

## Use of Audio/Video Recorders

### 424.1 PURPOSE AND SCOPE

The purpose of this directive is to establish guidelines regarding the use of audio and video recording devices by Public Safety Staff.

- (a) Audio and Video recording devices may consist of the following:
  - 1. Body Worn Cameras (BWCs)
  - 2. In-Car Cameras (ICCs)
  - 3. Voice Only Recorders (VORs)
  - 4. Other devices
- (b) The department has adopted the use of audio and video recording devices for purposes that include, but are not limited to:
  - 1. Enhancing officer safety;
  - 2. Collecting evidence; providing a supplement to personal testimony in court by recording actions, conditions, and statements which can be used to aid in the prosecution of those who violate traffic and criminal laws;
  - 3. Allowing for the viewing of events as they occurred and providing corroboration of officers' actions/testimony;
  - 4. Providing material to be used in performance evaluations; and
  - 5. Providing an effective aid for training.

### 424.2 POLICY

The Office of Public Safety recognizes the benefits of recording events, actions, conditions, and statements made during citizen contacts, traffic stops, arrests and other public safety related interactions. Audio and video recording devices will be used to accurately document these interactions.

All recordings produced by department recording equipment are the exclusive property of the St. Mary's College of Maryland Office of Public Safety. Recordings will only be duplicated for official purposes.

### 424.3 DEFINITIONS

**Body Worn Camera (BWC)** refers to the digital audio/video recording equipment designed for wear on the outer garment of a law enforcement officer's uniform.

**In-Car Camera (ICC)** refers to the digital audio/video recording equipment designed to be installed in a patrol vehicle.

**Voice Only Recorder (VOR)** refers to digital audio recording equipment designed to record only audio during a Public Safety interaction.

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**Recording** means using the audio and video recording device to record sound and visually capture images or footage of the event.

**Mute** is a manufacture supplied option which enables the user to temporarily deactivate the audio recording of the BWC. This function, if configured, is not to be used.

### **424.4 BODY WORN CAMERAS**

#### 424.4.1 TRAINING

Prior to the issuance of any BWC equipment, the Public Safety Staff will receive training on its use by a designated BWC instructor. The training will include basic operation, syncing recorded footage to the secure video server, and accessing the video server to review recorded video.

Supervisors with personnel assigned a BWC will be provided server access (logon id and password) and training by a designated BWC trainer on the process to access and review BWC recordings made by personnel under their command. This access is for the purposes of reviewing footage as authorized under this directive.

#### 424.4.2 RESPONSIBILITIES

Public Safety Staff utilizing a BWC are responsible to ensure the equipment is maintained and operated in accordance with the manufacturer's recommendations.

Only those Public Safety Staff who have received training on the use and deployment of the BWC are authorized to deploy the equipment.

- (a) Prior to the beginning of each shift, Public Safety Officers who are trained will equip themselves with a BWC following the steps in procedure 32.
- (b) Each Officer shall conduct an operational test of the BWC to ensure it is in operational condition (e.g., camera turns on, properly synchronizes with the in-car video system if so equipped and records). Upon discovering a malfunction, Public Safety staff will notify their supervisor. The supervisor will remove the BWC from service and it will remain out of service until repaired.
- (c) Public Safety staff will ensure the BWC is placed on the outer layer of their uniform or duty gear in a manner that facilitates the capture of the predominate actions and interactions between Public Safety staff and citizens
- (d) Public Safety staff will not, in any manner, attempt to modify, alter, erase, or tamper with any portion of recorded video. This includes the intentional placement of the BWC device where the focal point of the video is obstructed, or the device is placed in a manner such as to not capture the normal view of activity.
- (e) Public Safety Staff will note in incident reports when recordings were made during the incident in question. If the incident is one that does not result in the completion of an incident report, the explanation will be documented within the dispatch notes. However, BWC recordings are not a replacement for written reports.

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- (f) If a Public Safety staff member fails to activate the BWC, fails to record the entire contact, or interrupts the recording, they will document why a recording was not made, was interrupted, or was terminated.
- (g) It is the responsibility of Public Safety staff to categorize all BWC recordings prior to the end of their shift. Public Safety staff will categorize as directed by procedure 32.

