

Field Manual, Article 16, Body Worn Camera Program

16-2.2 BODY WORN CAMERA (BWC) SYSTEM RECORDING REDACTION AND REPRODUCTION

GENERAL

- All requests for production of BWC recordings will be sent to the Technology & Communications Section (TCS) Video Manager.
- BWC recording requests will be fulfilled and redacted in accordance with Department guidelines and all applicable laws.
- In the event that a prosecuting authority (i.e., the State's Attorney's Office, the Maryland State Prosecutor, the United States Attorney's Office or any other criminal or administrative prosecuting authority) has received an open criminal case or an Internal Affairs matter referred to them, the Department will share BWC footage with the prosecuting authority by the end of the next business day, after the prosecuting authority notifies the Department of its investigation.
- BWC recordings requested by the public under the Maryland Public Information Act (MPIA) or subpoenaed by any party will be categorized as:
 1. *Publicly Releasable* - Released to any member of the public subject to public redaction requirements.
 2. *Person In Interest Releasable* - Releasable to a Person in Interest subject to individual redaction requirements.
 3. *Non-Releasable* - Recordings that cannot be released at the time of the request in accordance with legal requirements.

NOTE: The prosecuting authority should be consulted for recordings relevant to a criminal or civil proceeding (e.g., recordings that meet the definition of relevance under the Maryland Rules of Criminal Procedure, the Maryland Civil Rules, or the Federal Rules of Civil Procedure, etc.).

- BWC recordings will be released in accordance with the MPIA.
- Videos may be released at the direction of the Chief of Police without receipt of a formal request.

EXCEPTION: When prohibited by law.

- Voluntary release of a video by the Department absent a formal request, does not preclude persons from making formal requests for release of the full video.

NOTE: Formal requests will be handled in accordance with all applicable laws and Department policy.

- At the discretion of the Chief of Police, BWC footage of an incident in its entirety and without redaction may be viewed with the media subject to federal, state, and local laws governing disclosure of records, with the understanding that only the corresponding BWC footage posted to the Department's public-facing, official website will be provided.

NOTE: This is for the purpose of transparency, clarity, and to assist the media in accurate and complete reporting of the incident.

CHIEF OF POLICE

- Has the authority to modify any aspect of this policy to unilaterally release BWC video if immediate release is required for public safety.

EXCEPTION: Where prohibited by law.

- Has final authority regarding duplications, redaction, release, and deletion of BWC recordings.

- Designates a Video Manager within the Department to act on the Chief's behalf.

LEGAL SECTION

- Shall consult with the prosecuting authority on:
 1. The relevance of BWC footage to a criminal proceeding; and
 2. The release, duplications, redaction, and deletion of BWC recordings, when relevant to criminal proceedings.
- Appears in criminal court proceedings in response to subpoena or discovery requests by defense counsel, when necessary.
- Shall immediately refer subpoenas or discovery requests for BWC recordings in civil matters to the County Office of Law.

NOTE: The Office of Law may determine the relevance of the BWC footage to the civil matter, and may coordinate the release, duplications, redaction, and deletion of BWC recordings. The Office of Law shall appear in civil court proceedings in response to subpoena requests by defense counsel, when necessary.

- Handles MPIA disputes regarding criminal matters.
NOTE: MPIA disputes regarding civil matters will be handled by the County Office of Law.

TECHNOLOGY & COMMUNICATIONS SECTION (TCS) VIDEO MANAGER

- Shall preserve, without redaction, any relevant BWC footage in response to a litigation hold letter from the Office of Law for Baltimore County or a private party.

NOTES:

1. This does not mean that the BWC footage must be released without redaction.
 2. The litigation hold letter must reasonably identify the BWC footage that is relevant to the litigation.
- Shall immediately release any un-redacted BWC footage to the County Office of Law, upon request.
 - Shall, upon receipt of a deletion request for an accidental BWC recording that would compromise the modesty or dignity of a member (e.g., an accidental recording during a bathroom break, etc.):
 1. Assign an appropriate TCS supervisor (i.e., a supervisor of the same sex as the member whose modesty or dignity has been compromised, when possible) to confirm the nature of the BWC recording.
 2. Consult with the Legal Section regarding the deletion request.
 3. Upon written advice from the Legal Section, execute an immediate deletion when there is no other duty-related reason to retain the BWC recording.
 - Shall identify all relevant BWC footage in response to an MPIA request, subpoena, discovery request, or litigation hold letter.
 - Shall consult the Legal Section in making determinations regarding the release, duplication, deletion, or redaction of BWC recordings requiring an elevated review.

