



**CHEVY CHASE
VILLAGE
POLICE
DEPARTMENT**

Police Chief: John M. Fitzgerald

GENERAL ORDER: 5-7.1 BODY-WORN CAMERAS

DATE: 5/9/2023 Pages: 7 ♦ New ♦ Amended

DISTRIBUTION: **Sworn Officers**

I. PURPOSE

This policy is intended to provide officers with direction regarding when and how to use body-worn cameras (BWCs) so that officers may effectively and lawfully record evidence, their actions, and their contacts with the public.

II. POLICY

Every officer in the Department—from the Chief to the newest patrol officer—shall wear and use agency-issued BWCs in compliance with this general order whenever they are on duty. It is the policy of this department that officers shall activate the BWC when such use is appropriate to the proper performance of his or her official duties, where the recordings are consistent with this policy and law. To maximize effectiveness of BWCs and to maintain the integrity of the program, all personnel will adhere to this general order.

III. DEFINITIONS

- A. **BWC – Body-Worn Camera**
- B. **BWC Manager** – The supervisor responsible for overseeing the BWC program, monitoring adherence with this policy, and with managing the data in the server once it is downloaded
- C. **Inadvertent recording** – A BWC recording that:
 - 1. Was made unintentionally by the officer wearing the BWC, and
 - 2. The entirety of which was made under circumstances in which the recording officer or another person who is on the recording had a reasonable expectation of privacy in their actions or words captured on the recording, and
 - 3. The making of which is inconsistent with Section D (*When to Record*) of this policy, and

- 4. It is not a recording—or a portion of a recording—that must be retained (evidentiary, indefinite retention, complaint, etc.).

IV. PROCEDURES

A. GENERAL

This agency has adopted the use of BWCs to:

- 1. Enhance officer safety by reducing assaults against officers and the frequency of use-of-force incidents;
- 2. Increase individual accountability and agency transparency;
- 3. Record evidence to support criminal prosecutions and courtroom testimony;
- 4. Reduce complaints against officers and to quickly identify frivolous complaints;
- 5. More easily and accurately document incidents and crime/collision scenes;
- 6. Protect and defend officers and the Village against civil claims; and
- 7. Support effective officer training.

B. AUTHORIZED ACCESS AND CONFIDENTIALITY

- 1. All recording equipment and all data, images, video, audio and metadata captured, recorded and otherwise produced by the equipment are the sole property of the Department.
- 2. Employees shall not, in any manner: copy, duplicate, share, upload to a public or social media website or otherwise distribute, edit, alter, erase, or permit unauthorized viewing of or access to BWC recordings, images or

data without the express written consent of the Chief of Police or his designee.

3. All persons (including Department employees), unless specifically authorized by this policy, are prohibited from viewing or accessing a recording without express permission from the Chief of Police. Generally, only law enforcement officers or court officials with a legitimate government purpose may request authority to view or access recordings.
4. An officer may view his/her own BWC recording at any time while on duty for work-related purposes.
5. Officers are encouraged to view their own BWC recordings to assist them in placing accurate lookouts, writing accurate reports, and to improve their safety practices and overall performance.
6. Subject to item 7 immediately below, if an individual officer's BWC recording is relevant to an administrative investigation of the officer, that officer and their chosen representative will be permitted to view the BWC video prior to any administrative interrogation as long as such viewing will not delay any scheduled interrogation.
7. If the incident giving rise to an administrative investigation is also being investigated by an outside agency (the Attorney General's Independent Investigation Division, MCPD, etc.), the officer will not be permitted to view the BWC video unless the investigating agency and the State's Attorney's Office determine that the officer's review of the recording will not negatively impact their investigation.
8. If the Attorney General or the State's Attorney determines that reviewing a BWC recording will not negatively impact a criminal investigation or otherwise impact the integrity of an investigation, the recording may be reviewed by medical or mental health professionals consulted by the Department for the limited purpose of addressing an officer's medical or mental health needs resulting from a critical incident.
9. BWC videos will not be placed or kept in any employee's personnel file.

