



BODY WORN CAMERA SYSTEM PILOT PROGRAM

FC No.: 430
Date: 06-08-15

If a provision of a regulation, departmental directive, rule, or procedure conflicts with a provision of the contract, the contract prevails except where the contract provision conflicts with State law or the Police Collective Bargaining Law. (FOP Contract, Article 61)

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I. Policy

- A. It is the policy of this department to utilize the Body-Worn Camera System (BWCS) for the purpose of documenting evidence and accurately recording, through video and audio, interactions that occur between officers and members of the public. All BWCS equipment and recordings are the property of the Montgomery County Police Department.
- B. This BWCS policy will be in effect during the BWCS pilot program.

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 is capable of recording video and intercepting oral communications.

III. Legal Consideration

- 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 a party to the oral communication;
 3. 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
 4. 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 pilot program will be instituted for designated uniformed officers for patrol and patrol related functions. The BWCS will accurately document events, actions, conditions and statements made during law enforcement related encounters and activities as authorized under this pilot program.
- B. The Department will seek volunteers to be assigned a BWCS.
- C. The Department will train participating officers to use the BWCS. Participating officers will use the BWCS in accordance with their training and this policy.

V. General Operational Procedures

- A. Only officers trained in the proper use of the BWCS will use the system.
- B. Prior to going into service at the beginning of each shift, officers will perform an inspection of the BWCS in accord with their training to ensure that the BWCS is operating properly. In all cases where there is a malfunction of the BWCS, the officer must report the malfunction to a supervisor in an expeditious and timely manner and as soon as practicable.
- C. Officers will wear their BWCS in the manner consistent with their training at all times.
- D. Officers are only authorized to use a BWCS while in uniform or prominently displaying the officers badge or other insignia.
- E. Officers may, but will not be required to, use the BWCS while off duty. Any off duty use must be for law enforcement related encounters and activities as authorized under this pilot program policy.
- F. Officers are not authorized to use a BWCS during secondary employment.
- G. Officers will only wear a department issued BWCS.

VI. Activation of the Body Worn Camera System

- A. Officers shall only activate the BWCS for legitimate law enforcement purposes.
- B. Officers will notify individuals that they are being recorded as soon as practicable, unless it is unsafe, impractical, or impossible to do so.
- C. The BWCS must be activated during all law enforcement related encounters and activities such as, but not limited to, the following examples;
 - 1. All calls for service that are enforcement and investigation related.
 - 2. All enforcement and investigation related citizen contacts.
 - 3. Documentation of evidence that can be used in the prosecution of criminal and traffic offenses.
 - 3. Arrests and transports.
 - 4. Traffic stops.
 - 5. Priority responses.
 - 6. Vehicle and foot pursuits.
 - 7. Suspicious situations.
 - 8. All searches (persons, vehicles, structures, effects), except strip searches.
 - 9. Interviews and interrogations.
 - 10. Mental health interventions.
 - 11. 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 the officer has left the scene and anticipates no further involvement in the event, the event has concluded, or a supervisor has authorized that a recording may cease. An event will be deemed "concluded" when:
 - 1. All arrests have been made and arrestees have been transported and released from custody;
 - 2. All witnesses and victims have been interviewed;
 - 3. The continued recording will not serve to obtain additional evidence; and
 - 4. No further law enforcement action is likely to occur.
- E. Whenever the BWCS equipment is deactivated, the officer must record a brief verbal explanation for the deactivation prior to turning off the recording.
- F. There may be instances in which officers are required to take immediate action which may not allow time to activate their BWCS equipment. In these exigent circumstances, the officer shall activate his or her BWCS as soon as it is safe to do so and document the reason for the delayed start in the incident report and/or as part of the recording. At no time should an officer jeopardize his or her own safety or the safety of another in order to activate their BWCS.
- G. 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.
- H. The BWCS may be deactivated during conversations with officers or supervisors during information sharing sessions or discussing tactics and strategy.

- I. 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 Use

- A. A BWCS will not be used to create recordings in locker rooms, dressing rooms, and restrooms unless part of a criminal investigation.
- B. A BWCS will not be used to create recordings of strip searches.
- C. A BWCS will not be used to surreptitiously record conversations of citizens and employees.
- D. A BWCS will not be intentionally activated to record conversations of fellow officers without their knowledge and consent during administrative and non-enforcement related activities.
- E. Officers will not intentionally record undercover officers or confidential informants without their consent.

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, and if known, the name(s) of every officer who generated a BWCS recording.
- B. All BWCS recordings must be downloaded by the officer at the end of his or her assigned shift, unless an exception is authorized by a supervisor. The officer will be responsible for properly categorizing and tagging the recording at the time of the download.
- 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 custody of the BWCS and, in such case, will be responsible for the download.

IX. Internal Access and Use of Recordings

- A. Recordings may be reviewed:
 - 1. By an officer to make sure the BWCS system is working properly.
 - 2. By an officer to assist with the writing of a report or other official document.
 - 3. By an officer to review/critique his or her own performance.
 - 4. By an officer to review/prepare for court.
 - 5. By a person authorized by the department for the purpose of reviewing evidence.
 - 6. By a supervisor.
 - 7. By a person authorized by the department participating in an official investigation such as a personnel complaint, administrative inquiry, or a criminal or civil investigation.
 - 8. By authorized department personnel to assess possible training value.
- B. An Officer required to respond to a citizen or administrative complaint shall have the ability to review any BWCS recording of the subject incident prior to making a statement.

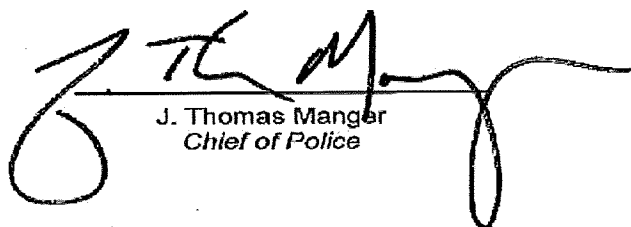
- C. A log will be kept to record access to all recordings. The log will include the:
 - 1. name of the employee accessing the recording;
 - 2. reason for access; and
 - 3. date recording was accessed.
- D. Employees shall not access, obtain, attempt to obtain, or copy/convert for their personal use any recording produced by a BWCS. Employees shall not upload BWCS recordings to public and/or social media websites.

X. Retention of Data/Records Requests

- A. All original BWCS recordings are the property of the Montgomery County Police Department and shall be 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. All recordings will be destroyed after 120 days, unless the department deems it necessary to retain the recording for a longer period of time. A recording will be retained if an officer or the officer's representative provides notice to the Department within 120 days of the date of the recording of its potential use in an administrative hearing.
- C. 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 do not contain evidence or capture routine, non-confrontational encounters will be deemed "non-evidentiary".
- D. Employees shall not attempt to delete, alter, reuse, modify or tamper with BWCS recordings in any manner.
- E. The public release of BWCS recordings will be conducted in accordance with applicable public records laws.
- F. Recordings will not be disseminated by the employee without receiving written permission under the authority of the Chief of Police.

XI. CALEA Standards: 41.3.8

XII. Proponent Unit: IMTD



J. Thomas Manger
Chief of Police