NOTE: An elevated review is conducted for recordings of:

1. Homicide investigations;
2. Rape/sex offense investigations;
3. Strategic and tactical operations that may jeopardize future similar operations;
4. Domestic violence investigations;
5. Incidents categorized as Administrative Investigations and/or Administratively Restricted;
6. Incidents requested by subpoena, court order, or notice of claim;
7. Officer involved shootings;
8. Uses of force;
9. All deaths or serious injuries in police custody;

10. High profile cases as determined by the TCS Video Manager, or designee;

11. Incidents involving multiple police jurisdictions; and

12. Any other cases as directed by the Chief of Police.

- May consult the Legal Section in making the determination of the release, duplication, deletion, or redaction of any BWC recordings not requiring an elevated review.
- Ensures redaction of information that is treated confidential as a matter of law (e.g., medical or health information, social security number, etc.) in accordance with applicable Technology & Communications standard operating procedures, prior to release, when redaction criteria are met.

PUBLIC AFFAIRS SECTION

- Coordinates the viewing of non-redacted videos by members of the media, as described above, upon approval of the Chief of Police.

16-2.2.1 FORMAL REQUESTS

TECHNOLOGY & COMMUNICATIONS SECTION (TCS) VIDEO MANAGER

- Receives, reviews, and processes requests for the production of BWC recordings from court orders and subpoenas.
- Receives, reviews, and processes public requests for copies of BWC recordings in accordance with the Maryland Public Information Act (MPIA), MD. Code Ann. Gen. Provis. §§ 4-101 through 4-601.
- Estimates, collects, and processes fees associated with request fulfillment in accordance with the MPIA, § 4-206.
- Releases authorized and redacted BWC recordings consistent with Department policy and all applicable laws.
- Sends a denial letter, within 30 days of receipt of the request, explicitly stating the reason, if the release of a BWC recording is not authorized.
- Consults with the Legal Section, and other commands and agencies as needed and directed by the TCS Commander.
- Ensures confidential information is not visible/audible prior to the release of a BWC recording.
- Authorizes exceptions to the denial and redaction standards as directed by the Chief of Police.

16-2.2.2 ABSENT A FORMAL REQUEST

DEFINITION

- **Critical Incident** -
 1. An incident involving a use of force by one or more officers that results in the death of or serious physical injury to another;
 2. Any high profile incident that garners significant public interest or concern; and/or
 3. Any incident in which the Chief of Police determines the release of BWC footage will help enforce the law, preserve the peace, protect people, and/or maintain order.

NOTE: This definition applies only to this section.

GENERAL

- Absent a formal request, the Chief of Police may release videos of:
 1. Critical incidents; and
 2. Positive actions/interactions involving Department members.
- Release of body worn camera footage will always:
 1. Be done in consultation with the prosecuting authority if the video has the potential to impact a criminal trial and/or involves pending criminal charges; and
EXCEPTION: When videos are unilaterally released by the Chief of Police for public safety.
 2. Balance privacy concerns, the need to comply with federal, state, and local public disclosure laws, full transparency, and the defendant's right to a fair trial.
- Public release of BWC footage in accordance with this policy may be delayed, redacted, edited, or in some cases, the Department may forego public release, in order to:
 1. Comply with federal, state, or local law governing disclosure of records or existing Department procedures;
 2. Protect confidential sources and witnesses;
 3. Protect the rights of the accused (i.e., protect the right to a fair trial);
 4. Protect the identity of victims of sexual assault, victims of domestic violence, and juveniles;
 5. Protect the privacy, life, or safety of any person; and
 6. Protect the location of victims and/or witnesses.
- Sworn members who are significantly involved in a critical incident as defined in this section, or in any other incident deemed appropriate by the Chief of Police, shall be afforded the opportunity to review BWC footage before it is publically released.
- In cases involving a fatal use of force, immediate family members of the decedent, as determined by the Department, will be afforded the opportunity to review BWC footage before it is publically released.
- Prior to the release of BWC footage, consideration will be given to privacy rights including an assessment of whether the BWC footage depicts:
 1. Interior places of residences and other places where there is a reasonable expectation of privacy;
 2. Intimate or graphic images;
 3. Images of a person receiving medical attention;
 4. Images of a serious physical injury or a deceased individual;
 5. The location of a domestic violence program;
 6. Information that might reveal the identity of a victim of a sexual assault;
 7. Images of juveniles; and/or
 8. Any other images/information that should not be released, as directed by the Chief of Police.

