

# Rockville City Police Department

## GENERAL ORDER



<b>Subject</b> BODY WORN CAMERA SYSTEMS		<b>Procedure</b> G.O. # 4 - 55
<b>Authorizing Signature</b> 	<b>Effective</b> 06-01-17 <del><b>Revised</b> 08-02-19</del> <b>Revised</b> 10-16-20	<b>Total Pages</b> 10

### I. POLICY

It is the policy of the Rockville City Police Department (RCPD) to utilize the Body-Worn Camera System (BWCS) for documenting evidence and recording, through video and audio, interactions that occur between officers and members of the public. This program is consistent with the department's mission and furthers its overall commitment to transparency in public engagement. All BWCS equipment and recordings are the property of the Rockville City Police Department.

The Rockville City Police Department is a designee for the City of Rockville on matters regarding BWCS for police officers working for the City of Rockville government.

### II. DEFINITIONS

- A. Body-Worn Camera System (BWCS) - a camera system worn on the person of a uniformed law enforcement officer, or an officer prominently displaying the officer's badge or other insignia, that can record video and intercepting oral communications.
- B. Officer - All sworn Rockville City Police officers.
- C. Employee - All employees of the Rockville City Police Department (both sworn and non-sworn).

### III. LEGAL CONSIDERATIONS

- A. 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, 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.
- B. 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 the State standards

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 is practicable, the individual that the individual is being recorded, unless it is unsafe, impractical, or impossible to do so; and
  5. The oral interception is being made as part of a videotape or digital recording.
- C. 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.

#### IV. IMPLEMENTATION

- A. The BWCS program will be instituted for uniformed and plain clothes officers. The BWCS will document events, actions, conditions and statements made during law enforcement related encounters and activities as authorized under this program.
- B. In addition to when required as listed in V.I any officer assigned to non-uniformed positions may wear a departmentally issued BWCS when conducting official business and the officer believes that such a device may be beneficial to the situation.
- C. The Department will provide training to officers prior to use of the BWCS. Training will include, but will not be limited to, operation of the BWCS and a review of department policies, as well as alternative methods for effective notification of recording to persons with special needs or limited English proficiency.
- D. Participating officers will use the BWCS in accordance with their training and this General Order.
- E. Violations of this General Order may result in discipline.

#### V. GENERAL OPERATIONAL PROCEDURES

- A. Only officers trained in the proper use of the BWCS will use the system.
- B. All BWCS recordings and recording devices will be used for official business only. Use of the BWCS will comply with all applicable laws and this General Order.
- C. Prior to going into service at the beginning of each shift, officers will perform a function test of the BWCS in accordance with their training and the manufacturer's recommendations to ensure that the BWCS is operating properly. Officers discovering a BWCS malfunction shall promptly report the malfunction to a supervisor.
- D. The BWCS will be worn in a manner consistent with department training.
- E. Officers are required to wear an issued BWCS while in uniform and on-duty.

1. BWCS shall not be removed from uniform and docked in-between calls for service unless the officer is inside the station or is using a spare unit.
  2. If the BWCS battery is depleted/exhausted or low prior to the end of shift, the officer shall make notification to their supervisor and the officer shall exchange the unit with a spare located at the station.
  3. When a spare BWCS is utilized the officer shall properly sync the spare to their ID number.
  4. Spare BWCS are to be returned to the station docking port at the end of shift.
- F. Officers may, but will not be required to, use the BWCS while off duty in uniform. Any off-duty use must be for law enforcement related encounters and activities as authorized under this General Order.
- G. Officers are authorized to use a BWCS during secondary employment in situations where the off-duty use is for law enforcement related encounters and activities as authorized under this General Order and consistent with the Secondary Employment General Order as well as the rules and regulations of the State of Maryland.
- H. Officers will only wear a department issued BWCS.
- I. Sworn personnel in plain clothes and Investigators will wear a BWCS when conducting enforcement activities outside the station. (i.e.: traffic stops, subject stops, arrests).
- J. Field Training Officers in the evaluation phase will wear a BWCS.