### 424.4.3 AUTHORIZED USE

Except as authorized below, all Public Safety staff to include primary, back up and support Public Safety staff on scene, will begin recording with their BWC in the below listed circumstances unless doing so would be unsafe, impossible, or impractical. If unable to begin recording with the BWC due to circumstances making it unsafe, impossible, or impractical to do so, they will begin recording with the BWC at the first reasonable opportunity to do so.

- (a) At the initiation of a call for service or other activity that is investigative in nature (to include, but not limited to, suspicious persons, assisting other agencies, motor vehicle accidents, alarms); or
- (b) At the initiation of an encounter between the officer and a member of the public that is investigative or enforcement in nature; or
- (c) Any encounter that becomes confrontational after the initial contact; or
- (d) At the initiation of foot patrol during campus events and gatherings (regardless of whether the event or gathering is officially recognized by the College) where contact with the public is likely.

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, Public Safety Staff may turn off the BWC to obtain the statement or information. If the encounter begins when the BWC is not actively recording, Public Safety Staff may, but are not required to, temporarily activate the BWC for the sole purpose of documenting the person's refusal or request not to be recorded.

Prior to entering a private residential room, townhouse, or other area where an individual has a reasonable expectation of privacy, without a warrant or in non-exigent circumstances, Public Safety staff will notify the occupant that their body camera is recording audio and video.

### 424.4.4 DISCRETIONARY ACTIVATION

When not otherwise prohibited by law or agency policy, Public Safety staff may begin recording with their BWC in circumstances when they determine that doing so would be beneficial to the public interest.

### 424.4.5 PROHIBITED ACTIVATION

Public Safety Staff will not activate a BWC to record department personnel during routine administrative activities or during non-work-related personal activity.

### 424.4.6 NOTIFICATION

Except as otherwise exempted by law, Public Safety Staff shall notify, as soon as is practicable, the individual that they are being recorded, unless it is unsafe, impractical, or impossible to do so.

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This notice provision is satisfied even if another individual becomes a party to the communication after the initial notice has been provided.

Public Safety Staff will carry an informational card which may be used to notify the hearing impaired that their encounter is being recorded.

### 424.4.7 ENDING A RECORDING

Once recording with a BWC has been initiated, Public Safety Staff will not end the recording until:

- (a) The event or encounter has fully concluded; or
- (b) The Public Safety Staff member clears the call and anticipates no further involvement in the event; or
- (c) A supervisor has authorized that a recording may cease because the Public Safety Staff member is no longer engaged in a related enforcement or investigative activity; or
- (d) When victims, witnesses, or other non-suspect 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, Public Safety Staff may turn off the BWC to obtain the statement or information; or
- (e) When Public Safety Staff are at a medical facility, they may temporarily end the recording when not in the presence of any in-custody subject(s) or conducting any enforcement or investigative activity. Public Safety staff will resume the recording prior to being in proximity to any in-custody subject(s) or continuing any enforcement or investigative activity. This is to prevent the unintentional documentation of capturing unrelated citizens' medical treatment or condition; or
- (f) It is imperative all enforcement or investigative actions are documented on BWC. If Public Safety Staff need to obtain guidance from their superior or other Public Safety Staff on scene, they will safely separate themselves from any parties. Public Safety Staff will then dictate into the camera the reason they are briefly muting the audio recording. They may then mute the audio recording for a moment to obtain the required guidance. Public Safety Staff shall resume the audio recording prior to reengaging in an investigative/enforcement action or in the presence of any parties for the call for service.

In all above paragraphs, it is the responsibility of Public Safety Staff to re-activate their BWC in the event any situation arises which fall under 9.1.7.4C authorized use.

### 424.4.8 CONFIDENTIALITY

Only BWC equipment owned and approved by the St. Mary's College of Maryland Office of Public Safety is authorized for use and all recordings are the property of the department. Except as authorized by department policy, copying, releasing, altering, erasing, or allowing unauthorized viewing of an agency video recording (or portion thereof) is prohibited and will subject the staff to disciplinary action.

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### 424.4.9 INTERNAL USE OF RECORDINGS

Public Safety Staff shall be responsible for uploading all recordings to the secure cloud storage before the end of their shift. Recordings will be stored, duplicated, distributed, or erased only in compliance with this directive.