C. EQUIPMENT

1. Department-issued BWCs are intended for official Department use only and are not to be used for frivolous or personal activities. Intentional misuse or abuse of the units will result in disciplinary action.
2. Sworn personnel shall use only those BWCs that are issued and approved by the Department. The wearing of personally-owned BWCs is prohibited.
3. Officers shall wear the BWC in accord with Department –provided training (typically in the center of their chest area).
4. Officers shall wear the BWC whenever they are on foot patrol or on vehicle patrol in the Village. Specifically, with the exception of briefly placing the (BWC) in the charging cradle at the beginning of the shift to synchronize the BWC with the dashboard camera system, officers shall keep the BWC affixed to the mount on their chest while in the police car or on foot patrol in the Village.

D. WHEN TO RECORD

1. Mandatory use.

- a. With the exception of minor 'occurred earlier' property crimes (theft, vandalism, littering) and house checks, officers are required to record during all calls for service and during all law enforcement-related encounters and activities while on duty unless doing so would be unsafe, impractical, or impossible.
- b. Officers shall document in an incident report any reasons for failing to record an activity that is required by department policy to be recorded.
- c. Law enforcement activities that must be recorded by BWCs include, but are not limited to:
 - Suspicious persons/situations
 - Solicitor calls
 - Traffic or investigative stops
 - Arrests
 - Searches of persons or places
 - Interrogations or interviews with suspicious persons or suspects—even when the interaction is

consensual (not involving a ‘stop’ or detention)

- Encounters with persons with mental illness, mental disorders or in a mental health or emotional crisis
 - Foot pursuits
 - Any encounter with the public that becomes adversarial after the initial contact
 - Open doors or any unusual or suspicious circumstances discovered during house checks
 - Serving as a back-up officer to any of the above
2. **Use requiring consent.**
- a. Officers are encouraged to record statements made by crime victims and witnesses, however, some victims or witnesses may refuse to provide a statement on camera.
 - b. We need the cooperation of victims and witnesses, so if they do not consent to being on camera, officers will turn off the camera in order to obtain their statement.
 - c. Before the officer stops the recording, he/she must document on camera the reason for doing so. The officer shall also document this fact in any related report.
 - d. Once the statement has been obtained from the witness or victim who refused to be recorded, officers shall revert to recording mode using their BWC until the incident is concluded or otherwise in accord with section IV.F.3. of this directive.
3. **Discretionary use.** Officers are NOT required to use the BWC to record:
- a. Responses to minor property crimes that occurred earlier (theft, vandalism, littering, etc.) however, they are encouraged to use the BWC (video or still images) to record any evidence on the scene;
 - b. House checks, unless an officer discovers an open door or other unusual or suspicious circumstance;

- c. When an individual approaches an officer to share information; or
- d. Informal, non-law enforcement-related interactions with the public.

4. **Prohibited use.** BWCs shall be used only in conjunction with official law enforcement duties. BWCs shall not be used to record in any situation when individuals have a reasonable expectation of privacy absent exigent or other circumstances that would justify such recordings. Such situations include, but are not limited to:

- a. CCVPD personnel during routine, non-enforcement activities; and during non-work related personal activity;
- b. Persons while in bathrooms or locker rooms;
- c. Strip searches pursuant to agency policy; and
- d. Conversations with other agency personnel that involve case tactics or strategy; and
- e. In court facilities and courtrooms, except with the express permission of the local administrative judge or presiding judge (Md. Rule 16-208). Specifically, per an order of the District Court of Maryland, officers may only activate their BWCs in District Court facilities and courtrooms when:
 - Engaging in an investigative or enforcement matter, or
 - During any confrontational encounter between an officer and a member of the public.

E. WHERE TO RECORD

1. Officers are to record activities in accord with this policy regardless of where the recording is being made—whether the recording occurs on the street (or any other public place) or in a private residence (or any other private place).
2. Officers shall NOT turn off their BWC’s merely because they enter a home. If an officer has a legal right to be in a particular place while they are performing their duties, other persons who are also present do not

have a reasonable expectation of privacy in their conversations or in their image, and use of the BWC is lawful and appropriate.