- Body worn camera footage will not be released for commercial, non-law enforcement, or non-journalistic purposes.
NOTE: This policy is not intended to, and does not create any rights, substantive or procedural, in favor of any person, organization, or party.
- Released BWC footage will be posted to the Department's public-facing, official website for 30 days, after which it may be removed. The posted BWC footage:
 1. May include redactions of faces or other identifying information of involved parties;
 2. May be a reflective sample and/or compilation of available BWC footage; and
 3. Will be subject to all restrictions noted in this policy.

CRITICAL INCIDENTS

- At the discretion of the Chief of Police, after consultation with the prosecuting authority, the Department may publicly release BWC footage within 30 business days of the incident, provided that any initial use of force investigation is completed, and the required notifications have been made.
EXCEPTION: When a non-disclosure period has been granted pursuant to an agreement with the prosecuting authority. The prosecuting authority may request, in writing, a 30-day extension to the Department's release of critical incident BWC footage to the public. In its request, the prosecuting authority should explain, with specificity, how deviating from the standard timeframe for disclosure set forth by the Department is necessary to further the administration of justice. The prosecuting authority's request for an extension will be carefully considered by the Department and the final decision to release BWC footage ultimately rests with the Chief of Police. If the prosecuting authority seeks an additional extension(s), such request(s) should be made in the same manner for each 30-day period, or until the scheduled trial date. If additional trial dates arise, an additional request for extension will be made.
- Release of BWC footage of a critical incident will, at the discretion of the Chief of Police:
 1. Take place at either a news conference or media availability session with a subject matter expert and Public Affairs Section member present to provide context and chronology of the event; or
 2. May be released with written context and without an accompanying live news conference.

POSITIVE ACTIONS/INTERACTIONS INVOLVING DEPARTMENT MEMBERS

- At the discretion of the Chief of Police or designee, the Public Affairs Section may publicly release BWC footage.
- Members aware of footage that may be of interest to the public should notify the Public Affairs Section.

NOTIFICATIONS

- The Chief of Police, or designee will notify the prosecuting authority two business days prior to releasing BWC footage of a critical incident to the public.
EXCEPTION: When the Chief of Police determines that exigent circumstances involving public safety, preserving the peace, and/or maintaining order requires a shorter time period for notice. In these cases, notice must still be provided to the prosecuting authority prior to releasing BWC footage of a critical incident to the public.
- The Chief of Police, or designee will notify the Technology & Communications Section (TCS) Video Manager and the Public Affairs Section, as soon as possible, when BWC footage is being considered for release.

- The Public Affairs Section will make the following notifications at least 24 hours prior to release of BWC footage of a critical incident to the public:
 1. Civilian subject(s) of the police action;
EXCEPTIONS:
 - a. If the subject is deceased, the next of kin will be notified.
 - b. If the subject is a juvenile, the parent or guardian will be notified.
 - c. If any of the above parties have retained legal counsel, the legal representative will be notified in lieu of the subject.
 - d. When all reasonable attempts to notify the applicable party have been unsuccessful.
 2. Department members whose BWC footage is to be released.
 3. Department members readily identifiable in the videos and/or significantly involved in the event, as determined by the Chief of Police or designee;
 4. Bureau Chiefs, division commanders, and precinct/section commanders of above listed members;
 5. Baltimore County Fraternal Order of Police; and
 6. Other official agencies involved in the incident or investigation.

NOTE: The Chief of Police has the discretion to make modifications to above notifications (e.g., critical incidents, unrest, etc.).
- The Chief of Police has the authority to modify any aspect of this policy to unilaterally release BWC video if immediate release is required for public safety.
EXCEPTION: Where prohibited by law.