## VI. ACTIVATION OF THE BODY WORN CAMERA SYSTEM

- A. Officers shall only activate the BWCS for legitimate law enforcement purposes.
- B. Except as otherwise exempted by law, officers will notify individuals that they are being recorded as soon as practicable, unless it is unsafe, impractical, or impossible to do so.
1. This notice provision is satisfied even if another individual becomes a party to the communication after the initial notice has been provided.
  2. Examples of potential notification language include:
    - a. "You are being audibly and visually recorded"; or
    - b. "Our interaction is being recorded by my body camera".
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- C. The BWCS must be activated during all law enforcement related encounters and activities such as, but not limited to, the following examples;
1. At the initiation of a call for service or other activity that is investigative or enforcement in nature.
  2. All enforcement and investigation related citizen contacts.
  3. Documentation of evidence that can be used in the prosecution of criminal and traffic offenses.
  4. Arrests and transports.
  5. Traffic stops.
  6. Priority responses.
  7. Vehicle and foot pursuits.
  8. Suspicious situations.
  9. All searches (persons, vehicles, structures, effects), except strip searches.
  10. Interviews and interrogations.
  11. Mental health interventions.
  12. Any contact that becomes adversarial after the initial contact, in a situation that would not otherwise require recording.
- D. Once the BWCS has been activated, officers will continue to record until:
1. The officer has left the scene and anticipates no further involvement in the event;
  2. A RCPD Command Official has authorized that a recording may cease;
    - a. Only an RCPD Command Official, Lieutenant or above, has the authority to approve the deactivation of a BWCS recording outside those delineated in VI. D, E, H, I and J. No outside agencies or outside supervisors can authorize a deactivation of an RCPD BWCS recording.
  3. The officer is no longer engaged in a related investigative or enforcement activity; or;
  4. The event has concluded. An event will be deemed "concluded" when:
    - a. all arrests have been made and arrestees have been transported and released from custody;
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- b. all witnesses and victims have been interviewed;
  - c. the continued recording will not serve to obtain additional evidence; and
  - d. no further law enforcement action is likely to occur.
- E. Officers may temporarily stop a recording when there is prolonged inactivity and they are waiting for specialized services to arrive on the scene (i.e. DOA's, waiting for DJJ to arrive at the station, etc.). However, the BWC must be reactivated once an officer reengages in activity and/or the specialized services arrive on scene.
- F. Whenever the BWCS equipment is deactivated, the officer must record a brief verbal explanation for the deactivation prior to turning off the recording.
- G. There may be instances in which officers are unable to activate their BWCS due to circumstances making it unsafe, impossible, or impractical to do so. In these exigent circumstances, officers shall begin recording with the BWCS at the first reasonable opportunity to do so and document the reason for the delayed start in the incident report and/or as part of the recording.
- H. In situations when community members, witnesses, crime victims or other parties wish to share information related to criminal activity, but refuse to do so while being recorded, officers will have the discretion to turn off the BWCS during the interview. The preference is to record such statements; however, it is recognized that such persons may be hesitant to provide information while being recorded due to a fear of retaliation, privacy concerns or a feeling that the information is sensitive. In these situations, officers may decide that obtaining the information is more important than recording the conversation. In such situation, the officer must record a brief verbal explanation for the deactivation prior to turning off the recording.
- I. The BWCS may be deactivated during conversations with officers or supervisors during information sharing sessions or discussing tactics and strategy.
- J. Officers are required to obtain consent prior to recording an interview with a victim of a sex offense. Consent in these cases must be documented/recorded on camera.

VII. PROHIBITED USES

- A. A BWCS will not be used to create recordings in locker rooms, dressing rooms, or restrooms unless part of a criminal investigation.
- B. A BWCS will not be used to create recordings of strip searches.
- C. A BWCS shall not be used to record employees during routine administrative activities.
- D. Officers will not intentionally record undercover officers or confidential informants without their consent. (MCPD Special Assignment Officers, S.A.T., are a plain clothes unit and are not considered undercover).

- E. Officers shall not record non-work related personal activity.

#### VIII. REPORTING/DOCUMENTATION

- A. Whenever a BWCS recording is made of an event that results in a police report, the reporting officer must note in the report that the recording exists, if known.
- B. All BWCS recordings must be uploaded by the officer at the end of his or her assigned shift, unless a supervisor authorizes an exception, or when securing from an assigned detail or the road. The BWCS recording must be uploaded upon the officer's return to duty. The officer will be responsible for properly categorizing and tagging the recording at the time of the upload.
- C. In a critical incident (such as an officer involved shooting, in-custody death or other officer involved incident that results in serious injury or death), a supervisor may immediately take immediate custody of the BWCS and, in such case, will be responsible for the upload.