F. HOW TO RECORD

1. **Calls for service.** Officers shall activate their BWC while responding to and prior to arriving on the scene of a call, and they shall keep their BWC running during the initial response to an ongoing scene in order to capture the officer's point of view and actions.
2. **Other circumstances.** Officers shall activate their BWC at the earliest practical time whenever the officer engages in any activity or encounter described in Section II.D.1 above (*Mandatory use*).
3. While an officer's BWC is recording, officers are prohibited from deliberately covering or blocking the camera lens or from taking any action to interrupt or prevent the device from recording audio.
4. Once activated, the body-worn camera shall remain in recording mode until the conclusion of an incident/encounter, the officer has left the scene, a supervisor has authorized that a recording may cease, or the involved persons are refusing to cooperate because they are being recorded. An event will be deemed "concluded" when:
 - a. The event has ended;
 - b. All arrests have been made and arrestees have been transported and released from custody;
 - c. All witnesses and victims have been interviewed;
 - d. The continued recording will not serve to obtain additional evidence; and
 - e. No further law enforcement action is likely to occur (i.e. waiting for tow truck or family member to arrive).
5. Whenever an officer turns the BWC off, the officer must document on camera—and in any related report—the reason (consistent with this policy) for doing so. For example, "This incident has concluded and recording will now cease."

6. Once the incident is controlled and moves into the investigative stage, officers may then make a case-by-case decision about whether and how to (video? audio only?) record later interviews with victims and/or witnesses on the scene in accord with the above policy.

G. NOTICE OF RECORDING

1. With the exception of circumstances described in item #3, below, when a primary officer begins recording with his/her BWC, that officer shall notify the person(s) with whom they make initial contact that they are being audio and video recorded. This notification shall be given at the earliest practical time during the interaction.
2. The primary officer is not required to make repeated notifications when other persons arrive at the scene. Backup officers with actively recording BWCs are not required to give additional notifications merely because an additional BWC is now recording.
3. Officers are authorized to withhold the above notification when, in their best judgment, making the notification would be unsafe, impossible, impractical, or if doing so would interfere with the officer's objective (e.g. questioning suspicious persons). Officers will justify and document their decision to withhold notification in an event report.

H. STORAGE AND RETENTION

1. All BWC data will be stored on a secure, remote server.
2. Unless an individual BWC recording (video/audio/photo) is marked for indefinite retention, all recordings will be deleted 210 days from the date the recording was saved.
3. The BWC Manager (currently the Lieutenant) will mark for indefinite retention any BWC recording that is or may be:
 - Evidence needed for the prosecution of a criminal or civil

offense;

- The subject of an administrative complaint;
 - Needed for litigation (civil or criminal) whether or not it involves the Village or any Village employee; and
 - Needed for any other legitimate purpose. In order to indefinitely retain recordings in this category, officers must send a written request (email or memo) to the BWC Manager; retention will require the BWC Manager's assent subject to review by the Chief.
4. Once the purpose for indefinite retention has been satisfied, related BWC recordings will be reviewed for deletion unless prohibited by law. Prior to deletion of litigation-related recordings, counsel (prosecutor or Village Counsel, as appropriate) must approve of the deletion in writing.

I. OFFICERS' RESPONSIBILITY

1. Officers are responsible for their assigned BWC.
2. Officers must report any problem with the BWC to their supervisor immediately.
3. At the conclusion of each work shift, officers must 'dock' their BWC at the designated location to upload all data and to recharge the BWC battery.

Exception: In the event that an officer has been involved in a critical incident that is the subject of an investigation involving an outside agency (IID; MCPD; etc.), a supervisor will immediately take physical custody of the BWC and will be responsible for uploading the data to the secure server.

4. When a BWC recording exists related to any reportable event, officers shall state at the beginning of the written narrative that a BWC recording exists.
5. Officers shall notify the BWC Manager by email whenever they have generated a BWC recording that should be retained

indefinitely.

6. Officers must notify the BWC Manager by email as soon as they receive a court date for which they will need an evidentiary BWC recording.

J. BWC MANAGER RESPONSIBILITY

1. The BWC Manager is responsible for ensuring adherence to this policy, and for the following specific items:
 - a. Marking recordings for indefinite retention;
 - b. Producing copies of recordings in accord with this policy;
 - c. Troubleshooting hardware and software problems;
 - d. Randomly reviewing BWC recordings in accord with this policy;
 - e. Conducting automatic reviews of recordings consistent with this policy;
 - e. Including a summary of the above in the Manager's monthly report to the Chief; and
 - g. Provide an annual review of the BWC program to include:
 - Evaluation of officer compliance with policy;
 - Successes;
 - Problems identified and recommended solutions;
 - Workload issues (for BWC manager, others);
 - Software performance;
 - Review of files on indefinite retention (delete? retain?)
 - Any anticipated problems or costs.
2. The BWC Manager will notify the Chief of Police of the following by the next business day unless otherwise noted:
 - a. Hardware or software problems related to BWCs;

- b. Policy issues related to the use of BWCs;
- c. Recordings that show outstanding performance, heroism, initiative, work beyond the call of duty, or other examples of excellence;
- d. Recordings that may be useful in training other officers or in coaching an officer to improve safety, knowledge or other performance;
- e. Criminal wrongdoing or serious misconduct discovered on a BWC recording (immediate notification).

