
	<b>GAITHERSBURG POLICE DEPARTMENT</b>		
	<b>Body Worn Cameras</b>		
	<b>GENERAL ORDER</b>	<b>619.4</b>	
<b>Effective Date</b>	<b>04/28/2022</b>	<b>41.3.8</b>	
<b>Authorized by: Mark P. Sroka</b> CHIEF OF POLICE			DATE <b>04/17/2025</b>

1. **PURPOSE** - The purpose of this policy is to provide officers with guidelines and instructions on when and how to use body-worn cameras (BWC) and accessories to record their contacts with the public. Additionally, this policy is intended to provide guidelines and procedures to manage BWC recordings.

2. **POLICY**

2.1. It is the policy of this Department to use the BWC system for the purpose of providing video and audio recording evidence of officers’ interactions with the community while acting in the official capacity of a police officer. All BWC equipment and recordings are the property of the Gaithersburg Police Department.

2.2. The BWC program is designed for operational officers, in both patrol-related and plainclothes operations, officers working a special event detail, or security-related secondary employment during official purposes or law enforcement actions.

2.3. This policy does not govern the use of surreptitious recording devices used in covert operations or the in-car video camera system.

3. **DEFINITIONS**

3.1. **Administrative Inquiry** - Within the context of this directive, the term “administrative inquiry” refers to an investigation of a violation of any provision or policy in a written directive or general order.

3.2. **Body Worn Camera (BWC)** - Within the context of this directive, the term “Body Worn Camera” or “BWC” refers to a camera system worn on the person of a law enforcement officer who is in uniform, or is otherwise prominently displaying the officer’s badge or other insignia, being lawfully authorized to record video and intercepting oral communications.

3.3. **Official Purposes** - Within the context of this directive, the term “official purposes” refers to an action taken in direct connection with a law enforcement activity, prosecution of a criminal arrest, supervision of law enforcement personnel, an investigation of an officer’s actions due to an allegation of a violation of criminal statute, or a violation of an administrative policy, and/or specific work performance.

3.4. **Signal Sidearm** - Within the context of this directive, the term “signal sidearm” refers to a device which attaches to the uniformed patrol officer’s holster, and activates all BWCs within its wireless signal range when the handgun is removed from said holster.

- 3.5. **Signal Performance Power Magazine (SPPM)** - Within the context of this directive, the term “Signal Performance Power Magazine” or “SPPM” refers to a battery used in the TASER CEW which activates all BWCs within its wireless signal range when the TASER is powered on.
- 3.6. **Signal Vehicle** – Within the context of this directive, the term “signal vehicle” refers to a device installed in police operational vehicles which automatically activates all BWCs within its wireless signal range when the police operational vehicle emergency lights are activated.

#### 4. **PROCEDURES**

4.1. **Legal Considerations** - Pursuant to Section 10-401 et. seq., Maryland Courts and Judicial Proceedings Code Annotated (“CJP Article”), otherwise known as the Maryland Wiretapping and Electronic Surveillance Act “State Wiretap Act” it is unlawful for any person to willfully intercept, attempt to intercept, disclose, attempt to disclose, use, or attempt to use, any oral communications.

4.1.1. The State Wiretap Act, CJP Article §10-402(c)(11) provides that a law enforcement officer may lawfully, in the course of the officer’s regular duty, intercept an oral communication with a body-worn digital recording device, including a BWC, which is capable of recording video and oral communications if:

4.1.1.1. The law enforcement officer is in uniform or is otherwise prominently displaying the officer’s badge or other insignia;

4.1.1.2. The law enforcement officer is making reasonable efforts to conform to Maryland Police Training Commission standards promulgated in accordance with Section 3-511 of the Maryland Public Safety Code Annotated for the use of body worn digital recording devices;

4.1.1.3. The law enforcement officer is a party to the oral communications;

4.1.1.4. The law enforcement officer notifies, as soon as practicable, the individual that the individual is being recorded, unless it is unsafe, impractical, or impossible to do so; and

4.1.1.5. The oral communication is being made as part of a videotape or digital recording.

4.1.2. The State Wiretap Act, CJP Article §10-402(c)(2) also makes it lawful for a law enforcement officer in the course of the officer’s regular duty 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.