#### IX. INTERNAL ACCESS, REVIEW, AND USE OF RECORDING

- A. BWCS recording may be reviewed by the recording officer for any work-related reason, including but not limited to:
    - 1. To ensure the BWCS system is working properly.
    - 2. To assist with the writing of a report or another official document.
    - 3. To review/critique his or her own performance.
    - 4. To review/prepare for court.
    - 5. To respond to a civil suit, criminal investigation, citizen complaint, or administrative complaint. The officer, and any witness officer(s), shall have the ability to review their BWCS recording of the subject incident prior to making a statement.
  - B. Recordings may also be reviewed:
    - 1. By a supervisor.
    - 2. By command staff for any legitimate matter, including, but not limited to:
      - a. To review evidence
      - b. To participate in an official investigation such as a personnel complaint, administrative inquiry, or a criminal or civil investigation.
      - c. To assess training value.
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- d. During supervisory review of Response to Resistance and Aggression and Pursuit reports.
3. All persons reviewing BWCS recordings are automatically recorded on the audit log. Additionally, personnel conducting a review of a BWCS recording, that is not their own recording, will place a notation in the event notes section explaining the purpose for the review, the date of the review, and the name of the person conducting the review. (The Chief of Police may exempt the notation requirement as he deems necessary to maintain the integrity of the Department's operations.)
- C. Officers are not allowed to access another officer's recording(s) except for a work-related reason which is authorized by a supervisor.
  - D. Any officer who is the subject of an administrative complaint, internal affairs investigation, or civil suit, and any related witness officer(s), shall each possess the right to review their video prior to giving any statement(s).
  - E. The on-duty supervisor responsible for the involved employee shall, as soon as practical review the BWCS recording, and in car video when appropriate of an incident listed below. Any concerns discovered upon review should immediately be reported to a command official.
    1. An officer is involved in a reportable use of force incident.
    2. An officer is injured during the performance of his or her duty.
    3. An officer is involved in a departmental collision.
    4. When a complaint is made against an officer.
  - F. BWCS recordings may be periodically reviewed by command staff and supervisors to ensure the officers are properly using the system and document information, for training, court, or other police related purposes. Sergeants will also review their team members recordings to aid in training and improve the quality of enforcement techniques.
    1. Sergeants will conduct at least two BWCS video reviews of officers assigned to their team per month. These monthly reviews must be documented in the Watch Guard System and the monthly Officer Inspection Sheet. One review should be a self-initiated activity (ex: car stop, etc.) and one should be a call for service (ex: domestic, etc.)
    2. If a supervisor feels a recording may be useful as a training tool, he/she will notify the training coordinator to review the recording.
    3. No recording will be used for training purposes while the case is being litigated or if there is an ongoing internal affairs investigation.
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- G. BWCS recordings may be used in connection with performance evaluations and administrative investigations. When cases of misconduct and or repetitive negative behavior are brought to the attention of the Department via a supervisory review and or filed complaint, the BWCS system may be reviewed and used as the basis for the performance counseling or disciplinary action.
  - H. BWCS recordings may be used as evidence during a disciplinary procedure.
  - I. The Chief of Police or designee may review any recording for official purposes or designate an individual on a case by case basis for official purposes. The Department may use BWCS recordings for training or other purposes as approved by the Chief of Police or his/her designee.
  - J. An audit log is maintained on all BWCS recordings. The audit log will include the:
    - 1. Name of the employee accessing the recording;
    - 2. Reason for access with reasonable clarity;
    - 3. Date and time the recording was accessed; and
    - 4. Any copying or editing.
  - K. A BWCS 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 in need of assistance.
  - L. The stored video and audio data from a BWCS recording 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. This does not prohibit the use of recognition software to analyze the recording of a particular incident when a sworn supervisor has reason to believe that a specific suspect or person in need of assistance may be a subject of a particular recording.
  - M. Employees shall not access, obtain, attempt to obtain, or copy/convert for their personal use any recording produced by a BWCS. Employees shall not upload BWCS recordings to public and/or social media websites except with prior written approval of the Chief of Police.
  - N. Except as authorized by this General Order, employees shall not attempt to copy, delete, alter, release, reuse, modify or tamper with BWCS recordings in any manner.
  - O. Employees are prohibited from making a copy of a BWCS audio/video recording by using another recording device, such as a cell phone.
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**X. RETENTION OF DATA**

- A. All original BWCS recordings are the property of the Rockville City Police Department and shall be securely stored and retained according to the department's retention schedule and consistent with state law and existing evidence protocols, unless a specific request is made to store them for a longer period of time by a person authorized by the Department.
- B. BWCS recordings that can be used in an investigation or captures a confrontational encounter between an officer and a member of the public will be deemed "evidentiary" and categorized and tagged according to the type of incident. Recordings that capture routine, non-confrontational encounters and/or do not contain evidence will be deemed "non-evidentiary".
- C. Non-evidentiary recordings will be purged in accordance with the Department's Records and Retention Schedule, unless the Department deems it necessary to retain the recording for a longer period of time.
  - 1. A recording will be retained longer than the Records and Retention Schedule time frame if an officer or the officer's representative provides notice to the Department that it may be needed for an administrative hearing.
  - 2. Performance evaluation shall not be the sole reason for the department retaining a recording beyond the agreed upon term.
  - 3. An officer may elect to save BWCS recordings longer than the Records and Retention Schedule if the recording was used to support a performance evaluation which resulted in a single category being rated as below requirements.
- D. If an officer activates a BWCS generating a recording of a prohibited use or that is not a law enforcement related encounter or activity, the officer shall notify his or her supervisor promptly. Recordings deemed by the department to be recorded inadvertently and which are of no legitimate purpose to the department, may be purged as soon as practicable.

**XI. RECORDS REQUESTS AND RELEASE OF RECORDING**

- A. The public release of BWCS recordings will be conducted in accordance with the Maryland Public Information Act (MPIA).
  - B. The Department shall ensure that all requests for copies of recordings, including subpoenas and summonses, will be reviewed by a member of the command staff for compliance with applicable standards, including those imposed by law or provisions of this General Order. The City will maintain a log of all MPIA requests for BWCS recordings that it receives.
  - C. 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.
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- D. Recordings will not be disseminated by any employee without receiving written permission by the Chief of Police.

XII. REDACTION

The public release of BWCS recordings will be conducted in accordance with applicable public records laws.