

## Body Worn Cameras

### 424.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of body worn cameras (BWC) by members of this department while in the performance of their duties (Md. Code CJ § 10-402). Portable audio/video recording devices include all recording systems whether body-worn, hand-held or integrated into portable equipment.

This policy does not apply to mobile audio/video recordings, interviews or interrogations conducted at any Riverdale Park Police Department facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

### 424.2 POLICY

The Riverdale Park Police Department may provide members with access to portable recorders, either audio or video or both, for use during the performance of their duties. The use of recorders is intended to enhance the mission of the Department by accurately capturing contacts between members of the Department and the public.

### 424.3 COORDINATOR

The Chief of Police or the authorized designee should designate a coordinator responsible for:

- (a) Establishing procedures for the security, storage and maintenance of data and recordings.
- (b) Establishing procedures for accessing data and recordings.
- (c) Establishing procedures for logging or auditing access.
- (d) Establishing procedures for transferring, downloading, tagging or marking events.

### 424.4 MEMBER PRIVACY EXPECTATION

All recordings made by members on any department-issued device at any time, and any recording made while acting in an official capacity of this department, regardless of ownership of the device it was made on, shall remain the property of the Department. It is expected that all recordings will be made with department-issued devices. In the event that recordings are made with personally owned devices, members shall have no expectation of privacy or ownership interest in the content of these recordings.

### 424.5 MEMBER RESPONSIBILITIES

Prior to going into service, each uniformed member will be responsible for making sure that he/she is equipped with a BWC issued by the Department, and that the BWC is in good working order by performing a function test of the BWC in accordance with the manufacturer's recommendations. If the BWC is not in working order or the member becomes aware of a malfunction at any time,

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the member shall promptly report the failure to his/her supervisor and obtain a functioning device as soon as reasonably practicable. The Commander of the Bureau of Support Services shall also be notified of the equipment problem on a BWC Failure to Record/Malfunction/Review form. Uniformed members should wear the recorder in a conspicuous manner or otherwise notify persons that they are being recorded, whenever reasonably practicable (Md. Code CJ § 10-402).

Any member assigned to a non-uniformed position may carry a BWC at any time he/she believes that such a device may be useful and may use it in compliance with the law (Md. Code CJ § 10-402). Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members should wear the BWC in a conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever reasonably practicable.

Members should document the existence of a recording in any report or other official record of the contact, including any instance where the recorder malfunctioned or the member deactivated the recording. Members should include the reason for deactivation.

### **424.6 ACTIVATION OF THE BODY WORN CAMERA**

This policy is not intended to describe every possible situation in which the BWC should be used, although there are many situations where its use is appropriate. Members should activate the BWC any time the member believes it would be appropriate or valuable to record an incident. Members shall begin recording with BWCs in the below circumstances unless doing so would be unsafe, impossible, or impractical. If members are unable to begin recording with the BWC due to circumstances making it unsafe, impossible, or impractical to do so, members shall begin recording with the BWC at the first reasonable opportunity to do so.

The BWC should be activated in any of the following situations:

- (a) At the initiation of a call for service or other activity that is investigative or enforcement in nature, or an encounter between the officer and a member of the public that is investigative or enforcement in nature
- (b) Any encounter that becomes confrontational after the initial contact
- (c) 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 be turned off, members may turn off the BWC, or mute the audio portion, in order to obtain the statement or information. If the encounter begins when the BWC is not actively recording, the member may, but is not required to, temporarily activate the BWC for the sole purpose of documenting the person's refusal to be recorded.

At no time is a member expected to jeopardize his/her safety in order to activate or deactivate a BWC. Members may mute the audio of the BWC recording in situations where the recording of the audio is not relevant or necessary (e.g. conversations with other members regarding the use of tactics or other sensitive topics of discussion). Prior to muting the device, the member should give an audible indicator that the recording will be muted and why.

In certain environments, such as hospitals and detention centers, the activation of body worn cameras may be restricted or prohibited due to security reasons. Members should comply with

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the instructions of the facility regarding recording policies, unless the officer believes continuing or activating recording is necessary for evidentiary, safety, or law enforcement reasons..

#### 424.6.1 NOTIFICATION OF ACTIVATION OF THE BODY WORN CAMERA

Except as otherwise exempted by law, a law enforcement officer shall notify, as soon as practical, the individual that the individual is being recorded, unless it is unsafe, impractical, or impossible to do so.

#### 424.6.2 ENDING A RECORDING

The Riverdale Park Police Department advocates a pro-recording policy.