#### 4.2. **Operational Provisions**

4.2.1. Officers must complete Department BWC training prior to using the system in the field.

- 4.2.1.1. The BWC training will include, but not be limited to:
  - 4.2.1.1.1. Operation of the BWC and accessories;
  - 4.2.1.1.2. Operation and procedures associated with downloading, storage, and management of videos in Evidence.com;
  - 4.2.1.1.3. Review and proficiency with this directive; and
  - 4.2.1.1.4. Effective techniques to notify citizens of the recording, to include persons with special needs or limited English proficiency.
- 4.2.2. Function Testing – Prior to going in-service of each shift, officers shall perform a function test of the BWC and the Taser SPPM to ensure the BWC system is operating properly.
  - 4.2.2.1. Officers discovering a BWC or accessory malfunction shall immediately report the malfunction to a supervisor and follow the below:
    - 4.2.2.1.1. If it is a BWC: Do not use in the field and replace with a spare BWC, place the malfunctioning BWC in the IT work area, and email the Systems Support Manager (SSM) with details of malfunction.
    - 4.2.2.1.2. If it is an SPPM: Do not use in the field and replace with spare SPPM, place the malfunctioning SPPM in the IT work area, and email the SSM with details of malfunction.
    - 4.2.2.1.3. If it is the Signal Sidearm: Immediately email the SSM with details of the malfunction.
- 4.2.3. The BWC will be worn on the officer’s body in a manner consistent with Department training.
- 4.2.4. Officers are required to use the BWC while working law enforcement or security-related secondary employment. Any activations during secondary employment must be only for law enforcement related encounters and activities, as authorized under Department policy.
- 4.2.5. Officers will only wear the Department-issued BWC.

#### **4.3. Activation of the Body Worn Camera**

- 4.3.1. Officers shall only activate the BWC for legitimate operational law enforcement purposes.
- 4.3.2. The BWC shall be activated during all law enforcement related encounters and activities, such as, but not limited to, the following incidents:
  - 4.3.2.1. Prior to leaving the cruiser upon arrival at a call for service or other activity that is investigative or enforcement in nature;

- 4.3.2.2. All enforcement and investigation related citizen contacts;
  - 4.3.2.3. Documentation of evidence that can be used in the prosecution of criminal and traffic offenses;
  - 4.3.2.4. Arrests and transports;
  - 4.3.2.5. At the beginning of a traffic stop, when the officer leaves the cruiser to approach the violator;
  - 4.3.2.6. Priority responses;
  - 4.3.2.7. Vehicle and foot pursuits;
  - 4.3.2.8. Suspicious situations or persons;
  - 4.3.2.9. All searches (person, vehicle, structures, effects), except strip searches;
  - 4.3.2.10. Interviews and interrogations;
  - 4.3.2.11. Mental health interventions;
  - 4.3.2.12. Any contact that becomes adversarial after the initial contact, arising out of a situation that would not otherwise have required recording;
  - 4.3.2.13. Plainclothes officers engaged in law enforcement operations or contacts; and/or
  - 4.3.2.14. If the officer believes it is prudent to record the contact for official purposes.
- 4.3.3. Automatic Activations via Signals - Officers shall use the Axon signals (signal vehicle, signal sidearm, and SPPM) to assist with automatic activation of the BWC as described in the definition of each device.
- 4.3.3.1. Signal Vehicle – Shall be installed and used in all operational police vehicles. This does not include Parking Enforcement vehicles or vehicles operated by GPD civilian employees.
  - 4.3.3.2. SPPM (Signal for TASER CEWs) – Shall be used for all GPD issued CEWs.
  - 4.3.3.3. Signal Sidearm – Shall be installed and used on all uniformed patrol officers’ holsters. Currently, Axon does not offer a Signal Sidearm that is compatible with holsters used by plainclothes or covert officers.
  - 4.3.3.4. To ensure that unintended activations are prevented in the station, officers shall power the BWC off while in the station and power it up when leaving the station.
- 4.3.4. Pre-Recording Setting – Each BWC will be programmed to a 60-second pre-record setting prior to activation of the BWC. The pre-record period will be visual recording only with no audio until the BWC is activated by

either the officer or the use of a Signal device.