K. REVIEW OF RECORDINGS

1. Random reviews.
 - a. The BWC Manager will randomly review BWC recordings to ensure compliance with this policy.
 - b. The Manager will review recordings made by every patrol officer, and he will review a similar number of recordings per officer so that the random review is fair and equitable.
 - c. Random review will be limited to a maximum of 3 recordings per officer per month.

2. Targeted reviews.

The BWC Manager shall promptly review BWC recordings of the following and report any extraordinary performance, policy violations or other concerns to the Chief:

- Arrests;
- All searches;
- All uses of force;
- Any incident involving injury to an officer or another person;
- Any incident resulting in damage to Village or other property;
- High-risk traffic stops;
- Collisions;
- Complaints against an officer or employee;
- Evidence;
- Review of probationary officers' performance;

- Other incidents brought to the attention of the Chief or the BWC Manager that merit review for legitimate government purposes.

L. TRAINING

Officers will be trained on this policy, the BWC hardware, and the BWC software before they will be permitted to use a BWC.

M. REQUESTS FOR RECORDINGS

1. **General:** All requests (other than requests from CCVPD officers or the SAO) for copies of BWC recordings will be routed to the Chief of Police. No copies of BWC recordings or data will be released without the Chief's approval.
2. **Requests by CCVPD Officers or the SAO:** Requests for copies of a BWC recording for litigation from a CCVPD officer or from the Montgomery County State's Attorney's Office will be handled by the BWC Manager. The BWC Manager is authorized to produce and disseminate copies of BWC recordings for this purpose.
3. **Requests by a Law Enforcement Agency:** Written requests from a verified law enforcement agency which explain the agency's legitimate government reason(s) for needing a BWC recording will generally be approved after review by the Chief.
4. **Public Information Act Requests:** Village Counsel will be consulted prior to releasing any BWC recording pursuant to a request under the Maryland Public Information Act.

N. RELEASING RECORDINGS ALLEGING MISCONDUCT

1. **Non-criminal incidents.** The Chief, after consultation with Village leadership (Board Chair, Village Manager) and Village counsel, may decide that it is in the best interest of the public and the Village to release BWC and/or other video recordings to provide transparency and to maintain the public trust. The involved officer(s) shall be provided with reasonable notice prior to the release of any such recordings.
2. **Incidents involving potential criminal wrongdoing.** Any release of such recordings shall require approval by the office of the

relevant investigating unit and/or prosecutor's office (Attorney General's Independent Investigations Division, State's Attorney or U.S. Attorney, etc.) prior to any such release.

8. The Chief will notify the requesting officer of his decision.

O. INADVERTENT RECORDINGS

1. If an officer discovers that he/she has made an inadvertent BWC recording as defined in this policy, they may request, by memo through the chain of command to the Chief, that the recording be deleted.
2. The memo must include the date and time of the recording, the length of the recording, and a generic description of the circumstances (e.g. the recording was made while the requesting officer was talking casually with other employees).
3. If the memo satisfies the basic requirements in item #2, above, the Chief will direct the Sergeant to review the video to determine if it meets all the criteria of an inadvertent recording as defined in this policy, and if there is any reason why the request to delete should not be satisfied.
4. Neither the Chief nor the Lieutenant will view the recording as a result of the request memo. The only exception to this policy would be if the Sergeant discovered either criminal conduct or serious administrative misconduct during his review of the BWC recording; in such case, the Sergeant would be obligated to report his discovery to the Chief, and the Chief would then view the recording.
5. The Sergeant will provide a written response in memo form to the Chief. The memo shall specifically address each of the criteria of an inadvertent recording as defined in this policy, and it shall generically describe the circumstances of the recording. The memo shall also recommend whether or not the subject recording should be retained for any reason consistent with this policy.
6. Upon reviewing the recommendation memo from the Sergeant, the Chief will make a final decision.
7. If the Chief decides that deleting the inadvertent recording would be proper, he will direct the BWC Manager to delete the recording without viewing it.

This directive voids the previous version dated 4/4/23.