Once recording with a BWC has been initiated, members shall not end the recording until:

1. The event or encounter has fully concluded; or
2. The officers leave the scene and anticipates no further involvement in the event; or
3. A supervisor or agency policy has authorized that a recording may cease because the officer is no longer engaged in a related enforcement or investigative activity; or
4. 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 be turned off, members may turn off the BWC in order to obtain the statement or information. Members should make a verbal announcement on the BWC that the recording will be terminated for this reason before ending the recording.

#### 424.6.3 SURREPTITIOUS USE OF THE BODY WORN CAMERA

Maryland law prohibits any individual from surreptitiously recording any conversation in which any party to the conversation has a reasonable belief that the conversation is private or confidential. However, Maryland law exempts members from some of this prohibition during the course of their regular duties pursuant to Md. Code CJ § 10-402. Nothing in this section is intended to interfere with a member's right to openly record during any investigation or interrogation pursuant to Md. Code CJ § 10-402 or Md. Code CP § 2-402.

Members shall not surreptitiously record another department member without a court order unless lawfully authorized by the Chief of Police or the authorized designee.

#### 424.6.4 EXPLOSIVE DEVICE

Many portable recorders, including body-worn cameras and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

#### **424.7 PROHIBITED USE OF BODY WORN CAMERAS**

Members are prohibited from using department-issued body worn cameras and recording media for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity.

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Members are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with department-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate department business purposes. All such recordings shall be retained at the Department.

Members are prohibited from using personally owned recording devices while on-duty without the express consent of the Shift Supervisor. Any member who uses a personally owned recorder for department-related activities shall comply with the provisions of this policy, including retention and release requirements.

Recordings shall not be used by any member for the purpose of embarrassment, intimidation or ridicule.

#### **424.8 IDENTIFICATION AND PRESERVATION OF RECORDINGS**

To assist with identifying and preserving data and recordings, members should download, tag or mark these in accordance with procedure and document the existence of the recording in any related case report.

A member should upload, tag or mark all recordings prior to the conclusion of their shift.

Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the member should promptly notify a supervisor of the existence of the recording.

#### **424.9 RETENTION OF RECORDINGS**

An unaltered version of all recordings shall be retained for a period consistent with the requirements of the organization's records retention schedule but in no event for a period less than 180 days. Recordings shall be securely maintained pursuant to department procedures and a log shall be kept of when a recording is viewed, the length of time it is viewed and by whom. If copies of a recording or portions of a recording are made, a record shall be kept indicating what portions of a recording were provided and to whom.

##### **424.9.1 RELEASE OF AUDIO/VIDEO RECORDINGS**

Requests for the release of audio/video recordings shall be processed in accordance with the Records Maintenance and Release Policy, MPIA, or other governing laws.

#### **424.10 REVIEW OF RECORDED MEDIA FILES**

When preparing written reports, members should review their recordings as a resource. (See the Officer-Involved Shootings and Deaths Policy for guidance in those cases.) However, members shall not retain personal copies of recordings. Members should not use the fact that a recording was made as a reason to write a less detailed report.

Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct or reports of meritorious conduct or whenever such recordings would be beneficial in reviewing the member's performance. Twice monthly, supervisors shall perform a "BWC Failure

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to Record/Malfunction/Review" form for their personnel's recordings. These forms shall be submitted to the Patrol Bureau Commander.

Minor infractions (not of a criminal nature) discovered during the supervisor's periodic review should be viewed as training opportunities and not as routine disciplinary action. Should the behavior or action become habitual after being informally addressed, the appropriate disciplinary or corrective action shall be taken.

Recorded files may also be reviewed:

- (a) Upon approval by a supervisor, by any member of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.
- (b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (c) By media personnel with permission of the Chief of Police or the authorized designee.
- (d) In compliance with a public records request, if permitted, and in accordance with the Records Maintenance and Release Policy.

All recordings should be reviewed by the Custodian of Records prior to public release (see the Records Maintenance and Release Policy). Recordings that unreasonably violate a person's privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court.

#### **424.10.1 PROHIBITED USES**

Recordings should not be used:

- (a) To identify persons present at public gatherings who are not suspected of being engaged in illegal activity or in need of assistance.
- (b) To create a database or pool of mug shots.
- (c) As fillers in photo arrays.

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 the subject of a particular recording.

#### **424.11 POSTING OF POLICY**

A copy of this policy should be made available to the public on the department website and upon request.

#### **424.12 TRAINING**

Members should receive periodic training on the operation of body-worn cameras as well as this policy. Training should include methods of providing notice that a recording is being made to persons with limited English proficiency or persons with a disability that renders them otherwise unable to understand (see the Limited English Proficiency Services and Communications with Persons with Disabilities policies).