- 4.3.5. Upon realizing a BWC recording is not activated when required by Department policy at the beginning of an event, the officer shall:
  - 4.3.5.1. Immediately activate the camera;
  - 4.3.5.2. Provide an audible explanation on the recording for why the video was not activated at the beginning of the incident;
  - 4.3.5.3. Notify the on-duty supervisor as soon as reasonable; and
  - 4.3.5.4. Document the reason(s) for the delayed or no recording in the Incident Report; and
  - 4.3.5.5. Email notification to the Police Systems Support Manager.
- 4.3.6. There may be instances in which officers are unable to activate their BWC due to circumstances making it unsafe or impractical to do so. In these exigent circumstances, officers shall begin the recording with the BWC at the first reasonable opportunity to do so, and document the reason for the delayed start in the incident report and as part of the recording.
  - 4.3.6.1. In this case, the officers will follow the notification and documentation procedures outlined in Section 4.3.5. of this General Order.
- 4.3.7. Except as otherwise exempted by law, officers will promptly notify individuals that they are being recorded, unless it is unsafe, impractical, or impossible to do so.
  - 4.3.7.1. This recording notice is satisfied even if another or additional individuals become party to the communication after the initial notice has been provided.
  - 4.3.7.2. Examples of the recording notification language include:
    - 4.3.7.2.1. “You are being audibly and visually recorded;” or
    - 4.3.7.2.2. “Our interaction is being recorded by my body camera.”
- 4.3.8. Once the BWC has been activated, officers will continue to record until:
  - 4.3.8.1. The officer has left the scene and anticipates no further involvement in the event;
  - 4.3.8.2. An on-duty supervisor has authorized that a recording may cease;
  - 4.3.8.3. The officer is no longer engaged in a related investigation or enforcement activity; or
  - 4.3.8.4. The event is concluded. An event will be deemed “concluded” when:
    - 4.3.8.4.1. All arrests have been made and the arrestee(s) have been transported and released from the officer’s

custody;

4.3.8.4.2. All witnesses and victims have been interviewed;

4.3.8.4.3. The continued recording will not serve to obtain additional evidence; and

4.3.8.4.4. No further law enforcement action is likely to occur.

#### **4.4. Deactivation of the Body Worn Camera**

4.4.1. When the BWC equipment is deactivated for any purpose described in this section, the officer must record a brief verbal explanation for the deactivation prior to turning off the recording.

4.4.2. 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 BWC during the interview.

4.4.2.1. 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.

4.4.2.2. In such situations, the officer must record a brief verbal explanation for the deactivation, prior to stopping the recording.

4.4.2.3. For situations involving investigators conducting follow-up interviews, in which the interviewee, prior to the meeting, indicates they do not wish to be recorded by BWC, the investigator shall document the refusal in the case file.

4.4.3. The BWC may be deactivated during conversations with officers or supervisors during information sharing sessions where officer tactics are being discussed.

4.4.4. Officers are required to obtain consent prior to recording an interview with a victim of a sex offense. The consent in these cases must be recorded on camera.

#### **4.5. Prohibited Use**

4.5.1. A BWC will not be used to create recordings in any location where there is a reasonable expectation of privacy, such as locker rooms, dressing rooms, and restrooms, unless part of a criminal investigation or call for service.

4.5.2. A BWC will not be used to create recordings of strip searches.

4.5.3. A BWC will not be used to record employees during routine administrative activities, or supervisor/subordinate administrative interactions.

- 4.5.4. Officers will not record non-work related personal activity.
- 4.5.5. A BWC will not be used in court facilities and courtrooms, except with the express permission of the administrative or presiding judge, according to MD Rule 16-208.
  - 4.5.5.1. While no statutory exception presently exists, this directive does not prohibit recording of the officer taking legitimate law enforcement action (other than testifying) inside the courtroom under exigent circumstances, when there is no time to seek or obtain official permission (e.g. intervention is required to stop an assault occurring within the courtroom).

#### **4.6. Reporting/Documentation**

- 4.6.1. Whenever a BWC recording is made of an event that results in a police report, the reporting officer must note in the report that the recording exists at the beginning of the narrative.
- 4.6.2. All BWC recordings must be uploaded by the officer at the end of his or her shift, unless an exception is authorized by a supervisor. The officer will be responsible for properly classifying the recording at the time of the upload.
- 4.6.3. In a critical incident (such as an officer involved shooting, in-custody death, or other officer-involved incident that results in a serious injury or death), a supervisor shall immediately take custody of the BWC and, in such case, will be responsible for the upload. The supervisor will treat the BWC and recordings as evidence and maintain a chain of custody.
- 4.6.4. The Police Systems Support Manager shall conduct regular usage audits to ensure officers are activating and using the BWC while performing official police duties.
  - 4.6.4.1. The audit shall consist of comparing BWC usage data versus CAD history.
  - 4.6.4.2. When discrepancies in BWC usage is discovered, the appropriate bureau commander shall be immediately notified for corrective action.
- 4.6.5. A documented annual administrative review of the body worn camera program will be conducted and reviewed by the Chief.