Whenever BWC equipment is reassigned to another operator, prior to the reassignment, the originally assigned Public Safety Staff member will dock the BWC using the department issued docking station and ensure all recordings have been uploaded to the server. In circumstances where the assigned staff member has separated from service, the Director or designee will ensure a supervisor, with system access, logs into the server with the separated employee's BWC at a designated upload location which will initiate an automatic upload of saved video.

If the upload fails to initiate in either circumstance noted above, the Director or designee will work with the BWC vendor to have the video uploaded prior to the BWC being placed back into service.

Public Safety Staff may review a BWC recording that is assigned to them by logging onto the secure cloud storage using their assigned user id and password from the Axon View Application or a Computer at the Public Safety Office.

Public Safety staff are authorized to review videos assigned to them or as part of a case in which they are assisting in the following instances:

- (a) Report writing or completion of other official documents.
- (b) Court preparation.
- (c) Prior to the completion of a statement of charges.
- (d) Field trainers are authorized to review footage of their trainee while involved in the field training program.

Public Safety Staff shall not review other evidence that is not assigned to them unless otherwise authorized by this directive.

If an officer or supervisor believes that a video file may be useful as a training tool, they will notify the Director of Public Safety. Video files approved and stored as training videos shall be done so as directed by procedure 32. No video file will be used for training purposes while the case is being litigated.

A BWC recording of a constitutionally protected activity may not be used to identify persons present at the activity who are not suspected of being engaged in illegal activity or in need of assistance.

The stored BWC video/audio will not be used to create a database or pool of mugshots, nor will it be used as filler in photo arrays

BWC video/audio will not be searched using facial or voice recognition software.

Note: the prohibition against the use of facial or voice recognition software does not apply when a supervisor has reason to believe that a specific suspect or person in need of assistance may be the subject of a particular recording.

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Non-Public Safety Staff will not be allowed to review recordings at the scene of an incident.

All evidence affiliated with a Public Safety incident report shall, at a minimum, be retained for a period of seven (7) years from the date of creation.

The video server automatically erases recordings not bookmarked for retention, or marked as "non-evidence", when the retention period for a recording segment has reached three hundred and sixty-five (365) days.

Requests for an extension of the retention period for a specific video shall be made in writing to the Director of Public Safety, as soon as possible following the event, but no later than 60days thereafter.

### 424.4.10 SUPERVISOR ACCESS OF RECORDINGS

The BWC system is not intended to be used as a disciplinary tool against officers for minor infractions of policies or procedures.

Supervisors are authorized to review videos of subordinates in the following circumstances:

- (a) Performance review
- (b) Maryland Public Information Act (MPIA) requests
- (c) Policy compliance
- (d) Training
- (e) Monthly personnel audits
- (f) Administrative investigations
- (g) Incident critique/use of force review

Supervisors will not arbitrarily review video/audio recordings for the purpose of identifying minor infractions of department policies or procedures.

However, when cases of misconduct and/or repetitive negative behavior are brought to the attention of the department via supervisor review and/or an official complaint, the video file may be reviewed and be used as the basis for performance counseling or disciplinary action.

At a minimum, one video per month will be reviewed by the supervisor of those personnel assigned a BWC to ensure personnel are properly using the system. Supervisors will offer constructive criticism to both improve the quality of enforcement techniques and aid in improving officer safety.

If a Public Safety Staff member is suspected of wrongdoing or involved in a serious use of force, the Director or designee reserves the right to limit or restrict them from viewing the related video file. Any limitation or restriction on the staff members' ability to view the video file exercised under this section does not violate college policy or the Memorandum of Understanding (MOU) with the Association of Federal, State, County, and Municipal Employees (AFSCME).

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### 424.4.11 STORAGE, REVIEW, AND RELEASE

All recordings produced by department recording equipment are the exclusive property of the St. Mary's College of Maryland Office of Public Safety.

All recordings will be stored as evidence within the Office of Public Safety secure cloud storage.

Recordings will only be available for review; or, released for official purposes.

Review or release of recordings by Public Safety staff that are needed for court, conduct board, training, or other official purposes shall be handled per the guidelines in Procedure 32.

### **424.5 IN CAR CAMERAS**

At the time of enacting this policy the St. Mary's College of Maryland Office of Public Safety does not utilize or authorize in-car cameras.

