RECORDS REQUESTS AND RELEASE OF RECORDINGS

The public release of BWCS recordings will be conducted in accordance with applicable public records laws, including, but not limited to the Maryland Public Information Act. Md. Code, General Provisions §§4-101-601.

- A. All external requests for copies of recordings, including subpoenas and MPIA requests, will be reviewed for compliance with applicable standards imposed by law.
 - 1. The Department will maintain a log of all MPIA requests for BWC recordings that it receives and shall immediately generate a Ten-Day Letter advising the Requestor of the anticipated time and cost of production. If assistance with creating a Ten-Day Letter is needed, please contact the Office of the General Counsel (Legal Department) immediately.
 - 2. Alternatively, the Custodian of Records may immediately grant access to the Requestor if:

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- a. a request will not require more than two hours of staff time to produce;
 - b. is able to be produced without cost to the agency within the Ten-Day period, or the agency determines to waive the cost of production; and
 - c. is otherwise not subject to restriction from production in accordance with the MPIA or other applicable law.
 3. The Custodian has a 30-day requirement to produce a response to the request either granting access to the requested record or denying the request, according to the MPIA. If additional time is required, the Custodian must make a request for an extension to the Requestor. If assistance with creating a Response Letter is needed, please contact the Office of the General Counsel immediately.
 4. Courtesy Notice to the FOP.
 - a. The FOP shall receive a copy of the Ten-Day Letter at the time it is issued to the Requestor.
 - b. The log, the underlying MPIA request, and the requested recording will be made available to the FOP for inspection.
 - c. The Department will notify the FOP of any decision to release the requested recording and the date and time of that release.
 - d. In exigent circumstances, the Department will endeavor to provide the FOP with at least two (2) hours' notice in advance of the release.
 - e. The Department will be neither prohibited from nor delayed in releasing the requested recording absent an order from a court of competent jurisdiction.
- B. The release of BWCS recordings in the absence of a specific request.
1. The Department will provide written notice, which can include e-mail, to the FOP before the release of any BWCS recording to the public; however, in the event of an emergency or bona fide public safety need the Department is not required to provide advance written notice. This written notice requirement does not include the release of recordings in connection with litigation.
 2. In events where there is no exigency, an officer captured in the video or audio recording may object to the release of the recording, in writing, to the Park Police Division Chief (or designee). This request must be submitted within two calendar days of receiving notice of intent to release the recording as to any reason(s) why he or she does not wish the recording to be released. The Park Police Division

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Chief (or designee) will consider any reason submitted by the officer before proceeding with the release.

3. The release of recordings of an officer's death or injury shall not occur absent compelling law enforcement related reasons to release the recording or in situations where the release of these recordings is required by law.
4. Recordings will not be disseminated by the employee without receiving written permission under the authority of the Park Police Division Chief.

XIX. TRAINING AND DISCIPLINE

- A. The Information Technology Commander will coordinate the initial training of all officers on the proper use of the BWC. The initial training will include, but is not limited to the following:
 1. Review of the BWC Directive.
 2. How to properly log in to the BWC software.
 3. How to properly classify a video.
 4. How to request a video for court purposes.
 5. Alternative methods for effective notification of recording to persons with special needs or limited English proficiency.
- B. The Information and Technology Commander will coordinate any training that is required when new software, features, or enhancements are implemented within the BWC system.
- C. Officers violating the policies related to the BWC system may be subject to discipline.
- D. An officer or FOP representative shall have access to a BWC recording that is directly related to any civil lawsuit where the officer has been served according to the Maryland Rules and named as a party. Except where the officer is named as a plaintiff, in which case the plaintiff is entitled to gain access through the standard discovery mechanism and any other available legal avenues.
- E. If during an internal investigation, the Department intends to present an officer with any video from a recorded incident and ask questions about the video, then the officer shall be provided access to all BWCS recordings related to the incident at least (5) working days in advance of the questioning. If the officer is the subject of an internal investigation, the officer shall have the ability to review their BWC recordings of the incident before making a statement.

XV. DISCRETIONARY ACTIVATION

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When not otherwise prohibited by law or agency policy, officers may begin recording with their BWC in circumstances when they determine that doing so would be beneficial to the public interest.

XVI INCIDENT REPORTS

Incident reports should note any use of the body worn camera (BWC).

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