#### **4.7. Internal Access, Review, and Use of Recording**

- 4.7.1. A BWC recording may be reviewed by the recording officer for any work-related reason, including but not limited to:
  - 4.7.1.1. To ensure the BWC system is working properly;
  - 4.7.1.2. To assist with the writing of a report or other official document;
  - 4.7.1.3. To review/critique his or her own performance;

- 4.7.1.4. To review/prepare for court;
  - 4.7.1.5. To respond to a civil suit, criminal investigation (if the officer is the subject of the investigation), citizen complaint, or administrative complaint. The officer will have the ability to review the BWC recording of the referenced incident prior to making a statement; or
  - 4.7.1.6. To prepare a response to a properly filed request for release of information under the Maryland Public Information Act (MPIA).
- 4.7.2. BWC recordings may be reviewed by a Field Training Officer, investigator, supervisor, command staff member, or legal counsel for an official purpose to include:
- 4.7.2.1. To review evidence of a crime;
  - 4.7.2.2. In furtherance of an official investigation such as a personnel complaint, administrative inquiry, or a criminal or civil investigation;
  - 4.7.2.3. To assess training value of a specific incident;
  - 4.7.2.4. By legal counsel for any officer entitled to review his or her BWC recordings pursuant to Section 4.7.1.5 of this General Order; or
  - 4.7.2.5. By legal counsel and claims adjusters for the City in furtherance of a personnel investigation, action, civil complaint, or litigation.
- 4.7.3. To further the concept of active supervision at the scene of incidents, supervisors and command staff members shall not review a series of videos in an attempt to find a pattern of behavior that is not linked to a specific incident (for example, randomly reviewing a series of videos to find additional performance issues that occurred during one incident).
- 4.7.3.1. When performance issues or violations of Department policy are discovered, supervisors are encouraged to actively supervise the officer at the scene of future incidents to resolve performance issues rather than relying on BWC videos to monitor performance.
- 4.7.4. Officers are not authorized to view another officer's recording(s) except for an official purpose.
- 4.7.5. When an officer, supervisor, or command staff member reviews a BWC video, he or she shall document the purpose of the review in the "Notes" section of the video log.
- 4.7.5.1. The Chief of Police may authorize an exemption to this provision for the purpose of maintaining the integrity of an active Internal Affairs investigation.



- 4.7.6. When a recorded incident or recording of an incident is used to question an officer that is the subject of an internal investigation, access to their own BWC recordings related to the incident shall be provided to that officer in advance of the questioning.
- 4.7.7. A supervisor shall review and ensure the proper classification of the BWC recording of an incident when:
  - 4.7.7.1. An officer is involved in a reportable response to resistance/aggression incident;
  - 4.7.7.2. An officer is injured during the performance of his or her duties;
  - 4.7.7.3. An officer actively participates in a vehicular pursuit or foot pursuit; or
  - 4.7.7.4. Investigating a complaint against an officer.
- 4.7.8. BWC recordings shall not be routinely reviewed for the express purpose of discovering acts of misconduct or instances of poor performance without specific justification.
  - 4.7.8.1. An officer's supervisor may use BWC recordings to address performance when justification exists.
  - 4.7.8.2. Any recording used must be reviewed with the subject officer prior to any documentation of performance.
  - 4.7.8.3. A supervisor must give written notice via email to an officer of his or her intent to use a BWC recording as part of an officer's evaluation.
- 4.7.9. BWC recordings may be used as a basis for discipline.
  - 4.7.9.1. The officer under investigation shall be provided written notice of the Department's intent to use BWC recording(s) as part of the internal investigation. This written notice shall be provided at the time the officer is served with the Internal Investigation Notification.
  - 4.7.9.2. The officer under investigation will be afforded the opportunity to review their own BWC recording(s) related to the incident being investigated administratively, with his or her selected representative, prior to the interrogation.
- 4.7.10. BWC recordings may be used for training purposes.
  - 4.7.10.1. Officers will be provided written notice of the intent to use BWC recording(s) for training purposes prior to the training via an email notification.
  - 4.7.10.2. An officer may object, in writing via email to the requestor and Administrative Bureau Commander, no later than five (5) business days after notifications to the use of the BWC recording.

- 4.7.10.2.1. When an officer files a written objection to the BWC recording's use in training, the Chief of Police will weigh whether the training value outweighs the officer's objection and decide whether the recording will be used.
- 4.7.11. An audit trail shall be maintained to record access to all recordings and officers shall have timely and ongoing access to the log, which will include:
  - 4.7.11.1. Name of the employee accessing the recording;
  - 4.7.11.2. Reason for access;
  - 4.7.11.3. Date the recording was accessed;
  - 4.7.11.4. Length of time the recording was reviewed; and
  - 4.7.11.5. Whether the recording was copied or edited.
- 4.7.12. A BWC recording of constitutionally protected activity may not be used to identify persons present at the activity who are not suspected of being engaged in criminal activity or in need of assistance.