### **424.6 VOICE ONLY RECORDERS**

#### 424.6.1 AUTHORIZED USE

Public Safety Staff may utilize department owned VOR while conducting interviews of suspects, witnesses, victims, or other parties involved in an incident.

Public Safety Staff shall only utilize a VOR for an interview in a private setting.

#### 424.6.2 NOTIFICATION

Except as otherwise exempted by law, Public Safety Staff shall notify any person impacted, as soon as is practicable, that the individual(s) will be recorded.

This notice provision is satisfied even if another individual becomes a party to the communication after the initial notice has been provided.

#### 424.6.3 PROHIBITED ACTIVATION

Public Safety Staff will not activate a VOR to record department personnel during routine administrative activities or during non-work-related personal activity.

#### 424.6.4 ENDING A RECORDING

Once recording with a VOR has been initiated, Public Safety Staff will not end the recording until:

- (a) The interview has fully concluded; or
- (b) The Public Safety Staff member anticipates no further involvement in the interview; or
- (c) A supervisor has authorized that a recording may cease because the Public Safety Staff member is no longer engaged in a related investigative activity; or
- (d) When victims, witnesses, or other non-suspect individuals wish to make a statement or share information, but refuse to do so while being recorded, Public Safety Staff may turn off the VOR to obtain the statement or information.

#### 424.6.5 DOCUMENTATION

Anytime a VOR is utilized it shall be noted in the incident report.

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All recordings will be stored as evidence within the Office of Public Safety secure cloud storage.

Recordings will only be available for review; or. released for official purposes.

Review or release of recordings by Public Safety staff that are needed for court, conduct board, training, or other official purposes shall be handled per the guidelines in Procedure 32.

All other requests for the review or release of recordings shall be made in writing to the Director of Public Safety. The Director of Public Safety may only authorize a review of recordings as permitted in Procedure 32

### **424.7 OTHER DEVICES**

#### 424.7.1 AUTHORIZED USE

In the absence of other video or audio recording devices Public Safety Staff may utilize their cell phone to record photos, video, and audio if:

- (a) The Public Safety Staff member believes the recording will aid the investigation of an incident.
- (b) Public Safety Staff should utilize the Axon Capture application to take photos, videos, or record audio.
- (c) Public Safety Staff should be aware that if a personal cell phone is used for any recording purposes it may be seized or subpoenaed as evidence.

#### 424.7.2 NOTIFICATION

Except as otherwise exempted by law, Public Safety Staff shall notify any person impacted, as soon as is practicable, that the individual(s) will be recorded.

This notice provision is satisfied even if another individual becomes a party to the communication after the initial notice has been provided.

#### 424.7.3 PROHIBITED ACTIVATION

Public Safety Staff will not activate a personal cell phone to record department personnel during routine administrative activities.

#### 424.7.4 ENDING A RECORDING

Once recording with a cell phone has been initiated, Public Safety Staff will not end the recording until:

- (a) The interview or event has fully concluded; or
- (b) The Public Safety Staff member anticipates no further involvement in the interview or event; or

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- (c) A supervisor has authorized that a recording may cease because the Public Safety Staff member is no longer engaged in a related investigative activity; or
- (d) When victims, witnesses, or other non-suspect individuals wish to make a statement or share information, but refuse to do so while being recorded, Public Safety Staff may end a recording to obtain the statement or information.

### **424.7.5 DOCUMENTATION**

Anytime a recording with a cell phone is utilized it shall be noted in the incident report.

### **424.7.6 STORAGE, REVIEW, AND RELEASE**

All photographs or recordings produced by the Axon Capture app are the exclusive property of the St. Mary's College of Maryland Office of Public Safety.

All photographs or recordings will be stored as evidence within the Office of Public Safety secure cloud storage.

Photographs or recordings will only be available for review or released for official purposes.

Review or release of photographs or recordings by Public Safety staff that are needed for court, conduct board, training, or other official purposes shall be handled per the guidelines in Procedure 32.

All other requests for the review or release of photographs or recordings shall be made in writing to the Director of Public Safety. The Director of Public Safety may only authorize a review of recordings as permitted in Procedure 32.

### **424.8 POSTING OF POLICY - NEW NOT IN CURRENT POLICY**

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