Stored video and audio from the BWC recordings may not:

  - 4.7.12.1. Be used to create a database or pool of mug shots;
  - 4.7.12.2. Be used as fillers on photo arrays; or
  - 4.7.12.3. 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 the appropriate bureau commander has reason to believe that a specific suspect or person in need of assistance may be a subject of a particular recording.
- 4.7.13. Employees shall not access, obtain, attempt to obtain, or copy/convert for his or her personal use any recording produced by a BWC.
  - 4.7.13.1. Employees shall not make recordings (video or photo) of a computer monitor that is playing a BWC recording.
  - 4.7.13.2. Employees shall not upload BWC recordings to public and/or social media websites.
- 4.7.14. An officer may share his or her video with the primary investigating GPD officer.
- 4.7.15. Except as authorized by policy, employees shall not attempt to copy, alter, release, reuse, modify, or tamper with BWC recordings in any manner. Employees are prohibited from making a copy of a BWC audio/video recording by using another recording device, such as a cell phone.
- 4.7.16. So long as the reviewing of a BWC recording, as determined by the Attorney General or States Attorney, does not impact the integrity of an

investigation or negatively impact a criminal investigation, the recording may be reviewed by medical or mental health professionals, who have been consulted by the Department, for the limited purpose of addressing officers' medical or mental health needs resulting from a critical incident.

- 4.7.17. Violations of a component of this General Order are subject to disciplinary provisions listed in General Order 208.2 Disposition Matrix and 208.2(a) Violation Matrix Appendix.

#### **4.8. Classification & Retention of Data**

- 4.8.1. All original BWC recordings are the property of the Gaithersburg Police Department and shall be securely stored and retained according to the Department's BWC Retention Schedule, consistent with state law and existing evidence protocols, unless a specific request is made to store them for a longer period and authorized by the Chief of Police. An unedited original version of each recording shall be maintained, in accordance with the BWC Retention Schedule and provisions of State law.
- 4.8.2. BWC recordings that can be used in an investigation, or capture a confrontational encounter between an officer and a member of the public, will be deemed "evidentiary" and categorized according to the classification of the incident. Recordings that do not contain evidence or capture routine, non-confrontational encounters will be deemed "non-evidentiary" and remain unclassified.
- 4.8.3. If a recording captures evidence of a crime, an incident that results in a complaint against a police officer, part of an internal affairs investigation, civil litigation, an officer's response to resistance/aggression, a foot or vehicle pursuit, an unintended or prohibited activation of a BWC, training or performance issues, or any other incident which requires the recording to be stored for a longer retention period; it shall be the responsibility of the officer and the officer's supervisor to properly classify the video with one of the following classifications:
- 4.8.3.1. Critical Incidents;
  - 4.8.3.2. Complaint;
  - 4.8.3.3. Civil Litigation
  - 4.8.3.4. Unintended/Prohibited Activation; or
  - 4.8.3.5. Response to Resistance/Aggression;
- 4.8.4. Non-evidentiary recordings will be destroyed after 370 days, unless the Department deems it necessary to retain the recording for a longer period of time.
- 4.8.5. If an officer inadvertently activates a BWC recording which records a situation having no official purpose and captures a situation of a higher expectation of privacy, the officer shall notify his or her supervisor promptly via an email.

- 4.8.5.1. Recordings deemed by the Department to be recorded inadvertently and which have no legitimate purpose to the Department, shall be deleted expeditiously by the Police Systems Support Manager and document accordingly in the video evidence system.

**4.9. Records Requests and Release of Recordings**

- 4.9.1. Public requests for a release of BWC recordings will be conducted in accordance with Maryland Public Information Act (MPIA), Section 4-101 et seq., Maryland General Provisions Code Annotated.
- 4.9.2. Non-MPIA related release of BWC videos will only be permitted with authorization of the Chief of Police, after consultation with the primary investigator(s) and the State's Attorney's Office who are responsible for investigating the incident related to the BWC recording.
- 4.9.3. BWC recordings will be made available to the Montgomery County State's Attorney's Office for prosecutorial and discovery purposes.
- 4.9.4. BWC recordings may be shared with allied law enforcement agencies for official purposes only.
- 4.9.5. A current version of this directive shall be maintained on the Department's website, where it is available to the public.